

LOCAL GOVERNMENT AMENDMENT (AUDITING) BILL 2017

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 3: Act amended —

Debate was interrupted after the clause had been partly considered.

Mr A. KRSTICEVIC: Before question time we were discussing funding arrangements and support for the Auditor General. I think the minister indicated that the Auditor General rightly came under the Attorney General's area of responsibility. I wonder whether the minister has had an undertaking from the Attorney General to ensure the appropriate level of funding required by the Auditor General to undertake whatever the Auditor General feels is appropriate in terms of performance audits and/or financial audits.

Mr D.A. TEMPLEMAN: As I was saying before we were interrupted by 90-second statements, I can assure the member that those issues will be raised by the Auditor General in his regular discussions with the minister. However, I also need to point out—the member will be aware of this—that the Auditor General, of course, reports to Parliament. In reporting to Parliament, I am sure that the Auditor General, being a free and independent oversight officer, will of course take the opportunity to advise of any critical need within his office.

Clause put and passed.

Clause 4: Section 1.4 amended —

Mr A. KRSTICEVIC: Can the minister tell me how many local governments he is aware of that will have existing audit contracts in force beyond 2019–20?

Mr D.A. TEMPLEMAN: I thank the member for his question. He is seeking the number of councils that will be subject to requirements in the legislation for the Auditor General to take over. There will be 50 expiring in the first year—these are financial years, of course—and in the second year there will be 47, which takes us to a total of 97 two years out. The balance will be after that.

Mr A. KRSTICEVIC: The legislation has a cut-off date after which the Auditor General takes over. I assume that there will be no break costs associated for any auditors or accounting firms that are appointed under existing contracts. Will the legislation just cut them off if there are any beyond that?

Mr D.A. TEMPLEMAN: The member's assumption is correct. There will be no breaking costs.

Mr A. KRSTICEVIC: Between now and when the Auditor General takes over the process, can the minister confirm that the Auditor General will be consulting with the sector about taking over responsibility for the audits? Will he extend that consultation to the local government sector and the private firms that currently undertake local government audits? Will he guarantee that that consultation will take place before the changes are implemented?

Mr D.A. TEMPLEMAN: The Auditor General is very much aware of the need to consult very closely with local governments on their specific needs, and I am sure he would have outlined that in his briefing to the member. He recognises the need to work very closely with local governments to assure them of the process of transition and, indeed, that their needs will be discussed in that process.

Mr A. KRSTICEVIC: Many local governments currently receive training and consulting support from audit firms, as well as their audit services, in the establishment of their financial statements. Will local governments still be able to receive financial support from the firms if they are also appointed as their auditors?

Mr D.A. TEMPLEMAN: Yes. I can confirm, member, that they will still be able to receive or access consulting firms' advice in this process.

Mr A. KRSTICEVIC: For example, a lot of audit firms prepare the financial statements and accounts for local councils, especially in regional locations. When an auditing firm has provided financial advice and put together the financial statements for that particular council, will that firm also be able to conduct the audit?

Mr D.A. TEMPLEMAN: Member, the answer is yes, if they are an approved auditor or firm and they have been selected by the Auditor General.

Mr A. KRSTICEVIC: I know from talking to the Auditor General that he raised that as a potential issue. I am not going to quote him directly, but I understood him to say that if a firm prepares the financial statements, he would not consider it appropriate for it to also audit those statements. There would be a conflict there because they are auditing their own work in the first instance. I wonder whether the minister has different advice. Maybe I did

not understand the Auditor General properly, but he mentioned that there was a conflict there and that that would be an issue for him.

Mr D.A. TEMPLEMAN: As the member is aware, the Auditor General is an independent oversight officer of the Parliament ultimately; therefore if he perceives there to be a conflict, he would resolve that, as is his statutory obligation. I certainly would not be interfering as minister, as I have no right to do that. He has that independence and he would determine his course of action within the legislation.

Mr A. KRSTICEVIC: Firms in certain country towns have only one auditing firm providing financial support. If there is an obvious conflict in conducting the audit, has the minister given any consideration to additional costs that would be incurred? One would assume that in those cases the Auditor General would potentially be the auditor of choice and therefore there would be a much bigger cost to conduct an audit at that particular council.

Mr D.A. TEMPLEMAN: I thank the member. I want to make a couple of points. The first is that the Auditor General has indicated that he sees an ongoing role for local, regional firms. Obviously, that would be part of his consideration. It is interesting to note that quite a lot of firms that currently provide audits for regional councils are in fact not local; they are not resident within that region. That is a case in point for a number of them. Those that are, and those that the Auditor General considers appropriate and indeed are accredited, may be considered in his selection determination.

Mr A. KRSTICEVIC: A country local government may not be able to find a local auditor if the local auditor has a conflict, because the auditor prepared the financial statements. The Auditor General makes the assumption that an auditor who has prepared a financial statement and helped the local government with its accounting practices cannot also audit them. I assume the Auditor General would make that assumption because that would make sense, from my perspective anyway. Someone else would need to audit those accounts, whether it be the Auditor General or through another practice, but there would be additional costs to fly people in and accommodate them during the course of the audit. Would local councils be expected to carry the extra cost of flying people in if there was a perceived conflict in the local auditor?

Mr D.A. TEMPLEMAN: Again, the member is describing a situation that already occurs.

Mr A. Krsticevic: In some councils, but in others it does not.

Mr D.A. TEMPLEMAN: It already occurs. A number of auditing firms, as part of the auditing process, fly people from Perth or other parts of the state to conduct an audit. That may continue into the future. I come back to the fact that the legislation as written—indeed this clause—assumes one fact: the Auditor General is independent of direction from me. The Auditor General will determine these matters and conduct his business to ensure that an appropriate and effective audit is carried out as per the legislation.

Clause put and passed.

Clauses 5 to 7 put and passed.

Clause 8: Section 5.55A inserted —

Mr A. KRSTICEVIC: I want to find out whether the annual reports and the audited accounts for all local governments are currently easily accessible by their ratepayers, and how they are being accessed.

