WATER SERVICES LEGISLATION AMENDMENT AND REPEAL BILL 2011

Second Reading

Resumed from 2 May.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clauses 1 to 4 put and passed.

Clause 5: Section 5 amended —

Mr C.J. TALLENTIRE: Clause 5 details some definitions that are to be deleted. I am concerned that with the deletion of some of those definitions, we may lose some of the integrity of the Country Areas Water Supply Act 1947. We could lose clarity on such important terms as the definition of farmland and what "country water area" actually means. I would be interested to hear the minister's comments on the purpose of that deletion of definitions.

Mr W.R. MARMION: This is quite simple. The terms listed that have been deleted are no longer required due to the sections that I mentioned no longer being in the act.

Clause put and passed.

Clauses 6 to 15 put and passed.

Clause 16: Section 115 amended —

Mr W.R. MARMION: I move —

Page 7, line 8 — To delete "Department." and substitute —

Department or a person authorised to do so by the Minister.

The reason for this amendment is that it is basically an unintended consequence of what we want to do to ensure that under this act—the Country Areas Water Supply Act—the Water Corporation can still look after its water in catchment areas that it is responsible for. It is an unintended consequence. It was left out in the drafting. Without putting it in the act, the act only relates to the administrative department, which is the Department of Water. By adding the words "authorised to do so by the minister", I can authorise other organisations such as the Water Corporation to carry out management of its areas under the Country Areas Water Supply Act.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 17 to 27 put and passed.

Clause 28: Section 106 amended —

Mr C.J. TALLENTIRE: Proposed clause 28 refers to the deletion of "works" and the insertion of "asset" in its place. I recall hearing, in the discussion around the Varanus Island problem, that Apache was able to avoid a court case I think over the term "works". It was able to say that that was not a valid term to describe the infrastructure. I seek clarity from the minister on the reasoning behind this deletion and whether it relates to that, I suppose, legal interpretation of "works" versus "asset", if that is the origin of this change.

Mr W.R. MARMION: The reason is that in the Water Services Bill, which we have passed, we are not referring to "works" anymore, we are using the more general term of "asset". So, we are talking about drainage assets rather than drainage works, so it is just to be consistent in terms of the terminology in the previous bill.

Mr C.J. TALLENTIRE: I have a further question. I think it is an interesting point, though, and perhaps this would have a bearing on the Varanus Island–Apache case. I understand that Apache was able to get out of substantial legal responsibility in the state of Western Australia because it argued that "works" was too vague a term. If the minister is saying that he is changing to "asset" for similar reasons, I think that would be an interesting thing for the house to know. It may be because the minister wants a broader term, but I think we need a better explanation. As I say, I think this is could potentially have a bearing on the whole Varanus Island situation.

Mr W.R. MARMION: No, it is quite simply that the Water Services Bill talks about drainage assets, not drainage works, so we are just making it consistent. The Varanus issues have nothing to do with this. This is water services; it has nothing to do with mining infrastructure or —

Mr C.J. Tallentire: It is the legal definition of "works" versus "asset".

Mr W.R. MARMION: The member would have to see the contractual arrangements; it is a red herring. It is a simple definition; we have to be consistent. We are talking about drainage assets not drainage works, so we are making it "asset" rather than "works". It is very simple.

Mr C.J. TALLENTIRE: I have a further question. I think what we are revealing here, though, is that previously legislation was drafted using "works" in the sense that they were referring to assets. If it was the case when the previous legislation—the Metropolitan Water Authority Act 1982—was drafted that the understanding was that "works" referred to infrastructure, I think we have made a serious discovery that there was a definitional understanding. That could have implications on the liability of Apache to the state of Western Australia. I think this is a very important issue.

Mr W.R. MARMION: I stand by the current position that all we are doing is changing "works" to "asset" because we are talking about drainage. By the way, we are talking about drainage, not gas pipelines, and we are changing the definition from drainage "works" to drainage "asset"; it is fairly clear. If there are any implications to that, I am sure that other aspects of both bills will give the minister the power under the codes or under the regulations to make sure there are no problems.

Clause put and passed.

Clauses 29 to 56 put and passed.

Clause 57: Long title amended —

Mr C.J. TALLENTIRE: Clause 57 amends the long title of the Rights in Water and Irrigation Act 1914. It seeks to delete the current words "water resources, to provide for irrigation schemes" and compacts that into the two words "water resources". I think that is a good thing. It will broaden the area of coverage of this legislation to water resources, not just water resources for the purpose of irrigation schemes. The Rights in Water and Irrigation Act 1914 is quaintly known in bureaucratic circles as the RIWI act. It is a very important act. It potentially manages the sustainable use of water through a number of schedules to the act. This amendment will broaden that act in a number of ways. I think it is important that we have it on the record that the new long title of the act will mean that the act will cover issues as diverse as deep watering projects, for example. In the past, the RIWI act was confined to matters of irrigation schemes. I support this; I think it is good that the Rights in Water and Irrigation Act will cover deep watering. The scale of dewatering is absolutely massive with some of the mining projects in this state. I can think of one example. Weeli Wooli Creek is associated with a Rio Tinto Ltd mine in the Pilbara. In that case, we are talking about some 45 gigalitres of dewatering, which is the equivalent of the annual production of the first desalination plant. It is absolutely enormous. If my understanding of this is correct, I am pleased that the Rights in Water and Irrigation Act will be broadened to cover all matters relating to water resources and will not be confined to matters around irrigation schemes. That is welcome news, but I seek the minister's confirmation that that is the case.

Mr W.R. MARMION: That is not quite right, member. Although the long title will be a bit more general in that it will refer to water resources, the words "irrigation schemes" will be deleted because they are covered in the Water Services Bill. Anything to do with irrigation is in the other legislation. The member is sort of on the money.

Mr J.C. KOBELKE: I think it is the appropriate time to ask how advanced the water resources legislation is. Has cabinet agreed to the drafting of the water resources legislation, or is the drafting of that legislation yet to get cabinet approval?

Mr W.R. Marmion: Do you mean the water resources management legislation?

Mr J.C. KOBELKE: Yes; the other legislation that is to go with what is currently in the two bills before the chamber.

Mr W.R. Marmion: That has not gone to cabinet yet. That is the next task after we have done this bill.

Mr J.C. KOBELKE: So it does not have drafting approval yet.

Mr W.R. Marmion: No.

Clause put and passed.

Clauses 58 to 109 put and passed.

Clause 110: Act amended —

Mr F.M. LOGAN: Can I clarify that part 7, "Water Corporation Act 1995 amended", means that this act, which covers all the corporations, including Aqwest, Busselton Water and the Water Corporation, will now be confined only to Aqwest and Busselton Water, and that Water Corp, as an institution, will be covered by the Water Services Bill 2011?

According to the minister's advice to the opposition, it appears that the Water Corporation Act only covers Bunbury and Busselton Water Boards; is that correct?

Mr W.R. MARMION: I think that the member's question was: does the amendment to the Water Corporation Act 1995 bring in the Bunbury Water Board, which is Aqwest, and the Busselton Water Board? The answer to that is that is what this legislation is doing, so the Water Corporation Act will apply to water service providers—the Water Corporation, Aqwest and Busselton Water.

