

**STATE SUPERANNUATION BILL 1999**

*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 3, page 3, line 6 - To insert after "scheme" -  
established or continued

No. 2.

Clause 3, page 3, after line 8 - To insert the following new subclause -

- (2) For the purposes of this Act, a person who -
- (a) holds an office or position established or continued under a written law; or
- (b) is appointed to an office or position by the Governor, a Minister, an Employer or a person who works for an Employer,
- is taken to work for an Employer.

No. 3.

Clause 13, page 8, lines 13 to 16 - To delete all words after "subsection (1)" and insert instead -  
may -

- (a) if the decision relates to a superannuation scheme continued by section 29(c) or  
(d), appeal to a Judge; or
- (b) in any case, refer the matter for independent review by a prescribed person or  
body.

No. 4.

Clause 28, page 15, line 4 - To insert after "working" -  
, or have worked,

No. 5.

Clause 28, page 15, line 7 - To delete "ex-spouses" and insert instead -  
former spouses

No. 6.

Clause 28, page 15, after line 9 - To insert the following new subclause -

- (3) In subsection (2) -
- "spouse"**, in relation to a person, includes another person living with that person in a bona fide domestic arrangement as if they were husband and wife.

No. 7.

Clause 30, page 16, line 3 - To delete "its employees" and insert instead -  
persons who work for the Employer

No. 8.

Clause 30, page 16, lines 6 and 7 - To delete "its employees" and insert instead -  
persons who work for the Employer

No. 9.

Clause 30, page 16, line 18 - To delete "employee or class of employees" and insert instead -  
person who works for an Employer, or class of such persons.

No. 10.

Clause 33, page 18, lines 4 and 5 - To delete the lines and insert instead -

- (a) must be in writing;
- (b) may be given when and how the Treasurer determines; and

No. 11.

Clause 36, page 20, line 14 - To insert after “possession” -  
    , or under the control,

No. 12.

Clause 36, page 21, lines 3 and 4 - To delete “is authorized by the beneficiary” and insert instead -  
    is -

- (c) authorized by the beneficiary; or
- (d) authorized or required by a written law.

No. 13.

Clause 38, page 22, line 10 - To insert after “Act” -  
    or section 26 of the *State Superannuation (Transitional and Consequential Provisions) Act 2000*

No. 14.

Clause 38, page 23, after line 6 - To insert the following new subclause -

- (4) Regulations cannot be made under subsection (1) in relation to the superannuation schemes continued by section 29(a), (b) or (c) unless -
  - (a) the Board has certified that it is satisfied that the proposed regulations will not affect contributions or benefits; or
  - (b) an actuary appointed by the Board has certified that the proposed regulations will not reduce, or have the same effect as reducing -
    - (i) in the case of a scheme continued by section 29(a) or (b), the multiplying factor for any relevant benefit; or
    - (ii) in the case of the scheme continued by section 29(c), the pension value factor for any Member of that scheme,to less than it was immediately before the commencement day; or
- (c) any reduction of the kind referred to in paragraph (b) will apply only in respect of Members who have agreed with the Board that the reduction is to apply in the calculation of their benefit.

No. 15.

Clause 38, page 23, after line 28 - To insert the following new subclause -

- (8) In subsection (4) and this subsection -
  - “**commencement day**” means the day on which this Act comes into operation;
  - “**multiplying factor**”, in relation to a relevant benefit, means the components of the benefit formula by which the Member’s salary is to be multiplied in order to calculate the benefit;
  - “**pension value factor**” means -
    - (a) the number of units that a Member may, or may become entitled to, acquire per dollar of the Member’s salary; or
    - (b) the amount of the pension that will or may become payable in respect of each unit held by a Member;
  - “**relevant benefit**” means a benefit, or part of a benefit, the amount of which was, immediately before the commencement day, calculated as a multiple of a Member’s salary.

No. 16.

Schedule 1, page 25, line 7 - To delete “employees of the” and insert instead -

persons who work for

No. 17.

Schedule 1, page 25, lines 8 and 9 - To delete “a member of the staff” and insert instead -  
an officer or employee

No. 18.

Schedule 1, page 25, lines 13 and 14 - To delete “a member of the staff” and insert instead -  
an officer or employee

No. 19.

Schedule 1, page 26, line 14 - To delete “appointor” and insert instead -  
Minister

No. 20.

Schedule 1, page 26, line 17 - To delete “appointor” and insert instead -  
Minister

No. 21.

Schedule 1, page 26, line 18 - To delete “appointer” in both places where it occurs and insert instead -  
Minister

No. 22.

Schedule 1, page 27, line 6 - To delete “employees of the” and insert instead -  
persons who work for

No. 23.

Schedule 1, page 27, lines 7 to 12 - To delete the lines.

No. 24.

Schedule 2, page 30, line 1 - To delete “an employee of” and insert instead -  
a person who works for

Mr KIERATH: I move -

That the amendments made by the Council be agreed to.