Mr D.A. TEMPLEMAN: Not all local governments publish their annual reports on their websites. If the member's particular council and other councils do not, the current practice is for a ratepayer to attend the council office seeking to view the report. The good thing about this legislation, in terms of further transparency, is that the annual report or the auditor's report must be included in the council's annual report. That means the auditor's report will also be published. That is a very important step forward in transparency.

Mr A. KRSTICEVIC: If it is published, will the minister expect it to be published on their website? Is that a requirement? Also, is the minister aware of any local governments that do not have a website?

Mr D.A. TEMPLEMAN: The member's first question was whether the auditor's report would be published. Yes, it will. Proposed section 5.55A, "Publication of annual reports", states —

The CEO is to publish the annual report on the local government's official website within 14 days after the report has been accepted by the local government.

That means the Auditor General's report is effectively published as well. The second question was whether any local governments do not have a website. There are no local governments that do not have a website.

Mr A. KRSTICEVIC: Will the annual reports also be published on the Department of Local Government and Communities' website? Will the financial reports also be published on the department of local government's website? On top of that, will the same process as mentioned before be followed for supplementary and performance audits?

Mr D.A. TEMPLEMAN: This relates to the operations of the local government itself. Because there is a clause about the CEO being required to publish the annual report, and subsequently the Auditor General's report will also be published on the website, that creates a clear line of transparency in regard to any ratepayer seeking access to those documents.

Mr A. KRSTICEVIC: Will the same level of transparency be given to performance audits and any supplementary audits that occur?

Mr D.A. TEMPLEMAN: The short answer is that the publication of a supplementary audit will be subject to the minister's determination. The reason behind supplementary audits not being published is that some legal follow-up may come from a supplementary audit and therefore it would not be appropriate if any legal prosecution or action was pending. It also may not be relevant to the ultimate determination.

Mr A. KRSTICEVIC: Will performance audits be published on the website? For clarification, if a supplementary audit is not subject to any legal implications, will it be posted on the website for the various local governments?

Mr D.A. TEMPLEMAN: Obviously, the Auditor General will prepare a report to Parliament. In that report, he will refer to performance audits that he has undertaken. From that, as part of a performance audit, the Auditor General may have required actions. The council would be required to respond to any actions it has been requested to respond to and those actions would be published on its website.

Mr A. Krsticevic: Would the performance audit not be on the Auditor General's website?

Mr D.A. TEMPLEMAN: The performance audit would come to Parliament.

Mr A. Krsticevic: I know that it comes to Parliament but, obviously, not everybody out there in ratepayer land will come to Parliament to find performance audits. They will look at the local government website, I assume. I would think that the relevant performance audits would be published on the council's website.

Mr D.A. TEMPLEMAN: The advice I have is that it depends on the nature of the performance audit. Actions are the important component of a performance audit. The Auditor General would table his report in Parliament. That performance audit report may include specified actions that local governments are required to take. It is considered appropriate that the actions that an individual council is required to take by the Auditor General go on its website. For example, the reason that the requirement is not for the local government to publish the performance audit is that some of the issues may relate to broader cross-council issues. For example, a procurement issue may have been looked at across a number of councils and the action may be specific to one or two of them. There is no requirement for the full procurement report to be published on the local government's website.

Mr A. KRSTICEVIC: If a ratepayer within a local council is not aware of documents being tabled in Parliament but they have an interest in their local council and they go to their local council website, how would they be aware that a council has had a performance audit? What easy mechanism is there to find it? The minister talked about the publication of actions being taken, but if a person goes to a local government's website and tries to search through it, it is a very complicated and difficult place to find information for people who know what they are doing, let alone ones who do not. Also, if a person is specifically looking at the outcomes of a performance audit, there is no obvious way to identify whether the council had been through a performance audit, other than through the minister's statement that the actions to rectify the issues identified in the performance audit have to be published. If someone were simply to ask the question, I am not sure how they would know whether a performance audit has been conducted on their council and where they could find information on the local government website. There would be no way of identifying it. I think that would be a concern for ratepayers.

Mr D.A. TEMPLEMAN: The member makes a good point about this. The MyCouncil website is one mechanism of highlighting that a performance audit has been conducted. Also, in the context of the local government review, as the member is aware, there are two phases and, in one of the phases, there is a focus on transparency. I would be very happy to take up that issue for that process. It is a point well made. The MyCouncil website is one mechanism, but as part of the review of the act, that should be considered.

Mr A. KRSTICEVIC: Is the minister giving an assurance to the house that the MyCouncil website will be updated to include information to tell ratepayers that a performance audit has been conducted. I am not sure what information there would be but, as a minimum, would it be a link to the Auditor General's report on that performance audit so that ratepayers could easily access the information?

Mr D.A. TEMPLEMAN: The Auditor General's website will show the councils for which a performance audit has been conducted. Of course, the ongoing improvements and reviews to the MyCouncil website could also consider that. In terms of assurances, I can assure the member that we will look at all appropriate methods to ensure that ratepayers are able to be aware of, and have access to, audits that have been conducted by the Auditor General and released publicly.

Mr A. KRSTICEVIC: As the minister is obviously aware, a lot of the issues around local councils in the past have centred around things that fall under the category of performance audits. That is why it is very important to

make sure that ratepayers are aware of that information and that it is easily accessible for as many people as possible. I think, as a minimum, the MyCouncil website should include that information. There may be a line or a category that tells people the number of performance audits conducted each financial year. That would probably be very easy. There could be a link with a reference to the Auditor General's website to get that information.

Minister, what will happen if local governments do not, I suppose, comply or make this information available or do not lodge it, even in the case of a request for a performance audit, or make it difficult for ratepayers to get access to this information? Will there be any penalties for councils that do not comply; and, will the department undertake any compliance checks to make sure this is all being done properly?

Mr D.A. TEMPLEMAN: As the member is aware, the minister of the day can, of course, if it is brought to his or her notice that there has been a failure to comply with the obligations of the Local Government Amendment (Auditing) Bill 2017, request or direct that that action be delivered as per the Local Government Act. This bill places obligations on local governments to provide certain information to the Auditor General. If they fail to comply with its audit-related obligations, the normal practice is for the department to contact the local government and take steps to assist the local government. The department may issue a written notice under section 8.2(1) of the act to require a local government to provide information concerning its operations and affairs. The member can see there is a pattern here of notices of action required. If the local government continues to fail to comply—so, after that process has been exhausted and the department has attempted to assist—under the statutory requirements, I can exercise my existing power under the act to issue a show-cause notice, which is under section 8.5(1)(b) of the act. If deemed necessary, based upon the seriousness and duration of the suspected failure, the minister may indeed issue an order under section 8.5(1) of the act, which of course can lead to suspension as per the act. There is a clear hierarchy of actions, ultimately ending with the minister taking action to ensure compliance.

