

BUSH FIRES AMENDMENT BILL 2009

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Peter Collier (Minister for Energy)**, read a first time.

Second Reading

HON PETER COLLIER (North Metropolitan — Minister for Energy) [10.01 pm]: I move —

That the bill be now read a second time.

The Bush Fires Amendment Bill 2009 introduces changes that are essential to enhancing fire management and boosting community safety in Western Australia. This legislative package addresses issues in bushfire suppression, prevention and prosecution, and will improve the coordination and collaboration of effective fire management in our state. It will streamline and clarify the roles and responsibilities of WA's fire agencies. The Bush Fires Amendment Bill will ensure that our legislation is relevant and contemporary by taking into account the tragic events in Victoria and the relevant recommendations from the subsequent 2009 Victorian Bushfires Royal Commission. It will also lay the foundation for excellence in emergency management in WA.

I believe these new laws are essential to ensure that Western Australia is well prepared for the coming bushfire season, which is shaping up to be an extremely challenging time for our firefighters. The key amendments include the introduction of total fire bans; new arrangements for the control of major fires; changes to the definition of "property" to include crown land and bush; and the inclusion of a new fire danger rating system. These proposed changes are the culmination of the comprehensive work undertaken by the Community Development and Justice Standing Committee and outlined in its report "Inquiry into Fire and Emergency Services Legislation", which was tabled in Parliament in October 2006. Consultation included both public and private organisations and the Western Australian Local Government Association, which liaised with the 122 local governments that have bushfire management responsibilities. As part of its review, the CDJSC also referred to findings from two coronial investigations; the 1994 Darling escarpment review; a 2004 report by the Auditor General of Western Australia, "Performance Examination: Responding to Major Bushfires"; and a 2004 Council of Australian Governments' report, "National Inquiry on Bushfire Mitigation and Management".

After a detailed and inclusive investigation, it was clear to the CDJSC that control of multi-agency incidents would always be contentious and the arrangements between agencies needed to be clarified legislatively to ensure a consistent statewide approach. The committee's final report contains 88 recommendations that clearly indicate that effective fire management requires clear guidelines and coordination arrangements. I take this opportunity to thank the members of the committee for their efforts in producing the report.

In November 2008 the newly elected Barnett government considered the CDJSC report and cabinet approved the drafting of a single comprehensive and consolidated emergency services bill in line with the recommendations. Due to the protracted time required for the preparation of this bill, cabinet also approved the progression of these critical amendments in a separate bill, which I am now presenting to the house for consideration.

I ask members to consider this amendment bill as a matter of urgency. Our government wishes to move quickly on these changes so that they may be implemented in time for the bushfire season. One of the key amendments is the ability for the Minister for Emergency Services to declare a total fire ban, which would cover specific areas of the state and for a certain period. Western Australia is currently the only state in Australia where the fire agency has no legislative provision to declare a total fire ban. Under existing arrangements in the Bush Fires Act 1954, section 21 enables a bushfire emergency period to be declared in extreme weather conditions, but this has a major effect on industry undertaking hot work, such as welding or grinding, as the industry requires permits to continue those activities. The proposed legislative changes will allow industry to obtain exemptions to a total fire ban in advance of a declaration so that industry can continue its activities as long as it complies with the exemption. Local governments will be consulted about the granting of an exemption in their area and regulations will be developed to ensure that long-term exemptions are reviewed and that the conditions imposed are adequate.

The term "total fire ban" will be better understood by the community than the term "bushfire emergency", and this will help prevent bushfires. A total fire ban will be declared only when weather conditions make it imperative or when the impact of fire in the state has stretched resources to such an extent that without high-level coordination a further outbreak of fire could not be managed properly. A total fire ban will sit over the top of current restrictions and will not remove the current ability of local governments to impose harvest bans and manage restricted and prohibited burning periods.

