Speech by

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FREEDOM OF INFORMATION AMENDMENT BILL

Ms STRUTHERS (Algester—ALP) (5.50 p.m.): A hallmark of a great government—a good government—is one that has a strong regime of FOI and a strong anti-corruption regime. That is what this government has. It was members of this government—members who are still here today—who fought hard during the eighties to get rid of a corrupt government, a government that did not have an FOI system, did not have an anti-corruption system, but was riddled with corruption. Some members of the opposition were around then. Even if they were not in elected roles, they were in their party roles. They did not fight for an FOI regime. It is members of the Labor government who willingly and eagerly introduced this system, which was one of the first major reforms of the Goss Labor government. Members opposite have such a hide to come in here and call us a government that is trying to undermine FOI in this state. Many members have spoken tonight about that very important historical fact, and I just want to remind members that it was this government—a Labor government—which fought hard for this and, let me say again, willingly and eagerly introduced this system and will continue to fight to maintain this system.

I support personally a fair system of fees and charges for FOI applications. The system must enable ready access to information for individuals and organisations and must not be cost prohibitive. At the same time it must build in incentives for applicants to focus the scope of their requests. There is a lot of evidence to suggest that the fishing expedition applications—the very broad applications—can take agencies many weeks or months to process. There are better ways to use the time of agency staff and to use taxpayer funds. There are better ways to actually manage this process.

There are two key strategies that I want to talk about tonight. The Leader of the Opposition commented earlier that this government has a lazy tail—a bunch of caucus members who always say yes to the Premier. In fact, there is a very talented bunch of backbenchers here who are very free thinking, lively and dynamic members of the backbench. We are not toadies. In fact, there are a couple of issues that I have raised with the Attorney-General, and I will raise them here tonight.

There are two key ways of managing this problem that I want to touch on tonight. One of those is having a reasonable processing charge as well as a well-managed system of negotiation and communication between agencies and applicants. If an applicant has requested all records, for instance, on a topic over a 10-year span, one can imagine the nightmare that would create for the agency staff member who is given that retrieval task. It does not make sense to do that and allow a free-ranging process of applications. It is costly, and it is probably a most unnecessary burden.

In many ways many of these applications can be managed better. And as members have said tonight, many of the applicants are large commercial organisations that should be paying. Taxpayers' money should not be used for them to find out information that, in many cases, leads to their having some commercial gain. In many cases there is evidence to suggest that people are using the FOI regime rather than the usual legal discovery processes. So there are many reasons why we should in fact have a reasonable system of charging.

It is apparent that unnecessary processing work can be minimised if applicants and agency staff are required to negotiate to produce a common understanding of the specific information required. This will help to narrow the scope of the application. A further incentive to do this is giving applicants an estimate of the cost that is involved so that they know up front what it is likely to cost, not only in terms

of specific departmental activity but the monetary value and the monetary cost of that. It is important that cost estimates are provided to applicants upon making their applications. People may say that this is unnecessary, it is prohibitive. But there is one thing that I have not heard members speak about tonight, and it is an important consideration.

It is important that we maintain a culture in this state amongst agency staff that FOI is important. One of the things that seems to be creeping into the system is that people are becoming very cynical in processing these applications. That is human nature. That is a reality. We cannot deny that. One of the very important ways of avoiding that risk is by being more reasonable in how these applications are negotiated and narrowing their scope so that we do not have so many unnecessary fishing expeditions.

The Legal, Constitutional and Administrative Review Committee, which I chair, is finalising a major review of the FOI act. During the course of this review, LCARC members have had the opportunity and the benefit of over 170 submissions and a great deal of research. One of the issues we have been canvassing is the matter of fees and charges. In the research that LCARC has had before it there is overwhelming support for the retention of a free system of access to personal information for individuals, and I commend the minister for remaining firm on this position and for introducing the financial hardship provisions. The LCARC position on fees and charges is not yet finalised. It is intended that the report on our review will be tabled in December this year.

I want to flag to the minister, though, some of my concerns about a fixed hourly charge regime. One concern is that each government agency has different record management and retrieval systems. Many are very efficient, but there will be some that are not so good. Applicants should not be paying for delays or inefficiencies that are the responsibility of individual agencies, nor should applicants pay for the processing of information that ultimately they may not receive. That may not be an issue that is taken up by the minister, but I think it is certainly one that is worthy of consideration.

The Australian Law Reform Commission and the Commonwealth Administrative Review Council in a joint report titled 'Open Government: A review of the Freedom of Information Act 1982'—the federal act—and other commentators have been critical of a time based charge, preferring an output based charge for the number of documents released to applicants. While all agencies ought to be required in the legislation to exercise their duties promptly and at the lowest reasonable cost, this may not always be the practice.

Clause 6 of this bill seeks to amend section 109—regulations—to provide for the charge for the activity to be calculated at a single hourly rate. I caution against locking into this hourly rate in the statute. If the practice of a fixed hourly rate were to be problematic, it would be helpful to be able to readily introduce new charging options. The LCARC report will include a comprehensive analysis of FOI charging regimes. I encourage the minister not to set in concrete the fixed hourly rate at this stage but certainly to proceed with other aspects of the bill. I certainly welcome the consideration of the LCARC report later in December this year.

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