

ROYALTIES FOR REGIONS BILL 2009

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 5: Subsidiary accounts of Fund —

Debate was interrupted after the amendment moved by Ms A.J.G. MacTiernan had been partly considered.

Ms A.J.G. MacTIERNAN: I was quite surprised by the answer the minister gave about our amendment given before the break. Our amendment makes it a requirement that at the beginning of each budget year we be notified how much money has been allocated to each of the accounts—there may be up to five or more; we know there will be at least three—set up under the royalties for regions fund. This is critically important, because we need to understand exactly how the royalties for regions money is being spent. We need to understand, in the framing of the budget, whether some of this could be characterised as business-as-usual expenditure. We need to be able to look at the funds in those accounts in the context of the larger budget allocation. It is a pretty crucial issue.

The minister's response was that that requirement was already provided for in the legislation, but that is just complete nonsense. If the minister looks at clause 5(2), which he says already covers it, he will see that it quite clearly states that the Treasurer can determine how the money is to be allocated between those funds. We are not debating that; we know that is what the minister is saying. But our response is: it is great that the Treasurer makes his decision, but how do we, the Parliament, know what that decision is? How will we know what that decision is in a time frame that enables us to make an assessment about the effectiveness of the budget as a whole in allocating resources to regional communities? It cannot be done without listing all the moneys and the respective allocations that will go into each of those accounts. Will the minister explain to me how it is that he thinks that clause 5(2) provides the sort of information that Parliament requires? It does not require there to be a timely disclosure to the Parliament of the decision on how the moneys will be allocated.

Mr B.J. GRYLLS: As I said prior to the break, the government will not be accepting the amendment moved by the member for Armadale. We believe that clause 5(2) requires of and allows for the government to outline, in both the midyear review and the actual budget, the full allocation of all funds under royalties for regions. The member for Armadale is suggesting that at the next budget we will be leaving a big gap where the total of royalties was identified, and that there would be a big gap in the budget that did not have any allocation. We have not done that previously. We believe that clause 5(2) provides for what the opposition wants to happen, and we will not accept the amendment.

Ms A.J.G. MacTIERNAN: This is just nonsense. We are asking for notification of the respective allocations. The fund contains 25 per cent of the royalty value. Clause 5 states that that is to be allocated amongst a variety of funds. Will the minister explain to us when he expects the Parliament will know how those allocations have been made? What is his plan for disclosing to the public the allocations of money to the respective accounts?

Mr B.J. GRYLLS: The midyear review and the budget will detail every allocation of the royalties for regions program.

Ms A.J.G. MacTIERNAN: If that is what the minister says he will do, why will he not support this amendment? This amendment will make it a requirement to have the allocations listed. We want two things: we want a clarification —

Mr B.J. Grylls: You can ask me the same question multiple times; I won't answer the same question again.

Ms A.J.G. MacTIERNAN: The minister has not answered the question at all. We know that money for royalties for regions will go into a fund, and we know that it will presumably be disclosed in the budget. We want to know how all the money that is going into these various funds will be divided up. Is the minister saying that each budget will outline what money has been allocated to each of those funds for the coming year?

Mr B.J. Grylls: Yes.

Ms A.J.G. MacTIERNAN: Okay. If that is what the minister is proposing to do, why does he object to this amendment being put into the legislation?

Mr B.J. Grylls: Because it's not needed.

Ms A.J.G. MacTIERNAN: Why is it not needed? The minister has just said that he will do it anyway. Why is it not needed?

Mr B.S. WYATT: The member for Armadale raises a very good point about accountability for a significant allocation of funds. The minister previously said that the funds for the subsidiary accounts referred to in clause

5(1), including the subsidiary account referred to in clause 5(1)(d), are special purpose accounts for the purposes of the Financial Management Act 2006. The member for Armadale's proposed amendment states —

The sums to be allocated to each of the subsidiary funds nominated in subsection (1), including allocations under paragraph (d), are to be specified in the Budget for that year.

