Speech By

Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 27 March 2015

ELECTORAL AND OTHER LEGISLATION AMENDMENT BILL

Message from Governor

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (11.04 am): I present a message from His Excellency the Governor.

Mr SPEAKER: The message from His Excellency recommends the Electoral and Other Legislation Amendment Bill. The contents of the message will be incorporated in the *Record of Proceedings*. I table the message for the information of members.

MESSAGE

ELECTORAL AND OTHER LEGISLATION AMENDMENT BILL 2015

Constitution of Queensland 2001, section 68

I, PAUL de JERSEY AC, Governor, recommend to the Legislative Assembly a Bill intituled—

A Bill for an Act to amend the Electoral Act 1992, the Electoral Regulation 2013, the Local Government Electoral Act 2011 and the Local Government Electoral Regulation 2012 for particular purposes, and to amend the Crime and Corruption Act 2001, the Judges (Pensions and Long Leave) Act 1957 and the Superannuation (State Public Sector) Notice 2010 for particular purposes

GOVERNOR

Date: 26 March 2015

Tabled paper: Message, dated 26 March 2015, from His Excellency the Governor recommending the Electoral and Other Legislation Amendment Bill 2015 [214].

Introduction

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (11.05 am): I present a bill for an act to amend the Electoral Act 1992, the Electoral Regulation 2013, the Local Government Electoral Act 2011 and the Local Government Electoral Regulation 2012 for particular purposes, and to amend the Crime and Corruption Act 2001, the Judges (Pensions and Long Leave) Act 1957 and the Superannuation (State Public Sector) Notice 2010 for particular purposes. I table the bill and the explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

Tabled paper: Electoral and Other Legislation Amendment Bill 2015 [215].

Tabled paper: Electoral and Other Legislation Amendment Bill 2015, explanatory notes [216].

I have the great pleasure of introducing the Electoral and Other Legislation Amendment Bill 2015—the first bill to be introduced in the 55th Parliament by the Palaszczuk Labor government. This government has been elected on a platform of restoring integrity and accountability. This is a promise we have made to the Queensland community that we take very seriously. This bill is a key step in implementing that promise.

The primary purpose of this bill is to give effect to the government's clear election commitments to amend the Electoral Act 1992 to: reinstate the $1,000 threshold for the disclosure of gifts to candidates, parties, third parties, associated entities, backdated to 21 November 2013; and remove voter proof-of-identity requirements. The gift disclosure threshold of $12,800, as currently indexed, for political parties and candidates was introduced by the previous government in 2014 and backdated to 21 November 2013.

The bill contains key measures for ensuring the public can have confidence in the accountability, transparency and integrity of the electoral gift disclosure regime: restoring the $1,000 gift disclosure threshold; requiring the special reporting of large gifts of $100,000 or more; reducing the threshold for permitted anonymous gifts to political parties from $12,800, as currently indexed, to $1,000; and restoring six-monthly reporting by political parties and associated entities. These requirements are, to the extent practical, backdated to 21 November 2013, when the current gift disclosure regime commenced. They apply to reporting for the Stafford by-election and the recent general election.

This government has also committed to the member for Nicklin to work with the Electoral Commission of Queensland and the other parties to develop a real-time online system of disclosure of electoral donations to further enhance the integrity and transparency of the electoral gift disclosure regime. The amendments proposed in this bill will address public concerns about the prospect, under the current act, of substantial donations motivated by gaining political influence being made in secret.

This government believes that Queenslanders have the right to know who is donating to their political candidates and parties, and how much they are donating. We know that disclosure of political donations can never completely eliminate the risk of corruption and secret political influence. However, what disclosure can achieve is transparency and greater accountability of both those who give and those who receive political donations.

The current $12,800 disclosure threshold amount is substantial, and more so if applied to multiple, separate but associated entities. Reasons typically provided for setting a higher threshold include the following: encouraging participation in the public funding of the electoral process; donors' rights to privacy; a low threshold may inhibit political freedom; and costs of compliance. The alternative view, shared by this government and considerable public commentary, is that these considerations are outweighed by the need for accountability and transparency. The 2014 increase in the disclosure threshold from $1,000 to $12,400—indexed—was also enacted without due regard to recent Queensland political history or the public mood for increased accountability.

The honourable Tony Fitzgerald AC QC in his 1989 report of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct, known as the Fitzgerald report, considered the link between political donations and potential corruption and that 'the possibility of improper favour being shown by the government to political donors must—also—be eliminated'.

Opposition members interjected.

Mr SPEAKER: Order, members! Thank you. I call the Attorney-General.

Mrs D'ATH: I would hope those on the other side might want to listen to this important piece of legislation being introduced.

