

**FIRE AND EMERGENCY SERVICES LEGISLATION AMENDMENT BILL 2001**

*Third Reading*

**MR KOBELKE** (Nollamara - Leader of the House) [2.48 pm]: I move -

That the Bill be now read a third time.

**MR OMODEI** (Warren-Blackwood) [2.48 pm]: I note that of the legislation that has passed through this place since the new Government came to power, this is probably the first Bill that has received such generous and unprecedented support by the Opposition that the minister, who is not in the House today, tabled amendments to the legislation just before it was to be discussed. In fact, the amendments were not to be tabled; it was only on my instigation that the staff of the minister managed to circulate those amendments. We did that in a spirit of cooperation. This is very important legislation that will ensure that volunteers in Western Australia, whether they be from the Volunteer Marine Rescue Services, the State Emergency Service or fire brigades, are protected from indemnity.

This is very important legislation that amends the Fire and Emergency Services Authority of Western Australia Act 1998 implemented by the previous Government. It will formalise FESA as the body that represents most emergency service organisations. I noticed people from emergency services in the public gallery, who took an interest in this legislation. The cooperation of all members on this legislation is testament to the fact that they see emergency services legislation as fundamental to the safety of people in this State.

We do not have to remember too far back to recall the damage to Exmouth caused by Cyclone Vance, the floods at Moora and the huge storms in 1994 that affected much of Perth. Without our State Emergency Service or the Volunteer Marine Rescue Services we would be at a great loss. This legislation will provide certainty to people who work in the community protecting people's lives that the actions they take are protected from legal liability.

I refer briefly to the volunteer bush fire brigades, particularly the Rosa Brook fire brigade in my electorate with which I have had considerable involvement. Rosa Brook is a small community just east of Margaret River, which has a history that goes as far back as the group settlement period. It comprises a wonderful group of families from that background with a history similar to that of families in my locality in Eastbrook near Pemberton. Community pride in the volunteer bush fire brigades is seen throughout those communities. When a significant bush fire occurs, although the main organisation with the resources is the Department of Conservation and Land Management with its heavy duty vehicles, the support of the volunteer bushfire brigades assists in snuffing out fires in their early stages. Only a few weeks ago there was a lightning strike at Nornalup in the member for Stirling's electorate. If the local fire brigade had not arrived very quickly the whole of the Valley of the Giants and the Tree Top Walk, as we know it, could have been destroyed. The tingle forest was burnt in 1937; therefore, many of the trees are hollow, so a fire would have devastated that bush.

The group of people at Rosa Brook, including Michael Pimm; Jill Hind, the secretary; her husband Ray, the fire control officer; Barry Campbell, the captain; Kim Harwood, the east lieutenant; and Tim Crimp, the south lieutenant, together with the Warner Glen and Osmington communities, comprise the brigade. With the assistance of FESA, the local shire - through the shire president Nick Dornan - and Tim Jordan from the Shire of Augusta-Margaret River, they have established an operation that has fully-equipped premises to house their large, articulated vehicle with all the modern technology, together with two mobile Toyota slip-on crew cabs. It is a model on which all fire brigades should be based. Northcliffe and Baronhurst, near Pemberton, bushfire brigades have similar equipment. That has occurred because the communities are made up of close-knit, dedicated community people. Their service to the communities is second to none.

Members may not be aware of this, but a few weeks ago 60 lightning strikes occurred in the south west land division in one week. As a result probably 20 fires ignited, but it rained soon after. Often after a lightning strike, the fire smoulders for a couple of days before it inflames. It is not difficult to imagine how the resources of the local fire and emergency services establishment or CALM could be strained in that circumstance.

Yesterday, today and tomorrow a large conference on fire behaviour is being held at Curtin University of Technology, Bentley campus, which some very well qualified people are attending. Fire behaviour is something we in this State cannot underestimate. The people in this State have been very fortunate. In 1937 a fire began at Boyup Brook and within two weeks the whole area between Boyup Brook and Walpole had been burnt - a distance of a few hundred kilometres. The fire in the treetops was three kilometres ahead of the front. The heat generated was something like 7 000 kilowatts per metre. All the resources in the world could not stop that event. If we have very well equipped local brigades and fire and emergency services and take a coordinated approach, we can snuff out those fires when they start. As I said, fortunately we were able to stop almost immediately the fires caused by the 60 lightning strikes.

