



Speech By  
**Hon. Stirling Hinchliffe**


**MEMBER FOR SANDGATE**

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Record of Proceedings, 15 February 2018

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

### **Introduction**

 **Hon. SJ HINCHLIFFE** (Sandgate—ALP) (Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs) (12.47 pm): I present a bill for an act to amend the City of Brisbane Act 2010 and the Local Government Act 2009 for particular purposes. I table the bill and the explanatory notes. I nominate the Economics and Governance Committee to consider the bill.

*Tabled paper:* Local Government Legislation (Validation of Rates and Charges) Amendment Bill 2018 [\[168\]](#).

*Tabled paper:* Local Government Legislation (Validation of Rates and Charges) Amendment Bill 2018, explanatory notes [\[169\]](#).

The bill being introduced today seeks to provide retrospective validity to rates and charges issued over a number of financial years by the Fraser Coast Regional Council, whilst also noting the potential for other councils across the state to be affected. Retrospective legislation is rarely put before this House and that is for a range of very good reasons. However, in this instance there is a clear and compelling case to take this step. A failure to do so could see local governments financially exposed and their sustainability threatened.

On 6 November 2017, the Supreme Court of Queensland delivered its judgement in the matter of *Linville Holdings Pty Ltd v Fraser Coast Regional Council*. The court declared that, for each of the financial years ending 30 June 2015, 30 June 2016 and 30 June 2017, the Fraser Coast Regional Council failed to validly make and levy rates and charges within its local government area. At its budget meeting for that year it did not decide by resolution what rates and charges were to be levied as required by section 94(2) of the Local Government Act 2009.

The Local Government Act section 107A requires a resolution to adopt the budget. This requirement was fulfilled by the Fraser Coast Regional Council for the relevant financial years. The budget was presented in a number of attachments, including a schedule of rates and charges and a revenue statement detailing rating categories and a description for each category. However, the council failed to make an express resolution to adopt rates and charges as required by section 94(2) of the Local Government Act.

The court found that a resolution to adopt a budget does not, on its own, satisfy the requirement for a resolution to decide what rates and charges are to be levied. Although the court's declaration applies to the Fraser Coast Regional Council, other local governments may have constructed their resolutions with similar deficiencies to those outlined in the court's decision. These local governments may therefore be similarly affected if similar declarations are made in relation to those local governments' rates and charges.

The bill amends the City of Brisbane Act and the Local Government Act 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 on 30 June 2018, without an express resolution at the local government's budget meeting for the financial year. The validating provisions apply to rates and charges made and levied under repealed local government legislation, comprising the City of Brisbane Act 1924, the Local Government Act 1993 and the Local Government Act 1936.

The bill also declares that anything done, or to be done, in relation to the rate or charge is as 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. Examples of things done or to be done include the bringing by the local government of proceedings against a person, the sale or acquisition of land by the local government, and the charging of interest on the rate or charge.

The amendments are aimed at providing clarity to local governments and to the communities they serve so that local governments can continue to function effectively and with financial certainty in providing essential services. The Palaszczuk government values and supports the role of councils in our community. To assist local governments with making future resolutions in line with legislative requirements, the government and my department will continue to work in partnership—as we have in relation to this legislation—with the Local Government Association of Queensland and with councils to provide advice through its website, bulletins and letters. I commend the bill to the House.

### **First Reading**

**Hon. SJ HINCHLIFFE** (Sandgate—ALP) (Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs) (12.52 pm): 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 Economics and Governance Committee**

**Madam DEPUTY SPEAKER** (Ms McMillan): Order! In accordance with standing order 131, the bill is now referred to the Economics and Governance Committee.