

**FIRE AND EMERGENCY SERVICES LEGISLATION (EMERGENCY SERVICES LEVY)  
AMENDMENT BILL 2002**

*Council's Amendments*

Amendments made by the Council now considered.

*Consideration in Detail*

The amendments made by the Council were as follows -

No. 1

Clause 15, page 17, line 10 - To insert before "is" the following -  
except as provided in the regulations,

No. 2

Clause 15, page 21, lines 21 to 31 - To delete the lines and insert instead -

**36U. Local government may credit levy to municipal fund or trust fund**

- (1) A local government may credit to its municipal fund or trust fund amounts of levy and levy interest paid to the local government.
- (2) Despite section 6.9(3) of the *Local Government Act 1995*, a local government may retain interest earned from investing amounts of levy and levy interest credited to its trust fund.

No. 3

Clause 15, page 29, after line 33 - To insert -

**Division 9 — ESL agreements**

**36ZI. Definitions**

In this Division —

**"ESL agreement"** means an agreement entered into under section 36ZJ;

**"leviable land"** does not include leviable land in relation to which the Authority serves or gives a notice under section 36L(2) or 36N.

**36ZJ. Authority may enter into agreements with local governments**

- (1) The Authority may, with the approval of the Minister, enter into a written agreement with a local government that provides for the local government to pay to the Authority an amount equal to the total amount of levy payable for a levy year on all leviable land in the local government's district.
- (2) An ESL agreement may provide for the amount that is to be paid to the Authority under the agreement to be paid by instalments.
- (3) If an amount (including an instalment) remains unpaid after it becomes due and payable under an ESL agreement, the Authority may recover the amount, and interest on the amount at the rate prescribed by the regulations, as well as any costs of proceedings for that recovery, in a court of competent jurisdiction.

**36ZK. Modification of operation of Part 6A**

If a local government enters into an ESL agreement this Part is to be read, for the purposes of the levy payable on leviable land in the local government's district for the levy year to which the agreement applies, as if the provisions mentioned in column 1 of Schedule 1A were amended or repealed as set out in column 2 of that Schedule.

No. 4

Clause 31, page 36, line 25 - To delete "subsection is" and insert instead -  
subsections are

No. 5

Clause 31, page 37, after line 5 - To insert -

- (1c) Subsection (1b) does not apply to an amount to be reimbursed or paid to a local government in respect of which there is in force an ESL agreement entered into under section 36ZJ of the *Fire and Emergency Services Authority of Western Australia Act 1998*.

No. 6

New Clause 17, page 31, after line 18 - To insert the following new clause -

**17. Schedule 1A inserted**

After Schedule 1 the following Schedule is inserted —

“

**Subdivision 1A — Modification of operation of Part 6A**

[s. 36ZK]

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<b>column 1: provision</b>	<b>column 2: amendment or repeal</b>
s. 36P	Subsection (2) is repealed and the following subsection is inserted instead — “ <p style="text-align:center">(2) The levy is payable to the local government for the district in which the leviable land is located. ”.</p>
s. 36S(1)	“or the Authority, as the case requires,” is deleted.
s. 36T(3)	“or to the Authority” is deleted.
s. 36U	The section is repealed.
s. 36V	The section is repealed.
s. 36X	The section is repealed.
s. 36Z(1)	“or by the Authority” is deleted.
s. 36Z(2)	“or the Authority” is deleted.
s. 36Z	Subsection (3) is repealed and the following subsection is inserted instead — “ <p style="text-align:center">(3) In subsection (1) — “<b>land</b>” has the same meaning as “leviable land” has in Division 9. ”.</p>
s. 36ZB	The following definitions are inserted in the appropriate alphabetical positions — “ <b>land</b> ” has the same meaning as “leviable land” has in Division 9; “ <b>the local government</b> ”, in relation to land, means the local government for the district in which the land is located. ”.
s. 36ZC(1) and (2)	“Authority” is deleted in each place where it occurs and the following is inserted instead — “ local government ”.
s. 36ZD	“Authority” is deleted in both places where it occurs and the following is inserted instead — “ local government ”.

