

Mr John Kobelke; Mr Martin Whitely; Ms Lisa Baker; Mr Andrew Waddell; Dr Graham Jacobs; Mr Mark McGowan; Mr Paul Papalia; Mr Chris Tallentire; Mr David Templeman; Speaker; Mr Fran Logan; Dr Kim Hames; Dr Janet Woollard; Acting Speaker

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## WASTE AVOIDANCE AND RESOURCE RECOVERY AMENDMENT BILL 2009

### *Second Reading*

Resumed from 19 August.

**MR J.C. KOBELKE (Balcatta)** [4.38 pm]: I can imagine members' dismay to see me standing! I commenced my speech on the Waste Avoidance and Resource Recovery Amendment Bill 2009 about four weeks ago and I think that members will remember how wonderful my contribution was and will want to stay to hear more today. When half way through a speech, it is difficult to take it up again some three weeks later; however, I will seek an extension, if I may, so that I can enter into all the issues.

[Member's time extended.]

**Mr J.C. KOBELKE:** The new tax that will be introduced by the Waste Avoidance and Resource Recovery Amendment Bill has some parallels with the matter that we were just debating. That is, the Barnett government has put a positive spin on something that, when we look at it, has nothing to do with the issue, but is simply about raising taxes. The new fishing licences are a tax to raise revenue to fund the fisheries department. The substance and the evidence say that it is not about preserving our vital fish stocks; it is simply about raising revenue.

Any suggestion by the minister or the government that the extra money collected by the Waste Avoidance and Resource Recovery Amendment Bill is to do with reducing waste or recovering waste is an absolute nonsense. This bill reduces the minimum amount guaranteed to go to the waste avoidance system. I repeat: the effect of this bill will be to reduce the guaranteed minimum amount of money that will be available. It does not increase the amount at all. Again, we see the Barnett government being true to form. It is about placing extra taxes on people rather than dealing with the substantive issues. The way in which we deal with our municipal waste and our waste from building sites that goes to landfill is important. The levy that was put in place, which this bill amends, was one element of efforts to reduce the amount of waste going into landfill; it was to be used to fund innovative ways to deal with that waste. Therefore, it is absolutely cynical for this government to somehow suggest that this bill is about dealing with that issue. I put it to the house that the bill has absolutely nothing to do with that; it is simply a new way of taxing people. As I will show, it reduces—I repeat, it reduces—the minimum guaranteed amount of money that is to go into the trust fund to help promote waste avoidance and waste recovery.

The explanatory memorandum indicates that clause 8, which amends section 80, provides —

... that the application of moneys held in the WARR account are to also fund the services and facilities which are necessary for the Waste Authority to perform its functions in that financial year.

It also states —

Previously, no specific provision had been made for these costs.

Those administrative costs were not paid for out of the levy of the trust fund but out of the general revenue, by whatever means. We now find that that can now be funded out of the levy. That is an example of money being taken out of the levy to pay for what was previously paid for out of the general revenue. That will leave less money in the trust fund to be used for waste avoidance and waste recovery. When we look at the proposal on the surface, we can see that it will impose a fourfold increase on families, which is a huge impost. The bill guarantees that 25 per cent of the fund will be used by the trust fund and that the rest of the fund will go to the department. Therefore, it looks like there will be no change. However, the amendment to the section that I have just read out says that money will be subtracted from that amount to pay for administration costs. The government is in fact reducing the minimum guaranteed amount. The minister can say that there is four times the amount and that some of that money will be used. That is like the government saying that its extra taxes and licence fees on fishermen will preserve our fish stocks. Clearly they will not. It is an absolute nonsense. We find another nonsense contained in the way the government is trying to sell the amending bill before the house. That is why members on this side are opposed to it. It does not address the major issues of waste avoidance and waste recovery and how we deal with the waste stream and the huge financial and environmental costs that are involved. This bill is a way of increasing the government's revenue by introducing a new tax and by reducing the minimum guaranteed amount to be spent on waste avoidance and waste recovery.

Whereas previously certain matters had to go to the Waste Authority for it to make recommendations to the minister, who would then approve any change to—particularly an increase in—the rate of the levy, the bill will give that power to the minister. The minister can now decree what the rate will be from time to time or from year to year. That is clear evidence that this bill is about turning a levy into a government tax rather than using it for

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what it was set up for, which was to provide a trust fund from which moneys could be used to promote the recycling of waste and the avoidance of waste and to try to improve the waste collection system. If the government were genuine about putting more money into this area—it can certainly make a case for it—it would need to weigh the impact of that on ordinary families. The Western Australian Local Government Association suggests that the impost is about an extra \$26 a year on ordinary householders. The government is hitting ordinary families with increases in electricity and water charges. Every way they turn they are hit with increased charges. Again, this bill is hitting ordinary families with increased charges. If the government were doing that in order to have a better waste collection recovery system, it could sell it to the people. It would be a hard sell, but it could do it. However, this government cannot sell this to the public as in any way an indication that it is taking seriously the issue of waste disposal. The bill makes it absolutely clear that this is simply a tax.

WALGA released a statement in May that states in part —

The Department of Environment and Conservation is set to reap an extra \$39 million as a result of the increases at the same time as being allocated \$33.3m less funding in the recent State Budget.

“The \$5.7m difference is 3% of the Department’s total budget appropriation which is exactly the same as the Treasurer’s efficiency target for all departments,” Cr Mitchell said.

“Rather than look at how it can reduce expenditure and find efficiencies, the Department seems to have decided it is easier to impose exorbitant fees and make the community pay for their 3% efficiency target.

They are not my words; they are from Councillor Mitchell, the president of WALGA, who is clearly a friend of the government. He is laying it on the line. He can see quite clearly that this bill is about increasing taxation and that it has nothing whatsoever to do with dealing with our waste stream, which is an important issue. That is what we see from this government. We see from this government smoke and mirrors and outright deception. I will not refer to fisheries, because you are in the chair, Madam Acting Speaker (Mrs L.M. Harvey). We can see time and again that the government says something must be done but what it does is totally different. It does not deal with the issue. That is what is happening with the Waste Avoidance and Resource Recovery Amendment Bill 2009. The government is putting this issue under the umbrella of dealing with our waste stream, of how we handle it, of how we seek to reduce the amount of waste and of how we can recover more waste from the waste stream. However, when we look at what the bill does, we can see that it simply imposes a tax on ordinary households. That is what the president of WALGA, Councillor Mitchell, has made clear in that statement.

Further on he says —

“It just seems to be a decision that has been made to meet a budget target rather than that of a properly thought through initiative that would have come with consultation with Local Government and industry.

“There was no consultation with Local Government over these latest increases. We found it in the details in the State Budget papers and then a week later received a letter from the Minister to inform us of the changes.”

What we see in this bill is also further evidence of a government that has lost control of its budget. This government, during the approximately 12 months that it has been in office, has seen recurrent expenditure grow by more than 20 per cent. Let us not worry about the global financial crisis and the impact that is having on us; the major budgetary problems of this state are of the government’s own making. The Liberal Party did a deal and formed an alliance with the National Party to get into government, and it has sold the state down the drain to do it. That is not to say that a lot of the money will not be used on good things, but this government has sold the state down the drain because it has totally lost control of its budget by letting expenditure run out of control. I repeat: the government must accept full responsibility for the large increase in expenditure during the financial year that has just finished. The government was in power for 10 months of that year, during which it had plenty of time to prepare a mini-budget, as was suggested by the opposition. When we put those two years together, with the 2009-10 budget this government has overseen increases in recurrent expenditure of over 20 per cent. Therefore, to try and deal with that problem the government has had to increase a range of taxes and charges. It has looked around to find where it could disguise those taxes, but tried to make it look as though it had some green credentials and a genuine interest in trying to avoid all that waste going into landfill and the pollution and costs that go with that. The government thought that it would put an extra tax into the landfill levy and use it for general revenue. Clearly, that is the effect of this bill because it removes from the Waste Authority the power to initiate any increase in the levy and gives that power to the minister. Instead of putting that money into the trust account, which can be used by the Waste Authority, it will now go into general revenue with a guarantee that only 25 per cent of that money will go to the Waste Authority. Someone looking at the levy in a simplistic way

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would say that the Waste Authority will still get the same amount of money: the government has increased the levy fourfold and is giving the authority 25 per cent of that, so that guarantees that the same amount of money will go to the Waste Authority. However, as I pointed out, such an assumption is wrong because the amending bill also provides that the administrative costs will be taken out of the levy, which could not happen before as it had to come in through general government revenue to pay for the administration of the levy and of the Waste Authority. Now this bill will provide for that to be paid out of the levy; therefore, the guaranteed minimum amount of money that will go into projects for the avoidance and the recovery of waste is less than it would be without this bill. That is one of the reasons the opposition will oppose this bill. As I said, it shows very clearly that this government is fishing around to increase taxes and charges wherever it can because it has lost control of the budget.

When members opposite came to government, they were inexperienced. In opposition, they were totally useless; they never did any work. They did not understand what it was like to be in government and to make administrative decisions. Members opposite were not prepared with a plan on how to govern, and because of that they found in their first year in government that they have blown the budget by increasing expenditure by over 20 per cent. The government now has to hit the mums and dads and families time after time to get some money to pay for its profligate expenditure and its total loss of control of expenditure in the budget. That is what this bill is about. It has nothing whatsoever to do with the very important issue of managing waste and trying to deter waste from going to landfill and funding alternative processing arrangements to avoid waste going to landfill and to create a much greater rate of recycling. We have seen this done in other places. The minister—I might be wrong—or the media was pointing out how high the equivalent levies are in New South Wales. New South Wales has a totally different cost structure. If the justification for increasing the levy is to do something about recovering and recycling waste, we need a guarantee that that is where the money will go. We do not have that guarantee. We find that the guarantee that is given of the minimum that can go to those programs is reduced, as I have already pointed out.

Members on this side totally oppose this extra tax grab from ordinary Western Australian families. It is nothing but that, and it is a great shame on this government because such an important area as managing and disposing of waste deserves to be treated more seriously. Instead, it is used as a vehicle by the government to increase its tax take. It is a shame on this government—as it has done here and with the fishing licence fee—that that is what it is about and that it has not dealt with these really important issues for the people of Western Australia.

**MR M.P. WHITELY (Bassendean)** [4.54 pm]: I will pick up where the member for Balcatta left off. Despite the misleading title of Waste Avoidance and Resource Recovery Amendment Bill 2009, this bill has very little to do with waste avoidance and is simply a measure to raise revenue. This bill is an example of bumper-sticker politics, whereby the government ties a charge to a title that seems to imply laudable goals but the legislation buried beneath the title does not go anywhere near achieving anything like that title would imply. This is simply an excuse for increased charges. We know that because there is a quadrupling in the charge for putrescible rubbish that will go to landfill from \$7 to \$28 for each household, which is an increase of 300 per cent, yet nothing in the bill quarantines that money for the initiatives that are designed to reduce the amount of putrescible waste going to landfill; in fact, all it has done is to provide an alternative source to the consolidated revenue fund to prop up the general funding of the agencies charged with looking after the environment. It may even have the perverse effect of encouraging extra rubbish going to landfill because it means that the revenue base of the Department of Environment and Conservation is now tied to the amount that is collected through this measure. Rather than having a market-based solution by which increased charges lead to an economic penalty and a fall in the amount of waste going into landfill, we will see a perverse situation whereby those who collect the charges have an economic incentive to have more waste go to landfill to protect their revenue stream so they can do their important work in other areas.

The proper funding of agencies charged with protecting the environment is a core function of government. It is not something that conservatives—the government—understand. Looking after the environment is a core function of government that needs to be funded appropriately, and using a disguised increase in charges that simply encourages DEC to do nothing to reduce landfill but in fact encourages extra landfill because its funding is tied to it has a negative effect. It is indicative of the approach taken by the government. It has talked about using charges as a market-based approach to dealing with problems, but it has failed to understand how markets work. It is impossible not to draw a parallel with the fishing charges for licences to fish out of a boat. That \$30 charge is not going to do anything but discourage very occasional boat fishermen, who cannot be bothered paying the amount—probably more because of the inconvenience rather than the financial penalty—from going through the process. They would be people, like me, who own a 10-foot tinnie. I keep it at the shack I have at Myalup Beach, and I will not use that tinnie to row 60 metres off the beach to try to catch the odd fish—that is, if

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I improve on my previous fishing record of catching the odd blowie! People like me will be discouraged from fishing, but we are not the ones who put pressure on the fishing stock. The people who pay the \$30 fee will want to get value for money. Similarly, with the charges on demersal species, the people who have a licence to take dhufish will say that because they have paid the fee, which is a flat rate, there is no value-added component to the fee and it does not change with the number of fish that they catch, so in order to get value for money, effectively, once they have paid the fixed cost, there is no marginal cost associated with how many fish they take. No incentive to conserve fish will be put in place for those who pay the fee. Human nature being what it is, the serious fishers will say, "I've been charged this fee, so I'm going to get value for money. They've put me to the inconvenience and cost of having to pay this fee, so I'm going to use it for all it's worth, because it will cost me nothing extra to catch more fish." The fisheries legislation demonstrates that the government has totally failed to understand how markets work. This is bumper-sticker politics. I say that because the government is using the throwaway line that it is doing this to protect fish species. That is why I was so disappointed when the member for Fremantle expressed her support for the fisheries changes. The member for Fremantle has totally failed to understand that all these changes will do is encourage the people who pay this licence fee to catch as many fish as they can. That is because people will not be charged more if they catch more fish. Therefore, far from being a conservation measure, this measure will encourage environmental vandalism and lead to a diminution of our fish stocks.

That is also the point that I am making about the landfill levy. The landfill levy also demonstrates that the government has totally failed to understand how markets work. There is no provision to charge people more if they send more waste to landfill. This levy is simply a fixed charge that people will be required to pay. Therefore, the agency that has the ultimate responsibility for reducing landfill will have an economic incentive to not reduce landfill, because it will be raising revenue from this levy. I therefore believe this legislation will have a very deleterious outcome.

Waste avoidance is a very important issue. It is certainly an issue that confronts me in my current electorate of Bassendean. A few days ago I had a meeting with the Eastern Metropolitan Regional Council. That six-member council represents the cities of Belmont, Bayswater and Swan, the Town of Bassendean, and the shires of Mundaring and Kalamunda. The major issue that we discussed at that meeting was the disposal of municipal solid waste. That six-member council is faced with the difficult decision of deciding what technology to use to manage that waste. I am encouraged by the approach that is being taken by the members of that regional council in working together on this problem. I say that because when I was the member for Roleystone, the City of Gosnells was facing a similar problem. However, it acted in a very ham-fisted way, because it tried to go it alone. The member for Kalgoorlie will remember sitting next to me many years ago when I discussed the solid waste to energy recycling plant—the SWERF—that was then on the books at the City of Gosnells. The SWERF was a pyrolysis or gasification plant that was proposed to be established in Kelvin Road between the suburbs of Kenwick and Maddington. The City of Gosnells was an enthusiastic supporter of this proposal, for a number of reasons. I think one of the main reasons was that it thought it could earn a revenue stream by burning this waste and using it to generate electricity. The problem was that in its enthusiasm to find a solution, it took some undue haste in its deliberations. I contrast that with the approach that is being taken by the EMRC. The EMRC is trying to find a solution to the problem of municipal solid waste by dealing in a cooperative way with its member councils. That can be contrasted with the go-it-alone effort that was made by the City of Gosnells in 2002 and 2003. The EMRC has the added advantage that the City of Swan and the shires of Mundaring and Kalamunda have large land areas. Therefore, the EMRC should be able to find an appropriate location for such a plant within its own boundaries. The City of Gosnells covers a relatively small geographical area, so it had limited opportunities to find an appropriate location for the plant. The City of Swan also has the Red Hill class 4 landfill site within its boundaries, and that obviously gives it the advantage of being able to place a significant buffer zone around the plant. That opportunity was also not afforded to the City of Gosnells.

I praise that approach that has been taken by the six member councils of the Eastern Metropolitan Regional Council. However, I do not think that is enough. I believe the state government has an obligation to take the driver's seat when it comes to dealing with the problem of municipal solid waste. I say that because a real strain is placed on the resources of individual councils, and even regional councils, in dealing with the many issues that arise when deciding which technologies are appropriate for treating this waste.