This is not, in itself, an extraordinarily outrageous amendment to propose. It simply outlines the importance of accountability for public allocations. It is worth noting, in light of the fact that it is a special purpose account as has already been confirmed by the minister, that the obligations outlined under the Financial Management Act 2006—specifically section 17 of that legislation—refers to special purpose statements and trust statements of special purpose accounts. These refer to Treasurer's instructions and for those statements to be provided to the Auditor General. This is not unusual; it takes place, and should take place, in every special purpose account. I will ask again the question to which the member for Armadale has unsuccessfully sought an answer from the minister. The minister's word that this will simply happen is not good enough for members of this place to accept. We are talking about an allocation of \$1 billion in public moneys by way of a special purpose account. My question is twofold: firstly, in light of the provisions of section 17 of the Financial Management Act, why will the minister not address this issue? Secondly, I note the comments made earlier by the member for Kwinana regarding clause 5(1)(d), which refers to "any other account determined by the Treasurer". The minister referred to some comments made by the member for Kwinana yesterday; unfortunately, I was paired and not part of the debate about Indigenous spending. The fact that paragraph (d) exists at all suggests that the minister has given some thought to other accounts that he anticipates may be required for the allocation of funds. Clause 5(1)(d) sets up a special purpose account that carries with it a suite and range of accountability mechanisms. I ask the minister if he can outline to the house other accounts that he anticipates may be required under clause 5(1)(d).

Mr B.J. GRYLLS: I thank the member for Victoria Park for his comments. Any special purpose account will be subject to the Financial Management Act, as he has pointed out. In common with everything else that is accountable to that act, it will be detailed in the budget as required. As I have said previously, the advice that I have received is that clause 5(2) as printed in the bill covers the intent of the amendment moved by the member for Armadale. The government will therefore not support the amendment.

Ms A.J.G. MacTIERNAN: We are not going to prolong this, but this is really ridiculous. The minister can read clause 5(2) for himself, regardless of advice, and see that it is all about the Treasurer making decisions. The new clause that the opposition wants to introduce is about the Treasurer and the minister telling us what they have decided. How can the minister come into this chamber and talk such arrant nonsense? It is a case of either stupidity or arrogance. The minister cannot possibly believe that a provision that says the Treasurer can allocate money is actually the same as a provision that says the Treasurer should tell the Parliament what moneys he has allocated. Can the minister really not see the difference?

The minister has slipped into a torpor; there is absolutely no point in continuing this debate. It is the height of either stupidity or arrogance to not even concede this point.

Mr B.S. WYATT: I note the points made by the member for Armadale. I do not propose to make any further comments, other than to say that clause 5(2) does not do what the amendment seeks to do. I know that we have not yet got to clause 9, but it is worth noting that clause 9 outlines how the funds are to be allocated. The three—possibly four or many more—accounts set up in clause 5 are supposed to receive moneys that will do a number of things: provide infrastructure and services, develop and broaden the economic base of regional Western Australia, and maximise job creation and improve career opportunities. There has to be an explanation made to the Parliament as to why those moneys are being allocated to each fund to achieve those three different outcomes. It is not an extraordinarily unreasonable request for the member for Armadale to make. The amendment she has moved would certainly give the Parliament a lot more clarity on this issue.

Before I sit down it is worth noting that the Royalties for Regions Bill, which provides for an enormous reallocation of public moneys, is a very slim document in respect of accountability requirements for monetary allocations of this size. The amendments proposed by the opposition—there are not many—go a long way towards addressing that deficiency in this legislation. I again make the point that the member for Armadale is simply seeking to make it clear to every member of Parliament, regional and metropolitan, that clause 5(2) does not do what the minister says it does. Clause 5(2) simply outlines the fact that the Treasurer and the minister might get together, have a chat and allocate moneys. It provides nothing whatsoever in the way of accountability and openness to the Parliament.

Amendment put and a division taken with the following result —

Ayes (25)

Ms L.L. Baker	Mr F.M. Logan	Ms M.M. Quirk	Mr P.B. Watson
Ms A.S. Carles	Mr A.J.G. MacTiernan	Mr E.S. Ripper	Mr M.P. Whitely
Mr A.J. Carpenter	Mr M. McGowan	Mrs M.H. Roberts	Mr B.S. Wyatt
Mr R.H. Cook	Mr M.P. Murray	Ms R. Saffioti	Mr D.A. Templeman (<i>Teller</i>)
Mr J.N. Hyde	Mr A.P. O’Gorman	Mr T.G. Stephens	
Mr W.J. Johnston	Mr P. Papalia	Mr C.J. Tallentire	
Mr J.C. Kobelke	Mr J.R. Quigley	Mr A.J. Waddell	

