PORTS LEGISLATION AMENDMENT BILL 2013

Second Reading

Resumed from 9 April.

HON JIM CHOWN (Agricultural — Parliamentary Secretary) [5.06 pm] — in reply: I shall continue my response to some of the concerns raised by various members of the house about this important bill, the Ports Legislation Amendment Bill 2013. That is my intention. Some of Hon Robin Chapple's concerns were about the consultation exemptions to be operationalised under this bill. The bill includes provision for regulations to be developed to exempt specific ports from being required to establish a committee. Exemptions are expected to apply to remote ports where there is no community or town site nearby that could be affected by the port. I think Hon Robin Chapple used the examples of Useless Loop and Cape Cuvier. Port authorities will need to apply to the Minister for Transport for an exemption and will need to justify why a community consultation committee is not required at a specific location. There is no limitation on the definition of a "community"; therefore local residents, whether they be in a large town or a small Indigenous community in proximity to and affected by the port, will be considered when submitting exemption applications.

Hon Robin Chapple also asked whether new ports can be added and removed. The power provided in clause 36, which inserts schedule 9, states at clause 2 of the schedule that a new port can be added but not removed by regulations. Removal would require legislative change. Most new ports would be added through state agreement or Mining Act legislation. However, a smaller new port may be needed from time to time, such as at Balla Balla, particularly to cater for barging facilities with transfer to larger vessels in deeper water. The power to add new ports through regulations is the same as the existing power under section 10 of the Shipping and Pilotage Act 1967. A new port would be added by name. The location would be included in a Governor's order declaring the port boundary under existing powers at section 24 of the Port Authorities Act 1999.

Hon Robin Chapple also queried whether harbourmasters' powers extended to fishing-boat harbours. Some fishing-boat harbours are within or adjacent to trading ports and the harbourmaster for the trading port can control the movement of these vessels. This amendment will allow for vessel movement control to be exercised by the Department of Transport, body corporates or controlling authorities managing any fishing-boat harbours or mooring control area. The harbourmaster's powers are required at all fishing-boat harbours and mooring control areas and will become particularly important when the 13 trading port facilities currently governed by the Department of Transport under the Shipping and Pilotage Act are transferred to the new port authorities as a result of further legislation currently being drafted. The fishing-boat harbours at these facilities will remain under the control of the Department of Transport and will need harbourmasters' powers to govern the residual fishing boat and mooring control areas.

Another question Hon Robin Chapple asked related to how the transition would occur. The existing boards of all seven regional port authorities will cease to exist from the merger date. The new port authority boards will be appointed by the minister before the merger date, but only with planning powers. They will take on full operational powers from the merger dates. Four of the existing regional port authorities will be changing their names to the new port authorities. This provides accounting and other efficiencies. The new boards will be responsible for the finalisation of accounting reports of the four old port authorities that change names. The other three port authorities will merge into the four new port authorities. Their board members will be appointed to reporting boards for a period of three months to enable them to finalise the financial reports of the three merging authorities, with any necessary assistance and facilities to be provided to them by the new port authorities. The existing port authorities will meet their own costs until merger date. Post-merger costs will be met by the new port authorities. The pre-merger costs of the new boards will be shared by the relevant existing port authorities. Of course, all this is covered in clause 35 of the bill, which inserts schedule 8 into the Port Authorities Act 1999.

Another question that arose from the second reading debate was how new port authority boards will manage different port facilities and different port customers. That was a good question. Ports are government trading enterprises that operate in a commercial environment. The charges for various services are based on commercial principles and differ from facility to facility within existing ports depending on customer needs, the infrastructure used and the services provided. Nothing in this bill requires or sets the expectation that pricing or charges for services will be regulated or uniform across a region. Fees and charges for access to port services and facilities will continue to be determined by port authorities on a port-by-port basis, and in some cases will be set in contracts after negotiation with customers, the same as in private enterprise. The amalgamation of the port facilities under a regionally focused board will not change that dynamic. In some cases, particularly for bulk exporters, the exporter provides its own infrastructure within the port and contracts service provision from the private sector. This will not change as a consequence of this bill.

We have spoken a bit about the issues in Esperance. Obviously, a number of members from the Mining and Pastoral Region and the South West Region have concerns. One question was whether environmental conditions imposed on one port facility would be transferred to another port facility. Environmental conditions on port operations and activities are regulated by the state Environmental Protection Authority or by the commonwealth under environmental legislation, not port legislation. These conditions are set following an assessment of the specific activity or project. There are usually different environmental requirements within each port depending on the activity, time of day and product being handled. Nothing in this bill will override or change that underlying environmental legislation or process, nor does the bill set the expectation that environmental considerations and regulations will be uniformly applied across a region without regard for the activity or operation being undertaken.

Another question concerned the amalgamation process and the possibility of a brain drain from a senior management perspective. There will no such thing. The need to retain and build on existing local expertise and skills is fundamental to the success of this amalgamation process. In addition, the amalgamated structures will provide increased scale, which will allow port authorities to benefit from the engagement of senior specialist staff whose skills and knowledge will be able to be accessed by multiple ports. The four chairs appointed by cabinet to lead the amalgamation and their working groups are in the process of identifying the structures needed at the amalgamated ports for which they are responsible. This has included seeking expressions of interest to act in senior management roles, including chief executive officer and local port manager positions, to enable the bill to be effected immediately upon it being passed and proclaimed. In addition, under the proposed amendments, there is scope to appoint up to seven members to port authority boards, which will ensure that the appropriate mix of skills and expertise exists on each board to manage the complexity inherent in the operation of each port authority. How will the boards and CEOs deal with such a variety of customers and port facilities? The minister has the capacity to appoint between five and seven board members, as already stated. This will provide appropriate numbers and skills to liaise with customers. The CEO will have the focus of managing the ports from a regional perspective, with local senior port managers on-site for day-to-day operational management. This is no different from many organisations. The skills and experience of staff will ensure effective operations at these ports.

As I said last night, the issue of privatisation was raised on a number of occasions, and I will give a further response to what I think I referred to as a red herring. The bill does not provide for privatisation. The current port governance powers within the Port Authorities Act will prevail. Existing ports will continue to service their local community and hinterland and will need staff to perform existing operational duties to service the current and increasing levels of trade through the port. They will also require a resident senior port manager to manage day-to-day activities, as already stated.

The employment of existing port staff is protected. Port employees will be transferred to the new port authorities, but their employment conditions will be protected, unless they choose to accept new roles. There will be opportunities for local employees within the amalgamated port authorities, as their increased scale will enable employment of some more senior and higher skilled staff, particularly, for example, to assist with the development of business cases for infrastructure investment.

I think I have responded more than adequately to a number of concerns that have been raised in this house about the bill. I hope that I have answered adequately and factually the questions about this very important bill. Once the bill passes through this place, the state will move forward into a new era in the administration and management of ports in Western Australia on a regional basis.

Question put and passed.

Bill read a second time.