

WESTERN AUSTRALIAN JOBS BILL 2017

Committee

The Deputy Chair of Committees (Hon Dr Steve Thomas) in the chair; Hon Alannah MacTiernan (Minister for Regional Development) in charge of the bill.

Clause 1: Short title —

Hon PETER COLLIER: I had no intention of going into committee on this bill as I thought it would not tell us much, but now that an amendment is proposed, inevitably, we are here. Having said that, following the Minister for Regional Development's reply to the second reading, I definitely would have gone into committee. I asked the minister a series of specific questions but I did not get answers. The second reading reply is to provide specific answers to the questions asked. I asked quite specifically whether participation plans will provide for prescribed outcomes but I did not get an answer to that. How will government trading enterprises be affected by the legislation? We got a response that they are captured by the legislation, but that a requirement or penalty exists for GTEs. GTEs are different from others, so I am interested to know what requirements exist if they are noncompliant. I asked what flexibility exists for an exemption. I did not get a response to that.

Hon Alannah MacTiernan: I did, actually.

Hon PETER COLLIER: I could not work out what the minister was saying half the time. I want a specific response to that. What flexibility exists? Will there be specific guidelines for an exemption? I want a response to that question. This bill is basically a series of motherhood statements; everything will rely on the regulations. Will the regulations provide specific threshold levels and details on the exemptions? Also, based specifically on the Premier's comments in the other place, how will this bill reduce red tape? That is quite a specific question. I would not make a big issue of it because I wish the government good luck with it, but the Premier made such a big deal of it in the other place that I think it is incumbent upon me and other members to find out exactly how this bill will reduce red tape. From my perspective, as a former minister, I know all too well that ministers sit there and listen to second reading debates in which they are asked specific questions, which they answer. They should not provide philosophical or ideological carry-on about how good the government is and how terrible we are, but specific responses to the questions that have been asked. That is what slows down legislation. As I said, I did not care whether we went into Committee of the Whole. I think this bill is nonsense; we will not know what it does until we get the regulations.

The bill is basically five or six pages of motherhood statements. I am sure a few other members will make some comments on clause 1, and I would really appreciate some specific responses—probably not now, but we can go through it clause by clause if the minister wants to. One way or another, I would like some specific responses or we will be here all night.

Hon ALANNAH MacTIERNAN: I specifically went through the issues the member raised and sought to address them. I suspect it would not matter what I say, it would not satisfy the member, but I will have a go. The sorts of things that will be prescribed in a participation plan include employment levels, training levels and the estimated contract share by each location. That is the sort of thing that is obviously going to be detailed in the regulations. I do not think there are any surprises there because we are seeking to drive employment and training, so they will be the key requirements for a participation plan. On the basis of participation plans that we have seen federally and in other states, there is analysis within a participation plan of the different skill sets or job classifications that are required. There will also be a requirement to indicate how many employees and trainees will be engaged in a particular area.

Hon Peter Collier: Will it include specific numbers of trainees and apprentices?

Hon ALANNAH MacTIERNAN: That is certainly our intention.

Hon Peter Collier: One adviser is nodding and the other is shaking their head. Will it have specific numbers of apprentices and trainees?

Hon ALANNAH MacTIERNAN: There will be requests to provide specific information about the number of apprentices and the number of training hours that will be incorporated into the contract. Participation plans are used at a federal level. We are seeking to give those plans more grunt by requiring them to be part of the tender and then be entrenched into the contract. Regarding government trading enterprises, the penalties for GTEs will be for failing to meet their key performance indicators. There will be a clear obligation upon GTEs to meet them. We recognise that a cultural challenge will be involved, and that for a number of the government trading enterprises this will be, I suppose, a new concept. Quite a number of them—not all—will take the view that they should be able to determine their own fate. We will be very clear with this, and that is one of the reasons we are very keen to legislate. We want to help give effect to that cultural change. GTEs will be required, just as departments will, to get behind this, embrace this system and require there to be participation plans.

