

Dr Graham Jacobs; Deputy Speaker; Dr Janet Woollard; Ms Adele Carles; Mr John Hyde; Mr David Templeman; Mr Rob Johnson; Mr Chris Tallentire; Mr Mark McGowan; Mr Bill Johnston; Mr John Kobelke; Mr Paul Papalia; Acting Speaker; Speaker; Mr Tony O'Gorman

WASTE AVOIDANCE AND RESOURCE RECOVERY AMENDMENT BILL 2009

Consideration in Detail

Resumed from 9 September.

Debate was adjourned after clause 6 had been agreed to.

Clause 7: Section 79 amended —

Dr G.G. JACOBS: I move —

Page 4, lines 15 to 17 — To delete “must not be less than 25% of the forecast levy amount for the financial year.” and substitute —

must be as follows —

- (a) in the financial year ending 30 June 2010 — an amount not less than the difference between 25% of the forecast levy amount for that financial year and the amount of levy paid or payable for the period 1 July 2009 to 31 December 2009;
- (b) in any other financial year — not less than 25% of the forecast levy amount for the financial year.

Ruling by Deputy Speaker

The DEPUTY SPEAKER: Two members have indicated a wish to move amendments to clause 7 of the Waste Avoidance and Resource Recovery Amendment Bill 2009. The Minister for Water’s amendment to clause 7 is to delete certain words on page 4, lines 15 to 17, with a view to submitting other words. The member for Fremantle wishes to delete certain words in line 16. If the house were to delete all the words proposed to be deleted by the Minister for Water, it would effectively prevent the member for Fremantle from moving her amendment to line 16 of the same clause, because the words would have been removed from the line and therefore could not be further amended. Hence, a test vote is required. So as to preserve the rights of both members as far as possible, it is my intention to put only part of the minister’s amendment to delete words up to the point where the member for Fremantle’s amendment starts, or specifically to delete the words up to and including “than”. If that is agreed to by the house, I will immediately put the balance of the minister’s proposed deletion. If the first part of the minister’s amendment is not agreed to, the member for Fremantle is then free to move her amendment. I hope everybody understands that. The question is to delete the words in lines 15 and 16 up to the word “than”.

Debate Resumed

Dr J.M. WOOLLARD: Mr Deputy Speaker, it is my understanding from what you have just said that if this deletion were accepted, the motion of the member for Fremantle would not be put. Therefore, I cannot support the deletion of these lines. I had hoped that further discussions with the minister would have given the guarantee that I sought that the funding to the Waste Authority would not decrease as a result of changes that are being made to this bill and to the levy. I was not able to get that reassurance from the minister. Therefore, I intend to support the amendment proposed by the member for Fremantle. I had hoped that the minister could give that assurance. I am aware of the fact that the member for Kalgoorlie is not here today. Therefore, at the end of consideration in detail when the question is put that we move to the third reading, I will be moving that the third reading be made an order of the day for the next sitting of the house. Although there may not be the numbers in the house today to ensure that the changes I hoped to see go through that would guarantee this funding for the Waste Authority, if it is delayed until tomorrow the government may reconsider this. I think that all members received an email from the Western Australian Local Government Association, pointing out to members that the state’s waste strategy is due to be released on 16 September, which is this week. The objectives put forward in that strategy should really be considered before a decision is made on this bill. In fact, I have had a look at the proposal in the WALGA strategy that looks to fund various areas that will improve waste management. Many people may have felt that the Waste Authority has not been doing a good job in the past, particularly on recycling and new initiatives, but the authority has now put those new initiatives on the table in that strategy. I will not support the minister’s amendment, because if this bill is passed with the clause as it currently reads, mentioning the 25 per cent, it will increase people’s concerns about conflict between the Department of Environment and Conservation and the Waste Authority if the Department of Environment and Conservation does not put emphasis on recycling because the money it will get from waste will influence its own budget. The concerns are genuine. This bill does not adequately address the matter of ensuring that money goes to the Waste Authority for recycling and other initiatives.

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Ms A.S. CARLES: My amendment proposes to delete the words “25% of” from line 16 on page 4 of the bill. This is a very simple amendment that will restore the integrity of the waste avoidance and resource recovery account. The Greens (WA) are very concerned about the way money will be diverted to the Department of Environment and Conservation under this bill. The original legislation allocated 100 per cent of the waste levy to the WARR account, but if the minister’s amendment is passed today, only 25 per cent of the levy will be allocated to the WARR account. My amendment would restore the original intent of the levy so that 100 per cent of the levy would go into the WARR account. It is absolutely essential that we fund the Waste Authority as an independent body if we are genuinely serious about addressing waste reduction in this state. The current bill creates a direct conflict of interest between the Department of Environment and Conservation and the Waste Authority. The department will have a financial incentive to encourage more waste to landfill because its funding is tied to the levy. There is no incentive for the DEC to promote waste reduction, as this would reduce the funding it receives. This is like the police retaining speeding fines to offset budget cuts. A similar conflict arose with the former Department of Conservation and Land Management in relation to forest logging. The conflict was removed through the creation of the independent Forest Products Commission, which took on responsibility for logging and left CALM with the responsibility for forest conservation. My amendment will ensure that the new levy amounts are fully hypothecated to waste reduction programs in Western Australia under the control of the existing Waste Authority. This will also remove the unacceptable burden on our local councils of being tax collectors for the Department of Environment and Conservation. It is a simple amendment to restore the integrity of the waste management system in this state. Such a change will, of course, require that the government ensure that DEC’s funding is secured, as it always has been, out of appropriations from the consolidated account.

Mr J.N. HYDE: I am leaning towards not supporting the amendment moved by the Minister for Water. I have received an email from my good friend Mayor Troy Pickard, a very good councillor who is also chair of the Municipal Waste Advisory Council, cautioning the minister not to rush this through.

Dr G.G. Jacobs: Is he from the City of Joondalup? I met him this morning.

Mr J.N. HYDE: Has the minister received and read a similar email today?

Dr G.G. Jacobs: I spoke to him in person this morning. I was at an event that he was present at.

Mr J.N. HYDE: Does the minister agree with his sentiment that the government should not rush this through today?

Dr G.G. Jacobs: The sentiment I agree with is this bill becoming law. We need to get on with it, to encourage recycling and to promote the sentiments of the legislation.

Mr J.N. HYDE: Does the minister not accept Mayor Pickard’s argument?

Dr G.G. Jacobs: The member should put the argument.

Mr J.N. HYDE: A number of members have mounted very strong arguments against the government rushing the Waste Avoidance and Resource Recovery Amendment Bill 2009 through. It has been bumped up the batting order today; is the minister’s motive that he wants something to take to the waste conference tomorrow morning? Is that the reason for the minister attempting to push it through today?

Dr G.G. Jacobs: I have carriage of this bill in the lower house for the Minister for Environment. I have no knowledge of what the member is talking about regarding the events of tomorrow. The Leader of the House organises the batting order and I am doing what we have to do; we should get on with it.

Mr J.N. HYDE: But the minister just said that he spoke to Mayor Pickard this morning. Mayor Pickard makes the point that if a state waste strategy is due to be released, how can the minister, in an ad hoc fashion, move an amendment such as this today? He is creating a Mir space station up there, just flying around and adding an amendment here and an amendment there. If the government is considering a total waste strategy, then this has to form part of it. It cannot be the tail that is wagging the dog. That is Troy Pickard’s sentiment; surely he told the minister that this morning when he asked him to delay the passage of this bill.

Dr G.G. Jacobs: I do not agree with what the member is saying.

Mr J.N. HYDE: It is not what I am saying; the chair of the Municipal Waste Advisory Council is saying it.

Mr R.F. Johnson interjected.

Mr J.N. HYDE: Look, the member is not the puppet master. He should go back to finding his faux police!

Mr R.F. Johnson: You’re just a puppet, my friend!

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Mr J.N. HYDE: The Minister for Water has carriage of the Waste Avoidance and Resource Recovery Amendment Bill 2009. The minister has to put the case to convince us to support the amendment.

Mr R.F. Johnson: You're not going to support it anyway! You're not going to support the bill!

Mr J.N. HYDE: Come on, let this bloke talk; he does not need the help.

Dr G.G. JACOBS: Member for Perth—heaven forbid!

Mr J.N. Hyde: No, that will be in our election policy!

Dr G.G. JACOBS: These are regulatory changes, member for Perth. They are delineated in the bill. We are going through those regulatory changes. This is part of our waste management strategy for Western Australia, which is about encouraging more recycling and reducing landfill.

Mr J.N. HYDE: I sat down whilst the minister gave his response, and I am now standing up. Will the state waste strategy that will be released tomorrow have this amendment in it about the not less than 25 per cent of the levy amount for the financial year? If not, what will be detailed in the strategy that will be released tomorrow? Surely the strategy cannot be released unless the bill has been dealt with.

