Speech By

Ann Leahy

MEMBER FOR WARREGO

Record of Proceedings, 10 May 2017

LOCAL GOVERNMENT ELECTORAL (TRANSPARENCY AND ACCOUNTABILITY IN LOCAL GOVERNMENT) AND OTHER LEGISLATION AMENDMENT BILL

Ms LEAHY (Warrego—LNP) (5.19 pm): I rise to contribute to the debate of the Local Government Electoral (Transparency and Accountability in Local Government) and Other Legislation Amendment Bill 2016. I thank the Infrastructure, Planning and Natural Resources Committee staff for their assistance with the inquiry and the professionalism with which they have produced report No. 43, especially given the workload the staff had at that time. I also thank the other members of the committee, from both sides of the House, for their participation in the committee process and for their consideration of this bill.

Much of this legislation has been generated from the Crime and Corruption Commission report titled *Transparency and accountability in local government*, tabled on 11 December 2015. The report concluded that the legislative framework does not clearly prescribe how an elected official or local council must treat campaign funds or donations in a range of circumstances. The CCC made six recommendations for legislative reform with the objective of increasing transparency in the local government sector.

The state government's response to the CCC report was tabled on 20 July 2016. It accepted recommendations 1 to 4 and part of recommendation 5 relating to unspent donations. Recommendation 5 relating to the disclosure of expenditure of donations and recommendation 6 were not supported by the state government. These recommendations are included in the committee's report No. 43, for those who are seeking that further detail.

The objectives of the bill are: to improve transparency and accountability in local government electoral disclosure requirements and to remove any confusion; to clarify that the Electoral Commission may continue to recover direct and indirect costs associated with local government elections—that has been a contentious issue on some occasions; and to make amendments to planning and building legislation to give early effect to the planning reforms contained in the Planning Act 2016 and the Planning and Environment Court Act 2016, make various technical and clarifying amendments and address issues arising from several court decisions concerning development approval for building work. That is a particularly complex area of planning information.

The committee made a number of recommendations in relation to the bill. I note that the minister has tabled a response to the committee's recommendations. I think we have fared fairly well with our recommendations. Not all of them were accepted by the government, but I suppose that is the way it is going to be. We cannot agree on everything. The committee also sought some clarification from the minister on certain points. That is contained in the response. I will continue to review that response.

The bill seeks to amend the Associations Incorporation Act 1981 to clarify that incorporated associations are prohibited from holding or receiving campaign funds which are intended to be applied for a member's benefit, either directly or indirectly. This, however, only applies to associations incorporated in Queensland. It does not prohibit interstate incorporated organisations from holding or

receiving campaign funds for these purposes. There are concerns that interstate organisations can seek to influence the outcome of local government elections; however, as they are not incorporated under Queensland legislation they will not be subjected to similar requirements as, say, the local ratepayer association because it is an association incorporated in Queensland.

It is important to point out that the Local Government Electoral Act 2011 regulates these issues to an extent by placing obligations on both the donor and the candidate during the disclosure period for the relevant election. Any donations made by a donor and received by a candidate in an election, above the reportable threshold, are required to be disclosed in accordance with the Local Government Act. In circumstances where the donor is not present in Queensland, there is still an obligation on the candidate to record the gift or donation and keep relevant particulars and a prohibition on accepting anonymous donations.

I would be interested, though, in what steps the government might take to ensure incorporated associations—unions or other incorporated groups—outside of Queensland comply with the spirit of the amendments that clarify what incorporated associations in Queensland are prohibited from doing. We live in a global society. There are things like Facebook run funding campaigns. What will happen to ensure those outside of Queensland comply with the spirit of what is being put forward in this legislation?

The LNP members of the committee raised concerns on behalf of the self-funded local government candidates and asked why a self-funded candidate who is a member of a political party and who may—and some do—have borrowed funds to fund their campaign would have to provide any unspent funds back to a political party. Many local governments in my area do not receive gifts or donations; they simply self-fund. That is how they fund their election campaigns. At the hearing, Di McFarlane, Executive Director of Corruption at the Crime and Corruption Commission, advised the committee—

The CCC is not aware of the genesis of the provision to allow candidates to provide unspent funds to a political party. It may be that the proposal may have unintended consequences which have not yet been considered. The CCC, however, considers that such a proposal may be appropriate where a candidate has been endorsed by a political party to contest the election.