I specifically talked about the exemptions, and there will be the capability for there to be a ministerial exemption. These will tend to focus on situations I set out before, whether it be in the very nature of the contract—for example, a cleaning contract—that it has to be delivered locally, or an area of supply in which we simply do not have the ability at that point to provide that piece of equipment, such as a magnetic resonance imaging machine. Again, it would be wasteful of everyone’s time to require an industry participation plan. I have undertaken to ask the Premier to look at including this in the annual reporting to Parliament; things relating to this area of endeavour will be required to be listed on the website.

The DEPUTY CHAIR (Hon Dr Steve Thomas): Just before we move on, members, in my experience as a Chair, I have always been of the position that advisers are there for the reference of the minister and should not be referred to. I just pass that on as advice to all members. I call Hon Peter Collier.

Hon PETER COLLIER: Yes, point taken, and I apologise to the advisers if I offended them. I guess we are going to get nowhere on this thing. Participation plans are fine now. So we will have prescribed numbers of apprentices and trainees; the minister has stated that.

Hon Alannah MacTiernan: You are going to be required to nominate them. They are not prescribed. In developing your participation plan, you will be nominating those, which is not necessarily that they are prescribed, but you —

Hon PETER COLLIER: So we do not have to have certain numbers of apprentices and trainees, then?

Hon Alannah MacTiernan: No. But this is part of the —

Point of Order

Hon COLIN HOLT: Mr Deputy Chair, I understand we often get answers across the chamber to questions posed to the minister, but to make sure that it is recorded in *Hansard*, I think it would be useful if you called the minister to answer the question after the question was asked. There is a risk that it is not being captured by *Hansard*. Give the minister the call, she can stand up and clearly indicate to *Hansard* that her comments are to be recorded.

The DEPUTY CHAIR (Hon Dr Steve Thomas): In relation to that point of order, it is also my opinion that on occasions, questions and comments need to be clarified, and that process of clarification occasionally requires ministers and members to interact a little. Unless it is unruly, which it occasionally becomes, it is my intention to allow that to occur and I call the Leader of the House.

Committee Resumed

Hon PETER COLLIER: I wish.

The DEPUTY CHAIR: Sorry; Leader of the Opposition. Sorry, I do not have the power to promote!

Hon PETER COLLIER: That is okay.

I give up on the participation plans. I do not know how that is going to work; I really do not, to be perfectly honest. The minister can say what she likes about the numbers of apprentices and trainees, but I do not see how it is possible to have a line in the sand to say how that is going to be achieved. Anyway, I do not have a response to that.

The question about flexibility still has not been answered. I am still confused about the exemptions; it is still up in the air. I understand that the GTEs do not meet their key performance indicators. The minister does not have to respond to this; I am not having a go at her. This bill is the issue, not her. As I understand it, government trading enterprises do not meet their key performance indicators. So what? GTEs do not meet their KPIs on a regular basis. In essence, I am saying that—I do not expect another response about this—I cannot see much point in scrutinising this bill much further in the committee stage, because I do not think we will get any more than we have and what we have is completely unsatisfactory.

Hon MICHAEL MISCHIN: I have a few questions regarding the bill. During the course of her second reading reply, the minister said that this bill was important and urgent. As I understand it, it is the centrepiece of the McGowan Labor government’s commitments regarding expanding jobs and job opportunities in Western Australia. Indeed, the second reading speech states —

This ... fulfils a key commitment of the McGowan Labor government under the plan for jobs—that is, to ensure that money spent by the Western Australian government on goods and services is used, wherever possible, to support local industry and create local jobs.

That may be right and the bill may be called the Western Australia Jobs Bill, but it does not seem as though much of the emphasis in the bill is focused on the creation of jobs as such. My initial question is: is this bill misnamed? Should it be, at best, the Western Australian industry participation scheme bill or is that not as catchy as a jobs bill, notwithstanding that the “jobs bill” bit is misleading?

