Speech By

Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 28 November 2019

ELECTORAL AND OTHER LEGISLATION (ACCOUNTABILITY, INTEGRITY AND OTHER MATTERS) AMENDMENT BILL

Message from Governor

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice) (11.47 am): I present a message from His Excellency the Governor.

Mr SPEAKER: The message from His Excellency recommends the Electoral and Other Legislation (Accountability, Integrity and Other Matters) 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 (ACCOUNTABILITY, INTEGRITY AND OTHER MATTERS) AMENDMENT BILL 2019

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 City of Brisbane Act 2010, the Electoral Act 1992, the Electoral Regulation 2013, the Integrity Act 2009, the Local Government Act 2009, the Local Government Electoral Act 2011, the Parliament of Queensland Act 2001 and the legislation mentioned in schedule 1 in relation to electoral funding and expenditure, and for other particular purposes

GOVERNOR

Date: 28 November 2019

Tabled paper: Message, dated 28 November 2019, from His Excellency the Governor recommending the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019 2177.

Introduction

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice) (11.47 am): I present a bill for an act to amend the City of Brisbane Act 2010, the Electoral Act 1992, the Electoral Regulation 2013, the Integrity Act 2009, the Local Government Act 2009, the Local Government Electoral Act 2011, the Parliament of Queensland Act 2001 and the legislation mentioned in schedule 1 in relation to electoral funding and expenditure, and for other particular purposes. I table the bill and the explanatory notes. I nominate the Economics and Governance Committee to consider the bill.

Tabled paper: Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019 2178.

Tabled paper: Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019, explanatory notes 2179.

I am exceptionally proud to introduce the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019. Before commencing my speech, I would like to thank my

hardworking department for all their work on this bill. This bill contains fundamental reforms to the financing of electoral campaigning in Queensland. These reforms will enhance the actual and perceived integrity and public accountability for state elections and support public confidence in state electoral processes and public institutions.

Queenslanders must be able to have confidence in our electoral system as a key feature of our democracy. The actual and perceived integrity of this system is significantly enhanced by no single person or entity being able to improperly influence those involved in electoral campaigning for state elections whether they be political parties, MPs, candidates or others engaged in campaigning to influence voting. Public confidence is also supported where those who do campaign in an election have a reasonable opportunity to communicate with voters but are precluded from drowning out the communication of others.

The bill will introduce caps on political donations and electoral expenditure by registered political parties and their associated entities, candidates and third parties that campaign. In addition, the dollar amount of public election funding per first preference vote will be increased and the threshold for entitlement will be decreased as part of this package of reforms which will reduce the reliance on private political donations to fund electoral expenditure. These changes will in turn reduce the scope for undue influence through private donations. The policy development funding pool will also be increased from $3 million to $6 million per annum and be made available to elected Independent members, making this funding more fair and equitable.

The bill imposes caps on donations to limit potential for improper influence by political donors. Registered political parties will only be permitted to accept $4,000 of political donations from a single donor over an entire parliamentary term. A single person or entity is permitted to donate up to $6,000 per parliamentary term to a candidate. Donations made to candidates of the same political party will of course be aggregated to prevent circumvention. That means that should a donor choose to donate to several candidates of the same party these collective donations cannot exceed the $6,000 cap. A donor is also permitted to donate $4,000 to third parties. Donors will not be permitted to make donations to more than six third-party campaigners. The donations caps will be indexed after each general election. The caps will apply to those political donations intended by donors to be used for state electoral purposes.

Electoral expenditure caps for state elections will also be introduced by the bill in order to level the playing field for electoral campaigning so that alternative voices are not drowned out. Electoral expenditure for the purposes of these caps are specific kinds of expenditure for the purpose of influencing voting at an election. Designing, producing, printing, broadcasting or publishing an advertisement or other election material, direct distribution costs for an advertisement and carrying out opinion polls or research will be captured. In respect of third parties engaged in electoral campaigning, relevant electoral expenditure will be captured where influencing voting in the election is the dominant purpose.

