Speech by

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MEMBER FOR SOUTHPORT

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WATER AND OTHER LEGISLATION AMENDMENT BILL AND SOUTH EAST QUEENSLAND WATER (RESTRUCTURING) BILL

Mr LAWLOR (Southport—ALP) (4.57 pm): In relation to the Water and Other Legislation Amendment Bill 2007, I will comment on proposed amendments to the Residential Tenancies Act 1994 which allows lessors to seek full reimbursement of water consumption charges from tenants. Current provisions in the Residential Tenancies Act allow the lessor to pass on to tenants the cost of water consumption where the premises are individually metered or water is delivered by a vehicle such as a water tanker. In both cases the lease agreement must state that the tenant is to pay for some of the water costs.

In addition, under existing provisions the lessor is required to pay a reasonable amount of water supplied to the premises. This amount is not defined in the act, but the act does set out matters which the Small Claims Tribunal may have regard to in determining the amount payable by a tenant. These include matters such as the number of persons occupying the premises and the area of the relevant land. At the start of the lease period parties are encouraged to agree upon the reasonable amount to be contributed by the lessor. Costs involved in providing this reasonable amount of water to the premises, as well as other charges, are normally taken into account by the lessor or agent when setting the rent for the property.

As we are all aware, water conservation has become a topical community issue. This has resulted in an examination of the process by which people are charged for water, including rental premises under the act. Lessors and agents have expressed their concerns to the government about the current water charging arrangements under the Residential Tenancies Act. The basis for their comments has been that the tenants are not encouraged to conserve water because they do not have to pay for all the water consumed at the premises. Further, tenants are not informed about their water use.

The government has considered this issue of water charging under the Residential Tenancies Act and has resolved to allow lessors in certain circumstances to recover full consumption costs from tenants. Fixed charges for the supply of water, such as an access charge, will continue to be paid by the lessor under the new provisions.

In relation to circumstances in which tenants can be charged, lessors will only be able to pass on full consumption costs where the premises are individually metered and they have taken steps to assist the tenant to minimise their water use. A typical proactive step would be to ensure the premises are water efficient. Under the new provisions, this means that all of the toilets, shower heads and internal cold water taps installed in the premises must be water efficient to the level prescribed by regulation.

The Residential Tenancies Authority is reviewing its standard lease and condition report forms with a view to including reference to whether water-efficient devices have been fitted in premises. The authority will be providing relevant educational information so that people are made aware of the new legislative arrangements prior to entering a rental agreement. Where the lessor has not taken steps to make the premises water efficient but the premises are individually metered, the lessor will continue to be required to provide a reasonable amount of water to the premises as per the current legislation. However, they will continue to be able to pass on water costs to the tenant in excess of this reasonable amount.

As is the case under the current provisions, it will not be mandatory for lessors to on-charge tenants for all or any water. The amounts can be negotiated between the parties—for instance, where parties agree to maintain a lessor's assets such as gardens and pools, it could be argued that the lessor should contribute towards the amount of water required for this purpose. Tenants, lessors or agents could still negotiate a water contribution by the lessor in this situation. Clearly, any arrangement is subject to the local water restrictions in force in that area at the time. The rationale for the change is that by allowing lessors to charge tenants for the full cost of the water supplied, it will further encourage tenants to conserve water in their daily activities. The resultant water savings will benefit all Queenslanders.

In addition, the new provisions increase consistency in relation to service charging, as the provisions in place for other service charges, such as electricity and gas, already allow the lessor to pass on all consumption costs in certain circumstances. The change also provides consistency in approach across Australian jurisdictions, as several other jurisdictions allow lessors to charge tenants for the full cost of all water consumption. The new provisions also encourage tenants to advise the lessor or agent of any leaks or plumbing problems at the premises. This is defined under the Residential Tenancies Act so a tenant can take action if the lessor or agent is slow to arrange repairs. This will allow tenants to arrange for repairs by a suitably qualified person if the lessor or agent, or their nominated emergency repair person, cannot be contacted by the tenant. The maximum value of repairs the tenant can incur in this case is the equivalent of two weeks rent. This provides the tenant with the necessary financial protection to have work carried out where the lessor or agent is unavailable to act in the first instance.

For existing periodic agreements, the new provisions will apply from 1 April 2008. A periodic agreement is one where there is no fixed end date for the agreement. The new provisions will also apply to any new agreements formed after that date. The new provisions will also apply one year after their commencement to fixed-term agreements in force immediately before the commencement of the new provisions. That is, they will apply in such cases from 1 April 2009. This transitional arrangement provides tenants under existing fixed-term agreements with adequate notice of any change to water-charging arrangements. The government believes that this change will provide important water savings for the people of Queensland while at the same time balancing the rights and responsibilities of lessors, agents and tenants.

In relation to the South East Queensland Water (Restructuring) Bill, I was interested to hear the comments of those opposite, particularly the Liberals and particularly the Leader of the Liberal Party, Dr Flegg. One of the dangers of acquiring water assets from local authorities—and the Leader of the Liberal Party quoted from the PricewaterhouseCoopers report—is the 'inadequate identification of assets'. If ever there was a good reason for this bill and evidence of the need for the state government to take over the water assets in south-east Queensland, that would be it. What he is saying is that there is a danger that the local authorities are so incompetent that they cannot adequately identify their assets. It is an illogical argument for not proceeding with the rationalisation of water assets in south-east Queensland.

Of course Dr Flegg and other Liberals take the moral high ground when it comes to this proposal, arguing issues of adequate compensation and consultation et cetera. What happened when the water assets of Townsville and Thuringowa were taken over by the Bjelke-Petersen coalition government? There was no compensation and no consultation. What did the lily-livered Liberals say? Nothing, absolutely nothing.

