

**GOVERNMENT TRADING ENTERPRISES BILL 2022**

*Committee*

Resumed from 14 June 2023. The Deputy Chair of Committees (Hon Dr Brian Walker) in the chair; Hon Stephen Dawson (Minister of Emergency Services) in charge of the bill.

**Clause 141: Interim and special dividends —**

Progress was reported after the clause had been partly considered.

**HON DR STEVE THOMAS:** We have almost finished the bill. We do not have a lot left to go. We will finish 141. I have a quick question about 148, 150, and 151 and that will be the end of the day. Most of the rest of the bill is consequential amendments that go on under other legislation, and I think we have had a pretty good run through the intent of the bill. Perhaps there will be a five-minute speech on the third reading at the end of the day if the bill is progressed.

When we finished yesterday, the minister was going to explain the somewhat arcane—and perhaps Machiavellian—way that governments use dividends, particularly under clause 141: special dividends to move budget moneys around. I thought the minister was going to have a look at the outline of government policy to work out the use of interim dividends for the convenience of budget surplus or deficit. I thought I might give the minister the opportunity to respond if there is anything he would like to add before we progress to the other clauses.

**Hon STEPHEN DAWSON:** Honourable members know that I try to be as helpful as I can in these debates, so I asked my advisers to undertake some work overnight. They have worked incredibly diligently, probably into the wee hours of the morning, to try to bring back some information for the member. From time to time, government trading enterprises may pay a special dividend, and when these occur, they are disclosed in the annual reports of the GTEs. I could point the member to those reports, but I will not do that today.

Examples of circumstances in which special dividends have been paid include for the sale of assets—generally land—the Bell Group settlement proceeds and the return of operating subsidy payments when the subsidy has been provided to offset a non-cash expense, such as an asset value writedown. I have some examples for the member. The Insurance Commission of Western Australia had the Bell settlement of \$455.4 million in 2021–22. That obviously related to proceeds received by ICWA from the finalisation of the liquidation proceedings for the Bell Group and the disbursement of settlement funds. The Insurance Commission had one for \$154.5 million in 2018–19. That related to an exceptionally strong investment performance in that year. DevelopmentWA had one for \$166.3 million in 2020–21 for its Regional Land Booster program. That related to the repayment of an operating subsidy paid to reduce land prices in regional areas as part of the COVID-19 recovery. There was also one for \$23.4 million in 2021–22 for the residential land tranche 1 asset adjustment. That related to the repayment of an operating subsidy for asset revaluation associated with the transfer of assets from the Housing Authority. DevelopmentWA had one in 2022–23 for the regional land submission for Madigan Road in Karratha, with \$2.6 million being repaid this year. That relates to the partial repayment of an operating subsidy paid to offset an impairment on a financial performance of the project. Western Power has had three that I am aware of. There was one for \$15.1 million in 2021–22 for land sales; one for \$4.5 million in 2020–21 for land sales; and one for \$6 million in 2019–20 for land sales and the establishment of the energy transformation implementation unit. Synergy and Horizon Power also had one for the establishment of the energy transformation implementation unit. Synergy's amount was \$2.8 million and Horizon Power's was \$1.1 million. The Water Corporation and the ports have had none. It is a comprehensive list. As I said, diligent workers worked incredibly hard overnight and I am very grateful to them for that. That is the answer.

**Hon Dr STEVE THOMAS:** Thank you for that comprehensive answer and thank you to the assistants at the table for their diligent and hard work. I hope the minister bought them a nice bottle at the end!

**Hon Stephen Dawson:** I thought you were going to do that given that they were working for you overnight!

**Hon Dr STEVE THOMAS:** We will have to come to an arrangement behind the chair!

Clause 141(1) provides that the portfolio minister may, with the approval of the Treasurer, give a written notice to the GTE that they would like a special or interim dividend. It is written in the bill as though it will be initiated by the portfolio minister. I have a couple of questions before we finish this clause. Is it generally the case that it will be the minister who will go to the GTE, and will there be a trigger point for the minister to be briefed and made aware that there is to be a sale or an action has happened? The second half of the question is about the paperwork. The minister will be required to write to the GTE requesting a special or interim dividend. Will there be any transparency around those things? Will those letters be incorporated into something like the annual report or a document that might be made public? Could those documents be asked for in Parliament or potentially FOI-ed, or would they be commercial-in-confidence and therefore nobody would get to see them?