Noes (29)

Mr P. Abetz	Dr E. Constable	Dr G.G. Jacobs	Mr D.T. Redman
Mr F.A. Alban	Mr M.J. Cowper	Mr R.F. Johnson	Mr M.W. Sutherland
Mr C.J. Barnett	Mr J.H.D. Day	Mr A. Krsticevic	Mr T.K. Waldron
Mr I.C. Blayney	Mr J.M. Francis	Mr W.R. Marmion	Dr J.M. Woollard
Mr J.J.M. Bowler	Mr B.J. Grylls	Mr P.T. Miles	Mr A.J. Simpson (<i>Teller</i>)
Mr I.M. Britza	Dr K.D. Hames	Ms A.R. Mitchell	
Mr T.R. Buswell	Mrs L.M. Harvey	Dr M.D. Nahan	
Mr V.A. Catania	Mr A.P. Jacob	Mr C.C. Porter	

Pairs

Ms J.M. Freeman	Mr J.E. McGrath
Mrs C.A. Martin	Mr G.M. Castrilli

Amendment thus negatived.

Clause put and passed.

New clause 6 —

Mr P.B. WATSON: I move —

Page 4, after line 13 — To insert —

6. Country Local Government Fund

- (1) Each local authority wishing to apply for funding under the Country Local Government Fund must each year set out a strategic plan for the next four years for the provision of infrastructure and services by that authority. The format of the strategic plan will be established by regulation.
- (2) The strategic funds can only be allocated under the Country Local Government Fund to projects identified as part of a local authority’s strategic plan.
- (3) Priority will be given to funding where a local authority can demonstrate that it has worked with other local governments within their region to develop a coordinated plan for the provision of infrastructure or services for which funding is sought.
- (4) Any funding formula used for the fund must not discourage local authorities from engaging in a rationalization of boundaries or services.
- (5) The Minister for Local Government is to be provided with the opportunity to comment on all proposed allocations under this fund before they are made.

I have raised this issue with the minister previously. What I would like to see and what I am sure a lot of people in country areas would like to see is a proper process. As I have said, I fully support the country local government fund, but I am concerned about the way in which the moneys are going to local government. There must be a strategy whereby the local government says, “Can you tell us roughly what amounts will come out of the fund this year?”, just so that the money does not get wasted. As I have said, we got toilets and a footpath with money from the fund. Apparently the City of Albany asked for people to put in submissions, and it received about 200 submissions. The feedback that I got from some of the councillors was that they said, “Well, we won’t worry about all those. We’ll just get something that we need. We’re not putting in enough toilets and we’re not putting in enough footpaths. We’ll just get the money out and put it into that.” Therefore, I do not think the proper process was put in place. We have in the amendment a strategy for setting up a process for a local government—and for local governments around that local government. If they lumped that money together, they could probably get a very good project going that could help the whole region. However, with the way this is set up at the moment, I am concerned that it will be just a higgledy-piggledy approach. I know that some of the shires in the north had so much money that they did not know what to do with it.

Mr B.J. Grylls: Which ones?

Mr P.B. WATSON: I have just heard that some councils in the north had too much money and did not know what to do with it. I am just going on media reports. I am not sure. That was just one of the media reports that I saw. Therefore, I am not saying that that is right.

Mr P. Papalia: Some of them had trouble spending it.

Mr B.J. Grylls: Yes.

Mr P.B. WATSON: The government should understand that development commissions cannot do anything with the money that goes to them until they have a business plan. With local governments, the government can say, "Okay; here it is. Do what you like with it." This is money of the taxpayers of Western Australia. It is not the local governments' money; it is the taxpayers' money that is being given by the government to local governments. I know that the minister said in his speech last night that we can kick out local governments or councillors if they do not do the right thing. However, sometimes they are in office for four years, and a lot of money could go astray in those four years. In the same vein, if proper processes are not in place, a government could be kicked out in four years. I hope that the royalties for regions program succeeds; I really do. I am a person who lives in a regional area, and I am the local member for a region, and I really hope it succeeds. However, as the member for Willagee said last night, the government is setting itself up for a fall. There is just no transparency and no structure. It is similar to a big building that is being constructed. When we come in from the sides, there is nothing underneath, and when it goes, a lot of things happen. A lot of good people will go down with it. We have seen that happen with other things when the proper process has not been put in place.