For an ordinary general election, the caps on electoral expenditure will apply for the 12 months to close of polls on polling day. For the 2020 ordinary general election, the expenditure caps will apply from 30 March 2020 to the end of polling. Registered political parties will be subject to a general electoral expenditure cap of $92,000 multiplied by the number of districts for which they have endorsed a candidate. They will also be subject to a cap of $92,000 within the general cap per electorate. Endorsed candidates will be subject to a cap of $58,000. Independent candidates will be subject to a cap of $87,000. Registered third parties will be subject to a general electoral expenditure cap of $1 million, with a cap of $87,000 applying to electoral expenditure per electorate. A third party who does not register with the Electoral Commission will be permitted to incur electoral expenditure of up to $1,000 within the capped expenditure period. The electoral expenditure caps will be indexed following each general election. These caps will place limits on the electoral campaign expenditure and therefore impact on the seeking, receiving and imparting of information related to an election. The limits imposed strike an appropriate balance and serve genuine public interests in levelling the playing field for elections and preventing undue influence, whether actual or perceived, of those seeking election, endorsing candidates for election or communicating to influence voting at an election.

The bill introduces a requirement for a dedicated state campaign account to be kept with a financial institution for registered political parties, candidates and those third parties registered with the ECQ. Political donations must be paid into these accounts and electoral expenditure must be paid out of them. Requirements about what can be paid into state campaign accounts for registered political parties and candidates will support the integrity of the donations caps. New registration requirements for third parties who incur electoral expenditure of $1,000 or more within the capped expenditure period for an election will enhance transparency for voters and assist the Electoral Commission’s compliance

activities. Voluntary registration with the Electoral Commission by third parties will also be available. Agents appointed pursuant to the provisions of the bill for an election participant will have an obligation to take all reasonable steps, as far as reasonably practicable, to ensure the election participant does not breach a cap or fail to comply with disclosure requirements.

The bill creates offences for knowingly breaching a cap or where a participant ought to have reasonably known that a cap would be exceeded. The Electoral Commission will also be empowered to recover amounts unlawfully received or twice the amount unlawfully expended as debts payable to the state. In addition, the meaning of 'gifts' under the Electoral Act which are relevant for disclosure, political donations and the prohibited donor ban relating to property developers will be expanded. Gifts will include sponsorship arrangements offered by registered political parties and transfers from federal and interstate branches or divisions of a political party. The treatment of loans will also be clarified to remove opportunities for circumvention of the relevant obligations under the act.

To complement the significant donations and expenditure cap reforms, the bill will increase the election funding rate provided per first preference vote received and the threshold for entitlement to election funding payments will also be lowered from six per cent of formal first preference votes received to four per cent. These increases to election funding will reduce the reliance on private funding sources, including to finance electoral campaigning, while ensuring that the public can continue to receive information communicated in election campaigns. These increases will apply from the general state election in October 2020. In addition, the policy development funding pool will be increased from $3 million to $6 million per financial year.

The bill will allow Independent members of the Legislative Assembly elected at a general election to receive part of this policy development funding pool in addition to registered political parties. Accordingly, the formulas to determine the entitlement of eligible registered political parties and Independent members will be adjusted to reflect this position. The new entitlements to and formulas for policy development payments will apply from the January 2021 payments. In addition, entitlement to policy development payments will be adjusted to take into account a registered political party's or Independent member's combined vote and seat ratio and be based on the most recent general election at the time of making the payment.

Our electoral laws will lead the country, but one area where we have lagged behind is in relation to signage on election day. Queenslanders are fed up with the arms race political parties and candidates engage in to set up the most signs and wrap every possible surface with bunting. The Palaszczuk government wants election day to be a more neutral environment and ensure that those seeking election are not crowded out from having voters aware of electoral choices when voting. On that basis, we will be adopting electoral signage laws similar to those currently in place in Victoria. A candidate or registered political party will be permitted to display no more than two signs that are no more than 600 millimetres by 900 millimetres within 100 metres of a polling centre entry. A necessary consequence of this amendment will be the removal of plastic wrap bunting in a restricted zone close to polling booths. Not only does plastic wrap bunting have the capacity to crowd out alternative political voices; it is also incredibly wasteful and environmentally damaging.

Opposition members interjected.

Mrs D'ATH: Unfortunately given what I am hearing from those opposite, already those on the opposite side would rather see all of that plastic bunting retained.

The Palaszczuk government is absolutely committed to the maintenance of integrity at both the state and local government level in Queensland. That is why when the Crime and Corruption Commission made recommendations about areas for improvement to ensure conflicts of interest are declared and to reduce the risks of intentional misconduct the Premier made an immediate public statement committing the government to accepting those recommendations. The amendments in this bill seek to address issues that were identified by the Crime and Corruption Commission in recommendations 3 and 4 of its media release dated 6 September 2019.