**Hon STEPHEN DAWSON:** The amount of the dividends would be disclosed. The correspondence would not be. It would likely have come through a decision of the Expenditure Review Committee of cabinet, so it would need to sign off on any sale.

**Hon Dr Steve Thomas:** But it would be in the budget papers generally, so there would be an amount. How much it is would be disclosed without the machination behind it.

**Hon STEPHEN DAWSON:** Absolutely; the amount would be disclosed.

**Clause put and passed.**

**Clauses 142 to 147 put and passed.**

**Clause 148: Treasurer's GTE instructions —**

**Hon Dr STEVE THOMAS:** Just for your information, deputy chair, I know that other members have been very keen to participate in the debate over the last six sitting days, but from my perspective, once we do this clause, I intend to debate only clauses 150 and 151, and then we can put the rest of the bill, with all the consequential amendments to other legislation, as a job lot. We are nearly through it. Of course, other members may leap to their feet and seek to examine some of those transitional proposals!

Clause 148 provides that the Treasurer can, by instrument in writing, amend or revoke instructions concerning the principles, practices and procedures to be complied with in preparing reports under this division. This is how we interact with the financial administration and audit component, which presumably is interrelated with the Financial Management Act. I am interested that the instrument can simply be published on a website maintained by or on behalf of Treasury. I do not know how many websites Treasury runs, so I might start with that. I am a frequent visitor to the Treasury website. If there is a secret one that I am not aware of, I would be very interested to know. How many websites does Treasury have? I am a visitor to the websites of Treasury and the Treasury Corporation; both are very useful. I am just thinking that there might be one that I am not aware of. Let me start with that.

**Hon STEPHEN DAWSON:** No. The member is aware; there is only one. It is now incorporated into wa.gov.au, and there are Treasury pages there that the Treasurer is responsible for.

**Hon Dr STEVE THOMAS:** The minister will be pleased to know that it is on my favourites list!

**Hon Stephen Dawson:** I am sure that the advisers will sleep better at night now knowing that!

**Hon Dr STEVE THOMAS:** There is some very good information there. Checking that stuff is how we manage to compete with Treasury on what the budget surplus might be in advance. That is very good.

It will basically be published on that website. I do not think this is a very common occurrence. I suspect that it is one of those just-in-case clauses. How commonly is it used? The minister might be able to give us an example of when it has been used. Am I right to say that it is not common, or is it more common than I think and I have somehow missed it?

I will just add another part to the question. I do not think this is a new power that will be granted to the Treasurer. Can we just check and make sure that it is not new?

**Hon STEPHEN DAWSON:** This is based on the Treasurer's instructions power contained within the Financial Management Act. All the GTEs covered by the GTE bill are not currently covered by the FM act. That is the reason we have the bill before us.

**Hon Dr STEVE THOMAS:** That makes sense. This effectively repeats within the bill the capacity in the FM act as it applies to departments. Was a similar thing included in advance in the establishing acts of the GTEs, or is a brand new power being provided?

**Hon STEPHEN DAWSON:** We cannot be positive that it exists in all existing GTE establishing acts. It is in this bill and it will be comparable with the power in the FM act.

**Hon Dr STEVE THOMAS:** I think it is a good clause so I do not have a problem with it. I am just interested in whether it is a change. Perhaps the next time the minister's officials are looking for a bottle of wine late at night, they might be able to do a bit of research and tell us whether this is a continuation of these generally existing powers. Let us not put them to work on exhaustive research; someone within the department might already know.

**Hon Stephen Dawson:** Why not ask that question the week after next in estimates? We might have an answer for you by then.

**Hon Dr STEVE THOMAS:** Is Treasury coming in?

**Hon Stephen Dawson:** Yes, Treasury is coming in. I am doing Treasury on the Thursday.

**Hon Dr STEVE THOMAS:** Or I could do it as a question afterwards.

**Hon Stephen Dawson:** That is an opportunity for you.

**Hon Dr STEVE THOMAS:** I do not want to waste a Thursday question. The minister has hopefully already seen today's questions. We like to have good Thursdays in the Legislative Council. The clause is worthwhile. I think we just push it through.