Mr J.E. McGRATH: I have only one question in consideration in detail. As I said in my contribution, some of the bigger councils do quite a few internal audits—the City of Swan does five a year. For the large councils that already do them, these are internal documents that go to a committee of council, which is confidential, and then the agreed actions would form part of the future year's work programs through the corporate business plan, as part of the integrated planning framework, the IPF, which is a requirement of the Local Government Act. I am advised that what is likely to occur if these are made public is that these audits will be outside the IPF and will therefore take precedence as the public perception, thereby bypassing the IPF due to public pressure. Does the minister think this might be the case?

Mr D.A. TEMPLEMAN: I thank the member for South Perth. I can assure the member for South Perth that the internal audits within council will remain in-house, if you like, and will not be required under this act to be published.

Clause put and passed.

Clause 9: Section 5.94 amended —

Mr A. KRSTICEVIC: How often have ratepayers been required to use this provision to access information from councils under the current act?

Mr D.A. Templeman: Are you referring to the attendance of a person at a local government office?

Mr A. KRSTICEVIC: Yes, for accessing financial documents. I assume this amended section will allow people to inspect information. Obviously, people can inspect documents when they go to councils. Some councils make it difficult for people to inspect documents such as supplementary audits, financial audits or the replies to performance audits. Under amended section 5.94, does the minister believe a person will be able to inspect a supplementary audit? How often, if at all, have people been required to use that section of the act?

Mr D.A. TEMPLEMAN: We do not have the detail of the exact number of people who have attended a local government to inspect local government documents; they are able to, and they are free to access. That could be an infinite number, because every day people come to council seeking to access reports. In terms of supplementary audits, there has been only one. That was at Manjimup in 2015. I am not privy to the number of people who sought to access a copy of that. But in terms of supplementary audits, there has been only one. I hope that answers the member's question.

Mr A. KRSTICEVIC: In terms of accessing information, are there any examples of councils refusing ratepayers' complaints that have been received by the department and the council refusing to give ratepayers access to documents and information, and/or making it difficult or complicated for ratepayers to access information?

Mr D.A. TEMPLEMAN: The requirement of councils is that they are to make available the annual report during that council's office hours. That is the requirement under the act. As to the member's question about whether there have been any reports of any council refusing to do that, not to my recent knowledge.

Mr A. KRSTICEVIC: Between office hours, is there a particular procedure to do that? I know people have said that in the past they have been to access these and other documents at councils, and the officers will make them wait for hours on end and make it complicated for them to access that information. Is there a mandated procedural process for people to easily access these documents, or does each council come up with its own guidelines and procedures to make it either easier or more difficult for people to access information?

Mr D.A. TEMPLEMAN: I thank the member for the question. Ultimately, all councils are required to comply with the act. In relation to this bill, of course, there is an additional layer of transparency, and it could be argued in modern technological times that having auditing reports published on the website, for example, actually enhances the general public's after-hours access to appropriate reports. This is a modernisation. I think the member for Perth, in his contribution, talked about the need for us to have legislation, practices and processes that are responsive to modern technology. The intent of this bill is one example of that.

Clause put and passed.

Clauses 10 to 16 put and passed.

Clause 17: Section 7.11 amended —

Mr A. KRSTICEVIC: Can the minister please tell me why the power to inspect and inquire has been removed?

Mr D.A. TEMPLEMAN: Yes; this deletion effectively deals with a redundancy because the definition is within the terms used in clause 10. If the member refers to clause 10, he will see it clearly articulates what is defined, therefore making it necessary simply to delete section 7.11.

Mr A. KRSTICEVIC: That does not reduce the ability to inspect and inquire; it is just amalgamating those into the one clause, as I understand it.

Mr D.A. TEMPLEMAN: Yes, the member is exactly right.

Clause put and passed.

Clause 18: Part 7 Divisions 3A to 3D inserted —

Mr A. KRSTICEVIC: Can the minister please tell me how many of the audit firms that currently work with local government are accredited by the Auditor General? How many councils currently use auditors that are accredited by the Auditor General?

Mr D.A. TEMPLEMAN: I can inform the member that 11 firms are currently utilised by local governments, and, of those, six are accredited. Would the member like me to read the names of those?

Mr A. Krsticevic: There are only 11 that are used?

Mr D.A. TEMPLEMAN: Yes, that is right. Does the member want me to read the six that are printed?

Mr A. Krsticevic: I would like the ones that are not accredited.

Mr D.A. TEMPLEMAN: The audit firms not accredited are Byfields Business Advisers, Macleod Corporation, Lincolns, Anderson Munro and Wyllie, and Macri Partners.

Mr A. KRSTICEVIC: Will support be provided to the audit firms that may not have the skills at the moment for their accreditation? Will there be funding allocated to the Auditor General, and how much? How does the minister see the Auditor General upskilling these firms?

Mr D.A. TEMPLEMAN: There is no extra funding required to work with the firms that are not accredited. The Auditor General has given a very clear indication that his office will work closely with those that are not accredited, in terms of upskilling.

Mr A. KRSTICEVIC: To the best of the minister's knowledge, in the first year of this bill and every subsequent year, how many financial audits will be conducted by the Auditor General directly and how many will be diverted to other firms?

Mr D.A. TEMPLEMAN: Member, 10 per cent of local governments will be audited by the Auditor General in-house and the residual 90 per cent will be contracted.

Mr A. KRSTICEVIC: Does the minister know how an audit firm is approved? How is the Auditor General going to monitor the standard of the audit firms and the audits that they do?