The bill will introduce two new offences applicable to cabinet ministers who behave dishonestly and with an intention to obtain a benefit for themselves or others or cause a detriment to others. These new offences will apply to ministers, reflecting the decision-making nature of cabinet and the higher obligations on ministers to uphold standards of integrity and to ensure there is public confidence in government. The bill amends the Integrity Act 2009 to create a criminal offence for a minister who, with intent to dishonestly gain a benefit for themselves or another person or cause detriment to another person, fails to disclose an interest that conflicts or may conflict with the minister's responsibilities. The bill also amends the Parliament of Queensland Act 2001 to create a new offence where a minister intentionally fails to comply with section 69B(1), (2) or (4) of that act with the intent to obtain a benefit for themselves or another person or cause detriment to another person.

The proposed new offences in the Integrity Act 2009 and the Parliament of Queensland Act 2001 seek to capture deliberate and intentional dishonesty by ministers where they intend to gain a benefit for themselves or another person or cause a detriment to another person. Each of the proposed new offences will have a maximum penalty of two years imprisonment, or 200 penalty units, and charges for both new offences will not be able to be laid without the consent of the Director of Public Prosecutions.

The bill also amends the City of Brisbane Act 2010, the Local Government Act 2009 and the Local Government Electoral Act 2011 for particular purposes. These amendments are a continuation of the Palaszczuk government's rolling reform agenda for the local government sector to improve transparency, integrity and consistency in the local government system and local government elections. They also build on the reforms already implemented by the Palaszczuk government.

In relation to the local government system and decision-making, the bill will amend the City of Brisbane Act 2010 and the Local Government Act 2009 in a number of key areas. We have listened to councils and the Local Government Association of Queensland and a key part of this bill is to further clarify and strengthen how councillors' conflicts of interest are managed. In particular, in response to feedback from councillors, the bill introduces a concept of a prescribed conflict of interest and a declarable conflict of interest outlining necessary procedures that apply when each is declared. These provisions will provide greater clarity to councillors to assist them in understanding what is a conflict of interest and what must then occur once such a conflict is identified. Similarly, the bill proposes amendments to address concerns about the number of local governments losing quorum on key issues where a majority of councillors declare a conflict of interest.

Crucially, the bill amends the acts to increase alignment with requirements at state government level so that Queenslanders have greater consistency in relation to the conflict of interest obligations of their elected representatives. As this government has previously made clear, where we can align requirements for state and local governments we will. This includes the introduction of a new offence that applies when a councillor dishonestly contravenes particular conflict of interest or register of interest requirements. If the contravention is done with intent to dishonestly obtain a benefit for the councillor or another person, or to dishonestly cause a detriment to another person, a maximum penalty of 200 penalty units, or two years imprisonment, will apply. This is consistent with the maximum penalties proposed for the similar dishonesty offence applying to cabinet ministers.

Further, this offence will be a serious integrity offence, meaning that, if a councillor is charged with the offence, they will be immediately suspended from office. On conviction they will automatically stop being a councillor and will be disqualified from holding that office for seven years. Similarly, for consistency the bill amends these acts to introduce new requirements relating to councillors' registers of interest to better align with the requirements applying to state members of parliament for statements of interest.

The bill amends the Local Government Act and the City of Brisbane Act to provide that the Brisbane City Council and other local governments to be prescribed by regulation may contract persons as councillor advisers to assist councillors in performing responsibilities under the respective acts. This amendment reflects a growing trend, particularly in larger local governments, for the appointment of political staff predominantly to assist mayors and to undertake a range of duties, including the management of the mayor's office, policy development, administrative support, media activities, event management and, in some cases, political activities.

It is understood that the appointment of such staff varies from local government to local government, with some engaged as local government employees and others as contractors. The bill will provide consistency and outlines a range of requirements regarding employment arrangements, functions and responsibilities, offences relating to misuse of information by advisers, and a code of conduct for advisers. Further, the bill provides that political staff be required to complete registers of interest consistent with the requirements for councillors.

The bill also amends these acts to provide that a councillor may direct local government employees who provide administrative support to the councillor in accordance with guidelines made by the chief executive officer. It is current practice for many local governments to provide administrative support to mayors and councillors which, in most cases, is provided by employees of the local government. The proposed guidelines must specify when a councillor may be provided with administrative support, how and when a councillor may give a direction to a local government employee providing administrative support to the councillor, and a requirement that a councillor may give a direction only if the direction relates directly to administrative support to be provided under the guidelines.

The bill amends the Local Government Act to provide further administrative arrangements in relation to the dissolution of a local government. The bill also provides that the minister may recommend that an interim administrator be appointed until the conclusion of the earlier of a fresh election of councillors or the next quadrennial elections, therefore negating the possibility of having to hold two elections in a short period of time if a local government is dissolved.