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<b>column 1: provision</b>	<b>column 2: amendment or repeal</b>
s. 36ZH(2)(b)	After “payable” the following is inserted — “ and to the local government ”.

No. 7

Schedule 1, page 41, line 12 - To delete “subsection” and insert instead -  
subsections

No. 8

Schedule 1, page 41, line 15 - To delete “37.5%” and insert instead -  
the specified percentage

No. 9

Schedule 1, page 41, after line 17 - To insert -  
(2aa) In subsection (2) —

**“the specified percentage”** means the percentage specified by the Minister by notice  
published in the *Gazette*.

No. 10

Schedule 1, page 41, lines 23 and 24 - To delete “in 2 equal instalments not later than 1 July 2003 and 1  
October 2003” and insert instead -  
at the times, and in the instalments, specified by the Minister by notice published in the  
*Gazette*

Mrs M.H. ROBERTS: I move -

That amendment No 1 made by the Council be agreed to.

After meetings between the Fire and Emergency Services Authority and local government representatives from the north metropolitan zone committee of the Western Australian Local Government Association, considerable effort has been made to resolve issues raised in letters received by members of Parliament and my office. The Fire and Emergency Services Authority is sympathetic to the situation of local governments, which, in the collection of the emergency services levy on behalf of the Fire and Emergency Services Authority, must take into account a large number of ratepayers and a complex system. FESA has welcomed the opportunity to improve the ESL administration arrangements by adding an additional option that is applicable for large local governments. The majority of issues raised by the group will be resolved via adjustments to the administrative procedures that are already possible under the legislation. However, FESA has also worked with parliamentary counsel to develop appropriate amendments to establish the capacity to initiate ESL agreements between the Fire and Emergency Services Authority and a particular local government with the approval of the minister. ESL agreements will enable specific arrangements to suit particular local governments. The amendments will also add the capacity for local governments to place ESL funds collected from property owners in either their trust fund or municipal fund to cater for occasions upon which ratepayers pay both their rates and ESL in a single payment. In this way, local governments will not be required to split the payment into two amounts to credit two different accounts. This change has been developed in consultation with the Department of Local Government and Regional Development. Amendment No 1 provides for the establishment of regulations that will be used to identify state government entities whose levy obligations will be assessed and collected by respected local governments rather than the authority. This will happen only when the local government is already assessing and billing the obligations of that entity. In detailed discussions with local governments, it was recently established that some state government entities may fall under this category.

Mr P.D. OMODEI: I understand that the regulations will be used to identify the state government entities whose levy obligations will be assessed and collected by respective local governments rather than the authority. Will the minister outline some of the state government entities?

Mrs M.H. ROBERTS: I do not have that information in front of me. However, I have been advised that it is a minority of government entities and not government departments as such. Apparently some government entities are currently paying council rates to local government authorities. Rather than have a separate billing system, the same one will be used.

Mr P.D. Omodei: Will you provide the information to me?

Mrs M.H. ROBERTS: I am happy to provide the information by way of correspondence.

**Question put and passed; the Council's amendment agreed to.**

Mrs M.H. ROBERTS: I move -

That amendment No 2 made by the Council be agreed to.

The amendment deletes lines 21 to 31 on page 21 and inserts proposed section 36U, "Local government may credit levy to municipal fund or trust fund". The amendment empowers local governments to credit the levy and interest received to either their municipal fund or trust fund. It will mean that a local government that receives a single payment from a property owner to cover council rates and the levy may credit such a payment to a single bank account rather than potentially having to create separate bank accounts and distribute separate amounts. A local government may retain interest earned from investing amounts of the levy and levy interest credited to the trust fund. The need for ministerial approval for such retention has been removed because it was considered to be too prescriptive.

Mr P.D. OMODEI: This amendment to clause 15 at page 21 of the Bill deletes lines 21 to 31 and inserts proposed section 36U, which states -

- (1) A local government may credit to its municipal fund or trust fund amounts of levy and levy interest paid to the local government.
- (2) Despite section 6.9(3) of the *Local Government Act 1995*, a local government may retain interest earned from investing amounts of levy and levy interest credited to its trust fund.