We have been dealing with this bill for quite a while. The minister knows how I feel. I support the bill. However, I believe that we must have a better structure in place, especially for the local government fund. When we dealt with the last clause, I was disappointed that the minister was so scared about having transparency. It really worries me. I do not want to see the minister fail, but I think that through either arrogance or bad advice, if the minister does not put the proper processes in place, a very good project in regional areas will fail.

Mr P. PAPALIA: I am standing to support the member's amendment. In advance of the minister's response, I understand that this amendment possibly does not meet exactly what the minister might consider to be an appropriate amendment. If so, I urge the minister to consider applying a little more stringency to the process for distributing the moneys from this fund. I will not pursue the line that the member for Albany took in criticising some of the allocations in his area. That is his concern and that is his specific reason for bringing forward this amendment. However, my concerns relate to what I have come to learn. I am no expert. However, since taking on responsibility for the shadow portfolio of local government in September and focusing on it, I have become aware very quickly that there has been a reasonably significant amount of criticism of the local government sector over time, which has led to the minister's government undertaking a reform process. The process is based on the premise that a large number of councils, often through no fault of their own—as the minister is aware, resources and skilled personnel in the regions are often scarce—do not have the capacity to provide adequate strategic planning or things like asset registers and appropriate asset management plans that encompass an analysis of the cost of maintenance and replacement of assets over time. Specifically, in relation to this country local government fund, I am concerned, as I have been since day one, that we may actually be placing further burdens on some of these councils, inadvertently perhaps, through providing them with the opportunity to create an asset that on the face of it improves lifestyle and meets a demand. The minister has identified a gap in that local governments and local communities feel that they do not have the money to do some of those little projects that improve life in those remote regions. The concern I have is that with all the goodwill in the world, these local governments may in some cases be embarking on a course of action that creates a burden for themselves and for future generations through the necessity of having to maintain assets like swimming pools. There were reports of some 22 swimming pools being at least partially funded through his fund. Other assets include some of the houses being built by local government under this fund, rather than the other royalties for regions funds, and other things such as caravan parks. I think there are eight caravan parks.

Mr B.J. Grylls: I would be interested to hear your thoughts on the \$70 million Albany entertainment centre and the capacity of the local government to manage the ongoing operations of that decision.

Mr P. PAPALIA: I am familiar with the costs associated with entertainment centres, because people in the community of Rockingham have for years been quite envious of Mandurah's entertainment centre and have been told by successive governments that that is not a really great idea because they invariably incur costs that are beyond the community to sustain. That is an interesting response, but I am talking right now about this specific fund. I encourage the minister not to dismiss these arguments out of hand and consider, whether it be through this amendment or another change of some type, some more stringent specific guidelines within the legislation, not external to it, to ensure more scrutiny than is currently the case. Perhaps the minister is aware of something that I am not aware of about the screening that is being undertaken, but my perception of it is that in a lot of cases money is being used to create assets that over time may or may not be seen as assets; they may actually

become significant burdens for some of those communities. The government itself has identified that some of these councils are not necessarily sustainable in their current form.

Mr B.J. GRYLLS: I will start with a general comment about what the member is talking about. For my home town of Corrigin, the Corrigin oval and the Cyril Box pavilion are our Subiaco. The Corrigin swimming pool is our Beatty Park. We do not have the option in my home town of Corrigin to utilise Subiaco Oval or to get to Beatty Park and so forth. That is why those communities are so passionate about that infrastructure, and are determined to try to put it in place. The member is exactly right in saying that the ongoing maintenance of those projects is a real problem. However, it is not a problem only in regional Western Australia. I have an issue with the Leeming Recreation Centre, which I am sure the member is probably aware of. The local government wants to move the recreation centre into the private sector. There is the challenge with the new sports stadium that the former Premier spoke about last night. It basically requires the consolidated account to build it and to manage it, so that all taxpayers make that contribution.