Mr F.M. LOGAN: I thank the minister, but what is actually the point of this amendment we are now dealing with? We have the Water Services Bill that covers and governs the operations of Water Corp; what is the point of doing this and covering only the Bunbury and Busselton Water Boards?

Mr W.R. MARMION: If the member reads the front page of the explanatory memorandum that was distributed, it actually spells it out. With the reviews that were undertaken back in 1999, the "National Competition Policy (NCP) Legislation Review of the Water Boards Act 1904" and the "Busselton and AQWEST–Bunbury Water Boards Competitive Neutrality Reviews" recommendations were made in this revision of the Water Corporation Act 1995. The explanatory memorandum states that this will —

- enable the Water Boards to provide services outside their water area;
- allow Water Boards to provide a full range of water services (including sewerage, drainage, and irrigation);
- enable the Water Boards to make a profit;
- enable the Water Boards to enter into business arrangements;
- facilitate the adoption of a more commercial approach to service provision consistent with the principles of competitive neutrality; and
- enable the provision of CSO (Community Service Obligations) payments to Water Boards where applicable.

Also, under the recommendations coming out of Competitive Neutrality Reviews of Busselton and AQWEST–Bunbury Water Boards, the Busselton and Bunbury Water Boards, along with what Water Corporation already does, will be required to —

- prepare annual statements of corporate intent and strategic development plans;
- provide concessions to senior and pensioner customers;
- pay dividends to government with the dividend payments to be negotiated annually;
- earn a return on assets with the rate to be negotiated annually; and
- remain exempt from local government rates and charges.

Mr F.M. LOGAN: My understanding is that is what they had to do anyway and they were doing that under the Water Corporation Act 1995. I am asking why these changes are being made that would limit the Water Corporation Act 1995 as amended by what we are doing now to cover only those boards, whereas before all the things that the minister has just read were covered, including Water Corp. I am just asking: What is the intention of changing this act to leave it in place covering only Bunbury and Busselton? Why, for example, did the Bunbury and Busselton Water Boards not get covered by the Water Services Bill or the other legislation altogether?

Mr W.R. MARMION: I am trying to clarify the situation for the member. Under this bill, the Water Boards Act 1904, which covers the Bunbury and Busselton Water Boards, will be repealed. So, it will not exist. We will bring them in another piece of legislation, which is the Water Corporation Act. If we go through the future amendments under that, we will find that it gets rid of the Water Corporation and talks about corporations. Therefore, the member will find that when we repeal the Water Boards Act 1904, it gets rid of the act that covers both Bunbury and Busselton Water Boards, and brings those two boards into the Water Corporation Act so we will have basically three corporations then.

Mr F.M. LOGAN: I understand that, but I cannot understand why the minister did not include that under the Water Services Bill 2011, which is what I thought we were doing in getting rid of the Water Boards Act 1904. I thought we were going to get rid of it altogether and include Aqwest and Busselton Water Board under the Water

Services Bill. I thought that was the whole intent of the amalgamation of the bill, rather than leaving this outstanding under a different act altogether—that is, the actual Water Corporation Act 1995.

Mr W.R. MARMION: The Water Corporation Act is the legislation for government-owned entities, like the Water Corporation, Aqwest, and the Busselton Water Board, and all the rules under which the boards are appointed and the other rules. That is why they are there, whereas the Water Services Bill covered all the services.

Mr J.C. KOBELKE: I want to come back to some comments the minister made in his first response to the member for Cockburn. I am seeking clarification on two aspects of that. If I understood the minister correctly, he was talking about the extension of the area services for the Water Corporation and the Bunbury and Busselton Water Boards under this one statute. Is the minister now suggesting that they can extend that area, so there can be areas where they compete or will that still be controlled by other aspects of the legislation where they will have a designated area of service that the minister would have to sign off on?

Mr W.R. MARMION: I thank the member for Balcatta for that very good question. The ERA regulates the licences and where they can operate. This provision will allow Aqwest and Busselton Water to go outside the area and compete but the licence will still have to be agreed by the ERA.

Mr J.C. Kobelke: Is the minister saying they can both offer the same service in the same area, or through the ERA will there be a designation of which particular corporation operates the service in a given area?

Mr W.R. MARMION: That will be up to the ERA, not me. This does exactly what I said. It means that at the moment they are constrained by the area of operation, as the member knows. The example is where Busselton Water provides water to the Water Corporation, to Dunsborough, and they had to go through an act of Parliament to do that. This will allow them to apply to the ERA to, I guess, compete and go outside that area. It will be up to the ERA to agree to that.

Mr J.C. KOBELKE: I thank the minister, but there is one point of that on which I am still seeking clarification. Does the legislation now before us allow for the ERA to approve two service providers providing the same service into the same geographic area?

Mr W.R. MARMION: The Water Services Bill will allow that to happen.

Mr J.C. KOBELKE: The minister indicated that the legislation will now allow Busselton Water and Bunbury Water Board to be licensed through the appropriate process through the ERA to carry on the full range of water services. It currently only provides potable water and does not currently provide drainage or sewerage, but this legislation will allow them to do that. The point of my question is: has the minister had discussions with them and are they likely to take up those other services or are they currently just to remain as providers of reticulated potable water, or is there an appetite or are they being pushed to move into those other service areas?

Mr W.R. MARMION: I am not aware of an appetite for that. I know anecdotally there is just potable water, and certainly those people in some of the suburbs around Bunbury in particular who are currently serviced by the Water Corporation have an appetite to be taken up by Aqwest because it charges less for water.

However, I have not heard on the grapevine or in my discussions with the boards of an appetite to move into other water service provisions.

Mr J.C. Kobelke: Is the minister of a view that they should broaden to offer the other services of drainage and/or sewerage? Is the minister suggesting that to them or is that not an option?

Mr W.R. MARMION: It will be up to them. I am not suggesting that they do that, but if there is a competitive advantage for them to do that and they can provide an efficient and better service than is currently available, I think that would be encouraged.

Clause put and passed.

Clauses 111 and 112 put and passed.

Clause 113: Section 3 amended —

Mr F.M. LOGAN: Can the minister advise whether subclause (3) is a new subclause that is part of the amending of the act; and, if it is, can he advise why that wording is deemed to be appropriate or needed?

Mr W.R. MARMION: It is a consequential amendment, because we are not talking about a corporation. Proposed section 3 of the act will read —

> ***executive officer***, of a corporation, means a member of the staff of the corporation designated under section 18 as an executive officer;

Previously it was "the corporation". Because we are going from "the corporation" to "corporations", some of the definitions have changed. This will run through quite a lot of the clauses in this legislation.

Clause put and passed.

Clause 114: Section 4 amended —

Mr J.C. KOBELKE: I have two technical questions. Clause 114(4) states —

> The Governor may, by order published in the *Gazette*, establish a body with the name specified in the order.