I understand that the local governments that have approached the minister - particularly the City of Stirling and the north metropolitan zone committee of the Western Australian Local Government Association - are concerned about this and the next amendment, which inserts new division 9. The local governments are seeking to run the levy themselves. In the interest of getting the legislation through, I believe the Government will agree to such a proposition. I understand that the local governments will forward funds to the Fire and Emergency Services Authority on a quarterly basis and that the local governments will keep the interest. Is that the case with all local governments; will they be able to keep the interest raised?

Mrs M.H. Roberts: Yes.

Mr P.D. OMODEI: There will be no requirement under this clause to obtain the minister's approval?

Mrs M.H. Roberts: That is right.

Mr P.D. OMODEI: On that basis, I support the amendment.

**Question put and passed; the Council's amendment agreed to.**

Mrs M.H. ROBERTS: I move -

That amendment No 3 made by the Council be agreed to.

This amendment seeks, at page 29, after line 33, to insert a new division 9 concerning emergency services levy agreements. The amendment establishes a new division to accommodate an alternative levy remittance proposal developed by the City of Stirling and actively promoted by the north metropolitan zone committee of WALGA. As I have explained, the proposal involves the billing of the levy as required by the Bill but incorporates alternative internal administration of the levy by local governments that elect to adopt the proposal. It also provides an alternate remittance arrangement of the levy from local governments to the authority. Proposed section 36ZI provides the definitions that are required for the ESL agreements. Proposed section 36ZJ will allow local governments the option of either proceeding with the administrative arrangements as currently outlined in the Bill or, with the approval of the minister, entering into an ESL agreement with the authority. An ESL agreement between a local government and the authority will specify the time frames and the quantum of remittances from the local government to the authority. This is a variation from the provisions of the Bill, which would normally require a local government to periodically remit its collection of the levy and interest. As with the standard arrangements in the Bill, if an amount is due but not paid to the authority by a local government, interest is payable and the amount may be recovered in a court of competent jurisdiction. Proposed section 36ZK recognises that there are provisions in the Bill in its current form that will not apply, or will apply only in part, to local governments that elect to operate under an ESL agreement. Schedule 1A identifies those provisions and the extent of their application under arrangements covered by the ESL agreements.

Mr P.D. OMODEI: This is a significant amendment to the legislation by the Legislative Council. The new division 9, which is inserted after clause 15 at page 29 of the Bill, provides for definitions under proposed

section 36ZI to ESL agreements and leviable land. Proposed section 36ZJ allows the authority to enter into agreements with local governments. Proposed section 36ZK is a modification of the operation of Part 6A, and states -

If a local government enters into an ESL agreement this Part is to be read, for the purposes of the levy payable on leviable land in the local government's district for the levy year to which the agreement applies, as if the provisions mentioned in column 1 of Schedule 1A were amended or repealed as set out in column 2 of that Schedule.

I understand that proposed section 36ZJ provides for the concerns of the north metropolitan zone committee of WALGA. As such, an ESL agreement between a local government and the authority will specify the time frames and quantum of remittances from local governments to the authority. What is the difference between what the City of Stirling wants and what applies to local governments generally? Obviously, the City of Stirling was not happy with the original legislation and it wants to remit funds when it sees fit. Is it the case that it will not be remitting money on a quarterly basis and that it will remit funds when it feels like it?

Mrs M.H. Roberts: It will have to come to an arrangement. It could well be on a quarterly basis. Other local government authorities will remit money as they receive it. For some of the smaller authorities it may not be monthly; it could be quarterly to make it simpler and easier.

Mr P.D. OMODEI: What advantage is there to the City of Stirling? If it chooses to remit money on a quarterly basis, does that mean it will earn more interest?

Mrs M.H. Roberts: I suspect that if it could collect all the money in the first three months, for example, it would do very nicely from the interest.

