

**WESTERN AUSTRALIAN HEALTH PROMOTION FOUNDATION BILL 2015**

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Alyssa Hayden (Parliamentary Secretary)**, read a first time.

*Second Reading*

**HON ALYSSA HAYDEN (East Metropolitan — Parliamentary Secretary)** [2.18 pm]: I move —

That the bill be now read a second time.

This bill proposes new stand-alone legislation for the Western Australian Health Promotion Foundation. The foundation was initially established by the Tobacco Control Act 1990 as an independent statutory body. The Tobacco Control Act has since been repealed and the provisions relating to the foundation were incorporated into the Tobacco Products Control Act 2006. The statutory basis for the foundation is largely the model for the Victorian Health Promotion Foundation, which is known as VicHealth.

Although the original purpose of the foundation was largely to provide funding to replace tobacco sponsorship, the public health objectives of the foundation today extend beyond tobacco-related concerns. Accordingly, under this bill, the foundation will be established in stand-alone legislation rather than housed within an act relating to tobacco control. The bill removes all relevant provisions relating to the foundation from the Tobacco Products Control Act and carries over such provisions to separate legislation to reflect its evolution and importance as part of the health promotion work of the government. The legislation provides a modern framework for the organisation as it plans for the future and fulfils a vital role distributing government funds. The broader focus of the legislation still aligns with the original purpose of the foundation's functions. Indeed, the objectives of the new legislation are intended to be consistent with the remarks made by former Minister for Health Hon Keith Wilson during the second reading speech of the Tobacco Control Bill in 1989 —

It will fund activities related to the promotion of good health; it will offer alternative sources of funds to sporting and artistic activities currently sponsored by tobacco companies; it will sponsor a wide range of sporting, recreational, and artistic activities which provide an opportunity to advance important health promotion campaigns; it will provide funds for encouragement of healthy lifestyles in the community, and support activities involving participation in healthy pursuits through grants and sponsorship; it will assist community organisations to promote good health ...

As members of this house are aware, the foundation recently has been subject to investigation and reporting by the Public Sector Commission. The details of the commission's report are publicly available. Although the circumstances that gave rise to that investigation were disappointing, the rigorous examination of statutory bodies in this way ensures that they continue to operate in an accountable and transparent manner. Key changes proposed by this bill are intended to ensure that the governance arrangements of the foundation are strengthened to support the valuable work of this independent statutory body.

The foundation plays an integral role in promoting healthy lifestyles in our community to reduce the burden of preventable disease in Western Australia. Funding of approximately \$21 million a year is provided by the government to the foundation. This funding is then distributed by the foundation by way of sponsorship and grants to sports, arts and racing groups to promote health and wellbeing for the people of this state. It also funds research relevant to health promotion activities. The foundation's program of sponsorship focuses on initiatives to reduce harm from tobacco and alcohol, prevent obesity and promote mental health and wellbeing. Many and varied community groups benefit from the work of the foundation and its efforts to make a real difference to the quality of life of Western Australians.

The bill will remove all relevant provisions relating to the foundation from the Tobacco Products Control Act and carry over such provisions to separate stand-alone legislation. Key changes to the current structure and composition of the foundation are as follows. The number of members appointed to the foundation will be reduced from 11 to seven members and the requirement that members be appointed on the basis of representing a specified group will be removed. This new arrangement is intended to minimise any potential conflict of interest. Board appointments will not be required to be drawn from organisations that may have a direct interest in policy and funding decisions. Rather, board appointments will be based on an appropriate mix of skills and expertise necessary to discharge the functions of the foundation. The minister will be required to appoint persons with expertise in the areas of arts, health and sport, and other persons with expertise in the areas of finance, governance, law, management and marketing may also be appointed. The chair will continue to be nominated by the Premier following consultation with the parliamentary leader of each party in Parliament. The composition of the membership is to be such that it ensures a level and breadth of expertise required to administer the bill's framework. As is currently the case under the act, the term of office of a member will be for three years;

however, a limitation preventing a member from serving more than nine years, consecutively or otherwise, will be introduced. This is another measure to ensure that the foundation is appropriately renewed and refreshed.

The proposed changes are consistent with modern legislative board appointment provisions that no longer require nominating bodies to be specified. This allows flexibility in the appointment of members with a relevant combination of skills and expertise to enable the foundation to most effectively carry out its functions. It is also proposed to align the employment arrangements of the foundation with the Lotteries Commission's structure by making the foundation a senior executive service organisation, making the executive director of the foundation an employee of the Public Sector Commissioner and ensuring that the staff of the foundation are employed as public service officers. This will ensure that employment arrangements of the foundation's staff are subject to the requirements and provisions of the Public Sector Management Act 1994.

The powers of the minister to scrutinise and direct the foundation will, so far as is practical, mirror those powers provided to the responsible minister under the Lotteries Commission Act 1990 as follows: the minister may give directions in writing to the foundation with respect to its functions and powers, either generally or with respect to a particular matter, and the foundation will give effect to any such direction; notwithstanding the aforementioned, the minister is not to give directions to the foundation with respect to the provision of funds or grants; and the text of any ministerial direction will be included in the foundation's annual report. Importantly, although the minister will be able to direct the foundation with respect to its functions, as is possible under the current legislation, it will not be possible to give directions to the foundation with respect to decisions made about the provision of funds or grants. This change is intended to preserve the independence of the statutory body in determining its decisions in accordance with its statutory requirements and obligations. Although the minister will not be able to direct the foundation in respect of the provision of funds and grants, the minister's approval is required before the disbursement of any moneys by the foundation. This provision is intended to provide another check and balance on the disbursement of public moneys.

This is a bill to provide a contemporary framework for the Western Australian Health Promotion Foundation and to ensure that the governance arrangements of the foundation are strengthened to support the well-recognised and valuable work of this independent statutory body. Reform of the structure and composition of the foundation is also intended to restore and strengthen public confidence in it. This bill is a key step in the necessary reform of the continuation of the foundation's important role in public health.

For the purposes of standing order 126(1), I advise that the bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and table the explanatory memorandum.

[See paper 3331.]

Debate adjourned, pursuant to standing orders.