To demonstrate that point, I want to talk briefly about the history of the SWERF in Gosnells. The proponents of this process at the time were Brightstar Environmental and the City of Gosnells. At the front of the SWERF there is a facility that sorts the waste and puts it through the gasification process. To listen to the proponents of the SWERF one would think that it is a wonderful proved technology. This proposal originally came on the books at the time I was running for the then seat of Roleystone, so it was probably in early 2000. In the first few years

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after I was elected to represent the seat of Roleystone in February 2001, it was a very big issue for the City of Gosnells. It is fair to say that although there was a lot of enthusiasm for this project from Brightstar and the City of Gosnells, there was a lot of community opposition. When I first met with Brightstar, I thought that a lot of this opposition was nimbyism—people did not want this new technology in their backyard. Frankly, I thought also that the City of Gosnells would have done its proper due diligence on the financial and technical aspects of this plant. However, it turned out that it had not. In fact, the only SWERF that had ever been constructed anywhere in the world was in Wollongong in New South Wales. That plant in Wollongong—I am going on memory—had a final anticipated capacity of 130 000 tonnes of waste a year. That is what the plant was supposed to process when it was fully operational. That plant had been completely constructed, but it was actually being used as a pilot plant. The licence that had been granted by the New South Wales environmental authorities enabled the SWERF to operate only in a test capacity. I think that under the licence, the plant was allowed to operate at only 10 per cent of capacity; so it was not allowed to process more than about 13 000 tonnes of waste a year. The only other plant that had been built prior to the one in Wollongong was a pilot plant in Queensland. That plant operated purely on wood waste, which is quite different from the problems with municipal solid waste. It was a homogenous waste source; woodchips were being burnt. They argued from that small-scale pilot project that they could pyrolyse the waste, burn off the gases, produce commercial quantities of electricity and control the emissions going out of the stack. They also argued that they had a plant that was operating in Wollongong, New South Wales. As I said, when I initially encountered the problem, I thought there was an element of nimbyism associated with it, but when I dug into it, I changed my perspective completely. It was on the border of the electorate of my good friend the former member for Southern River, who is in our thoughts at the moment, and the former member for Thornlie. We all had a key interest in it. It was actually in my electorate, and I took the driver's seat on this process. I thought I had a reasonable attitude when I suggested to the proponents and to the City of Gosnells that they needed to allow the Wollongong plant to prove up the technology, and that the way to do that was by operating not at 10 per cent capacity, but at 100 per cent capacity. Only after the plant at Wollongong had been operating for a year at 100 per cent capacity, and had independently verified—a key issue—emissions data, could we trust this technology. Brightstar Environmental and the City of Gosnells got incredibly angry when I put this to them and they tried to characterise me as some sort of populist politician who was playing popular politics because I was in a marginal seat.

[Member's time extended.]

**Mr M.P. WHITELEY:** They saw me as some sort of environmental vandal in a sense because I was stopping this technology that they argued was sustainable technology and was a method for reducing greenhouse gas emissions and had all these wonderful benefits, including producing green electricity. However, I stood my ground and argued consistently that they needed to produce 12 months worth of independent emissions data to show that the technology worked. As it turned out, Brightstar Environmental never got beyond operating at about 5 000 or 6 000 tonnes MSW a year. It did not even reach the 10 per cent capacity. It could not do it because the basic problem with municipal solid waste streams, as I suggest is the case with many other technologies, is that it is not a homogenous input; it is a heterogeneous input with a mix of lots of material. It does not matter how well intentioned people are; there will always be a mix inside the municipal solid waste stream that contains material that creates problems. Brightstar Environmental could not control the emissions properly because it could not control what was going into the process. That seemed to be a problem it struggled to overcome. In the end there was a debate about the level of assessment. I cannot remember the actual levels at the time, but I think we argued for an ERMP, which was not the highest level but a high level of assessment, and that was granted on appeal by Hon Judy Edwards, the Minister for Heritage and the Environment at the time. That was characterised by Brightstar and the City of Gosnells as an unfair barrier to what was a very responsible way of going forward. The City of Gosnells got quite angry with me. I think Gosnells' enthusiasm for the proposal was basically because it could see it as a way of making money. Frankly, Brightstar gave a very good line by presenting a nice, glossy brochure and a wonderful video presentation. I think Brightstar brought over David Bellamy to say some glowing things about it even before the technology was proved up. They went for the celebrity environmentalist endorsement. But when push came to shove, the technology was not proved.

The point I am trying to make through all this is that the City of Gosnells lacked the expertise and had an economic incentive to buy into unproved technology. Because it was such a small council, it was prepared to site it on a thin industrial strip between Maddington and Kenwick within a two-kilometre radius of seven schools. The member for Gosnells will be familiar with what I am talking about. That Kelvin Road industrial strip is between two suburban areas—Maddington and Kenwick. It was an inappropriate location.

I am saying that, although it is better to see the Eastern Metropolitan Regional Council doing it in a way that involves all six councils, and even given that the EMRC has a much greater resource base than the City of Gosnells, I do not think it has the technical expertise to make highly technical decisions about what are

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appropriate technologies. People are open to having the wool pulled over their eyes if they do not have that basic level of skill. That level of skill can reside within state governments but not within local governments. That is why I think we need to see a much more interventionist approach from state governments whereby they are prepared to get involved in providing the expertise by which decisions can be made about which technology is used.

To go back to the history of the SWERF, as I said, the then Minister for Heritage and Environment agreed to a high level of assessment. The then Treasurer intervened, because Western Power agreed to buy electricity from Brightstar Environmental. I convinced the then Treasurer, the now Leader of the Opposition, that that was not appropriate because it was unproved technology. It was not unreasonable to ask for 12 months worth of emissions data from a commercially operating plant. As I said, the basic problem with municipal waste streams is that they are a mix. I had a look at some different facilities that were similar to the Bedminster system that was operating at Port Stephens, New South Wales, and the UR-3R facility in Sydney. I was familiar with a number of these technologies. My knowledge on this issue is probably four or five years old now, so I am not pretending that it is up to date—there may have been some marvellous technological breakthroughs since that time—but what struck me was that the problem they all had was that because the waste stream coming in could not be controlled, the quality of what was going out could not be controlled either, be that in the form of emissions going up the stack of a power plant, or be it an incineration plant, a pyrolysis plant, a gasification plant or a plant like the Bedminster plant, which produces compost. Because the quality of what was going in could not be controlled—there was not the capacity to sort appropriately—the quality of what was going out could not be controlled. Therefore, the end product was compost that was in some way polluted or compromised —

**Dr G.G. Jacobs:** Particularly with glass

**Mr M.P. WHITELEY:** — with fragments of glass or metal, so it could not be used for broadacre farming or whatever.

What struck me through that whole debate, from my experience with the issue of waste, was that it did not matter whether a one-bin, two-bin or three-bin system was used, even if 95 per cent of the population was incredibly environmentally responsible, people would always put things in the wrong bin. because some people are just lazy, some do not care, and some are not prepared to take the time to participate in the system. No matter how nearly pure the waste stream might be, it could never be totally pure. Therefore, the problem of—there is a term I would use if I were not in the Parliament —

**Mr P. Abetz:** Contamination.

**Mr M.P. WHITELEY:** The problem of contamination in and contamination out was something that none of the particular approaches to waste management seemed to be able to overcome. It also struck me that whilst there is a variation in waste streams all over the world, one thing that municipal solid waste streams have in common is that they all have a highly mixed input. There is not a homogenous input. They are all a mishmash.

Why are there no obvious leading technologies around the world? All the proponents seem to be proclaiming that they have the magic bullet and that they have the best system, be it the Bedminster facility, the UR-3R system, the SWERF or the previously proposed Global Olivine plant down at Kwinana. They all claim that they are wonderful and that something is wrong with the other technologies. Frankly, it is something that every major modern city has to deal with. So why are there not a few market leaders in the area of composting? Why are there not a few market leaders in the area of waste to energy? That indicates to me that they have not overcome that problem of contamination in and contamination out. I am suggesting that the job of dealing with waste streams is too big for local government. What the Eastern Metropolitan Region Council is trying to do is admirable and I support it, but I do not think it is enough. We need to have a more interventionist approach from state governments. We need to be moving towards less landfill. This bill purports to do that but, as I said before, it does not do it in the slightest.

One thing that we do have in Perth compared with European cities is that we have more space. We may be able to use systems other than the incineration, pyrolysis and gasification systems that are used in European cities. We may not need to go to that extreme because we do not necessarily have to get rid of 100 per cent of the waste stream because we do have some landfill options. Nonetheless, that is not an excuse to take inappropriate measures to decrease the amount of waste going to landfill. We need to be led by the state government because, frankly, local councils and even regional councils do not have the expertise to do that. When councils are up against multimillion-dollar corporations that have the line of pater and the capacity to fund their own research and testing, and when those councils do not have the capacity to match that in terms of expertise, it is very easy for them to have the wool pulled over their eyes as was the case with the City of Gosnells. People such as the former mayor, Pat Morris, and the former deputy mayor, Rod Croft, were making very complex technical

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decisions and they did not have the technical expertise to do that. They were backed up by their competent and capable local government employees but they did not have the expertise either and they were making incredibly complex decisions based on little more than an economic incentive to say yes and some snake oil tactics by Brightstar Environmental. When the former Treasurer, now Leader of the Opposition, stopped Western Power purchasing electricity from Brightstar, a lot of anger was expressed by Brightstar and the City of Gosnells. The history of the project vindicated me because within 12 months, the SWERF in Wollongong was shut down because Brightstar could not get it to work. From memory, the share price of Brightstar Environmental fell from about \$17 to \$2 and it lost \$150 million of market capitalisation. That was simply because that was its one project and it could not get it to work. The proof of the pudding was that ultimately it was not the nimbyism but sound environmentalism that prevented the project, because we asked that the technology be proved.

Having said all that, this legislation does nothing to address those challenges. It is simply a revenue-raising measure.

**MS L.L. BAKER (Maylands)** [5.25 pm]: I had not intended to speak on the Waste Avoidance and Resource Recovery Amendment Bill 2009 but in my electorate office last week some ratepayers came to talk to me about the amount of rubbish that was being dumped on their road verges. Added to that, the small amount of time that I had at home on the weekend was spent walking through the forest with a chaff bag picking up rubbish that had been dropped over the past few weeks. The abandonment of rubbish is very near and dear to my heart and my home and certainly to my electorate. There is absolutely every reason why we should be putting more money into waste avoidance and cleaning up some of the rubbish that gets left around our communities. This amendment bill is nothing but, to use the member for Mandurah's term, a dead cat. It is not about putting more money into waste avoidance and resource recovery. The bill's explanatory memorandum states that the bill provides for the levy to be paid into an operating account of the Department of Environment and Conservation. The bill also provides for the broadening of the purposes for which the levy imposed under the act can be applied. Those purposes include meeting the costs of administering the account, administration, enforcing the act and remuneration for members of the Waste Authority. Given that I cannot see members of the Waste Authority wandering up and down the roads of my electorate with rubbish bags picking up rubbish, I do not really think that collecting money and putting it towards this cause is justifiable in any sense of the word.

Probably like all members, I have had representation from local governments that are deeply concerned about what they see as another attempt by this state government to try to get them to collect taxes on its behalf—money that they do not see as being used for the causes for which they were originally intended. The original intention was to spend this money on waste management. It looks as though all it will do is fill a gap in the bureaucracy's budget. That is simply not okay.

The government's plan has already had an impact on ratepayers. I am sure that most of us have already received our rate bills for this year. Most people would have seen their rate bill increase. As many members know, that increase is directly related to this bill and its intention to increase the amount of rates that we all pay. There was certainly no consultation with local government about its role in collecting this tax on behalf of the government. I am also not aware of any consultation with members of the public about whether they think this is a good plan that the government has come up with. Not only will the money that has been collected on behalf of the state not do anything to improve waste avoidance and resource recovery, but also it is putting an additional cost on Western Australian families. I do not know how any members could have possibly missed the increase in costs that families in our state are facing. We are very aware of the increase in the cost of water, electricity and gas. We know very clearly what that will do to households in the state. We have also been tracking the cost of housing very carefully. We know that rents have increased, let alone the purchase price of houses. Whilst rental costs may have stabilised slightly in the past 12 months, they are still a whole lot higher than they were previously. Medical expenses have increased, and the costs of food and fuel have skyrocketed. When we add up the increased costs that the average family in our state is facing, it is around \$64 a week. The conservative estimate is that families will face a \$1 000 a year increase in fees and charges.

This government does not have any right to be lobbying an extra tax on Western Australian families through this backdoor bill. "Dead cat" might be one way of describing it. This government has chosen a dishonest method to remove funds from a department and then seek to get Western Australian families to fill the gap. I am extremely disappointed that this bill is being progressed in the way it is and I urge the government to reconsider it.

**MR A.J. WADDELL (Forrestfield)** [5.31 pm]: This is an extraordinary government. I recall the Butcher case, in which somebody was not found guilty and there was a huge public outcry. What was the government's solution? It was to make the penalties tougher, simply because the government believed that the people who were found not guilty needed tougher sentences. It made no sense. What is the government's solution to the possible extinction of fish stocks? It is to put a tax on recreational fishing. It is not to discourage fishing, because

**Extract from Hansard**

[ASSEMBLY - Tuesday, 8 September 2009]

p6484a-6517a

Mr John Kobelke; Mr Martin Whitely; Ms Lisa Baker; Mr Andrew Waddell; Dr Graham Jacobs; Mr Mark McGowan; Mr Paul Papalia; Mr Chris Tallentire; Mr David Templeman; Speaker; Mr Fran Logan; Dr Kim Hames; Dr Janet Woollard; Acting Speaker

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it wants to undertake some research into that area. What is this government's solution to waste management? It is to put another Liberal tax on it. This government will be known as the government whose solution to its problems is to impose tax increases. If it has a problem, it will put a tax on it—another Liberal tax and another Liberal tax. It is hurting ordinary working people. The Waste Avoidance and Resource Recovery Amendment Bill 2009 is another example of a Liberal tax that is a direct attack on working people.

Will this tax fix a problem? The only problem it is likely to fix is the burgeoning black hole in the Treasurer's budget. It will not fix waste management because the waste that this bill deals with is not the waste that we see lying around the streets and it is not the waste that we see in pristine wetlands; it is the waste that this government allows to perpetuate inside government and which it refuses to properly manage. It cannot manage the books so what does it do? It introduces another tax.

We ask why members of the public are cynical about government and politicians. It is because we cannot be honest. This is a dishonest tax. We call it a waste avoidance fee, but it allows the minister to set a fee and only 25 per cent of it will go back into the very question at hand. What will happen to the other 75 per cent? It will go to the Department of Environment and Conservation. Of course, we know what that means. It means that we give 75 per cent with the one hand and take it out of another budget with the other hand. It stays about the same. We are moving DEC to a user pays solution. I am sure members are familiar with a user pays solution.

What will happen when the user pays solution is introduced for the disposal of waste? I can tell the government that the users will take an alternative solution. They will start to dump their rubbish. Those members who were around this state in the 1970s would remember that Perth was not the clean city then that it is today. Garbage could be found everywhere. Successive governments and community groups made a huge effort to turn Perth into one of the cleanest cities that it is today. This bill will not help in that regard.

Between the busy roads and industrial sites in my electorate there is the occasional glimmer of nature. Some pristine wetlands can be found in my electorate. Brixton Street is one. A great group of people spend every weekend there that they can, cleaning, looking after plants and planting new plants. They are really preserving nature. Anybody who wanders through there would think how amazing and terrific it is, but then they see the discarded fridges and piles of rubbish that people have carelessly dumped. That is being done before this government has even introduced the tax outlined in this legislation. What will people do when it costs them more to get rid of their rubbish? People will be encouraged to dump their rubbish in these pristine areas. It is a ridiculous idea to think that we can discourage people from getting rid of their waste by charging them to do so. The government needs to put more money into waste avoidance; not taxing to fill the waste that is occurring within government. The government needs to be educating, transforming and letting people know how to dispose of their rubbish.

My house is full of electronic ruffraff and garbage. I collect the stuff. I am lucky that there is a disposal site not far from where I live. Every so often I go there to drop off old video recorders, computers and so forth. This material is broken down and is properly disposed of. Most people do not appreciate the damage that can be caused from toxic chemicals and heavy metals in electronic waste. As a result, they either dump electronic waste by the side of the road or dispose of it in a general waste bin or through some other mechanism. They do not understand that it is a very serious problem. How do we let them know about something like that? The answer is that we need to educate them. How do we educate them? We need to spend some money. We need to introduce programs and promotions that will encourage people to do that. How does the government proposed to deal with a problem like this? It is easy. It will be a typical Liberal solution. It will put a tax on it. It will tax the public to dispose of waste. That will not discourage consumption; it will encourage people to not do the right thing. I will do the right thing and most people will do the right thing, but the few who will not will be the problem.

An amount of \$24 per household does not sound like a lot of money. However, we have to consider that within the context of the other increases in fees and taxes that are coming on board. I cannot begin to remember the number of my constituents who, by the by, casually drop into conversation what has happened to their electricity bills. I tell them that I am afraid they will suffer more pain because there is more to come. I tell them that they would not want to go fishing, because that will cost them money; their rates are about to go up; and they will be hit in every corner. Why? Because we are in a global economic downturn. Members know about this global economic downturn in which Australia is not suffering because its economy is still growing. I do not know what the government's real excuse is, but people are sick of its excuses. They are sick of the fact that the government cannot properly manage an economy, that it is using every excuse it can to introduce new taxes, and that it continues to attack working families. We have had enough of it. We will not be supporting this bill and the government really should reconsider it.

Mr John Kobelke; Mr Martin Whitely; Ms Lisa Baker; Mr Andrew Waddell; Dr Graham Jacobs; Mr Mark McGowan; Mr Paul Papalia; Mr Chris Tallentire; Mr David Templeman; Speaker; Mr Fran Logan; Dr Kim Hames; Dr Janet Woollard; Acting Speaker

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**DR G.G. JACOBS (Eyre — Minister for Water)** [5.38 pm] — in reply: It is my great privilege to handle the Waste Avoidance and Resource Recovery Amendment Bill 2009 in the Legislative Assembly for the Minister for Environment.