Mr Wallace: Still waiting for the cheque.

Mr LAWLOR: Still waiting for the cheque, exactly. What happened when the coalition took from the Brisbane City Council the electricity distribution to Brisbane in the mid-1970s? There was no consultation, no compensation and not a word from the lily-livered Liberals. Of course when the Nationals, as inconsistent as ever, were in government there was no consultation and no compensation in either of those cases, but of course in opposition they demand consultation and compensation, and in this case the government is doing just that.

Many governments over many decades have contributed to the capital works programs of various local authorities—dams et cetera. Presently, that rate of subsidy by the state government is 40 per cent and in fact for recycling plants it is 50 per cent. The member for Toowoomba South mentioned that the assets are owned by the local authorities. There is a reasonable argument that part of the asset at least is owned by the state government and that subsidy has been provided by a succession of governments over probably many, many decades.

I and other government members on the Gold Coast met with Mayor Clarke and other councillors and officers of the Gold Coast City Council in April this year, and we took their concerns to the then Premier and various ministers. The Gold Coast City Council makes a bit less than $100 million from water. It is required to make a profit by the national competition policy and this is probably only a two per cent to three per cent return on its investment. So it is not an unreasonable return and I cannot see anything wrong with what the council is doing on the Gold Coast. I believe that other local authorities are probably abusing the situation and making exorbitant profits from water and using that to subsidise general rates. I do not believe that is the case with the Gold Coast City Council and it must be fairly compensated for any loss of revenue that will happen as a result of this process.

Again I met with the mayor and his CFO, Joe McCabe, last Friday, and their message was essentially the same: they want fair compensation. The same message was taken to the government and that has been done by other members from the Gold Coast. So I cannot understand all the hysteria and claims that Gold Coast members are not concerned about the coast. Maybe it is the fact that there is a local government election around the corner. That might explain the hysteria. We agree, and the councils will receive fair and adequate compensation.

The Queensland Water Commission provided the government with its final report on urban water supply arrangements in south-east Queensland on 24 May 2007. The Queensland Water Commission report proposed substantial changes to the ownership arrangements of water assets and water businesses in south-east Queensland, including the transfer of all council owned bulk water assets to a set of state owned entities; the transfer of all council owned bulk water transportation assets to a single state owned entity; the aggregation of 22 council owned retail water businesses into three council owned water businesses; the aggregation of all council owned distribution assets into a single council owned distribution entity; and the establishment of a state owned water grid manager to facilitate the equitable distribution of water and the sharing of water and infrastructure costs across the region.

Following careful consideration of the QWC report and consultation with key stakeholders, the Queensland government announced a new structural model for the south-east Queensland urban water supply industry on 4 September 2007. The state government established two special work units to implement the reforms: an SEQ water reform transaction unit within Treasury to implement the transaction and a policy implementation unit within QWC to develop appropriate policy frameworks—for example, pricing policy and regulatory policy—to facilitate implementation of the new institutional arrangements.

The state government has assured the councils that they will be fully and fairly compensated, as I have already mentioned, for the water assets that will be transferred to the state. Treasury's SEQ Water Reform Transaction Unit has engaged independent legal people in Corrs, accounting people in KPMG and engineering people in Cardnos as consultants to complete the comprehensive due diligence in relation to the assets. It is a massive task, as has been mentioned by quite a few people. In fact, according to the member for Moggill, it is even more complicated because they do not even know what they own.

The valuation of the assets and therefore the compensation to the councils will be determined by the outcome of this due diligence process. The south-east Queensland councils have been consulted extensively throughout this due diligence process—and continue to be consulted—and are represented on the due diligence committee established by the state. The government has also established a special staff support group through which the councils, unions and other key stakeholders have been working collaboratively in recent months to ensure the maintenance of employment security and employment conditions for those staff affected by the reforms.

The objectives of the institutional reforms have been to recognise that water is a regional resource, not a localised resource, and that water supplies are best managed for the region as a whole rather than on historical boundaries—if not hysterical boundaries. This new model will deliver significant benefits to the community including improved regional coordination and management of water, more efficient delivery of water services in south-east Queensland, enhanced customer service for consumers across the region and a clear accountability framework for water supply security.

The government is interested in securing water for the people of south-east Queensland and not in playing politics. South-east Queensland currently has an urban water supply industry which has bulk water resources, transport and treatment assets owned by 25 different entities servicing 17 retail businesses. This reform that was agreed to by the council of mayors is sensible and is in the interests of south-east Queensland residents. To be clear, the state government is acquiring only 20 per cent of the assets in question. Councils will retain 80 per cent. Councils will still have the pipes and distribution assets and will still bill residences, as they do now.

Government has been clear about its commitment to provide south-east Queensland councils with a fair level of compensation for their water assets. The Treasury is currently undertaking due diligence on this asset transfer, and the government has previously indicated that the level of compensation may be close to $2 billion but that estimate is based on total management plans provided by councils. The Lord Mayor of Brisbane has attempted to claim that four independent reports say $6 billion should be provided to compensate councils. In fact, nowhere in any of those reports is the figure of $6 billion mentioned.

The due diligence committee, which has Treasury and council of mayors representatives and which has contracted legal and financial advisers, is in the middle of determining compensation, as I have mentioned. The government is focused on getting the numbers right and ensuring that councils are fairly compensated. In the end, this should be about water supply in south-east Queensland and not an unseemly wrangle over dollars between the two levels of government. I commend both of these bills to the House.