The member may not agree, but we believe that the country local government fund is trying to provide a level of equity in the provision of those types of services, so we support it. The reason the country local government fund was the very first announcement under royalties for regions was that it was very important to me, the government and the local communities that are benefiting from it. The fact that the opposition has been very critical of it I see as a flaw in my commitment to see that this plan lasts into the future. I am desperate to come up with a way in which the opposition can see that the country local government fund is of some relevance and importance. I am aware that the opposition does not like the formula, and I would be very interested to see the member for Warnbro do the work and come back to me with a formula that he would support. The argument that the opposition has pushed in question time and at other times that I have undermined the system of the Western Australian Local Government Association report failed to identify the part of the WALGA report that the member for Warnbro has never mentioned; that is, saying that the formula that WALGA put forward was flawed and needed to be changed because it risked not being able to fund infrastructure based on the formula put forward in the plan. The work that the Department of Local Government did before we launched the scheme recognised that.

Ms A.J.G. MacTiernan: You're just making that up.

Mr B.J. GRYLLS: The member for Armadale needs to get that WALGA report out and read the second last page.

Ms A.J.G. MacTiernan: You have absolutely made up the fact that your change was in any way a response. It was not in response to that.

Mr B.J. GRYLLS: If the member wants to argue the point, she is welcome to do so, but that is why those changes were put in place. If the member is interested in a new formula, I would be happy for her to put that together and present it to me. If the member is interested in a new formula, she should do more than just criticise what the government has done; she should come up with a solution. She has not come up with a solution; she has only said that the opposition supports the WALGA formula, but I do not actually think that it does.

I turn now to the amendment of the member for Albany. I understand the sentiment expressed in the amendment, but it would not achieve the outcome that the member wants in Albany, because the amendment calls for strategic funds to be allocated under the country local government fund only to projects identified as part of a local authority's strategic plan. The member's concern is that, rather than infrastructure projects funded by Albany, he wanted the surf club funded.

Mr P.B. Watson: Can I just clarify that? That is what my constituents came to see me about. It is not my idea; it is from my constituents.

Mr B.J. GRYLLS: I would suggest that if the Albany City Council did not fund that project through this process, having this requirement in place would not lead to the member's constituents' wishes being met.

Mr P.B. WATSON: I would like to hear more from the minister.

Mr B.J. GRYLLS: In terms of the member's amendment, the government is not comfortable with embedding in the legislation the detail that he has put forward in this amendment. My commitment to the member is that, in an effort to see the country local government fund as a product more of the Parliament than of the government, I have instructed the people in charge of managing the country local government fund to weave into the guidelines the requirements the member has put forward in his amendment. We will do that over the course of the next month or so. Those guidelines will be published. While I cannot commit to giving the member exactly what he has asked for, I understand exactly the sentiment that he has expressed. I actually think that this strengthening already exists and that the checks and balances exist. The reporting framework and everything around it actually already exists but if the member thinks that this would make it better, we are happy to weave these points into

the guidelines. I will make it very clear that we have done that on the intent of the member for Albany to strengthen the country local government fund in an effort to ensure that the fund is more accountable. We will not accept the amendment, but we will look to incorporate the member's five points into the guidelines. I will be happy to talk directly to the member about those before we make the announcement.

Mr P. PAPALIA: It is quite reassuring to hear that the minister has undertaken to take that action in regard to the guidelines. I know that it is a long time since I first participated in this debate and referred to WALGA's submission to the minister. The point that I was concerned about is that, in WALGA's entire submission, which is very supportive, in those early days, and suggested how the minister should go about constructing this fund, the one real suggestion was that a requirement be included for compliance with a strategic management plan. That is WALGA's submission, not mine. In constructing the guidelines, and considering what the government will do, will the minister consider a specific requirement to establish a robust asset register? I have been told anecdotally that some 50 councils do not even have one. That is not a reflection on them. As we have often discussed, some local governments do not have the resources to keep an asset register. However, if an asset register were to be imposed on them, the fund could support that. The councils that cannot afford to keep an asset register cannot be asked to comply with a new asset register unless they are given adequate resources.

Mr B.J. GRYLLS: The member for Warnbro makes a fair point. Money from the fund can be allocated to improve the governance and capacity of the councils. I will ask that consideration be given to include an asset register. As I said, I believe that we have the funding to allow for that work to be undertaken as part of the guidelines, and I am happy to include that in those guidelines. Given that the member for Warnbro is the opposition spokesperson for local government, we might work together with the member for Albany on that.