**Mr D.A. Templeman:** It is still a dead cat.

**Dr G.G. JACOBS:** I have heard a lot of comment on this issue. I recall that there was a time on this side of the house when my colleagues were quite confused. Some members opposite suggested that I was given a ministry because I was a good bloke. It was very confusing for members on this side because they thought that somehow in recent times I, or one of my relatives, must have married into the Labor Party, because there must be an underlying, more sinister reason why I would get an accolade from the opposition. Then, of course, from the member for Mandurah there was a reference to the dead cat—the dead stinking cat. I suggest to the member for Mandurah that if we concentrated on recycling, which this bill is all about, there would be fewer rotting dead cats in landfill and therefore there would be less of a stink. He said that this bill is a dead cat and that it stinks. I believe the contrary is the case. We are talking about discouraging landfill. I listened to the member for Forrestfield just now. It is important to say that there needs to be a commercial incentive to discourage landfill. It is not about being irresponsible. It is about being responsible. I listened also to the member for Gosnells talk about the very high rates of landfill and the very low rates of recycling in Western Australia. He said that Western Australia has one of the highest rates of landfill. It is 1.7 tonnes per annum, per capita. He also said that Western Australia has the lowest rate of recycling. That is 811 kilograms per annum, per capita. Recognising that we have a very high rate of landfill and a very low rate of recycling, how can we kick-start the process? How will we give people in the recycling industry a commercial incentive to operate? How can we deal with the appalling problem of construction and demolition waste?

Construction and demolition waste makes up almost half of Western Australia's waste by weight. Western Australia has one of the lowest recycling rates, as I have said and as the member for Gosnells alluded to. Western Australia recycles less than 20 per cent of its construction and demolition waste, while New South Wales recycles 65 per cent. How can we address that issue? The commercial reality is that there must be a disincentive to put that type of waste into landfill and an incentive to recycle those materials. A commercial industry will be stimulated for the building and construction industry to not just stick its waste into a bin to be taken to landfill. The industry will decide that if it picks out the bricks and timber from the waste, it will save on the increased fees for landfill and will do something else with it. I recognise that the fee will increase. People in the industry will take out the waste and give it to a recycler. There will be a commercial stimulus for that industry to encourage people to take out the old bricks.

I know that the member for Warnbro wants to say something, but he has had a lot of time to speak and I do not have much time left. I will get to the statements that he made in his speech in a minute because I made some notes on it. I will address some of the issues raised by all the members who spoke in this debate. This legislation will encourage people in the building and construction industry to take out wood, bricks and other materials that can be recycled and used for paving or whatever. That is what this legislation is about.

The current landfill levies in WA are extremely low. For example, the inert levy, which is on construction and demolition waste, is about \$3 a square metre. That is about \$2 a tonne. The levy on putrescible waste, which is household waste, is about \$8 a tonne. They are very low rates compared with the equivalent levies in the other states. The member for Balcatta referred to the other states. While I am on that subject, it is important to give some account of the levies in the other jurisdictions. In the metropolitan region of New South Wales—essentially in Sydney—the levy is \$58.80 a tonne.

**Mr P. Papalia:** It is who gets the money that counts.

**Dr G.G. JACOBS:** I will get to that and to the member's other points in a minute. There is a distinction between the extended regulated area of \$52.40 and the regional regulated area of \$100. It is important to show how those moneys are assigned in New South Wales. Fifty per cent of that levy, which raises \$300 million, goes to the City and Country Environmental Restoration Program. That is 50 per cent, member for Warnbro. Guess where the other 50 per cent goes, member for Warnbro?

**Mr P. Papalia:** You're telling the story.

**Dr G.G. JACOBS:** In New South Wales, the other 50 per cent goes into consolidated revenue. It is important to note that in this debate. Fifty per cent goes to waste. I have heard a lot tonight and previously about the issue of hypothecation. That is the amount that will be apportioned to waste and to the other functions of the Department of Environment and Conservation. In South Australia, 50 per cent is given to the Waste Resources Fund and

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50 per cent goes to the South Australian Environmental Protection Authority. It hypothecates that money to general revenues within the environmental department.

**Mr P. Papalia** interjected.

**Dr G.G. JACOBS:** There will be time for the member for Warnbro to raise issues during the consideration in detail stage. I listened to him and have made notes on some of the points that he raised in his speech. If he likes, I will direct some of my comments to him.

The members for Warnbro and Balcatta said that the government did not consult during this process and that local government and Mr Mitchell from WALGA are extremely upset. It was said that in some councils the levy would be this amount and in other councils it would be another amount, and that it was all over the place. I have a point to make about the budgetary process and consultation. The member for Warnbro would know, because he was in government a short while ago, that the budgetary process is not up for consultation. As the Minister for Water, I did not have any budgetary consultations about my capital expenditure budget.

**Mr P. Papalia:** Did you look at *Hansard* and see what I actually said?

**Dr G.G. JACOBS:** The member knows that I did not have any budgetary consultations about my capital expenditure budget and that the capital expenditure for my portfolio was cut. That is why opposition members talk about the effects of the budgetary process and what had to happen in that process.

**Mr P. Papalia:** I was talking about consultation since you took government, not just the budget process.

**Mr W.J. Johnston** interjected.

**The SPEAKER:** Order, member for Cannington!

**Mr P. Papalia** interjected.

**The SPEAKER:** Order, member for Warnbro!

**Dr G.G. JACOBS:** That budgetary process was not up for consultation.

**Mr W.J. Johnston** interjected.

**Dr G.G. JACOBS:** The monetary functions of this bill are described in clause 8 and we will go through them during consideration in detail if members like.

Members opposite raised the issue of illegal dumping, describing how people with a truck full of waste would arrive at the waste facility only to think, "No, I am not going to pay the levy" and drive down the track to dump their load somewhere in the forest, or arrive at the gate of the waste facility only to decide that they would hoof it to the waste facility at Northam, or somewhere else that the levy does not apply, to dump the waste.

The quantum of the levy is so small that it would not warrant driving a truck to Northam to try to get around the system. The quantum of the levy for a half-tonne trailer will be about five bucks. Will the quantum of that levy be a disincentive or an incentive for someone to drive down the road and dump his load in the forest? The reason potential illegal dumping has not been addressed is that we have an act that defines it as littering, with a maximum fine of 1 000 bucks. Has anybody here heard of anybody being pinged under that arrangement? I have not. However, the minister has given an undertaking to put in place a review of the act to deal with the definition problem. The increased levy may encourage illegal dumping, but the minister has given an undertaking to put in place a new offence under the environmental protection act and to significantly increase the penalties for illegal dumping. Currently, the maximum fine for littering is \$1 000 and there are no emissions from dumping to support the offence of pollution under the EP act. Given the minister's undertaking, a new offence of illegal dumping will be established and the fines will be significantly increased. Fines of \$62 500 for an individual and \$125 000 for a body corporate will apply. They will be the maximum fines. A spectrum of levels will apply and the fine will depend on details such as the type of waste and where it was dumped.

The importance of this legislation in bringing an increased levy to increase recycling has, I think, been recognised by many members.

Let us consider the alternatives to landfill. Recycling, in particular, will decrease the proportion of waste going to landfill and increase the rate of construction and demolition waste recycling. There will be a significant expansion in the construction and demolition waste recycling industry. It will create jobs and produce other products as alternatives to using new raw materials. Essentially, we are talking about creating jobs and encouraging recycling as an alternative to creating new products using new raw materials—green credentials that we on this planet must recognise.

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Even after the levy increase proposed in this legislation, Western Australia's levy will not be the highest in Australia and this legislation will, significantly, deal with the increasing demand for construction and demolition waste recycling. The existing industry has significant latent capacity and could process several times the current volume—that is, there is slack in the recycling industry. The levy may attract large eastern states-based C&D recyclers to establish their business in Western Australia. The C&D recycling operations are relatively simple to set up and there should be a readily available supply of equipment, including crushers et cetera, given the downturn in the economy, thereby allowing new and eastern states-based operators to set up operations in Western Australia relatively quickly. I think that all members recognise that we need to do better in this area.

Inert waste costs will increase from \$3 a cubic metre—or \$2 a tonne—to \$12 a cubic metre and putrescible waste will increase from \$8 a tonne to \$28 a tonne. In New South Wales, the charge is about \$58.80 and in South Australia the cost is about \$25.20. We have heard much from members opposite about a “pernicious tax”, albeit I do not think the member for Warnbro used that word.

**Mr D.A. Templeman:** Tell me what it means and I will tell you if it was me!

**Mr P. Papalia:** It might have been me.

**Dr G.G. JACOBS:** The comments and emotion attached to the word “pernicious” came from someone on the opposition benches. Members opposite have spoken about a cost of \$24 a year for every household—that is, \$2 a month for every household.

**Mr P. Papalia:** It all adds up.

**Dr G.G. JACOBS:** It all adds up—\$24!

Several members interjected.

**The SPEAKER:** Order, members!

**Dr G.G. JACOBS:** Members opposite recognise that we need to do better. How are we going to do better? What will kick-start the process? I have heard that we should have an education program. An education program! I think both opposition and government members understand that something is needed to kick-start this process. Comparative data from other jurisdictions suggests that if we impose a low levy, it will kick-start the process to improve recycling rates in Western Australia. We have to do this. We have to do something. Members opposite may say that it can be done by means of education, but there is nothing like a levy. We are not saying that we will impose a levy above the rates imposed in other jurisdictions. Our rate is nowhere near some of the rates in some jurisdictions, but we have to use some form of commercial incentive or disincentive to kick-start this process.

**Mr P. Papalia:** Why did you delay this legislation in the past?

**Dr G.G. JACOBS:** Why did we delay it?

**Mr P. Papalia:** Because it was illegal to create a tax and then spend the money on another activity.

**Dr G.G. JACOBS:** If the member wants, after dinner we will debate the time frames.

**Mr P. Papalia** interjected.

**The SPEAKER:** Order, member for Warnbro!

**Dr G.G. JACOBS:** The time frames were necessary and for local —

**The SPEAKER:** Member for Warnbro! You will have ample opportunities to ask the minister questions during the consideration in detail process. I know that you are very enthusiastic, but that will be your opportunity to ask questions.

**Dr G.G. JACOBS:** Thank you, Mr Speaker; I also thank the member for Warnbro for his enthusiasm and look forward to further debate. However, the time frames were about giving local government time to adapt.

**Mr P. Papalia:** No, they were not.

**Dr G.G. JACOBS:** Mr Speaker, he has had his say and I am going to have mine! It was about local government having time to adapt.

*Sitting suspended from 6.00 to 7.00 pm*

**The DEPUTY SPEAKER:** The Minister for Water Affairs.

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**Extract from Hansard**

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**Dr G.G. JACOBS:** I continue the comments I was making before dinner on the Waste Avoidance and Resource Recovery Amendment Bill 2009.

Mr Deputy Speaker, there seems to be some mirth from the other side, perhaps about your rendering of my title not being quite accurate! I understand; I have been called a lot worse! I have been called the member for Water, the member for Water Resources and the Minister for Water Management—maybe even water on the brain!

**Mr M. McGowan:** I think he was saying “the Minister for Water, Affairs”!

**Dr G.G. JACOBS:** Unless the member for Rockingham knows something that I do not know, I think there are some lessons to be learnt from experiences that other members have had in this jurisdiction and others! We must at all times be vigilant!

I was making some comments before dinner in reply to the second reading debate. I thank members for their contributions. There were and are some issues surrounding hypothecation—namely, how much money is being allocated to waste management under the waste avoidance and resource recovery account and how much is being devoted to the Department of Environment and Conservation. The issue of the apportionment of 25 per cent to waste management is what we call “hypothecation”. I made the point—I will make it again—that if members opposite have issues with hypothecation, it is the government’s hypothecation that the 75 per cent being hypothecated to the Department of Environment and Conservation will at least address environmental issues and associated environmental frameworks. It may address dieback, which is a very important environmental issue; it may address the management of national parks or any other issues pertaining to the environment. Waste management, of course, is a part of environmental management. The WARR account hypothecates 25 per cent of forecast revenue, and this bill hypothecates \$30 million to the WARR account. By definition, the forecast is \$52 million, so \$39 million is hypothecated to the Department of Environment and Conservation.

Obviously, there are issues surrounding hypothecation, and I remind the member for Warnbro about the hypothecation in New South Wales. In fact, there is a 50 per cent hypothecation to consolidated revenue there for the government to do with as it wishes. At least our hypothecation is going towards environmental issues and pursuits.

**Mr P. Papalia:** Now that you’ve addressed me, you’ve invited an interjection!

**Dr G.G. JACOBS:** I am addressing some of the points raised by members opposite, as I promised before dinner. As I am speaking in reply, I am actually making use of this time.

The issue of illegal dumping was raised, and it was suggested that this legislation would result in people dumping waste illegally when faced with landfill levies. I pointed out that a \$5 levy for a half-tonne trailer would not result in the trailer being driven to Northam or the forest to dump waste illegally. The Minister for Environment has given an undertaking to firm up and increase the fines under the Environmental Protection Act, to provide punitive measures to prevent the practice of illegal dumping.

Another matter raised by the opposition was the funding of the inspectorate and the adequate policing of illegal dumping. I remind members that \$4 million in new funding, separate from this process, has been allocated to the Department of Environment and Conservation over four years for compliance and monitoring. I have been advised that this will employ eight investigators—six in the metropolitan area and two in regional areas—to add to the 120 inspectors, park rangers and field officers already employed. It is important to note that \$4 million in new funding, separate from this process, has been allocated for compliance and monitoring. I hope that addresses some of the questions about how this will be policed and about people trying to avoid the landfill levy by driving down the road and dumping waste in the forest or wherever.

I gave an undertaking that I would not speak for much longer, but I want to address some of the points made by members opposite. Before dinner I mentioned the word “pernicious”; I think it may have been the member for Mandurah who said that this was a “pernicious tax”. I made the point that there would be an extra \$24—which is one tonne—for each household per annum. In reference to council charges, I have a rate notice from the City of Joondalup. This rate notice includes the emergency services levy, the general rate for residential improved land, and a rubbish charge of \$264.80. Currently, the waste levy on that \$264.80 is of the magnitude of about \$10. This legislation will increase that by \$24. On an average rate notice in the City of Joondalup for 30 June 2009 to 30 June 2010, the emergency service levy, category 1 residential, was \$225. I am trying to put this levy in context for members opposite. The general rate for residential improved property charged at 5.6234 cents in the dollar is \$1 330.50. The rubbish charge is \$264.80 for a total rate notice bill of \$1 820.30. Of that, the landfill levy is \$10. It will increase by \$24, and in the context of \$1 820.30, I suggest to members opposite that if there is any way of producing a very modest commercial stimulus —

**Mr M.P. Whitely:** So 300 per cent is a modest increase?

Mr John Kobelke; Mr Martin Whitely; Ms Lisa Baker; Mr Andrew Waddell; Dr Graham Jacobs; Mr Mark McGowan; Mr Paul Papalia; Mr Chris Tallentire; Mr David Templeman; Speaker; Mr Fran Logan; Dr Kim Hames; Dr Janet Woollard; Acting Speaker

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**Dr G.G. JACOBS:** It is still modest! The member for Bassendean has not been listening, because when we put that into context it is still a very modest increase. If members opposite have any other ideas about creating a climate that will encourage recycling, they should please tell me.

**Mr P. Papalia:** A container deposit levy.

**Dr G.G. JACOBS:** We can talk about education and all sorts of things, but in the end there has to be commercial incentive, particularly in construction and demolition waste, as we have discussed. What are the drivers for the construction industry, which creates about 50 per cent of our infill by weight, to participate in waste recovery and recycling? Members opposite know that we need to provide some financial incentive—or, to be frank, a financial disincentive to put waste into landfill. The levy will probably add \$140 to the cost of constructing an average house in Perth. Although modest, that will stimulate people in the industry to think about pulling out those bricks and that timber. My argument is that, although it is a levy, it is moderate, and despite the opposition saying it is just another impost that is added on to all the others, when put into context I believe it will stimulate recycling.

As I have illustrated previously, when comparing it with levies in other jurisdictions it is a modest increase. As far as the 75 per cent hypothecation is concerned, at least it is in the environmental area. It has not gone into consolidated revenue as it does in New South Wales, which can hive off the levy and do anything it likes with it! At least in Western Australia it is hypothecated in the area of environment and environmental management. I have had my 15 minutes, as I promised, and I believe —

**Mr D.A. Templeman:** We are starting to bring you around!

**Dr G.G. JACOBS:** The member for Mandurah wants me to waste more time so that we do not get to the consideration in detail stage and progress this bill. This levy does not put a large impost on families or on the construction industry and it provides incentive for the recycling industry. It is a clean and green concept. Members opposite worry me, in particular the member for Mandurah, who talks about a dead cat and how it stinks. This bill will encourage recycling and there will be fewer dead cats in infill and less stink from infill! This is a way of encouraging the industry to do the things that it should be doing and that we should all be doing better.

There has been recognition from members opposite that we need to do better and it is very important to recognise that this government is shortly to release a waste management strategy for Western Australia and this is part of that strategy to ensure we will be doing better in recycling. All members recognise that, and the reality is that we have to provide that incentive/disincentive for this to happen. The imposts are relatively small and, of course, if we recycle more, the impost on landfill will be much less because we are making other arrangements for recycling.

