

STATE SUPERANNUATION AMENDMENT BILL 2011

Second Reading

Resumed from 18 August.

HON KEN TRAVERS (North Metropolitan) [12.26 pm]: The opposition will be supporting this bill and I will explain why. We believe that in general terms the policy of the bill is reasonable and heading in the right direction, although we feel it could have gone further in some areas. I will detail a couple of issues in the bill over which we have some disagreement with the government, but which are not of sufficient merit to warrant defeating the legislation.

By way of a brief introduction, one of the greatest reforms in modern times is that all citizens in Australia have access to superannuation. Prior to the current system that was brought in in the 1980s, it was only for those people who were well off, which tended to be government workers and the like who had some form of funding for their retirement mainly by way of a pension. However, as a result of the reforms of a Labor government in the 1980s, which were strongly opposed at the time but which are now universally acknowledged as great reforms, everybody is given access to superannuation and has the ability to make provision for their own retirement.

Hon Kate Doust: It was a great reform of the trade union movement.

Hon KEN TRAVERS: Absolutely; it was driven by the trade union movement, as my colleague points out by interjection. This bill is effectively a product of that reform. That movement away from pensions to superannuation resulted in a number of changes. Previously under the pension scheme the obligation was on employers to make provision for it and they took the risk. Now it is up to the individual to carry the risk on the funds they place in their superannuation accounts and to make sure they are getting the greatest return on their money, which is invested for their retirement. That is why this bill, which provides for choice with super, is so important.

While I say “choice”, one member in the other place referred to it more as an “election” because it is a one-way choice as there are limitations on that choice compared with other options, which if the mutualisation had gone ahead—we are not arguing about that today—would have given a broader range of choice in the portability of superannuation funds. The importance of choice is in people being able to move their funds to where they believe they will get the best return on their investment. One of the issues with the way the government has structured this is the danger that if too many people choose to opt out, and because GESB will not be able seek other funds or people other than public servants to come into the funds, there will be a danger that we will see a diminution of the amount of funds held within the Government Employees Superannuation Board. It is already, by Australian standards, a very small fund; it is amazing when we look at the amount that is now held. I think there is some \$8.5 billion in this fund; large funds are considered to be around \$30 billion or \$40 billion now.

Hon Simon O'Brien: Yes, the figures are staggering, aren't they?

Hon KEN TRAVERS: I think almost \$1.8 trillion is now held in superannuation funds.

It is a very small fund, but the importance of that is that it has an impact on the issues with respect to the fees and administration charges levied on its members. If there are too few members, the fees and charges go up, and so there is a self-fulfilling prophecy then that more and more people opt out of that fund because they cannot get the returns. That is the one concern about the detail that the opposition has, and we are of the view that there are options available. I know the government is reluctant to put the Government Employees Superannuation Board into a position of competing with other funds, but in the main the majority of the funds growing in Australia are industry funds, not private sector funds, which, again, I think is a great result. What we will eventually end up with is corporate Darwinism; the fund will continue to get smaller and smaller, the fees will go up, more and more people will leave it, and we will run the risk that, potentially, it will disappear. We made that point in the other place, and we will continue to do so.

The other interesting issue about GESB is that it is a mixture of what is now seen as normal in terms of superannuation of individual funds; it also still manages the funds for the old pension schemes—the defined benefits schemes. They are the ones I talked about earlier in which, effectively, the risk is carried by the government, not the contributor to the scheme, because the government has to make up the difference if the funds are not in that scheme at the time the defined benefits are required to be paid. That creates a conflict within this legislation, which is an issue that we raised in the other place. It gives responsibility to the Treasurer to have a whole range of guidelines and controls. The way this legislation is heavily drafted is about the government making sure that its interests are protected in the way the fund is run, not necessarily about the interests of the fund's members. Although those interests will often be common to the interests of the fund's members, that is not always the case. That issue was raised in the other place by members of the opposition. That means that,

basically, the fund is set up to support and protect the government's interests, not necessarily those of the fund's members. I appreciate that as part of the briefing, the minister's officers provided me with responses from the State Solicitor's Office on matters raised by the opposition about the State Superannuation Amendment Bill 2011. It is fair to say that one of the areas raised goes to that issue, and, to summarise it, the response provided to us was that the government agrees with the general thrust of what we were saying about having some words around equity and fairness or proportionality included. The government, effectively, agreed with what we were saying, but it intends to continue down the path it is going. I understand why; at one level, the Treasurer would look at what is in the state's interests, but there is an issue with the fund's members. We believe that issue goes to the detail of the bill. The debate has been had, we have put our case, and the government has responded to it; I do not think there is any point in continuing to progress that matter, other than to put on the record that we have that difference of opinion. That will all come down to returns and the way returns are managed.