Mr D.A. TEMPLEMAN: In terms of the Auditor General ensuring the standard of audits done under contract, the Auditor General contracts out about 40 per cent of state agencies and as a result they have considerable experience in ensuring the quality of audits done under contract. Every contracted local government audit will be done according to a documented well-established approach. The engagement leader for the audit will be an Office of the Auditor General staff member who approves the audit approach and all key decisions about the audit, so there is very strong oversight there. The engagement leader will review the audit firm's working papers and the local government's financial statements. The signing of the audit opinion is not delegated to a private firm; rather,

it is signed by the Auditor General or a senior Auditor General's office delegate. The Office of the Auditor General's contract management approach is overseen and the quality is assured by its technical and quality branch.

Mr A. KRSTICEVIC: What specific provisions are being made for regional councils? How much will it cost regional councils? The minister has talked about councils, but there are also regional councils. I wonder whether they are looked at differently or come under the same ambit as councils. Will the Shire of the Cocos (Keeling) Islands have to comply with the same rules? What will happen if Cocos (Keeling) cannot get an auditor? Will the Auditor General then, as the auditor of last resort, be required to audit that shire? What costs will be borne by those areas?

Mr D.A. TEMPLEMAN: As I said in answer to a question that the member raised earlier, I reiterate that only 11 firms are used in the current auditing process by local governments. Of those, six are accredited. The Auditor General, in working with the contracting auditors, will address any of those issues that may come from a regional context, given that we already know that there are 11. That will be addressed, as the Auditor General has assured us himself. In regard to the Shire of Cocos (Keeling) Islands and the Shire of Christmas Island, UHY Haines Norton currently provides the audit to those shires and, interestingly enough, it also provides audits to a number of other councils, including regional councils such as the Shires of Boddington, Coorow, Narembeen and Merredin. We can be assured that Cocos (Keeling) and Christmas Islands will be well looked after in this process.

Mr A. KRSTICEVIC: I want to ask a couple of questions about compliance audit returns. The bill does not extend to the Auditor General covering compliance audit returns specifically, although I believe the minister indicated in an earlier statement that there was no impediment to the Auditor General to audit compliance audit returns. In that specific area, I note that the compliance audit returns are given to the Department of Local Government and Communities on an annual basis, in what I believe is perceived to be a paper shuffling exercise. Can the minister please explain why these returns have not specifically been included in this requirement, what a compliance audit return is and what areas it covers?

Mr D.A. TEMPLEMAN: As I am sure the member is aware, a compliance audit report is really a self-assessment mechanism and can cover a variety of compliance requirements, including issues with cemeteries, depreciation et cetera. When the department is required to follow up on any noncompliance, there is obviously a course of action and assistance is given to ensure that the compliance is delivered. The department reviews the compliance audit reports for any noncompliant responses and then puts in place appropriate action to monitor the issues and of course to see whether any follow-up action is required to bring the compliance up to standard.

Mr A. KRSTICEVIC: Has the department received any compliance audit returns in the last 12 months or so that have not ticked all the boxes, for want of a better term, for the process? Has it received any compliance audit returns in the last five years, for example, in which local governments have not met the requirements and it has had to then follow up with local councils for remedial action and/or any other action?

Mr D.A. TEMPLEMAN: The short answer to the question is yes, I believe there would have been a number of councils. I cannot give the exact number, but I am very happy for the member to ask a question on notice about it so we can get him the exact detail. I suspect that in the last 12 months, there would have been a number of councils, and I expect the department has taken appropriate action, as is its responsibility, to monitor the issues associated with any noncompliance concerns. If the member puts a question on notice about the specific number, I would be very happy to answer and give him the full and clear number that he is seeking.

Mr A. KRSTICEVIC: When the department receives these compliance audit returns, identifies an issue and takes some form of action, whatever it happens to be, does the department inform anybody apart from the council? Is the minister informed? In this instance, now that the Auditor General is taking over the audits, if there are issues the department picks up in these compliance audit returns, will the department refer them to the Auditor General or the minister to be looked at?

Mr D.A. TEMPLEMAN: Ultimately, this is an operation of the department. It is an important operation of the department to review those reports and to take appropriate action for noncompliance. I suspect that if there were serious issues associated with noncompliance and a lack of, or inadequate, action taken to respond, it would be brought to my attention. However, these issues are of course between the department and the local government and there is a sense of working to address any outstanding matters that may be referred to in the report.

Mr A. KRSTICEVIC: As councils go through the process of submitting compliance audit returns, which the minister mentioned were self-assessments, would it not be prudent to include them as part of the audit process, bearing in mind there have been a number of Corruption and Crime Commission reports into procurement and other areas that no doubt fall under the compliance audit return? The minister can correct me if I am wrong, but I assume that the department would have looked at the compliance audit returns of councils that have been pursued by the CCC to see whether they had ticked the boxes to comply. If this process is not treated as more than

a self-assessment, I am not sure why it is being done. Very few councils would assess themselves as not meeting the criteria in the compliance audit return according to what they think the standard is as opposed to what the real standard should be.

Mr D.A. TEMPLEMAN: I need to make the clear determination that these compliance audit reports do not relate to finances; they are not financial in nature. I think it is important to note that under this legislation, the Auditor General will determine whether and how frequently the compliance audit report should be audited and whether the report of a particular local government should in fact be audited. It is very much a responsibility of the Auditor General in this process to look, from his independent perspective, at how frequently that might take place.

Mr A. KRSTICEVIC: Does that mean that the Auditor General and/or the appointed auditor will, as a matter of course, have a cursory glance over the compliance audit return or will the auditor or the Auditor General seek advice from the department about whether there are concerns with any councils or whether it has received a compliance audit return for a particular council?

Mr D.A. TEMPLEMAN: Just to clarify, it will be up to the Auditor General to determine the scope. That is the important point. The Auditor General will determine the scope, and that is important given the independent nature of the work that he does. It is important that we rely on the Auditor General's expertise to determine that.

Mr A. KRSTICEVIC: Does any other jurisdiction have the requirement to lodge a compliance audit return; and, if so, is it looked at by the Auditor General in that jurisdiction?

Mr D.A. TEMPLEMAN: I am not aware of any others.

Mr A. KRSTICEVIC: Can the minister tell me how many local governments have failed to submit their compliance audit return in the last financial year?

Mr D.A. TEMPLEMAN: The answer to that question is not relevant to this clause. I am very happy to answer a question on notice about that, because it is an important question. I would be interested in the answer, so I will be interested in my own answer! I encourage the member to put that as a question on notice, but it is not relevant to this clause.

