

LOCAL GOVERNMENT AMENDMENT (REGIONAL SUBSIDIARIES) BILL 2010

Second Reading

Resumed from 25 November 2010.

HON LJILJANNA RAVLICH (East Metropolitan) [8.06 pm]: I welcome the opportunity to make some comments on the Local Government Amendment (Regional Subsidiaries) Bill 2010. This bill is quite an interesting bill. It is a very simple bill and it follows some work done by Hon Max Trenorden and Hon Nigel Hallett in 2010 when they looked at the issue of structural reform. I think that they went to South Australia —

Hon Max Trenorden: And Queensland.

Hon LJILJANNA RAVLICH: — and Queensland to look at what was proposed there. For any Minister for Local Government and, indeed, the current one, local government reform looks easy to begin with, but once consultations are undertaken and meetings with stakeholders are held, it becomes apparent how complex and difficult a process it is to get unanimity amongst the 139 councils that we had back in September 2008 and that we still have. There has been an enormous amount of work and expenditure, and the positions and views of local government authorities about whether they support forced amalgamation, about which local governments should amalgamate and who should be responsible for picking up costs and so on have changed.

The government's achievement in this area has been very chequered. In the 2008 election campaign a commitment was made by the then opposition against forced amalgamations. It was reported in the *Toodyay Herald* in September 2008 that the current Minister for Local Government, when in opposition, advised that the opposition did not support forced amalgamation for local governments in WA; that was a direct comment by Mr John Castrilli. On 5 February 2008 at a Western Australian Local Government Association representative meeting at Exmouth, the Minister for Local Government, Mr Castrilli, said that if councils did not amalgamate, there would be legislation, and, if they did not want to do it, he would do it for them; it was as simple as that. Remember that? A long time has passed since then and, of course, he has not done it. This Minister for Local Government has not proven to be a particularly effective minister. The Premier constantly saves his bacon and interferes in the process, which does not help.

Local governments are very divided in their views. We basically have a situation in which we have pretty much reached an impasse, although last Friday there was talk around town that the Premier and the Minister for Local Government would make a big announcement at the Constitutional Centre of WA. This was supposed to be a big deal because most local government authorities in the metropolitan area were invited to assemble for the big announcement. They were fully expecting that the Premier would present an ultimatum, perhaps even a plan with lines on a map, to say which council would have to amalgamate with which other council. Of course, it ended up being pretty much a fizzle. The big announcement was in fact no more than the Premier stating that there would be another lot of consultations about local government reform. This is three years down the track of this government. Millions and millions of dollars have been spent on a reform process that simply has not delivered anything. The only thing it has probably delivered is heightening the rate of frustration amongst local government authorities that are now caught in this pattern whereby they cannot move forward, they cannot go backwards, they do not know what they are doing, and they are probably sick and tired of all their resources being tied up in a reform process that is simply not achieving anything for them or, indeed, their ratepayers.

I want to put on the public record that when I was local government minister, it was quite apparent to me that the ratepayers really do not care about local government reform. In fact, I cannot remember one ratepayer coming to me to say, "We want you to reform local government." They just did not.

Hon Robyn McSweeney: They were too scared of you?

Hon LJILJANNA RAVLICH: They might have been too scared of me, but they simply did not.

This is really a construct of CEOs who want to increase their empires as much as anything else. The easiest way to increase an empire is to look around, find a small, fledgling neighbouring council and say, "That would be nice in the kit. I will take that one and perhaps we should start looking at a formal amalgamation with this one over here to our north and maybe this one down here to our south." The idea that this would be a simple process is probably a quantum leap of faith.