The technical question is: is the effect of that subclause likely to be used simply for a name change? Let us say the Bunbury Water Corporation wanted to be called that legally, as opposed to a trading name, Aqwest. Would clause 4 apply to that, or is clause 4 solely about the establishment of a new water authority in addition to the ones that already exist?

Mr W.R. MARMION: This clause is for establishing new bodies; it is not for established bodies. It is specifically in the legislation so that a new corporation can be set up.

Mr J.C. KOBELKE: My second question goes to subclause (5), which states —

> The Governor cannot establish a body under subsection (4) without the concurrence of the Treasurer.

There are two parts to the question. Is that provision contained in other parts of the minister's water legislation; and, if so, can the minister draw our attention to it? Secondly, what is the form required to be proof of that concurrence? I presume it is not a regulation. Can it be just a letter? How would the Treasurer be required to fulfil the terms of subclause (5) in terms of notifying the Minister for Water that the Treasurer is supportive of the establishment of a new water service body?

Mr W.R. MARMION: I will answer the second question first. There is no specific provision to define what form should be required in seeking the Treasurer's concurrence. It could be by written agreement or whatever. The first part of the question, I guess, was whether there are other aspects of the bill relating to the Treasurer. There are in relation to the provision of a dividend. I think I mentioned that the dividend the water corporations provide to the Treasurer would have to be agreed on.

Mr J.C. KOBELKE: The follow-on question relates to whether a disagreement between the Minister for Water and the Treasurer would be judicable. The former Treasurer has split up with the Premier and gone off in a huff. What happens if the Treasurer and the minister responsible for this act have a bit of a disagreement and the Minister for Water thought the then Treasurer had said, "Yes; I concur and you can set up a body", but it was just a verbal agreement and we find some time later that the minister responsible for this statute had established a new water corporation and the Treasurer then says, "I didn't give you any permission. I didn't concur as required under proposed subsection (5)"? Would that matter be judicable? What would happen if there was no requirement to show that the provisions of proposed subsection (5) were met?

Mr W.R. MARMION: The actual wording refers to the Governor. If I were the minister, I would be looking for the piece of paper that has the Governor's signature on it and I would say to the Treasurer, "Mate, have a look at the Governor's signature; I've got the approval."

Mr W.J. JOHNSTON: I want to clarify the provision under proposed subsection (4). Given the definition provided for in amended section 3, which was amended by clause 113, can the government set up a new corporation in the water space to do anything that is currently being done by the Water Corporation either instead of or in competition with the Water Corporation? For example, could he set up a water corporation in Karratha? Is there effectively no limit and could that be set up by an order signed by the government? Is that what this provision allows?

Mr W.R. MARMION: It also reflects the power that is already available in section 64 of the Water Boards Act 1904, which we are repealing. It provides for new boards to be repealed. We are replicating a clause that we are getting rid of in another act.

Mr W.J. Johnston: Under that act could you have set up a water organisation in parallel to the Water Corporation?

Mr W.R. MARMION: I could have set up a water board.

Mr W.J. Johnston: With the powers that could be operating —

Mr W.R. MARMION: With similar powers to the Busselton and Aqwest boards.

Mr W.J. Johnston: In the metropolitan area, for example?

Mr W.R. MARMION: We understand there is no limitation to the Water Boards Act 1904, so the answer is yes.

Clause put and passed.

Clause 115: Section 5A inserted —

Mr F.M. LOGAN: This clause inserts proposed section 5A. Can the minister advise whether proposed subsection (3) as a result of this amending bill is similar to one that exists in the Water Corporation Act? If it is a new subsection, can the minister explain why it is needed?

Mr W.R. MARMION: Proposed section 5A allows the corporation to adopt a name other than its corporate name. The member probably does not have a copy of the Water Corporation Act 1995 in front of him, but some subsections of section 4 of the act are being deleted and are moving into proposed section 5A.

Mr F.M. Logan: So is this new section similar to one that is in the act?

Mr W.R. MARMION: Yes, that is right.

Mr F.M. Logan: That is all I ask.

Mr W.R. MARMION: It gives a bit more clarity; that is all.

Mr F.M. Logan: If the wording is the same as one that is in the act, that is it; don't worry.

Mr W.R. MARMION: Yes.

Clause put and passed.

Clause 116: Section 6 amended —

Mr C.J. TALLENTIRE: This clause refers to the Public Sector Management Act. I am sure members will be aware that section 105 of the act prevents members of Parliament from providing references to people who might be employed under the act. This is of concern to members who may be asked to provide a reference to a person who might be seeking employment with, say, the Water Corporation. It is a very progressive organisation and many of us know people who would want to work for an organisation such as the Water Corporation. My understanding is that in the past we as members of Parliament have not been in a position to provide references to those people because of coverage by the Public Sector Management Act. However, I understand that under this clause—I seek the minister's confirmation on this—there will be no problem at all with any of us here as members of Parliament providing a reference to someone who seeks employment with a corporation, be it the Water Corporation or any other related corporation covered by this legislation.

Mr W.R. MARMION: This is one of those clauses that change "corporation" to "corporations". That is all it is trying to do. New section 6 is bringing in the plural rather than the singular for the Water Corporation. The member is talking about providing references.

Mr C.J. Tallentire: Yes. Currently we cannot provide references to people who may be employed under the Public Sector Management Act. I am referring to section 105 of the Public Sector Management Act. If we do, we are liable to a $1 000 fine. I want clarification —

Mr W.R. MARMION: How does that relate to this?

Mr C.J. Tallentire: It is because clause 116 states that a corporation, for example the Water Corporation, will not be covered by the Public Sector Management Act, and therefore we would be legally entitled to provide people seeking employment with the Water Corporation with a reference.

Mr W.R. MARMION: There has been no change to the way that people in the Water Corporation are employed. This is no change; all this does is change "corporation" to "corporations". Whatever applies now still applies. There has been no change to how people are employed at the Water Corporation.

Mr W.J. Johnston: Basically what you are saying is that you already provided a reference to it.

Mr W.R. MARMION: I am not an expert on the references. I could ask my counsel. They are probably not expert in the Public Sector Management Act, but I could ask them.

Mr C.J. TALLENTIRE: I have a further question; it is a simple one. Can the minister clarify whether people at the Water Corporation are currently covered by the Public Sector Management Act?

Mr W.R. MARMION: No.

Clause put and passed.

Clause 117: Section 7A inserted —

Mr W.J. JOHNSTON: Minister, could I ask firstly—he can answer this by interjection or I might have to sit down—is this new section 7A replicating the existing provision?

Mr W.R. MARMION: I am not 100 per cent sure whether it is covered in the existing act, but, because I have the power to create a board, this provides for the power to dissolve the board. That is the rationale. I have some more advice; I will just read it. This provision continues an existing power available—I should have known this, shouldn't I?—in the Water Boards Act 1904, section 6(4).

Mr W.J. Johnston: The explanatory memorandum does not make it clear. What you are saying is that this simply reflects a provision in the 1904 act?

Mr W.R. MARMION: Correct.

Mr W.J. Johnston: So there are no additional authorities or powers between what is in the 1904 act and what you are proposing here?