As I said in this Parliament only a few weeks ago, in my electorate and contiguous to my electorate and that of the member for Stirling, is an area of forest that has been reserved by the present Labor Government. That forest extends from the Hay River, east of Denmark, to Black Point, which is east of Augusta - a distance of approximately 160 kilometres. For members who are not very familiar with the south west, in the summer months between November and the end of February to March, we experience very strong easterly winds. Often during the summer we experience days with temperatures of 38 or 40 degrees fanned by a hot wind from the east. Members can imagine the situation if a lightning strike or an overheated bearing on a harvester or some other machine ignited a fire. Nothing would stop it. I have often warned the Government of that possibility. The Government's policy of protecting old-growth forests is consigning the forest to destruction somewhere down the track. Unless roads and buffer zones are established and the forests are culled so that they vary in age, a major threat will occur some time in the future - perhaps next week. However, it may not occur in the term of this Government; it could occur some years ahead. Even though we have had a couple of inches of rain over the past few days, at this time of the year it does not take long for rain to be absorbed.

In the next few weeks CALM will embark on a major hazard-reduction regime, as it should. At this time of the year a significant amount of our forests should be burnt to reduce fire hazard. If that does not occur, the risk will increase.

I remind members of the 1961 fire at Dwellingup when the town was destroyed and two people were killed. The former Commissioner for Forests, Bruce Beggs, once told me that the commission knew that for four or five days during that week conditions were very bad. When the fire broke out adjacent to Dwellingup, 90 people were unaccounted for. It was fortunate that only two people died. An event like that could happen repeatedly throughout Western Australia. Western Australians live under a fortunate star. The effect of well-resourced and dedicated people in our emergency services area is fundamental to ensuring that those events are stopped as quickly as possible. If we do not stop a fire within the first half hour and it races away, the only thing that will stop it is a vast area of cleared land or the ocean.

Based on my memory of some of the south coast fires that occurred over the past 10 or 20 years, bushfires of that nature burn everything and decimate every single animal and plant. The forest regenerates, but we can never restore it to its original state. I have probably deviated from the legislation, which talks about protecting volunteers, but without those volunteers we would not have properly resourced emergency services in Western Australia.

I commend the minister for bringing forward the legislation. A standing committee is considering the emergency services legislation in Western Australia. I regret that I am not a member of that committee; I certainly would like to be. I have always been very conscious of the issue of emergency services. I have had more than 25 years in local government. I have been a lieutenant in the local fire brigade and have attended a number of significant fires. A number of years ago, a fire was started in the karri forest by some low powerlines that had touched some peppermint trees. That fire jumped three kilometres at a time, and when it got going it burnt the tops of karri trees that were 200 feet tall. To people who have not experienced such a fire, that may sound like an interesting story. However, only people who have experienced such a fire will know the noise and the heat that is generated by a fire. A fire creates its own environment and vortex and can jump forwards and backwards despite whichever way the wind is blowing. I would not like many people in Western Australia to have to experience that type of fire. We had a fire in Mt Barker the summer before last. The wind was blowing straight down the back lanes, and all the plant and material in the back lanes was burnt. If the fire had been blown on a slight crosswind and one house had caught alight, the whole town could have disappeared. Denmark, in the member for Stirling's electorate, and Walpole, which was once in my electorate, are very vulnerable to large fire. A large group of people in those towns is very concerned about the level of emergency services, because those towns are completely surrounded by forest. Pemberton is exactly the same. All the old mill houses are made of weatherboard, and the town is surrounded by national park on three sides and farmland on the other. Smaller towns such as Nyamup and Tone, which were once timber towns, still have timber houses. In Bridgetown, with its steep topography and heavy undergrowth, there could be huge destruction on a hot summer's day. It is important for us as members representing the community to understand what could occur if a fire were to get out of control.

That is without mentioning the storms, the mini cyclones and tornados that occur from time to time, and the high water levels that are generated by a large amount of rain being dumped in a certain area. In January 1982 the Blackwood River almost went over the top of the bridge. At Nannup the water was over the bridge and way into the town, and a lot of the houses were flooded.