I quickly want to touch on what Hon Max Trenorden's bill will do to put it in some sort of context. The Local Government Amendment (Regional Subsidiaries) Bill will insert two new definitions into the parent act—the definitions of "regional local government" and "regional subsidiary". It is the second one of those that really gives effect to the legislation, because, under proposed section 3.69, a "regional subsidiary" is —

- (1) Two or more local governments making arrangements under which they are to perform a function jointly may, with the Minister's approval, form a subsidiary body (a **regional subsidiary**) to perform that function.
- (2) Regulations may —
 - (a) regulate the procedure for applying to the Minister for approval for the formation of a regional subsidiary; and
 - (b) require the local governments proposing to form a regional subsidiary to prepare a charter addressing the matters required by the regulations to be dealt with in a charter, and to forward the charter to the Minister when applying for approval; and
 - (c) provide for the establishment, corporate status and powers and duties of a regional subsidiary; and
 - (d) regulate the governance and management of a regional subsidiary ...

What is being proposed here is a very good alternative model. It certainly needs to be explored. The best way to do that is to consider its positive or potentially negative impacts, because there may be something that is unforeseen in this particular bill.

However, having said that, I refer to a report tabled in the house, dated September 2010, by Hon Max Trenorden and his partner on this occasion, Hon Nigel Hallett, who took themselves across to those two states. If we read through this report, titled "An alternative path to structural reform of Local Government in Western Australia — A means for Local Government in Western Australia to ensure their future is both assured and robust", which is easy reading because it consists of about six pages, it is quite clear that this has worked in other jurisdictions. It gives one hope that perhaps this will be the answer for finally attending to the problem of local councils in the state not having direction. I was interested to read the conclusion of the report by the members, because I think it is spot on. There are three dot points. It states —

A number of conclusions contained in the 2009 Trenorden–Hallett Report, however remain unchanged, including:

Recognition of the diversity of local governments across WA is paramount in providing for effective structural reform;

There is no doubt about that. Local governments are not all uniform. They vary in size, demographics, location and so on. Their revenues and expenditures vary. Each one of them is different. The second point states —

Some local governments should be amalgamated, whilst others should remain unaltered, whilst still others should be encouraged to investigate other means of structural reform;

When Minister Castrilli in the early stages said, "All local governments have to reform", he clearly did not take into consideration that some would be better off not reforming and, indeed, should not reform, because there would be no benefit to them. In fact, some local governments may be negatively affected by amalgamating with others. There is no doubt that when a stronger council amalgamates with a weaker council—I am talking of their financial position—there is an advantage for a period for that larger council, which has to pick up some of the financial deficiencies of the one it has amalgamated with.

The third point states —

Where amalgamation is to occur, any coming together of local governments must be based on geographical, cultural, economic, environmental and financial compatibility.

I think that these are very important considerations, and I believe that this is a good way forward. I believe this is a very important area of public policy. This is an area that has been allowed to just languish because the minister cannot find a way forward, and the minister now cannot turn back. This impasse needs to be overcome as a matter of priority. The best way for this to occur is for this bill to go to the Standing Committee on Legislation. I thank Hon Max Trenorden for providing a major way through for what has been a very, very challenging policy issue for the Barnett government.

HON ROBIN CHAPPLE (Mining and Pastoral) [8.19 pm]: I thank Hon Max Trenorden and Hon Nigel Hallett for doing the preparatory work to bring the Local Government Amendment (Regional Subsidiaries) Bill 2010 to the chamber. It is an area that the Greens (WA) support. As a former shire councillor in the Pilbara, it will certainly enable the Pilbara Regional Council and those sorts of organisations to legally establish the necessary working groups to facilitate development of all the shires in a holistic region. We note that in South Australia and the Northern Territory, local government acts allow for the type of proposal that has come from

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Hon Max Trenorden. We believe that this bill will provide a major step forward for rural and regional councils to develop those areas of regional collaborative models to assist their councils.

As many members would be aware, we received numerous letters from many, many local governments and constituents in support of Hon Max Trenorden's bill. We have taken on board what those letters say. We have also spoken at length to the Western Australian Local Government Association and the former head of WALGA, Mayor Pickard, and it is quite clear that WALGA supports Hon Max Trenorden's bill. WALGA makes some comments generally that there are some areas that it would like to see tweaked or tidied up. I think it is really good that this legislation will go to the Standing Committee on Legislation and enable those matters to be fleshed out. I think that it will be really important to hear what the legislation committee comes back with. We will wait to make further comments, most probably during debate on the short title of the bill, on the committee's findings. I commend Hon Max Trenorden for the introduction of this bill and we indicate our support for it. We await the outcome of the legislation committee's findings.