Mr P.D. OMODEI: In the interests of getting to the bottom of this, I will continue to talk across the Chamber. It seems as though, because of its size and power, the City of Stirling has struck itself quite a good deal that other local governments may not have been able to achieve. Is that the case or is it because of the need to pass the legislation without having a recalcitrant council?

Mrs M.H. Roberts: No. Other authorities have expressed an interest. The Shire of Mundaring is interested. It is tentative because it is not sure how readily people will remit the ESL levy. It will watch the situation very closely. If people readily remit the ESL levy as part of their rates, a number of other local governments will opt to move to this system.

Mr P.D. OMODEI: They will have the option of moving to that type of system?

Mrs M.H. Roberts: Yes.

**Question put and passed; the Council's amendment agreed to.**

Mrs M.H. ROBERTS: I move -

That amendment No 4 made by the Council be agreed to.

This amendment reflects that two subsections - (1b) and (1c) - will now be inserted into section 17 of the Rates and Charges (Rebates and Deferments) Act 1992.

**Question put and passed; the Council's amendment agreed to.**

Mrs M.H. ROBERTS: I move -

That amendment No 5 made by the Council be agreed to.

This will insert new section 17(1c) into the Rates and Charges (Rebates and Deferments) Act 1992. This amendment provides that reimbursements for rebates etc claimed by local governments operating under an emergency services levy agreement with the authority may be made directly to the local government concerned rather than to the authority. This has been agreed to by the Department of Treasury and Finance.

Mr P.D. OMODEI: This is self-explanatory. It inserts new subsection (1c) into section 17 of the Rates and Charges (Rebates and Deferments) Act -

Subsection (1b) does not apply to an amount to be reimbursed or paid to a local government in respect of which there is in force an ESL agreement entered into under section 36ZJ of the *Fire and Emergency Services Authority of Western Australia Act 1998*.

I accept the intent of the amendment, and support it.

**Question put and passed; the Council's amendment agreed to.**

Mrs M.H. ROBERTS: I move -

That amendment No 6 made by the Council be agreed to.

The proposed schedule identifies the provisions of the Bill in its current form that will not apply or will apply only in part to local governments that elect to operate under an ESL agreement. For example, proposed sections 36P, 36S(1) and 36T(3) are to be read without references to the authority, as only the local government concerned will collect the levy for land that falls under the new definition of leviable land established specifically for matters covered by ESL agreements. Proposed new section 36U, "Local government may credit levy to municipal fund or trust fund", will not apply to local governments operating under ESL agreements, as they will receive the levy and will levy interest in their own right, and the normal operation of the Local Government Act 1995 would allow such amounts to be credited to the local government municipal fund. Proposed section 36V, "Local government to pay levy and other amounts to Authority" also will not apply, as local governments operating under the ESL agreements will remit money to the authority in accordance with the terms of the respective ESL agreements. Proposed section 36X, "Interest payable on amounts not paid by the due date to Authority", also will not apply, as such matters will instead be covered by proposed new section 36ZJ(3). Proposed sections 36Z, 36ZB, 36ZC, 36ZD and 36ZH are to be read with references to the "Authority" substituted for the "local government". This is a housekeeping provision that flows from the changes about which I have advised the House.

Mr P.D. OMODEI: This amendment gives effect to the changes that were made in the Legislative Council. It amends all those proposed sections to which the minister referred. Parts of proposed sections 36P, 36S(1) and 36T(3) will be deleted, and proposed sections 36U, 36V and 36X will be repealed. The words "or by the Authority" in proposed section 36Z(1) will be deleted, as will the words "or the Authority" in proposed section 36Z(2). Proposed section 36Z(3) will be repealed and replaced with a new subsection that states -

(3) In subsection (1) -

**"land"** has the same meaning as "leviable land" has in Division 9.

New definitions will be inserted into proposed section 36ZB -

**"land"** has the same meaning as "leviable land" has in Division 9;

**"the local government"**, in relation to land, means the local government for the district in which the land is located.