Another issue is that we have a view that there is a circular argument in some of the detail of the bill; I guess the government disagrees with that view. It is still our view that that is the case; however, we accept that we will just need to agree to disagree, and as I guess as time goes on that will play out.

The other issue I did want to mention was that during the briefing I indicated to the officers that I would be keen —

Quorum

Hon KATE DOUST: Point of order; I just draw your attention to the numbers in the house.

Hon KEN TRAVERS: We were all here when we were talking about parliamentary super!

The DEPUTY PRESIDENT (Hon Matt Benson-Lidholm): There not being a quorum present, ring the bells, please.

[Bells rung.]

The DEPUTY PRESIDENT: I will just make doubly sure. Thank you; there is a quorum. Hon Ken Travers.

Debate Resumed

Hon KEN TRAVERS: We certainly made sure we had a quorum when we were debating parliamentary super; I thought there might have been a bit more keenness when we are talking about the more general issues for public servants.

I indicated during the briefing that I was keen to get some figures. Obviously, one of the things that came about in terms of this debate and where we are today is because mutualisation did not occur. I was keen to get some figures for the funds held and the impacts of the global financial crisis on the amount of the unfunded component. I think the minister's officers, hopefully, will have provided those to the minister as a result of the briefing. I indicated that I would be asking questions on that, and I would be happy if we could have the figures during the second reading reply. My inquiry was about the history of funds held and the reserves, how much was in each, and what happened to them as a result of the global financial crisis.

With that, I will conclude my remarks by saying that the way in which the officers briefed the opposition and the material they provided to us was as good as that for the parliamentary super board. I think for this bill and the parliamentary super bill, the way in which the officers provided the information and the information they provided was exemplary, and, seriously—I mean it in all seriousness—it would be a fantastic template for all agencies.

HON MAX TRENORDEN (Agricultural) [12.36 pm]: Two bills in a row—I think I should ask for a pay increase!

Hon Ken Travers: Retire; your super's probably more!

Hon MAX TRENORDEN: A pay decrease, does Hon Ken Travers think?

Hon Ken Travers: If you retire, I suspect you will get more from your super.

Hon MAX TRENORDEN: Hon Ken Travers might be tired, but I am not.

Hon Ken Travers: I'm not tired.

Hon MAX TRENORDEN: I am actually not a fan of the State Superannuation Amendment Bill 2011; I am very much opposed to it. I have read the Whithear report; I am not a fan of the Whithear report. I have great nervousness about this going forward. But one thing I am appreciative of, as is the National Party in general, is choice. In the position we have gotten to, there has to be choice in superannuation; we had a bit of a cross-chamber exchange on the matter of choice in the debate on the parliamentary scheme bill. Choice is important. But choice has to be a two-way street. If somebody has worked in the public sector for 20 or 25 years, and they

are now in the private sector, why should they not be able to contribute to their old scheme? Why should they not be able to do that?

Hon Ken Travers: That's the point I was making.

Hon MAX TRENORDEN: Exactly!

I am not a fan of the report, and it worries me. I understand that this is not the Minister for Finance's bill, and I understand further amendments will be made to superannuation in the future, and I will be speaking very firmly with my colleagues to try to get them to oppose them because I think we are doing the people in GESB a great disservice. If members read the report—or read between the lines of the report, as far as I am concerned—and look at some of the statements made in the second reading speech, members will start to wonder where this is going. The second reading speech actually states that the Whithear report found that it is not a core function of government to look after the superannuation benefits of employees. What are we talking about here? That is a ridiculous statement. This report is actually saying that government has worries about the superannuation fund.

Due to my sins of later days, I was the chair of the Public Accounts Committee some years ago when we looked at the unfunded liability of the state superannuation scheme. That was before the change to the current scheme. Of course what was happening was that the unfunded liability was going through the roof, because the state was not contributing at all to that fund; therefore, the future liability for the retirement fund for our public servants was growing enormously. It is a long time since I did that report, but going back to those days I have a figure in my head of about \$20 billion.