Mr W.R. MARMION: I will just check if there is anything additional. We think there is a bit more detail. Without going through it in detail line by line, there is the suggestion that it is a bit more descriptive and more modern in terms of what is gone through in terms of disposal of assets and discharge of liabilities. It is a bit more prescriptive.

Mr W.J. JOHNSTON: I do not want to be too long on this, but I just want to clarify something. Under the current provision, can assets be transferred outside the public sector, or do the assets of the authority that is created have to be transferred within the public sector? The reason I am raising this, minister—I will be quite frank—is that this would appear to give the minister the provision to create an instrumentality to compete with the Water Corporation and then privatise it without coming back to the Parliament. If that is already an existing provision, I will have to go and have a think about that, but if the current provision only allows assets to be transferred back to the Crown, this is, with the effect of that other clause that we talked about a couple of minutes ago, quite a big authority for the minister.

Mr W.R. MARMION: I am actually reading section 6 of the Water Boards Act 1904, part II, division 3. The pertinent part is section 6(4), which states —

> The Governor may by Order in Council revoke any other Order in Council made for the purposes of this Act and constituting a water board, and may thereby dissolve any water board constituted under any Order so revoked, and effect shall be given to the Order in accordance with its terms.

That is what it says. So, basically, we can do it.

Clause put and passed.

Clause 118: Section 7 amended —

Mr J.C. KOBELKE: I do not know whether this is part of the emperor syndrome or something, but why is the minister seeking to take power away from regional areas and give the minister more power to do it from Perth? The current requirement for the Bunbury and Busselton Water Boards, unless it has been changed in the past couple of years, is that the people appointed to the board be resident in the general area. Correct me if I am wrong, but that is the way it has always been, and now the minister is watering it down.

Mr W.R. Marmion: It is the glass-half-empty approach rather than the glass-half-full approach.

Mr J.C. KOBELKE: No. The minister is changing the current requirement for members of the board to be resident in the general area or in the region served by the regional water corporations. The minister is changing that to state in proposed section 7(2)(b) —

> In the case of a nomination for appointment to the board of a regional water corporation—the nominee is a person ordinarily resident in an operating area of the corporation so far as is necessary for the majority of the directors of the corporation, at the time of the appointment, to be persons so resident.

The minister has watered that down in two ways. First, it only has to be the majority of the six or seven members. If there are seven members, only four have to be nominated as local residents; and, of those four, one might be resident in, say, Collie, and be on the Bunbury Water Board. If that person moves out a month later and serves the rest of his years on that board not residing in the area at all, we will have a minority of board members who are resident in the area. The question I am asking is: why is the minister watering it down? For 100 years, the Bunbury and Busselton Water Boards have been made up of members who have generally lived in the area, and there has been no criticism that they have not functioned or that they have been inefficient. There were problems decades ago, but in recent history those water boards have functioned efficiently and properly with people from the local area. The minister is now seeking to water that down by saying that only a majority of the

members need to reside in the area, and those persons need to be resident in the area only at the time of appointment and not after.

Secondly, proposed subsection (3B) states —

> The Minister need only comply with subsection 2(b) to the extent practicable.

The minister can say that it is not practical for him to find a friend of his—a mate—to go on the board, so he will have to appoint someone from Perth or Kalgoorlie to the Bunbury Water Board. The minister needs to give some explanation and some rationale for why what has been happening for 100 years is no longer satisfactory and why the minister has to centralise in Perth the people who will be on the board of these regional water corporations.

Mr W.R. MARMION: I can give three reasons. The first reason is that we are just doing what the member wanted to be done.

Mr J.C. Kobelke: What do you mean? I did not want that.

Mr W.R. MARMION: My adviser says that was a provision that the member was in favour of.

Mr J.C. Kobelke: Absolutely not—I was not—because I gave them an undertaking that I would maintain their local identity.

Mr W.R. MARMION: That is fine. I acknowledge that. That leaves only two reasons, then. The second reason is that the water service corporations, whether in Bunbury or Busselton, will operate outside that area. By the way, the majority will still need to reside within the area but the other members will give the board the scope to put in people who have skills in certain areas. In a place like Bunbury, they might want to have a lawyer on the board, and they might find that they cannot get a lawyer from Bunbury because they are on a whole lot of other boards such as the port authority. The reason is to provide the board with the opportunity, if the board members want a certain person with a particular skill to be on the board, to go outside the region. I think that is a very good reason to do it.

Mr J.C. KOBELKE: I do not accept the minister's argument, but I will not delay the chamber by going over it. The minister made his point and I do not think it stacks up.

The second point I want to make about clause 118 is that clause 114 allowed for the establishment of new water corporations, which presumably would centre on a different part of the state. This legislation allows the government to split up Perth, but let us for the moment look at regional water corporations. Let us say that we wanted one at Kalgoorlie, Karratha or Broome; there is the mechanism by which to do it, but they would not be caught by the provisions in clause 118. Therefore, we would not have to have regional people on a Broome water corporation because the way I read it—correct me if I am wrong—is that clause 118(2) applies to regional water corporations, and proposed section 7(3A) defines "regional water corporation" as the Bunbury Water Corporation or the Busselton Water Corporation. Therefore, it seems to me that if the government established another regional water corporation, it would not be caught by the watered-down provision to have a majority of board members, at least at the time of nomination, living in the operating area of that regional water corporation.

Mr W.R. MARMION: I am not sure what the member's point is. The Water Corporation can appoint whoever it likes. This provision is something that both the Bunbury and Busselton boards wanted to have, so it is actually a special provision exclusive to them—perhaps of all boards in Western Australia. It is quite the opposite of what the member is suggesting —

Mr F.M. Logan: I thought you said the minister wanted it.

Mr W.R. MARMION: I am talking to the member for Balcatta. It is quite the opposite of what the member is suggesting. If we start a new water corporation in Karratha, we could put anyone on it. That is exactly the case with the majority of boards in Western Australia. This provision allows, because both the Bunbury and Busselton Water Boards wanted it and we are happy to have it, for the majority of board members to be from those localities. That is what this is all about in a nutshell. But the member is correct; if someone set up a water board in Karratha, they could have whoever they like. They could have everybody from Karratha if they wanted to, or they could have no-one from Karratha. That is exactly right.

Mr F.M. LOGAN: Firstly, the minister told the member that this provision was put in because the minister wanted it and now he is saying that it has been put in because the boards wanted it. The minister also made statements earlier that these clauses need to be put in because it broadens the areas within which both those organisations may operate.

Mr W.R. Marmion: It's a reason; I'm not saying it has to be.

Mr F.M. LOGAN: They may operate out of their current areas. Can the minister clarify, before we vote on this, what the government's intention is for those corporations? At the moment, as the minister knows, they are

defined to operate in certain areas. There is a demarcation, as the minister knows, between the Water Corporation and those boards. What is the minister's intention, in explaining these provisions, for the future of those corporations? What will they be? Will they operate way beyond those boundaries? Will they be in competition with the Water Corporation? What is the minister actually setting up here?

