

**STANDING COMMITTEE ON
UNIFORM LEGISLATION AND STATUTES REVIEW**

**UNCLAIMED MONEY (SUPERANNUATION AND RSA PROVIDERS)
AMENDMENT AND EXPIRY BILL 2012**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 8 OCTOBER 2012**

Members

**Hon Adele Farina (Chair)
Hon Donna Faragher (Deputy Chair)
Hon Nick Goiran
Hon Robin Chapple**

Hearing commenced at 1.04 pm

MESCHINO, MR FRANK

Assistant Director, Superannuation Management, Department of Treasury, sworn and examined:

RODIN, MR BORIS

Senior Policy Analyst, Government Employees Superannuation Board, sworn and examined:

WELLS, MR NICHOLAS

Risk Manager, Government Employees Superannuation Board, sworn and examined:

The CHAIRMAN: On behalf of the committee, I welcome you to the meeting. Before we begin, I must ask you to take either the oath or the affirmation and Pamela will help you with administering that.

[Witnesses took the oath.]

The CHAIRMAN: Thank you. You will have signed a document entitled “Information for Witnesses”. Have you read and understood the document?

The Witnesses: Yes.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, would you please quote the full title of any document you refer to during the course of the hearing. Also, please be aware of the microphones; please try to speak into the microphones and not cover them with paper. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today’s proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Just for your information, there is none at the moment. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Are there any questions that you have arising from that statement?

The Witnesses: No.

The CHAIRMAN: Would you like to make a general opening statement or are you happy to go straight into the questions from the committee?

Mr Meschino: Just a general statement, but it will not take long. Just getting back to your last point about a question, I do actually have a question. There is one document we prepared for the committee, which we would like to table. Is that —

The CHAIRMAN: Yes, that is great. Pamela, could you please collect those?

Mr Meschino: We will probably refer to some of the information in here, but we will not be using it verbatim or anything like that.

The CHAIRMAN: That is fine; thank you.

Mr Meschino: Just broadly as a statement about the policy objectives behind the bill, it is largely designed in the interests of the public who have unclaimed or lost superannuation money and what is best, in Treasury’s view, to reunite these members of the public with their lost superannuation. It is believed that the commonwealth does have the apparatus across the whole nation in a national

database to be best placed to be able to achieve that objective. It is not a perfect system, but we believe it is a better system than one that is managed individually by each jurisdiction. It is evolving and becoming better over time, we feel. That is what I have just as an opening statement and I suppose we can go into the questions from the committee.

The CHAIRMAN: All right, so I will just get straight into the questions. Could you just provide some details of the consultation that was undertaken in relation to the bill?

Mr Meschino: Sure. It has got a bit of a history, and when you say “consultation”, there is probably broad consultation and more detailed consultation. The history probably goes back 20 years—back to 1990 when the commonwealth first introduced the unclaimed super regime nationally. Back then, it largely applied just to commonwealth-regulated entities and the states had their own regimes, obviously, around the country. There have been some changes along the way, and the main ones were the 2003 changes to the commonwealth and the 2007 changes. With the 2003 changes, the commonwealth recognised that in regard to superannuation, the states do have their own regime dealing with funds that are registered in that state. So, they were allowed to continue to operate within their own framework, whereas the commonwealth allowed for any state that wanted to to opt into the commonwealth framework. Our understanding is at that time some jurisdictions did actually opt in for their private sector but state-registered funds. In 2007, the commonwealth amended the legislation for a number of objectives but the key one, for the purposes of this committee, was that it no longer allowed private-registered funds to continue in their state regime; they had to go into the commonwealth regime. But the commonwealth’s constitutional powers were such that it was not retrospective, so that is how we got now what we refer to as the state-held funds from WA Treasury, which are held in the consolidated account, so it is the money that was held up to 2007.

[1.10 pm]

The commonwealth also recognised at that time that they could not bring in what was called exempt public sector superannuation schemes into the commonwealth regime and these are the public sector superannuation funds that are managed under a state framework rather than the commonwealth framework. But since that time, the commonwealth has formally and informally been talking to the different jurisdictions seeking that they would come into the commonwealth framework and the advantage of doing so. It sort of went quiet for a while, and then separately in the superannuation policy area there is a meeting held quite regularly of all the Treasury officers across the jurisdictions and the commonwealth and they meet to discuss a range of issues in relation to superannuation and reforms. This one has been on the agenda for some time and various discussion amongst the jurisdictions. We got to a point that all the jurisdictions thought it was actually a good idea to opt into it. I think everyone is convinced it is actually the logical way to go going forward in terms of the best interests of the super fund members within the states but also the public more generally. So, we all individually provided advice to our ministers and the commonwealth likewise did that, so there was an exchange of letters, which has been provided to the committee, commencing from 2007, I think it was. Those letters sort of show how the policy has developed since then. During that period, apart from the consultation that did obviously occur between all the jurisdictions, there was consultation between Treasury and GESB about the regime, consultation within Treasury itself, the unit that looks after the unclaimed super money. By the way, they also thought it was a very good positive move to move into this regime, because as administrators of the unclaimed super for the WA-registered funds, they can see that it is probably not the best way for these lost members to find their super, particularly if they move on and live elsewhere in another state or have moved overseas or something like that. So, that was the consultation that has taken place. There has not been any broader than that, because there is really no-one else to consult regarding that in terms of the unclaimed super. Does the committee have any other questions on that?

The CHAIRMAN: No, that is fine; we are happy with that.

Hon NICK GOIRAN: We have got plenty more questions!