Following the Fitzgerald report, the Queensland Electoral and Administrative Review Commission, the EARC, was established, with two of its priorities being to review the Queensland electoral system and report on the considerations relevant to the registration of political donations. EARC's 1991 report on the review of the then Elections Act and related matters led to an overhaul of Queensland's electoral laws in 1992.

Separately, EARC reported on political donations and public funding of election campaigns. Following consideration of this report by the Parliamentary Committee for Electoral and Administrative Review, the PCEAR, further amendments were made in 1994 to Queensland's electoral laws. Amongst other matters, these amendments provided for the disclosure of political donations and other income received by candidates, political parties and other persons.

PCEAR's report referenced the views in the Fitzgerald report that an important feature of a democracy is that decision making is seen to be impartial and objective and that 'If there is any suggestion that a decision may have been improperly influenced by financial considerations then confidence in the political system will be undermined'. PCEAR recommended a disclosure regime which significantly adopted the relevant provisions of the then revised Commonwealth model, which at that time involved a disclosure threshold of $200 for candidates, and $1,500 for political parties.

PCEAR's recommendations were adopted, forming the basis of the 1994 bill. The explanatory notes for the bill stated—

The need for this legislation arises primarily from the imperative to eliminate the potential for corrupt practices associated with political donations, especially in those situations where practices connected with the giving of such donations has led to perceptions that government administration may have been inappropriately influenced by them.

In 2006, a Liberal-National Party federal government amended its Commonwealth electoral gift disclosure scheme to significantly raise the threshold amounts for disclosure—which is, of course, the current Queensland threshold. The threshold amounts continue to be the subject of debate at the Commonwealth level. In 2011, the Commonwealth parliament's Joint Standing Committee on Electoral Matters recommended that 'the disclosure threshold be lowered to $1,000, and CPI indexation be removed'.

Commonwealth bills to reduce the threshold amount to $1,000 have been introduced on three occasions but not passed into law. The former Queensland government has justified the increase in the disclosure threshold as needing to align with the Commonwealth but other jurisdictions have not felt the need to follow. Four other states and territories which have disclosure laws have thresholds ranging from $200 to $2,300. South Australia, under legislation that will become operative later this year, has provided for a $5,000 threshold with a move to real-time reporting.

In 2013, Tasmania also introduced a bill, which has since lapsed, requiring real-time disclosure of donations over $1,500. New South Wales, which already has strict political donation laws including a disclosure threshold of $1,000, commissioned a review last year by a panel of experts in response to public concerns about political donations, and prompted by findings of the New South Wales Independent Commission Against Corruption, ICAC, investigation into allegations of corrupt conduct involving political donations.

The expert panel comprised Dr Kerry Schott as chair, former Labor Deputy Premier the Hon. John Watkins and former Liberal shadow Attorney-General Mr Andrew Tink AM. The expert panel undertook a comprehensive review of political donation laws resulting in its publication of five working papers, the holding of four roundtable discussions with experts, an interim report and a two-volume final report.

The expert panel's final report in December 2014 states that 'timely and meaningful disclosure is the cornerstone of any effective campaign funding regime'. The expert panel concluded that the current New South Wales $1,000 threshold was reasonable, although acknowledged there had been some support for a reduction in this threshold. ICAC has also made recommendations in relation to the frequency and timeliness of disclosures in order to enable the public to have access to an accurate picture of funding behind parties and candidates before they cast their vote on polling day. The NSW expert panel final report states—

Presently, different election funding laws apply in each jurisdiction and NSW parties are part of federal structures. This creates opportunities for avoidance and undermines the effectiveness of the NSW election funding regime. We recommend that the Premier support coordinated national reform of election funding laws, and that this be pursued via the Council of Australian Governments (COAG) process.

The NSW government has indicated in-principle support for most of the recommendations of the expert panel, which the Joint Standing Committee on Electoral Matters is expected to consider further after the state election. The momentum is clearly for greater and more prompt disclosure and accountability from their politicians—not less. Yet, against this backdrop, last year Queensland amended its laws to require less transparency—less frequent reporting and a significant increase to its disclosure threshold.

This government believes that Queensland cannot afford to forget the lessons of its past. Report after report reminds us that disclosure is the key to transparency, and transparency is the key to accountability. It is a tool for addressing risks and perceptions of corruption. This government is committed to transparency and accountability, and believes that this is what the people of Queensland want, what the people of Queensland expect and what the people of Queensland deserve.

The bill also removes discriminatory and unnecessary voter proof-of-identity requirements, introduced by the former government in 2014, from both the Electoral Act 1992 and the Local Government Electoral Act 2011. A discussion paper released by the former government in January 2013—which canvassed voter proof of identity—stated there was no specific evidence of electoral fraud.

When instances of multiple voting arise, they are matters for review by the Electoral Commission. The recording of multiple votes may be due to a range of factors: polling official administrative error, poor literacy or language skills, or confusion with persons forgetting they have

already voted. The Electoral Commission can refer instances of multiple voting to the police for investigation in appropriate cases.