Dr G.G. JACOBS: It is part of waste management strategy implementation. This is about regulation and how we execute the waste management strategy.

Mr J.N. Hyde: But surely this is part of the overall strategy.

Dr G.G. JACOBS: The member should wait for the waste management strategy to be released; it includes guidelines on how we intend to deal with recycling. If the member is talking about the nuts and bolts and 25 per cent versus 75 per cent and how it will be apportioned, these are the regulations that we are dealing with. The waste strategy is a guideline of strategy for waste in Western Australia.

Mr J.N. HYDE: Surely there is a big difference between 25 per cent and 100 per cent or zero per cent. It is not just the nuts and bolts, it is surely the crux of the issue.

Mr D.A. TEMPLEMAN: The opposition and the member for Fremantle have highlighted, on a clause-by-clause basis, concerns about this bill, and we have concerns about this amendment and the foreshadowed amendment that the member for Fremantle has highlighted. That clearly demonstrates the ham-fisted way that this bill has been addressed in this place by the government. It was found out during consideration in detail last week, and I think this clause, and indeed the whole bill, has now been very seriously undermined by a whole range of factors.

Mention has been made of a letter to several members from the Mayor of Joondalup, who is the chair of the Municipal Waste Advisory Council and deputy president of the Western Australian Local Government Association. The letter clearly highlights, from a local government perspective, why it is not appropriate for the government to continue to debate this bill while other important factors need to be considered, including processes and announcements that are apparently imminent. I do not know whether the minister has seen the letter from Mayor Pickard. I am happy to table it, of course, unlike the minister, who last week was not very keen to table a letter from the Treasurer to the Minister for Environment. The letter from Mayor Pickard is basically written on behalf of the 139 WALGA local government bodies and requests that Parliament delay making a decision on this bill for a number of key reasons, including—as highlighted by the members for Perth and Alfred Cove—the fact that the state waste strategy is soon to be released for public consultation. Local government is an absolutely critical element in all of this, and WALGA argues very clearly that there are very good reasons for this bill not to progress at this time and that there is, indeed, cause for concern. It is claimed in the letter that WALGA has presented to the Minister for Environment for her consideration that there is a comprehensive range of strategic initiatives upon which local government and the commercial sector can work together. Again, a key stakeholder in waste management has put forward a range of issues for consideration by the Minister for Environment. It seems, however, that the government is hell-bent on pushing this bill forward when a number of considerations have yet to be addressed.

The opposition, the member for Alfred Cove and the member for Fremantle have argued very strongly that the government seeks through this bill to create a fund that will not be spent in its entirety on the outcomes for which the bill was originally drafted; that is, to ensure that waste resource recovery initiatives are appropriately funded. Instead, the government has chosen to use the bill as a means of propping up the Department of Environment and Conservation. The opposition will not support the government's proposal and amendment. We are encouraged by the amendment foreshadowed by the member for Fremantle. The government should be taking very clear notice of the WALGA representation; WALGA is a very important stakeholder. The bill should be

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taken off the notice paper today because there is much more work that needs to be done before it should be considered.

Dr G.G. JACOBS: The government will not delay the passage of this bill. It is important that we actually pass this regulatory legislation to encourage recycling and a reduction in landfill. In no way does any of the regulatory framework of this bill compromise the Western Australian waste strategy, which, I am told by members of the opposition, will be released tomorrow. The bill allows flexibility in maintaining at least a 25 per cent hypothecation to the Waste Authority account.

It is important that we get on with this bill. We have talked about the Waste Authority. We have talked about what the opposition did in the original bill. This bill is a step forward, because it will provide incentives in the system to encourage recycling in Western Australia. As the member for Gosnells has said, Western Australia has been doing very badly in this area.

Dr J.M. WOOLLARD: The summary of project proposals states that \$2.3 million is to be allocated for household hazardous waste program extension, \$3 million for strategic waste management plan implementation, \$1 million for statewide recycling campaign, \$2 million for ongoing scheme to support recycling industry, \$2.3 million for Centre for Waste and Industrial Ecology Research, \$200 000 for investigation of extended producer responsibility schemes, \$10 million to \$15 million for support for alternative waste treatment, \$100 000 for needs analysis on illegal dumping and littering, \$5 million to \$10 million for recycled product market support, \$800 000 for data collection and management, and \$2 million for regional waste management initiatives. That is a total of \$39.2 million. These initiatives are very important, because they will ensure that improvements are made to waste management and recycling. Can the minister guarantee that if this bill is passed, and if 25 per cent of the revenue from this levy does go to the Waste Authority and 75 per cent to DEC, DEC will fund these initiatives?

Mr R.F. JOHNSON: I want to make it clear that what is before the house is a motion to delete certain words. This is part of a test vote that will be put to the house to enable, if necessary, amendments that have been placed on the notice paper by other members to proceed. The arguments that we have heard so far in this debate do not relate to the motion that is before the house—that is, to delete certain words to enable a test vote to be taken. What we have seen introduced in the last quarter of an hour is correspondence that I am told has been sent by the Mayor of the City of Joondalup to certain members. That is fine. However, at the end of the day, this government will progress this legislation through this house. When this legislation leaves this house, it will go to the other house, in which the Minister for Environment resides. I suggest that the Mayor of Joondalup, and any other people who want to contact the Minister for Environment about any changes to this legislation, lobby the Minister for Environment in the other place. The government is committed to getting this legislation through this house today—and I assure members that we will. What is before the house at the moment is simply for the purpose of taking a test vote. I suggest that we get to the point of voting on the amendment.

Mr C.J. TALLENTIRE: The position that has been outlined by the Leader of the House puts those of us who have grave concerns about this bill in a very difficult position. The government is seeking to delete certain words in the bill. That would then mean that the very sensible amendment that has been proposed by the member for Fremantle would have no reason for being. That is an unacceptable situation. We need to proceed methodically through our consideration of the amendments. We must not let things get out of order. It is vital that we consider properly the position put by the member for Fremantle. It is essential that that is fully debated. In light of the proposed state waste strategy, we need to know the extent of the projects that will come under that strategy. As the member for Alfred Cove has outlined very well, we also need to add up the cost of all those projects.

Dr J.M. Woollard: Yes—\$39.2 million.

Mr C.J. TALLENTIRE: Yes. I thank the member for Alfred Cove for that. These are excellent projects that will go to the heart of solving the problem of waste management in Western Australia. If we do not embrace these projects and give them the funding that they need, we will just keep cruising along and keep facing the same problems that we have always faced when it comes to waste management in Western Australia. The only difference is that the problem will become even more serious. There will be even more risk that we will have another disaster like the Bellevue disaster that occurred a few years ago, when toxic waste was allowed to accumulate and it literally exploded and the community had to suffer the consequences. This issue is far more serious than I think the government appreciates. It is absolutely essential that adequate funding be provided for the projects that have been outlined by the member for Alfred Cove.

The extent of community consultation on this bill has been an enormous disappointment to all of us on this side of the house. The chair of the Waste Authority, Mr Barry Carbon, is a person of great knowledge in this area. I do not know that his views have been listened to properly. He has made public statements suggesting that this

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change in how the revenue from the levies will be allocated may mean that the Waste Authority will not get the amount of money that it needs to fund its projects. If only 25 per cent of the already reduced revenue stream will be made available to the Waste Authority for its excellent projects, we will not be able to properly tackle the problem of waste management in Western Australia. It is, therefore, absolutely vital that we proceed in a logical manner and debate the issues to the fullest extent, otherwise we will have more Bellevue disasters on our hands.

Mr M. McGOWAN: I think what is going on here is quite sinister. I have finally worked out what the government is up to here. The government is attempting to bring on this vote right now so that it can bring this legislation to a conclusion today. We all know that the member for Kalgoorlie is not in the chamber today but has gone to the Kalgoorlie race round—as members for Kalgoorlie normally do. We know also that the member for Kalgoorlie is very uncomfortable with this legislation and is likely to vote with the opposition and oppose this legislation. The advice that I received from the Leader of the House, in a letter that was sent to me last week, is that this legislation would be coming on for debate as the third item of business today. The first bill that would be coming on for debate was the Gas Supply (Gas Quality Specifications) Bill, and that would be followed by the Criminal Code Amendment (Graffiti) Bill. This bill was to come on third. That would ordinarily mean that this bill would come on tomorrow or the next day. I was advised just before question time that the order was to be changed and that this waste avoidance and resource recovery legislation would be coming on first.

Mr R.F. Johnson: You got a copy of the daily program! Tell the truth!

