

TRANSPORT (ROAD PASSENGER SERVICES) BILL 2018
TRANSPORT (ROAD PASSENGER SERVICES) AMENDMENT BILL 2018

Cognate Debate

Leave granted for the Transport (Road Passenger Services) Bill 2018 and the Transport (Road Passenger Services) Amendment Bill 2018 to be considered cognately, and for the Transport (Road Passenger Services) Bill 2018 to be the principal bill.

Second Reading — Cognate Debate

Resumed from 22 August.

MRS L.M. HARVEY (Scarborough — Deputy Leader of the Opposition) [12.15 pm]: I rise to make a contribution to the debate on the Transport (Road Passenger Services) Bill 2018 on behalf of the Liberal opposition. The Liberal opposition has formed the position that it will not oppose this legislation; however, we will point out some of its anomalies. We arrived at that decision over fairly lengthy debate over a long period after the taxi plate buyback scheme was first proposed.

The Minister for Transport took the somewhat unusual step of sending a letter to all taxi plate owners who will be a beneficiary of the buyback scheme, basically declaring —

The State Labor Government and I have been very clear with regard to the buyback. The issue will not be revisited should the Liberal Party and other minor parties defeat the proposed legislation in the Legislative Council, and no further financial payments or assistance to the industry will be considered.

That puts the Liberal opposition, crossbenchers and other members of Parliament in a really difficult position. The letter implies, “It’s my way or the highway; if you don’t agree with what I have proposed, any offer of financial assistance is off the table.” It puts members of Parliament in a very difficult position and means that we have to swallow what the government has served up or else individual plate owners who are facing financial difficulty will get diddly squat. I do not think I have heard of a minister using the tactic of contacting individuals in financial distress. The Minister for Transport has pointed the finger at the Liberal opposition and said, “They’re the ones standing between you and your bucket of money” regardless of whether the proposed buyback scheme or levy is the best way to get the job of accumulating funds done. We will ask some serious questions during consideration in detail, not because we want to delay the bill—I said that we are not going to oppose it—but so that we do our job and challenge some of the assumptions behind this legislation.

I am still absolutely flabbergasted about the letter. I put on the record for *Hansard* that a lot of plate owners out there are hurting. We acknowledge that, and we acknowledge that we did not solve this problem when we were in government. However, sending a letter like this to people who have their backs against the wall—their financial investment has not worked out, they have mortgages on their houses and the banks are knocking on their door because they cannot afford to make their repayments—results in those people behaving in particular ways. I can tell this chamber that as a result of this letter, electorate officers, those in the frontline in the offices of those Legislative Council and Assembly members, have been getting phone calls with barrages of abuse hurled down the phone. It is completely and utterly unnecessary. People on very medium incomes doing their job trying to service a member of Parliament’s office are, as a result of this letter, getting attacked by angry taxi plate owners—aggrieved people in financial distress. That is what that letter has done. I call that a dog act. If that is the way the minister is playing this, the Liberal opposition feels that in the face of bullying tactics like that we need to be very careful with how we manage this legislation. We will interrogate the legislation very carefully.

The minister is now finding out what it is like to be in government and to try to solve difficult problems. When we were in government we did not solve this problem and there are a range of reasons for that. A lot of people in the industry traded plates. A lot of them had not purchased those plates from the government, they had purchased them from other investors over time, and depending on the market conditions at the time, the value of that asset would go up or down. Unfortunately for our taxi plate owners and investors in the industry, they were caught in a perfect storm. Many disruptors came into the system—Uber and others. They came in using a disruptive mechanism that had been successful in other countries and made it very difficult in regulated taxi environments for governments to respond effectively and efficiently. In addition, Western Australia had been on a wave of economic prosperity that came to an abrupt halt. Construction had ramped up in the mining sector and drew to a close and record numbers of people left the state because the construction work that had drawn them here was taking them back from whence they came, so a lot of the work that taxidrivers used to get fell out of the space because people were not here catching taxis. That happened at the same time as a disrupter came into the economy and so the taxi industry was caught in a perfect storm that was difficult to solve.