The second reading speech states that the state's unfunded defined benefit superannuation liability stood at \$6 billion at 30 June 2010. I would suggest that Treasury is more worried about the \$6 billion liability than it is about the superannuation benefits of our state government employees. That is where I think we are at. What we are doing in this bill is writing in provisions to say that the good people on the board of GESB, whom we trust—I presume we trust the board—and a range of people who provide financial consulting to the board, are not allowed, would we believe, to invest in Western Australia. Treasury is telling this core business of the state how it can invest its money. Treasury is saying that it cannot invest into infrastructure issues and a whole raft of other issues that other private superannuation companies can invest in. Is it doing that for the best interests of our employees? I suggest not. It is doing that because it does not want state debt to blow out. That is why it is doing it. That is the worst possible reason for us to work on the bill—the worst possible reason. The state is taking the view that we should restrict the benefits of our state government employees by curtailing the capacity of their super fund.

The second reading speech says also that this is not a core function of government. That statement blows me away. The core function of government is to make sure that our debt projections do not blow out over the years! That is what the core function of government is! Are we worried about our state government employees? Only a little bit. This is an area that makes my blood boil, minister.

Hon Simon O'Brien: We are very concerned about our employees. But we also cannot be blind to the other matters that you have mentioned. I mean, \$6 billion is a very significant sum of money. Why should the taxpayers have to subsidise our employees in that way?

Hon MAX TRENORDEN: The minister can keep saying these things. But if he goes back to the dark, dark ages and looks at a report by the Public Accounts Committee, a report that I signed off on when I was the chairman, he will see that it says that the superannuation fund should become fully funded. It should be part of the normal functions of Treasury to fund superannuation. Both spectrums of the contribution to superannuation should be funded. The employees' contribution is currently put into a bucket; therefore, the other side has to be put into a bucket as well. That is what has occurred. The unfunded liability is dropping as people are retiring out of the system. But that is a management issue. This is an issue—I agree, minister—that needs to be managed. But we should not be using those excuses to limit the capacity of the people to whom we give this responsibility to get the best possible return for state government employees. That is what we are doing. We are limiting the capacity of the board to get the best possible return. The board is out in the market competing with everyone else. The passage of this bill will give employees choice. That reminds me of that television advertisement about whatever it is, with Bernie Fraser at the end of it —

Hon Simon O'Brien: I don't get it either!

Hon MAX TRENORDEN: I cringe every time that advertisement comes on; I dive for my remote and try to turn him off before he gets there, because I have no time for Bernie Fraser. But that has nothing to do with this bill.

The fact is that GESB has to compete in that market. GESB's management fees and costs are very, very important to each of our public employees, because they will look at those costs, and they will make decisions

Hon Ken Travers; Hon Max Trenorden; Hon Alison Xamon; Deputy President; Hon Simon O'Brien

about the benefits that other schemes can offer. However, we as a government, through Treasury, and through the demands of Treasury, are limiting the benefits to our employees. That is wrong, wrong, wrong.

Therefore, as future superannuation bills come on, I will be trying to convince my very good and worthwhile colleagues in the National Party to pay some interest in this issue. I can understand, minister, why Treasury and government are concerned about the projected debt figures, because members opposite will raise that occasionally, as Hon Kate Doust might do on the odd occasion —

Hon Kate Doust: If you have these sorts of concerns, why don't you seek to refer this bill to an appropriate parliamentary committee for further inquiry?

Hon MAX TRENORDEN: Because this bill refers just to choice.

Hon Kate Doust: Well, choice is a very important issue, Hon Max Trenorden, given that this is allowing only one-way choice and not two-way choice.

Hon Simon O'Brien: Are you pro choice?

Hon Kate Doust: I am just canvassing the issue. I have an engagement in this particular bill.

Hon MAX TRENORDEN: I understand that a further bill is being drafted and will be coming into this house, and I think we will need to pay some attention to that. So, again, minister, I am echoing some sentiments of the future. But I do have a concern. The minister is right. The due and serious concerns of government are one matter and have to be taken seriously. But the benefit for employees is another matter, and that has to be taken just as seriously. I will argue, for as long as I have breath, that the considerations of Treasury are taking away the benefits that are accruing for our state government employees; and that is not a healthy thing for an employer to be doing.