Mr W.R. MARMION: I have no intentions for them. This is enabling legislation, so it allows both the Bunbury and Busselton Water Corporations, if they want, to extend their boundaries, and they can go to the Economic Regulation Authority to do that. The member is a smart person, so if he is a business operator and runs a business, he is hardly likely to move to Karratha if he is in Bunbury. It may make sense and it is the business of the board to decide this but it may want to expand its current boundary.

Mr F.M. Logan: The Water Services Bill that we just dealt with still constrains them and still creates those demarcations. Why would you say they would want to alter it?

Mr W.R. MARMION: As I said before when we were discussing other clauses, this bill allows them to apply to the ERA to move outside their current boundaries. I cannot tell the member where the Bunbury Water Board, Aqwest, might end up in the next 50 years. This allows those corporations to expand their boundaries and also to move outside potable water. As the member for Balcatta said, they can move into other water service provisions.

Mr J.C. KOBELKE: The sections that establish the composition of the governing board and the various things that help corral who can or cannot be on it is quite important for the functioning of an organisation. When we have two organisations that have functioned for over 100 years, I am interested in why changes have been made. I have already commented on the minister moving away from requiring a greater composition from local residents. The other thing that the minister has moved away from in clause 118(1) is the current requirement that the chief executive officer, who is appointed by the board, then becomes a member of the board. That is being scrapped because paragraph (2A) states —

> The chief executive officer of a corporation may be a director of the corporation.

The minister has now made a change in how the board will be comprised by moving away from a situation in which the board has, until now, a chief executive officer as a member of the board in Bunbury and Busselton. I do not know whether this change is driven by some dissatisfaction with the board or some dissatisfaction by the minister with a particular chief executive officer. I would like to know why there are these changes in the appointment structure so that it is now the minister's decision, I presume, going through the Governor, whether the chief executive officer will be a member of a particular board.

Mr W.R. MARMION: I think it is the opposite of what the member just said. Currently the chief executive officer of the Water Corporation is on the Water Corporation board. The executive officer of the Busselton board and Aqwest are not on the board. The wording in clause 118(1)(2A) is explicit. It states —

> The chief executive officer of a corporation may —

That is the main word —

> be a director of the corporation.

That allows the status quo to remain the same for the Water Corporation because the current CEO of the Water Corporation is a director of the corporation.

Mr J.C. KOBELKE: I am sorry if what I said was incorrect. I was going off the explanatory memorandum. Page 20 of the explanatory memorandum states —

> Subclause (4) amends section 7(3) …

Mr W.R. Marmion: You are ahead of me. That is page 20 —

Mr J.C. KOBELKE: I am referring to page 20 of the explanatory memorandum. The second paragraph from the top states —

> Subclause (4) amends section 7(3) to take account …

Mr W.R. Marmion: Can I just read it so I can see what it says?

Mr J.C. KOBELKE: I will read it into the record; the minister can read it at the same time. I will not read too quickly. It states —

> … to take account of the change to 7(1) that removes the requirement that the chief executive officer of a water corporation is automatically a director on the board.

The explanatory memorandum says that the minister is removing the requirement for the chief executive officer to automatically be a director on the board. That is contrary to what he just said. Either the explanatory memorandum is wrong or I am misreading it.

Mr W.R. MARMION: The member is trying to trick me. The current provision under the Water Corporation Act 1995 makes the chief executive officer automatically a director of the board.

Mrs M.H. Roberts: You said it didn't.

Mr W.R. MARMION: No; I am saying that the new legislation we are bringing in—this is the new wording under proposed section 7(2A), as opposed to the existing wording—reads "may be a director". Currently, the chief executive is automatically a director; the new wording means he may be.

Mr J.C. Kobelke: That's what I said at the start.

Mrs M.H. Roberts: You said they currently weren't.

Mr W.R. MARMION: No. We are talking about the Water Corporation; we are talking about Sue Murphy. We are not talking about the executive officers from Busselton Water Board and Aqwest, who are not currently automatically directors of the board. That is correct.

Mr F.M. LOGAN: I refer to what the minister was referring to in the definition of "operating area" contained in proposed section 7(3A).

Mr W.R. Marmion: Which clause are we referring to?

Mr F.M. LOGAN: We are still dealing with clause 118. We were talking about the operating area, and the minister gave an explanation of the representation of the board and, basically, the future of organisations such as the Bunbury and Busselton Water Boards. The definition of "operating area" on page 39 of the bill states —

> ***operating area***, of a corporation, means an operating area of a licence held by the corporation under the Water Services Act;

The minister said that the future of an Aqwest or Busselton Water may be that they would apply to, say, the Economic Regulation Authority to broaden out their representation. Minister, these are not businesses; they might be corporations, but they are government-owned businesses. They are not businesses as such; they are government-owned operations that are actually monopoly suppliers of particular services to particular areas. Is the minister honestly suggesting that they could be broadened out to be in competition with one another? What would the public benefit be in having three government-owned organisations in competition with one another? I cannot see the benefit of that at all.

Mr R.F. Johnson: Was that a question or a comment?

Mr F.M. Logan: Both.

Mr W.R. MARMION: As I said before, this is enabling legislation. We cannot predict the future. If we use Dalyellup as an example, that could be an area where residents on one side of the street pay half the price for water than those on the other side of the street because they have different providers.

Mr F.M. Logan interjected.

Mr W.R. MARMION: Yes, that is right. I am not saying there would be competition—there could be—but we might find that there might be a transfer of assets. If one water service provider thinks it can provide water services at a cheaper price, there might be a change of assets. It allows a whole lot of things to open up, whereas now there actually is a monopoly due to the defined boundaries. Now that the boundaries will be opened up, there will be an opportunity to have more efficient water service providers and delivery. I think this is a good bill that enables those opportunities to be presented.

Clause put and passed.

Clauses 119 to 126 put and passed.

Clause 127: Section 28A inserted —

Mr C.J. TALLENTIRE: This clause seems to give all sorts of powers to an eventual corporation. Proposed section 28A reads —

> The fact that a corporation has a function given to it by this Act does not impose a duty on it to do any particular thing …

Reading that, I was keen to see what this clause was replacing in the existing act, because I did see in the explanatory memorandum that this proposed section replaces repealed section 27(5) of the existing act. I have gone to section 27(5) and it does not relate. Proposed section 28A gives the impression that eventually this corporation could do anything it wants to do. It does not have to do anything to do with water. I checked on section 27(5) of the act, which reads —

> This section or section 28 does not impose on the corporation any duty to perform any function that is enforceable by proceedings in a court.

They are quite different things. The real concern is that proposed section 28A seems to allow a corporation to do whatever it likes. It clearly states "does not impose a duty on it to do any particular thing". I find this proposed section very strange.

Mr W.R. MARMION: I will see whether I can explain this. Section 27(5) to which the member has referred will be deleted and proposed section 28A will replace it. It does not mean that it has discretion to do anything it likes; it still has to comply with its licence and any other provisions under the act. Can the member explain it in clearer terms?