Hon ALANNAH MacTIERNAN: The fundamental driver of this procurement strategy is to generate more jobs at a time when we do not have a surfeit of funds to expend on other job creation endeavours. Quite clearly, our aim is to use the procurement process to engage in a process of industry participation plans in a strategy that we believe will drive local jobs. This bill is quite appropriately named. The essence of the exercise is to generate more jobs. The device for the generation of more jobs is procurement. We say that the end purpose is jobs; therefore, the short title and the long title of the bill are very apposite.

Hon MICHAEL MISCHIN: In that case, can the minister help me and tell me how many times, apart from the title, the words “job” or “jobs” appear in the bill?

Hon Alannah MacTiernan: I can’t answer that question and I don’t think it’s a particularly relevant question.

Hon MICHAEL MISCHIN: I am sorry; what was that?

The DEPUTY CHAIR: At this point the minister is declining to take the question.

Hon MICHAEL MISCHIN: I will help the minister out. The word appears once.

Hon ALANNAH MacTIERNAN: I can explain it to the member. I will explain it again. The object of the exercise is to generate jobs. The device for generation of the jobs is the use of the procurement process. It is called the jobs bill because that is the aim of the legislation. The device is procurement.

Hon MICHAEL MISCHIN: I get back to it that the substance of the Western Australian Jobs Bill 2017 has “job” in it only once and not as a main driver. In clause 7, it is in paragraph (d) of five paragraphs, with no emphasis to maximise the creation of jobs. It appears in terms of —

promoting increased apprenticeship, training and job opportunities in Western Australia;

It is hardly the first of the objectives in the bill. I ask again: should the Western Australian Jobs Bill be named something a little more indicative of what it is aimed at achieving, such as the Western Australian business promotion bill or the Western Australian participation plan bill?

Hon ALANNAH MacTIERNAN: I have already answered that.

Hon MICHAEL MISCHIN: The lack of analysis speaks for itself. I think I am fairly safe in assuming that it has been named the Western Australian Jobs Bill to fit with an election commitment to create jobs rather than the substance of the bill. Would that be a fair statement?

Hon ALANNAH MacTIERNAN: I will repeat it once again: the aim of the legislation is to generate jobs. The device being used is the \$25 billion worth of procurement that the state government engages in every year. It is not my intention to keep repeating this no matter how often the member seeks to delay the chamber by asking and re-asking the same very trivial point. I will say it again, member—look at the Auditor General’s report, which very clearly told us today that business as usual on local content is not getting us anywhere and we need to do something different. Give us a go here; we are trying very legitimately to do something different. We are basing it on the experience of what has worked in other Australian jurisdictions. It is very legitimate for us to use this process and to quite clearly mark out that we are trying to generate jobs.

Hon PETER COLLIER: I feel compelled to stand to respond to that. The minister can get as frustrated as she likes. We can ask as many questions about this bill as we like. As long as she gets frustrated and angry, we will continue to ask questions. The minister can stand up and carry on all she likes, but it will not put us off. As I have said, had I received satisfactory responses to the questions I asked, I would not have sought to go into committee. The minister is bringing this on herself. She can sit there and carry on all she likes and scoff at our tactics, but this is the first time, as I understand it, that she has sat in that chair. This is part of being in government. I sat there for eight years and did this.

Hon Alannah MacTiernan interjected.

Hon PETER COLLIER: Excuse me; I have the call. If the minister wants to stand or sit there and carry on, she can do that all she likes. Quite frankly, as I have said, I have nothing else to say about this bill because it is a rubbish bill. It tells us nothing and we will not find out anything substantial until the regulations come in. If the minister is frustrated and angered by us asking the same questions, so be it. Actually, I might do that now. My point is that when a government delivers bills such as this into this place, it has to expect to cop it between the eyes. This thing does nothing. The minister said that it will create employment opportunities, but it will not do that. It shows us nothing. If the minister is going to come in here with this sort of rubbish, she should expect to get that scrutiny. One way to do it, of course, is to give a much more concise and accurate response to questions asked at the second reading stage. Another way, of course, is to do what she has done, which is to stand and get angry with us for asking questions after five minutes in the chair. Imagine what she is going to be like by nine o’clock!

Hon Alannah MacTiernan: I will be fine.