HON ALISON XAMON (East Metropolitan) [12.46 pm]: I would like to pick up on a few of the comments made by the previous speakers about the State Superannuation Amendment Bill 2011. I also want to echo the comments of Hon Ken Travers about the quality of the briefings that are coming out of the minister's office. I concur that they are very good and are very timely, and I want to at least acknowledge that, because I am aware that some of the ministers in the other place perhaps could learn from the way those briefings are being delivered. So I thought I would make that point, because we should probably acknowledge when things are being done well.

Hon Simon O'Brien: In fairness, if I may, and I appreciate your comments, which will be relayed to the officers in question, the minister organising those briefings actually is from another place, in the form of the Treasurer; but I am sure we have polished the tome.

Hon ALISON XAMON: I was not casting aspersions on all ministers in the other place, but certainly there are a couple who would perhaps benefit from that. But I did want to acknowledge that those briefings have been timely, and quite comprehensive as well.

I also want to acknowledge the comments of Hon Max Trenorden and say that I have a lot of sympathy for the sorts of sentiments that are being expressed about what is happening with these funds over the long term and where we have gone with this. Having said that, I am rising today to indicate that the Greens (WA) will support this bill. We have some reservations. As Hon Max Trenorden pointed out, this is ultimately a bill that is about choice. Therefore, although I certainly have some questions and some comments to make, this is a bill that the Greens have decided to support.

In going through the bill, I note that the state government commenced superannuation reform in 2005. A commitment was made at that point to introduce fund choice for public sector employees by the end of 2008. The State Superannuation Act 2000 was amended by the State Superannuation Amendment Act 2007, which came into effect in September 2007. Those amendments provided for GESB to be mutualised prior to the introduction of choice; in fact, it prevented the introduction of choice unless mutualisation took place. However, I note that the process was halted at the eleventh hour, as it became clear that the costs and other difficulties associated with the mutualisation would be greater than anticipated; hence any benefits to members would be questionable. I note also that following almost two years of indecision about how to deal with this issue, in April last year, the minister at the time announced that the government had decided not to proceed with the privatisation of GESB. The minister also revealed that the privatisation would have cost \$467 million. That was the earlier estimate.

In 2009, Rod Whithear, a senior federal Treasury official, was commissioned to review the public sector superannuation arrangements for the state government. The recommendations provided in his February 2010 report, "Putting Members First", form the basis for the policy direction that is now being taken on this issue. Whithear recommended that the government return to the core business of providing access to superannuation schemes and services for its employees and noted that the cancellation of the mutualisation proposal would result

in a net saving of \$370 million. The State Superannuation Amendment Bill 2011 has been drafted to introduce choice while deleting those provisions associated —

The DEPUTY PRESIDENT (Hon Matt Benson-Lidholm): Order, members! The discussions around the chamber are starting to turn into little spot fires. If members wish to engage in conversation, please do so outside the chamber because I am finding it difficult to hear Hon Alison Xamon. She would understand that sometimes it is difficult anyway, but the conversations have almost made it impossible to hear.

Hon ALISON XAMON: As I was saying, this bill has been drafted to introduce choice while deleting those provisions that were associated with mutualisation. I note that under the legislation GESB will remain a statutory authority.

The objects of the bill are: to reverse the amendments introduced by the State Superannuation Amendment Bill 2007, including the GESB mutualisation provisions; to implement choice of superannuation fund for all WA public sector employees; to more clearly delineate the role of the Treasurer, which is to administer the State Superannuation Act 2000 and the role of GESB to manage the schemes and the fund; to allow for the implementation of the Whithear recommendations as decided by cabinet that are dependent on legislation such as reserving and the investments framework; to place limits and controls on the ability of GESB to employ non-public service officers; and to provide for transition arrangements for GESB employees who will be affected by the public sector superannuation reforms.

I wanted to make some comments about the decision not to mutualise, noting again that this bill reverses the GESB mutualisation provisions introduced by the State Superannuation Amendment Bill 2007. There seem to be compelling reasons not to proceed with the planned mutualisation. Obviously, the cost issues would have been enormous and significantly greater than first anticipated. There are also concerns about the tax implications for West State Super. West State Super is exempt from commonwealth tax. It is the biggest scheme in GESB. Mutualisation would have run the risk of resulting in the loss of tax exemption and there would have been questionable benefits for members. I think there were questions about the sustainability of the fund, particularly if West State Super was hived off during the mutualisation process in order to retain its tax exemption. There were also questions about competitive neutrality, given the amount of government support that would be needed in order to achieve mutualisation. On the whole, the Greens support the decision that was made not to proceed with that.