**Mr P. Papalia:** Your heart is not in it!

**Dr G.G. JACOBS:** My heart is in it, and the member's heart should be in it too, because he knows the concept is a good one. The member knows that the concept of improved waste management is a good one. I have heard the debate from members opposite that this will put waste management back and that they started the good process when they were on this side of the house. This is the next step to encouraging recycling, because we know—the member for Gosnells told us—how poorly we are doing in it. It surprises me that members opposite resist so much, when they know that the concept is good. The concept is green, yet here again we are the ones who are engaging in responsible environmental management.

Question put and a division taken with the following result —

**Extract from Hansard**  
[ASSEMBLY - Tuesday, 8 September 2009]  
p6484a-6517a

Mr John Kobelke; Mr Martin Whitely; Ms Lisa Baker; Mr Andrew Waddell; Dr Graham Jacobs; Mr Mark McGowan; Mr Paul Papalia; Mr Chris Tallentire; Mr David Templeman; Speaker; Mr Fran Logan; Dr Kim Hames; Dr Janet Woollard; Acting Speaker

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Ayes (29)

Mr P. Abetz  
Mr F.A. Alban  
Mr I.C. Blayney  
Mr J.J.M. Bowler  
Mr I.M. Britza  
Mr T.R. Buswell  
Mr G.M. Castrilli  
Mr V.A. Catania

Dr E. Constable  
Mr M.J. Cowper  
Mr J.H.D. Day  
Mr J.M. Francis  
Dr K.D. Hames  
Mrs L.M. Harvey  
Mr A.P. Jacob  
Dr G.G. Jacobs

Mr R.F. Johnson  
Mr A. Krsticevic  
Mr W.R. Marmion  
Mr P.T. Miles  
Ms A.R. Mitchell  
Dr M.D. Nahan  
Mr C.C. Porter  
Mr D.T. Redman

Mr A.J. Simpson  
Mr M.W. Sutherland  
Mr T.K. Waldron  
Dr J.M. Woollard  
Mr J.E. McGrath (*Teller*)

Noes (23)

Ms L.L. Baker  
Ms A.S. Carles  
Mr A.J. Carpenter  
Mr R.H. Cook  
Ms J.M. Freeman  
Mr J.N. Hyde

Mr W.J. Johnston  
Mr J.C. Kobelke  
Mr F.M. Logan  
Mr M. McGowan  
Mrs C.A. Martin  
Mr M.P. Murray

Mr A.P. O’Gorman  
Mr P. Papalia  
Ms M.M. Quirk  
Mrs M.H. Roberts  
Ms R. Saffioti  
Mr T.G. Stephens

Mr C.J. Tallentire  
Mr A.J. Waddell  
Mr P.B. Watson  
Mr M.P. Whitely  
Mr D.A. Templeman (*Teller*)

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Pairs

Grylls  
Barnett

MacTiernan  
Wyatt

Question thus passed.

Bill read a second time.

*Consideration in Detail*

**Clause 1 put and passed.**

**Clause 2: Commencement —**

**Mr M. McGOWAN:** Clause 2 refers to the days on which the act will come into effect. I seek some advice from the minister about a few matters. Firstly, when does the minister expect to receive royal assent for the act to come into operation and, therefore, from when will the charges apply? Secondly, in what way will the minister apply any funds already raised by changes to the regulations, which I understand the minister has already put in place? How will the minister apply the funds that have been raised already by those regulations and to what will the funds be applied? Thirdly, what impact has there been on the budget as a consequence of the minister’s failure to pass this legislation by 30 June, which I expect was the day on which the minister budgeted for this increase in revenue? Finally, why are there two different days for various parts of the act to come into effect? It seems rather unusual to me that clauses 1 and 2 of the bill, which really do nothing, come into effect on the day the bill receives royal assent; whereas the remainder of the bill, which is the taxing component of the bill, comes into effect on the day after that day. I seek an indication from the minister as to the reason for that dual arrangement.

**Dr G.G. JACOBS:** I thank the member for Rockingham for his comments. He highlights some of the issues in, if he likes, trying to line up all the ducks. There is an issue of course. As I have described to the member for Warnbro, and as he rightly said, there was an intention to bring this bill into Parliament in the middle of this year, but there was a need for local governments to adapt to the change.

**Mr P. Papalia:** I think it was a small matter of breaking the law!

**Dr G.G. JACOBS:** There was advice from the State Solicitor’s Office that we needed to move some of the amendments standing in my name on the notice paper that address some of the concerns about lining up all those ducks that the member for Rockingham elucidated. There is, therefore, an amendment to clause 2 of the amendment bill standing in my name on the notice paper.

Leave granted for the following amendments to be considered together.

**Dr G.G. JACOBS:** I move —

Page 2, line 8 — To insert after “Royal Assent” —  
(assent day)

Page 2, after line 8 — To insert —

(b) sections 3 and 9 and Part 3 — on the day after assent day;

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Perhaps I could explain those amendments later.

**Mr M. McGOWAN:** For a start, I asked four questions in relation to clause 2 and I do not believe the minister has answered any of the four questions I asked. Although we gave permission to deal with the amendments en bloc, I would like an explanation about why the minister is moving these amendments to his own legislation, and I seek answers to the four questions I asked.

**Dr G.G. JACOBS:** My intention in moving these amendments as described on the notice paper was to talk to them and then address all the issues that the member for Rockingham has raised—that is, by not having introduced the increased levy in the middle of this year and not introducing it until January next year, some adjustments need to occur. Some of those adjustments relate to standard provisions and others tidy up the act. Also, in part 3 some of the amendments within the amended bill actually make all this happen. This relates to the fact that we did not introduce the levy on 1 July this year and we are not introducing it until 1 January 2010. The advice we had from the State Solicitor's Office, plus the ability for local governments to adapt to this process, is in fact about lining all that up. As I have received leave for the amendments to clause 2 to be considered together, I will describe those to the member.

**Mr P. PAPALIA:** In light of the fact that this clause refers to the dates on which this legislation will come into force, I want to know what is happening. I know this is one of the questions that the member for Rockingham asked that the minister has refused to answer so far. What is happening to the money that is being collected by some local governments at the moment, prior to 1 January when the government intends this legislation to come into force?

**Dr G.G. JACOBS:** That question of adjustment is very pertinent and the amendment to clause 7, which we will come to later, deals with this adjustment. However, we are very committed that the \$13 million, or 25 per cent, will happen. Obviously, as the member intimated, there are differences in how this levy has been collected at different sites and how much has been collected, but we give the commitment that it will be \$13 million, which is 25 per cent of the forecast levy of \$52 million. In fact, the amendment in my name to clause 7 is about that adjustment, because this amendment bill was based on the assumption that this levy would be introduced on 1 July this year; however, it will not be introduced until 1 January 2010. As the member said, there are variations in how much levy is being collected, but we have given a commitment that 25 per cent will go to waste management and that 25 per cent will be \$13 million. Therefore, the amendment under my name to clause 7 states that the amount for the financial year ending 30 June 2010 will be an amount not less than the difference between 25 per cent of the forecast levy amount for that financial year and the amount of levy paid or payable for the period 1 July 2009 to 31 December 2009—that is, the current period.

**Mr P. PAPALIA:** I know this is not the minister's legislation and I understand that he is trying to respond to this question, but it is a fact that the inept manner in which the initial announcement about this levy was made compelled a number of local governments in the metropolitan area to raise their rates by the appropriate amount to ensure that they had the revenue stream to meet the demand that would apply to them in the course of the financial year. They had no choice because they were not consulted prior to the announcement. They were told at a time when they were about to announce their levies that it would be going up 300 per cent. Some councils chose not to apply the new levy from 1 July but others did. I do not want to know how much money the government will pass on to the account. I want to know what is happening to the additional money that some local governments have collected from ratepayers on behalf of the state government.

**Dr G.G. JACOBS:** As I previously stated, there are metropolitan councils that are already charging the increased landfill levy. The landfill levy is a small component of a council's overall waste management and it is up to the individual councils to determine how they recover their waste management costs, including costs associated with the increased levy. As I have said to members previously, there are amendments to clause 7. Some councils chose to raise the levy by 300 per cent; others did not. That is up to individual councils. The member stated that they have collected different rates depending on the arrangements they have made in this half of this financial year from 1 July to 31 December. Those arrangements are their arrangements. What I can tell members and what I have been assured of is that whatever they have collected to pay their levy arrangement, just because they have raised it now does not necessarily mean that they are totally committed to that. They will meet whatever arrangements that this levy bill suggests. I am suggesting to the member very strongly that it is 25 per cent, that that will be \$13 million, and that there will not be an overtake on that and there will not be an undertake on that. This is all about genuinely trying to line up the ducks because the increased levy was not introduced on 1 July this year.

**Mr P. PAPALIA:** Prior to councils being compelled to raise their levy rates by 300 per cent by the Minister for Environment's inept behaviour, there was the suggestion that the Western Australian Local Government

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Association's public commentary was inaccurate and that the minister's behaviour was legal. In fact in this place the Treasurer personally attacked the president of the Local Government Association and suggested that he had behaved in an inappropriate fashion by suggesting that the department's actions were not appropriate and that councils should seek legal advice. Now that the government has come round to the realisation that the minister was wrong, after the government made the announcement—without any apology to the people whom the government accused of being wrong—and is struggling to get all the ducks in a row on this legislation and the guidelines between now and 1 January, what guarantee can the minister give the local governments involved that the government will get its act together by that date? By what date this year does the government need this legislation to receive royal assent to ensure that by 1 January this can actually come into force and work effectively?

**Dr G.G. JACOBS:** The short answer to the last part of the question is that it needs to be at least two days prior to the last Executive Council meeting of 2009. I do take issue with the member for Warnbro about inept behaviour and all the politically emotional terms —

**Mr P. Papalia:** Was it professional behaviour?

**Dr G.G. JACOBS:** Essentially, we have a practical issue of timing, which was to be 1 July this year. As I have said, we took advice from the State Solicitor about these issues. The member for Rockingham said during the estimates committee that we should be very careful that we were not ultra vires, and I took his point. I did not appreciate him calling a division during the estimates hearing for the Department of Environment and Conservation though.

**Mr M. McGowan:** I don't remember that!

**Dr G.G. JACOBS:** I do, very distinctly.

**Mr M. McGowan:** Did we win?

**Dr G.G. JACOBS:** No, the opposition did not, which was fortunate because my boys were out having a cup of tea or something. It was quite a stunt!

**Mr P. Papalia:** Has the minister told you when she decided to seek legal advice? The minister sought legal advice only after she received the letter from the Western Australian Local Government Association.

**The DEPUTY SPEAKER:** Order, members!

**Dr G.G. JACOBS:** I have spoken to other people who have been in politics a lot longer than I have, and they had never heard of anybody calling a division during budget estimates.

**Mr M. McGowan:** That's because they haven't been here as long as I have, because I have heard of it.

**Dr G.G. JACOBS:** It was quite surprising to me, especially as the member for Rockingham did concede that I actually did quite a good job on the budget estimates committee, despite the fact that it was not my portfolio.

**Mr M. McGowan:** Don't believe everything you hear!

**Dr G.G. JACOBS:** This is about a practical solution. There is no smoke and mirrors about this; this is about an adjustment we have to make for those six months that have elapsed and are elapsing at present, because we are in that time frame.

**Mr P. Papalia:** The minister messed it up, and now you're clearing up her mess.

**The DEPUTY SPEAKER:** Order, member for Warnbro!

**Mr P. Papalia:** WALGA got some legal advice and sent it to her.

**The DEPUTY SPEAKER:** Order, member for Warnbro.

**Dr G.G. JACOBS:** This will allow an alignment of the financial arrangements, and it is not about taking more of the levy than we should or taking the 300 per cent increased levy that some councils are already taking. It will be adjusted from the six months that that we are going through at the moment to the six months until the middle of next year. There is no smoke and mirrors about taking more of that levy. The local government councils' arrangements are the councils' arrangements. Some of them have implemented the 300 per cent levy for landfill; I cannot be responsible for that. The member for Warnbro has stated that there was a lack of consultation with local governments; local governments have been given six months' breathing space in which to adapt. The State Solicitor's Office advice was that we needed to line up all the ducks. We did not want, as the member for Rockingham more than intimated in budget estimates, for it to go ultra vires, by trying to raise moneys without

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having the mechanism and the structure of accounts set up. It was about financial responsibility, and it was about timing to get the ducks lined up on this.

**Mr M. McGowan:** Did I force this amendment? Is that what you're saying? Is it the McGowan amendment?

**Dr G.G. JACOBS:** The member for Rockingham can call it what he likes; I am trying to do this responsibly.

The government has no intention of taking more money than it needs to; we have a commitment of \$13 million for the waste account. Clause 7, to which there are amendments in my name, goes to the issue of making those adjustments and considering the six-month time frame that has not yet been introduced. I have answered the member's question about two days after assent day.

**Mr P. PAPALIA:** I am still very interested in this additional money that has been collected by councils on behalf of the state government because of the premature announcement by the minister that this levy would be raised by 300 per cent. Councils had no choice; they were in their budget process, and the only way they had of raising the revenue to meet this demand of the state government was to raise their rates, which they did.

I am interested to find out whether the minister sought advice from the Minister for Local Government about whether it was appropriate that that money, which is now not part of this 25 per cent that it has been indicated will be passed on, will just be kept by the local governments that raised it, for all intents and purposes, on behalf of the state government.

**Dr G.G. JACOBS:** As I have said before, I cannot be responsible for the differing arrangements that local governments have made about the prediction for the landfill levy. It is up to each local government to make its own budget adjustments. It is not about the state government telling local governments that it will take all the money that has been collected in the six months; over the 12 months there will be an adjustment that will be genuinely fair and will not be about taking more moneys than it should do.

**Mr P. PAPALIA:** I know the minister keeps saying that, but he is forgetting the actual sequence of events: the minister announced the increase in the levy; and some local governments responded, because they did not have the capacity in any other way, and they thought it was fiscally responsible to respond by raising their rates accordingly. Consequently, they have collected money beyond what they would normally collect, which, as far as the minister has indicated, they will get to keep. They have collected it on the government's behalf and they will have a windfall of a certain amount of money this year, until such time as the levy comes into force, and from that date forward they will send that money to the state government.

**Dr G.G. JACOBS:** They have not collected the levy on the government's behalf.

**Mr P. Papalia:** Yes, they have.

**Dr G.G. JACOBS:** No bill has been passed to collect the money.

**Mr P. Papalia:** That's right, because the minister acted incompetently and announced the increase.

**Dr G.G. JACOBS:** They have not collected the money on behalf of the state government. What councils do is up to local government and their budget adjustments are their business, and they will no doubt make those budget adjustments. This is not about taking moneys to achieve a windfall by some sleight of hand. I do not know where the member for Warnbro is heading with this, but quite honestly this is a genuine way of making a genuine adjustment, it is not about a windfall.

**Mr P. PAPALIA:** Does the minister know when the last possible date for a state executive meeting is prior to the legislation being enacted?

**Dr G.G. JACOBS:** Today, I and another minister attended an Executive Council meeting at Government House to witness royal assent being given to legislation that had come before the Governor. The member for Warnbro asked when the last Executive Council meeting will be in 2009; I could be advised on that, but it will presumably be some time shortly before Christmas.

**Mr C.J. TALLENTIRE:** I would be interested to know how the minister would have expected local governments to deal with this fait accompli that was thrust upon them by way of the announcement. Indeed, the Waste Authority was told by a letter, with no prior consultation, that there would be these changes to which they were required to adapt. How else did the minister expect local governments to raise this shortfall in their budgeting that they had had foisted upon them by a decision of the state government?

**Dr G.G. JACOBS:** Member for Gosnells, I know I will sound like a cracked record, but the councils use their own discretion to set the rates. The member says they got a letter and they all thought they would have to raise rates 300 per cent. We know there are some that did and some that did not—the member for Warnbro said that in

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his remarks during the second reading stage. I go back to the fact that councils have the discretion to set their own rates. They may use that discretion for purposes permitted under the Local Government Act. In this case the member maintains they are charging a 300 per cent waste charge and presumably it must be spent on waste management, but that does not mean that the state government wants to rip it off and take it.

**Mr M. McGOWAN:** I have a question on a slightly different point, heading back towards the original clause 2 and not the amendment. I refer to my original question as to why it is structured in the way it is; that some parts of it come into effect on one day and other parts come into effect on another day. I would like some clarification on that.

Secondly, I think the minister has been largely answering the question I asked before about the money that has already been raised as a consequence of this and what happens to it. Although I have been disturbed listening to some of what the minister has been saying, in effect the minister has indicated that councils can do what they want with whatever money they have raised in the meantime. By the time this bill is brought in, what will be the amount of the total budget hole, considering the government budgeted on the basis that this would be in effect from 30 June? What is the budget hole that exists as a consequence of the fact that this will not come into effect until the start of next year or thereabouts? Has the government calculated how much money it will miss out on as a consequence of that? I note the minister has said regularly that the waste board is guaranteed \$13 million. It is not exactly a windfall. That is exactly what it would get at the moment. I make the point that does not seem like a great benefit. I am interested in those questions: what has the state lost; what is the hole in the budget that the Treasurer has to repair; and why is it structured in the way it is?

**Dr G.G. JACOBS:** Obviously we have six months until January 2010, where we obviously have not collected the landfill levy. Some local governments have collected; some have not. I cannot give a figure. I cannot give an answer in advance. The member asks: what is the hole and what amount have we not collected over this six-month period? The member said that some of the levies have already been collected by local governments—I cannot give the member a definitive answer. From clause 7, whatever it be, the adjustments will occur to make it \$13 million over 12 months.