One of the considerations that we discussed when we were looking at whether we could have a buyback scheme and how we could fund it was funding a buyback scheme from the partial sale of Western Power, using the proceeds of that partial privatisation to go towards compensating a buyback of taxi plates in order to restructure

an industry that had a structure that was completely untenable in a modern economy. However, 17 March saw that that was not to be. One of the difficulties this government had was that while we were trying to negotiate a position with the various groups that had formed within the taxi industry, every time we would arrive at a position or a negotiation point those plate owners and investors would then take that position to the opposition and the opposition would up the ante. In the lead-up to an election environment it was impossible to negotiate and try to settle on a sensible outcome. It is not a good environment to try to be negotiating the value or otherwise of a buyback scheme for investors in any kind of industry when we have an opposition willing to promise much, much more in order to achieve government. That was the situation we were in.

One of the considerations that we took on board when we were in government was to ask what sort of precedent a buyback scheme sets. The world is full of disruptive technology and disrupters; that is a fact of life and the reality of doing business in 2018. The next wave of issues that the government will now face, now that it has set a precedent with a buyback scheme for plate owners, is what do we do when the TAB is privatised? Where do all those mum and dad owners of TAB shops fall when the TAB is privatised? Will the government, as part of that privatisation, buy back those businesses and compensate those mum and dad investors who derive their income from managing a TAB? What happens to them? Will the sale be contingent upon those individuals being given a value for their investment? How will the government determine what that value will be? Lotterywest kiosk owners are all mum and dad investors. I think the lotteries have probably one of the biggest disruptors that any of us have seen with online gambling. How do we manage that? Lotteries are a 100 per cent government regulated system, similar to taxis, yet there is a great difficulty in trying to manage online gambling activity. Speak to any of the Lotterywest kiosk owners and they will tell you that it is very challenging for them to try to maintain their business in the current environment because of the disruptors that are involved. Governments find it really difficult to deal with disruptive technology. It is not geared up and innovative like the disruptors are. It sets a really interesting precedent.

As part of this legislation there are some significant changes to the industry. The minister has said that she believes that the costs in the sector will come down and that fares will be reduced because there will be less of an administrative burden, but all I can see in this legislation is a significant increase in administrative burden. There are new reporting requirements. Regional operators will have to cough up and pay for a dispatch system for their vehicles. I am advised that will cost them \$24 000 because they need to participate in this scheme. Some assumptions sit behind it. In the briefing that opposition members were given, we were told that an estimated \$29.5 million would be collected a year from the tax that will be imposed on consumers to pay for the buyback. In addition, once the value of the total buyback is determined, there will be an estimated \$1.2 million of administrative costs for the public servants administering the scheme. That will need explaining. I do not know what the government is intending, and we will ask the minister to explain why we need an additional \$1.2 million if no new full-time equivalents are going to be employed by the Department of Transport to administer the scheme. People are in there dealing with the taxi industry at the moment who will be administering this scheme, one would presume. If they are not new employees, why are consumers going to be paying for their wages as part of this new tax? That will need to be explained. We need to have some clarification around that.

I accept this was a difficult issue to settle and we are never going to keep everybody happy, but this is when the promises made in the hurly-burly of an election campaign come back to haunt people. I have had delegations of taxi plate owners visit my office. Two of the most vocal people in this area, Athan Tsirigotis and Lindsay Hill, are my constituents and they are regular visitors to my office. Both of those individuals and a number of other plate owners have said to me that this buyback scheme has fallen well short of their expectations and of the promises that were made to them in the lead-up to the election. A number of those individuals—Athan Tsirigotis and others who are behind the Micro Business Party during the last election campaign—have said to me that they sat in a meeting with the now minister when she was in opposition and they were promised that they would get upwards of \$200 000 as part of a buyback. I have heard that from half a dozen people who said they were in that meeting. We had those individuals come to us when we were in government. They asked whether we would match it. The Treasurer at the time was privy to those conversations and he advised that no, we would not. The Micro Business Party ran candidates in every seat at the last election and directed those preferences against the Liberal Party and towards the Labor Party because it had been promised upwards of \$200 000 a plate. They have all told me that. I had separate meetings with half a dozen disparate parties—they were not meeting me together—who have all said the same thing.