The proposed legislation will also introduce new arrangements for the control of major fires in WA. These changes reflect recommendations 48 and 49 of the CDJSC report, in which the committee clearly supported that

one fire agency, the Fire and Emergency Services Authority of Western Australia, be empowered to take control of a major fire. In effect, the proposed powers are an extension of those already available to FESA under the Bush Fires Act. The decision to take control of a fire would occur only when it has escalated to a major incident and it is critical that the state's resources and community information be coordinated. The amendments will also close gaps in the system that potentially leave volunteer firefighters and staff from the Department of Environment and Conservation exposed and unprotected by not having any clear legislative parameters in which to operate.

I will explain the current situation. Under existing legislation, the state's three fire agencies—FESA, DEC and local government—are legislatively responsible for fire suppression in their defined land areas, but the issue becomes unclear and confusing when a fire moves onto another agency's tenure. In some regions of the state, local arrangements have seen DEC and FESA staff operating at a local level under non-legislative arrangements when local governments have handed over control of a fire because they have not been suitably equipped to manage it. This new bill will change this situation and introduce clear guidelines and coordinated arrangements that will enhance fire management and control of major fires and ensure legislative protection for volunteer firefighters and DEC personnel.

The tragic Victorian fires are a stark reminder of what can go wrong when debate and confusion sap precious time and put people at risk. In the recently released interim report of the 2009 Victorian Bushfires Royal Commission the recommendation is for new laws to remove any ambiguity in operational roles and responsibility. Our government is already taking decisive action by introducing these amendments now. The decision for FESA to take control of a major fire will occur when the fire situation in one or more areas of the state is of such magnitude that resources are stretched and community warnings and information are required.

Detailed procedures and guidelines will be put in place to ensure that the new arrangements in the handover of control between fire managers are clear and prescriptive. The guidelines will be developed in regulations and made clear from an operational perspective in Westplan—the state emergency management plan—to ensure fire-fighting agencies all operate under a common standard with common processes in the interests of community safety. The new arrangements will deliver seamless coordination, control and command procedures in dealing with the management of a major fire and also for informing and protecting the community. New measures, such as informing FESA when a fire agency transfers control of a fire, will ensure that public information is processed with one integrated system and that the FESA communications centre will be central to statewide fire reporting and tracking. Furthermore, the use of support services, such as high-tech computer mapping, fire-behaviour modelling and aircraft operations, will be integrated into one standard system. The adoption of these measures will ensure that there is improved interoperability of the state's firefighting resources for the statewide control of bushfire threats and will ensure that the public is well protected and informed.

In day-to-day incidents there will be no change to standard firefighting responsibilities, and a handover of control can be agreed between the agencies concerned. If an agency is not able to manage a fire and there is no agreement to assume control by another agency, FESA will have the ability to designate an appropriate person to assume control of the firefighting operations and to ensure that support is provided to combat the fire. The new arrangements will provide FESA with the authority to assume control of a bushfire anywhere in the state. This will ensure that the state's resources and community warnings are appropriately coordinated. FESA will be able to authorise a bushfire liaison officer—BFLO—or another person to take control of all operations in relation to a bushfire because of the nature or extent of the fire. The appointed person will be able to use the proposed powers in the bill to evacuate people, close roads or move vehicles if required in the area and time period covered by an authorisation. These powers are similar to those contained in the Emergency Management Act 2005. The bill has been designed to complement and work seamlessly with the Emergency Management Act to ensure that there are clear roles and responsibilities for officers operating under the legislation.

The Bush Fires Amendment Bill also provides for a definition of “property” to include crown land and bush as part of our government's ongoing fight against arson. It has not previously been defined in this legislation and has provided a legal excuse for charges relating to lighting of fires under section 32 of the Bush Fires Act. Previously, a defendant could argue that crown land that had been burnt did not constitute property. The proposed definition will protect our state's flora and fauna from arson by including references to crown land and bush.

The bill also contains a number of minor amendments designed to clarify terminology to be used in a national fire danger rating system. The new ratings include the terms “severe” and “catastrophic”. The system has been developed as a national model and progressed as a result of the Victorian bushfires earlier this year.

As I mentioned earlier, the Bush Fires Amendment Bill is a very important legislative package that is essential to enhance fire management in WA and boost community safety for all Western Australians. This bill needs to be considered as a matter of urgency in readiness for this bushfire season. I commend the bill to the house.

Debate adjourned, pursuant to standing orders.