It does seem reasonable that if a political party has formally endorsed a candidate and therefore enabled that candidate to use the party's brand or franchise, or whatever you want to refer to it as, in a local government campaign then the political party does have some buy-in to those unutilised or unspent funds, especially if it is the brand that may have helped to raise some of those funds. However, this legislation seems to make a massive overreach by referring to members of political parties instead of candidates endorsed by political parties.

At the public hearing the committee sought clarification from the departmental staff on this matter. It was made very clear that the legislation extends to political party members. They could be on all sides of the House—not just conservative or Labor but also members of minor or interstate political parties that are not registered in Queensland. The department were very clear in their explanation to the committee. They said—

The provision in the bill says 'a member of a political party' and it says 'the remaining amounts or part of the remaining amounts'.

It is quite specific that the bill refers to members of political parties. It is certainly an overreach to single out those candidates who are members of political parties. What about those candidates who might be union members and those unions are affiliated with political parties? What about members of activist groups interstate? Why treat members of political parties—on both sides of the House—differently? Surely if it is good enough for political parties it should be good enough for union members and activist groups as well. There is a very interesting distinction being made between members of political parties and those who are endorsed candidates. It is a very unusual distinction to draw in legislation.

Currently the Electoral Commission of Queensland may charge a local government for indirect costs associated with the conduct of local government elections. That has been a somewhat contentious issue for some years. Local governments tend to raise with me issues about what they see money being expended on on some occasions. The committee was advised that the amendment is merely to clarify the continuing arrangement. Submissions to the committee did, however, raise concerns that the ECQ should provide a fixed cost estimate—rather than what has recently occurred, where local governments had to make a guesstimate on the cost of the election which included a potential refund or subsidy for the inclusion of the question relating to four-year terms. That will not happen all the time because we will not have referendums all the time, but there needs to be a better process for local governments so they can budget appropriately.

The government should ensure that ECQ is transparent in the costs it incurs for local government elections and that local governments are not unfairly burdened by cross-subsidisation of the other activities that ECQ may take. There has also been a series of court cases and court decisions in which

there have been a number of concerns raised about the relationship between town planning, building rules and the respective roles of councils and private certifiers. There have been particular concerns that the planning provisions relating to character housing may have been undermined by uncertainty in this area. There has been a series of court decisions and the cases seek generally to have a sound approach in identifying the relative responsibilities of certifiers and councils in assessing building work in a way that allows each to effectively address their respective interests.

I note that there has been a number of amendments to this legislation in this regard and I look forward to hearing those amendments in detail. However, I think it is disappointing, as a committee, that those amendments were not brought forward much earlier. This is extremely complex and there is a lot of process involved in this area. I do not think we are doing justice to the amendments and I do not think we are doing justice to the amendments that were tabled in the House today if we do not allow industry organisations the opportunity to scrutinise in full and to question in full the information that is put forward before them. It is a particularly serious matter because the Housing Industry Association raised a number of concerns at a very late stage. At that time the Housing Industry Association said that the concerns that it had could potentially affect tens of thousands of building development applications every year. When we have a situation where the implications are that serious, we really do need to have some strong rigour and the opportunity for industry organisations to go through those amendments and be very careful and very sure about the direction that things are heading in.

It is a complex area, and I think the member for Mansfield alluded to that as well. We should not deal with this matter in an ad hoc manner. It is by far too serious and too complex. I think the industry organisations should have that opportunity for scrutiny. Perhaps the minister may add some further comments in her summing-up around that issue. If she could make it simple for the House, I look forward to—

Ms Trad: You just said they were complex; now you want me to simplify them. Make up your mind!

Ms LEAHY: You are the minister. They are complex. You have to make them simple so people can understand them or, otherwise, put them out for scrutiny.

Ms Trad: I did: my second reading speech!

Ms LEAHY: Put them out for scrutiny much earlier so that the industry organisations can actually work their way through them. The opposition, as indicated, will support the majority of the legislation. I commend the bill to the House.