HON PHILIP GARDINER (Agricultural) [8.23 pm]: I have a slightly different perspective on the Local Government Amendment (Regional Subsidiaries) Bill 2010. My personal view is that local government is the most important level of government. I say that not precisely because of the way local government has operated for the past 50 years or so when its main function has been with physical assets; my view is that local government is most important because it is best placed to deal with our community. The bigger our local government entities become, the harder it is to deal with our communities. Local governments do not currently deal with community issues; I will speak more about that in another debate, but it is one of the reasons that I have consistently viewed amalgamation as a counter-policy and a counter-activity. We need a structure that allows the two heartbeat factors of local government to work—that is, access to funding and retaining community identity. If we have community identity with the right leadership and with the right structure, we can deal with and manage community dysfunction. As Hon Linda Savage and Hon Robyn McSweeney say, along with others in this chamber, community identity really begins at zero minus six months, or as soon as a woman is pregnant, and goes right the way through the early years. The child is then part of an integrated strategy as the community grows and develops over the following 18 to 20 years. With the right integrated measures, we will have a much better quality community. However, in my view, that can occur only in smaller communities. Although it is necessary to consider the economic factor and the need for a certain size of community, I cannot see how amalgamation simply to increase size will achieve anything.

Hon Max Trenorden and Hon Nigel Hallett have done a remarkable job to put this measure together. The model has been tried in other places and is already practised in other places, albeit without the corporate structure. This bill will provide the corporate structure that will ensure that the model works. With such flexibility and under an umbrella of corporate law, groups of local governments will now have one voice when, for example, they apply for funding, rather than five voices seeking the same amount of funds from either Canberra or Perth. Big government, be it the Australian government or the state government, basically likes dealing with big entities; most do not like dealing with small entities. However, such a structure will allow the bigger entity to interface more easily at the funding pool level and will make for easier communications, decision making and assessment of funding outcomes.

However, as we saw when amalgamation was proposed in the communities of Mingenew, Morawa, Perenjori and Three Springs, identity is equally important. Although the councils were keen to amalgamate, probably to try to make it easier to access funding from Perth and Canberra, the communities, when it went to the vote, did not want to give up their identities. People are proud of their identity. A lot of us in this chamber were brought up to think that there is no place like home, and that is how a lot of people in these communities still think. However, this bill recognises both those forces and works with them. To use a buzz phrase from another industry, this bill is a bit of "financial engineering" in that we are creating a structure that will allow for easier access to funding, while preserving the identity that communities take pride in being associated with.

I am very positive in my support for this bill. I am very negative about the forces to amalgamate shires—that is, local government authorities—because we have not yet used that great resource to change the quality of our communities, but it will come.

HON ROBYN McSWEENEY (South West — Minister for Child Protection) [8.28 pm]: The Local Government Amendment (Regional Subsidiaries) Bill 2010 provides for two or more local governments to form a regional subsidiary to provide specific local government services. The creation of regional subsidiaries will be complementary to existing reform measures in local government, such as regional collaborative groups, and to the existing provisions for regional councils. The Minister for Local Government has been working with the sector on a range of reforms that will allow local governments to undertake business activities, and the

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Department of Local Government has been investigating a range of issues associated with these, including ensuring the necessary safeguards for the community.

The regional subsidiaries model is but one means by which local governments can work together to undertake services. It will not, for example, address the desire by some local governments to form trading enterprises. The Local Government Amendment (Regional Subsidiaries) Bill 2010 amends the Local Government Act 1995 by including a proposed new section 3.69, which contains the power for regulations to be made to set out the requirements for the Minister for Local Government to approve such bodies and arrangements necessary for the establishment, corporate status, powers, duties, governance, accountability and other statutory requirements of regional subsidiaries.