Hon PETER COLLIER: No, she will not. Every time she stands and has a hissy fit, it makes us more determined to keep asking questions.

Hon Alannah MacTiernan: I am more than happy to be here.

Hon PETER COLLIER: Good. We will not get through some of the other legislation that we have agreed to at this stage. I am more than willing to move a motion to change the standing orders to sit longer. If the minister's colleagues behind her are willing to do that, so be it. But as I said, this bill should have been through here by now and it is only because of the minister's attitude to this chamber that it is not. If she has an issue with the fact that we are asking questions, tough.

The DEPUTY CHAIR: Before we progress and I lose control of the debate, I remind members of standing order 48, which states that repetitious questions are not orderly. Although I will not prevent a strong and robust debate, there is an end point to repetitive questions.

Hon ALANNAH MacTIERNAN: I believe that I very genuinely took note of all the issues and concerns that were raised during the second reading debate and responded to those. Of course, if the member wants to raise those questions again during the committee stage, I am more than happy for him to do that. But I have to say, if the member keeps repeating the question, "Why should we have the word "jobs" in the short title?", I think most people would get that this debate is not necessarily proceeding in good faith.

I will give members some examples of results. As I said, we looked to other jurisdictions to see where they had seen results. In Victoria, the government did an analysis of its legislation and found that it had secured \$5.43 billion of local procurement that supported some 5 500 jobs. In fact, the government found that for each legislative year, it had supported, on average, 89 per cent local content and that supported around 8 545 local jobs and 600 apprentices and trainees. We think there is a very clear correlation between the generation of jobs and the use of a local procurement policy.

Hon PETER COLLIER: The minister has not looked at or given me a satisfactory response on the reduction of red tape, as I have mentioned. I raised that issue because the Premier was so emphatic in his comments in the debate in the other place that this bill would reduce red tape. Obviously, I cannot see anything in this rubbish about how the legislation will reduce red tape. I would like some clarity on how this bill will reduce red tape, because one of the inhibitors to employment, which I find a lot of employers say, is that it is consumed with red tape. The government would like to think that this legislation will lead to job creation and that one way to do that is to reduce red tape, which this legislation will do—apparently, according to the Premier it will. The minister still has not explained that to me.

Hon ALANNAH MacTIERNAN: We see in this bill a substitution of the existing local content policy with this new strategy. It is our view and certainly the view of industry with which we have engaged that this is a simpler and clearer process. Assistance will be provided to bidders to ensure that they understand how the process works, because it is more digital and bidders can use various portals that have been specially designed for ease of operation. This substituted policy is easier to access than the existing local content policy, but, in turn, it is also capable of delivering greater outcomes.

Hon PETER COLLIER: Which industry groups did the minister consult to determine the need for greater ease of access to portals? Which particular portals is the minister talking about?

Hon ALANNAH MacTIERNAN: Earlier, I tabled the document that lists the various organisations with which we engaged and which have been involved in the development of this strategy. I am not sure whether we have another copy with us, because I tabled that paper, but it lists a raft of industry associations, including the Civil Contractors Federation, the Australian Steel Institute and a variety of plumbers groups. Perhaps we could ask the attendants to find that tabled paper and we could table it again.

The DEPUTY CHAIR: Before you sit down, minister, we seem to have a problem finding that tabled paper. Can we check to see when that paper might have been tabled—if it was? We do not have a record of a tabled paper.

Hon ALANNAH MacTIERNAN: I am sorry. I thought I handed it over for tabling. I handed it over during the debate and I sought to have it tabled.

The DEPUTY CHAIR: We will do a search and if we do not have it, we will inform the chamber.

Hon PETER COLLIER: I listened to the whole response and I did not hear any indication of a paper being tabled, so I would like a copy of that paper and a response about the portals that will be used, as indicated by the minister. What portals to improve or streamline red tape was she talking about?

The DEPUTY CHAIR: Minister, just before you respond, I am informed that we have no tabled paper in that regard. Apparently, you indicated that you were prepared to table that list, but we have no tabled paper at this point.