Mr Dean: It went through my house in 1982.

Mr OMODEI: It went through the member's house and it did not sweep him away? What a shame! We could have got rid of him back then but we missed the chance! If only I had had a telephone line to the person up top

we could have organised it! The member for Bunbury, being an ex-Nannup boy, would realise the high water levels that can occur out of season. That happened in the middle of summer. It was only because of the resilience, goodwill and strength of the community that the impact was able to be minimised. During the flood that went through Moora twice, Michael Bates, the shire president, did a wonderful job in providing coordination from the local government. Had it not been for the knowledge of the local government, I do not know what the emergency services would have done. A new police officer can come to town and be the lead person in an emergency, but he may have little knowledge of the history of the town and the location of services. I hope the committee will address that matter, because it is important that the connection between emergency services and local government be maintained, if not enhanced.

A good argument has been put that local government should take over emergency services across-the-board, even in the metropolitan area. That may sound ambitious, but when we consider the connection between state emergency services and local government, whether it be at a city or regional level, or a fire brigade level, local government provides most of the knowledge and funding. In the debate yesterday, the Leader of the National Party referred to the proper funding of emergency services in this State. The Minister for Police and Emergency Services is proposing to introduce legislation to provide for a levy. The minister cannot seem to achieve agreement on that legislation. However, something must be done to ensure the proper funding of emergency services in this State. We will examine that legislation. The Government needs to take clear notice of what local government is saying. If local governments are already well equipped with fire fighting equipment, the proposed legislation will not work, because they will not get a distribution, but those that are ill equipped will certainly benefit. If local government must raise the funds as well as distribute the funds, it should be properly compensated for managing those funds. We look forward with interest to seeing whether the State Government manages to resolve its differences with the Western Australian Local Government Association. I cannot speak for the National Party, but the Liberal Party will be looking closely at that legislation when it comes into the Parliament to ensure that it is in line with the broad thinking of local governments across country Western Australia. I understand the minister has had second thoughts and may bring in legislation to deal only with the metropolitan area and regional centres. I do not know whether that is a good idea. We will wait to see what the legislation is like when it gets into the House.

I have probably gone over a few matters that are outside this amendment Bill, but I want to put them on the record, because they are very important. Volunteers need to have confidence that they have the backing of good legislation, because they take their lives into their own hands when it is a windy night and the powerlines are down, when there is a flooded creek or town, or when there is a bushfire or other natural disaster. I am pleased to be able to add my weight to the legislation; and, if it is not right, we should bring it back into this place and make sure we have proper legislation to assist the emergency service organisations and the community in this State.

**MR GRAHAM** (Pilbara) [3.07 pm]: Last evening I made a conscious effort to assist the Parliament by not speaking in this debate. I did that because I am deputy chair of the Community Development and Justice Standing Committee, which is examining the emergency services legislation. The terms of reference of that committee are that the committee examine, report and make recommendations on emergency management in Western Australia, benchmarked against other Australian States, with particular reference to the means by which legislation puts in place effective measures to respond to emergencies and disasters; the effectiveness or otherwise of command structures in emergency services; the effectiveness or otherwise of the information flow in times of emergency; the effectiveness or otherwise of the system of reporting of emergency management; and the effectiveness or otherwise of the existing Western Australian legislation. I moved that motion in the committee because, as members who have been in this place for a while will know, I have been expressing concerns in this State Parliament for some time about the way in which we handle emergency services and emergency management in this State, and particularly the lack of legislative cover for volunteers in emergency services.

I will not go back and reiterate all the comments about the great work done by the State Emergency Service and the other volunteers, other than to say that I endorse them fully. Most members of the public do not understand the level of skill and expertise those volunteers have, and the situations they find themselves in. I have great respect for them, individually and collectively. There are, however, some serious concerns in the emergency service field about the treatment of volunteers. In my capacity as deputy chairman of the Community Development and Justice Standing Committee I went to a meeting organised by the member for Joondalup, with some volunteer marine rescue groups. These groups could loosely be described as the five dissenting groups. The minister spent some time explaining that, of the 37 groups in the State, only five are against this legislation. Incidentally, I said to them when they put their case that they had put me in the invidious position, for the first time in my political life, of being duty bound to argue the case of the city against the country. It is not an argument I find natural, nor did I find myself with a natural group of allies. I do this without prejudice towards any argument in any other field. I note the Treasurer has sat up and paid great attention to the fact that I have

even dared say that I will support something in the city. These groups have a valid case, and valid concerns, and I support their case. I am not at liberty to discuss evidence taken during committee hearings, other than to say that the chief executive officer of FESA, Bob Mitchell, came before the committee and was questioned on these things.