Mr M. McGOWAN: Yes. I did get the daily program, and it says that the graffiti bill will be coming on first. I was told by the Leader of the House before question time that the reason the graffiti bill will be coming on first is that the Premier's advisers are not here today to handle the gas supply bill. I put it to the Leader of the House that that is not true. The Leader of the House has misled me in that regard. That is not the reason at all that that legislation has been pulled off the agenda. The Leader of the House knows that the gas supply legislation has been agreed to by both sides of the house. He knows that that is legislation that we were going to bring in as a government. The Leader of the House knows that the Premier can probably handle that particular issue on his own. Therefore, the reason that the Leader of the House has given me is not true. The real reason that the Leader of the House has brought on the waste avoidance and resource recovery legislation today is that the member for Kalgoorlie is not here, and he is most likely going to vote with us on this legislation—as is the member for Fremantle, and as is, I would hope, the member for Alfred Cove. So what the Leader of the House has done is a bit of trickery. The Leader of the House wants to change the order of proceedings today to deny the member for Kalgoorlie a vote on a bill on which his vote might actually count—that is, a vote to prevent the families of this state from being taxed excessively. The Minister for Water representing the Minister for Environment has come into this house and has said that this bill is a regulatory matter. It is not. It is a taxing matter. The government is seeking to apply another tax to the families of this state. We are trying to stop the government from doing that, as is the member for Kalgoorlie. The Leader of the House has fiddled with the order of business once again to meet his priority, which is to get this tax through the house and prevent the democratic will of this house from being expressed by members who are not here today to have a vote on this bill. The Leader of the House has done that by a subterfuge.

Mr R.F. Johnson interjected.

Mr M. McGOWAN: That is exactly what the Leader of the House has done. The members of the press have got him pegged. He has done it by a subterfuge today in bringing on this bill in the way that he has.

The clause that we are debating here is the crux of the matter, because it provides that all the money that will be generated by the waste levy will go to waste management, and the government will miss out on its little taxing arrangement to cover up the money it has cut from the Department of Environment and Conservation. That is why this clause is so important. What the Leader of the House said—I heard him interject to say it—is that this matter will stay on the agenda until it is passed today. He has given advice that the house will sit until this legislation is passed—that is, that we will continue with this legislation and not get on to the other legislation that he advised me were the government's number one and number two priorities.

Dr G.G. Jacobs: Get over it! Things change!

Mr M. McGOWAN: Things have not changed. We fully know that the Premier could deal with the gas supply legislation that the Leader of the House advised us was his first priority. I fully know that the Premier could handle that, with or without his advisers. I put it to the Leader of the House that he misled me earlier today. The Leader of the House did not tell me the truth when he said to me that the reason that legislation is not being brought on is that the Premier is not ready. I put it to the Leader of the House that that is not true. The Premier is totally able to handle that legislation. The one thing the Premier actually knows something about—although his

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judgement is sometimes awry on the issue—is the issue of gas. The Premier's judgement on this issue was very awry when he was critical of the Gorgon gas project back when we were in office. That is something he does actually know something about. That piece of legislation is something that I could handle based on the briefings I have had on it. All I am saying to the Leader of the House is that he is being very undemocratic and very sneaky and is full of subterfuge in what he is doing here right now.

Mr R.F. JOHNSON: Mr Speaker, I cannot let those comments go unchallenged because they are totally and utterly untrue. What I sent to the manager —

Point of Order

Mr W.J. JOHNSTON: I wonder if the minister who is speaking would be able to advise the chamber which part of the clause that is before us he is addressing in his remarks.

Mr R.F. Johnson: The same as your member. You are a stupid idiot, you really are!

Mr M. McGowan: He is making the point —

The DEPUTY SPEAKER: There is no discussion on a point of order.

Mr R.F. Johnson: He cannot make a point of order while there is one —

Mr W.J. JOHNSTON: If I could interrupt my own point of order to make a separate point of order, the leader of government business just called me a stupid idiot. I know that he is very fond —

Mr R.F. Johnson: You're allowed to tell the truth in this place!

Withdrawal of Remark

Mr W.J. JOHNSTON: He is very fond of saying these types of things about different people in this chamber but it is unparliamentary. I ask the Deputy Speaker to make him withdraw.

Mr R.F. Johnson: Which word—"stupid" or "idiot"?

The DEPUTY SPEAKER: Leader of the House, please withdraw the comment.

Mr R.F. JOHNSON: I withdraw.

Point of Order Resumed

Mr W.J. JOHNSTON: Continuing my point of order, Mr Deputy Speaker, it is the duty of the Chair of these proceedings to ensure that members make a contribution that is relevant to the debate. The Leader of the House is not addressing the clause. The clause that is in front of us is the matter that is in the notice paper. He was not addressing that matter. I ask the Deputy Speaker to bring him back to order.

The DEPUTY SPEAKER: Member for Cannington, I am going to allow the Leader of the House to continue to address the matters that were raised by the member for Rockingham. Please keep them short, Leader of the House.

Debate Resumed

Mr R.F. JOHNSON: I would be delighted to. I think it is only fair. The manager of opposition business made some comments that led to the conclusion that he felt that I was being untruthful in this chamber and to him in relation to —

Point of Order

Mr W.J. JOHNSTON: The minister seems to be making a personal explanation. He is unable to do that at the moment. He can only do that, under the standing orders, when there is no other business before the house. If he intends to make a personal explanation, I ask the Deputy Speaker to direct him to comply with the standing orders. In the meantime, I draw the Deputy Speaker's attention to the standing orders and ask that he direct the minister to address the matter that is before the chamber.

Mr R.F. Johnson: What about the manager of opposition business?

Mr W.J. JOHNSTON: You should have raised a point of order!

The DEPUTY SPEAKER: Member for Cannington, I have made my ruling on this. Leader of the House, you can continue. Please keep your comments brief.

Debate Resumed

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Mr R.F. JOHNSON: All I wanted to say was that in good faith I mentioned to the manager of opposition business today that I have changed the order simply for today's work. The list, which I send to him every week, is a list of legislation that we want to deal with this week. It shows no priority, but it is a list of legislation that we want to deal with this week. The manager of opposition business had this list today, which listed three bills that we want to deal with today—the Criminal Code Amendment (Graffiti) Bill, the Gas Supply (Gas Quality Specifications) Bill and the Waste Avoidance and Resource Recovery Amendment Bill. In all honesty, I was asked by the Attorney General if I could delay his bill because he had to deal with people to do with the Law Society this week. He asked if he could have an hour and a half before we got on to that bill. I said yes. The Premier then told me that he would prefer to leave the Gas Supply (Gas Quality Specifications) Bill until later on. I have made it quite clear that we intend to get through the Waste Avoidance and Resource Recovery Amendment Bill today, and we will. We will stay here until five in the morning if we have to, my friend. I have said that we are going to get through this bill today, and we are. We will deal with the other bills as well.

The DEPUTY SPEAKER: We have traversed these matters. We are dealing with the deletion of certain words. While we are dealing with the deletion of words, the member for Fremantle has foreshadowed an amendment. It is in order to debate all parts of that as we speak now—that is, whether members agree to have the minister's words deleted or whether members want to go with the member for Fremantle's amendments. That is the foreshadowed amendment and that is where our debate should be focused. There have been a lot of smokescreens going up. Let us try to focus on that.

Point of Order

Mr J.C. KOBELKE: I will take the Deputy Speaker's guidance on what he has just told the house; however, the Deputy Speaker talked about a foreshadowed amendment. My understanding is that the member for Fremantle has moved her amendment. Could the Deputy Speaker please clarify whether that is the case?

The DEPUTY SPEAKER: The member for Fremantle has not moved her amendment because the amendment that we are dealing with is the minister's amendment. We have said that to get proper debate on this, the member for Fremantle's foreshadowed amendment could also be debated at this time; otherwise, if it is not done in that way and this amendment is passed, her amendment —

Mr J.C. KOBELKE: I understand that. I need further clarification, please. Has the minister moved his amendment, Mr Deputy Speaker?

The DEPUTY SPEAKER: He has.

Debate Resumed

Mr W.J. JOHNSTON: In respect to the clause that is in front of us, a little while ago the minister said that he needed the matter dealt with today, but my understanding is that none of these provisions will become operative before 1 January. That is my understanding of the matters that have been put so far in debate. When it is said that the matter has to be dealt with today—that is to say that it is to the convenience of the government that the matter needs to be dealt with today—it is not within the clause that we are currently considering. I would like the minister to confirm that that is the case. The question of the convenience to the government is neither here nor there for the house itself, because, as we know, this is the Westminster system and the Parliament sits above the government. Whether the government intends something to happen in the house or not, it is for the house itself to make its own decisions about whether that provision needs to be agreed or not agreed, or some other matter needs to be considered.