In proposed sections 36ZC(1) and (2) and 36ZD, the word "Authority" will be substituted for "local government". In proposed section 36ZH(2)(b), the words "and to the local government" will be inserted after "payable".

These changes will give local government more powers to handle the funds that will be raised. They are the result of a request by local government, particularly the northern zone of the Western Australian Local Government Association and the City of Stirling and its treasurer, the famous Rodney Constantine, whom many of us know as a very competent officer. Once the City of Stirling has been given these powers, other local governments that so choose will also be able to take up this process.

Mrs M.H. Roberts: I think Rodney Constantine has come up with a very good proposition. His experience in local government has been invaluable in the discussions.

Mr P.D. OMODEI: It goes without saying that Rodney Constantine is almost an icon in local government. I do not think anyone would question his competence. He is highly regarded. That is reflected in the kind of pressure that local government was able to bring to bear on the Government. The opposition parties and the Government have seen the wisdom of this proposition. The legislation that will be put in place will give local government more control over those funds. In the overall scheme of things, these amendments will enable more effective legislation to be passed. The Liberal Party supports this amendment.

**Question put and passed; the Council's amendment agreed to.**

Mrs M.H. ROBERTS: I move -

That amendment No 7 made by the Council be agreed to.

This is a consequential amendment that reflects that two subsections will be inserted into section 37; that is (2) and (2aa).

**Question put and passed; the Council's amendment agreed to.**

Mrs M.H. ROBERTS: I move -

That amendment No 8 made by the Council be agreed to.

The insurance industry has advised that it will not be able to commence premium reductions from 1 January 2003 because it needs to give its customers six weeks notice to effect such adjustments. At this stage, the dates

on which the relevant parts of this Bill will come into operation are not known, although it will hopefully be in the very near future. This means that the insurance industry's contributions under the Fire Brigades Act will continue for longer than anticipated and will be greater than the 37.5 per cent previously provided for. The insurance industry does not wish to commence premium reductions until it knows the commencement date of the relevant parts of the Bill - hopefully, it will know that as soon as tomorrow; therefore, the transitional provisions regarding the insurance industry's contributions have been made less prescriptive and more flexible.

Mr P.D. OMODEI: This amendment is to division 2 of schedule 1, "Savings and transitional provisions relating to Part IX of the *Fire Brigades Act 1942*". Proposed subsection 37(2) states -

For the purposes of subsection (1), the insurance companies shall contribute 37.5% of the amount of the estimated expenditure for the year ending 30 June 2004.

The insurance industry has said that it needs to give its customers six weeks notice. It is good that it probably will be able to do that. I do not object to the amendment because it provides some flexibility if the legislation is not given royal assent in time for the insurance industry to give its clients that six weeks notice. We want to give the insurance industry the ability to pass on savings via insurance premiums as soon as possible. I support the amendment.

**Question put and passed; the Council's amendment agreed to.**

Mrs M.H. ROBERTS: I move -

That amendment No 9 made by the Council be agreed to.

This amendment provides that the insurance industry's contribution for 2003-04 - the specified percentage - will be determined by the minister and published in the *Government Gazette*.

Mr P.D. OMODEI: Again, this amendment follows the previous amendment. It may not be necessary to change the figure of 37.5 per cent. However, in case the legislation is not approved in time, it gives the insurance industry the ability to make those changes. The "specified percentage" means the percentage specified by the minister by notice published in the *Government Gazette*. The issue raised is self-explanatory; it ensures that the insurance industry has some leeway if this legislation is passed after the date that would require it to give its customers six weeks notice. I support the amendment.

**Question put and passed; the Council's amendment agreed to.**

Mrs M.H. ROBERTS: I move -

That amendment No 10 made by the Council be agreed to.