The basis of the concerns of these groups is that the Government - and I am not making partisan political points here, but talking about the system of government - is not listening closely to their concerns. They believe that they are being overtaken by a central bureaucracy. It is unusual for me to have a go at a central bureaucracy, as the Treasurer knows! There was a meeting of minds between me and these city organisations.

Mr Ripper: Do you have any suggestions for cuts in the bureaucracy?

Mr GRAHAM: If the Treasurer would willingly act on a list of cuts I could put forward to him to reduce the central bureaucracy, he and I could produce a wonderful budget for this State, and we would both become very successful. I suspect he would not do so.

Mr Ripper: Send me the list for next year's budget, and then we can start work.

Mr GRAHAM: It could start with the office of sustainable development. That could be wiped out tomorrow, because the exercise was carried out 10 years ago and the Government still has not acted on the reports from 10 years previously. Those reports can be pulled out, have their dates changed, and used. There is a saving of a couple of million for the Treasurer.

Mr Ripper: The Leader of the House does not want me to encourage you. If you give me a list, I will work on it.

Mr GRAHAM: I am always willing to accommodate the Treasurer.

These groups have some fundamental concerns about the loss of their autonomy - what they see as the use of administration to "interfere" in their operations and their ability to respond to emergency rescue matters within their bailiwick. The concerns include simple things such as FESA - for all the right reasons, I am sure - making arrangements for mobile telephones. The local groups that have existed for up to 50 years are unable to change anything on their telephone systems without the approval of FESA, because the account is in the name of FESA. That minute level of interference is an inconvenience, but for volunteers it is an intolerable interference in their primary right to operate their organisation in the public interest. These volunteers felt strongly that their role in emergency services was being significantly downgraded, to the level of servant to the Water Police, or a functionary of the maritime division of the Department of Transport.

The concerns of these groups about the legislation are that they were not initially consulted. They give great credit to the minister, because they said that when they went to her and said they had not been consulted, the minister responded immediately by providing them with a copy of the legislation and people to assist them in reading and understanding it. She did all the things a minister could reasonably be expected to do. That does not help when a volunteer group considers that it has been ambushed by the system. There is no doubt in my mind that that is how they feel. Under the legislation, volunteer groups are required to be approved organisations, and the legislation will apply only to those approved organisations. A stigma is attached to that. An organisation that has been running a sea search and rescue service for 30 years and suddenly finds itself a non-approved entity, has its standing downgraded. It indicates to the public - rightly or wrongly - that in some way this group has not met the requirements of the State Government, when that is clearly not the case. That is one of the major matters that they hold up to support their view that they are being downgraded and are having their future and their confidence eroded by this legislation.

The second matter these groups raised with the Community Development and Justice Standing Committee was that of standards. The legislation clearly gives FESA the power to put standards in place for emergency services. These groups will argue that the standards they set are of the highest order. Having met them, and having looked briefly at their operations with no understanding of marine matters at all, I have to take their word for it. However, reading the correspondence and listening to the media leaves me with no doubt that the public thinks that their operations are first class. I have no reason to dispute that; no-one does. They are professional in their operations. They have extraordinarily sophisticated training systems in their operations, and in some cases they are credentialled trainers. They are effectively the TAFE of their field, and they have the power to credential and accredit people who work in other areas, and need that sort of training. That is significant, and important in determining how the organisations feel about themselves. In discussions with them, they told me what would happen if a master mariner with five years experience came into their operations. I assumed that such a person would be driving boats and ships and such things, but I was told that, before he was allowed to touch a steering wheel, he would be required to do two years training on the deck to ensure that he was in sync with the entire operation, not just as the master mariner. He may well have those technical qualifications, but if he does not fit in with the emergency group, and with the crews, he will be of little benefit in an emergency when his skills are required.