Mr W.J. JOHNSTON: I can. The provision that the member for Gosnells is pointing out to the minister does not direct the corporation to provide services in the water services space; it provides an authorisation for it to do anything, whereas the provision that is being deleted makes it clear that it is a provision related to water services. I had only half an ear to the question of the member for Gosnells, but the point he was making was very clear to me. This corporation will be allowed to provide, say, services as an electricity corporation, because there is nothing in the legislation that will prevent it from doing so.

Mr W.R. MARMION: My legal counsel has explained it. Obviously, it was drafted by experts. The fact that a corporation has a function given to it by this legislation does not impose a duty on it. It is not saying that it can do anything; it is just saying that it has a function given to it by the act but it does not impose a duty for it to do it. That is the actual wording of the legislation. It is not quite the same as what the member said.

Mr F.M. LOGAN: I cannot see how the minister's counsel has interpreted it in that way.

Mr W.R. Marmion: It is the same counsel you used.

Mr F.M. LOGAN: What does that have to do with it?

Several members interjected.

The SPEAKER: Thank you, members!

Mr F.M. LOGAN: It is set out in the explanatory memorandum. The only reason the minister is making these amendments is that similar amendments were made to the Electricity Corporations Act 2005, but there is a significant difference between the Electricity Corporations Act 2005 and this bill. The Electricity Corporations Act 2005 provided for the break-up of Western Power and the creation of a market system for the provision of power. That is not what is happening with water services under this bill. It is irrelevant whether this provision was picked up simply because the minister is following what was done in the Electricity Corporations Act. This is about, ultimately, the monopoly supply of water through the Water Services Bill by licensed operators owned by the government. It is not about, as it says in the Electricity Corporations Act, the provision of electricity to the buyer Synergy, which may well be a government-owned body; it is about a series of different organisations, both public and private. So there is no reason to pick this up, and the wording is very clear. Not only does the legislation state that a corporation does not have a requirement, effectively, to carry out the duty imposed on it, it states —

> subject to —
>
> … this Act; and
>
> … any direction given to the corporation under this Act,
>
> it has a discretion as to how and when it performs the function.

Therefore, even if the minister were to give a corporation a direction, the corporation does not have to comply with it immediately; it can determine when and how it complies with the direction. That is what that says.

Mr W.R. MARMION: I will try to explain it again.

Mr W.J. Johnston: How about you explain it the first time?

Mr W.R. MARMION: I have, but there are three things happening at the same time here. Firstly, proposed section 28A is basically a modernisation of section 27(5). That is what I have been advised. I am not a lawyer, but point one is that I have been advised that this is the more modern language and reflects —

Mr F.M. Logan: You believe them?

Mr W.R. MARMION: I do; I believe the lawyer.

The other thing is that we are talking about functions not duties; the member is confusing the two. Also, anything it still has to do in terms of its water licence, it still has to do. All this provision means is that although under the legislation the corporation can be given a function, it does not impose a duty to do that particular function

subject to the act and to a direction given to it by the corporation under the act. Therefore, it is subject to any direction that might be given; indeed, I would imagine a direction given by me.

Mr W.J. JOHNSTON: I just want to get it clear here, if the minister was to give a direction to the Water Corporation to act in respect of water services in a particular way, is the minister saying that this provision means that the Water Corporation would have complete discretion on how it performs that obligation being directed by the minister. Is the minister suggesting that it gets to choose the effect of a direction, because it states —

> … any direction given to the corporation under this Act,
>
> it has a discretion as to how and when it performs the function.

Is the minister actually suggesting that, because that is clearly not the provision that is in the Electricity Corporations Act, the minister knows as well as I do that there is just no way in the world that that is the provision.

Mr W.R. Marmion interjected.

Mr W.J. JOHNSTON: Is the minister saying that it is the same provision, because it is not?

Mr W.R. Marmion: No; it is subject to any direction given.

Mr W.J. JOHNSTON: It does not say that.

Mr W.R. Marmion: Yes, it does.

Mr W.J. JOHNSTON: Where does it say that?

Mr W.R. Marmion: In proposed section 28A.

Mr W.J. JOHNSTON: That states —

> The fact that a corporation has a function given to it by this Act does not impose a duty on it to do any particular thing and, subject to —

Mr W.R. Marmion: And subject to paragraphs (a) and (b). Paragraph (b) states —

> … any direction given to the corporation under this Act,

Mr W.J. JOHNSTON: I do not understand. What is the exclusion then that the minister says is being given to it? What is the benefit of the provision? If the minister is saying that the corporation has to do what the act tells it to do, that is clear and it is a direction, and that is clear as well. So, what is the actual impact of the clause, because that is certainly not what is in the Electricity Corporations Act; that is a completely different provision. So what is it in plain English? Tell me: what is the effect of this provision?

Mr W.R. Marmion: Now you have asked the right question, I think.

Mr W.J. JOHNSTON: It is exactly what the member for Gosnells asked 10 or 15 minutes ago.

Mr W.R. MARMION: Section 27 in part 3 of the Water Corporation Act 1995 sets out all the functions of a corporation. I will not read them all out because they are quite exhaustive, but they include —

> … to acquire, store, treat, distribute, market and otherwise supply water for any purpose;
>
> … to collect, store, treat, market and dispose of wastewater and surplus water;

So, again, they are all the things that can be done. They are all the functions. I read paragraphs (a) and (b), but it goes down to paragraph (f), so there are all these things that can be done. This proposed section 28A says that despite the fact that the corporation has all those functions it can do under the act, a duty is not imposed on the corporation to do all those things, subject to anything that it has to do under the legislation or any direction given by the corporation under the act. It is pretty clear to me, but let me make it really simple. One of the functions is to provide drainage services, so it might choose not to provide drainage services and that is what this clause allows.

Mr F.M. LOGAN: I think the minister has explained it as well as he could. The way in which this is worded can be interpreted in various different ways. Wording like this allows corporations, and particularly CEOs of corporations, to turn around to the minister and say, "We are not going to do that; and you cannot tell us what to do." If the minister thinks they do not do that; they do! I know that and the minister should know that. When the minister asks the Water Corporation to do something and it says, "Sorry, minister, we are a government-owned organisation and you have no responsibility over us; you cannot tell us what to do," they will pull this wording out and put it in front of the minister's nose. That is what they will do. They have done it before. They have done it to former ministers in this chamber. The minister is making a rod for his own back by leaving that wording as it is.

Mr W.R. MARMION: New section 27A(b) covers that.

Clause put and passed.

Clauses 128 to 157 put and passed.

Clause 158: Section 81 amended —

Mr J.C. KOBELKE: I was actually concerned with clauses 157 and 158, so if the minister is obliging, I can ask about them both. One question relates to rates. What is the current provision, because my limited understanding from what is presented in the explanatory memorandum is that the rates are paid to the Treasury and not to local government? To what extent are the corporation's assets on land exempt from paying local council rates? What is the current provision, and is it changed by this clause? I also have a question on borrowings and the current provisions for setting those limits; and whether this legislation changes that at all.

Mr W.R. MARMION: I refer again to clause 76, which is cover-all clause for all corporations. At the moment the Water Corporation provides the equivalent amount of local government rates, but Busselton and Bunbury Water Boards are exempt. Clause 76 makes it consistent and refers to a sum equivalent to any local government rate or charge. I guess they pay a government rate.