Mr Meschino: Yes, no worries!

The CHAIRMAN: What consultation was undertaken by the department on the issue of parliamentary sovereignty and law-making powers?

Mr Meschino: We struggled a little bit in relation to answering that one. Apart from acknowledging, if you like, that the terms of reference for the committee did actually change—or there were some changes proposed in December, I think it was, and it came into effect in March—the observation I do make is that the bill was drafted before that date. But, having said that, the question of sovereignty was always on our mind when preparing the bill, and also the policy discussions we had with the minister, because not just for super, but as a matter of course, we do look quite seriously if there is an issue that involves the state giving up some of its powers. But we do not feel in this case that that was the case, particularly when the commonwealth has passed legislation that enables the state to opt in through its own legislation, which means that we can always opt out. So, yes, in short, we have been cognisant of the sovereignty of the WA Parliament. But I just want to point out that the bill was drafted before the terms of reference of the committee had changed.

The CHAIRMAN: Just to clarify that, because this is being recorded by Hansard, these were always the terms of reference of the committee, but they included much broader terms of reference, and they were narrowed down to these two areas. But they always formed part of the terms of reference.

Mr Meschino: Sure.

Hon NICK GOIRAN: You mentioned that you did not feel that it would affect the sovereignty because it was an opt-in scheme and there was always the opportunity to opt out.

Mr Meschino: That is correct.

Hon NICK GOIRAN: During the period that the state opts into the scheme, would it not affect the sovereignty of the state?

Mr Meschino: I suppose you could argue that it would. How can I put it? I suppose it would be a decision made by government to do that, and if the government did ever change its mind on that position, it could always do that; it is not locked into that.

The CHAIRMAN: Just how much money is lost or unclaimed in Australia?

Mr Meschino: Can I defer some of these questions to my colleagues here?

The CHAIRMAN: Absolutely.

Mr Wells: In responding to this, first of all, we look at how these are maintained. The ATO maintains the list, where funds provide details around members and their account balances, and it holds that for members where the funds are no longer able to maintain contact with those members. In addition, the ATO also holds money for members that have been transferred by superannuation funds where those members meet the definition of “unclaimed superannuation”. We have tabled a document—the ATO 2011–12 annual report—in which the ATO lists some information around the money held. That annual report confirms that there is \$730 million of unclaimed superannuation money remitted by regulated superannuation funds as at 30 June 2011, and that relates to approximately 2.3 million individual accounts.

The CHAIRMAN: Of that amount, how much is Western Australian?

Mr Wells: It is difficult to get specific statistics for state-by-state reporting purposes. In relation to Western Australian funds and the money that employers are required to remit in meeting their

commonwealth-mandated superannuation guarantee obligations, we can give you a snapshot of what GESB looks like, and from that we can extrapolate what it means for the wider Western Australian workforce. At GESB, we administer approximately 325 000 accounts for both past and former public servants. That is approximately one quarter of the Western Australian workforce. Of these accounts, just over 30 000—30 092 to be precise—would meet the definition of unclaimed superannuation and would be subject to transfer to the ATO under the changes in the proposed bill. Of that, approximately just over \$4.825 million would be transferred to the ATO from GESB. In doing that, I will provide some statistics around GESB, just to give you an understanding of what the wider picture for the Western Australian workforce might look like.

The CHAIRMAN: What has GESB been doing with the unclaimed money that you have held up to this point?

Mr Wells: We maintain those accounts, like we maintain anyone else's accounts with GESB. We maintain the account, we generally credit that with contributions and investment earnings, we take from that expenses relating to taxation, insurance premiums and administration fees, and we maintain those accounts for members until they meet a condition of release.

Hon ROBIN CHAPPLE: For how long does unclaimed money that is held by the state remain as unclaimed money? What happens to it? Is there a cut-off period, after which it then goes into general revenue, or does it just stay in a bucket?

Mr Wells: There are two elements to that. If we are talking about the Treasury money —

Mr Meschino: Are you talking about the money held by the state?

Hon ROBIN CHAPPLE: Yes.

Mr Rodin: That just remains in the consolidated account, in that special provision, until such time as there are any changes to the arrangements—which is, of course, what is proposed under the bill. There is no time limit or expiry, as we understand it. It maintains that identity as unclaimed superannuation. These are the moneys, of course, that are in addition to GESB accounts. The amounts held in the consolidated account are subject to the proposed transfer under the bill, of which I might add there is approximately \$200 000 which was paid by private WA-registered funds up to 2007, and that relates to approximately 248 individual claimants.

Mr Meschino: If I can add to that, that is pretty much our understanding of it. But can we come back to the committee if we find information that is different, because I am not 100 per cent sure whether it stays there in perpetuity or there is a time limit, as you put it, on that money.

[1.20 pm]

The CHAIRMAN: We will take that as question on notice 1 for you to provide a written response to the committee on that, and Anne will be in contact with you after the hearing to provide you with the exact question and the due date for the response.

Hon NICK GOIRAN: Just as a follow up, I understand that \$4.825 million is currently being administered in terms of Western Australian lost superannuation funds.

Mr Wells: We are administering that on behalf of members who would meet the definition, as the commonwealth has it, for lost or unclaimed accounts.

Mr Rodin: This is a GESB changing number, because people will come onto that register and people will drop off as we engage with members or members will consolidate normally through the system to their current accounts. It is a snapshot.

Hon NICK GOIRAN: So how recent is the figure of \$4.825 million?

Mr Wells: That was based on a copy of our production data—our live data—as at June this year. So it is fairly recent.