Mr A. KRSTICEVIC: Are the results of the compliance audit reports published anywhere? Do the councils or the department publish them? How do ratepayers know whether the council is complying with lodging these reports?

Mr D.A. TEMPLEMAN: They are not published at this point but, again, these measures of transparency will be considered in the act review process, which I have commenced.

Mr A. KRSTICEVIC: Does the minister think it is appropriate for them to be published and to be made publicly available to ratepayers on the website?

Mr D.A. TEMPLEMAN: I am sure this matter will come up in the act review. I would be interested in the response to that question from the various sectors. I would certainly be interested in their views on that necessity.

Mr A. KRSTICEVIC: Does the department currently provide the minister with a report outlining any issues or concerns raised in compliance audit reports and circumstances in which councils are not meeting their obligations; and, if not, why not? If yes, what action is taken to resolve those issues?

Mr D.A. TEMPLEMAN: The short answer is that there is no published list because some of these matters vary from minor compliance matters that simply need a response by way of a phone call and a check to make sure that information is provided and some require some capacity-building assistance. This happens from time to time when an experienced CEO, for example, is asked to buddy, if you like, or work with a less experienced CEO or manager to address issues related to effective and efficient compliance. These matters vary. Any serious breach would come to me through various means, including by people writing letters to me, members of the public raising concerns about compliance and in my day-to-day discussions with the director general about public concerns raised about certain councils. I do not get a published list of those councils that are affected by a range of compliance issues because they vary in seriousness and nature.

Mr A. KRSTICEVIC: Does that mean that the department deals with issues of a training nature or issues relating to a lack of understanding and ensures that the right mechanisms are put in place to rectify the problem? Will the Auditor General be required to play any role in the compliance audit returns if he finds a problem and identifies that training, upskilling or other things need to be done or will he direct the department to deal with those shortcomings?

Mr D.A. TEMPLEMAN: I will answer the second part of the question first. The Auditor General does not have a role in those sorts of recommendations. His role relates specifically to the audit process and the outcomes. It is the responsibility of the department to ensure not only compliance of the act by local governments, but also to assist with capacity building and support of local governments. We know that a number of local governments in Western Australia may suffer from capacity or lack of capacity or issues associated with capacity to deliver from

time to time. The department has an approach to work with those local governments to assist in capacity building. We had a recent case of a local government department providing additional training and mentoring to upskill officers. There are also issues associated with governance and assisting officers in local government to improve or increase capacity. That is an important role for the department to undertake. It is a central role of the department to provide that advice and support.

Mr A. KRSTICEVIC: The minister indicated that the Auditor General will be doing about 10 per cent of the financial audits. Given the expertise of the Department of Local Government and the minister, will they be giving any guidance to the Auditor General about specific councils that have a history of not lodging their compliance audit returns or meeting other requirements as indicated by the department, along with any investigations being done by the Corruption and Crime Commission? Will the Auditor General be picking them out of a hat or will some guidance be given by the department and the minister about the councils that, from their expertise, they think need to be given a bit of priority?

Mr D.A. TEMPLEMAN: The Auditor General is independent. That is very important. We will ensure that independence. The Auditor General's assessment of audit risk in each local government will be influenced by his response. His prioritisation or assessment will draw upon information that he requests and that is held by the department or other sources. The important aspect or the underlying principle here is the independence of the Auditor General. He and his officers are very experienced in these matters. It is their core business. They will certainly not be pulling things out of hats. They would have a methodical process that they consider to be tried and true in processes such as that. I have great confidence that the Auditor General will carry out the duties that are delivered through this act in an absolutely transparent and effective manner.

Mr A. KRSTICEVIC: I refer to proposed section 7.12AD, "Reporting on a financial audit". What is the purpose of providing an audit report to the minister and not to the Department of Local Government? Why does the department not get a copy?

Mr D.A. TEMPLEMAN: As set out in the legislation, the report is received by me and, obviously, as is very common practice, I would pass that report to the department for its consideration.

Mr A. KRSTICEVIC: Does this mean that the minister will receive every single audit report and look at it prior to giving it to the department?

Mr D.A. TEMPLEMAN: I am a very diligent minister! When I am travelling back to the regions, I use that opportunity —

Several members interjected.

Mr D.A. TEMPLEMAN: Members over there need to be very careful because they have a member who is in the same region as me and who, like me, is a staunch defender of the Peel against anyone from the goldfields or the midwest. Do not worry about that! We will fight them everywhere to protect our regional identity! Do not worry about that!

In answer to the member's question—which I have now forgotten!—these reports are very important. Any Minister for Local Government would diligently ensure that they read those reports and digest the nature of them. Of course, given that they will be going to the department, the minister of the day, I am sure, would be very interested in the department's response to the reports provided to it as well.

Mr A. KRSTICEVIC: With regard to the fees for financial audits, the minister implied that there is a wide variation in fees from very low to, I suppose, moderate or high; I am not sure. Does the minister have any idea about the fees being paid currently and how they will relate to the fees charged under the new structure?

Mr D.A. TEMPLEMAN: Obviously, the Auditor General will make sure that every audit is done appropriately, and there will be a cost. As I said in my response to the second reading debate, even now the actual cost of auditing in local governments is a very, very small part of their financial burden. I think 0.88 per cent was the figure, from memory. I also said in my response to the second reading debate that the current audit fees for councils in Western Australia vary. I think I highlighted that Mandurah currently pays the highest fees for its audit, from memory. I know, because I was very interested as a ratepayer! Mandurah's fees were \$55 000 and it is audited by Deloitte Australia.

Mr A. Krsticevic: What's the lowest?

Mr D.A. TEMPLEMAN: Leonora shire's audit fee was \$8 000. These are the figures for 2013–14. Narrogin shire's audit fee in that financial year was \$6 650, and I think that is the lowest, from my quick scan. The fees vary and, as I said, some of the very large councils in terms of ratepayer base pay more. The City of South Perth paid \$28 000.

Mr A. Krsticevic: Have you got an idea of the average? I know you can't be specific, but do you have a ballpark figure?

Mr D.A. TEMPLEMAN: The average, I think, is \$22 000, by the look of it.