Mr J.C. KOBELKE: To get that clear, the minister is saying that the Water Corporation and the Bunbury and Busselton Water Boards currently do not pay local government rates on most of their assets or all of their assets?

Mr W.R. Marmion: Don't they pay rates on the land?

Mr J.C. KOBELKE: If they have pipework, I assume they are exempt from paying rates on that sort of asset. But if they own an office block, would they have to pay rates on it under the current arrangement? The current provision, which is an exemption for rates, says that no local government rate or charge is to be imposed or levied on any land vested in or under the management and control of the corporation that is used or reserved exclusively for the purpose of providing works, undertakings or facilities necessary in the performance of the functions of the corporation. That is the current exemption.

Mr J.C. KOBELKE: My next question follows from that. Currently, as I understand it, Bunbury and Busselton water corporations, in lieu of the rates for the council, are not paying money to state Treasury. Under this provision, I need to be clear about whether they will be required to or whether it opens it up and they may be required to. Is it automatic that they will now have to pay that?

Mr W.R. Marmion: They will have to.

Mr J.C. KOBELKE: Does the minister have a figure for how much that will be for the past year?

Mr W.R. Marmion: Yes, we have an estimate. The estimate for Busselton Water is $22 500 in 2011–12 and $24 000 in 2012–13.

Mr J.C. KOBELKE: And for Bunbury?

Mr W.R. Marmion: We will see whether we have those figures. You get a bit of an idea of the level.

Mr J.C. KOBELKE: Yes—just an indicative figure.

Mr W.R. Marmion: We don't have that. We think that it might be about double, from memory; and, being double, it probably reflects the assets it has.

Mr J.C. KOBELKE: I thank the minister for attempting to give an answer even though he does not have the exact figure in front of him. The second part goes to the borrowing limits on corporations. That is an amendment in the bill. Does that make any substantial change or is it just rejigging it because the same legislation will apply to all three corporations?

Mr W.R. MARMION: The actual wording is consistent with that for the Water Corporation. Both Aqwest and Busselton will have the same borrowing rates, consistent with those for the Water Corporation.

Mr J.C. Kobelke: Is there anything that tells us the mechanism by which you set that, I presume?

Mr W.R. MARMION: That is correct. Also, Treasury puts limits on borrowings, of course, as the member knows.

Clause put and passed.

Clauses 159 to 162 put and passed.

Clause 163: Sections 92, 93 and 94 inserted —

Mr C.J. TALLENTIRE: This clause inserts into the act provisions relating to the vesting of land. I am curious to know from the minister whether, under this vesting capacity, we could see land vested in the Water Corporation that is government-owned land, and for what sorts of purposes it would be vested in the Water Corporation. What would the circumstances be? It is easy to imagine that for infrastructure-type purposes there would be that sort of vesting, but is it also envisaged that there might be vesting of land in the Water Corporation as part of an environmental offsets package?

Mr W.R. MARMION: This provision already exists in another act. We are trying to put all the acts that currently exist in one bill or another. We are putting in this bill the powers vested in the corporation.

Mr C.J. Tallentire: Which other act is it in, minister?

Mr W.R. MARMION: The Water Agencies (Powers) Act 1984, section 8.

Mr C.J. Tallentire: And it is identical wording, is it, that you are transferring into the new —

Mr W.R. MARMION: We will look at the wording right now.

Clause put and passed.

Clauses 164 to 188 put and passed.

Clause 189: Schedule 5 inserted —

Mr J.C. KOBELKE: I refer to proposed clause 18 of schedule 5, "Payments to the State under Part 5 Division 2", which establishes the financial year for the regime of payment by the Bunbury and Busselton Water Boards, particularly because they do not currently make payments to the state. How much is it anticipated those payments will be in the first or second year of operation? Is there a number? Has any determination been made about the rate they will be required to pay? Will it be equivalent to the Water Corporation or will a different rate be set?

Mr W.R. MARMION: No; the rate has not been set as yet. There is a process of negotiation between the board and the Treasurer. That will be the process once these bills are passed, but no specific rate has been determined as yet.

Mr J.C. KOBELKE: Has the minister had any discussions with the Bunbury and Busselton Water Boards about the likely level of payment to the state? When I was discussing this legislation with them five years ago, they were very keen that there not be a payment. We had lengthy discussions about that. I gave an undertaking that in the life of the government, we would not require that payment. Even though these provisions would be in the statute, I gave them a verbal undertaking that I would accede to their wish and in the life of the government—the four-year term—there would not be the requirement for them to make that payment. Has the minister had discussions with the CEOs of the boards? What understanding does he have with them about the likely quantum of payment they will have to make?

Mr W.R. MARMION: It is fair to say that there have been discussions and it is also fair to say that, obviously, they would prefer not to pay a dividend. I have the power as a minister to direct another amount be the dividend, so there is that flexibility. I guess in the member's situation, he would have been able to direct that it would be zero to a certain period. I have that flexibility. I know they understand that they will be paying a dividend.

Mr J.C. KOBELKE: I imagine people there will be very unhappy with the minister. He will be taking away some of the requirement for a higher local component on the board and he will make them pay for it. They will be paying more money into the central Treasury to try to prop up the profligate spending of the minister's government and he is taking away some of the local control of the board as part of it. They will be losing on all sides. I am sure the minister will not get a very good reception when he goes down there to tell them that he will be making them pay a whole lot of money they have not had to pay before in terms of both the rates and dividends to the government. He will be reducing the number of board members who potentially have to be local residents.

Mr W.R. MARMION: It was not a question but I will respond. Both bills are strongly supported by both boards. As a Bunbury person, I know a lot of the people involved. I know, I think, the people who were the first five members of the Bunbury board. Some of them are still alive. They strongly support both bills, and they are keen to provide a fuller range of services.

Mr J.C. Kobelke: But not this provision, I'm sure.

Mr W.R. MARMION: That is true.

Clause put and passed.

Clauses 190 to 204 put and passed.

Clause 205: *Builders' Registration Act 1939* amended —

Mr W.R. MARMION: I am opposing the clause.

Mr J.C. Kobelke: Can you give the reason?

Mr W.R. MARMION: Yes, I can.

Mr R.F. Johnson: We don't like it! We've gone right off it! That's good enough, isn't it?

Mr W.R. MARMION: The reason we are opposing clause 205 is that it refers to an act that no longer exists. The name of the act was amended to the Builders Services (Complaint Resolution and Administration) Act 2011.

Mr R.F. Johnson: A good reason!

Mr W.R. MARMION: So there is a fairly good reason. That act came into being between the period when this bill was second read and where we are at now. Circumstances took over and that act has had a name change. The intention of the clause was to change the name of the act, so it is irrelevant.

Clause put and negatived.

New clause 205 —

Mr W.R. MARMION: I move —

Page 91, after line 3 — To insert —

205. *Building Services (Complaint Resolution and Administration) Act 2011* amended

(1) This section amends the *Building Services (Complaint Resolution and Administration) Act 2011*.

