

TAXATION LEGISLATION AMENDMENT BILL 2014

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

HON SUE ELLERY (South Metropolitan — Leader of the Opposition) [3.06 pm] — without notice:
I move —

That —

- (a) the Taxation Legislation Amendment Bill 2014 be discharged and referred to the Standing Committee on Legislation for consideration and report not later than Thursday, 13 November 2014; and
- (b) the committee examine the bill for the purpose of ascertaining whether the bill imposes unintended consequences, if any, on legitimate fourth-limb charities.

The reason I have moved the motion today is in this response to correspondence sent to me by the Western Australian Council of Social Service on 4 September 2014. I understand that, since that date, WACOSS may have corresponded with other members of the house as well. I will refer in part to that letter, and at the end of my comments I will, if I may, table the letter. The letter states —

I am writing to bring to your attention the concerns held by the Western Australian Council of Social Service and others in relation to the potential unintended consequences of this Bill for charitable organisations delivering community services in Western Australia.

WACOSS goes on to state that it has received advice that suggests —

... that the manner in which the Bill has been drafted may result in unintended consequences for some of our member community service organisations of a charitable nature.

...

We are concerned that the measures within the Bill are defined in a way that is likely to affect many more organisations that are intended, and that decision making powers to enable an exclusion from its provisions are at the discretion of the Minister of Finance the day, which could leave the door open to the politicisation of decision making about charitable status.

The Council is particularly concerned by the manner in which the Bill applies a ‘catch-all’ test relating to a purpose to “promote trade industry or commerce” from which organisations then need to seek an individual exemption (rather than narrowly defining industry bodies). We are concerned that the administrative interpretation of this test could see it potentially apply to charitable organisations engaged in disability employment, Aboriginal organisations and others promoting the economic development of disadvantaged people, community housing providers and charities developing or promoting social enterprises.

For that reason, WACOSS asked whether WA Labor would consider moving a motion to refer the legislation to a committee for debate, and we decided that we would move in that way. I believe the committee’s work on this bill will provide the house—I am anticipating that will be the case, knowing the good work that this committee does—with some clear advice as to whether these are real issues; and if they are, ways in which those issues can be mitigated.

I have been advised behind the Chair that the government supports the referral, and I appreciate the government’s support for that.

HON PETER COLLIER (North Metropolitan — Leader of the House) [3.10 pm]: The Liberal Party is pleased to support the motion. I understand that our partners in government will also be supporting the motion—and for all the right reasons. Governments never wish any piece of legislation to have unintended consequences. Concerns have been raised as to whether, as the Leader of the Opposition expressed, the Taxation Legislation Amendment Bill 2014 will result in unintended consequences for charities. That is, of course, not the intent of the government. I have spoken to the Minister for Finance and he is very happy to support the move to refer the bill to the Standing Committee on Legislation. It will have a relatively short time frame to report, but it will be able to specifically identify whether the bill will have unintended consequences for charitable organisations. As I said, the government never intends a piece of legislation to result in unintended consequences, particularly for charitable organisations.

With that said, there are some amendments to the bill standing in my name on the supplementary notice paper that have the intent of addressing the issues concerned. I would like to think that the committee will take those amendments into consideration and determine whether they are appropriate in dealing with the issues raised. In addition, on behalf of the Minister for Finance I give the committee the commitment that the government will

give it all the support that it needs to ensure that this matter is expedited appropriately so that we have a better piece of legislation. The Liberal Party is pleased to support the motion for referral.

HON LYNN MacLAREN (South Metropolitan) [3.12 pm]: I rise to support the motion. I put on the record that similar to many other members, the Greens (WA) were contacted by the Western Australian Council of Social Service on 8 September about it having received contradictory advice, which has been stated. The advice it received from the Department of the Premier and Cabinet and the Department of Finance contradicted its own advice. I commend WACOSS for being on the ball and for being proactive in getting its own advice. For example, it contacted the law school at the University of Western Australia, and has used it as one of its sources of information in its cited material.

I appreciate that the government has put amendments on the notice paper. I intend to look at them quite carefully. As a member of the Standing Committee on Legislation, I welcome the opportunity to examine a bill in this matter to ensure that unintended consequences do not result with the passing of the legislation. The Greens wholeheartedly support the referral to committee and look forward to a very efficient and short process of examining the issues that WACOSS has brought to our attention.

HON COL HOLT (South West — Parliamentary Secretary) [3.13 pm]: I rise to indicate that the Nationals also support the referral motion. Part of the trouble that National members have had is defining who is and who is not captured by the Taxation Legislation Amendment Bill 2014 and, therefore, whether unforeseen circumstances will arise for some organisations. It will be useful to send the bill to the Standing Committee on Legislation to address that. Some of the confidentiality provisions in the Taxation Administration Act 2003 restricted our ability to get information, so it will be useful for the committee to look at whether the bill will have an unintended impact.

Similar to all members in this house, we have received correspondence from WACOSS about its concerns. I agree with the Leader of the House that legislation often gives rise to unforeseen circumstances and certainly we do not want legislation to be restrictive on charitable organisations. In a letter WACOSS sent to us, it stated that the changes may have an effect on agricultural associations, growers' associations and cooperatives which, again, may not have been foreseen. The committee can look at the legislation to determine the circumstances and whether it will impact those organisations. It is appropriate for the committee to get all that information back so that we can have informed debate. I note that there has been talk about the Commissioner of Taxation making a clarifying statement after the bill has passed. That is all fine, but it will not help us with our deliberations about whether or not to pass the bill.

Question put and passed.

The PRESIDENT: The Leader of the Opposition indicated that she wanted to table a document. I forgot to invite her to do so at the end of her contribution.

Hon SUE ELLERY: I would like to table it, but I have handed it over to Hansard.

The PRESIDENT: The member can seek leave to table the document to which she earlier referred.

Hon SUE ELLERY: I seek leave to table it at a later stage of the sitting.

Leave granted. [See paper 1942.]