Hon ALANNAH MacTIERNAN: I will list the industry groups that we consulted. They are the Civil Contractors Federation of Western Australia, the Chamber of Commerce and Industry of Western Australia, the Building and Construction Industry Training Fund, the Construction Contractors Association of Western Australia, the Master Builders Association of Western Australia, the Housing Industry Association, Master Painters and Decorators

Australia, the Master Plumbers and Gas Fitters Association of Western Australia, the Apprentice Employment Network Western Australia, Subcontractors WA, the Australian Steel Institute, the Australian Industry Group and UnionsWA.

Hon PETER COLLIER: That is an impressive list and I am delighted that the minister has consulted with that very fine group of representative organisations. They are the sort of people the government should be consulting with. What form did the consultation take? Was it one-on-one meetings, was a survey done or did they provide a wish list of ways to streamline red tape? Was there direct contact between those at the coalface or was it one-on-one meetings with the senior echelons of those groups? I have no problems with that, but I would like to know what form that consultation took, please.

Hon ALANNAH MacTIERNAN: I am advised that a series of meetings were held with both senior executives of those various organisations and their members. The various Western Australian industry participation strategy documents have also been circulated. The meetings have taken place with members and executives of those organisations.

Hon PETER COLLIER: I would like a bit more clarification on these portals that are going to improve or streamline red tape. I am not quite sure what the minister meant about the digital —

Hon Michael Mischin: She wanted something more digital.

Hon PETER COLLIER: She wanted something more digital or something along those lines. I am not quite sure what that means. I would be staggered if that was to lead to excessive job creation. If it is, so be it, but I think most of those groups would like something a bit more comprehensive than a move to more digitalisation. I would like more clarity on what they asked for to improve the process for employment growth and to reduce red tape.

Hon ALANNAH MacTIERNAN: We will be enhancing the existing Tenders WA website, and that will continue to be the mechanism for lodging tenders. There will be guidance on the participation plans on the Tenders WA website. A separate portal is being developed for this legislation that will include strategy guidelines, regulations and information. There will also be area-specific portals developed for each region, with local procurement offices within each region.

Hon PETER COLLIER: That is what the government is doing. What else did this very extensive group of industry participants suggest? What other suggestions were made by these industry groups for removing red tape and streamlining the process to employment?

Hon ALANNAH MacTIERNAN: I do not know whether that is directly relevant to the bill before us, particularly the short title. I am more than happy to answer questions that relate to the bill as it has been formed, but not necessarily about other pieces of legislation that we maybe could deliver. I will just say that one of the very key themes that came through over and over again during our consultation with the industry was the desire to have the government trading enterprises brought into the system. That really is very much at the heart of this legislation.

Hon PETER COLLIER: With all due respect, minister, the second reading speech states —

The government is also committed to reducing red tape and compliance burdens for industry. The bill allows for the drafting of a flexible strategy. This may include different participation plan requirements for different types of supplies. In doing so, the requirements for supplies with lower value thresholds may be simplified.

Reduction of red tape is very much a part of this bill.

Hon Alannah MacTiernan: Absolutely. I'm not suggesting it's not.

Hon PETER COLLIER: What was the minister's last comment with regard to, then?

Hon Alannah MacTiernan: You asked what other things that aren't included in the bill were discussed, whereas I'm actually focusing on what is actually in the bill.

Hon PETER COLLIER: The bill says nothing with regard to red tape; that is my whole point in raising this issue—the fact that the bill does not tell us how red tape is going to be improved. We have just heard that half of the building industry has been consulted, which is terrific, and we have heard about one or two strategies, but if the government is going to have any credibility with this bill, we want to know exactly what industry has said with regard to reducing red tape and not just take that at face value. That is why it is very relevant to this bill. We do not know, from this bill, what the government is going to do about red tape, so I am asking at this committee stage a very pertinent question: what other improvements with regard to the reduction of red tape did industry identify? When the regulations are finally prescribed and we get some meat on the bone, we can say, "Well, actually, that's not what industry wanted", so this is a very, very pertinent question.