In reply to other members who have raised the correspondence that has been forwarded by the Liberal supporter, the Mayor of Joondalup, the minister said that we could not delay this matter because the government needs it dealt with today. I am clarifying that when the minister says those words, he is actually referring not to any matter that is contained in the bill, but only to the convenience of the executive wing of government of this state; and that in fact there is absolutely no provision, item or word in this clause that would prevent the Parliament from choosing a different course from the approach that the minister is requiring of us. For example, if we were not to pass the provision until November—if we delayed the passage of the provision until November—there would be no issue with the administration of the state's taxation laws or any other matter or with the —

The DEPUTY SPEAKER: Member for Cannington, sit down a minute. You took a point of order earlier about digressing on matters that were not germane to this amendment. Now you are digressing and not talking to the amendment. You are digressing about time. That has nothing to do with this amendment. Could you please come back to the amendment.

Dr Graham Jacobs; Deputy Speaker; Dr Janet Woollard; Ms Adele Carles; Mr John Hyde; Mr David Templeman; Mr Rob Johnson; Mr Chris Tallentire; Mr Mark McGowan; Mr Bill Johnston; Mr John Kobelke; Mr Paul Papalia; Acting Speaker; Speaker; Mr Tony O'Gorman

Mr W.J. JOHNSTON: Thank you very much. As the Deputy Speaker points out, I need to address the provisions of this matter. Can the minister tell me which provision of the words that are currently here on page 17 of the notice paper, setting out the amendment that he has moved, requires that the matter be dealt with today? Can the minister tell me which word on this piece of paper says that we cannot deal with the matter in November? Which word on this piece of paper says that the Parliament cannot take its proper right and proper responsibility in dealing with this matter today? Which words and provisions here mean that we cannot deal with this —

Dr G.G. Jacobs: You are wasting my time.

Mr W.J. JOHNSTON: The minister can say anything he wants. I want to know from the minister what provision in this amendment that he has moved requires the chamber to vote on this legislation today. Those are the words that the minister used in this chamber earlier in this debate. I do not understand it, because I have read the amendment on the notice paper and the words in it do not reflect the views he conveyed to the chamber. If he is saying that it is at the convenience of the government, that is fine. The minister can stand when I have finished —

Point of Order

Dr G.G. JACOBS: I do not know what that has to do with the substantive amendment before the chamber. The member is going on about political time frames and all sorts of things that are irrelevant. I genuinely want to get on with the debate on this bill. We will pass this legislation; we will not delay this legislation. We should, in a constructive way, get on with the job of debating this bill to pass it.

Mr W.J. JOHNSTON: On the point of order —

The DEPUTY SPEAKER: I advise the member for Cannington that there is no debate on a point of order. I ask members to concentrate on the amendment before the chamber and not to digress.

Debate Resumed

Mr W.J. JOHNSTON: I am obliged to you, Mr Deputy Speaker, for drawing my attention to my duty and the duty of the minister in this place to look at the words on the notice paper. I would like to know which words on page 17 of the notice paper require us to pass this legislation today.

Dr G.G. JACOBS: We will not be delaying the passage of this bill. Some parts of this bill are required to be in place prior to January to allow time to bring in the regulations to increase the levy from 1 January. We are now in the middle of September. To suggest that I am rushing this legislation through for political reasons is incorrect. We need to get on with this debate and pass the legislation in order to get, if members like, all the ducks set up in time for 1 January. We have already had some delay with this legislation. We have spent days debating it. For the member to say that we are trying to rush through this legislation in some way is incorrect.

Some parts of this legislation are required to be passed and I am advised that they are clause 3, clause 9 and part 3. Is the member any better off for that answer? Specifically, clause 3, clause 9 and part 3 of this legislation are required to be enacted before 1 January. We are now in the middle of September and we need to pass this legislation for it to be operational by 1 January, and that is quite simple.

Mr M. McGOWAN: I refer to the clause, and so far in this debate I have not heard the minister explain what it is proposed his amendment will do. I have heard him talk about the urgency of this legislation, but I have not heard him explain the purpose of this amendment. My understanding of what he proposes to do is that it will, in effect, defeat the proposed amendment to this clause by the member for Fremantle. Maybe he can explain it to us, if that is not case. The member for Fremantle's proposed amendment is to have the waste levy used entirely for waste purposes, which the opposition supports.

My interpretation of this amendment is that it is to defeat the member for Fremantle's proposed amendment and is to set up an arrangement, because the legislation is coming in six months' later, to allow the Waste Authority to get its full entitlement of \$13 million or whatever. I think that is what the minister is trying to do via his amendment.

The member for Cannington raised a very good issue about the urgency of clause 7. Whether this clause is passed by this chamber today, tomorrow or the next day—I fully expect this legislation to be dealt with this week—is absolutely irrelevant. Currently, it is 15 September, and whether it is passed on 16 September or 17 September is absolutely irrelevant considering the legislation will commence effect on 1 January. There are still three and a half months to 1 January, irrespective of whether this legislation is passed on Tuesday, Wednesday or Thursday this week. Obviously, the government has the numbers in the upper house and no doubt

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it will get this legislation through, and it will raise for the government in the vicinity of \$50 million-plus of tax revenue from Western Australians.

The crucial point is that all the members of Parliament who have an interest in this bill and will be voting for or against it are not here today, and the minister knows that. That is the crucial point. The member for Kalgoorlie —

Dr G.G. Jacobs: You've been down this track before.

Mr M. McGOWAN: I will say it again. The member for Kalgoorlie's 30 000 constituents will not be represented in the vote on this legislation today. If the member for Kalgoorlie were in this place today, he would be able to vote on behalf of his constituents and the government might find that that tax grab would not be forced upon Western Australians.

The DEPUTY SPEAKER: The member for Rockingham is digressing again by referring to why this matter has been brought onto the notice paper today. We are not talking about that; we are talking about the minister's amendment and the member for Fremantle's amendment.

Mr M. McGOWAN: Mr Deputy Speaker, I note that the Leader of the House debated this same issue and you allowed him to do so.

The DEPUTY SPEAKER: I allowed him because he answered you. We have debated it fully. Would the member please move on to the amendment. The member has made his point and he has got his message across. I have been lenient. The member brought it up and the leader responded. I do not want to traverse it again.

Mr M. McGOWAN: I come back to the clause. I am sure that if members of this place understood fully that 25 per cent of the forecast levy will go to the Waste Authority and 75 per cent will go to the operations of the department, the members who are not here today might be here. They might have realised that a \$50 million tax grab on Western Australian families is important enough for them to be here. Of course they did not know that the conditions contained within this clause and the subsequent amendments would be debated today. Accordingly, some members of this place who might otherwise have been here are not here. This government is acting in a jackboot and undemocratic way, as it normally does.

Ms A.S. CARLES: I certainly support what the member for Rockingham said. As a matter of democracy, there is absolutely no reason why this legislation cannot be brought on for debate tomorrow. We all know exactly why it is being rushed through today.

The DEPUTY SPEAKER: Member for Fremantle!

Ms A.S. CARLES: This is a matter of great public importance.

The DEPUTY SPEAKER: Member for Fremantle, sit down please. I have given a lot of latitude in the debate on whether this bill should be debated today, tomorrow or next week. We have heard what the member for Rockingham said and what the Leader of the House said. I just warned the member for Rockingham not to traverse this question again and now the member for Fremantle is traversing the question again. Would the member please refer her comments to the amendment before this chamber.

Ms A.S. CARLES: I can see the headlines tomorrow: "Member for Kalgoorlie places races ahead of waste management".

It is important to note that last week the member for Balcatta alluded in his reference to the crux of this argument—that is, the 25 per cent or 100 per cent of the forecast levy being used for waste management—to the issue of illegality. I absolutely agree with him. We are calling something a waste levy, and it is simply not. The government's constituents would be horrified if they understood what is going on here today. It is a waste levy and it is similar to the emergency services levy. Imagine the public reaction if the government decided to give only 25 per cent of that levy to emergency and rip off 75 per cent for superannuation funds or something. That is what is going on here.

Dr G.G. Jacobs: It is not for superannuation funds, and the member knows that. We have talked about this.

Ms A.S. CARLES: No, it is for a different purpose. My point is that the emergency services levy is for that purpose and this waste levy should be for the purpose of waste management in this state and it is not. There is an issue of illegality in this legislation. Did the minister seek legal advice about calling this a waste levy and asking local councils to collect it for the government when it is not a levy, it is a Department of Environment and Conservation tax? I would like a response to that question, please.

Dr Graham Jacobs; Deputy Speaker; Dr Janet Woollard; Ms Adele Carles; Mr John Hyde; Mr David Templeman; Mr Rob Johnson; Mr Chris Tallentire; Mr Mark McGowan; Mr Bill Johnston; Mr John Kobelke; Mr Paul Papalia; Acting Speaker; Speaker; Mr Tony O'Gorman

Dr G.G. JACOBS: Advice from the State Solicitor's Office is that this bill complies and there are no issues about the legalities of this bill. We have been through that process; we have had time to go through that process.

