




Speech By
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MEMBER FOR MACALISTER

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STATE PENALTIES ENFORCEMENT (MODERNISATION) AMENDMENT BILL

 **Mrs McMAHON** (Macalister—ALP) (12.45 pm): I rise to contribute to the State Penalties Enforcement (Modernisation) Amendment Bill. I honestly do not think I could muster as much hyperbole in a lifetime of speeches in this House as the member for Mermaid Beach could muster in just 10 minutes. The end is nigh apparently, according to the member for Mermaid Beach. I want to speak about the bill given that it is kind of what we are here for.

Mr Dick: Gee, you're old fashioned!

Mrs McMAHON: I know. Call me old fashioned, thank you, Treasurer. I will take that interjection. As a member of the committee that considered this bill, I thank all the members—some more so than others—the chair, secretariat, submitters and those who appeared at the public hearing. There are a number of objectives of this bill; however, in the time that I have I would like to focus on aspects relating to the management of SPER, its administrative framework and the management of aspects of its debt.

The State Penalties Enforcement Registry is a division of the Queensland Revenue Office and is responsible for the collection and enforcement of unpaid infringement notices, court ordered monetary penalties, offender debt recovery orders and offender levies. As an agency, SPER works with defaulted fines across a range of organisations such as Queensland Police, Queensland Transport, local governments, tolling companies, Queensland Rail, universities and some hospital authorities. Currently, infringement notices may only be served by persons who are authorised officers, being a person appointed by the chief executive of the Department of Transport and Main Roads or a police officer. For the information of members in the House, SPER debts are not always speeding tickets or tolls. As an example, as at March 2022 in Logan outstanding parking fines held by SPER were more than double tolling and speeding fines.

The first part of the bill that I want to talk about is the changes to administrative functions that lock in the changes that occurred as part of some machinery-of-government changes. In February 2022 administrative functions relating to the relevant offences were integrated into the Queensland Revenue Office. This means that as at 1 February Queensland Treasury was responsible for sending infringement notices and acting as an administrative authority for such offences other than distracted driving offences. Distracted driving offences are those such as mobile phone and seatbelt offences. They will come under Queensland Treasury from 30 November 2022. This means that Queensland Revenue Office officers were appointed as authorised officers for the purpose of serving infringement notices.

This bill gives legislative effect to the fine-serving and administrative arrangements currently in place. Ultimately the Queensland Revenue Office, which includes SPER, will become the agency for issuing and administering infringement notices and collecting fines for relevant offences; however, the Department of Transport and Main Roads and the Queensland Police Service will retain responsibility for prosecuting the relevant offences.

I note submitter concerns about the ability for discretion to be applied within the Queensland Revenue Office when it comes to personal circumstances of debtors; however, the role of SPER has never been to act as an arbiter of whether the fines were deserved or to hear appeals of such. Where

there is a complaint that the debtor is not responsible for the offences, SPER has always had the ability to refer the offences back to the issuing agencies to examine. This will be retained under these new arrangements. What SPER has done and will continue to do is work with debtors to find ways to make payment plans and other arrangements to pay off their SPER debt.

Another aspect of the bill that I will speak to is the reduced time frames within which defaulted infringement notices may sit with SPER. Currently, a person issued a fine by any agency generally has 28 days to pay that fine. After that 28-day period, the issuing agency has up to 12 months from the issuing date to register the defaulted fine with SPER to commence recovery action.

SPER reports that the sooner a debt is registered with them the greater the likelihood of debt recovery. Treasury advised that 61 per cent of debts referred to SPER are finalised within the first two months of them having them. They stated that any time the collection period goes beyond 60 days, the likelihood of collection diminishes rapidly. After 60 or so days probably about 60 per cent of fines have been paid. Over the next three years only another 20 per cent are paid.

It should be noted that whilst early consultation on this process flagged potential time frames for issuing authorities to register these debts, that is not articulated in this bill as consultation remains ongoing. I note the concerns of submitters such as the Moreton Bay Regional Council which uses a fine reminder notice system. This means that, after the original 28-day payment period is over, a reminder notice is sent to allow the defaulter a further opportunity to pay.

These councils were obviously concerned about the idea of having to register the defaulted fine at a prescribed earlier time which would be in the middle of their reminder period. They noted that for an issuing agency such as the council to register a fine with SPER, the issuing agency pays a registration fee of \$73.80 per fine. The concern was that such councils would rather allow more time and make arrangements for payment with their constituents rather than send the debt to SPER and pay the SPER registration fee. It should be noted, however, that whilst the issuing authority does pay the registration fee, when the debt is recovered by SPER that fee is returned to the issuing authority.

The third aspect of the bill that I will refer to in my contribution is the authorisation of body worn cameras by SPER enforcement officers. In conjunction with this, the bill also clarifies how SPER enforcement officers are appointed and how long such an appointment lasts for. With respect to the use of body worn cameras, the provision is in line with other agencies that use various enforcement powers in public. Whilst the majority of enforcement officers use their powers administratively, from time to time they are required to go into the field to undertake enforcement action such as seizure, immobilisation of the sale of vehicles. In any instance where such powers are used in a dynamic and potentially emotionally charged situation involving members of the public, the idea of body worn cameras provides a level of protection and transparency for both the enforcement officer and members of the public.

The fourth and final aspect of the bill that I will speak to is cost recovery for enforcement actions. Currently, when a vehicle is seized and sold SPER is responsible for the towing, storage and sale costs of the vehicle. When the vehicle is sold, the money from the sale of the vehicle is used to nullify the debt. The costs incurred by SPER are not paid out of the proceeds from the vehicle sale. Keep in mind when we talk about this that there are fewer than 40 enforcement actions that take place per year.

Enforcement costs will be articulated under the state penalty enforcement regulations to include work such as that done by locksmiths and costs associated with towing, the impounding of a vehicle, the storage and insurance of property seized and the sale of such property. The bill allows that should the sale of the property such as a vehicle exceed the debt outstanding, the enforcement costs are recovered from the sale price. Treasury advises that should the sale price not meet the enforcement costs, the cost will still be borne by the registry and not passed on to the debtor.

I have a very good knowledge of SPER and the old SPER system. I note that prior to SPER we had the warrant of commitment system. Anyone who failed to pay a fine was basically locked up for a period commensurate with the fine. That meant that at any given time we had dozens of people in watch houses for failing to pay parking fines. Failing to vote was often something that someone might be locked up for a couple of days for.

Whilst SPER has, and always has had, problems in terms of cost recovery, I look at the fact that previously the cost to the community of incarcerating people in our watch houses for days on end for not paying a parking fine was far greater. I know the overall figures are high, but I think we need to look at what we had previously, where we are now with SPER and where further iterations of amendment bills will go with SPER. At the end of the day, these are fines and people need to pay them, but do they deserve to be locked up in a watch house or jail purely because of their monetary difficulties? From a budget bottom line point of view, I know exactly what I prefer. I prefer a SPER debt managed by this state and not bodies in custody. I commend the bill to the House.