I am pleased to advise the Chamber that there is now broad support for this legislation to proceed. The Bill was referred to the Legislative Council Standing Committee on Legislation. I commend the chairman and members of that committee, as well as the adviser and clerical support staff who, over the past few weeks, have undergone an intensive process of inquiry regarding the Bill. One could say that it is a good example of the two Houses operating effectively. The committee has undertaken a tremendous task in the time frame required, and I am appreciative of its hard work in this regard.

Seven of the 11 amendments to the principal Bill were proposed by the Government following extensive consultation with the relevant unions, members of Parliament and other key stakeholders. They deal with such matters as the protection of future benefits, the scope of membership of the schemes and the review and appeal rights of members. The Legislative Council Standing Committee on Legislation supported these amendments in its report. The other amendments were either recommended by the Legislative Council Standing Committee on Legislation or identified as a result of the committee’s report and improved the Bill by providing clarification of the intent and purpose of the relevant clauses.

There are also several amendments to the transitional and consequential provisions Bill, which are a direct result of amendment No 13 to the principal Bill. The report of the Legislative Council Standing Committee on Legislation contained 18 recommendations, and the amendments passed by the Legislative Council support all of the recommendations. Aside from some specific amendments, on three issues further information may be needed, and I respond to those accordingly.

First, the recovery of money: Recommendation 12 of the committee’s report suggests the board’s current principles for collecting moneys owing by members be made law by regulation. The Government supports this recommendation, and parliamentary counsel has advised that the general regulation-making powers under clause

38 of the Bill provide sufficient scope for this to occur. Accordingly, I can give a commitment that the regulations would include the board's administrative policy for the recovery of money.

Secondly, the meaning of clause 23: Recommendation 8 of the committee's report asks that the intended meaning of clause 23(3) be clarified. This clause seeks to remove any ambiguity as to when the Treasurer's approval needs to be sought regarding the appointment of an investment manager. Clause 23(3) states -

A person is not appointed as an investment manager . . . unless the person is appointed for the purpose of enabling the Board to delegate a function to that person . . .

Some investment transactions merely involve the purchase of an investment product or service, and there is no delegation of the board's functions to provide either the product or service. The clause makes it clear that the provider in this instance is not considered to be an investment manager. In any event, the Treasurer's approval is still required under clause 18(1) in relation to the kind of investment; that is, the nature of the product or service.

Thirdly, the Treasurer's guidelines on borrowing: The Attorney General gave a commitment in the upper House to table a copy of the Treasurer's guideline on borrowing when this has been formally approved. I am happy to reaffirm this commitment in this Chamber on behalf of the Government.

Mr RIPPER: The state Parliamentary Labor Party supports the package of amendments agreed to by the Legislative Council Standing Committee on Legislation and wishes to expedite the passage of this legislation. The opposition spokesperson responsible for the handling of this legislation is Hon Nick Griffiths. On Wednesday, 11 October he placed on record the detail of our position in the Legislative Council.

This is a government Bill, not a Labor Bill. It has positive and negative features. We have some reservations about some features of the legislation, even with the package of amendments, which we will support. In particular, we remain concerned about the borrowing powers to be given to the Government Employees Superannuation Board. We note that it is proposed that the Government Employees Superannuation Board borrow to meet the unfunded liability in the West State Super scheme. The Opposition is concerned as to how this borrowing and the superannuation liability will be reflected in the overall accounts of the Government. We are also concerned that there might be a potential threat to members' future entitlements as a result of the borrowing.

On the other hand, we acknowledge the need for flexibility in superannuation schemes as a result of commonwealth regulation of superannuation and the rapid changes that have occurred in this field. Members of state superannuation schemes, particularly members of the West State Super scheme, need to have access to modern superannuation products in keeping with the access available to people in the private sector. In particular, I support the potential of this Bill to give members of the West State Super scheme access to a product that gives them a market-linked rate of return. I am not absolutely certain what the Government intends to do in this area, but I believe the legislation gives the potential for members of the West State Super scheme to have access to a product with a market-linked rate of return.

The Bill has other positive features. For example, it will allow the correction of a long-standing gender inequity in the pension scheme. The Bill will allow for reversionary pensions for widowers, which previously were only available to widows of members in that scheme. The Bill is like a curate's egg; some of it is good and some of it is bad. On balance, we believe that the legislation should be expedited so that public servants can have access to positive features of the overall package which have emerged from considerable discussion between the Government and Opposition and respective stakeholders. Our opposition spokesperson on this issue, Hon Nick Griffiths, has worked very hard in conducting those consultations on our behalf. It has not been possible to meet everyone's needs because conflicting views were put to both the Government and the Opposition. The Opposition, however, believes that an acceptable, if not ideal balance, has been reached. As I previously indicated, the state Parliamentary Labor Party has decided to support the package of amendments arising from the Legislative Council Standing Committee on Legislation and to expedite the legislation. I will contribute to the second part of that decision by sitting down.

Mr KIERATH: The member for Belmont reminded me that I also want to place on record my personal thanks for the assistance of Hon Nick Griffiths in working through this difficult issue. That places on record my personal thanks, but I am not sure whether that helps the member or hinders his future career in the Labor Party.

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

**The Council acquainted accordingly.**