Mr A. Krsticevic: With the Auditor General doing it, have you had any indication whether there would be a huge variation from that?

Mr D.A. TEMPLEMAN: My understanding is that the Auditor General has indicated that he would not expect a wide variation from the current average. Some councils might pay a little more than what they paid —

Mr A. Krsticevic: Mandurah will pay less, then, maybe.

Mr D.A. TEMPLEMAN: Possibly, but, again, that is a determination for the Auditor General.

Mr A. KRSTICEVIC: On that point, the minister said Mandurah's audit fee was around \$58 000. If the Auditor General allocates audit firms, obviously that might be a concern for him if, say, some councils are being charged so much more by auditors and —

Mr D.A. Templeman: Mandurah is a tier 1.

Mr A. KRSTICEVIC: Tier 1; okay. Have any councils raised any concerns about increased costs as a result of this process; and, if so, which councils have raised concerns, and what specifically are their concerns?

Mr D.A. TEMPLEMAN: Matters that have been raised about the bill have mainly been around what it meant for existing accredited and non-accredited auditors, and how that might affect local economies. That was one of the queries that was raised. That was raised through the processes of the Western Australian Local Government Association. Essentially, WALGA and the stakeholders understand that this is an important layer of transparency. As I said in my response to the second reading debate and in my second reading speech, this layer of transparency is evident in other states and will underpin this government's intention—and the previous government's intention, as the government responsible for the gestation of this bill—that this will be a supported piece of legislation, putting in place an important transparency measure. I am not aware of individual councils raising concerns about costs; there could have been, but I expect they would have been raised in the context of zonal meetings and/or discussions and discussions with WALGA. Essentially, the intent of the bill is strongly supported.

Mr A. KRSTICEVIC: How many performance audits does the minister expect the Auditor General to undertake in a given year, and does the minister have a view as to whether it should target individual councils or whether it should be looking for broader systemic issues across the sector?

Mr D.A. TEMPLEMAN: That is a good question, but, again, I think it pre-emptes the responsibility of the Auditor General, not me. I do not have a responsibility to direct the Auditor General as to how many he should undertake. That will be entirely up to the Auditor General to determine, and that will be influenced by a range of factors.

Mr A. Krsticevic: Funding?

Mr D.A. TEMPLEMAN: It will be affected by a range of factors, including information that he may glean from various sources. Again, because the Auditor General is ultimately accountable to this Parliament, I am sure that if the Auditor General has matters relating to resourcing or otherwise, he will raise them with the minister. Of course, the Auditor General will table a report for the Parliament, and I would expect that in that report will be a comment regarding the delivery of the outcomes of this new legislation when it is in place.

Mr A. KRSTICEVIC: Has the Auditor General had any discussions with the minister about the amount of funding he will be looking for initially to roll this forward on an annual basis?

Mr D.A. TEMPLEMAN: I have met with the Auditor General and a range of issues associated with the implementation and delivery of this bill were discussed. Ultimately, I encouraged him to ensure that his minister, to whom he has a direct line of influence, ensures that appropriate budgetary submissions and provisions are made to ensure that he is able to deliver to the requirements of the act.

Mr A. KRSTICEVIC: Have the local government professionals raised any concerns about performance audits and have they been consulted about what is going to be happening in this particular area?

Mr D.A. TEMPLEMAN: Local Government Professionals Australia WA is an important stakeholder. We have regular meetings with it. During initial discussions with it when this bill was reintroduced to this place—it lapsed or failed to pass the last Parliament—its main concern related to the cost of performance audits. I have answered questions relating to that.

Mr A. KRSTICEVIC: Will performance audits also be provided to the minister when they are completed?

Mr D.A. TEMPLEMAN: It is not a requirement of the bill that we are debating.

Mr A. KRSTICEVIC: Is the minister concerned about performance audits? Financial audits will obviously come to the minister and his department, but performance audits that may identify systemic issues of varying degrees are not being given to the minister. Why would the Auditor General not be obliged to submit a performance audit to Parliament, the same as a financial audit?

Mr D.A. TEMPLEMAN: Just to clarify: the performance audit will essentially be tabled in Parliament through the Auditor General's report.

Mr A. KRSTICEVIC: Prior to its tabling in Parliament, will the minister and/or the department be given a copy of all performance audits to understand the issues identified by the Auditor General?

Mr D.A. TEMPLEMAN: It is a good question. Depending upon the nature of the report or the performance audit and depending upon whether there are any legal matters associated with that, the Auditor General may raise those with his minister. It depends on the nature of it. That may be something that takes place as an outcome of that report. It is ultimately a discretionary issue. Section 25(2)(a), in part 3 division 3 of the Auditor General Act 2006, states that the Auditor General must —

give a summary of findings to the Treasurer, agency or audited local subsidiary, as the case may be, and any other person who, in the Auditor General's opinion, has a special interest in the report; and

From reading that, I would suspect it is essentially the Auditor General's discretion to do that if, in his opinion, another entity has a special interest in the report.

Mr A. KRSTICEVIC: Does the minister think that he and the Department of Local Government and Communities would have a special interest in performance audits and their outcomes? Would he expect the Auditor General to use his discretion or would he expect the Auditor General to make the Minister for Local Government aware of performance audits being undertaken and the issues surrounding them at the time they are done?

Mr D.A. TEMPLEMAN: I am sure I am special! Again, it is the discretion of the Auditor General, but in terms of the nature I would expect that I would be considered as a person having a special interest. If the Auditor General saw it as appropriate, I am sure that he would inform me.

Clause put and passed.

Clause 19: Section 7.12A amended —

Mr A. KRSTICEVIC: Why has a period of three months been prescribed for local government to provide the minister with a copy of their report addressing significant issues in an audit return, and is this period excessive?

Mr D.A. TEMPLEMAN: The current requirement is six months.

Mr A. Krsticevic: Is that better than three months, or is it too long?

Mr D.A. TEMPLEMAN: Three months would give time for the processes of council to be satisfied. For example, it may be appropriate for consideration at a council meeting or subsequent council meetings. We believe that three months is enough time for local councils to comply with providing a copy of the report. I think six months is too long and that is why we have reduced it to three.

Clause put and passed.