In relation to the introduction of choice, which is really the key provision in the bill, I note that the ability to choose one's own superannuation fund is an established practice following a change in commonwealth legislation in 2005. I was one of the first people to take advantage of that very welcome change to have choice. I am quite happy with the super fund that I am with now. I was certainly very unhappy with the one that was imposed on me before. I note that WA pioneered choice in 1997, with the introduction of choice for people who were working under state industrial awards. However, public sector employees were not treated in the same way. Basically, WA had gone from leading the field to being one of the last on the course. This provision addresses that imbalance. Under this bill, employees will be able to choose whether they want their superannuation to go to GESB or to any other complying fund. I suspect that a number of our public sector employees will take advantage of that choice. Although the state is not subject to the commonwealth legislation, the changes now reflect the commonwealth legislation regarding choice. As I said, the introduction of choice is long overdue and is a welcome move for public sector employees.

I note also that only public sector employees are entitled to become members of the GESB superannuation scheme, and this bill will not change this. This is an issue that was raised by the opposition. The bill does not provide for two-way choice, as would have been the case with mutualisation. The arguments against two-way choice include the costs associated with the tax implications for changes to West State Super. I note that the commonwealth was not prepared to give any undertakings to vary this. According to Whithear and the state government, there is no clear benefit for the state government to enter into what is already a very well populated superannuation financial planning marketplace by accepting contributions from non-public sector employees. Having said that, I note that the tax status of West State Super could have been preserved by splitting GESB, with the old West State Super scheme remaining the only one-way choice and the GESB fund allowing two-way choice, but this was considered to be uneconomical and would have resulted in the government becoming a provider of superannuation to the private sector and well-established and highly competitive superannuation markets, which the government has made very clear it does not feel is its role and is not prepared to do. While I acknowledge the reasons underpinning the decision to allow only one-way choice, the Greens would certainly prefer that GESB members were not limited in this way. I am concerned that one-way choice risks undermining the viability of the fund in the long term through forcing many of those people who want to consolidate their superannuation to go elsewhere. While the current rate of funds, or churn rate, which I was told is the phrase that we use, is low, we cannot be certain that the rates will not increase, particularly given that the federal

government has signalled its intention to make changes to reduce the burden and cost of switching superannuation funds. Further, the bulk of GESB funds are in the West State Super scheme, an untaxed scheme, which is now closed to new members. This environment will potentially have a detrimental impact on the long-term viability of the fund. What are the government intentions if this occurs?

I turn to the outsourcing of GESB functions. One of the reasons GESB is able to charge fees that are not high is due to economies of scale. This benefit could potentially be lost if the fund decreases in size. The Whithear report recommended that GESB investigate the potential of outsourcing administration services to a commercial provider, which it felt was a cost-effective approach common in the superannuation industry. According to the report, commercial providers that specialise in the provision of administration services to superannuation funds achieve economies of scale from administering hundreds of thousands to millions of member accounts. This bill acts on Whithear's recommendation by providing for a commercial provider to be selected to provide administration services to GESB and to potentially move further towards the state as procurer of superannuation services rather than as a direct market participant. GESB already outsources investment management. This enables funds from a range of sources to be pooled for investment and provides the opportunity to take advantage of economies of scale.

Again, I would like to express my concern about moves towards further outsourcing—the privatisation of the delivery of government services—particularly given the fact that GESB will remain a statutory authority. We have already seen issues around the possible loss of quality control when we have outsourced other services. I acknowledge that this is a clear policy position of the government but the Greens will be keen to see how this rolls out in practice, and our concerns remain. Although the board would have to approve any outsourcing, technically the minister could direct the board to do so. There does not seem to necessarily be any real protection as to how that will be managed.

I turn to the provision for GESB employees. Around 200 people are employed by GESB.

Sitting suspended from 1.00 to 2.00 pm

Hon ALISON XAMON: Before we broke for lunch I was referring to provisions within the bill for employees of the Government Employees Superannuation Board. I understand there are currently 200 people employed by GESB. I am interested to know how many current GESB employees are permanent public service officers. I understand that in preparation for the mutualisation process, many of the positions ended up becoming contract positions. I am interested to know how many people will realistically be affected by these provisions. Given the government's intention to outsource administration, there is an expectation that many of these positions will no longer be needed. The bill provides for transition payments to staff who are offered, and accept, employment with an external administrator, as well as right-of-return provisions for permanent public service officers within a fixed period. I know that staff within GESB, or employed by the commercial administrator, will be eligible to receive a severance payment, or, in the case of permanent public service officers, be offered redeployment. According to the government, more employees will be retained within government compared with the earlier mutualisation model. I am interested to know what sorts of numbers we are talking about there.