As was pointed out by the Electoral Commission during the committee hearings on the former government's bill, at the 2012 state election there was one solitary case. Queensland is the only jurisdiction to have adopted the proof-of-identity requirements. No other state or territory or the Commonwealth has introduced these backward policies.

The requirement for voter proof-of-identity documents has the potential to discriminate against voters from marginalised groups in society without ready access to proof-of-identity documents; inconvenience voters without proof-of-identity documents at the ballot box on election day; and reduce voter participation in the electoral process.

Voters required to make declaration votes because they cannot produce the required proof-of-identity documents are left uncertain as to whether their votes have been counted. The Electoral Commission of Queensland website shows that over 15,000 voters without proof-of-identity documents were inconvenienced on election day being required to make declaration votes that were ultimately treated as part of the ballot. The extent to which voters did not participate because they could not produce voter proof of identity is still unknown. The government prefers to endorse the use of improved technology such as the electronically certified lists trialled in the greater Brisbane districts at the last state election for reducing opportunities for multiple voting.

In addition to increasing transparency and fairness in the electoral system, the bill also amends the Crime and Corruption Act 2001, the CC Act, and Judges (Pensions and Long Leave) Act 1957, the judges pensions act. This implements a key aspect of the government's election commitment to restore accountability and integrity in Queensland by legislating to give the chair of the Crime and Corruption Commission, the CCC chair, access to a judicial pension with appropriate variations.

The CCC plays a critically important role in maintaining accountability and integrity in Queensland's public sector through its function of ensuring that complaints, information or matters involving allegations of corrupt conduct within the public sector are properly investigated and dealt with. Under the CC Act, the CCC chair has significant responsibility for ensuring the CCC properly performs this function. For this reason, it is vital that the CCC and its chair are, and are seen to be, independent of the executive government so the public can have confidence that the CCC's corruption investigations are thorough and impartial.

Providing the CCC chair with access to a judicial pension will help to attract people with the highest calibre of experience and qualifications to the chair's role. The government has already moved quickly and advertised to permanently fill the office of the CCC chair. The amendments to the CC Act are designed to ensure that the promised pension entitlements will apply to the next permanent appointee to the chair's office as the bill expressly provides that the pension entitlement provisions will apply to any person appointed after the bill's introduction.

The bill inserts new provisions into the CC Act to, in effect, bring the CCC chair within the pension scheme for Supreme and District Court judges under the judges pensions act. The new provisions change particular aspects of the judges pension scheme as it is to be applied to a CCC chair because of the differences between the offices of the CCC chair and a Supreme or District Court judge. The CCC chair's pension entitlements will require the CCC chair to serve in that office for not less than five years including any period the person has acted as chair before his or her appointment to become entitled to receive a pension.

This change from the judges pension entitlements reflects the fact that, unlike judges who can serve for any length of time until they reach the mandatory retirement age of 70, a CCC commissioner including the chair cannot hold office as a commissioner for more than 10 years in total. However, to avoid significant differences in the pension rights of the chair and a judge, the bill defers the chair's pension entitlement until he or she reaches, or would have reached, age 65. The pension will be calculated on the amount of the 'prescribed salary', which the bill provides is the annual salary of a Supreme Court judge—other than the Chief Justice and President of the Court of Appeal—plus the annual rate of the jurisprudential allowance and expense of office allowance paid to a Supreme Court judge—other than the Chief Justice and President of the Court of Appeal.

Long leave allowance is not included in calculating the chair's pension because the chair will, as part of his or her entitlements when appointed by the Governor in Council, have access to long service leave. While the bill ensures that a person does not receive two pensions under the judges pensions act, the bill allows the period of service as chair, or judge, to be used to calculate pension entitlements, for either as the CCC chair or as a judge. Similar to the judges pensions scheme, the CCC chair will not be entitled to a pension if he or she is removed from office because of misbehaviour or misconduct. The bill also amends the Superannuation (State Public Sector) Notice 2010 to address consequential matters arising from the new pension entitlements.

The amendments in this bill will ensure that the current recruitment process for a new CCC chair will attract high-quality candidates. The appointment of an independent and non-politicised CCC chair is the first step in the government's CCC commitments to restore integrity and accountability in Queensland. This bill represents important steps in restoring accountability to Queensland's political and public service arenas. I commend this bill to the House.

First Reading

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (11.24 am): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Legal Affairs and Community Safety Committee

Mr SPEAKER: Order! In accordance with standing order 131, the bill is now referred to Legal Affairs and Community Safety Committee.

Portfolio Committee, Reporting Date

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (11.25 am), by leave, without notice: I move—

That under the provisions of standing order 136 the Legal Affairs and Community Safety Committee report to the House on the Electoral and Other Legislation Amendment Bill by 1 May 2015.