The other expectation they had was that they would at least get \$162 500. When this matter was discussed in this chamber on 8 September 2016 in debate on the taxi hardship grants scheme that the then minister put forward, the Minister for Transport, then in opposition, moved to change the compensation amount for financial assistance from \$20 000 to \$162 500. Most of the taxi plate owners, many of whom were sitting in the gallery upstairs during those debates, were really heartened by that. They expected to be getting at least that, and then subsequent to that they were promised a much bigger amount. For many of those plate owners, particularly

those who have been in the industry for a long time, this scheme will deliver a minimum of \$100 000. Some of them will get more. There is no doubt about that, but that is not what they were promised. Many of those plate owners have said to me that they were not expecting this. They think it is entirely inappropriate that this is funded by consumers. They were not expecting to have an extra tax put on their customers to pay for the buyback. A large number of plate owners have come to see me outraged that they have to charge their customers 10 per cent to pay for the plate buyback scheme because in their view—there are very different views within the taxi industry—this was an issue of the department's making and the department should fund the buyback scheme. There are strong views out there among taxi plate owners that their customers should not be forced to pay for this buyback scheme. Those are some of the issues.

There are some questions over the operation of the scheme. Many taxi plate owners have been in financial hardship for some time and I do not understand why the government has not funded this from the consolidated account with a view to reimburse the buyback from the tax over time. As I understand it, the way it is going to work is that the tax will come into play and applications will go out to all of the plate owners to apply for the compensation and to surrender their plates. Once all of those applications have been collected and assessed and an amount settled on, the tax will keep collecting, along with the cost of the additional or existing public servants for administering the scheme, and then once that value has been collected, at that point the scheme expires and the payment goes out to the plate owners. That is what was explained to us in the briefing as to how it was going to operate. I see the member for Armadale shaking his head, but that is what we were advised. If that is not how it is going to operate —

Dr A.D. Buti: You are completely incorrect.

Mrs L.M. HARVEY: How is it going to operate? That is what the public servant said.

Dr A.D. Buti: We will respond. You are just wrong; you are completely wrong.

Mrs L.M. HARVEY: We come back to the position where it is “my way or the highway”. Members on this side were there. Members, is that what we were told in the briefing?

Dr A.D. Buti: You would have received the same briefing as the member for North West Central and I can assure you that the member for North West Central has a very different understanding of it.

Mrs L.M. HARVEY: If I have got that wrong and people can receive payments sooner, before all the money has been collected, I will happily withdraw those comments, because that seemed like a daft way to run the scheme. If I have got that wrong, I will take it back.

Going back to the 10 per cent tax, I do not know why Western Australia has decided that we need to do it differently from other states. Other states have a simple tax collection method of \$1 a fare. The minister will need to explain why a 10 per cent tax has been arrived at as the best collection method, and also why charter operators, limousine operators and others are included. It seems to me that they do not have the opportunity to participate as part of the voluntary buyback scheme, so I question why their consumers are going to have to contribute towards the cost. That 10 per cent tax means that people on longer on-demand transport trips will pay up to \$10 in tax. For those lucky enough to live in the CBD and inner suburbs, they will pay much less every time they use on-demand transport. I know that there is probably an argument that \$1 a fare would disproportionately affect pensioners and seniors who often take shorter trips, but surely an exemption for them would be appropriate rather than charging people who live in the outer metropolitan areas \$10 extra to pay for a plate buyback scheme. If consumers were asked whether they wanted to contribute \$5 to \$10 every time they hopped in a taxi or an Uber to help buy back taxi plates that were investments of other individuals, I think we might find that they were pretty upset about that. Perhaps they would like to spend their money elsewhere. However, that is what the government has chosen to do, so the government needs to explain to those consumers why it has made that decision.