Hon NICK GOIRAN: So the figure as at today could be different?

Mr Wells: Yes, it definitely would be different.

Hon NICK GOIRAN: So, for example, if an individual who was lost has now been found, that might explain why the figure is less than \$4.825 million?

Mr Wells: Correct.

Hon NICK GOIRAN: Is it possible for the figure to increase?

Mr Wells: It is possible for the figure to increase. It could go either way.

Hon NICK GOIRAN: What would be the circumstances that would create an increase?

Mr Wells: It could be based on the demographics of our fund profiles—that is, groupings of members that would meet the criteria at a point in time. It could be based on campaigns, or typically when we release statements six-monthly, that is an opportune time for members to re-engage with their super, so they might contact us, combine some additional money with their super or make an investment switch, at which point they would no longer be unclaimed members and they would then fall off that list.

Hon NICK GOIRAN: So that would decrease the amount?

Mr Wells: Yes.

Hon NICK GOIRAN: But the circumstance that would create an increase, presumably, is that a member has become lost?

Mr Wells: Correct. At the same time, we issue statements obviously twice a year, and for those statements that are returned to us, we flag on the member's address that we have had a returned piece of correspondence, and once we have received two pieces of returned correspondence, they become a lost member.

Hon NICK GOIRAN: So the date that we referred to previously in about 2007 was not a finite cut-off date; what we are actually dealing with is a situation where we have a growing fund until such time as this legislation comes into play, because each day, theoretically, more lost members could enter into the system?

Mr Wells: Definitely.

Mr Meschino: If I can just add to that, that 2007 date relates to the money held within WA Treasury in the consolidated account. That is fixed. That will not go up.

Mr Rodin: That may come down.

Mr Meschino: With the GESB number, which is at \$4.8 million, that can also increase, because one of the definitions is a time-period criterion. It is five years, I think. So every quarter when you do a new production data, or whatever time, you will get more people who would fall within that five-year bracket. That would be confirming the mail-outs that are done that Nick was talking about, which would increase the numbers.

Mr Wells: Yes.

Mr Meschino: Every quarter that you do new production data or whatever time, you get more people up who fall within that five-year bracket. That would be confirming the mail-outs that were done, which Nick was talking about, which would increase the numbers.

The CHAIRMAN: How many inactive accounts are there currently?

Mr Wells: Under the commonwealth legislation, a member can be considered inactive where the account has had no contributions or roll-ins in the last five years. That was the definition that Frank was touching on. Based on our current production system—this was run within the last week; it is our live data—we had a total of 27 139 inactive accounts. Of that, just over 15 250 accounts have a

balance of less than \$200. As we mentioned, it is important to note that these numbers will change and the actual number we provide through to the ATO will be based on our membership profile at that particular point in time.

The CHAIRMAN: Would you be able to provide an estimate of the amount of money to be transferred?

Mr Wells: Yes. I refer to a table that is provided in the documents that we have submitted to the committee. When we look at it by scheme—I am looking at a total amount to be transferred —

The CHAIRMAN: Pamela, do we have a spare copy of that for Hansard? The witness is referring to a table. It might assist Hansard to have a copy of that table.

Mr Meschino: Sorry. He is referring to a table in the documents tabled, which is on page 4.

The CHAIRMAN: Yes, but Hansard, who is reporting the proceedings, does not have a copy. I just noticed that they were not provided with a copy and it makes it a bit difficult for them to follow. Sorry.

Mr Wells: The total amount to be transferred is \$4.825 million.

Mr Rodin: From GESB.

Mr Wells: From GESB. In addition to that, \$200 000 will be transferred from —

Mr Rodin: The consolidated account.

Mr Wells: Giving a total of \$5.025 million.

Hon NICK GOIRAN: According to my notes, the explanatory memorandum indicates that there are two sources of unclaimed superannuation money, the \$200 000 you referred to earlier, which is the pre-2007 amount.

Mr Rodin: The WA private registered funds, yes.

Hon NICK GOIRAN: The second amount is held by GESB for three of its product schemes. Is that right?

Mr Wells: Correct.

Hon NICK GOIRAN: As I understand it, according to my notes, there was debate on this in the Legislative Assembly, and the amount was said to be \$1.3 million held by GESB for those three product schemes. Do I take it that that was incorrect; it is actually the \$4.8 million you are telling us today?

Mr Wells: There is some background to the \$1.3 million. When we look at the amount to be transferred to the ATO, we use the definition from the ATO's perspective of the unclaimed money date. Their account balance has to be less than \$200. For some members, particularly in West State, once we trigger that payment, it will invoke what we call the minimum benefit guarantee. For those members, the amount to be transferred will be higher. Without going back and looking at the table that supports the \$1.3 million, it is my belief that it does not include the minimum benefit guarantee cost on the membership sample we have been taking.

Mr Rodin: Based solely on the nominal account balance.

Mr Meschino: There is also the issue I think where the numbers generated were not live at that time.

Mr Rodin: Yes. That initial figure was when we first commenced the process of drafting the bill, which was around two years ago, these were taken off the GESB environment then, which was basically a test environment and probably a lot less accurate perhaps than the current environment, which has provided the figures relating to the latest figure for transfer of \$5 million.

Hon NICK GOIRAN: What was the minimum level threshold you referred to?

Mr Wells: The current threshold for remitting to the ATO is \$200.

Hon NICK GOIRAN: Do I understand you correctly that some accounts have a nominal balance of less than \$200 at the moment, but when it comes time to transfer, the amount that must be transferred has to be \$200, notwithstanding the fact that the nominal amount is less?