The bill also allows for a default fund for public sector employees. We know that the vast majority of employees will generally go with the default fund rather than actively choose another fund. The option to have a choice of default fund is actually a really important one, and again goes back to the ongoing viability of GESB. According to the briefing that I received from Treasury, the current status quo is that GESB is likely to be retained as the default fund for most public sector agencies and will be maintained in the regulations. I note that some agencies, including Western Power and other state government trading entities, already have a different default fund. I am seeking the government's assurance that it does not intend to change GESB as the default fund, at least in the short term. However, over the longer term, of course, there still remains a provision to appoint a new external default fund. I note that the government believes there are benefits to employees and employers in a model with contestability for a default fund.

Whithear recommended that government assess the market for the provision of a default fund in conjunction with the search for outsourcing administrative services. Under this scenario, the state government would also be removed of responsibility to regulate the fund; instead, it would be regulated under the commonwealth act. Again, these provisions do not bode particularly well for the future of GESB. I believe the government needs to be very clear about its intention for the future of the fund.

The bill also makes reference to the Treasurer's guidelines. The bill provides additional guideline functions to the Treasurer, giving the office of the Treasurer the ability to issue guidelines on the investment strategy to reflect whatever the government of the day regards as the appropriate risk return level of toleration. According to the government, the board will have greater flexibility on operational matters, but the government will have greater control over the investment functions by setting general parameters on the appropriate way to invest

rather than simply having the ability to supervise or veto the choice of fund manager. Guidelines under the act have been in use for several decades. However, these new provisions provide a much greater role for the Treasurer. According to the briefing, these are to facilitate the implementation of the Whithear reforms and the cabinet decision around reserving, investment framework, and ensuring GESB procurement processes are consistent with the State Supply Commission Act.

I note the Treasurer is required to consult with the board in relation to the guidelines and any additions or amendments, and that the guidelines will be gazetted and put on the department's website. The bill also removes administration of the relevant part of the act as a function of the board, and all responsibility for matters relating to administration of the act is to be restricted to the Treasurer. This change is a result of the decision that the Departments of Treasury and Finance will be the designated agencies primarily advising the Treasurer on the administration of the act. GESB will still have the functions of administering the schemes as provided for in existing sections within the act.

According to the government, the intent is that these amendments will increase the transparency and accountability of this process and will allow less arms-length decision making than has been the case. However, I ask whether one of the reasons for these amendments is to make it easier for the Treasurer to outsource all of GESB to a commercial provider without worrying about the board's views.

I conclude my remarks by saying: of course we know that issues of superannuation are very important. When debating this bill we must not lose sight of the fact we are talking about responsibility for the retirement savings of more than 320 000 Western Australian public servants. How their super performs will have a significant impact on the quality of their post-working life. At the very least the government owes its employees a very clear, positive view of what will happen to their future savings. I argue that it is vital that we support GESB to remain an active and stable superannuation fund. Allowing choice is an important and welcome reform that has suffered many delays.

As I said earlier, as a state we were at the forefront of choice, but we have effectively allowed ourselves to become the last state to deal with choice of fund. Because of that, I am certainly pleased to support these moves, but, as I have indicated, the Greens (WA) retain quite strong reservations about the potential impact of this legislation on the scale and sustainability of the GESB fund in the long term, and the future direction of the fund over the longer term. I invite the government to offer its advice as to what it sees as the long-term options and viability for GESB.

HON SIMON O'BRIEN (South Metropolitan — Minister for Finance) [2.09 pm] — in reply: I thank members for their contributions and what I believe was support for the second reading of the State Superannuation Amendment Bill 2011, though it was qualified in some cases, or at least accompanied by some qualifying remarks, about matters of state employee superannuation generally. One of the recurring themes in member's contributions was the future direction of GESB as an entity and what we can anticipate will be the scale of GESB. Hon Ken Travers asked us to contemplate a likely reduction in GESB membership, which might flow from the course we are taking. All the data and advice that are available to me show that consumer-switching activity is low and declining in this sector. When options of moving around funds became available to people, there may have been some initial encouragement for people to seek different funds or superannuation providers, but the general experience over the years, certainly currently, is that there are not very large percentages of people exercising options to switch superannuation funds; indeed, when that occurs, it is mostly due to job changes or to fund closures, not a personal initiative to decide they want to go to another fund.