Mr B.S. WYATT: It seems that there has been a reasonable amount of goodwill during the past 10 minutes of debate. I support the member for Albany's amendment. The minister has said that he wants to incorporate the sentiments of this amendment into the guidelines, and that he either has made or will make a number of ministerial instructions to that effect. However, the ministerial instructions are a key concern of the opposition. Legislation is only the skeleton of the law, and the regulations, guidelines and court decisions make up the vast body of the law. The opposition is concerned that too much of what is being set up is subject to ministerial instruction and ministerial discretion. The commonwealth government's Auditor-General expressed some concerns about the federal regional partnership program in his reports in the lead-up to the 2007 federal election. Problems arise when so much hangs on ministerial instruction because money is not allocated by an open, fair and accountable process. I predict that this fund will cause the minister the most problems. He has said that this is the fund in which he has the most interest.

I note the comments he made about his home town of Corrigin; I understand that. However, the member for Warnbro made the point a number of times in a previous debate about a former inquiry by the Public Accounts Committee of which I became a member not long after I was first elected—the member for Blackwood-Stirling was also a member of that committee—in which that committee outlined the problems that many local government authorities had regarding their strategic plans and the process by which they delivered and managed their assets. The Minister for Agriculture and Food thoroughly agreed with those comments at the time. I would have thought that the member for Albany's new clause sat extraordinarily well with the government's proposals to merge local government authorities. It highlights the point that priority would be given to funding when a local government authority could demonstrate that it had worked with other local governments within the region to develop a coordinated plan for the provision of infrastructure or services for which funding was sought. I note that the minister has said that he will incorporate that into the guidelines. However, I make the point that over time this fund will, I dare say, cause the minister the most heartache because money is allocated by a very nebulous process. Problems arise when ministerial instruction is the key process by which money is allocated. I do not expect the minister to respond to that. I just wanted to put on the record my concerns regarding his refusal to support the opposition's amendment, as proposed by the member for Albany.

New clause put and negatived.

Clause 6: Treasurer to make payments into Fund —

Ms A.J.G. MacTIERNAN: This is an important provision. Unfortunately, I note from the minister's performance to date that he either does not understand the legislation or is unwilling to answer difficult questions, so I am not sure whether we will get very far with this provision. This clause provides that each year an equivalent of 25 per cent of the value of royalties is to be placed into the principal fund, as opposed to a subsidiary fund. Clause 6(3) states —

The Treasurer is not to cause an amount to be credited under subsection (2) to the extent that to do so would be contrary to section 8.

Clause 8—future section 8—states that the fund will not exceed \$1 billion. I want the minister to explain how this will work. At the end of the financial year 2011-12, there might be \$400 million of accumulated money in the fund that was unable to be spent. Until the money is spent, it remains in the fund. It is not unreasonable to expect that in 2011-12 royalties could equal \$750 million. Not all of that \$750 million can be put into the fund because it already contains \$400 million. Only \$600 million of the \$750 million can be put into the fund. If two or three months later payouts from the fund are made and the fund falls below \$1 billion, I would have thought that under clause 6(2) there was an obligation to top up the fund. In that case, how will the government set out its budget at the beginning of the year? This is an extraordinary piece of legislation that will create some problems. We want the minister to provide some detail about how this will work. In my hypothetical example, only \$600 million can be put into the fund at the beginning of the financial year because of clause 8. However, two or three months later, if the fund falls below \$1 billion, does the legal requirement to address clause 6(2) kick in, which is to put into the fund 25 per cent of the royalties the state receives? It seems to me that the minister has created a problem because he has not specified when these things are to be calculated or what is to happen as the funds move around during the year. Does the minister understand my point?

Mr B.J. GRYLLS: The member does not need to be condescending with each question. I know that the member is superior to everyone else.

Ms A.J.G. MacTiernan: You have refused to answer any questions.

Mr B.J. GRYLLS: Treasury advice on the member for Armadale's question is that it is possible, at a subsequent date, to put more money into the fund. I would expect that that would occur at the midyear review. The reason for the cap is that when we first launched the fund, we put the cap in place. That was our election commitment and we are honouring that in the bill. It ensures that our intention is to not have a regular carryover of funding. If our inability to manage that fund results in a carryover, the fund would be the loser in that, because the money would not be allowed to be appropriated into it. However, I expect at the midyear review, should it be suitable, that it would be possible for that money to be brought into the fund to reflect that 25 per cent.