Mr Wells: It could be a figure higher than \$200—whichever way that minimum guarantee credit would equate to.

The CHAIRMAN: If this money has been invested to date, how has it been invested?

Mr Wells: Treasury is responsible for the amounts held in the consolidated account. Individuals who have had amounts transferred to the consolidated account do not receive any earnings on the amounts that are held there. With respect to the amounts for members of GESB schemes, their balances are invested in their chosen investment choice nomination. At the point of joining a scheme, they would have made a choice of where their money was to go and that is where the money will be currently.

The CHAIRMAN: What are the fiscal implications for the state of transferring the money?

Mr Wells: The only fiscal implication for the state relates to the transfer of approximately \$200 000 held in the consolidated account. That is under Treasury administration.

Mr Rodin: That is right; that is on the state's balance sheet and that, I suppose for the purpose of this question, will be the only financial impost or whatever, if you like, on the state. The GESB amounts subject to the proposed transfer are fully funded in the GES fund. We referred earlier to this payment of a minimum benefit guarantee, which would be invoked upon transfer of some of the West State super accounts to the ATO. That is also provided for in a special reserve within the GES fund, so they are totally off the state's balance sheets, fully funded benefits, so were included only for the purpose of that question—the \$200 000-odd in the consolidated account.

[1.30 pm]

The CHAIRMAN: What are the advantages to the state of transferring the money to the commonwealth?

Mr Wells: I am quite happy to go through these. I suppose there are some advantages, obviously, to the state. First and foremost, it is a more efficient and effective arrangement to reunite members with their lost or unclaimed superannuation amounts. I suppose it complies with the intention of the commonwealth's broader legislation for the handling of unclaimed superannuation moneys. The ATO makes available a web-based tool called SuperSeeker to reunite members with their lost super, so it makes that tool more efficient and effective. It is consistent with the state's obligations under the heads-of-government agreement, which is to comply with the commonwealth's retirement income policy as far as practicable. It prevents further erosion of account balances for benefits members may not be aware they had, such as the debiting of insurance premiums to their account and I suppose it reduces any potential for cross-subsidisation by other members of GESB schemes. Cross-subsidisation occurs where the account that we are administering is uneconomical; that is, we cannot levy fees to that account; and the costs of administering those accounts are effectively borne by the wider GESB membership.

Hon NICK GOIRAN: You mention there that the use of the ATO SuperSeeker internet search tool is one of the advantages. Has any work been done to ascertain the success rate or the usefulness of that tool?

Mr Wells: I cannot pinpoint to anything in the documents we have tabled. But certainly we have provided commentary to the effect that it has; but I cannot give you any statistical overlay.

Mr Rodin: Just in informal discussions with an officer of the ATO, I understand that its annual report to be provided before the commonwealth Parliament, but is not yet public, will have some

further statistical information regarding that aspect of the success and further statistics I suppose in relation to your question.

Hon NICK GOIRAN: Not just in relation to the SuperSeeker internet search tool, but just the success rate generally.

Mr Rodin: More broadly, yes.

Hon NICK GOIRAN: Are you aware of that information at the moment?

Mr Rodin: I am not aware. It has not been released to me but I am of the understanding that there is some further reference to that issue in the upcoming annual report to be tabled.

Hon NICK GOIRAN: Presumably if the ATO is not very successful, we might not want to refer this to it.

Mr Rodin: Even in relation to last year's data, that indicated that the centralisation and the particular tools available for members to search for this superannuation was reflected in the previous year's reporting on this subject.

Hon NICK GOIRAN: So each year the ATO reports on the success rate.

Mr Rodin: Yes, and one would hope or expect that over time there would be a trend towards that number diminishing.

Hon NICK GOIRAN: Has someone in Western Australia done that analysis to ensure that the trend is a positive one?

Mr Rodin: Not specifically, no.

Mr Meschino: Can I just add to that? It has come up at various discussions at the national policy officers' group, which is that meeting of Treasury officials. No, there has not been any in-depth formal studies done on that by the group, but there is discussion amongst the different policy officers as well as the commonwealth Treasury and there is a general understanding that it is actually a better way of administering it. So, it must be providing better results than each jurisdiction doing something separately, because effectively the commonwealth is doing the same thing, except of course they have got use of the tax file numbers. They also have data matches across social security and other aspects under commonwealth administration. So, I suppose the answer to your question is no, we do not have any detailed analysis on how effective the commonwealth regime has been. Our expectation is that it has been more effective than the states on their own. As Boris pointed out, the commonwealth does provide some success factors in their annual reports, and our understanding is that the next one is going to be even more comprehensive, which sort of is understandable because they have recently introduced more initiatives around the tax file numbers as well as around the SuperSeeker.

Hon NICK GOIRAN: When will that be tabled; do you know?

Mr Rodin: I have not been given it, but it would be shortly. That is all the information I was provided.

The CHAIRMAN: I think we will take that as question on notice 2 for you to get back to the committee with any statistical information that you have or that you can obtain from the commonwealth in relation to the success or otherwise of the ATO SuperSeeker internet search tool.

Hon NICK GOIRAN: Just moving on from that, has there been any analysis done on the success rate within the state by GESB or West State super or whoever might be doing that? On our success rate in reuniting people—I think we indicated earlier that some people who were lost have been found, so there is some success. Do we know what the percentage of the success rate is?

Mr Wells: We will have that information. I do not have it at hand.

The CHAIRMAN: Then we will take that as question on notice 3.