They are extraordinarily sophisticated and professional in that area. Anything that threatens that position, calls it into question or even causes uncertainty for those people must be progressed with great caution. I am not arguing that it should or should not be done; I am arguing that great caution should be exercised when we put these measures in place so that we do not lose these volunteers. If they go - I am not suggesting they will - or if their numbers are reduced, we will not be able to replace them with paid, full-time government officials. I mean no disrespect to public servants; they are entitled to a life. These volunteers roster themselves, they have not lost anyone at sea in the past 30 years, and they have never failed to turn out for a rescue of any description, regardless of the time or circumstances. They turn out because that is what they do. These people are rostered on and monitor frequencies without pay and they erect buildings and raise money - albeit lately they have received some government funding. They have raised millions of dollars over 30 years to provide facilities along the coast. They are special people who perform extraordinary tasks. We, as a Parliament, must be particularly careful that we do not burst their bubble of confidence.

These people do not want to be controlled by the Fire and Emergency Services Authority. It is not that they think it is or is not a good organisation, or that they do not have confidence in FESA; they simply want to be masters of their own destiny, as they have been for 30 extraordinarily successful years. Why do we need this interference?

The minister argues that we need to provide these people with indemnity. I endorse that part of the legislation; in fact, I have argued for it over many years.

The ACTING SPEAKER (Ms Hodson-Thomas): I remind members that it is highly disorderly to walk between the member on his feet and the Chair. I have been tolerant with members. The member for Pilbara has the floor.

Mr GRAHAM: Thank you, Madam Acting Speaker. Sadly, I do not have a prepared speech and I was working from memory. I have lost my train of thought.

Mr McGowan: Start again.

Mr GRAHAM: I thank the member for Rockingham for that suggestion. A group from his electorate came to see me.

Last night the House dealt with nine pages of amendments to this legislation. I have no idea what effect those amendments will have, but they have caused further consternation to the volunteers. The Government could have dealt with this measure somewhat differently. We are proceeding to the third reading stage now and will transmit the Bill to the Legislative Council, where I expect there will be the usual argy-bargy. The Council will return the amended Bill and we will again act as a subcommittee of that Chamber. Is the Leader of the House handling the third reading of the Bill?

Mr Kobelke: Yes.

Mr GRAHAM: I was not here during the consideration in detail, and I would like some undertakings from the Government. The five marine search and rescue groups can be accommodated. They have made it clear that they do not wish to be part of FESA. I suspect that their positions will be irreconcilable for many years. I do not want to debate whether that is justified. I want an undertaking from the Government that the views of these groups will be accommodated. I would like the leader, by interjection, to give me an undertaking that the Government will strongly support these groups arriving at a memorandum of understanding and a service agreement with FESA that accommodates their concerns. Is he in a position to do that?

Mr Kobelke: Yes. I will get to that when I conclude the third reading debate. The minister gave clear undertakings last night that the Government will enter into a form of service agreement or memorandum of understanding. I will elaborate on that when I close the debate. This Bill will not proceed in the Legislative Council until the minister has sat down with those groups to discuss a service agreement or memorandum of understanding.

Mr GRAHAM: The difficulty with my relinquishing the floor to hear what the leader has to say is that I will lose my speaking rights.

Mr Kobelke: I will also accept interjections.

Mr GRAHAM: This is more complex than the minister's sitting down with these groups. A couple of matters will be debated this week and I would prefer that someone other than the minister had carriage of them. I have great respect for her, but I would prefer that a former minister were in the hot seat so that I could have more fun.

There must be a clear indication from the Government that FESA will accommodate these groups. I am not asking for a blank cheque. I suspect that their independence, the nature of their volunteer work and their professionalism are non-negotiable. If the Government cannot agree to recognise that, even at this level of debate, then negotiations on a memorandum of understanding and a service agreement will not go anywhere. Is

the Government prepared to tell FESA to negotiate with those groups and come back with a service agreement before we progress?

Mr Kobelke: That is my understanding. The minister is not simply going to hold a meeting. The purpose of the meeting will be to advance significantly the establishment of a service agreement, recognising that these volunteers put in a huge effort and contribute their own time and money. On that basis, their independence must be recognised.

