




Speech By
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MEMBER FOR JORDAN

Record of Proceedings, 20 March 2018

LOCAL GOVERNMENT LEGISLATION (VALIDATION OF RATES AND CHARGES) AMENDMENT BILL

 **Mrs MULLEN** (Jordan—ALP) (12.38 pm): I am pleased to rise to speak in support of the Local Government Legislation (Validation of Rates and Charges) Amendment Bill 2018. The objective of this bill is to amend the City of Brisbane Act 2010 and the Local Government Act 2009 to validate rates and charges made and levied or to be levied by a local government for a financial year up to and including the financial year ending 30 June 2018 without an express resolution of the local government's budget meetings for that financial year. The bill also applies these validating provisions under all the repealed local government acts as well.

We find ourselves in a curious situation, which was covered in the case of Linville Holdings Pty Ltd v Fraser Coast Regional Council. This case centred on whether the council had followed the proper process under the act to adopt its rates and charges for the 2014-15, 2015-16 and 2016-17 financial years. The case alluded to the point that, if the council had not followed the proper process, then what were the legal consequences of the council's failure.

The Local Government Act 2009 is clear: local governments are required to adopt rates and charges by resolution at the local government's budget meeting each year. In this situation it would seem that the council had adopted a budget each year at its budget meeting, which included the rates and charges to be levied each year within the budget documents. However, the council did not expressly adopt the rates and charges through a specific resolution; they were simply included as part of the general package of documents adopted by the council.

In considering the relevant requirements under the act, including section 94(2), the court found that it was not sufficient to include the rates and charges as part of the general budget documents and that the council should have expressly and separately adopted the rates and charges to be levied. The court also considered whether, therefore, this noncompliance invalidated the rates and charges. The court found that, as a result of noncompliance with the requirements under the act, the rates and charges were, indeed, invalid. I am talking about three financial years of rates and charges imposed by the Fraser Coast Regional Council that were found to be invalid. Clearly, that was a situation that needed to be addressed and it would have sent a shiver up the spine of many council mayors and CEOs across Queensland.

Rates and charges are a major source of funding for local governments. The court's decision has had significant implications for both the Fraser Coast Regional Council and any other local governments that may have made similar errors in the adoption of their rates and charges. It would seem that there are a number of local governments in Queensland that may have constructed their resolutions with deficiencies similar to those outlined in the court's decision and may be affected if similar cases are brought to courts.

For many councils, rates, levies, fees and charges are their primary source of revenue outside Queensland and Australian government grant funding. In 2015-16, Queensland's 77 councils generated in excess of \$5.9 billion in revenue in rates and levies, making up approximately 52 per cent of their total revenue. This is also an area where inequitable or insufficient rating practices can lead to community disharmony and financially unsustainable councils, which are overly reliant on unpredictable grant funding or inappropriate borrowings.

It is true that rates and charges are one of the few financial levers that councils can use to address financial sustainability. With the population in Queensland growing, particularly in the south-east corner, councils will continue to face the challenge of rising service demand and the resultant pressure to increase their reliance on own-source revenue such as rates.

Currently, the Queensland Audit Office is undertaking a performance audit on the management of local government rates and charges and is due to report in April-May. In its audit strategy, the Queensland Audit Office indicated that council rates are one of eight indicators in the nationally consistent local government financial sustainability framework. It indicates that rate setting is closely linked to a council's financial forecasting and budgeting processes and asset management strategies.

Previous reports by the Queensland Audit Office have presented case studies that illustrate the effect that poor asset data and inaccurate expenditure forecasting can have on setting rates. Given the importance that rates have on a council's financial sustainability, it is absolutely vital that we resolve the issue of the validity of rates and charges as quickly as possible to ensure that local governments can go forward with certainty in relation to their rating regime.

In a previous life I had the opportunity to work for two Queensland local government ministers and saw firsthand how own-source revenue such as rates and charges is becoming increasingly important. I remember one year in the early 2000s when the federal government—under then minister Wilson Tuckey, so we all know where this is heading—got into a nasty dispute with a number of states over a review of the methodology that was used to pay the federal government's financial assistance grants to councils. It was clear that the proposed methodology would be detrimental to Queensland and the state Labor government at the time was refusing to accept this, which is a bit of déjà vu given the recent GST debate.

This dispute ran for months. To apply additional pressure the federal government stopped paying grants to the councils until the issue was resolved. I remember receiving frantic calls from council mayors, particularly those in rural areas, effectively telling me that, without their financial assistance grants, they would not be able to continue paying salaries and would need to close the door on the council. As we know, for many rural and regional towns local government is the main employer in the area, so we were looking at whole towns facing crippling unemployment.

Thankfully, in the end sanity prevailed and an amicable agreement was reached with the federal government. In fact, Wilson Tuckey blinked and the federal grants flowed to the local governments. That made me realise how reliant some councils were on government grants. With some councils having lower rate bases, it would be difficult to see this situation changing. That is why it is imperative that the question about the validity of rates and charges be settled—to ensure that councils have certainty in relation to their revenue base.

The bill declares that anything done, or to be done, in relation to the rate or charge is valid as it would have been or would be if the local government had decided to levy the rate or charge by resolution at the local government's budget meeting for the financial year under the City of Brisbane Act 2010, the repealed City of Brisbane Act 1924, the Local Government Act 2009, the repealed Local Government Act 1993, or the repealed Local Government Act 1936.

The proposed amendments will operate retrospectively. I know that retrospectivity is not something that the Queensland parliament takes lightly but, without these amendments, local governments in Queensland, which may have constructed their resolutions in a way that have deficiencies similar to those outlined in the court's decision on the Fraser Coast Regional Council, face a real risk of legal action for the recovery of rates and charges that have been paid by ratepayers. This situation has the potential to have impacts on a council's financial liquidity and could require the use of ratepayers' funds to defend such cases. These amendments have been progressed as quickly as possible to provide financial surety to local governments and, importantly, certainty to ratepayers. I commend the bill to the House.