Mr Rodin: When I refer to the \$200 000-odd held in the consolidated account, that is really the remainder of moneys. During the period up to 2007, I think we had just over \$1 million paid by WA registered super funds to the state Treasurer. Over time around \$800 000 of that amount has been paid out and we have \$200 000 remaining, so I do not know if that is any indicative factor for your purposes in relation to just that pool of unclaimed moneys at the moment.

Hon NICK GOIRAN: So what that would tell is that you have had 80 per cent success over a five-year period.

Mr Rodin: Yes.

Hon NICK GOIRAN: The question I would like to know is: are we confident that the ATO would do better than that?

Mr Meschino: Can I suggest that there is a gap in your question as well? That is administered for the state funds. It does not take into account GESB. So you would probably need similar data from GESB.

Hon NICK GOIRAN: Yes, that is right; hence why it has been taken on notice.

The CHAIRMAN: What are the disadvantages to the state of transferring the money to the commonwealth?

Mr Wells: We came up with some potential minor disadvantages as a result of transferring these benefits through to the ATO. One issue that has been raised by the Association of Superannuation Funds—or ASFA as you may have heard them—is they have previously raised concerns around the potential for members to lose insured benefits. At this stage we are not aware of any known instances that have been reported through to us or widely across the industry.

The CHAIRMAN: Do you actually have the capacity to have that information recorded and reported back to you?

Mr Wells: Only through, I suppose, monitoring of issues that arise within the superannuation industry more widely. I suppose as a bit of background, of the 30 092 members that we identified in the table I previously referred to, which listed the number of accounts to be transferred, there were approximately just over 70 members who had an insured benefit. So it is a very, very small number.

The CHAIRMAN: But it might be important to those 70 people.

Mr Wells: It could well be, but they are lost and unclaimed accounts so they are probably not aware that they actually have it; but I take that.

Hon NICK GOIRAN: The insured benefits you are talking about are what—life policies and income protection?

The CHAIRMAN: Yes.

Mr Wells: Typically a member could have salary continuance insurance or could have a combination of either death or death and total and permanent disablement.

Hon NICK GOIRAN: Why would transferring these moneys to the ATO purely for administration purposes to reunite the person with their superannuation fund terminate those benefits?

Mr Wells: Because they would have no more money in their account to pay the premiums. So we are looking at members who have \$200 or less in their account, so the likelihood of them having sufficient funds to meet ongoing premium payments is diminished and would be otherwise consumed over the coming months.

Hon NICK GOIRAN: When the Association of Superannuation Funds says that they have concerns around the potential for members to lose insured benefits, those 70 that you referred to will lose their benefits; it is not the potential.

Mr Wells: They will lose their benefits, but they will lose it either as part of the consolidation process or in the near future once their funds have been reduced to zero.

Mr Meschino: In other words if they are not reunited sometime soon, they will lose that anyway because they will have no balances left in their accounts to pay that.

[1.40 pm]

Mr Rodin: Yes, so it is happening now. It is an issue that is happening now.

Hon NICK GOIRAN: I take it then that it only has the possibility of applying to any one of those 70 members who first of all are found; and, secondly, either die or are permanently disabled or in some other form incapacitated and not able to be employed. All those circumstances would need to occur for someone to actually have a loss.

Mr Wells: Correct.

Hon NICK GOIRAN: In the absence of any one of those things, no loss has been suffered.

Mr Wells: Correct.

The CHAIRMAN: Just turning to clause 2(b) of the bill, this clause deals with the commencement of the act on a day fixed by proclamation. Would you please explain why it was decided to use the proclamation method of commencement and why not a fixed time frame?

Mr Rodin: This was drafted on the basis that, particularly in relation to the state super act, there are regulations that need to be drafted in relation to matters associated with the transfer. In relation to the other act which is amended, which is the unclaimed super act, and that pertains to the moneys collected under that act remain in the consolidated account, there are a number of logistical issues that need to be attended to as part of the transfer, and these refer to provision of records et cetera, et cetera. So it is appropriate that the bill was drafted on the basis that we need to differentiate the amendments to the state unclaimed moneys act. There is a thing called the winding-up process, and that basically commences upon this bill coming into operation and a number of things are contingent on this occurring and, as I have referred to, the drafting of regulations and some other logistical matters. So it is appropriate that the bill was drafted on this basis to allow enough time for those to take place.

Mr Meschino: I suppose the point is that the process will not all happen in terms of transfer immediately after the bill has been passed and come into operation. This process needs to happen at an administrative level to make the transfer happen, and we are not really sure how long it will take; presumably it will not take too long. But that was the advantage, presumably, of having the bill structured that way rather than having a fixed date where it expires, that you do allow for that time to put the arrangements into place

Hon ROBIN CHAPPLE: You mentioned a number of regulations.

Mr Meschino: Yes.

Hon ROBIN CHAPPLE: What is the nature of the regulations that will be introduced? Are they many, variable or simple?

Mr Rodin: These pertain to accounts to be transferred from GESB's funds, so they are regulations made under the State Superannuation Act. They are, essentially, regulations dealing with the provision of appropriate records and, generally, with the logistical aspects of the transfer. They are confined only to that process.

Hon ROBIN CHAPPLE: Have they already been drafted?

Mr Rodin: I think we had commenced looking into the drafting process.

Hon ROBIN CHAPPLE: So that will occur.

Mr Rodin: That is right; we do not want to pre-empt Parliament, of course, in its consideration of this bill.

Mr Meschino: It is more what is unknown, but we do not think it will take too long anyway—like dealing with the commonwealth ATO physically handing the records over. But it is those sorts of issues.