**Mr M. McGowan:** That goes to the waste board?

**Dr G.G. JACOBS:** That goes to the waste avoidance and resource recovery account.

**Mr M. McGOWAN:** That in effect makes the government's budget hole bigger, if my understanding is correct. The existing take is roughly \$13 million a year. The government is expanding it 400 per cent. The government is expecting to take about \$50 million to \$52 million from this. A quarter of that amount was going to the waste board. Therefore, if we calculate out, the government is going to lose half. The minister is a scientist, he would understand this—half would be \$26 million. That is the expected budget hole. The minister is going to ensure that \$13 million goes to the waste board; therefore, if the government is getting six months—which we would expect to be \$26 million—minus \$13 million, that means the government is taking \$13 million. But the expectation originally would have been three times 13, which is 39. Therefore 39 minus 13 equals 26. According to my calculations, that would be what the budget hole would be. As someone who is not very good at maths, that would be my calculation as to what the budget hole would be as a consequence of the delay in commencing the imposition of this legislation.

I understand why the minister is saying the agency or the waste board will get \$13 million. The government can hardly decline or reduce the amount of money that it is going to spend on waste, considering the original intent of the act. The interesting point is that if the Department of Environment and Conservation is down \$26 million, is that a top-up or is the government going to make that department find \$26 million from some of its endangered species programs and so forth? I am interested as to what avenue the minister is going to adopt to fix that problem.

**Dr G.G. JACOBS:** The revenue will fluctuate. I can understand the member's logic, it all sounds quite reasonable, but, quite honestly, there is no surety in any of those figures. The Treasurer will review and address this in the midyear review process. If we like, it will all come out in the wash. The member for Warnbro can shake his head but I can also ask: how can he be absolutely definite about this? This will be the subject of a midyear review. We have made a commitment. The forecast is \$52 million. If the member has any issue, the issue will be dispelled—we are putting \$13 million into the waste management account. This is a process of genuinely trying to adjust that because we will not have the take from the middle of this year until the beginning of next year.

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**Mr M. McGOWAN:** I understand the waste board will keep what it is getting at the moment; it is the beneficiary. It will get what it currently gets. The agency that is missing out is the Department of Environment and Conservation. We do not know, from what the minister said, whether it will be topped up or whether it will have to find \$26 million. Bearing in mind some of the commentary I have read by some people in the government about all matters to do with environment and conservation, they are not highly respected or regarded by the government. The Department of Environment and Conservation could potentially have to find that \$26 million. The minister is saying the \$26 million is my estimate, but based upon the minister's estimates as to what he expects the levy will raise, I think it is a fairly close approximation to what the hole will be out of this. My second question, which again the minister has not answered, is why will clause 2(a) and (b) come into effect on different days?

**Dr G.G. JACOBS:** I go back to the comment about the midyear review. I have a communication from the Treasurer that says that the impact of the factors that the member is talking about on DEC's budget will be reviewed by the Department of Treasury and Finance as part of each budgetary process, including the annual midyear review process. The need for supplementary funding will be addressed as part of these processes.

**Mr M. McGowan:** It is not an assurance.

**Dr K.D. Hames:** It is an assurance that it will be addressed.

**Mr M. McGOWAN:** It is an assurance it will be reviewed. What sort of assurance is that?

**Mr P. Papalia:** Is he supposed to be sitting on the minister's lap?

**Dr G.G. JACOBS:** The member for Warnbro needs to lighten up and not be so darned vindictive. We are trying to get this legislation through. He has banged on about the local government 300 per cent. I have told the member genuinely what is going to happen. I believe that was a satisfactory answer. The member for Warnbro is not asking the question; the member for Rockingham is, and I will answer it.

Member for Rockingham, the first part is needed before 1 January 2010, so the minister can gazette a regulation to increase the fee by 1 January. The second part is to come in on 1 January to allow the minister to divide the funds between waste avoidance and resource recovery and the Department of Environment and Conservation, as I am advised.

**Mr M. McGOWAN:** This is probably my last point on this matter. The assurance that the minister gave us was based upon a note. I realise that the minister is not the Treasurer, and I know how hard it is sometimes for a minister to get some assurances on these things. The assurance that the minister has given us relates to the \$26 million, or thereabouts, hole in the budget of the Department of Environment and Conservation, which it must be remembered also provides support to the Environmental Protection Authority. As the principal approvals agency for the state, in addition to dealing with all the conservation issues, the department also provides those wonderful Western Australian rangers who are out there protecting parts of our state's environment and engaging in all the activities involved in prosecuting people for littering and dumping—all those things that we know this legislation could potentially harm. The minister is giving us an assurance that the Treasurer has said that the department's requirement for an additional \$26 million, which is roughly one-tenth, or perhaps more than one-tenth—it might even be 15 per cent or thereabouts—of its entire budget, will be reviewed with a view to considering whether it will get supplementary funding in December. To me, that says volumes about where the environment and conservation sit in this state. No other agency goes through that. We could look at some of the other statements about reports that this government has commissioned into the environment and conservation and say a lot more about that subject. However, I just want it on the record that that is where the principal environment agency in this state sits.

**Mr D.A. TEMPLEMAN:** I think the point that is being made by the opposition is an absolutely critical one. In the minister's own words, it will all come out in the wash, which I find quite extraordinary. I think the opposition has clearly demonstrated through its line of questioning on the funding model that the minister has been outlining that there are serious flaws. There are certainly serious flaws for the environment portfolio. The minister has quoted from the Treasurer's letter. I ask whether the minister would be able to table that letter from which he quoted. Is the minister prepared to table that letter?

**Dr G.G. Jacobs:** No.

**Mr D.A. TEMPLEMAN:** Why is the minister not keen to do that? He quoted from it. The reason I ask the minister that question is that the line of questioning that we have been pursuing relates to the assurance by the Treasurer that there would be a guaranteed \$13 million to be derived from the levy, but we are not certain about how many other dollars might be available to the Department of Environment and Conservation. Following our

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pursuit of that line of questioning, the minister quoted from a letter from the Treasurer to seek to give us an assurance that the environment portfolio will not be left in the lurch, so to speak. I think that it would be prudent for the minister to therefore table the letter from the Treasurer from which he quoted, which may allay the fears that the opposition has highlighted. If the minister is not going to table that letter, or is not prepared to table that letter, I would be very surprised. I cannot see why the minister would not table a letter that seeks to give assurance to the minister, to the department, to the opposition and, obviously, to other key stakeholders with regard to this legislation. I think we have clearly outlined in our line of questioning that the minister was found out during the estimates committee process regarding the legality of what she was able to do. There was then a proposal for amendments to the Waste Avoidance and Resource Recovery Amendment Bill. Again I ask the minister to say, perhaps through interjection, whether he would be prepared to table the letter from the Treasurer from which he quoted, because I believe that would assist us in moving on to the next clause. Before I sit down, perhaps the minister will respond by way of interjection.

**Dr G.G. Jacobs:** No, I am not prepared to table the letter.

**Mr D.A. TEMPLEMAN:** Why not, minister?

**Dr G.G. Jacobs:** If you sit down, I might explain.

**Mr D.A. TEMPLEMAN:** I will, but I indicate to the Deputy Speaker that —

**Dr G.G. Jacobs:** The letter is not addressed to me. I am quoting a paragraph of the letter to reassure members of the need, and the undertaking, to have this process included in the annual midyear review process.

**Mr D.A. TEMPLEMAN:** To whom is the letter addressed? This goes to the fundamental question that we have been pursuing; that is: how can we be assured that the Department of Environment and Conservation's budget, which is an important budget, I would think, for Western Australians, is not going to suffer because of the change to the way in which the levy will be distributed? The minister has assured us that the levy will deliver \$13 million annually. However, the balance of that money directly affects the ongoing budget of the Department of Environment and Conservation. The minister has not told us to whom the letter is addressed. It is from the Treasurer, but to whom is the letter addressed? I would think that the minister would certainly be able to allay part of our fears in this line of questioning if he simply tabled the letter.

**Dr G.G. JACOBS:** I am not of a mood to present the letter and table the letter. The letter is to the Minister for Environment and it is from the Treasurer. It is about the budgetary process. In a paragraph that I have quoted from it refers to the need to have that as part of the annual midyear review. That will be in *Hansard*. What else does the opposition need? The minister is in the other place. I believe that in a genuine way I have quoted from the letter. I have said to whom it is addressed and who it is from. I have quoted that any supplementary funding will be addressed as part of those processes. I do not see any reason why I should table the letter.

**Mr D.A. TEMPLEMAN:** There is a very good reason why the minister should table the letter; that is, the minister has been questioned by the opposition about the distribution of dollars raised by the levy. This bill is about the levy and the implications of the increase in the levy, and how the government intends that money to be distributed. We have, through our line of questioning, highlighted to the minister our concerns. What happens if it eventuates that the \$13 million is delivered to the Waste Authority, but there is not the balance of \$26 million; and how will that be made up, because that \$26 million relates to ongoing operations of the department? The minister quoted selectively from the letter—he has not quoted the entire letter. He has now said to us that he is not prepared to table that letter. If there is nothing to hide in the content of that letter, and if that letter seeks to assure the opposition and others who are interested in how these moneys will be spent and accounted for, I am aghast that the minister is clearly refusing to table the letter. If we as the opposition, as is our role, are to inquire into the amendments in the legislation before the house, we must have the information. However, the minister is going to block us from getting that information by not tabling the letter that he has quoted from and that he has claimed reassures us. I am aghast that he has made that decision. The minister is representing the Minister for Environment in this place. I have full confidence in his ability to do that, but I am aghast that he has chosen to refuse to table what appears from where I am standing to be a one-page letter that, from the minister's assurances, would allay our fears. This line of questioning will continue. I see no reason why the minister would not simply table the letter from the Treasurer to the Minister for Environment, so that we can see what the letter says in its entirety. The minister has quoted only a section of the letter and has said that it should reassure us. We like the minister —

**Dr G.G. Jacobs:** That's what I'm worried about!

**Mr D.A. TEMPLEMAN:** I know that the minister is concerned about that! However, this is a serious matter, and if that letter seeks to assure the minister and therefore seeks to assure the opposition, I see absolutely no

**Extract from Hansard**

[ASSEMBLY - Tuesday, 8 September 2009]

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Mr John Kobelke; Mr Martin Whitely; Ms Lisa Baker; Mr Andrew Waddell; Dr Graham Jacobs; Mr Mark McGowan; Mr Paul Papalia; Mr Chris Tallentire; Mr David Templeman; Speaker; Mr Fran Logan; Dr Kim Hames; Dr Janet Woollard; Acting Speaker

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reason why, as the minister responsible in this place, he would not simply table the letter. There must be absolutely no reason why he would not do so, although his body language is telling me the opposite. The letter seeks to reassure us, the minister and other key people and stakeholders. I ask the minister again—I plead with him, noting that his body language is much more open now, so maybe he has reconsidered—to reconsider and table that letter, because we could then move on to the next clause.

**Mr M. McGOWAN:** Standing order 157 states —

A Minister who has quoted from an official document will table that document if requested by any other member either during, or immediately after the conclusion of the remarks which include the quotation.

The member for Mandurah asked the minister, immediately after he concluded his quotation, to table the document. The minister admitted that it is an official document. It is a letter from the Treasurer to the Minister for Environment, and the minister admitted that he had quoted from it. It therefore fulfils every single criterion of standing order 157, which states that the minister will table the document. The Speaker often rules that, when a member is quoting from papers prepared by his or her office for debate purposes, that is not an official document, and that is fair enough, but this is not a case like that. Therefore, under standing order 157 the minister will table that document. I am asking for the minister to comply with the standing order. If he does not, I ask for the Speaker to rule on a provision that is quite clear.

**The SPEAKER:** I indicate to members that under standing order 157, which the member for Rockingham has accurately quoted, if it is an official document, I ask for it to be tabled. If it is not an official document, it is at the discretion of the minister whether he provides it for tabling.

**Dr G.G. JACOBS:** I quoted from the document. It is not an original document; it is a copy. In fact, it has been drawn to my attention that there are some handwritten footnotes at the bottom of the letter. It is not a document in its own right because it has some other documentation on the back of it. It is merely a copy, and it also includes some handwritten notes.

Several members interjected.

**The SPEAKER:** Order!

**Dr G.G. JACOBS:** It has been copied on both sides. It is not a single letter; there are other matters on the other side. It is not an official letter; it is merely a copy.

Several members interjected.

**Dr G.G. JACOBS:** It is not an original.

**The SPEAKER:** Minister, I will give direction to everybody in this place. With respect to the letter, or part of the letter—I am not sure what you have there—if it is an official document, I ask that a copy be made of that document. If there are handwritten notes and references to other issues, there is no necessity at all for those to be provided or tabled. If it is an official document or letter, I ask that only that part of the document be tabled, and nothing else.

**Dr G.G. JACOBS:** Mr Speaker, I seek advice as to whether I need table just the paragraph that I quoted from.

**The SPEAKER:** The document must be tabled.

**Dr G.G. JACOBS:** I also ask whether, not being the substantive minister in this place, I should talk to the Minister for Environment about the tabling of this document.

**Mr D.A. TEMPLEMAN:** My understanding is that the minister is still refusing to table the document.

**The SPEAKER:** Member for Mandurah, I have given advice to the minister, and I think you have heard me clearly, and the minister has heard me clearly. Only the document, and not any extra handwriting or notes to anyone else, is to be tabled. Only a copy of what the minister has there must be tabled—no other pages, just a copy of the official document that he quoted from.

**Mr D.A. TEMPLEMAN:** That is my understanding, but I think the minister has just informed me that he will not table that document. He is not adhering to your ruling, Mr Speaker. All we want to see is the tabling of the particular letter quoted by the minister—not just the quoted paragraph, but the actual letter. I can see it from here. If there is something else on the back of that letter, the opposition is not interested in that—we might be, but we are not. I believe that the intention of the Speaker's ruling is that the member will provide a copy of the letter. I am sure the Speaker will make a ruling shortly on my points. The minister could make this much easier

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for himself. He has quoted from a letter about an assurance from the Treasurer with regard to the budget. Standing orders clearly state what the minister must do. The Speaker has ruled on that, and the minister is now refusing to comply. I do not know what action is open to this house to make the minister do what the Speaker has directed. He has directed the minister to provide to the house in its entirety a tabled copy of the particular letter he quoted from. If there are handwritten notes, I understand from Mr Speaker's ruling—he may clarify this—that they may need to be expunged in some way. However, the opposition wants the clear entirety of the text of the letter. I understand that that is how Mr Speaker has ruled. I ask you, Mr Speaker, to direct the minister to do what you have asked him to do.

**The SPEAKER:** No member of this place can disagree with standing order 157. Minister, you are required to table that particular document, as I have directed, minus any handwriting, personal notes or other reference. The actual document you have quoted from needs to be tabled in this place. Arrangements can be made with the chamber staff to do that.

**Dr G.G. Jacobs:** But not the printing on the back?

**The SPEAKER:** Not the printing on the back.

**Dr G.G. Jacobs:** No footnote or extras other than the typed, substantive part of the letter, minus any of the handwriting?

**The SPEAKER:** Yes, indeed.

**Dr G.G. Jacobs:** I take your direction, Mr Speaker.

*Point of Order*

**Mr M. McGOWAN:** Mr Speaker, I appreciate your ruling and I am pleased to see that the minister is going to table the document. I had hoped that the entirety of the document would be tabled. I have written a lot of letters in my time, and I often annotate additional information at the bottom in handwriting—which becomes part of the official letter—that perhaps personalises the letter to the recipient. One could argue, and indeed I do, that that is part of the actual document that is being sent. I understand that your ruling is that the handwritten material should be expunged, but in my view that material forms part of the document.

**Dr K.D. Hames:** Why are you questioning it?

**Mr M. McGOWAN:** I might note that the minister originally refused to comply with Mr Speaker's ruling.

I think that that would be a better approach for an official document; I am unaware of any other precedents for this matter. A document is a document, and often what is written on it is part of the entirety of the document, not just what is typed on the document.

**Mr F.M. LOGAN:** Further to that point of order, I support what the member for Rockingham has just pointed out. We could go back and check the rulings of Speakers from the past. I know from having been a minister in a similar position to that in which the Minister for Water currently finds himself that sometimes, when I was asked to table a document, there may well have been handwriting on it written by me or someone else, and I might not have been happy about having to table it; however, I was still required to do so by the Speaker of the day. In fact, the then opposition insisted that any handwriting on such documents should not be expunged simply because not doing so might cause some embarrassment to the government of the day.

**The SPEAKER:** I take your points of order, member for Cockburn and member for Rockingham. Minister, I need to satisfy myself that the notes on that particular document are handwritten notes for your own benefit. Are they handwritten notes for your own benefit?

**Dr G.G. JACOBS:** Mr Speaker, they are Department of Environment and Conservation staff notations. They are not from the Minister for Environment or the Treasurer. Obviously I am not the Minister for Environment, but the notations are not relevant. They are essentially staff notations, and I do not think that they are relevant to the substantive text of the letter. I am quite happy to show you, Mr Speaker.

**The SPEAKER:** Minister, I need to work out for myself and other members in this place whether the notes written upon that letter are written by you or for you, whether they are additional notes with respect to that document provided for other people, and what part of the document they form, because it could be construed that they form part of the official document. I need to know that, minister.