The minister said that the costs in the industry would come down. We need it explained how they are going to come down. From what I can see, new safety requirements are built in, for both on-demand dispatch providers as well as all on-demand drivers. There is still a licensing arrangement for vehicles and drivers and a new licensing arrangement for the on-demand dispatch operators, and a tax that needs to be collected by those mechanisms. I cannot see how there is less regulation in that, because there are additional things to do. There is also a safety requirement that far exceeds the safety requirements in any other jurisdiction for the on-demand operators and drivers, the providers of the service, and providers of the booking services as well. It is a very strong test. We will ask a few questions about that during the committee stage. Sometimes those sorts of requirements have can unintended consequences. I am thinking about the state of some of the people who use on-demand transport, particularly after a big night out. Do those new safety requirements mean that the driver of a vehicle will need to make sure that they get an inebriated passenger in the back of their vehicle to somewhere that ensures their personal safety is considered? If a driver has an inebriated passenger and they

must ensure their personal safety, could that then extend to a liability issue for the on-demand transport driver if they deposit that individual into Northbridge when they are inebriated and they then find themselves getting into some sort of mischief or personal distress? Will a driver need to ensure that as passengers get out of their vehicle, they do not fall over? If they fall over and hit their head, is that the responsibility of the driver who deposited them out of the vehicle? I hope it would be the responsibility of the person who is inebriated or otherwise affected by some substance, but that is not often the way that these things work. It will be interesting to see some of the scenarios tested when the legislation gets through, because the wording of that safety legislation—it is the toughest test of any jurisdiction—is that the on-demand transport operator, both the dispatch operator and the driver, have that duty of care. The dispatch operator has the duty of care towards the driver and passenger, which begs the question: if a passenger is being aggressive towards a driver and causes some injury, where does that responsibility rest? We will examine some different scenarios around that. Obviously, safety needs to be of paramount concern because on-demand transport is part of our public transport mix, but we need to make sure that we get the tension right with these sorts of things. As I said, the opposition is not be going to be mooted any amendments. We have a gun to our head that is telling us if we do not pass this legislation, plate owners will get nothing, so we will just test this and the government can do its job of being in government and iron out problems that might arise out of deficient legislation as they occur.

I note also that this legislation removes the ownership limit of five plates. One of the scenarios I can see coming out of that is larger companies owning lots of vehicles and responsibility being pushed down on to drivers more and more. There is the responsibility for maintenance of the vehicle. Drivers are often the meat in the sandwich in the on-demand transport industry. They are the ones who pay the leasing and licensing costs and are responsible for the management of the vehicle. They deal with the customers. At the end of the day, the drivers are the ones who get squeezed out when it comes to making an income from the industry. I can see large corporations taking the opportunity to buy up fleets of vehicles and then having the responsibility for the management of those vehicles tied up in leasing arrangements with the drivers. The drivers will then have to push themselves to work longer hours so they can pay for all those costs and make a living out of the industry. We will see whether that happens, but I can certainly see that as an outcome of this legislation.