Ms A.J.G. MacTIERNAN: We are not arguing against the cap. We understand the reason for the cap. What we now want clarified is that there will be the capacity to do this at the midyear review. The real question is whether there is an obligation at the midyear review to do that, or whether there is an obligation at any time to do that, given that clause 6(2) states that the Treasurer shall cause the amount to be credited. It is therefore a direction. The practical problem that it then gives rise to is the way in which the budget will be cast at the beginning of the year. In the hypothetical case the budget would be cast by putting \$600 million into the fund, but then depending on the rate at which the fund was expended during the year, it may have to be topped up. I am concerned about how it then gets a proper allocation. I would have thought it would create a great deal of instability in the budget.

I seek some guidance on the minister saying that he might be able to top it up in the midyear review. Is the question not whether the minister has an obligation to do that? If there were, say, a \$200 million drawdown from the fund in the first quarter, clause 8 would no longer prevent the minister from meeting his obligation under clause 6(2). Would the minister then be legally required to meet that obligation under clause 6(2)? Does it invoke an absolute responsibility, not an option, to top up that fund?

Mr B.J. GRYLLS: As part of the midyear review every year the budget forecasts are recalibrated and government programs that are subject to the budget are recalibrated to reflect that.

Ms A.J.G. MacTiernan: But this is not the point. The point is: what is your obligation? Will you have an obligation to do that? Under clause 8, as soon as the amount falls below \$1 billion, it seems reasonable to argue that under clause 6(2) there is an automatic requirement to top that up.

Mr B.J. GRYLLS: The Treasurer will be the one making this allocation. The Treasurer, as in other parts of the bill, and the Minister for Regional Development—which at the moment is me—will work to cause the contents of this bill to become a reality. The \$1 billion cap stands. I think the \$1 billion cap is important. It does not allow for the build-up of a vast fund that is to be used —

Ms A.J.G. MacTiernan: That is not the argument. We are not arguing about the \$1 billion cap.

Mr B.J. GRYLLS: My reading of it and my understanding of it from my discussions with Treasury is that as soon as any money drops below the \$1 billion, there would not be a daily re-allocation in the accounts. That would be done at the midyear review as appropriate.

Ms A.J.G. MacTIERNAN: We all understand the midyear review process. This is legislation that seeks to prescribe what should happen. The normal midyear review in terms of allocation is at the discretion of the government. Here we have a legislative provision that prescribes that this 25 per cent will be given at a particular time, and it just says that it is 25 per cent. What we are trying to do is get some clarity. It may well be that the

midyear review is the appropriate time to do it, but what we want is some clarification as to whether the minister accepts that this provision that reads like an obligation is an obligation.

Mr B.J. GRYLLS: I believe that the Treasurer, as the minister responsible, the Minister for Regional Development and the cabinet would make that decision as part of the midyear review. I have said that on multiple occasions.

Mr B.S. Wyatt: I gather from what the minister is saying that the Treasurer's advance authorisation process would then allocate more money if it looked as though at the midyear review more money needed to be allocated in the scenario outlined by the member for Armadale; is that right?

Mr B.J. GRYLLS: I am sorry?

Mr B.S. WYATT: Just so I understand it, the scenario outlined by the member for Armadale was that come the midyear review, if it looked as though another \$100 million needed to be allocated to the account, that \$100 million would become part of the Treasurer's advance authorisation process.

Mr B.J. Grylls: I would expect so.

Mr B.S. WYATT: My question then flows to the flip side of what the member for Armadale just outlined. Clause 6(2) states —

In each financial year the Treasurer is to cause to be credited to the Fund an amount equal to 25% of the forecast royalty income for the financial year.

If the forecast royalty income is \$700 million in one year and then at the annual report of that financial year the conclusion is that 25 per cent is actually \$600 million, is there a payback obligation for that \$100 million?

Mr B.J. GRYLLS: The point the shadow Treasurer makes is something that we are dealing with right now. Currently there has been an allocation through the Treasurer's authorisation of a royalty amount.

Mr B.S. Wyatt: It is \$334 million.

Mr B.J. GRYLLS: No, this is for this year—\$619 million. At the midyear review we will move to reflect what we believe the updated version of that will be. Then we will move to reflect the fact that the royalties for regions fund is pitched at 25 per cent of the royalty flows. We do not expect to be spending more than that, and that will have to be reflected in the midyear review.