Hon Alison Xamon: Of course, reforms are being proposed federally that will deal with the issue of fees when people leave. At the moment, as I am sure you will agree, they are quite prohibitive for some people to switch. It may be that in the future we will see a greater number of people leaving superannuation accounts as a result of that reform.

Hon SIMON O'BRIEN: Based on all we have observed, I do not know that is the case or is likely to be the case. I think the Australian experience has been that perhaps, regrettably, many Australian employees do not give much consideration to their superannuation provider and tend to accept the default fund. Whether that indicates they are generally happy or the importance of it is not uppermost in their mind, I do not know. In any case, I do not believe we will see a radical reduction in GESB membership. Just before we broke for lunch I was told that the experience in Tasmania, which has had choice since 1999, is that the membership has grown. I do not know; perhaps the government is the only employer left in Tasmania! Either way, that might give some comfort to those who are concerned about a reduction in GESB membership and its viability.

If I am interpreting accurately the nub of his contribution, Hon Max Trenorden generally supports choice. That is one of the elements that will be provided to state government employees who are part of GESB. However, he spent some considerable time indicating some other forms that he would like to see superannuation take in

Hon Ken Travers; Hon Max Trenorden; Hon Alison Xamon; Deputy President; Hon Simon O'Brien

Western Australia. I am not sure whether I am capable of responding to that now because it is not part of the bill and I think the point he was making was that he would like to see other changes to legislation in due course. I think a lot of that is a matter for another day, but I thank him for making his pertinent and experienced observations. A specific question asked by Hon Alison Xamon was: how many people are likely to be affected by the changes to GESB contemplated in the bill? I think she was talking about staff.

Hon Alison Xamon: Yes.

Hon SIMON O'BRIEN: I understand about 220 or 230 staff are part of the GESB machine. That surprised me; it sounds like a very large number. I think part of that workforce is in place in preparation for possible mutualisation which, of course, has not eventuated, so there may be a little bit of excess there. I do not know; I am not being judgemental about that. If all the administration functions were outsourced, which is not guaranteed by this bill—it is an extreme scenario—there would be about 60 remaining. That is a guesstimate that I got from my advisers.

Hon Alison Xamon: That answers my question.

Hon SIMON O'BRIEN: Okay, thank you for that.

Prior to the debate Hon Ken Travers also asked if he could have some figures about the impact of the global financial crisis on a range of criteria within the financial position of Gold State super. I am pleased to be able to provide them. I have before me a table that contains some figures and some explanatory notes. I will not propose that these be incorporated in the record unless some other members think it is imperative I do so, but I will provide the document I have to Hon Ken Travers for his information.

Hon Ken Travers: I am happy for it to be tabled.

Hon SIMON O'BRIEN: In that case I can do that and then it will be available if he wants to ask further questions. At 30 June 2005, surplus assets were \$392 million; in 2006, \$735 million; at 30 June 2007, \$1.021 billion; by June 2008 they had fallen to \$538 million; and by 30 June 2009 the position was minus \$13 million. There is a clear pattern there. I am sure the member will be interested in these figures, which I will not seek to discuss any further now but I seek leave to table that document.

Leave granted. [See paper 3661.]

Hon SIMON O'BRIEN: A lot of other comment was made, in not only this house but in the more broad debate outside, about this bill and matters relating to choice. The question of choice was considered by the government as part of what we inherited when we came into office. As we have already heard, steps were in place under the previous government to move towards the mutualisation of GESB and for the fund to take its part in the mainstream as a superannuation provider. That matter was not ultimately pursued by the former government because of the costs that would have accrued consequent upon the scheme losing its constitutionally protected fund status. Indeed, when this government contemplated the same matter, it was a very clear decision that needed to be made. So the process of mutualisation has not been pursued, and it is proposed that we not pursue it. Indeed, it is proposed that the 2007 act be repealed by this bill.