Again, this flows from our previous discussions. This amendment reflects that, just as the amount of the insurance industry's contribution in 2003-04 is expected to be increased from the 37.5 per cent previously provided for, the timing of such contributions may need to be varied from that previously prescribed. For example, consideration may need to be given to a third instalment due on 1 January 2004. As the member for Warren-Blackwood has pointed out, the insurance industry has said that it needs to give its customers six weeks notice. We hoped that this legislation could be put in place at least six weeks before 1 January. However, given that it is now December, we are a couple of weeks out from those dates. This amendment will give us some flexibility to work with the insurance industry and also ensure that reductions in insurance premiums are delivered at the earliest possible time to the people of Western Australia.

Mr P.D. OMODEI: I do not need to add much more to what the minister has already said; she has explained it very clearly. We must give the insurance industry the ability to have that six weeks notice. As the minister said, it is already December and it is unlikely that we will give the industry the required six weeks notice. We have not discussed why the industry needs six weeks notice, but that obviously has something to do with the industry's modus operandi to alert its clients. It is important that this legislation be progressed through the Parliament. This amendment gives the minister the ability to specify the instalments and those percentages that are required in the *Government Gazette*. The 37.5 per cent contribution will probably increase slightly. This amendment will give effect to the legislation and ensure that the insurance industry can alert its clients. Hopefully the industry can pass on some savings to its customers' premiums.

I take this opportunity to thank the minister for her cooperation in providing me with the notes that explain the rationale behind some of these amendments. The Government introduced the amendments after the legislation had passed this place and had been introduced into the Legislative Council. Since then, the minister, her staff and the Fire and Emergency Services Authority had some deep and meaningful discussions with the City of Stirling and the northern metropolitan zone committee of the Western Australian Local Government Association. This is an example of alternatives to proposed legislation that makes sense, are workable, and can be applied to

other local governments for the general good of the community. That is what we should be about in this place. I wish the minister well with this legislation.

There will be some queries about it from time to time, but there is no doubt that the legislation regarding funding of fire and emergency services, volunteers and state emergency services had to be revamped. The legislation is now going through its final stages. I congratulate the minister for having the courage to introduce this legislation into the Parliament. I am glad it is her who will face the ratepayers' queries when they ask about this new property tax and the multiple numbers of levies that they will have to pay to ensure that we have a properly funded emergency services system. If issues or anomalies arise and the Government does not address them, it will certainly get some prompting from the Opposition, because people will also come to us with their concerns. Just as matters concerning the north metropolitan zone committee of WALGA and the City of Stirling arose, if there are queries about this legislation as it is put into effect, they will come back through the minister's office or our office. I hope that we have the common sense to amend the legislation if necessary if that would make it more workable. I thank the minister for her cooperation, and I wish her well with this legislation.

Mrs M.H. ROBERTS: I take the opportunity to place on record my thanks to the member for Warren-Blackwood for the remarks he has made this evening and for the very diligent way in which he has approached this legislation. This legislation has been in the process of drafting for quite some time; indeed, for well over a decade. It is a very complex area. Some of those complexities have, at various stages, deterred various ministers and Governments from proceeding with the legislation. I very firmly believe that the existing system of raising what is essentially a fire levy is unfair. I believe that this system will be much fairer. This is an emergency services levy; that aspect has not been highlighted sufficiently in the debate. It is not just a fire levy; it will also raise money for our other emergency services, including the State Emergency Service. That is a positive initiative.

People should know that when the SES attends a car crash with the jaws of life, a cliff rescue and other work, it will be more appropriately funded. I also strongly believe that this legislation will be of significant benefit to the 26 000 emergency service volunteers throughout the length and breadth of Western Australia. I often say when I visit communities around Western Australia - I have certainly visited many to explain and promote this levy - that, as Minister for Emergency Services, I meet some of the most wonderful people in every community throughout the State. They are the kinds of people who freely give of their time any day of the week, any week of the year, to turn out to assist other people in need, be they in a car crash or in need of a search and rescue operation, or whether there is a structural fire or a wildfire.

Despite the fact that we know there will be some teething problems, I am hopeful that we will put in place a much better funding system for our emergency services in Western Australia. I again thank the member for Warren-Blackwood and other members opposite for their constructive comments on this legislation.

**Question put and passed; the Council's amendment agreed to.**

**The Council acquainted accordingly.**