




Speech By  
**Ray Stevens**

**MEMBER FOR MERMAID BEACH**

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Record of Proceedings, 20 March 2018

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

 **Mr STEVENS** (Mermaid Beach—LNP) (11.57 am): I rise to speak to the Local Government Legislation (Validation of Rates and Charges) Amendment Bill 2018. This bill seeks to address the issues posed by a Queensland Supreme Court judgement made on 6 November 2017 which found that the Fraser Coast Regional Council, in the area of Hervey Bay represented greatly by the member for Hervey Bay in this House, Mr Ted Sorensen, had invalidly levied rates within its area for the financial years ending June 2015, June 2016 and June 2017 while the Palaszczuk government was governing Queensland and in charge of the department of local government.

Although the Fraser Coast Regional Council had met the legislative requirements for a resolution to adopt the budget, it did not fulfil a second legislative requirement to decide by resolution what rates and charges were to be levied. This failure resulted in the court's decision that the rates and charges made by the council during the period in question were invalid.

The bill was introduced into parliament by the Minister for Local Government, Minister for Racing—the wonderful racing industry—and Minister for Multicultural Affairs, the Hon. Stirling Hinchliffe, who expressed concern at the potential for other councils across Queensland to be affected by the Supreme Court's decision on the Fraser Coast Regional Council.

Perhaps one of the most obvious points of concern with this bill is its retrospectivity. As Mr Hinchliffe, the member for Sandgate, mentioned in his introductory speech, retrospective legislation is rarely put to this parliament. Creating a law and then applying it to the past is inconsistent with one of the most fundamental principles of the rule of law. When such a bill presents itself, it is our responsibility to carefully assess the reasons for its retrospectivity under fundamental legislative principles.

The department has stated that the reason for retrospectivity in this case is to provide financial surety to councils and ratepayers as it is possible that other councils who have similarly erred in constructing their resolutions will be found to have invalidly levied rates or charges. It is also of concern that some of our remote councils may be affected in this manner. As we know, these days the mayor is responsible under the Local Government Act for the presentation of the budget. However, in most cases for practical purposes, it is the CEO of those councils who is the financially responsible person who presents it to the mayor for presentation to and then adoption by the council. Whatever assistance can be given to councils should be embraced by the department of local government wherever possible.

At a public briefing on the bill on 5 March information was requested from the department regarding other councils, apart from the Fraser Coast Regional Council, that might be affected in this way. The Economics and Governance Committee was informed that the department had completed a desktop audit—whatever that is—and found at least 25 local governments may have levied their rates in precisely the same way as the Fraser Coast Regional Council. It is concerning that such a high

number of councils may not have met the requirements of the legislation. The purpose of a separate resolution for rates and charges is, as confirmed by the department, to make clear to ratepayers why the council is levying those rates and charges and to provide accountability and transparency.

The committee raised this during the briefing and discussed the obvious lack of clear methodology or mechanisms for compliance in this aspect of local government. The failure of at least 25 councils to complete these resolutions and the fact that they may be affected in the same way as the Fraser Coast Regional Council raises some serious questions. It is necessary to validate past rates and charges through this bill to ensure the continued effective operation of local government. However, it is imperative to consider what will be done to prevent such inappropriate and irresponsible errors in the future. I am very pleased that the minister has taken on board the erstwhile recommendation of the committee and has committed, in his opening remarks, to ensuring that his department delivers on an education process for local governments right across the state.

During a public briefing, departmental officers said they are working with the Local Government Association of Queensland, which has informed the committee that it supports the objectives of this bill, to ensure councils clearly understand that not one but two resolutions are required: one for the budget and one to levy rates and charges. Specifically, it was indicated that the department and the Local Government Association are working to develop template budgets and resolutions for councils as well as a ratings master class—the new reality TV show!—on a date to be confirmed in April or May in efforts to ensure clarity on best practice across local government. Stay tuned with viewer interest!

Though it is ultimately the responsibility of the mayor to present and sign off on the budget, as I mentioned earlier, it was agreed during the briefing that the CEO of the council is instrumental in providing the mayor with operational knowledge, assistance and guidance. It was, therefore, raised that particular focus needs to be devoted to educating chief executive officers of councils on the correct operational procedures under the state act.

Finally, in the briefing on 5 March the question was asked whether this bill covers all charges that may have been levied—I think it may have been by my good self if I remember correctly—specifically, special area rates. On the Gold Coast, for instance, which I am particularly familiar with, there are many beneficial area rates and charges for other matters that council levies. Concerns were raised that if legislation did not cover all of the charges, such as the tourism charges, CBD redevelopment charges and local area charges, there would be a risk of demands being made to councils for refunds due to those charges being invalid.

The committee was advised in later correspondence by the department that the bill applies to general rates, special rates and charges, utility charges and separate rates and charges. Although it does cover these areas, we understand the proposed legislation only validates charges to the extent that they would have been valid if a resolution had been completed by the council. In other words, the bill does not validate any other issues that may exist with a rate or charge; it only seeks to fix deficiencies in terms of inadequate completion of a resolution for rates and charges.

I am hoping that the minister will be able to confirm that all other charges such as the beneficial rates charges, fire services and tourism charges, all those redevelopment charges for CBD areas et cetera are covered by this retrospective resolution. Obviously I do not believe that somewhere like the Gold Coast would be one of those 25 councils, but those 25 councils do need to have those charges confirmed.

In conclusion, the issues raised with this bill relate first and foremost to its retrospectivity and whether the possible effects on other councils across Queensland justify applying legislation to the past, which is a practice that goes against fundamental principles of law. In this case, the department has indicated that at least 25 councils may be affected should their levied rates and charges be found invalid in the absence of adequate resolutions. In the interests of preserving efficiency and financial surety in local government, the committee acknowledges the need for this legislation to apply to past rates and charges.

It is imperative, however, that the Department of Local Government, Racing and Multicultural Affairs puts procedures in place that ensure councils, particularly chiefs of staff or chief executives, are fully informed of best practice in terms of completing resolutions for the budget and for rates and charges. The plans in place for providing councils with template budgets and resolutions are a good start, as is the ratings master class planned for April or May. I am pleased that the minister has taken on board those commitments. I will certainly be pleased to support this bill in the House.