It was suggested by the Deputy Speaker that if this house passed the amendment in my name to delete "must not be less than 25% of the forecast levy amount for the financial year" and substituted the words indicated, it would negate the foreshadowed amendment of the member for Fremantle, because her proposed amendment would result in a 100 per cent hypothecation to the Waste Authority account; in fact, she would not have any opportunity to present her amendment. I took advice from the Deputy Speaker that the amendment must read "must not be less than ...", therefore allowing the possibility for the member for Fremantle to move the amendment standing in her name to test that. I am surprised that the member thinks that I am being difficult in this. I am not at all! Of course, I am keen that the hypothecation of 25-75 per cent should continue, but I was guided by the Deputy Speaker in how that should happen. We have heard all sorts of other extraneous issues about how this is an undemocratic process because the member for Kalgoorlie is not here. The member for Kalgoorlie has been paired.

Mr J.C. KOBELKE: I turn to the construction of the amendment currently before the house that proposes to delete proposed section 79(3B), which reads —

The amount specified under subsection (3A) must not be less than 25% of the forecast levy amount for the financial year.

The first point is that when this bill was introduced on 18 June, we were almost at the end of the financial year. The government was obviously confident that it could get this bill through very quickly, as it did not even bring it on. The government then found that it was not able to collect the full amount through the financial year, which meant that the percentage that would be taken from the levy to go into the WARR account would be too high. The minister wants to remove a key part of proposed section 79(3B), which simply says "25% of the forecast levy amount for the financial year" and put in place a two-part amendment fixing the levy for the current financial year and then for the future.

Dr G.G. Jacobs: Absolutely. It is an adjustment, and the future is covered by proposed subsection (3B)(b): "in any other financial year not less than 25%". The first part is to acknowledge the fact that we have not introduced it yet.

Mr J.C. KOBELKE: The minister is reading my mind; he is doing very well! That is exactly what I am saying. Now, can I get on with it? The minister is not disagreeing with me!

Dr G.G. Jacobs: What is the deal?

Mr J.C. KOBELKE: If the minister would let me continue, I was explaining what the minister already knows, and I am pleased that he is at least on top of that part of the bill. When the minister brought this bill into the chamber in June, if he had done his homework he would have known that he would have great difficulty getting it through before August-September.

Dr G.G. Jacobs: Let us move on then.

Mr J.C. KOBELKE: This comes to why the minister is moving this amendment. The minister should have recognised in June that the legislation to implement what he wanted to do would not be passed, unless he intended doing it retrospectively. The minister could have upped the levy, because he could have done that without this bill, and then he could have collected the money and split that up into the amount that would go to the department and the amount that would come out and go into the WARR account, which is the 25 per cent the minister is talking about here. I am not explaining anything that the minister does not agree with, and that is the reason for the amendment that the minister is moving. However, I am adding an extra point, which is that the minister should have realised at that stage that he potentially had a problem getting the legislation passed because people would very soon recognise that this bill had nothing to do with the environment, with avoidance of waste and waste recovery but was simply and purely a tax. In the minister's last contribution to the house—perhaps it was a Freudian slip and he did not mean to say it—if we take the minister at his word, he supported that. The minister said it was about the hypothecation of 25-75 per cent! The bill does not say that, but that is what the opposition has been saying that the government is about. The tricky wording in the bill is that it "must not be less than 25%". The minister has stated that only 25 per cent will be going to the WARR account, not 25 per cent or more as the bill allows. The minister wants the 75 per cent as tax to go into general revenue, and his own words have supported that argument. Perhaps the minister did not mean that, but that is what his words support. This bill has nothing to do with guaranteeing "at least" 25 per cent of the levy; it is about guaranteeing "only" 25 per cent and not a dollar more! This amendment is further evidence that this is simply a tax and has

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nothing to do with trying to reduce the amount of waste that is going to landfill and having waste recovery systems in place. That is why the opposition will oppose the minister's amendment. While the amendment is just an update to take account of the late implementation, it implements what the government wants and we oppose that.

Mr P. PAPALIA: I am interested to hear a better explanation from the minister in response to the question asked by the member for Fremantle on whether or not what the minister is doing is legal. The minister gave a pretty disingenuous answer: yes, it is legal now! However, the reason the minister is having to move this amendment is that when this levy was announced months ago, the government, in its typically ham-fisted manner, came out and announced it would take a levy that was designed to support environmental outcomes and use it to fill the gap from the government's three per cent efficiency cuts. We know that because in this place the Treasurer came out and attacked members of the local government sector for daring to suggest that what the government was intending to do at that time was illegal. The Treasurer of the State of Western Australia attacked the president of the Western Australian Local Government Association for having the temerity to suggest that perhaps the Minister for Environment should have a think, take a breath, assess whether or not what she was proposing was legal, seek some legal advice and then come back and try again. The Treasurer attacked the president of WALGA at the time and suggested that he was somehow fomenting civil disobedience. The Treasurer was suggesting that Bill Mitchell was running around telling people that they should be setting fire to tyres in the streets.

Point of Order

Mr R.F. JOHNSON: The member on his feet is not talking to the amendment before the house.

Mr A.J. Carpenter: Yes he is.

Mr R.F. JOHNSON: No he is not, I am afraid, and I am sure that the Acting Speaker will take that view.

The ACTING SPEAKER (Ms L.L. Baker): The member for Warnbro will restrict his comments to the amendment.

Mr P. PAPALIA: I will restrict my comments entirely to the amendment that we are speaking to because it relates to the fact that the minister came slinking and skulking through the doors of this place today to request that we approve an amendment to enable him to prevent the member for Fremantle —

Point of Order

Dr G.G. JACOBS: "Skulking" and "slinking" are unparliamentary words. The member knows that I did not slink in here today because he asked me two questions today in question time.

Mr M. McGOWAN: The member for Warnbro used the word "skulking", which is a form of walking. I would not have thought that a form of walking would be unparliamentary.

The ACTING SPEAKER: Although I feel that the member's language was not unparliamentary, I am sure that if the member tried, he could come up with some better words. I ask the member to return to the debate on the amendment.

Debate Resumed

Mr P. PAPALIA: I am getting concerned because if I have to constrain myself to the vocabulary of the leader of government business, it will be a fairly boring debate. Apart from anything else, it will not be very descriptive or give us an indication of what the minister has done today. He has come into this place in a completely disingenuous fashion and suggested that he is occupying the moral high ground. He is upset with us for delaying him by asking, on behalf of the people of Western Australia, why he is stealing 75 per cent of the 300 per cent increase to the levy —

The ACTING SPEAKER: Order! I remind the member to keep the debate to the amendment we are discussing.

Mr P. PAPALIA: I will try to return to the reason why I stood and asked the minister a question. The member for Fremantle asked the minister about the legalities of what he is doing. He knows full well that the only reason we are debating this subject at this time is that the Minister for Environment in the other place acted without seeking appropriate legal advice in April and announced a 300 per cent increase in the levy and then found out subsequently that she was acting illegally. The minister is trying to do a backflip and to cover up her failure. The member for Fremantle's question is legitimate and it deserves a response from the minister. It is deserving also of the minister attributing a little more seriousness to his response rather than standing and being dismissive and

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ham-fisted and behaving in exactly the same manner that the Minister for Environment acted when she made her original announcement.

Question to be Put

Mr R.F. JOHNSON: I move —

That the question be now put.

Question put and a division taken with the following result —

Ayes (29)

Mr P. Abetz	Dr E. Constable	Dr G.G. Jacobs	Mr D.T. Redman
Mr F.A. Alban	Mr M.J. Cowper	Mr R.F. Johnson	Mr A.J. Simpson
Mr C.J. Barnett	Mr J.H.D. Day	Mr A. Krsticevic	Mr M.W. Sutherland
Mr I.C. Blayney	Mr J.M. Francis	Mr W.R. Marmion	Mr T.K. Waldron
Mr I.M. Britza	Mr B.J. Grylls	Mr P.T. Miles	Mr J.E. McGrath (<i>Teller</i>)
Mr T.R. Buswell	Dr K.D. Hames	Ms A.R. Mitchell	
Mr G.M. Castrilli	Mrs L.M. Harvey	Dr M.D. Nahan	
Mr V.A. Catania	Mr A.P. Jacob	Mr C.C. Porter	

Noes (28)

Ms L.L. Baker	Mr J.C. Kobelke	Mr P. Papalia	Mr C.J. Tallentire
Ms A.S. Carles	Mr F.M. Logan	Mr J.R. Quigley	Mr A.J. Waddell
Mr A.J. Carpenter	Ms A.J.G. MacTiernan	Ms M.M. Quirk	Mr P.B. Watson
Mr R.H. Cook	Mr M. McGowan	Mr E.S. Ripper	Mr M.P. Whitely
Ms J.M. Freeman	Mrs C.A. Martin	Mrs M.H. Roberts	Dr J.M. Woollard
Mr J.N. Hyde	Mr M.P. Murray	Ms R. Saffioti	Mr B.S. Wyatt
Mr W.J. Johnston	Mr A.P. O'Gorman	Mr T.G. Stephens	Mr D.A. Templeman (<i>Teller</i>)

Question thus passed.