The CHAIRMAN: Clause 4(2) inserts four new definitions into section 4 of the 2003 act. With respect to the definition of “unclaimed money day”, how often does the Commissioner of Taxation issue a legislative instrument stating the day and what day is specified?

Mr Rodin: The actual detail of the commonwealth legislative instrument is in the tabled document. But, in essence, that has only been used once and it has designated two dates—30 June and 31 December—as unclaimed money days. There is provision under the relevant commonwealth legislation for that to change. However, it is not envisaged or anticipated that those unclaimed money days will change any time in the future. Basically, they are used for funds for normal reporting period processes.

The CHAIRMAN: So, you do not anticipate that there will be a last unclaimed money day after the winding up commences?

Mr Rodin: Is this a new question?

The CHAIRMAN: Yes. What do you anticipate will be the last unclaimed money day after the winding up commences?

Mr Rodin: This, of course, will be contingent on the time frame for this bill and Parliament’s passing of the bill. Assuming that Parliament passes the bill before 31 December, then 31 December would be the relevant unclaimed money day in which moneys in respect of the consolidated account and also GESB’s fund would subsequently be required to report and be transmitted to the ATO by 30 April 2013.

Mr Meschino: That is what we are aiming for anyway.

Mr Rodin: Obviously, if the bill was not passed before that date, the timing of course would change.

Hon NICK GOIRAN: Can I clarify, then, that what we are referring to is that that \$4.8 million we have referred to previously can fluctuate between now and 31 December, but at 31 December it would be fixed?

Mr Rodin: That is right, depending on whether Parliament has passed the bill; correct. That will fluctuate between now and the actual transfer date.

The CHAIRMAN: Turning to clause 5, which inserts a new proposed section 29(2), the committee is interested to know why the act is being expired as opposed to repealed.

Mr Rodin: Two acts will be amended by the bill; the first one is the unclaimed money act and the other one is state super. This question is really only pertinent to the state unclaimed money act 2003. As I have said, the bill has been drafted in accordance with the nature of the changes supported by the bill because, in relation to amendments to the state’s unclaimed money act, a number of things need to take place upon the bill being passed. In order for those logistical things to happen, obviously we have to have an operational bill to allow those particular things that are provided for by the bill to be allowed to happen. Once they have taken place, and in the case of the state’s moneys—the \$200 000 held in the consolidated account—the provision of all relevant records and the actual payment of moneys associated with those records that are transferred across to the ATO, then the bill provides for a mechanism, through the Treasurer, to expire the act. I understand that that is in accordance with similar bills of this nature.

The CHAIRMAN: The Treasurer has informed the committee —

If a future WA government adopts a different policy, there is nothing in the Bill or in the Commonwealth legislation to prevent the WA Parliament from passing new WA legislation to re-establish a WA based unclaimed superannuation money scheme and the Government could then withdraw WA public sector funds from the centralised super arrangements with the ATO.

He further states —

As a matter of law, neither the consent of the Commonwealth Parliament or Government, nor of any other State or Territory, would be required.

The committee notes that there is no provision in the bill to compel the commonwealth to return unclaimed money and historical records should Western Australia decide at some point in the future to legislate to re-establish a WA-based unclaimed superannuation money scheme, and unlike in some other uniform schemes there is no intergovernmental agreement detailing how this could be achieved. What could be done within the bill, given that there is no intergovernmental agreement in this case, to provide for the commonwealth to return WA unclaimed moneys and historical records if the state decides at a future date to re-establish a WA-based unclaimed superannuation money scheme?

[1.50 pm]

Mr Meschino: In short, the answer is that there is nothing that can be done for that period following the transfer if, hypothetically, the state, or the Parliament, did decide to take the administration back to the state. The reason being is, once transferred, they are operating under commonwealth law, and the advice that we had from the State Solicitor and also parliamentary counsel is that while the state at any time is free to transfer any ongoing or future administration back to the state, they would not be able to override commonwealth law for that period; and if they attempt to do so, it probably would be invalid, being inconsistent with commonwealth law. So, in short, the answer is no; if the state does agree to opt into the commonwealth mechanism for unclaimed lost super, if the money and the records are transferred, and while it is operating under commonwealth framework, the state cannot legislate to bring money in that period back to the state.

The CHAIRMAN: So the statement that has been provided to the committee that a future state government could legislate and re-establish a WA fund is actually not really 100 per cent accurate because we would have to be re-establishing a new fund, but that would be inconsistent with commonwealth law so we could not do it in any event.

Mr Meschino: No, that is not true. What the state could do, if it chose—let us say, hypothetically, it was transferred to the commonwealth and for whatever reason the state, the Parliament, decided that the commonwealth was not doing a good enough job, we believed we had done a better job and wanted to take it back, we simply would opt out of the commonwealth arrangement and from that point on the state will manage the unclaimed super under a state arrangement.

The CHAIRMAN: But there is no agreement in place for the commonwealth to return any unclaimed funds back to the state or any historical records back to the state, if the state were to decide to establish its own scheme.

Mr Rodin: With that, you would have to undergo some policy process and some consultation. But one would imagine that would be difficult for the commonwealth to return moneys having been transferred to them.

The CHAIRMAN: In relation to a number of other uniform standards that the committee has looked at, where there is this transfer of state power to the commonwealth, usually there is an intergovernmental agreement which provides an administrative framework and acknowledges that if a state decides to opt out of that scheme, then the commonwealth will return the historical records as they are current at that time back to the state to enable the state to re-establish its jurisdiction in that area, and if there has been transfer of money to re-transfer moneys back if that is appropriate.

