



Speech by  
**Hon. NITA  
CUNNINGHAM**

**MEMBER FOR BUNDABERG**

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Hansard 17 May 2001

**LOCAL GOVERNMENT AND OTHER LEGISLATION AMENDMENT BILL**

**Hon. J. I. CUNNINGHAM** (Bundaberg—ALP) (Minister for Local Government and Planning) (9.59 p.m.), in reply: I thank all honourable members who have participated in debate on the Local Government and Other Legislation Amendment Bill. This bill seeks to achieve a number of desirable objectives in the areas of national competition policy, local government electoral arrangements, provision of local government infrastructure and integrated state planning. The bill contains amendments to convert the Thuringowa-Townsville Water Supply Board from a state statutory authority to a new local government entity. The bill amends the Local Government Act 1993 to bring consistency between arrangements for state members of parliament and local councillors by providing that councillors must vacate office on becoming candidates for election to state or Commonwealth parliaments.

The bill amends the Local Government Act to support decisions of the High Court on the implied freedom of communication in respect of political matters by making it clear that local laws or subordinate local laws purporting to prohibit or restrict the distribution of how-to-vote cards at local government or state elections have no effect. The bill amends the Local Government Act to provide a level playing field by requiring all operators on the Kuranda rail line to pay a levy of \$1 per passenger, with the funds raised assisting the Mareeba Shire Council in the provision of tourist infrastructure in Kuranda. It provides more time for the first councils contemplating corporatisation of any of their large business activities to exercise the discretion of having direct membership on the board of directors by extending by two years a sunset clause allowing councillors and council employees to compromise up to one half of the directors of local government owned corporations and by extending for the same period a related sunset clause for review of this provision.

The bill also amends the Integrated Planning Act 1997 to clarify the intention of the IPA to preserve the operation of development control plans made under repealed legislation, to provide interim development controls for two local governments pending implementation of new planning schemes and to correct a drafting ambiguity in relation to ministerial call-in powers. The bill also makes a minor amendment to the Land Title Act to correct an oversight in the transition to the IPA. I have received the comments of the Scrutiny of Legislation Committee on this bill and will make a written reply to the committee on the issues raised by the required date of 23 May.

In terms of issues raised during this debate, I make the following comments. There has been a lot said about councillors having to resign before standing for state or federal parliaments. Clearly, that is a concern to some councillors. However, I can remember when town clerks sat at council meetings and read every letter to the councillors. Those days have long since gone. The workload today makes that impossible and that system has simply had to change. Until 1990, councillors in Queensland could be both mayors and state members; they could hold both positions. The increased workload and community expectations of members has now made that impossible, and that system had to change. Other systems have also had to change to keep abreast of modern times and to overcome anomalies as they become apparent.

Today we have heard in this debate that if councillors want to stand for the higher office of mayor in their councils at a quadrennial election they cannot do that and still hold on to their jobs as councillors in case they miss out. If state members want to stand for higher office in the federal

parliament, they must resign first. They cannot hold on to their positions as state members in case they miss out. However, an anomaly exists that allows councillors who seek higher office to have the best of both worlds and to hold on to their jobs as councillors while they campaign for state or federal parliament.

In Queensland, councils enjoy a level of autonomy that is the envy of their counterparts in other states. In Queensland, councils are treated as governments in their own right and given a high level of autonomy as well as four-year terms. It is only appropriate that they should be subject to the same principle as that applying to members of this House when seeking higher office. Times change, and legislation has to change accordingly. The workload of councillors has increased dramatically over the years. It is no longer a job that they can do in their spare time while campaigning for another job. The operations of councils are seriously disrupted if some members are not pulling their weight prior to an election.

In this year's state election, 18 councillors stood for election for the state. Some councils, such as Redlands and Ipswich, had two of their councillors out campaigning. In the case of Logan council, it had three councillors campaigning for the state within 12 months. Ratepayers are clearly not being properly represented by those councillors at these times. Councils themselves cannot operate properly with disruption—with the decision-making process being swayed for political reasons and, in some cases, confidential council information being leaked to the media for political gain. We have heard a lot about how councils do not want this legislation, but this bill has been before the House since November of last year. I have not received one deputation from a council or a member of the opposition asking me to withdraw it.

Following the March 2000 council elections, a discussion paper was prepared regarding this amendment and issued for public comment. As we have heard, only 51 of the 125 councils in Queensland were concerned enough to respond. Some 74 councils—the majority—did not offer any comment. They were too busy getting on with the job they had been elected to do. When the community was surveyed, 53 per cent agreed with this proposal and only 35 per cent opposed it. Despite opposition from some local councils, there is general support for this change in both local government and the general community. At the end of the day, and after all the debate and rhetoric, this amendment is about providing consistency—consistency between the requirements of councillors and the requirements of members of this House who might seek higher office.