It will be interesting to see whether the minister envisages a new compliance regime. This legislation provides entry provisions and quite strong powers for not only police officers, but also officers appointed by the CEO of the Department of Transport to enter office space to take documents, photograph documents, enter vehicles, take photographs of vehicles, inspect records and do all sorts of things. They are wideranging powers, and, yes, we need to ensure that there is enforcement and compliance in an industry in which people could potentially be at personal risk, but we also need to make sure that we get the tension right when giving powers to certain officers. One question not answered in the briefing was how long the records of individuals would need to be kept. Obviously, records will need to be kept for taxation purposes. The legislation contains a record-keeping requirement that, for example, all records of all bookings that dispatch operators have allocated to drivers will need to be kept, but it does not say for how long. With data storage these days, organisations have to control a large amount of data. Private information is held in that data—there are the names, addresses and phone numbers of individuals who may have been a part of a booking service. Some international privacy laws govern how long private information on individuals is kept, so it will be interesting to see whether some of those companies that operate under different countries' privacy laws are required to destroy the personal data that is held by those organisations and whether the legislation has contemplated the private data rules of other countries. I note that particularly in some European countries, for example, there is a requirement that if a company stores data containing names, email addresses, phone numbers and personal details of individuals with whom they do not deal on a daily or regular basis as part of a business transaction or relationship, they are not permitted to hold on to that data; they are required to delete it. As I said, the public servants who gave us the briefing could not advise whether there was a time-limit requirement for holding onto those records. Obviously, companies need to hold on to records to make sure that if audits are done, tax has been levied and collected appropriately from consumers. But the question remains how long that data needs to be held. That imposes a cost on businesses, because data storage and maintaining the integrity of data is an ongoing cost these days.

There are other issues with this legislation, particularly in regional areas. It is our understanding from the briefing that if a fare terminates in the regions in, say, Peel, Murray, Mandurah or Perth, it will be subject to a 10 per cent tax. If a limo or charter operator takes half a dozen people to Optus Stadium for the footy, the fare they pay from Bunbury, for example, will be subject to a 10 per cent tax.

Dr A.D. Buti: You are misleading, aren't you, because you know there's a \$10 maximum?

Mrs L.M. HARVEY: Member for Armadale, I am not misleading. I am saying that it is a 10 per cent tax. Yes, it is capped at \$10, but if the fare originates in Bunbury and terminates at Optus Stadium, they will still have to pay the 10 bucks.

Dr A.D. Buti: It's not 10 per cent; there's a big difference.

Mrs L.M. HARVEY: It will depend on what fare people manage to barter. They may pay only \$9 if it is a \$90 fare.

Dr A.D. Buti: There you go; even better.

Mrs L.M. HARVEY: But the fact remains they are subject to the tax, and the member for Armadale is not denying that.

Dr A.D. Buti: No; what I am saying is that you misled when you said it was 10 per cent. It's not. It's \$10 if it's more than \$10—max.

Ms L. Mettam: He answers some questions.

Mrs L.M. HARVEY: It is beaut, is it not?

Dr A.D. Buti: I think from Bunbury the fare would be more than \$100.

Mrs L.M. HARVEY: The member for Armadale appears to be confirming that if a person is catching a limo or using a charter operation in Bunbury, Dunsborough, Busselton or somewhere like that and they are driving into the city to go to the footy, they will be charged probably \$10 to pay for the buyback scheme even though there is no buyback option for regional operators.

The member for Vasse will be raising some issues about some regional operators, because she has been dealing very closely with them. I note that back in January the minister mentioned a regional support package, but we have not heard anything about what that regional support package will look like. I know one concern in regional areas is that on-demand transport is an integral part of the public transport mix because there are no bus services in most regional towns, but it is a very thin market. As I understand it, the existing taxi operators in regional centres have some requirements put on them. For example, they need to be available to take doctors and nurses out to meet the Royal Flying Doctor Service in the middle of the night, and those sorts of things. However, that is not really a money-making venture when we are looking at penalty wages for the operators who might be doing the driving. There is a public service requirement, if you like.

Those regional operators will now have competition around events or at weekends. After the legislation is passed, basically any driver will be able to go to a regional area and operate. Friday and Saturday nights are probably the busy nights, when those operators get to make some money, but during the day it might be more of a thin market. The member for Vasse will interrogate that in more detail.

With that I will conclude my remarks by saying that the opposition does not oppose the bill, but we will interrogate it very closely because we have some considerable concerns about some aspects of it. That said, we know we cannot govern from opposition. The government has its hands on the steering wheel and is in control now.

Debate interrupted, pursuant to standing orders.

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