Mr GRAHAM: What about their autonomy? I do not want to discuss the negotiations because I am not competent to negotiate an agreement. The concern is with not only their independence but also their autonomy in operational matters. They are demanding that they be permitted to determine how they deal with sea rescues within their area of responsibility, as they have done for 30 years. They are not seeking to expand their ambit; they are seeking to protect the status quo. Can the leader give me some indication of the Government's intention?

Mr Kobelke: The issue is very clear. Their independence as volunteer organisations, which means that they can largely govern the way they operate, must be recognised. I cannot give a carte blanche undertaking because there may be technical issues that need to be worked through before the various parties reach an agreement.

Mr GRAHAM: I will leave that to the negotiators. Will the minister give an undertaking that the matter will not be progressed further in the Legislative Council until such time as the memorandum of understanding and the service agreement are in place?

Mr Kobelke: The clear intent is to try to achieve that and to make sure that the organisations have some bargaining power in respect of the agreement, which they may not have had if the whole matter had been resolved. That does not mean that the legislation would not start its progress on the basis that there was clear progress on the memorandum of understanding.

Mr GRAHAM: I have not spoken to the groups this afternoon. I am not seeking to ambush the minister or to put the groups in a position in which they can say that they do not have to have an agreement and that the legislation will not proceed. We could loosely describe it as good faith bargaining. The groups told us last week that they were close to commencing negotiations on a service agreement. I guess their concerns are that they would not want to see government authorities delaying the implementation of that while the legislation marched into the upper House. They are seeking the reverse of what the minister thought I was asking.

Mr Kobelke: I think I can summarise it by giving an undertaking on behalf of the minister. Last night the minister gave clear undertakings to establish a service agreement or memorandum of understanding with the groups. I am going a bit further, having spoken to her on the phone, and saying that this Bill will not proceed in the Council until she has met with the groups and sought in good faith to proceed with and possibly even conclude the service agreements. The very clear undertaking is to meet with the groups and to seek to have put in place that service agreement prior to the commencement of further progress of the Bill through the Council.

Mr GRAHAM: I think that accommodates most, if not all, of the concerns that those people put to me. I do not want to have a go at the Government because, as best as I can read it, this is a good piece of legislation with good intent. It is unfortunate that we are caught in a bit of crossfire between the legitimate requirements of the State Emergency Service to get this legislation through quickly and get the groups formalised and recognised legislatively, and the legitimate concerns of the sea search and rescue groups. I thank the minister and the Government for taking those concerns on board and acting on them.

**MR KOBELKE** (Nollamara - Leader of the House) [3.32 pm]: I thank all members for their contribution to the debate and their support for the legislation. I apologise for the minister, who had hoped that the Bill would go through last night and was not available to participate in this third reading debate today. I am sure she is quite disappointed that she could not be here to do that.

Mr Omodei: You know it could not go through last night. Why say it, when it was not possible?

Mr KOBELKE: If we had suspended standing orders, it could have. Under the normal process of standing orders we did not deal with it last night, which is why the legislation has come on today.

The Bill was introduced last December, so it has been around for some months. Some of the groups have been asking for it for years. Certain groups are concerned at any delay at all. They want the Bill through the Parliament quickly. Although small in number, other significant and important groups are involved in search and rescue. They have some concerns about the legislation's impact on their autonomy and independence. Last night the minister gave very clear undertakings. She was quite confident that their concerns could be met through a service agreement. I am going further than that, having spoken to her on the phone this morning. The minister is willing to say that we will not progress the Bill further in the Council until she has met with those groups. She has started that work to try to conclude at the earliest possible date an agreement that meets the

**Extract from *Hansard***

[ASSEMBLY - Wednesday, 17 April 2002]

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Mr John Kobelke; Mr Paul Omodei; Mr Larry Graham; Acting Speaker

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needs of those groups. That question was opened up by the member for Pilbara. A number of government members have also impressed it on the minister and made strong representations on behalf of the groups. Most of the groups are in Labor electorates, so quite a number of our members have made very strong representations to the minister. The minister has certainly heeded their concerns. On that basis, I hope that these agreements can meet the needs of the groups and can be concluded in a fairly short time, and that we will then see the passage of this Bill through the other place. Again, I thank members for their support and contribution to the debate on the Bill.

Question put and passed.

Bill read a third time and transmitted to the Council.