Clause 20: Section 7.13 amended —

Mr A. KRSTICEVIC: Will existing local government audit regulations be replaced in their entirety; and, if there are changes, what changes are proposed?

Mr D.A. TEMPLEMAN: Was the member's question whether there was a total —

Mr A. Krsticevic: Review.

Mr D.A. TEMPLEMAN: — review, removal or change?

Mr A. Krsticevic: Yes.

Mr D.A. TEMPLEMAN: The answer is no. But appropriate amendments are being made through regulation to ensure alignment with the requirements of the Auditor General. It also improves and clarifies the role of the audit committee. As the member is aware, the audit committee does not select an auditor in these new provisions. That will now be the role of the Auditor General. Amendments will be made to ensure that there is appropriate alignment.

Mr A. KRSTICEVIC: The minister mentioned audit committees. I am wondering whether any consideration has been given to the composition of an audit committee, whether members of the audit committee need to possess any qualifications to undertake that role and whether there should be any independent membership of the audit committee.

Mr D.A. TEMPLEMAN: There is already capacity under the act for an independent person to be appointed to the audit committee. Section 7.1A of the Local Government Act states —

- (2) The members of the audit committee of a local government are to be appointed by the local government and at least 3 of the members, and the majority of the members, are to be council members.

...

- (3) A CEO is not to be a member of an audit committee and may not nominate a person to be a member of an audit committee or have a person to represent him or her as a member of an audit committee.

Mr A. Krsticevic: Did it say independent? I think it said there were just three councillors—can the minister clarify that?

Mr D.A. Templeman: It says three or more.

Mr A. Krsticevic: Three or more councillors?

Mr D.A. Templeman: No. Section 7.1A (1) stipulates —

A local government is to establish an audit committee of 3 or more persons to exercise the powers and discharge the duties ...

Subsection (2) states —

The members of the audit committee of a local government are to be appointed by the local government and at least 3 of the members, and the majority of the members, are to be council members.

Mr A. Krsticevic: Where is the requirement for the appointment of an independent person?

Mr D.A. Templeman: It is not required but it is possible for a local government to do that, given the nature of that clause.

Mr A. Krsticevic: Does the minister think that should be changed to have an independent appointment?

Mr D.A. Templeman: That could be part of the review of the act. I would be open to that and good argument why.

Mr A. Krsticevic: I thank the minister very much. We had an early discussion about mandatory training for councillors and they have one level of responsibility. From there, being appointed to an audit committee is, I would say, a much higher level of responsibility within a councillor's requirements. Apart from being on an audit committee within the council, based on their level of skill, I do not know how many councillors would qualify to be on an audit committee for a publicly listed company or some other organisation. Based on that, does the minister think that there should be not only an independent member, but also members who are on an audit committee need to have either the skills or qualifications to be there, or should be required to undertake compulsory training to bring them up to speed to understand their responsibilities and the requirements to fulfil that role?

Mr D.A. Templeman: As part of the review of the Local Government Act, I am looking forward to the member's submission! I think it will be an impressive document—I do.

A member interjected.

Mr D.A. Templeman: It will be. Is the member for Churchlands the acting Whip now?

The Acting Speaker (Mr R.S. Love): The member for Churchlands is not in his seat.

Mr D.A. Templeman: I think he is the acting Whip. That is a very verbose seat, by the way. I have sat in it myself. This is perhaps an important matter for the member for Dawesville; the seat he is sitting in and the seat the member for Churchlands is sitting in are the two most fertile seats in the Parliament.

Mr Z.R.F. Kirkup: I'll be sure to let Michelle know!

Mr D.A. Templeman: Let Michelle know that because Minister Saffioti and I—between us; not together—had seven children and there were two sets of twins!

A member interjected.

Mr D.A. Templeman: Yes; the member for Churchlands better vacate that seat now!

In answer to the member's question, which was a very important question, I look forward to his submission on that matter. I think it is worthy of consideration in terms of transparency and the quality of the skill set that we would hope to have on audit committees.

Mr A. Krsticevic: My understanding is that audit committees can currently ask for the Auditor General to be present at meetings. Can the minister please give me his view?

Mr D.A. Templeman: No, not to my knowledge, but we are just checking.

Mr A. Krsticevic: From talking to the Auditor General, my understanding is that committees can ask for him to be present —

Mr D.A. Templeman: Yes, they can ask, but they cannot require.

Mr A. KRSTICEVIC: No, but someone needs to be present, and my understanding, from what he said, is that if an audit committee asks for the Auditor General to be present at a meeting, it can be in person, via video conference or via telephone. I could be wrong. The member for Moore was at the same meeting with me but, unfortunately, he is in the chair now. My understanding is that the Auditor General said audit committees can request the Auditor General to be present at their meetings.

Mr D.A. TEMPLEMAN: I will seek clarification for certainty but it will not affect the passage of the bill today. My initial understanding is that they can request an auditor or the auditor to be present. I am not certain whether that refers to requesting the Auditor General to be present; in fact, I do not think that is the case. However, we will check that for the member. Of course, they can request the Auditor General to be the auditor.

Mr A. Krsticevic: Yes.

Mr D.A. TEMPLEMAN: They can do that, but we will make sure we get a response for the member on requesting presence.

Mr A. KRSTICEVIC: Clause 20(j) inserts proposed section 7.13(1)(h), which sets out how to deal with a conflict of interest by the auditor. Can the minister explain how the act will deal with a conflict of interest by the auditor?

Mr D.A. TEMPLEMAN: Proposed paragraph (h) refers to the transition period when some councils will have their existing auditor in place and, if a conflict of interest is perceived, that will ultimately be expunged once the time line of the act has been determined in the three-year period. The paragraph specifically refers to any circumstance that relate to the three-year transition period.

Clause put and passed.

Clause 21: Schedule 9.3 amended —

Mr A. KRSTICEVIC: The explanatory memorandum states that the effect of proposed clause 51 of the schedule will allow the Auditor General to take responsibility for auditing high-risk local governments. How many local governments are currently assessed as high risk? Does the department intend to issue all local governments categorised as high risk and that have audit contracts in place the notice to terminate their audit contracts? If not, will the minister use his powers under proposed clause 51(6) to request the department to issue this notice?