(2) In section 3 in the definitions of ***building service Act*** paragraph (f), ***plumbing work*** and ***vocational regulatory body*** paragraph (b) delete "*Water Services*" and insert:

Plumbers

(3) In section 92(5)(e) delete "*Water Services*" and insert:

Plumbers

New clause put and passed.

Clause 206: *Bulk Handling Act 1967* amended —

Mr W.R. MARMION: I oppose this clause, too.

Clause put and negatived.

New Clause 206 —

Mr W.R. MARMION: I move —

Page 91, after line 17 — To insert —

206. *Bulk Handling Act 1967* amended

(1) This section amends the *Bulk Handling Act 1967*.

(2) Delete section 52A.

There is a special provision for Co-operative Bulk Handling in a specific section of the existing act. However, CBH is happy to be treated like every other client, so we are deleting section 52A.

New clause put and passed.

Clause 207: *Conservation and Land Management Act 1984* amended —

Mr W.R. MARMION: I move —

Page 92, lines 1 to 11 — To delete the lines.

Again this clause was intended to amend the act but it has been overtaken by events through the CALM Act. These provisions have therefore already been inserted by another bill.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 208 to 212 put and passed.

Clause 213: *Fire Brigades Act 1942* amended —

Mr W.R. MARMION: I oppose this clause.

Mr J.C. KOBELKE: Could we just have some explanation? I am just concerned how that that fits in with the Fire Brigades Act.

Mr W.R. Marmion: I will be moving an amendment.

Mr J.C. KOBELKE: So the minister is not amending. He is moving to oppose and proposing a new clause.

Mr W.R. Marmion: And then inserting a new clause, yes.

Clause put and negatived.

New clause 213 —

Mr W.R. MARMION: I move —

Page 96, line 9 — To insert —

213. *Fire Brigades Act 1942* amended

(1) This section amends the *Fire Brigades Act* 1942.

(2) Delete sections 54 and 55.

(3) At the beginning of section 61 insert:

(1) In this section —

water services licensee means a licensee as defined in the *Water Services Act 2011* section 3(1).

(4) In section 61:

(a) delete "The Authority," and insert: (2) The Authority,

(b) delete "water supply authority" and insert:

water services licensee

This provision was put in to enable FESA to operate the fire hydrants. As we are transferring the ownership of fire hydrants to the Water Corporation, fire hydrants are already part of the water infrastructure. Under clause 163, all fixtures go through to the corporation; that is a catch-all clause.

Mr F.M. Logan: When they are not blowing up.

Mr W.R. MARMION: That is right. This deletes special provisions in the Fire Brigades Act that allow FESA to operate the hydrants.

New clause put and passed.

Clauses 214 to 222 put and passed.

Clause 223: *Presbyterian Church Act 1908* amended —

Mr C.J. TALLENTIRE: The Presbyterian Church Act 1908 is being amended through this legislation. I am concerned that there is actually a disincentive for Presbyterian churches and the churches' real estate to connect to the sewerage system. I say that because the church can avoid paying a water services charge unless the land is connected to water service works as defined in the act. I think by including this, we are going beyond what the current section 21(6) of the Presbyterian Church Act says, and we are adding in this other aspect of "unless the land is connected to water service works as defined". In a way, that acts as a disincentive for the church to make sure that it is connected to water service works.

The SPEAKER: The question is that clause 223 be agreed to.

Mr C.J. TALLENTIRE: Hang on; I have not had a response from the minister.

Mr W.R. Marmion: You were just making a comment.

Mr C.J. TALLENTIRE: No, I wanted a response. I want the minister to explain why.

Mr W.R. Marmion: Ask me the question.

Mr C.J. TALLENTIRE: The question is this: why are we creating a situation in which churches would be discouraged from connecting to the sewerage system?

Mr W.R. MARMION: We are retaining the status quo. The exemptions proposed by the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 are being replaced with the Water Services Act 2012. The status quo will remain. This is a consequential amendment of the Water Services Bill 2011.

Mr C.J. TALLENTIRE: Clearly some special treatment is being given to the Presbyterian Church. That may be justifiable, and indeed I would also ask the minister to explain why there is a Presbyterian Church of Australia Act 1901 as well as a Presbyterian Church Act 1908, but that is beside the point, really. The fact is, though, that the minister's amendment goes beyond what the act currently says, because it allows for the church to not pay any water service charge. Why do we need to insert that provision? Why not make the church pay the water service charge regardless?

Mr W.R. MARMION: We were trying to keep the status quo. There is a whole range—Hale School, the Anglican Church; a whole lot of people—and we are retaining the status quo.

Mr C.J. Tallentire: That is not consistent with the act as it currently reads, though.

Clause put and passed.

Clauses 224 to 226 put and passed.

Clause 227: *Residential Parks (Long-stay Tenants) Act 2006* amended —

Mr J.C. KOBELKE: I am seeking a clear explanation about what this change will mean for the rebates and deferments and other benefits that are paid to particular sectors of the community or people who meet certain criteria. The explanatory memorandum says —

> The Amendments to section 16(4) and proposed section 16(5) are based on the policy that only prescribed private licensees should be able to make a claim for and receive reimbursement (rather than any licenses under the Water Services Act. Water corporations established by or under the Water Corporations Act 1995 are excluded from the operation of section 16 on the basis that those bodies will receive community service payments from Treasury.

Amendments were made under the last government to try to look after the people in long-term residential parks or caravan parks, because if the caravan park had a larger pipe coming into it, it fell into a different category of water charges, and therefore the cost per litre was more expensive for those residents than it would be if they were living in a house next door, and that full cost was passed on to the residents of the caravan park or the long-stay residential tenants by the owners of that facility. So those people were paying more for their water as pensioners because they lived in a park home. I want to know what is happening here and whether these people will be disadvantaged by the changes the minister is making in this clause.

Mr W.R. MARMION: Again, we are preserving the status quo. This is a clause that makes consequential amendments arising from the Water Services Bill. There is no change. Whatever applies now will still apply for anyone residing in caravan parks.

Mr J.C. KOBELKE: Minister, I really want to have this doubly confirmed. The minister is saying that under clauses 226 and 227, pensioners and people who currently qualify for some form of rebate or assistance will get that. But, secondly, I want to know whether the actual charging mechanism for people who live in these group homes will disadvantage them under the changes the minister is making here, because the rebates are only one aspect of it. The second aspect is that if the water service to a property that has multiple dwellings falls into a different price structure, in the past that has meant that people have had to pay more per kilolitre of water, because of the delivery system and the pricing structure. Is the minister confirming that the changes that he is making in clauses 226 and 227 will not in any way adversely impact people who are living permanently or semi-permanently in caravan parks or in retirement villages that may be residential parks?

Mr W.R. MARMION: I can confirm my previous statement. The clause amends a section in the Residential Parks (Long-stay Tenants) Act 2006 that makes the park operator responsible for all water charges except consumption charges, and this outcome is preserved.

Clause put and passed.

Clauses 228 to 233 put and passed.

Title put and passed.