Mr John Kobelke; Mr Martin Whitely; Ms Lisa Baker; Mr Andrew Waddell; Dr Graham Jacobs; Mr Mark McGowan; Mr Paul Papalia; Mr Chris Tallentire; Mr David Templeman; Speaker; Mr Fran Logan; Dr Kim Hames; Dr Janet Woollard; Acting Speaker

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**Dr G.G. JACOBS:** As I said, they are notations. I am quite happy to show you, Mr Speaker, if you wish. They are notations from staff directing where this letter should go and who should follow it up. They are administrative staff notations.

**Dr K.D. HAMES:** Further to the point of order, the official document is a letter from the Treasurer. It would seem to me that if there are other notations around the document, they are not official. The official letter, it would seem to me, is the letter from the Treasurer. I have not seen it; I have seen it from a distance, as you have, Mr Speaker, and it has some handwritten notes around the edge. They are certainly not from the Treasurer, and one would think that the Treasurer had provided the official document, otherwise it would not be official. I would have thought that something that has notations around the edge, whoever it came from, would not be an official document.

**The SPEAKER:** Members, I am going to look at the letter for myself. I would like to see what some of this handwriting might be, and whether it is in fact part of what might be deemed an official document. I ask members to bear with me for a minute; when the document arrives, I will look at it.

Members, I have looked at the document and I have satisfied myself that it is an official document, and that the notes contained thereon also form part of the document. I ask the minister to table the document.

**Dr G.G. JACOBS:** Mr Speaker, on a point of clarification, does that include the back of the document?

**The SPEAKER:** No.

[See paper 1218.]

**Dr G.G. JACOBS:** While I am on my feet, Mr Speaker, can I ask that my adviser, Mr Robert Atkins, return to the chamber?

**The SPEAKER:** Certainly.

*Debate Resumed*

**Mr D.A. TEMPLEMAN:** I thank you, Mr Speaker, for your indulgence. I am now very keen on seeing a copy of the letter so that I can determine whether I have any further questions.

**Dr K.D. HAMES:** I think you could be disappointed.

**Mr D.A. TEMPLEMAN:** I could be. If the government claims to be accountable, it would not have gone through 45 minutes of discussion on whether a letter should be tabled. I find it quite extraordinary.

**Mr M. McGowan:** I think he is no longer the Minister for Water; he is now the minister for Watergate.

**Mr D.A. TEMPLEMAN:** Watergate, yes; it is quite possible. I was talking about the dead cat before, and I think the stench continues here!

I am very keen to see—I hope that the attendant will be able to provide me with—a copy of the letter, because one thing I want to ask about the letter includes the date the letter was signed by the Treasurer and sent to the Minister for Environment. I am hoping that an attendant can get me a copy of that letter while I am on my feet, because this is something that I am eager to pursue. I may be simply going down a track that I need not continue to go down, but I am very keen to receive a copy of that letter.

**Dr G.G. Jacobs:** Why don't we get on with the clauses of the bill?

**Mr D.A. TEMPLEMAN:** I am interested in the date because I want to see how it correlates to the timing of the estimates committee back in May this year. During questions in the estimates committee on the waste avoidance bill, issues were raised about spending the dollars that would be raised by the increase in the levy. I am therefore interested to look at the track of timing. The minister has now tabled the letter, reluctantly after directions from the Speaker. He had to have it almost arm-wrestled out of his hands!

Several members interjected.

**Mr M. McGowan:** They're sending it by post!

**Mr D.A. TEMPLEMAN:** I am hoping that the carrier pigeon will arrive shortly with this letter, because I need to go to the lavatory shortly, mainly because I am so excited about the contents of the said letter!

I thank the attendant, a very good attendant indeed, who has now given me a copy of the letter. I note that there are two receival dates on the letter but that it was sent in late June and received on 1 July. I will read the letter for

Mr John Kobelke; Mr Martin Whitely; Ms Lisa Baker; Mr Andrew Waddell; Dr Graham Jacobs; Mr Mark McGowan; Mr Paul Papalia; Mr Chris Tallentire; Mr David Templeman; Speaker; Mr Fran Logan; Dr Kim Hames; Dr Janet Woollard; Acting Speaker

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those members who may not have a copy of it. It is addressed to the Minister for Environment from the Treasurer and reads —

**SHORTFALL IN LANDFILL LEVY REVENUE**

Thank you for your memo dated 11 May 2009, which sought my consideration in relation to potential shortfalls in landfill levy revenue and a subsequent reduction of the Department of Environment and Conservation's ... budget.

I acknowledge that revenues to be generated from changes to the *Waste Avoidance and Resource Recovery Act 2007* and *Waste Avoidance and Resource Recovery Levy Act 2007* will be influenced by a number of factors, such as delays in legislative changes and likely increases in waste recycling.

The impact of these factors on the DEC's budget will be reviewed by the Department ... as part of each budget process, including the annual mid-year review process. The need for supplementary funding will be addressed as part of these processes.

**The SPEAKER:** Member, I hope there is a question coming at the end of that.

**Mr D.A. TEMPLEMAN:** Yes. Having now read that, Mr Speaker —

**Dr K.D. Hames:** It sounds like exactly what he said!

**Dr G.G. Jacobs:** It's exactly what I did say!

**Mr P. Papalia:** I can only ask: why did you have to be asked?

**Dr G.G. Jacobs:** Because I didn't want to be pushed around by anybody, least of all by you.

**Mr D.A. TEMPLEMAN:** The issue here is about an assurance. My reading of the last paragraph of the letter does not reassure me that the minister will get the extra money; it simply says that the shortfall will be addressed. Certainly that is part of any budgetary process. I think the minister himself mentioned that today in question time about his own portfolio.

I may need a little extra time, as a member may be interested in the continuation of my remarks. In question time today the minister mentioned his inability to influence the capital budget in his portfolio. I am not assured by this letter now. Come the midyear review and come the other budgetary processes, I am not assured by anything in this letter that any potential shortfall will actually be made up. On my reading of the letter, the last paragraph is an acknowledgement of the problem that the minister could face in relation to DEC's budget and that the shortfall will simply be reviewed as part of the budgetary process. I know as a former minister that there were lots of projects I wanted to get up through the budgetary process. They were reviewed as part of the budgetary process but not all of them were funded ultimately.

**Dr K.D. Hames:** Yes, we have a much stronger minister and a much better Treasurer.

**Mr D.A. TEMPLEMAN:** The Deputy Premier interjects here. He has a very flimsy hold on his seat now because all the fishermen hate him, and all the seniors hate him because he will not support them getting a fuel card.

**The SPEAKER:** Member!

**Mr D.A. TEMPLEMAN:** Mr Speaker, the Deputy Premier interjected on me. I have responded. I have welcomed his interjection.

**Dr K.D. Hames:** You are welcome to join the 200 people who support me —

**Mr D.A. TEMPLEMAN:** I will now smite the Deputy Premier sternly because of the rubbish that is coming out of his mouth. The seniors down Dawesville way do not like him. Is the Deputy Premier and member for Dawesville a regional member?

**Dr K.D. Hames:** Of course I'm a regional member.

**Mr D.A. TEMPLEMAN:** The Deputy Premier does not live in his region. He claims to live in his region. He claims money to live in his own home, of course, but we will not go into that.

**The SPEAKER:** Order, member for Mandurah!

**Dr K.D. Hames** interjected.

**Mr D.A. TEMPLEMAN:** The Deputy Premier knows I live in Mandurah.

**The SPEAKER:** Order, member for Mandurah and the Minister for Health!

Mr John Kobelke; Mr Martin Whitely; Ms Lisa Baker; Mr Andrew Waddell; Dr Graham Jacobs; Mr Mark McGowan; Mr Paul Papalia; Mr Chris Tallentire; Mr David Templeman; Speaker; Mr Fran Logan; Dr Kim Hames; Dr Janet Woollard; Acting Speaker

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**Mr D.A. TEMPLEMAN:** The simple fact is that, and the Deputy Premier knows that is wrong.

**The SPEAKER:** Members, take a seat! I would actually like to see this particular consideration in detail make some progress. I am giving you plenty of opportunities, member for Mandurah, and I might also say to the Minister for Health the same things that I am reflecting to the member for Mandurah. I would prefer to hear members of this place asking questions of the minister on the bill we have in front of us.

**Mr D.A. TEMPLEMAN:** Thank you, Mr Speaker. The Deputy Premier throws up things. When he is wrong he needs to be corrected, and I think I have done that.

The questioning by the opposition, therefore, was clearly about the assurance that the Department of Environment and Conservation is not ultimately going to miss out on funding should there be a shortfall. We know that \$13 million will be delivered to the Waste Authority. However, should there be a shortfall, all we have now is a memo to the Minister for Environment from the Treasurer that says that Treasury will look at it as part of the budgetary process and as part of the midyear review. That is all the letter says, hence the reason the opposition has pursued this line of questioning. It is a legitimate line of questioning, no matter what the Deputy Premier thinks. He might think it is a different case. It is not. We are doing our job. We are investigating the information on this legislation because it will have implications for how spending on waste is delivered in the state and how the budget for DEC will be impacted on as well. I am therefore not assured by this letter.

**Dr G.G. Jacobs:** Is there a question here somewhere?

**Mr D.A. TEMPLEMAN:** There is nothing in the letter that assures me that DEC will not in fact be short of that amount of money as part of this process. There is nothing in the letter that says that money will be made up; therefore, the opposition's line of questioning in relation to this clause is relevant and valid. It took us nearly an hour to get the minister to give us a piece of paper that confirmed my fears. Those fears are that there is no assurance and that, therefore, the opposition's concerns and the member for Fremantle's concerns—which I am sure she will articulate at an appropriate time—are valid. I am interested to know now if there is another document that we need to see with regard to this clause. I thank the minister for tabling the letter, but it does not reassure me.

**Mr P. PAPALIA:** I will leave the letter alone. I will, however, probably much to the chagrin of the minister, return to the issue of the money that has been collected on behalf of the state by a number of local governments within the metropolitan area and the shambolic manner in which the minister eventually came to this process by which the legislation commences. I am not satisfied and I do not think the people of Western Australia would be satisfied with the minister's response to my questioning about that money; namely, that it is up to local governments to fix their rates, at what rate they fix them and what they do with the funds. It is a matter of public record that local governments raised this levy in response to the minister's first assertions that the requirement would come in on 1 July; they did so directly in response to the minister's intimation that that would be the commencement date. As a consequence they will now be in possession of a significant amount of money, possibly hundreds of thousands or millions of dollars for all we know. I would like some assurance that the Minister for Environment at least approached the Minister for Local Government with regard to his role and capacity to provide oversight for the local government sector to determine, firstly, how many local governments raised their levies by 300 per cent in response to the minister's demands; secondly, whether the Minister for Local Government was satisfied that it was appropriate for those local governments to have done so; and, thirdly, where the money will be going. What will be done with this money that is supposed to have been raised for the purposes of encouraging good environmental outcomes and instead has probably gone into the coffers of a number of local governments around the metropolitan area that are acting honestly but with very little guidance and absolutely no leadership from the minister?

**Dr G.G. JACOBS:** I reiterate that councils have the discretion to set their rates. Essentially, the money is collected by local governments at their discretion. As the member for Warnbro reports, it was introduced in the expectation that there would be the 300 per cent increase, so they went ahead and raised that levy. They did that at their discretion. Local governments have collected it, but that does not mean we will charge them. They have collected it and the only responsibility they have is to devote those funds to waste management. No doubt over time within their own financial arrangements local governments will make that adjustment; they have collected the levy for waste matters, so they will spend it on waste matters.

**Mr P. Papalia:** What assurance does the minister have of that?

**Dr G.G. JACOBS:** The act says that they have to; they are responsible under the act to do that. They have charged for it, because of what the member says is a misunderstanding or because they have tried to get ahead of the game. The fact that they have actually collected it does not mean that the state government will charge for it.

Mr John Kobelke; Mr Martin Whitely; Ms Lisa Baker; Mr Andrew Waddell; Dr Graham Jacobs; Mr Mark McGowan; Mr Paul Papalia; Mr Chris Tallentire; Mr David Templeman; Speaker; Mr Fran Logan; Dr Kim Hames; Dr Janet Woollard; Acting Speaker

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In any event, local governments make their own arrangements, and as it has been collected for waste management, they will obviously spend that money over time on waste management in the future. I do not understand any argument that now that they have collected it we will grab it because they have collected in this six-month time frame that we are talking about now. This is above board; it is not about trying to move in and overtake or over-collect. Yes, I understand that some councils have collected money. The member asks how many councils have done it and how many have not. It does not matter—the adjustments will be there and, as the member will see in due course, we will make those adjustments for those 12 months. It is not about overtaking; it is about actually ending up with \$13 million for waste management. Local governments will make their arrangements for the spend of that money on waste into the future. I reassure the member that there is no sleight of hand here.

**Mr P. PAPALIA:** The reason I am pursuing this matter in this fashion, apart from anything else, is that at the time that the Minister for Environment first made the announcement of the 300 per cent increase in the levy and placed this demand on local governments to collect the tax on behalf of the state government, a number of local government elected members publicly condemned the move and suggested that local governments should resist this measure and not comply with the direction from the state government. That was not done by the president of that peak body representing local government, the Western Australian Local Government Association, Mr Bill Mitchell. Nevertheless, in this place following a question in question time from me to the Minister for Local Government, the Treasurer, the author of the now infamous letter, stood and accused the president of WALGA of inciting civil disobedience over the landfill levy. This was all in advance of the incredible backflip on behalf of Minister Faragher, whereby after her final reluctant acknowledgement that she should seek legal advice about her actions she did so, and that legal advice told her that she could not do what she had intended to do. All of this happened before that. The Treasurer came in here and in an incredibly bullying, impolite and absolutely inaccurate fashion accused the president of WALGA of inciting civil disobedience in relation to this whole matter. Therefore, I just felt it was appropriate —

**The SPEAKER:** Member, I hope this is significant background to enable you to reflect on the amendments in front of us.

**Mr P. PAPALIA:** I know the minister handling the bill today is not the Minister for Environment and I know that he may not have even been in the chamber at the time all this took place, but it was a significant event in the sequence of events that has led us to be in this place today debating this bill. As a consequence, I am very interested in finding out about it. This shambolic process is an absolute embarrassment to the government—that is, the fact that the minister initially came out and told the world, the state and all the metropolitan councils that they would have to collect a 300 per cent increase on their levy and that those that complied at the time now find themselves completely bereft of any instruction on what to do. What guidance has been given to these local governments to inform them about what they should do with this additional money? Have they been told that it must be directed specifically to environmental outcomes; and, if not, where is the guarantee to the people of Western Australia that that money that has been collected on the pretext of providing an environmental outcome will actually go anywhere near to achieving that sort of outcome?

**Dr G.G. JACOBS:** I think the member for Warnbro needs to put life into a bit of perspective. I do not know whether he heard in my second reading speech about an example of, for instance, the City of Joondalup and the refuse charge.

**Mr P. Papalia:** Do you think the mayor of Joondalup thinks this is a good idea? Ask him at the next Liberal Party meeting.

**Dr G.G. JACOBS:** Let us put that aside. I want for a moment to put this in context and perspective. The refuse charge for the financial period 1 July 2009 to 30 June 2010 was, for the rate notice that I am holding, \$264.80. As it exists today, about \$10 of that is the levy. Even if we increase that by, say, \$24 to bring it to \$34—round figures, in that ballpark—that is the component of the refuse charge of \$264. That is to say \$34 of that is this levy that the member is banging on about that has been over-collected by all these councils. They have collected that money at their discretion. So be it. They have collected it, okay. They have full control over this rating schedule into the future for the waste management issues of their local government. So be it; that is their arrangement. But he should not suggest that the sky is going to fall in and that it is totally shambolic. I understand what the member is saying; I was in this place while this issue was going on, too. To put it in perspective, it is not a biggie. I hope members opposite are not disappointed to find that the letter is exactly what I said it was. I did not want to give it to the opposition with all the scribblings on the back of it. I am representing the Minister for Environment in this place.

Several members interjected.

Mr John Kobelke; Mr Martin Whitely; Ms Lisa Baker; Mr Andrew Waddell; Dr Graham Jacobs; Mr Mark McGowan; Mr Paul Papalia; Mr Chris Tallentire; Mr David Templeman; Speaker; Mr Fran Logan; Dr Kim Hames; Dr Janet Woollard; Acting Speaker

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**The SPEAKER:** Order, members!

**Mr P. Papalia:** What are you hiding?

**Dr G.G. JACOBS:** I am not hiding anything, as has been demonstrated by the fact that members opposite have now got the letter and it is exactly what I said it was—nothing more, nothing less. It is exactly what I said it was.

**Mr P. Papalia:** What are you afraid of?

**Dr G.G. JACOBS:** I am not afraid of anything; I told members it was about a midyear review, but, no, they wanted to bang on about it for 45 minutes.

**Mr M. McGowan:** I can read what is on the back; it has come through!

**Dr G.G. JACOBS:** Members opposite have filibustered this process.

Returning to the member for Warnbro's question, the component of this is quite minor in the context of a refuse charge and the whole context of waste management. I do not believe the sky is going to fall in, even if some local governments took the 300 per cent increase in the levy at their own discretion. They will put that money towards waste management into the future. I would look at my next rates notice if I was a ratepayer in Joondalup.