Mr D.A. TEMPLEMAN: In 2017, in annual risk assessments profiling local governments conducted by the department, 22 local governments were assessed as high risk. What was the member's question?

Mr A. Krsticevic: Will the minister use his powers under proposed clause 51(6) to request the department to issue a notice to terminate their audit contracts so that the Auditor General can audit those local governments sooner rather than later if he chooses to do so?

Mr D.A. TEMPLEMAN: Information such as this would be of interest to the Auditor General. Again, it would ultimately be the Auditor General's determination; however, I would expect that the requests for information that the office of the Auditor General makes of the department would help guide the focus for any such council that may have been identified as being at risk.

Mr A. KRSTICEVIC: If the Department of Local Government and Communities has assessed a number of councils as high risk, will the Auditor General, in the first year of the Local Government Amendment (Auditing) Bill 2017 being enacted, be able to audit a council considered high risk? If that council has an audit contract in place and currently in existence and the Auditor General says, "No, I don't want that firm to audit you this year; I want to audit you because you are high risk", if the Auditor General so decides, will the minister use his power under clause 51(6) to request the department to cancel that contract?

Mr D.A. TEMPLEMAN: The short answer is yes. The State Solicitor's Office has advised that the termination clause would not expose the state or the director general of the Department of Local Government and Communities to any legal liability if audit contracts were cancelled prior to the contract expiry date, so we are protected in that sense. Indeed, the actions of the Auditor General are protected in that respect.

Mr A. KRSTICEVIC: Regarding the Auditor General looking at high-risk councils, will the minister do an assessment to make sure that they are all currently being audited by approved auditors? So if a high-risk council currently has an audit contract in place and it has never been audited by the Office of the Auditor General, would that not then raise some alarm bells for the minister saying, "They haven't been audited by a firm approved by the Auditor General, they are high risk; therefore, they probably need to be either audited by an approved firm or they need to be audited by the Auditor General"?

Mr D.A. TEMPLEMAN: I thank the member for the question. There will be, as is appropriate, a plethora of information available to the Auditor General, and that will include the risk aspects or risk profile. Ultimately, the Auditor General will have the decision. I think I may raise matters with the Auditor General. One of the things I spoke about with the Auditor General is that given this new bill is important, as minister responsible for the Local

Government Act, it is important that I have regular meetings with the Auditor General during the year—probably two or three times a year. I think that is appropriate. During those discussions I might raise with the Auditor General matters relating to councils at risk and issues associated with the auditing process. But I am very confident that, given the responsibilities the Auditor General has in regard to this bill and because the contracted auditor is such an important issue, will be a central concern for the Auditor General. I would expect that if there are matters that come to my attention that I think he needs to know about, I would be certainly notifying him of those in my discussions. But I cannot direct him, as it is not my right or jurisdiction.

Clause put and passed.

Clause 22 put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

MR D.A. TEMPLEMAN (Mandurah — Minister for Local Government) [5.25 pm]: I move —

That the bill be now read a third time.

MR A. KRSTICEVIC (Carine) [5.25 pm]: I thank the minister for his answers during the consideration in detail stage. I gather, from the broad and in-depth discussion we had, that we both learnt something about what is going on in the local government sector, as well as reinforcing some of the views we already had. I obviously do not want to hold the house up any longer than is necessary on the last day before we go out to our electorates to deal with our constituents and help them with a broad range of issues, but the Local Government Amendment (Auditing) Bill 2017 is very important and a critical first step in helping to bring reform to the local government sector to allow it to move into a new era of delivering services to the community.

Having an Auditor General who, as we mentioned on a number of occasions, is independent from this Parliament and can do whatever is deemed necessary for the benefit of the community is extremely important. We strongly support this bill. We also strongly support a modernisation of the regulations and a review and update, as the minister has suggested, of regional subsidiaries and other issues that have been raised during the course of this debate. I look forward to a new level of transparency, accountability and efficiency. I am sure that many councillors, chief executive officers and others will welcome the Auditor General and his supporters in the job of auditing the accounts of local government and bringing a level of confidence back to a sector that has obviously had its issues over a number of years. The sector is doing a great job on many different levels, but there will always be individuals, as there are in every sphere of government, who will not do the right thing. In a lot of cases, audits will pick up those issues, whether they be financial or performance audits, but there will always be situations in which those things will be more difficult to detect. I think a review of the Local Government Act and the control of councillors over their CEO and council officers will bring another level of transparency. At the moment, councillors may be finding it difficult to access all the information they need in a timely way based on the way the council is run. Some members have already expressed a lot of concerns, especially members who have experience on councils. The member for Perth seems to have a real issue with councils at a broader level. I am sure that he will be putting a lot of pressure on the minister to go to the extreme level. I think we will have to try to moderate that, together with the sector, to make sure that his views are not necessarily all taken on board at the level of enthusiasm that he displayed in his address. I am sure that the sector would like a more moderated transition through the review of the Local Government Act.

In conclusion, I thank the minister for reintroducing the bill from the previous Parliament, for supporting it and for getting across the issues so eloquently during consideration in detail.

MR D.A. TEMPLEMAN (Mandurah — Minister for Local Government) [5.33 pm] — in reply: I will not prolong the house, but there is love in the room. What an appropriate time for love, because shortly we are rising for the winter recess. I thank everyone from both sides of the house who have given the Local Government Amendment (Auditing) Bill 2017 the appropriate analysis and consideration. It is an important bill that underpins the government's focus on ensuring that we have the best legislation in Australia for local government. That is why we are doing the review and it is part of our approach.

I appreciate the comments from the shadow minister and all members who have made a contribution to this bill and I thank them for that. I hope that the other place, which now has an interesting composition, will understand the importance of this bill as it proceeds to the upper house. I wish everyone a very safe five weeks off from Parliament. I look forward to seeing them all with a spring in their step when we return for the spring session when there will be a plethora of legislation for all of us to contemplate and, I am sure, many late nights.

Question put and passed.

Extract from *Hansard*

[ASSEMBLY — Thursday, 29 June 2017]

p2136b-2149a

Mr Tony Krsticevic; Mr David Templeman; Mr John McGrath; Acting Speaker

Bill read a third time and transmitted to the Council.