We have heard a lot in this debate about the cost of by-elections. I remind members opposite that this amendment will not cause by-elections. By-elections are caused by the decision of councillors to stand for higher office. If these councillors are elected, then a by-election has to be held anyway. Research has shown that the cost per person for a council by-election is a very small price to pay for democracy. This amendment is certainly not aimed at discouraging councillors to stand for election to represent the state. In fact, I encourage councillors to nominate. Some of our best members have had their grassroots in local government. However, I say this to councillors: if they make that decision, then they should do the right and proper thing by the ratepayers by resigning from council when the election is called. It is not hard to do; I did it myself voluntarily. My husband and I are not wealthy, but I resigned because I believed it was the right and proper thing to do, and I still believe it is the right and proper thing to do.

I refer to an article in the *Sunshine Coast Daily* of 10 November last year, which stated—

It is a well known fact that Local Government is used as a stepping stone to State Parliament. Someone who is sufficiently dedicated to their community will have the courage to make the tough decisions and decide where they can best utilise their concerns and skills and move forward. But it is not the responsibility of the ratepayers to provide them with a fall back position. A Councillors decision to stand for State Parliament signals to the ratepayers that their interests lie elsewhere.

**Mr Horan:** Is it the same for teachers and police?

**Mrs NITA CUNNINGHAM:** They are not elected people. The article continued—

Under these circumstances the ratepayer is entitled to a by-election to ensure they are represented by a local person who will look after their roads, rubbish and rates.

That may not be the feeling of some councillors or of the opposition, but it is the feeling of the community.

I move on to other issues that have been raised in this debate. The member for Warrego was concerned about the two-year sunset clause relating to councillors on local government corporations. We will review the legislation before that sunset clause comes into effect. If it is found to be advantageous to extend the period, that action will be considered by the government.

The member queried whether councillors in other states are required to resign when standing for election to state parliament. All states are very different in this regard. In the Northern Territory councillors must resign before nominating for the Northern Territory parliament, but in New South Wales, Tasmania and Victoria councillors can also be members of state parliament. So each state of Australia is different.

The member also asked a question about the draft IPA review. The draft of that bill will be available within the next few weeks and I will make sure that he as shadow minister will be consulted on that draft bill. He also asked whether the provision regarding how-to-vote cards would restrict councils' ability to control election signage with regard to public safety. The provision deals only with the how-to-vote cards. It does not apply to election signage at all.

The member for Callide remarked that he was sorry for me because I have been put in the position of having carriage of this legislation. I agree with him that we both have a lot of friends in local government.

**Mr Seeney:** You are going to lose them.

**Mrs NITA CUNNINGHAM:** I do not think so. I could not have wished for a better portfolio and I would not be introducing this bill to the House if I were not fully in support of it. Also, I do not ask others to do things that I am not prepared to do myself.

I commend the members for Nanango and Darling Downs for the extra effort they put in to survey and consult their constituents and to listen to their opinions. It is good to know that their electorates, made up of mainly rural areas, support this amendment.

I thank the member for Surfers Paradise for his contribution to this debate, which was also his maiden speech. The member is highly respected in the community for the contribution he has made to local government in Queensland, not only as a councillor but also as a mayor. I acknowledge the personal circumstances he described in considering his position before becoming a candidate for election to the parliament, but this amendment is about a matter of principle rather than personal circumstances. That principle is that councillors should be subject to the same requirements applying to members of state parliament when running for higher office. I do not believe that the application of this principle will stand in the way of communities electing the best people to represent them in the parliament.

The member also raised a question about when a councillor's office becomes vacant. The bill is very clear that it is at the point the person becomes a candidate for election to state parliament under section 88(3) of the Electoral Act 1992. This section clearly states that nominees become candidates when, after the close of nominations, the candidates' names are displayed at the returning officer's office. The policy intent is for a councillor's office to become vacant at this time, not at the time the nomination is lodged, because a councillor could nominate and then withdraw that nomination before they actually become a candidate. In that instance, the person would remain a councillor.

The member for Gladstone has raised concerns about the Townsville-Thuringowa Water Board. The public benefit analysis test for that project was carried out under the Borbidge government, and both councils have agreed to the board. The only problem was that the councillors wanted equal members but an independent chair. That requires a change from a statutory authority to a new local government entity, and this is what is being addressed in the bill.

I thank all members for their contributions to the debate and for the way they have mostly taken part in the spirit of goodwill. I commend the bill to the House.

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