**Mr P. Papalia:** Do you know how many households there are in Joondalup?

**Dr G.G. JACOBS:** Hang on! To keep it in perspective, if local governments collected the 300 per cent increase component, and there is a bit of overtake there under their arrangements—I am not talking about state government arrangements—they can adjust that next time. It is for them to organise their administrative arrangements. The sky is not going to fall in over this one.

**Mr M.P. WHITELY:** I wish to speak about the letter.

**The SPEAKER:** Member, before you do, I think the process during consideration in detail is that we are actually considering some amendments proposed by the minister. I would seriously like to hear some questions about those amendments. This is not a second reading debate; it is consideration in detail, and I want to hear questions about the amendments. I hope that is what the member for Bassendean is going to do.

**Mr M.P. WHITELY:** We can talk about the letter either now or during debate on the next amendment. Perhaps I will just start and see how we go.

I can see why the minister was reluctant to hand over the letter; I would have been fascinated to see what the notes on the back related to. This letter demonstrates the core problem with this piece of legislation. It highlights the fact that the Department of Environment and Conservation's operations are entirely reliant on its receipts from the landfill levy. Implicit in this letter is the problem that when landfill levies are lower than expected, the operations of DEC will be curtailed. That is obviously why the letter was annotated that guidance should be sought from the director general, the director of strategy and policy, the director of corporate services and the DDGN—I do not know what that stands for. I would be fascinated to read what was on the other side. I imagine they were comments along the lines of having to carefully consider the rollout of waste recycling and landfill reduction initiatives because they will have an impact on DEC's operations. I can sense why the minister was so keen to keep this letter out of our hands. The letter acknowledges that any reduction in landfill levies will have a severe impact upon DEC's budget. Nothing in this letter indicates that the Treasurer said that the government regards DEC's operations as being core operations of government and that it will guarantee funding; far from it. It just says that the government will consider the impact at a later date; hence, the minister's reluctance to let us see this letter.

I think it actually highlights the fundamental flaw in this process, which is tying DEC's ability to do its job to the level of landfill levy collected, so that it is actually rewarded for doing the wrong thing. I notice the minister is adjusting his tie in a nervous fashion; I have obviously struck a chord here. It is obvious that that is what the notes on the other side of the letter were about. The minister has said that there were notes from public servants on it, and I suspect they were notes from the director general of strategy and policy telling everybody to steady on and be careful about the rollout of waste recycling initiatives because DEC would not be able to do its job properly in other spheres.

**The SPEAKER:** Member, can I inform you once again that this is not an opportunity to make a speech. It is an opportunity to ask the minister about the amendments he has in front of the house, and I would like to hear a question in that respect.

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**Mr M.P. WHITELY:** Given that the minister has brought this letter into this place as part of his defence, I would welcome elucidation about what the comments on the other side of the page were about, and whether they are along the lines that I have suggested.

**Dr G.G. JACOBS:** I am just flabbergasted by this line of questioning. This is a genuine attempt to actually move some amendments to the Waste Avoidance and Resource Recovery Amendment Bill 2009. The member for Bassendean wants to filibuster and talk about a letter, on which the opposition has already spent 45 minutes. I was directed by Mr Speaker to provide a copy of the letter, plus the annotations. Quite honestly, I do not think what is on the other side of the page is any of the opposition's business, but if members really must know, in the cause of saving paper, there was a copy of another document on the other side. They were copies, and on the front of it was the letter members opposite have seen, and on the other side was a typewritten account of another document.

**Mr M.P. Whitely:** Was it in relation to this letter?

**Dr G.G. JACOBS:** The member can see that letter in its entirety; it has a letterhead and "Minister for Environment", it has the text and it has the Treasurer's name and a signature at the bottom. That, in its entirety, is the document. Members opposite can bang on about the other side of the page, but, quite honestly, I have better things to do. It is my role to present this bill and the amendments, and I would like to get on with the amendments on the notice paper. I have answered the member for Bassendean's quite irrelevant question as well as I can.

**Amendments put and passed.**

**The SPEAKER:** Minister, do you have a further amendment to clause 2?

**Dr G.G. JACOBS:** I move —

Page 2, line 9 — To delete "the day after that day." and substitute —

a day fixed by proclamation, and different days may be fixed for different provisions.

**Mr M. McGOWAN:** Obviously, the minister did not tell us, but it would be nice to actually know what the effect of this amendment will be. I would certainly appreciate it if the minister would advise us. In light of the remarks made earlier by the member for Bassendean, I would also like it if the other side of that document was quoted from as part of this answer. That would perhaps help us to understand what this provision is.

**Dr G.G. JACOBS:** I did actually explain the effect of this amendment in answer to one of the member for Rockingham's earlier questions, but just to reiterate: the first part relates to hypothecation; that is, the apportioning of moneys. We have talked about that, and it is important to reassure members that \$13 million will go to the waste avoidance and resource recovery account. The first part is needed before 1 January 2010 so that the minister can gazette the regulation for the fee increase. The second part is to come in on 1 January to allow the minister to divide the funds between the waste avoidance and resource recovery account and the Department of Environment and Conservation.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 3 put and passed.**

**Clause 4: Section 36 amended —**

**Mr M. McGOWAN:** Now we are getting into the more meaty issues of the legislation. I am trying to work out exactly what clause 4 does. If we look at the main act, clause 4 allows a business plan in relation to the Waste Authority and its operations. As I recall, when we were setting up the Waste Authority, it was required to set out a business plan for each year of its operation so that the government could tick that off and the organisation could operate reasonably independently based upon the provisions of that business plan. The business plan was meant to be a comprehensive document that set out the activities and way forward. This clause amends the section that talks about the business plan, to say that it is going to change the operations of the business plan in some manner. Why is it necessary to do that? I am not sure whether it is relevant to the raising of the additional money or something that inhibits or limits the Waste Authority and its operations. I would like a full and complete explanation as to why it is necessary to amend that clause.

**Dr G.G. JACOBS:** The member for Rockingham is correct—clause 4, which seeks to amend section 36, inserts a new section 36(1)(da). It provides for a business plan of the Waste Authority to include the services and

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facilities required by the authority to carry out its functions. It will, as inserted, read “Contents of business plan” (1)(a), (b) and (c), and (da) —

the services and facilities that are reasonably necessary to be provided or used under section 16 for the next financial year in order to enable the Waste Authority to perform its functions; and

Member for Rockingham, it really does confirm the existing administrative practice.

**Mr M. McGOWAN:** It is rather unusual, in light of the fact that the second reading speech talked about the waste levy being used for alternative purposes to what it originally was intended for. The main intent of the legislation was to raise additional money. This does not seem to be related to any of that. I am wondering if it was an oversight when the original legislation was drafted or if there is some other intent here that is difficult to define or difficult to work out from the clause. I am having some difficulties working out why this is necessary. I am also having some difficulties working out from the minister why we should vote for it. If it does not enhance the legislation, if it is not something that makes it any better, and considering that the “Contents of business plan” already sets out a range of things that the Waste Authority is required to do and practices it is required to adopt, I am at a loss as to how this adds at all to the legislation and what the minister’s intention is in relation to this clause.

**Dr G.G. JACOBS:** I am advised that it is not a biggie again. It is tidying up. It brings it into the business plan. It is essentially a tidying up of the legislation.

**Mr C.J. TALLENTIRE:** In relation to this clause, it has to be asked why the present funding arrangements in the act, and indeed the present arrangements in the act that relate to the development of the Waste Authority’s business plan, are not sufficient. It would seem, when we look at section 36 of the act, that all the necessary elements of a good business plan are clearly outlined. It really does need to be clarified why this section is being inserted.

**Dr G.G. JACOBS:** It makes the process more transparent. It talks about the services and facilities necessary. It confirms the administrative practice, but it talks about the Waste Authority’s budget in (c) for the next financial year and confirms the administrative arrangements under section 16 for the next financial year in order for the Waste Authority to perform its functions. I do not know how to reassure the member any more. The clause is more transparent than it was. It is better than it was because it talks about the functions of the Waste Authority.

**Mr C.J. TALLENTIRE:** I note the minister’s reference to section 16 of the act as it stands. We already have a requirement on the minister under section 16(1) —

The Minister must ensure that the Waste Authority is provided with such services and facilities as are reasonably necessary ...

Is this not a case of a piece of repetitious text being inserted into the act?

**Dr G.G. JACOBS:** I advise that section 16 as it stands in the act does not actually say how it is paid for, and this does.

**Clause put and passed.**

**Clause 5: Section 73 amended —**

**Mr M. McGOWAN:** This clause amends section 73 in relation to the payment of the levy. This is where this bill gets serious about its imposition of the waste levy on ordinary families. I go to the Treasurer’s letter to the Minister for Environment, which the minister resisted tabling for an hour earlier this evening. The second paragraph, which is quite enlightening, states —

... revenues to be generated from changes to the *Waste Avoidance and Resource Recovery Act* ... will be influenced by a number of factors, such as delays in legislative changes —

That might reduce them —

and likely increases in waste recycling.

That might increase them. Our argument has been that there might be a problem with waste recycling because people might elect to not use waste recovery facilities on the basis that the cost might be prohibitive. People or companies might therefore use a bit of bushland near their house or premises to get rid of some waste. In this letter that the Treasurer sent to the Minister for Environment, he implies that there might be an increase in waste recycling, which is contrary to what we were suggesting. However, if that is true, I can only assume that that might be the case because of the far greater amounts of waste being generated in society rather than the imposition of the levy. I think that all the levy will do is discourage people and drive them to act irresponsibly by dumping more. However, if there is an increase in waste recycling, that means there will be an increase in

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revenue, which is what the Treasurer is contemplating in that letter. That means that more money might be generated, and that means that ordinary families might have to pay more money through the waste levy. We have already been advised that it is roughly \$25 per household per year—on top of all the other charges, it is roughly \$1 000 per household per year—and that this money will therefore be used for the ordinary operations of the department.

That is where this clause comes in. Section 73 is amended by adding another subsection. That will divert the money that is generated by the levy away from what it would have been used for, which is the Waste Authority, and into another account operated by the department. That account will operate under section 16 of the Financial Management Act 2006. Therefore, there will be an independent account into which all this money is deposited, and that will make up for the significant cut to the budget that the government has made to the Department of Environment and Conservation, which cut, from memory, is in the vicinity of \$40 million or \$50 million—roughly a quarter of the operating expenditure of the department. This is the way in which the government is going to do it: it will divert money away from the waste levy and its original intent to the department for its ordinary operations, which would ordinarily have been funded by appropriations from Treasury.

We have a difficulty with this provision. If my analysis of how the levy is going to be used to fund the operations of the department is correct—I would appreciate it if the minister would advise me if my analysis is incorrect—this is the way in which the government will siphon off the money from the waste levy into the operations of the department. I would appreciate the minister's advice on whether that is correct.

**Dr G.G. JACOBS:** I am really surprised that the argument has now turned from the fact that DEC was not going to get enough money and the other arguments we were having earlier. Now the member is suggesting that DEC will get the money and it will not be diverted to waste management. I say again that 25 per cent—\$13 million—will be devoted to and assured for waste management. It is very interesting that the member made comments to the effect that people will not face the landfill levy; they will be irresponsible, go somewhere else and discharge their waste irresponsibly. However, in my second reading speech I mentioned the enactment of some legislation, getting away from purely littering to deal with polluting. I also talked about the \$4 million separate from this in the budgetary process. It is there for everyone to see. It is under a line item for DEC devoting \$4 million to monitoring, including the dedication of those moneys over four years to an inspectorate, which would result in the department getting eight inspectors—six in the metropolitan area and two in the country—to administer the compliance and monitoring issues related to this and other issues. However, for the sake of this argument, it is to dissuade people from engaging in irresponsible behaviour and to follow up those people so that that behaviour does not take place.

The member also talked about \$1 000 in charges, but we were talking about \$24 per household per year for this levy. I have said before, and I will say again, that there is a commitment under this formula, come heck or high water, to devote \$13 million to the waste management account. In particular, the amendment to section 73 in the original bill dealt with the payment of the levy and the three factors as stated—I do not need to read them. This bill adds a fourth subset to that section, and it states —

Any levy paid is to be credited to an operating account of the Department established under the *Financial Management Act 2006* section 16(1)(a).

The opposition has spent half the evening saying, “Where is this money for DEC going to be?” Now it is going to spend the evening saying, “Well, DEC is going to get this money, and it's not going to hand it over to the WARR account.” How much duplicity does the opposition think there can be? I have said very clearly that this is the arrangement, and these are the amendments to enshrine that in legislation.

**Dr J.M. WOOLLARD:** I wonder whether the minister can clarify an issue that I have with the levy. I appreciate that the minister is saying 25 per cent. However, there are concerns that whereas 25 per cent might be \$13 million this year, in five years 25 per cent might be only \$10 million, depending on the income generated. The way this bill is written, does it automatically mean that the additional \$26 million will be generated, or is the amount that can be generated under this bill flexible? If the amendment proposed by the member for Fremantle is supported in this house—it is looking like it might get up—does that mean that the 100 per cent that would go to the Waste Authority would be \$39 million? That is why I want to know whether there is a formula. Would it just mean that there would not be an increase in the levy?

**Dr G.G. JACOBS:** It is 25 per cent of the forecast levy, and the forecast for this 12 months is \$52 million, of which 25 per cent is earmarked for the waste avoidance and resource recovery account. The forecasts for subsequent years could go down as less waste is sent to landfill. As the forecast levy goes down, 25 per cent still goes to waste management. However, less waste has gone to landfill, so the argument could be put that less money is required to manage that.

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**Dr J.M. Woollard:** Provided that it is not being dumped.

**Dr G.G. JACOBS:** Provided that it is not dumped. I hope that the member heard some of the debate about how the government will address that problem. If we achieve what should happen with this legislation, obviously the forecast revenue may come down as less waste goes to landfill. However, if less waste goes to landfill and more is recycled, the argument could be put that less money is required. However, as we will see in a later clause of the bill, the amount must be at least 25 per cent but there is power for the minister to increase that percentage through the budget process in future years. It is about what is needed for management. At the moment there is surplus money in the waste management account.

**Dr J.M. Woollard:** Under this bill, is there automatically an increase in the levy and therefore, if the amendment of the member for Fremantle gets up, does that mean that, rather than \$13 million going to the Waste Authority in the current year, the Waste Authority will get \$39 million for all the initiatives it might have wanted to run with over several years?

**Dr G.G. JACOBS:** With all due respect to the member for Fremantle, if we conceded to her amendment, all the forecast revenues would go to waste management. There is already \$16 million in the account that has not been spent on waste management. I am not sure that putting all the funds into waste management would be a good spend, or necessary.

**Dr J.M. Woollard:** As a result of this bill, will the revenue increase automatically to bring in that \$39 million or, if the amendment proposed by the member for Fremantle gets up, would that mean that there is no increase in the revenue generated from this bill?

**Dr G.G. JACOBS:** The advice that I have been given is the revenue would not increase automatically. A regulation would be required to increase it.

**Dr J.M. Woollard:** I am asking whether an outcome of this bill would be an additional \$26 million, or would the additional amount generated be dependent on the regulations that accompany this bill?

**Dr G.G. JACOBS:** It will depend on the regulations that accompany this bill, and it will not be automatic.

**Mr M. McGOWAN:** I think the amendment proposed by the member for Fremantle is not to this clause, but to a subsequent clause. This bill takes the increase in the levy and gives it to the department. What is currently going from the levy to the Waste Authority will still go there, but this bill will take the increase, which is put in place by way of regulation, and give it to the department for its ordinary operations.

**Dr J.M. Woollard:** The regulations may not change if the provision remains for 100 per cent of the levy to go to the Waste Authority.

**Mr M. McGOWAN:** I think the regulations have already changed. Have they?

**Dr G.G. Jacobs:** No.

**Mr M. McGOWAN:** Obviously, the amendment of the member for Fremantle improves the prospect of the proceeds of the levy being spent on waste management. My point is that this proposed amendment to the act that we are dealing with takes money away from the waste levy and provides it for the ordinary operations of the department, the budget of which the government has slashed, so that this increase can make up the difference. As I said a number of times, I find it abhorrent that the government has done that. As a former environment minister, I think the Department of Environment and Conservation is a very capable and worthwhile agency that deserves a decent budget. For both the assessment and the conservation aspects of the agency's work, in one of the biggest states in the world, the entire budget is less than one-tenth of the education and training budget, and those of other major agencies. It is that small, and the government has cut that agency's budget despite all the good work it does.

As part of this clause, I want to refer to the letter that the minister tabled earlier from the Treasurer to the Minister for Environment, which was dated 22 June 2009. It states —

Thank you for your memo dated 11 May 2009, which sought my consideration in relation to potential shortfalls in the landfill levy revenue ...

On 11 May 2009, the Minister for Environment wrote to the Treasurer about the fear in the agency that the levy would not be in place by 30 June and therefore there would be a hole in the agency's budget. That was three days before the state budget was brought down. The government knew three days before it brought down the budget containing the imposition of the levy, that it was already dishonest. The minister knew, and the agency knew and advised the Treasurer, who knew three days before the budget was brought down that the budget was wrong

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about when the levy would kick in. It took the Treasurer six weeks to respond with this three-paragraph memo to the Minister for Environment, which was in effect a flick-off letter saying that the matter would be considered in the midyear review, which is December. That entire agency must now proceed on the basis that it may have a huge shortfall in its budget and have to make all sorts of draconian cuts to conservation and environment programs for six months, because the Treasurer cannot give an assurance about what will happen with that agency's budget. That is how he treats the Minister for Environment in this state. He took six weeks to write back to her with a three-paragraph letter, and he knew before the budget was handed down that there would be a shortfall in the Department of Environment and Conservation budget. The state budget stated that the new levy would kick in on 30 June 2009, and that was dishonest. The government knew that, and this memo proves it.