Just for the purposes of Hansard and everyone in the room, this is a fire drill. We were alerted earlier today that this would be happening. I should have brought it to everyone's attention at the beginning of the hearing, so I do apologise. I think we will hear a message shortly about a fire drill and we will need to evacuate the building. I have been assured it will not take more than 15 minutes and we will be able to resume the hearing. Until we hear another bell telling us to evacuate, I suppose we continue with the hearing.

The hearing is adjourned until the fire drill is over.

Proceedings suspended from 1.54 to 2.02 pm

The CHAIRMAN: I note that the time is two o'clock and the hearing has resumed following a brief break for a fire drill. I think before the fire drill we were talking about the advice from the Treasurer that WA could opt out of the scheme at any time it liked and my concern that there has not been any sort of administrative arrangement put in place to actually facilitate that, which in reality will impact on WA's ability to opt out of the uniform scheme if it wanted to at some time in the future or at least for that to be retrospective in terms of including all the current unclaimed money, and the fact that this does not appear to have been addressed at all.

Mr Meschino: Can I take your question on notice because we will get some advice from the State Solicitor's Office on that; exactly what the mechanisms are and what the issues would be in terms of getting the data or the money for that interim period back, if the Parliament did choose to bring it back within the state framework.

The CHAIRMAN: We will take that as question on notice 4.

I will just point out that in some other uniform schemes, they actually provide for that arrangement in the intergovernmental agreement and because there is not an intergovernmental agreement in this case and it has not been covered by the bill, it does create some problems about how that will be implemented.

My other question is that the Treasurer has informed the committee that the bill merely adjusts the terms of an arrangement in which WA has participated since 2003. This being the case, what I am curious to know is whether an intergovernmental agreement was entered into detailing the establishment of the 2003 scheme; and, if yes, would you be able to provide a copy of that intergovernmental agreement to the committee?

Mr Meschino: As far as I am aware there was no intergovernmental agreement on that.

The CHAIRMAN: In 2003?

Mr Meschino: In 2003, no.

The CHAIRMAN: Can you take that as question on notice 5 just to confirm that?

Mr Meschino: To double-check that, yes.

Hon NICK GOIRAN: I would just like to return to the issue of the stated disadvantage of proceeding with this, specifically around the insurance benefits for the 76 members. I just want to be persuaded that everything that can be done is being done to locate those 76 members at the moment, because it seems to me that they are the only ones of the 30 000 plus members who will be disadvantaged by Parliament passing this bill presumably at some point this year. Are there active or prioritised methods being employed at the moment for those 76 members over and above the rest?

Mr Wells: I suppose our approach in terms of re-engagement of members is uniform across our membership base. We do, obviously, try to target individuals where they could potentially lose something, just as a general guide. I mean, we do a lot of work around trying to maintain the currency of member information that we hold and we use, obviously, our six-monthly reporting cycle to remind members of the importance to keep their information up to date for these very

reasons. Our ability to contact members who are lost is somewhat limited. We have engaged in address cleansing through agencies with very low success rates, but I suppose we do make an attempt where we can, using the resources available to us, to try and reunite those members. It can be a difficult task.

Hon NICK GOIRAN: But you do have success from time to time?

Mr Wells: We do, yes.

Hon NICK GOIRAN: Potentially, if those 76 members were given top priority over the preceding two months or the remaining months of this year, we might find that the number is less than 76 at the end of the year.

Mr Wells: Correct, but other members will come on to that list. We will probably lose those 76 members because the two months to locate them would mean that the premiums deducted for those two months would probably erode those benefits. Generally, accounts under \$200 are very uneconomical in terms of being able to sustain —

Hon NICK GOIRAN: Is it possible for you to provide a table to the committee—the committee would not obviously require the names of the 76 members—to identify how long it would be before those 76 members on an individual basis became uneconomical? In other words, that their balance was so low they were unable to pay the premiums, in which case the transfer to the ATO would no longer be a disadvantage.

Mr Wells: We can certainly give you that information.

The CHAIRMAN: We will take that as question on notice 6.

Hon NICK GOIRAN: Supplementary to that, could you also take on notice and refer back as to whether you will prioritise the 76 members forthwith to ensure that the number is as small as possible when this scheme comes into effect?

Mr Wells: Certainly if they are lost uncontactable members, that will be difficult for us to do because these are members where return mail has come back to us on two or more occasions. So, the information we hold is unreliable and difficult for us to maintain contact, but we will look at what other information we may hold that could facilitate reuniting those members.

Hon NICK GOIRAN: I will just take that further. I cannot emphasise enough how much the 76 need to be prioritised. I realise that 76 is only 0.25 of a per cent of the members, so when one considers a disadvantage to 0.25 per cent of the population, it does not sound like very much, but if one of the 76 members dies during this period of time, it can have serious implications for a family. So, I realise that there might be some return mail that has come back and it is difficult, but there are a number of mechanisms in place for us to locate individuals and clearly those mechanisms are at your disposal because you are having some success to date and there is a number that you are finding.

Mr Wells: We do have some success.

The CHAIRMAN: I would like to follow on from what Nick has said. Certainly, you could even place a large-sized advertisement in local papers bringing to people's attention about the transfer of this power to the federal government and the implications of that for those who are lost and who have insurance policies to try to draw them out. So, I think that there are efforts that could be investigated. Do you liaise with the probate office or the Public Trustee to see if the person has died, as part of your process of trying to locate lost people?