I just want to give members a bit of insight into the questions around the constitutionally protected fund and that of two-way choice, which goes with it. Hon Max Trenorden had a bit to say about this subject, so I think it merits a detailed response. As an untaxed scheme, West State super could never be subjected to two-way choice as it is unable to receive pre-tax contributions. As a taxed scheme, GESB super could, on the surface, receive pre-tax contributions from the private sector. However, the government employees superannuation fund is a constitutionally protected fund comprising taxed schemes—for example, GESB super—and untaxed schemes; for example, West State super and the defined benefits schemes. The GES fund derives its CPF status from its assets being the property of the state. In these circumstances, section 114 of the Constitution prevents the commonwealth from taxing the fund. The nature of the GES fund being property of the state is derived from many sources. One of them is the character of state control, which would be weakened if the GES fund moved to commonwealth regulation in order to receive pre-tax contributions. More fundamental to that is the source of the fund's assets. If the GESB super product were moved to commonwealth regulation and was able to receive contributions outside the state public sector, it would seriously challenge the basis of the GES fund to claim protection under section 114 of the Constitution. The State Solicitor's Office has advised the government that the constitutionally protected fund, or CPF, status of the GES fund is already at risk. If the GES fund lost its CPF status, all its schemes would become taxed schemes, triggering an immediate tax liability of up to \$700 million for West State super members and up to \$400 million to the state for its defined benefits schemes. To go down that path would have had a very real cost—a serious cost. This was also identified by the Treasurer of the former government when he was contemplating these matters. So, if we were to open up GESB to two-way choice, it would entail splitting the GES fund to separate out GESB super. A new commonwealth regulated entity would

need to be established as a trustee for GESB super, a scheme that is currently not recovering its costs. This would potentially involve significant expense and a major rework of the legislation to establish a small fund—that is, with less than \$1 billion—which would lack any economies of scale. It is not a rational approach or in the members' interest, particularly when small superannuation funds are consolidating across the industry.

So there are some important elements for members to contemplate in the question of whether it is a one-way choice or a two-way choice. The future for GESB members is a one-way choice, as contemplated by this government with this bill; that is, GESB members will be able to take funds that would have gone into GESB to another fund of their choice. However, someone outside state government employment will not be able to bring their private funds into our constitutionally protected fund.

Some members have canvassed in passing what happens in other jurisdictions, because this is not just about Western Australia and the commonwealth. It is interesting to contemplate the question of choice in other states. In summary, I am advised that the commonwealth itself introduced one-way choice for its public sector employees back in 2006. New South Wales introduced one-way choice for its public sector employees in 1992. First State Super was established there as a private sector industry fund in 2006 with two-way choice, so they did go down the path of establishing a new entity. Victoria introduced one-way choice for its public sector employees in 1999. VicSuper was established as a private sector industry fund in 2000 with two-way choice. Queensland has not introduced choice of fund for its public sector employees, and neither has South Australia. Tasmania introduced one-way choice for its public sector employees back in 1999. As I indicated, its membership has subsequently grown. The Northern Territory and the ACT introduced one-way choice for their public sector employees in 2005.

We are dealing with complex matters, but one thing is clear: it is in the state's interest, in taxpayers' interest and I think in our government employees' interest if we close the path that has previously been contemplated but has not been followed of the mutualisation of GESB, and this bill does that. This bill also provides some choice for GESB members. Together with the other reforms contained therein, the bill is worthy of the support of the house.

It is my intention to proceed to the committee table if this bill succeeds at the second reading stage, so that members can identify any specific elements they would like to explore more fully this afternoon. I think I have addressed the key elements that were raised. I thank members for their support for the bill and commend the second reading to the house.

Question put and passed.

Bill read a second time.

As to Committee

The DEPUTY PRESIDENT (Hon Jon Ford): We now go into committee.

Hon Ken Travers: No. I am not asking for it, but if the government wants to, it can.

Hon Alison Xamon: You answered my questions.

Hon Ken Travers: You covered the issues I raised in the second reading debate.

Hon SIMON O'BRIEN: There has been some informal indication that members are satisfied with the debate as it has proceeded, including the briefings that have been provided.

Hon Ken Travers: During my contribution to the second reading debate I made the point that your officers had given me the advice that your government had, and whilst we still disagreed with that advice, I accept that that is your view. We have our view, and only time will tell who is right.

Hon SIMON O'BRIEN: Mr Deputy President, with the indications that I have just received, and before anybody changes their mind, I seek leave to proceed forthwith to the third reading.

Leave granted.

Third Reading

Bill read a third time, on motion by **Hon Simon O'Brien (Minister for Finance)**, and passed.