Hon ALANNAH MacTIERNAN: Under the mechanisms that have been identified and established in this legislation, there will be thresholds set, below which participation plans will not be required. There will be lower thresholds for regional areas, where procurement magnitudes are usually less. More basic or simple participation plans will be required for lower-value procurement processes, which will reduce compliance efforts for lower-value processes. There will also be more basic or simple participation plans for some kinds of procurement, such as goods and services in the metro area, where the detailed participation plans might not be justified. Exemptions can be provided in cases in which there is not likely to be any benefit gained by requiring participation plans. An industry participation plan advisory service will be established to accompany this bill and will provide assistance to businesses, particularly small and medium-sized enterprises, in preparing participation plans. The streamlining of existing local industry policies will decrease red tape for agencies and businesses. The WA jobs portal will provide a one-stop shop for and seamless interaction of all policies, simplifying the process for businesses competing for government work.

It is recognised that this bill will greatly increase the number of participation plans required, but that is the point: the intention is to increase transparency, accountability and opportunity in procurement processes by incorporating participation plans as a fundamental component, not something that is retrofitted at the end of the process.

Hon PETER COLLIER: I am going to give up on that. We are not going to find out what industry wanted. We know what is purportedly happening. We will have to wait until the regulations are prescribed, and it will be our job to talk with industry and ascertain whether they provide what industry wants. I will give up on that one. I will accept defeat and accept that I will not get a response.

Hon MICHAEL MISCHIN: I note the minister's dismissive remarks about the question of the word "jobs" being in the short title of the bill. However, I note that one of the ideas in the 200 bright ideas document that was put out prior to the election—I presume this is the core of this particular legislative strategy—was to legislate to require government agencies to produce a Western Australian local industry participation plan to show the use of local businesses and local workers in government contracts. I am not quite sure what that means, but one of its features is to have local businesses and local workers in government contracts. Certainly, that seems to be the centre point—the aim is to create jobs. But, again, I question why it appears in only the short title and one other place under the objectives of the participation strategy, and is not even the first objective of the participation strategy. It strikes me that the name of the bill was chosen simply so the government could say, "We've done the job of trying to do our best to create more jobs. There's another election commitment fulfilled. We can all go home now." The word "jobs" does not even appear in the long title of the bill, does it, minister? In fact, even the word "employment" does not appear in the long title of the bill or as one of the objectives of the bill.

The DEPUTY CHAIR: The question is that clause 1 stand as printed.

Hon MICHAEL MISCHIN: I take it that the minister is not going to confirm or deny that.

Hon Alannah MacTiernan: Member, I have repeatedly explained the nexus between the legislation and the short title. I am not going to waste the time of the chamber by repeating the same statement over and again.

Hon MICHAEL MISCHIN: The Western Australian Jobs Bill is really a Western Australian industry participation strategy bill. The part that intrigues me is the use of the word "local" in the election commitment and the use of the word "local" in the term "local industry" as part of the purpose of the bill. Again, is it not a little misleading to talk about the Western Australian Jobs Bill when the services and goods can be drawn from not only Western Australia legitimately, but also another state, another territory and, indeed, across the Tasman from New Zealand. So why is the term "Western Australian" featured so prominently in the short title and in the strategy documents that are being talked about, when in fact it appears to be misleading? It really is talking about a cross-Tasman industry participation strategy, is it not?

Hon ALANNAH MacTIERNAN: I am not sure whether the member was away on urgent parliamentary business when I set this out in some detail in my second reading response, because a number of members have raised this issue. As I pointed out, yes, we accept that there are some constraints, but this does not prevent us from requiring companies that seek to procure here from setting out in considerable detail what they are proposing to do. As I pointed out, a government procurement exemption, which has been much more rigorously and vigorously utilised by other states, would allow us to drive outcomes for small to medium-sized enterprises, and, relevantly, SMEs are businesses with up to 200 full-time equivalents.

Progress reported and leave granted to sit again, pursuant to standing orders.

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Sitting suspended from 6.00 to 7.30 pm