Consideration in Detail Resumed

Amendment (deletion of words) put and a division taken with the following result —

Ayes (29)

Mr P. Abetz	Dr E. Constable	Dr G.G. Jacobs	Mr D.T. Redman
Mr F.A. Alban	Mr M.J. Cowper	Mr R.F. Johnson	Mr A.J. Simpson
Mr C.J. Barnett	Mr J.H.D. Day	Mr A. Krsticevic	Mr M.W. Sutherland
Mr I.C. Blayney	Mr J.M. Francis	Mr W.R. Marmion	Mr T.K. Waldron
Mr I.M. Britza	Mr B.J. Grylls	Mr P.T. Miles	Mr J.E. McGrath (<i>Teller</i>)
Mr T.R. Buswell	Dr K.D. Hames	Ms A.R. Mitchell	
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Mr R.H. Cook	Mr M. McGowan	Mr E.S. Ripper	Mr M.P. Whitely
Ms J.M. Freeman	Mrs C.A. Martin	Mrs M.H. Roberts	Dr J.M. Woollard
Mr J.N. Hyde	Mr M.P. Murray	Ms R. Saffioti	Mr B.S. Wyatt
Mr W.J. Johnston	Mr A.P. O'Gorman	Mr T.G. Stephens	Mr D.A. Templeman (<i>Teller</i>)

Amendment thus passed.

The SPEAKER: The question is that the balance of the amendment be deleted, the words being “25% of the forecast levy amount for the financial year”.

Amendment (deletion of words) put and passed.

The SPEAKER: We now move to the insertion of the following words —

must be as follows —

- (a) in the financial year ending 30 June 2010 — an amount not less than the difference between 25% of the forecast levy amount for that financial year and the amount of levy paid or payable for the period 1 July 2009 to 31 December 2009;
- (b) in any other financial year — not less than 25% of the forecast levy amount for the financial year.

Dr Graham Jacobs; Deputy Speaker; Dr Janet Woollard; Ms Adele Carles; Mr John Hyde; Mr David Templeman; Mr Rob Johnson; Mr Chris Tallentire; Mr Mark McGowan; Mr Bill Johnston; Mr John Kobelke; Mr Paul Papalia; Acting Speaker; Speaker; Mr Tony O'Gorman

Point of Order

Mr M. McGOWAN: My understanding is that we are still able to debate the remainder of this clause and that the division was on the early part of this clause rather than the remainder of it. We are therefore able now to debate this clause. Mr Speaker, had you put that to a vote, it would have meant that we could not debate it.

The SPEAKER: We have already agreed to delete the words. I am simply putting to the house now the words that are to be substituted. If a member wishes to rise and speak to that, that is quite in order.

Debate Resumed

Mr M. McGOWAN: The fact that we are now debating this clause means that we are no longer able to debate the amendment moved by the member for Fremantle. What a message that sends.

The ACTING SPEAKER (Ms L.L. Baker): Members, would you please reduce the volume of your dialogue.

Mr M. McGOWAN: The member for Fremantle, a brand-new member, came into the house with a very sensible amendment. We did not get to discuss her amendment to this legislation. Instead, we have to discuss the minister's amendment to the legislation. Let us be absolutely plain about what the minister's legislation is: it is a tax grab on ordinary Western Australian families. What makes it far worse is the fact that the government has gagged debate and taken this matter to a vote in a hurry while the member for Kalgoorlie is not here to exercise his democratic right. It is an absolute disgrace and a shame that this government acts in this manner in this Parliament, which is the highest democratic body in the state. The member for Kalgoorlie should take great note of the way the government has treated his vote in this house and the way it takes him for granted. When he decides that he does not like something that the government is doing by way of a tax grab on ordinary Western Australian families, the government brings on debate on the legislation on a day when he is not here but out in his constituency doing constituency work. He should take great note of this management of the Parliament that the government engages in.

This is one of the key clauses of this piece of legislation because it ensures, as the member for Balcatta said, that only 25 per cent of the levy will go to the Waste Authority and 75 per cent, as a tax grab, will go to the operations of the Department of Environment and Conservation, because the government has ripped all that money out of the environment agency—all those tens of millions of dollars. It is the one agency that has copped it in the neck worse than all the others. All the agencies that put in place approvals in our state, all the agencies that police our state and all the agencies that provide health care services for our state have copped it, but one agency has copped it more than any other, and that is the Department of Environment and Conservation. It has copped it right in the neck with tens of millions of dollars ripped out of its budget. This clause makes that happen. It tops it with a grab on Western Australian families, including my family living in Rockingham and all the people living in my street in Rockingham. This is the clause that does that. I would have thought that this would be something that every member of this house should have the right to vote on and that the matter should not have been rushed, so that all members could have voted on it. The reason the government has brought this on in the way it has is that it was very unsure about whether it would win the vote, because the member for Alfred Cove worked out what the government was up to, as did the member for Fremantle and the member for Kalgoorlie. Had the member for North West stayed true to the people who elected him, the government would have suffered a defeat. That is the truth of the matter. Government members can go to their constituencies and explain it to people when their bills go up by \$25 minimum, and that is on top of the other imposts of up to \$1 000 a household. That might not mean much to a wealthy doctor from Esperance. As I have said, I like the minister, but he is a wealthy doctor from Esperance and his constituents do not pay it. My constituents do pay it, and I am not a wealthy doctor.

Dr G.G. Jacobs: You are a wealthy lawyer.

Mr M. McGOWAN: I can assure the minister I am not one of those either. He should check the parliamentary financial interests register. I have one house, which is the one I live in, no shares and nothing else. I have three children and a wife to support.

Dr G.G. Jacobs: I have five.

Mr M. McGOWAN: I think I am well rewarded for what I do, because I love it. I am not quite in the category of Fred Daly, who would have done it without pay, but I like what I do and I enjoy this place. However, on top of everything else the government has done, this legislation will rip money out of the wallets of ordinary families across the metropolitan area of this state.

Mr P. PAPALIA: I would like to hear more from the member for Rockingham, please.

Dr Graham Jacobs; Deputy Speaker; Dr Janet Woollard; Ms Adele Carles; Mr John Hyde; Mr David Templeman; Mr Rob Johnson; Mr Chris Tallentire; Mr Mark McGowan; Mr Bill Johnston; Mr John Kobelke; Mr Paul Papalia; Acting Speaker; Speaker; Mr Tony O'Gorman

Mr M. McGOWAN: It is a tearing of money out of the wallets —

The ACTING SPEAKER: Member for Rockingham, there is a point of order.

Point of Order

Mr R.F. JOHNSON: I am very happy to hear the member for Rockingham, but I would ask him to address the amendment before the house—that is, the words to be inserted—and to not go on about the personal finances of himself, the minister, or anybody else.

The ACTING SPEAKER (Ms L.L. Baker): Would the member for Rockingham please keep his comments to the amendment we are debating.

Mr M. McGOWAN: I thank the Acting Speaker for her very wise ruling.

Mr R.F. Johnson: Take note of it!

Debate Resumed

Mr M. McGOWAN: When people are taxed an amount of money, it of course comes out of someone's wallet; namely, the millions of people who live around the metropolitan area who will be paying this levy because of the government's actions.

I thought that the member for Fremantle asked the minister some very pertinent questions about legal advice he received, but he did not answer the question about the validity of this clause. I thought the member for Fremantle had given the minister a lot of warning that she was going to ask that question, and the minister indicated that he had received some advice from the State Solicitor's Office. He did not elaborate on the advice received, just that it was all okay. That was probably the extent of the minister's answer. The question that the member for Fremantle asked about whether the payment referred to in this clause was valid was interesting. Considering what the government is doing to families in the electorates of all metropolitan members of this house, the government needs to provide us with more than that small bit of information that it is all okay. The minister can provide us with far greater information than that. Will the minister provide us with more comprehensive advice on the legality of these laws? I expect the member for Fremantle might have some further questions on that.

Mr C.J. TALLENTIRE: This clause highlights a number of things, one of which is the legality of it. But, to me, this clause demonstrates a case of financial mismanagement. We know that the Waste Authority has serious demands on its reserves; it has a number of projects it has to deliver on. From a reading of the minutes of the August meeting of the Waste Authority, we can see that that body does not receive sufficient funding already. If we are talking about constraining the funding to that body, as outlined in these clauses, to an amount of not less than the difference between 25 per cent of the forecast levy for this period and then, later on, not less than 25 per cent—we have also heard that in fact it will be only 25 per cent—then it will have some serious problems in undertaking the various projects and dealing with commitments made at a national level. The Environment Protection and Heritage Council has already asked Western Australia for a five per cent contribution to things such as the exploration of a national container deposit system, and also for it to contribute to the national packaging covenant mark 3. When we have those sorts of demands from the federal agency, it should be very clear how the present budgetary arrangements will meet those demands, and how it can be guaranteed that we will be able to meet those demands into the future. Given the information that has been presented to us today, other aspects cannot be clearly resolved.