To limit the involvement of Brisbane City Council councillors in the appointment of employees and to provide for better alignment with the Local Government Act, the bill makes a number of amendments to the City of Brisbane Act. Currently, the councillors of Brisbane City Council are responsible for appointing all contract employees classified as senior executive service, which may include second or third tier managers. The bill provides that councillors will only appoint senior executive employees who report directly to the chief executive officer. The chief executive officer of the Brisbane City Council will be responsible for appointing all other employees, including managers who do not report directly to the chief executive officer.

Further, the bill ensures that the mayor may give a direction to only the chief executive officer or senior executive employees, as opposed to senior contract employees. Consistent with the Local Government Act, a direction by the mayor must not be inconsistent with a resolution or a document adopted by resolution of the council.

In relation to local government elections, this bill amends the Local Government Electoral Act 2011 to provide that, if a political party does not have an agent for a period, the executive committee of the party is responsible for the obligations of the agent under the act. The bill also includes minor technical amendments to the act.

This bill continues the government's rolling reform to increase transparency, integrity and accountability in the local government sector. The next quadrennial local government elections are only four months away and it is vitally important that all Queenslanders not only have councillors who truly reflect the diversity of the communities they represent but that those communities have complete faith in those they elect to represent them.

The Palaszczuk government is serious about electoral reform. That is why we have defended our electoral reform agenda in the Supreme Court, the Court of Appeal and the High Court. That is why we are introducing this bill. While the Fitzgerald reforms commenced 30 years ago—

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice) (12.11 pm), continuing: As I was stating, the Palaszczuk government is serious about electoral reform. That is why we have defended our electoral reform agenda in the Supreme Court, the Court of Appeal and the High Court. That is why we are introducing this bill. While the Fitzgerald reforms commenced 30 years ago, the project of ensuring the integrity of our democracy is an ongoing task and the Palaszczuk government proudly believes we are up to that task.

An opposition member interjected.

Mrs D'ATH: In 2007, 85.6 per cent of Australians were satisfied—maybe the member on the other side may want to listen to this—with the way democracy worked in Australia. In 2018 that figure was 40.5 per cent.

Mr Watts interjected.

Mr DEPUTY SPEAKER (Dr Robinson): The member for Toowoomba North will cease interjecting.

Mrs D'ATH: The 2019 Edelman Global Trust Index, which assesses the trust communities have in NGOs, business, government and the media, places Australians' trust in their institutions below the global average. In a score out of 100, Australia sits at a 48 per cent trust score. All of us in this parliament are not only politicians but custodians of a precious democracy. We cannot take it for granted. Instead, we need to progress reforms that strengthen our democracy and nurture our ability to participate in it. Our electoral reforms will create a more level playing field, stop the electoral arms race and ensure that everyone has the ability to have their say.

Mr Janetzki interjected.

Mr DEPUTY SPEAKER: The member for Toowoomba South will cease interjecting.

Mrs D'ATH: These changes lay down a challenge to all of us in this place. Undoubtedly the donation and expenditure caps will require behavioural change in the way that fundraising and campaigning activities are undertaken. We need to embrace that, rise to that challenge and opportunity, to ensure the integrity of our democracy. This legislation also lays down a challenge for members of the opposition. Queenslanders are sick and tired of the relentless negativity that often defines our politics.

Opposition members interjected.

Mr DEPUTY SPEAKER: Order! Those on my left will cease interjecting. The member for Toowoomba South is now warned under the standing orders.

Mrs D'ATH: This legislation serves as a significant opportunity to restore trust in our democracy. I do not expect that those opposite will agree with all the elements of this bill.

Mr Watts interjected.

Mr DEPUTY SPEAKER: The member for Toowoomba North is now warned under the standing orders.

Mrs D'ATH: I hope they decide to engage constructively with the Palaszczuk government and try to find some common ground rather than shout from the sidelines. I would like to thank the Premier for her strong leadership in this area. Indeed, going back to her days as leader of the opposition the Premier made it clear she would lead the country on issues of openness and transparency and that is exactly what the Premier has done. I also want to thank my colleague the Minister for Local Government for his cooperation in this very important reform and all of my caucus colleagues for backing significant reforms that need to occur and helping us lead the way nationally.

I also thank the many stakeholders and experts who have already engaged in discussion and consultation and I look forward to the work of the committee. I commend the bill to the House.

First Reading

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice) (12.15 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

Mr DEPUTY SPEAKER (Dr Robinson): In accordance with standing order 131, the bill is now referred to the Economics and Governance Committee.