The bill provides for the minister to give ultimate approval for the establishment of regional subsidiaries and the specific charter setting out the detailed arrangements in each case. In particular, in approving regional subsidiaries, the minister would need to have regard to the capacity of local governments to run such entities with reference to their financial and governance capability. Local governments' own capability self-assessments last year revealed that 36 per cent of local governments undertook limited or no strategic planning; 81 per cent undertook limited or no planning for asset maintenance and renewal; and 77 per cent undertook limited or no financial planning. The Minister for Local Government has initiated a number of capacity-building activities for local governments to address these findings. These are being progressively implemented. How the community is engaged and protected is another important aspect that must be given due consideration in the establishment of regional subsidiaries. A complete and accurate picture must be put to the community, including a risk assessment, so that informed decisions can be taken on local governments' plans.

In this context, I note that the regional subsidiary model would benefit from the rigorous business planning processes undertaken by regional collaborative groups to assess the benefits of establishing a service sharing arrangement. Local governments should not establish regional subsidiaries without an analysis of their current business operations or those of their prospective partners. This can be addressed as part of the approval process.

The development of the proposed regulations will be a key task, and the government will consult the local government sector in developing appropriate laws. The Minister for Local Government will seek advice from the Department of Local Government on the technical content of the bill, and should any issues be identified, the minister reserves the right to introduce amendments to the bill in the other place, as necessary.

This bill provides an additional mechanism for local governments to join together to provide more effective service delivery. However, it will not be the answer to local government structural issues across the state. As Hon Max Trenorden said, this bill is not an alternative to structural reform, including amalgamation. Various local governments are already seeing the additional benefits that full mergers will provide, and others are using existing powers to form statutory regional councils to provide key services, such as waste disposal. Together with the Minister for Local Government, I look forward to a local government sector that has the capacity to take advantage of new models of operating to bring improved benefits to their communities.

HON MAX TRENORDEN (Agricultural) [8.33 pm] — in reply: I thank members for their support of the Local Government Amendment (Regional Subsidiaries) Bill 2010. I found it a little difficult to hear exactly what Hon Robyn McSweeney was saying because of the unfortunate acoustics of the room, but —

Hon Ljiljana Ravlich: Consider yourself lucky!

Hon MAX TRENORDEN: I am not having a go at all, but I will read what she said in *Hansard* a little later. I will go through those people who spoke. I thank the Labor Party and Hon Ljiljana Ravlich for her comments. She spoke at some length about reform not necessarily benefiting everyone. We all know that some councils in the state are basically no more than what were once roads boards. They cannot go broke because all they have is enough money to carry out a certain function. In fact, it is very hard to see anyone more efficient than someone who receives a sum of money for a precise activity and carries it out. Some of the very small councils are efficient in their current structure. Of course, then there are the major arguments about amalgamation of councils in the metropolitan area.

Hon Robin Chapple spoke about referring the bill to the Standing Committee on Legislation. Members might recall at the time I introduced the bill that I had trouble getting this bill drafted but it was finally drafted by parliamentary counsel. I saw Hon Michael Mischin flipping through the Local Government Act to check, as a good lawyer should, the functions of my bill. I am pleased to see that he is not here to argue with me, so he could not have found any immediate problems with the bill. It is a private member's bill and, private members' bills carry a risk. This is my effort—my bill; it is a private member's bill. I understand the argument to refer the bill to the legislation committee, although it is not my personal preference. This is an extremely simple, very

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uncomplicated bill, but I understand and agree with the members who spoke that the issue is not simple; it is just that my bill happens to be simple. Obviously, if the house wants the bill to be referred to a committee, I have absolutely no argument with that whatsoever. I would love to participate in that process, but it might be a little difficult because I am not a member of that committee. Nevertheless, I will be confident about the findings of the committee. If it gives members of this place confidence, that is the right thing to do.