A moment ago I referred to the minutes of the Waste Authority's August meeting, which very clearly identified that the revenue stream was already down. The advice was that from April to June 2009, the levy returns on inert landfill were down by \$82 000 on the previous quarter, and down by \$168 000 on the previous quarter for putrescible waste. That means we have some serious funding problems. How can we possibly be talking about constraining funds to the Waste Authority to only 25 per cent of the total amount of funding raised through this levy? These minutes demonstrate that these amendments would cause some serious financial mismanagement. It is already evident that the government's commitment to a key environmental issue is absolutely minimal, and almost despising of the need to fund environmental concerns. The government does not take seriously its commitment to funding the Environmental Protection Authority and the Department of Environment and Conservation. It is leaving the funding of those agencies to the vagaries of a revenue stream that the government states will be decreasing in the future. It wants that revenue stream to decrease because it wants the waste stream to decrease. There are so many vagaries about this proposed supply of funding to the Waste Authority that the amendments that are before us, and indeed the tone of the whole bill before us, mean that we will be in very serious trouble when it comes to waste management. The ideal of waste avoidance and resource recovery will be completely beyond us. It really does fall on the minister to present some serious financial analysis that shows

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that the revenue streams that would come about if this amendment was to go through would be adequate for the Waste Authority to deal with its many, many responsibilities.

Dr G.G. JACOBS: A lot was encompassed in that debate; not much of it was relevant, but I will pick up on a couple of things that were said.

In answer to the member for Rockingham, the advice that I have received from the State Solicitor's Office—the member for Rockingham is not listening so he will probably ask me again later!—was that the legislative amendments had to be in place prior to the 300 per cent increase in the levy, and, on that basis, the increase will be valid.

In answer to the member for Gosnells, the Western Australian waste strategy sets out the strategic direction. The member asked about the container deposit scheme, and it is important to say that the WA waste strategy sets out the strategic direction for waste management and will address the issues raised by the member, such as extended producer responsibility.

Mr C.J. Tallentire: Will it fund it?

Dr G.G. JACOBS: The waste management strategy will address the issues raised by the member, such as extended producer responsibility. The strategic direction will incorporate and explore the issue of extended producer responsibility.

Ms A.S. CARLES: The minister just referred to the legal advice that he sought on a timing issue and stated that the amendments in the Waste Avoidance and Resource Recovery Amendment Bill 2009 had to be in place prior to the 300 per cent increase in the levy. That is not what I was alluding to when I talked about the illegality of this waste levy. I was talking about the waste levy being set up under the waste avoidance and resource recovery legislation and going 100 per cent into the WARR account. The proposed amendment would direct 75 per cent of that money to an entirely different purpose. Has the minister sought the State Solicitor's advice about whether it is legal to change the purpose of that waste levy? I would appreciate it if the minister tabled the legal advice.

Dr G.G. JACOBS: In answer to the member for Fremantle, I am advised that this is covered by the levy act, which places a levy on the disposal of waste. It does not specify how the funds should be used. This levy is about a disincentive to create landfill waste and encouraging recycling; it is nothing more and nothing less. The State Solicitor's advice was that when the legislative amendments are in place, the increase will be valid.

Ms A.S. CARLES: The minister does not see any problem with ratepayers having to pay a waste levy that is ultimately a tax for the DEC. Can the minister honestly not see the inherent problem here?

Mr D.A. TEMPLEMAN: I have been following this debate very closely, as members would know. This clause that we are debating is the crux of this whole legislation. This debate is about how the dollars that will be delivered through this levy will be distributed, and under what guise. The guise can be found in this legislation. This legislation is the Waste Avoidance and Resource Recovery Amendment Bill. The intent of the original bill—which I had carriage of through this place as the then Minister for the Environment—was to set up an appropriate framework by which this state could deliver better outcomes for waste avoidance and recovery. That was the intent of the bill that I took through this place in 2007. This clause seeks to distribute moneys that have been collected and advertised as being for a waste levy. However, the government is now saying that not all the moneys that will be raised by this levy will be used for that purpose. Up to 75 per cent of the moneys that will be raised by this levy will be hived off for possibly totally unrelated purposes. The member for Fremantle and members on this side have been very clear about the intent of this bill. I do not know how they can be any clearer. This bill is a revenue-raising measure to prop up the core business of the Department of Environment and Conservation. I do not know how the minister and the government can argue—despite any State Solicitor's advice that they may have—that this bill is presenting to taxpayers and ratepayers, in a transparent way, what this money will be used for. That is the point of the argument from the opposition and the member for Fremantle. This is a real scam. I have called it a dead cat. This is a scam. I think the minister understands and knows that. The minister representing the Minister for Environment is trying to paint over this in any way that he can to show that it is not a scam. He is trying to paper over the bumps and the lumps and the gaps—the chasms—that exist in the bill. However, irrespective of how the minister might try to paint or paper over it, or spray it, or give it a new smell and a rosy title, the fact of the matter is that the minister is, through this particular clause, hoodwinking the people of Western Australia. The minister is hoodwinking them absolutely.

Mr M. McGowan: May I interject?

Mr D.A. TEMPLEMAN: Of course! I welcome the member's interjection!

Mr M. McGowan: I think it would be fair to say it is a dead dog!

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Mr D.A. TEMPLEMAN: The member has given me an interesting line of flavour!

Dr G.G. Jacobs: Don't waste time, member for Mandurah!

Mr D.A. TEMPLEMAN: I hope members will give me a bit more time to reflect on that, because I have a few more comments that I would be very keen to make if I were given the opportunity.

Mr P. PAPALIA: Madam Acting Speaker, I would really like to hear more from the member for Mandurah.

Mr D.A. TEMPLEMAN: I thank members for their strong support for the continuation of my remarks.

I want to outline some of the history of this debate, and this is very important, because this is the crux of this whole legislation. Back in May during the estimates debate, we discovered, when we were examining this proposal by the Treasurer and the Minister for Environment with regard to how this levy would be used—in fact, how this levy would be bastardised in terms of its intention —

Dr G.G. Jacobs: You are going over old ground, member for Mandurah. This is old ground. This is very dead.

Mr D.A. TEMPLEMAN: No. This is very important. We had to arm-wrestle a letter off the minister last week. That took us 45 to 50 minutes or so —

Dr G.G. Jacobs: And it did not tell you anything more than what I had actually said!

Mr D.A. TEMPLEMAN: I notice that the minister has come very well prepared today, because everything he says now is from handwritten notes!

Dr G.G. Jacobs: What do you think I am—a slow learner?

Mr D.A. TEMPLEMAN: I am very impressed! I also note the debacle that occurred last week when the minister was handling this bill, in close consultation with the Minister for Environment, who was out in the corridor, and when the government was shown up for its ineptness—not only in handling this bill, but also in handling the business of this place. I know that the Minister for Water is an honest man. The minister is an honest man, and I like him; and I have said that before.

Dr G.G. Jacobs: You've got me worried now!

Mr D.A. TEMPLEMAN: I think the minister should be honest and say, "Yes, I have this terrible job that I have to do. I have this dog of a bill, this cat of a bill—this stinking mess of a bill—to handle. We are changing the intention of this levy to allow this levy to be used for purposes other than the original purpose. That is what we are doing, and we have the right to do that as a government." That is right. The government does have the right to do that. But what the government does not have the right to do—in my view and in the view of the member for Fremantle, and others—is hoodwink the people of Western Australia. The minister has to tell the truth. The minister has to say to the people of Western Australia, "We have a problem with our budget. We have to boost the budget for the Department of Environment and Conservation. So we are not going to spend all the money that is intended to be raised by the levy on the purposes for which the levy was established. We are not going to do that. We want to be honest and open about this. We are going to use some of the funds from the levy to prop up the DEC, because in that way we can try to balance the budget, as has been requested by the Premier and ultimately by the Treasurer." If the minister said that, he would be honest and he would be telling the truth; and he would not then be subject to this carnivorous attack by the opposition and by the member for Fremantle, and others. I think we would then probably be able to go away from this place accepting that the government is the government and it has the right to do this. But the minister and the government should not try to dress this up and paint or paper over it. They should not do that. We will be reminding the people of Western Australia time and again that this is an attempt by the government to hoodwink the taxpayers of the state and to prop up a department with ill-gained moneys. That is really the intention of our questioning about the legality of this matter.

Dr G.G. Jacobs: Will you take an interjection?