Mr B.S. WYATT: I seek some clarification. If at the end of the financial year, when the annual report is produced, the fund has been overpaid by \$100 million, will that \$100 million then effectively be debited to the account or will the \$100 million come off the allocation in the following financial year effectively as a penalty for the minister in the next financial year to deal with? I will let the minister deal with that question because others will follow on. Have I made myself clear in the question I am asking?

Mr B.J. GRYLLS: I think so. My understanding is that the money is allocated and goes into the fund at the budget as per the legislation. If at the midyear review we see that we have overshot the amount and the actual estimated royalties are less, which is what we are dealing with at the moment —

Mr B.S. Wyatt: Do you mean for the second half of the year?

Mr B.J. GRYLLS: That would be by negotiation between the Treasurer and me to get that reflection. My understanding is that Treasury cannot demand that the money comes back, because the money has already gone in. However, I think this provides good governance for this project and for what we believe is the sentiment of the bill. The Treasurer and I are discussing now how we would ensure that the money that is equal to the 25 per cent is the amount that is spent under the royalties for regions plan. We may need to do that administratively in other ways going forward, but that is the intention.

Mr B.S. Wyatt: The question is about the end of the financial year. The minister is talking about the midyear review, which is at the half year.

Mr B.J. GRYLLS: Yes.

Mr B.S. Wyatt: What happens if there is a \$100 million overshoot at the end of the financial year? Is that then credited to the next financial year? What happens with that?

Mr B.J. GRYLLS: The discussions that we have had are that administratively we would move to reflect that. Obviously, by creating the fund we have the money that goes in, but we do not envisage a situation in which we are \$300 million over the actual royalty allocation and we say, "Bad luck, that's been allocated so we're spending it anyway." My discussions with Treasury and the Treasurer are that administrative arrangements can be made to ensure that.

Clause put and passed.

Leave granted for clauses 7 to 32 to be considered together.

Clauses 7 to 32 —

Mr B.J. GRYLLS: There will be no government support for the amendments on the notice paper.

Ms A.J.G. MacTIERNAN: We will not move any amendments but we will talk to some of the issues around them.

I will make a couple of comments about the amendment we had proposed to clause 10. The intention of the amendment was to ensure that there would be a regular and timely mechanism for information to come before the Parliament. The amendment to clause 10 requires that the department twice a year provide to Parliament a document that sets out all the expenditure that has been approved and all moneys expended in the preceding six months from the fund and each of its subsidiary accounts. I would really like the minister to address the three different issues in this matter. What money will be allocated to each fund? We know what the global fund is—that will be set out in the budget—but we do not have any idea of the separate allocations. There does not appear to be any mechanism wherein we can actually find out what has been expended from those funds. Therefore, we do not know what the allocations are and there is no mechanism to know what has been approved and what has been expended. I would also like to know why the minister has a problem with our proposed amendment. There is nothing in this legislation that requires the minister to provide any information to Parliament on these three specific areas. Can the minister tell us how he proposes that we do our job in assessing the expenditure under the scheme?

Mr B.J. GRYLLS: The member for Armadale seeks to amend clause 10, which requires an annual report of the department to provide information about the fund, which I think is fairly standard. The member's amendment was for six-monthly reports to be provided to the Parliament. We believe that the sentiment of the member for Armadale in the information that she wishes to receive was outlined in the midyear review in December last year. The full allocation of funds was very clearly defined in the budget this year and we will continue to do just that. I am happy to take further advice from members opposite about how they view the reporting in both the midyear review and the annual budget and how that can be enhanced. That is a discussion that we can have. As well as that, the annual report of the department will be tabled as is normal for all departments.

Ms A.J.G. MacTIERNAN: Therefore, we will not know until probably three months after the end of any financial year what has been allocated and what has been spent under these funds. Is the minister saying that it will be three months after the end of the financial year before we will know what has happened in the previous financial year?

Mr B.J. GRYLLS: The midyear review and the previous budget will actually show that expenditure.

Mr B.S. WYATT: Clause 7 deals with the money credited to the fund. In light of the fact that money will be credited based on the forecast revenue and that that amount will be a significant sum of, say, \$700 million, and assuming, as has been the case in the past financial year, that the actual consolidated fund got down to a level whereby it does not have that amount of money in it, will the fund itself be liable for the cost of borrowings to effectively fund the operation of that clause?

Mr B.J. GRYLLS: My advice is that the fund would not be liable.

Clauses put and passed.

Title put and passed.