**Dr J.M. WOOLLARD:** If the member for Fremantle's amendment is supported, it will mean that the Department of Environment and Conservation will not recover the revenue it has lost through the current budget process. The government would then have to introduce further legislation and a new tax, because that is basically what this is. The department lost so much money through the last budget process and this clause is designed to stop the department from running short. We are playing with the figures here. The objectives of this bill are to increase recycling and to decrease the amount of waste going to landfill. We know that the \$26 million the department has lost will not go towards waste management and landfill; it will go towards supporting DEC for the many other roles it plays, some of which are very valuable roles that the community supports.

I would support an increase of the landfill levy, and an increase in funding to DEC, but my concern about 25 per cent of levy funds going to the Waste Authority is that it will be capped by the department, and as the funding decreases, the Waste Authority will not be able to take on board any new initiatives it might want to take on board, because an amount of 25 per cent will have been stipulated. Although an amount of not less than 25 per cent is stipulated —

**The ACTING SPEAKER (Mr P.B. Watson):** Member, I am a bit concerned that you are not speaking to the actual clause. The clause you are talking about is clause 7. There is nothing in this clause that mentions that. The member will have an opportunity to talk about clause 7 later.

**Dr J.M. Woollard:** Can I very quickly ask a question of the minister?

**The ACTING SPEAKER:** If it is about this clause, yes; if it is not, no.

**Dr J.M. WOOLLARD:** It is in relation to the clause. If the entire intent of this bill is to be defeated by the member for Fremantle's amendment, where will the funding come from?

**Dr G.G. JACOBS:** I thank the member for Alfred Cove. I know she keeps talking about the 25 per cent of levy funds, and then she talks about the member for Fremantle's proposed amendment —

**The ACTING SPEAKER:** Minister, I ask you to refer to the member for Alfred Cove by her electorate, and not as "she".

**Dr G.G. JACOBS:** The member for Fremantle?

**The ACTING SPEAKER:** The member for Alfred Cove.

**Dr G.G. JACOBS:** I am sorry.

Essentially, I will not support the total levy revenue going 100 per cent to the WARR account. If that happened, no money would go to DEC. One might say that this is where we need to put the money, but to be quite honest I do not think we could actually spend that sort of money. The fact is that we already have \$16 million in reserve and we will supplement it with a further \$13 million under these arrangements. It is absolutely enshrined and guaranteed, and 25 per cent of the forecast revenue of \$52 million is \$13 million. I think that that is assurance enough. Clause 5 provides for levy funds to be paid into this operating account for the Department of Environment and Conservation. It will provide the administrative and financial arrangements for those funds—\$13 million—to be put into the WARR account. The member for Alfred Cove can interject if she likes, but —

**Dr J.M. Woollard:** I just don't think that you'll increase the levy because you won't want it to just go to the Waste Authority, and therefore you'll have to introduce a new bill. That's why I put the other amendment to you previously, which I believe your advisers are looking at. I believe it ensures that the Waste Authority will not only get the 25 per cent, but they'll also put up a business plan. If the funding goes down in the next few years, they will get the additional funding they require to keep at least the standard they have now, if not improve on that standard.

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**Dr G.G. JACOBS:** All I can say to that is that this bill provides the minister with the power to be able to do that, if he or she sees that it needs to be done.

**Mr M. McGOWAN:** I think the member for Alfred Cove is suggesting to the minister various options for what could take place. I think she is seeking an assurance that there will be no reduction below the \$13 million that has been promised to the Waste Authority. The Waste Authority already receives that amount of money, so the government is not offering it anything new. The government is offering what the Waste Authority already gets; that is not an improvement.

**Dr J.M. Woollard:** It could go down.

**Mr M. McGOWAN:** Potentially it could go down, but the far bigger issue is that the government is subverting the original intent of the waste legislation that the member for Alfred Cove voted for. It provided for the waste levy to be used for waste purposes. The government also slashed the budget of the Department of Environment and Conservation. If members vote for this legislation, they will be endorsing the action by the government of slashing the budget of the Department of Environment and Conservation. As a former—or current—Liberal for Forests, I would have thought that the member for Alfred Cove would not want to endorse that particular action. We should be sending a message to the government that it is not entitled to do either of those things.

I will provide an example of some of the funny business that is going on, through what the minister has said. He said that there is \$13 million sitting unspent in the Waste Authority account. He then said that even if the Waste Authority received the entire proceeds of the waste levy, it would not be able to spend it. The truth of the matter is that the reason there is a large amount of money in the Waste Authority budget is that it often tries to acquire large amounts of money to spend on major projects. The money comes in every month, or however often it is paid, and it cannot be spent immediately as if it were going on groceries. The authority needs to have a significant sum so that it can spend it on something large, such as a waste recycling facility, a concrete crushing machine, support for trials of container deposit legislation or extended producer responsibility on tyre or battery recycling—any of those sorts of things. It costs a lot of money to set those things up. If the authority has not built up any money to do so, it cannot do those things. That is why the authority tries to acquire a significant amount before spending it.

It is wrong to say that the amount of money produced by the waste levy could not possibly be spent on waste purposes. Waste is a big problem; it is an even bigger problem in Europe and China, where there is terrible overcrowding. It is a big problem here also. The previous government had significant difficulties maintaining landfills, keeping them operational and creating new ones. I approved a new landfill in the hills because there was a significant problem with waste build-up. There is an alternative to landfill. The alternative is recycling techniques using modern technology; however, that costs money. That is why the levy could easily be spent on all these initiatives that reduce the reliance upon landfill for our waste. A modern society like Western Australia should be taking that course of action. That is what this waste levy can be used for. The notion that we cannot possibly spend it is wrong. The notion that there is all that money sitting there that cannot be spent is wrong. As I said, the levy has been built up so that it can be spent on major initiatives, not on piecemeal initiatives or throwing it out the door on little titbits of measures that are never noticed. That is why the opposition argues that all members of this house who support the environment agency and who support the proper disposal of waste should oppose this legislation.

**Dr G.G. JACOBS:** I will address some of the concerns the member for Alfred Cove has about moneys going to waste management. It is important to note that had the government not introduced this levy program, based on the latest trend in figures the Waste Authority's revenue would have actually gone down; it would have dropped to somewhere in the order of \$11 million. We have given an undertaking in this legislative structure to guarantee 25 per cent, or \$13 million, of the \$52 million forecast. I cannot reassure the member for Alfred Cove more than that. However, it is also important to say to the member for Rockingham—who is in the chamber but is not listening—that the establishment of this levy to reduce the amount of waste that goes to landfill will stimulate the recycling industry. That in fact is what it will do. The member for Rockingham talked about buying a big crushing plant and that sort of thing. Waste recycling industries will be stimulated by this legislation to recycle waste; and they will do that. Perhaps even the big companies from the eastern states will come to WA and put their capital investment—\$13 million or whatever—into machines such as a whiz-bang crusher.

Another important measure is that the Minister for Environment will soon issue a release on Western Australia's waste strategy. That will put some surety and guidelines into waste management in Western Australia. I have heard in the past few weeks while handling this legislation that there was concern that DEC would use this \$13 million to the detriment of the Waste Authority, that the resource recovery account would not get the money and that DEC would keep the money and not devote it to what Western Australia needs to truly devote it to—

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waste management. Obviously, the strategy will contain guidelines for the minister as well. As I have said before, opposition members might have some political cynicism over this, but the minister will have the power to devote funds appropriately to waste management. She can in fact increase the levy—I say “she” because our current environment minister is female. She can increase the levy and she can devote more funds to waste management if she sees fit.

**Dr J.M. Woollard:** She could, minister, but you would know that DEC has regional parks and national parks. DEC covers so very many environmental areas, and the Waste Authority will become just one small part. Under this change it will have to go in with the big guys, who have been there for a long time, and battle for any additional income. I don’t think it will get that additional income.

**Dr G.G. JACOBS:** Keeping this in perspective, if we look at the total revenue of DEC, we are talking about more than \$300 million. We are now talking about \$39 million to be devoted to DEC; that is, about 11 or 12 per cent. We really must keep that in perspective. I do not believe there is any suggestion that this money will be hived off and not go to waste management. That \$13 million, in the total sum of \$300 million for all the things that DEC does, keeps that fact in perspective.

**Mr P. PAPALIA:** Mr Acting Speaker (Mr P.B. Watson), I am keen to hear more from the minister if he has got more to say.

**Dr G.G. JACOBS:** I thank the member for Warnbro; he actually surprised me.

**Mr M. McGowan:** He’s so nice to you and you are so nasty to him!

**Dr G.G. JACOBS:** He must have been thinking I was hanging myself in this debate to let me continue, on the assumption that if he gave me more rope, I would hang myself properly!

**The ACTING SPEAKER (Mr P.B. Watson):** I am sure that with the extra time the minister will get on to the clause.

**Dr G.G. JACOBS:** Thank you, Mr Acting Speaker. I do thank you for the extra time.

All I can do is assure the member for Alfred Cove that this amendment is a genuine move to devote significant moneys to waste management. Under the old arrangements, the moneys would not be \$13 million; they would have probably gone on a downward slide to \$11 million. The amount of \$13 million is actually 25 per cent of the forecast. The member for Alfred Cove is concerned that the forecast could go down because as more people turn to alternatives to landfill, there will be less revenue from landfill. However, I say to the member for Alfred Cove that that is not necessarily a bad thing. Less waste going to landfill could perhaps be better managed. I am not saying that that is necessarily true, but there is an argument to suggest that \$13 million will be plenty because it will do what we want it to do. We have actually pulled a lot of waste out of the system, particularly construction and demolition waste. That waste is being recycled and therefore the tonnage of waste going to landfill has very much decreased.

**Mr C.J. TALLENTIRE:** I have some very grave concerns about clause 5, principally because I believe it is contrary to the objects of the Waste Avoidance and Resource Recovery Act. I will come to some of those concerns, but I will make a few comments on the minister’s well-intentioned and perhaps well-considered responses and his comments in the second reading speech.

It is clear that in the minister’s mind this bill is about recycling. He is missing the point that it is actually about waste avoidance. Comments were made earlier that it is often very expensive to make that sort of upstream change so that products do not contain material that has to go to landfill. That is done upstream but it is very expensive to do it that way. It must be done at some point but the beauty about having this waste avoidance and resource recovery account is that it enables the Waste Authority to work with people at the top of the stream—at the production level and design phase. That is where we get into waste avoidance. This is not just about landfill. We will have some serious funding problems if we imagine that it is just about landfill.

While I am on the point of landfill, the minister said that the price mechanism in the bill would dissuade people from taking items to landfill. I should direct the minister to the sixteenth report of the Legislative Council Standing Committee on Environment and Public Affairs on its inquiry earlier this year. The chairman of the Forum of Regional Councils—whose knowledge about landfill levies is great—Councillor Doug Thompson, who I believe is from the Southern Metropolitan Regional Council, pointed out in his evidence to that committee that the change that has occurred in which inert landfill has gone up to \$28 per tonne will not act as a financial incentive. Normally, even \$65 to \$70 would be quite economic for them because the alternative of reprocessing is about \$130 a tonne, so the government’s new levy of \$28 a tonne will not make any difference at all.

Mr John Kobelke; Mr Martin Whitely; Ms Lisa Baker; Mr Andrew Waddell; Dr Graham Jacobs; Mr Mark McGowan; Mr Paul Papalia; Mr Chris Tallentire; Mr David Templeman; Speaker; Mr Fran Logan; Dr Kim Hames; Dr Janet Woollard; Acting Speaker

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Coming back to the point about the objects of the act, my grave concern is that clause 5 of the Waste Avoidance and Resource Recovery Amendment Bill 2009 really is contrary to the objects of the act because we have, as other members have said, a Department of Environment and Conservation that is about delivering a whole suite of very worthy programs, which should be funded through core funding from consolidated revenue, but the initiatives of the Waste Avoidance and Resource Recovery Act is a very different world altogether. It is about this issue of making sure that we have less waste, that we design out waste and that we also ensure that pollution through waste is minimised. I could understand that people who are perhaps somewhat new to this area would find that it sounds like a bit of an overlap with the activities of an agency such as the Department of Environment and Conservation. However, that is not really the case at all when we look at the objects of the act. This idea of making any levy paid to be credited to an operating account of the department really is getting into this very dangerous, very murky area of funding an agency with its excellent suite of activities from money that comes via an act that has been set up for some totally different purpose. Therefore, there are some very grave dangers and I think that it would be only sensible to have clause 5 deleted from the amendment bill. I suppose then the question remains: what is the purpose of this bill if we delete clause 5? I think we have to find some mechanism, if the government really wants to insist on pursuing this amendment bill, and some way of making it consistent with the objects of the act.

**Dr G.G. JACOBS:** The member for Gosnells surprises me because of his previous and present green credentials. I actually found it a little difficult to follow how recycling was not waste avoidance because obviously recycling reduces the need for raw materials, which replaces the need for new materials. When people actually recycle something, they are not looking to deposit it in a facility for waste, of which, in this case, there is too much. As the member said in his second reading contribution, there is too much waste—1.7 tonnes a head a year. We do very poorly, the member said; we do shockingly in our low recycling of 800 kilograms a head a year. We do badly. New South Wales had construction and demolition waste of up to 65 per cent but that has now reduced to about 20 per cent. Admittedly, the New South Wales levies are a lot higher, but that is not to suggest that this will not drive a process or, as I often say, kick-start a process. A lot of things that happen in waste management are to do with education and the changing culture. Heavens, I know when it comes to water management that it is about changing the culture and changing behaviour. It is all those things but it is also about creating a situation and environment in which we can kick-start a process that has commercial drivers. There are some commercial realities, particularly with construction and demolition waste, to say that we are going to take those bricks out, stick them in the bin, get the guy to pick it up and just push it off to landfill, but now we will say that we need to take the bricks and timber out of there to reduce the amount that goes to landfill. Surely the title of this bill says that—waste avoidance. We will have actually recycled that material, which reduces the need for new materials. That is a good concept. I would have thought that is a very good concept.

**Mr M. McGowan:** We created it.

**Dr G.G. JACOBS:** Yes, I understand members opposite created the original act but we are now providing some moderate, not over-the-top, increases—\$24 a household a year or \$140 on a construction site for the average new greenfield house—that just provide those incentives. The member for Gosnells said that this will not cut it; this will not achieve anything. That really does surprise me because it is important that we provide some structure by which we can get some further cultural and behavioural change in what we do with waste. I cannot agree with the member in that we should just walk away from clause 5. It amends section 73 of the Waste Avoidance and Resource Recovery Act, and provides for the levy funds to be paid directly into an operating account of the Department of Environment and Conservation, which creates the financial skeletal structure, if we like, for us to put this mechanism into operation. The member surprises me with his negativity on this matter. I understand that he has issues with it, but, in concept, that is what we are trying to do.

**Mr P. PAPALIA:** I want to pursue this matter a little more. As noted by the member for Gosnells, this is a crucial component of the bill because it creates an account that is not entirely dedicated to the original intended outcomes of the Waste Avoidance and Resource Recovery Act and is therefore a significant change to the way we operate with regard to landfill and landfill levies in Western Australia. The minister consistently refers to New South Wales because it has a much higher levy, and that is an interesting observation that he makes. Noting that in New South Wales landfill operations and these types of facilities are operated by the state government, did the environment minister consult with the people in Western Australia who operate these facilities and will be required to implement any outcomes of these changes and who will be most impacted on by these changes? Did the minister consult with those people who operate these facilities? I understand the minister's previous response about the budgetary process, but that is irrelevant. What we are talking about is whether the minister responsible consulted with the people in this field who will be most affected by this intended change.

**Extract from Hansard**

[ASSEMBLY - Tuesday, 8 September 2009]

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Mr John Kobelke; Mr Martin Whitely; Ms Lisa Baker; Mr Andrew Waddell; Dr Graham Jacobs; Mr Mark McGowan; Mr Paul Papalia; Mr Chris Tallentire; Mr David Templeman; Speaker; Mr Fran Logan; Dr Kim Hames; Dr Janet Woollard; Acting Speaker

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**Dr G.G. JACOBS:** I seek a point of clarification: by “consult”, who is the member talking about? I am not sure who the member was talking about consulting with. Was he asking about the minister in Western Australia consulting with people in New South Wales?

**Mr P. Papalia:** Did the minister bother to talk to people who operate these facilities in Western Australia about the intended outcome of this change, and how they regarded that intended outcome, prior to announcing it?

**Dr G.G. JACOBS:** I am not the minister, so I am not aware of how much consultation took place. I do understand, though, as I have said before, that this levy process was part of the budgetary process. As I also said before, I know as Minister for Water that when the budgetary process for capital expenditure and programs is being discussed, some of it is not able to be consulted upon. I cannot give the member an answer about how much consultation took place. I am just calling on my experience of the budgetary process in which I was involved and the ability for me to go out and consult on capital expenditure issues of the budget, for instance.

Debate adjourned, on motion by **Mr R.F. Johnson (Leader of the House)**.