[2.10 pm]

Mr Wells: We do maintain our lists, and we do monitor deaths so that we can ensure that we have as up-to-date information as possible. Again, I will take that on notice, but I believe we have a process in place to liaise with them. I can confirm that.

The CHAIRMAN: What I might do is to take that as a question on notice 7: what steps will be taken to try to identify those 76 people who are most likely to be impacted as a result of this uniform scheme and the transfer of the state responsibility to the commonwealth.

Hon NICK GOIRAN: Further to this matter, is it part of your standard process to conduct a search of the electoral roll to determine the current address of these individuals?

Mr Wells: We do use those sorts of services to try to verify the accuracy of the information we hold.

Hon NICK GOIRAN: Would you know if that has been done in relation to these 76 members?

Mr Wells: They would have been part of a larger group of members that would have been cleansed against those sorts of databases.

Hon NICK GOIRAN: It is certainly the case that —

Mr Wells: Not as a subset on their own.

Hon NICK GOIRAN: Okay, but it is certainly the case that these 76 members would have had that electoral roll search done.

Mr Wells: Yes.

Hon NICK GOIRAN: Does it ever come to the point that you would engage the services of a private investigation firm or something of that nature to locate somebody?

Mr Wells: We have not taken those steps to date.

Hon ROBIN CHAPPLE: Just as a subset, do you have any demographics associated with those 76 members? Do they come from a particular cultural group? Are they spread broadly? Are they from Perth? Do you have any knowledge of where they come from?

Mr Wells: I have no subgroup knowledge, no.

Hon ROBIN CHAPPLE: I think it would be quite interesting, if you have it.

The CHAIRMAN: Would you be able to provide that information?

Mr Wells: Certainly. If there is information that we hold that we can use to form those sorts of profiles, we can make that known. Typically, we would hold obviously personal details —

Hon ROBIN CHAPPLE: I would not be at all surprised if a lot of them did not come from what I call the north west mining sector.

The CHAIRMAN: We will take that as question on notice 8.

Those questions have largely been answered by GESB, but there is \$200 000 in the consolidated revenue, so do we want the answers to those last four questions to apply to both GESB and the WA consolidated fund?

Hon NICK GOIRAN: Are there more —

Mr Meschino: With the WA ones, there would not be insurance implications for those members.

The CHAIRMAN: Okay. Just one last question from me: does the government propose any amendments to the bill?

Mr Meschino: In short, the answer is no. Obviously we cannot foresee what might happen in Parliament, but not at this stage, no.

The CHAIRMAN: Are there any further questions from members? No?

I think that does it, from the committee's point of view. That has covered all the questions we have. Just to recap, we have eight questions taken on notice. Anne will be in contact with you later today —

Hon NICK GOIRAN: I do have one further question, just because I anticipate that there will not be a further opportunity to have this discussion. In the event that Parliament was sufficiently concerned about the members who might have their benefits ceased on transfer, what would be the implication for the state if all the moneys were transferred with the exception of those 76 members?

Mr Meschino: I would suggest that, administratively, it would be more complex. I am just trying to think it through. The way the commonwealth has drafted its legislation, which would aim the schemes which will be opt into, which will already exempt public sector schemes around Australia, I am not sure how it will work in its part, where it could say “all members except for a certain category”. I am not sure what it means in our end.

Hon NICK GOIRAN: Are we able to opt in with the exception of those 76?

Mr Rodin: My comment on this one is that I think, when we are talking about GESB, they are obliged to report to the ATO in accordance with the accounts that meet the definition of “lost” and “unclaimed” for the purposes of this transfer, so they would not be cognisant of the insurance arrangements associated with that. As long as they meet the relevant criteria, then GESB as an organisation would be obliged, consistent with regulated superannuation funds, if you like, to report any account or to pay any moneys across to the ATO that meet the relevant criteria, and that would be irrespective of any insurance implications for those members. So in order to isolate the reporting, apart from members who are adversely impacted or potentially adversely impacted, would be causing a potential breach of reporting obligations on the part of the superannuation fund concerned. That is one comment to be made in relation to what you are seeking happen, whatever merit there may be in that, but I think that is one point to note.

Hon NICK GOIRAN: Okay, in which case, can I just ask you to take on notice whether it is possible to opt in, with the exception of those 76 members; and, if it is possible, then the supplementary question is: what are the implications of doing so?

The CHAIRMAN: That will be question on notice 9. Any further questions? Last chance! If there are no further questions, I will just conclude the hearing. As I was saying earlier, Anne will be in contact with you, hopefully later today, just to detail all the nine questions that have been taken on notice and a due date for the answers to those questions, which I would expect would be close of business Friday, unless you hear otherwise from Anne.

Mr Meschino: Sorry, can I say something in relation to that? One of those questions, in particular, we will have to take advice from the State Solicitor’s Office, because he has been working with us, advising on the bill, and he is away this week and will not be back until next week. So we are just a little constrained with one particular question.

The CHAIRMAN: There is no-one else at the State Solicitor’s Office who is covering his workload while he is on leave?

Mr Meschino: We could ask, but he is the person who has always dealt with superannuation at the State Solicitor’s Office.

The CHAIRMAN: If you could endeavour to have the State Solicitor give you the advice you are seeking and answer the question on time, that would be great. If that is impossible, just alert the committee and we will decide what course of action we will take from that point on. If you could deliver as much of the information within the due time as you can, that would be appreciated. There being nothing further, I declare the hearing closed. Thank you very much for your participation and for assisting the committee with the inquiry.

Hearing concluded at 2.18 pm