Mr D.A. TEMPLEMAN: I have only 36 seconds left, and I am sure the minister does not want to hear any more from me at the moment. What do they do in New South Wales with 50 per cent of the levy? They put it into consolidated revenue!

Dr G.G. Jacobs interjected.

Mr D.A. TEMPLEMAN: We are talking about Western Australia. We are talking about this state.

Dr G.G. Jacobs: Yes, but you are making out that there is some illegality here.

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Mr D.A. TEMPLEMAN: It is a pity that the minister would not table the State Solicitor's advice. It would be interesting if the minister did that. The minister is relying on that from a legal perspective.

Dr G.G. Jacobs: What would the member's comment be on the New South Wales jurisdiction?

Mr D.A. TEMPLEMAN: I bet the minister will not table the State Solicitor's advice. I urge the minister to do that.

Mr A.P. O'GORMAN: I have a question that I would like to put to the minister. I hope that he will not be as arrogant with my question as he was with the question from the member for Fremantle. The minister just sat in his chair and refused to answer it. A number of waste operators in my electorate who pick up mini skips and those sorts of things have come to me. Those operators are quite concerned about this levy and the extra cost it is going to add to their businesses.

Dr G.G. Jacobs: What businesses are they, member for Joondalup?

Mr A.P. O'GORMAN: Mini bins, waste bins, skips—all those sorts of things. Those operators have a concern that this extra levy is going to put their prices up to such a level that it will impact on their businesses. In one instance it was not a member of my electorate, it was a member from the member for Ocean Reef's electorate. He went to the member for Ocean Reef and was not happy with the answer he got. Has the minister done any economic impact study on how it will affect private operators? How many of them will have to put off employees? How many of them might have to put trucks off the road? What impact might that have on our environment and our landfill when waste starts getting dumped by the side of the road? They believe that those sorts of things will happen. I know the minister will say there are fines et cetera for dumping on the side of the road, but, realistically, if I am doing renovations or a front garden or something, a bin is going to cost me a large sum of money. Realistically, the minister has to expect that we will see waste along the roadside. How is this helping the environment and what impact study has been done, if any?

Question to be Put

Mr R.F. JOHNSON: I move —

That the question be now put.

Question put and a division taken with the following result —

Ayes (28)

Mr P. Abetz	Mr V.A. Catania	Mrs L.M. Harvey	Ms A.R. Mitchell
Mr F.A. Alban	Dr E. Constable	Mr A.P. Jacob	Dr M.D. Nahan
Mr C.J. Barnett	Mr M.J. Cowper	Dr G.G. Jacobs	Mr C.C. Porter
Mr I.C. Blayney	Mr J.H.D. Day	Mr R.F. Johnson	Mr D.T. Redman
Mr I.M. Britza	Mr J.M. Francis	Mr A. Krsticevic	Mr M.W. Sutherland
Mr T.R. Buswell	Mr B.J. Grylls	Mr W.R. Marmion	Mr T.K. Waldron
Mr G.M. Castrilli	Dr K.D. Hames	Mr P.T. Miles	Mr J.E. McGrath (<i>Teller</i>)

Noes (27)

Ms L.L. Baker	Mr J.C. Kobelke	Mr P. Papalia	Mr A.J. Waddell
Ms A.S. Carles	Mr F.M. Logan	Ms M.M. Quirk	Mr P.B. Watson
Mr A.J. Carpenter	Ms A.J.G. MacTiernan	Mr E.S. Ripper	Mr M.P. Whitely
Mr R.H. Cook	Mr M. McGowan	Mrs M.H. Roberts	Dr J.M. Woollard
Ms J.M. Freeman	Mrs C.A. Martin	Ms R. Saffioti	Mr B.S. Wyatt
Mr J.N. Hyde	Mr M.P. Murray	Mr T.G. Stephens	Mr D.A. Templeman (<i>Teller</i>)
Mr W.J. Johnston	Mr A.P. O'Gorman	Mr C.J. Tallentire	

Pair

Mr A.J. Simpson

Mr J.R. Quigley

Question thus passed.

Consideration in Detail Resumed

Amendment (insertion of words) put and a division taken with the following result —

Extract from Hansard
[ASSEMBLY - Tuesday, 15 September 2009]
p6950g-6967a

Dr Graham Jacobs; Deputy Speaker; Dr Janet Woollard; Ms Adele Carles; Mr John Hyde; Mr David Templeman; Mr Rob Johnson; Mr Chris Tallentire; Mr Mark McGowan; Mr Bill Johnston; Mr John Kobelke; Mr Paul Papalia; Acting Speaker; Speaker; Mr Tony O’Gorman

Ayes (28)

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Mr W.J. Johnston	Mr A.P. O’Gorman	Mr C.J. Tallentire	

Pair

Mr A.J. Simpson

Mr J.R. Quigley

Amendment thus passed.

Mr J.C. KOBELKE: Clause 7 has just been amended, but the effect on the overall bill is that it will be the same as new subsection (3B). I refer members to clause 7(2). New subsection (3A) directs that in each financial year there is to be credited to the waste avoidance and resource recovery account such amount of the levy credited to the department’s operating account. Therefore, the money collected from the waste levy goes to the department’s operating account. New subsection (3B) states that the amount specified under subsection (3A) must be not less than 25 per cent of the forecast levy amount for the financial year.

Out of the levy that goes into the department’s operating account 25 per cent—the bill states that at least 25 per cent, and we know that the government’s intention is that it will be 25 per cent—goes into the WARR account, which is where the entire levy should go, but I will not get into that argument again.

The point with new subsection (3B), which has just been amended, is that it is not less than 25 per cent of the forecast levy amount. What is the forecast levy amount?

Mr R.F. Johnson: I want to adjourn this debate now and it will be brought on for debate later today.

Mr J.C. KOBELKE: Can I just finish what I have to say? I will only be about five minutes.

The forecast levy amount is defined in new subsection (3C). When we come back to the debate on this bill I hope the minister will be able to tell me what ability there is within this new subsection to manipulate the definition of “forecast levy amount”. New subsection (3C) includes two paragraphs that define, for the purpose of new subsection (3B) the “forecast levy amount”. New paragraph (a) states —

the estimate of the levy amount for the financial year set out in the budget papers for that financial year tabled in the Legislative Assembly;

That is fairly clear. We will be able to pick up from the financial papers what that amount is. New paragraph (b) states —

if another means of determining the forecast levy amount for the financial year is prescribed — the forecast levy amount determined by those means.

That leaves the gate wide open, because the government could at any time declare that a whole lot of other costs can be taken out of the levy. The forecast levy amount would then be defined as the levy collected less these other amounts. We could end up with less than 25 per cent of the levy. For example, there might be need for a whole new computer system to manage the levy collection. The government of the day could decide to take all the money collected from the levy and take out of it the \$2 million required for the new computer system and then define the balance as the forecast levy amount. Therefore, 25 per cent of that amount would be much less than 25 per cent of the total levy collected. When the debate on this bill is resumed, I would like the minister to explain what controls are in place over how subsection (3C)(b) can be used.

Extract from *Hansard*

[ASSEMBLY - Tuesday, 15 September 2009]

p6950g-6967a

Dr Graham Jacobs; Deputy Speaker; Dr Janet Woollard; Ms Adele Carles; Mr John Hyde; Mr David Templeman; Mr Rob Johnson; Mr Chris Tallentire; Mr Mark McGowan; Mr Bill Johnston; Mr John Kobelke; Mr Paul Papalia; Acting Speaker; Speaker; Mr Tony O'Gorman

The whole bill is simply a manipulation of the system. The government is using smoke and mirrors to increase the taxation on ordinary families. It is trying to sell this legislation to Western Australian taxpayers as a means of dealing with waste recovery and waste recycling. We know that it has absolutely nothing to do with that. It will result in less money.

This government is establishing a track record in trying to con people by saying that an extra levy increase is something that it is not—it is a tax and it is absolutely clear that it has nothing to do with improving waste recovery and waste recycling. As the government has been caught out trying to deceive, the opposition needs to know, to the extent that the minister is able to explain it—he has not been too good at explaining things so far—to what extent he, or any future minister who has responsibility for waste management, will be able to use new subsection (3C)(b) to hive off money from the levy and redefine the forecast levy amount and, therefore, have less go in.

In another part of this bill we know that the government is hiving off the administrative money that previously did not come from the levy, but came from consolidated revenue. This legislation will provide that the administrative costs are paid for out of the levy, reducing the amount available to run the programs that the levy is to be used for. The government is stealing more money out of taxpayers' pockets. How do we know that new subsection (3C)(b) will not be used for another rort; that is, by redefining the forecast levy amount, it can make sure that even less goes in. I hope that when this debate resumes we will get some decent answers from the minister about why new paragraph (b) is included in this bill.

Debate adjourned, on motion by **Mr R.F. Johnson (Leader of the House)**.