I thank Hon Philip Gardiner for his comments and I acknowledge his passion for local government. I also thank the Greens for their interest and the way they dealt with me. They were keen to have a briefing from me; in fact, they were the first group to seek a briefing. I thank also the members of the Labor Party who took the time to have a briefing. I find quite daunting the pressures of trying to get to every briefing that arises from matters in this place, so I appreciate their time. I thank also Hon Robyn McSweeney for her comments. I point out, however, that everything in the bill requires the minister's support. If the bill is passed, proposed new section 3.69 will ensure that the minister may not unreasonably withhold approval of an application. That is included because the minister has enormous power under the bill to refuse any of the proposals. In South Australia—I did not go to the Northern Territory so I cannot talk about the Northern Territory—the corporate entity that is put in place must have the tick of the Minister for Local Government. The whole intent and description of the corporate entity must have the tick, first, of the Department of Local Government, which would peruse it, and then, ultimately, the tick of the minister. That is why the bill has one clause that provides that the minister cannot unreasonably withhold approval, so that people who submit the plans can have some balance with the minister, who will have overwhelming power to decide what happens with these corporate entities. I am keen to make sure I keep my part of the deal.

On the question of analysis, Hon Robyn McSweeney, the argument is the same. The minister has the capacity to consider all the issues relating to what is put forward to the minister in a corporate plan—an analysis included.

The last thing that I would like to say is that I am very appreciative of the support that I have received from local government. Well over half the local government associations in Western Australia have written to me supporting the bill. I did not bother to bring that correspondence to the house. A range of people in local government contacted my office weekly asking about the progress of this bill. They are very, very keen on this option. I do not disagree with Hon Robyn McSweeney's argument that there is only one option. As indicated in the passage that Hon Ljiljana Ravlich read from the report that Hon Nigel Hallett and I wrote, this adds another bow to the whole question of amalgamation. We can have amalgamation itself, we can have subordinate legislation, which is what I am driving, or we can leave things as they are. At the moment, we have one option.

Mr Deputy President (Hon Brian Ellis), you would know more than most members in this chamber that this issue has been well canvassed in the state. There is not one area of the state that has not looked at it. I have even briefed four councils in the western suburbs. They wanted me to come and see them and describe the bill to them because they wanted a simple function relating to parking meters. Those four councils want to put a very simple process together in which there is one administrator, whatever number of parking inspectors, one administration of funds and no overlay of corporate costs. They are as keen as mustard to do that as it would enable them to deliver a significantly cheaper service, even though many of us in this chamber complain about the service from time to time. That is the model that I have proposed. The other argument is that councils can take the full range of all those complicated shared services that every council has to manage. They can have a corporate activity. That corporate activity might involve the Shire of Mukinbudin and the City of Stirling, so that the Shire of Mukinbudin can receive the benefits from a council the size of Stirling.

I thank the house for its support of the bill. Quite a few members of the Liberal Party spoke to me about this bill. I thank them for their goodwill. My only intention is to give passage to some good administration. I hope that this bill can progress through the committee system easily. I truly hope that the Minister for Local Government will look at this bill. During conversations that I have had with him recently, he said that he believes that my type of bill is very useful for the mix of local government. He believes that there are other options as well, as does WALGA. I repeat that my intention was that because this is a private member's bill, not a National Party bill, I would prefer that it be dealt with quickly and succinctly in this chamber. I have a belief in the mechanics of the two houses that that is the best way to deal with private members' legislation. We should grab it and deal with it over the road. I obviously will not argue with the will of the house. I look forward to the passage of my bill.

Question put and passed.

Bill read a second time.

Discharge of Order and Referral to Standing Committee on Legislation — Motion

On motion without notice by **Hon Simon O'Brien (Minister for Finance)**, resolved —

Extract from *Hansard*

[COUNCIL — Wednesday, 29 June 2011]

p5121c-5126a

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That order of the day 29, the Local Government Amendment (Regional Subsidiaries) Bill 2010, be discharged and referred to the Standing Committee on Legislation for consideration and report not later than 1 September 2011.