**Clause put and passed.**

**Clause 149 put and passed.**

**Clause 150: Exemption from local government rates —**

**Hon Dr STEVE THOMAS:** This is one of two clauses that I want to deal with—the exemption of local government rates under clause 150 and the payment in lieu to the Treasurer, effectively, under clause 151. Is there any chance that the minister could give us an indication of the amount of local government rates that are not paid because GTEs are exempt?

**Hon STEPHEN DAWSON:** I am sorry, honourable member, but we do not have that information, and it would not be easily available on a list.

**Hon Dr STEVE THOMAS:** That is a shame. I guess I can put this sort of question on notice. It was a curiosity, really. This might be my four-minute speech as opposed to a question, but local government is generally concerned that a number of organisations do not pay rates. The state government generally does not pay rates. I do not imagine that GTEs are enormous components of that. Most of the Water Corporation stuff is underground, so there might be an easement, for example, but it would not necessarily preclude operations on a piece of land. I suspect there is a little bit in relation to Western Power, but even then I do not think it is a very big figure. It might be a question that we put on notice just to work out where local governments are not getting rates, for example. I am nearly done; I have five minutes. The biggest areas are generally state-held land. For example, the Shire of Nannup is about 86 per cent state forest; somebody might know the exact figure off the top of their head, but I am reasonably confident that it is about that. The Department of Biodiversity, Conservation and Attractions—that is a terrible name that should be changed, in the fullness of time, to something more useable; I will call it “Parks and Wildlife” for convenience—pays no rates to local governments, so that very much limits the Shire of Nannup. I think Manjimup is a bit lower—about 84 per cent state forest—and Bridgetown and Donnybrook are in the 60 per cents. There is significant block out. I suspect that it is not a huge number in terms of GTEs, but it would be interesting to know what impact that has on local government. I accept the minister's response that we do not have the numbers. I will make some references under clause 151 and I might put a question on notice at some point.

**Hon STEPHEN DAWSON:** As I said, there is not a centrally held list. I would not even be confident that the GTEs would themselves have a list if the member were to ask a question of each of the GTEs. Current local government rates equivalent exemptions include railways, transmission lines and rail corridors. They are the types of things that would be exempt, but we do not have a list.

**Hon Dr STEVE THOMAS:** I will let this clause pass. The direction I am going in might make more sense at clause 151.

**Clause put and passed.**

**Clause 151: Payment in lieu of local government rates —**

**Hon Dr STEVE THOMAS:** With a bit of joy, we have come to the final clause for debate on a bill that I think we have been debating for six sitting days. I am probably not in the same realm as Hon Nick Goiran, but I make my small contribution as best I can.

Clause 151, “Payment in lieu of local government rates”, states —

- (1) A GTE must pay to the Treasurer in respect of a financial year an amount equal to the sum of all local government rates and charges that it would have been liable to pay in respect of that financial year, but for —
  - (a) section 150 ...

Clause 150 is the catch-all clause that exempts GTEs from paying rates. Again, I think much of that is a repetition of what is in the establishing acts. It continues —

- (b) the *Local Government Act 1995* section 6.26(2)(a)(i).

Under subclause (1), the Treasurer will receive a payment in lieu of local government rates. That is the area I am looking at. It would appear that that should be measurable. In theory, the Treasurer and Treasury should receive a payment, and that should be listed on an accounting sheet somewhere. Otherwise, I might write to the Auditor General and ask her to look into another sleight of hand of the—I have to get used to saying the “Cook government”.

**Hon Dan Caddy:** You should get used to it; it will be around a while.

**Hon Dr STEVE THOMAS:** At least two years—well, 18 months now. I still say “2022” on occasion, so it takes a while to get the ship going.

It appears as though there should be a transfer of funds under this clause. That should be measurable. Even if it is not done under clause 150, it should be done under clause 151. I ask the minister to comment on that.

**Hon STEPHEN DAWSON:** I am told that this information would be available. It is not available now, but that is the kind of thing the honourable member could ask about either by way of a parliamentary question or in estimates. I make the point that the concept of GTEs paying a local government rate equivalent to the Treasurer aligns with applying competitive neutrality principles to the GTE model. The principle of competitive neutrality aims to ensure public sector entities do not have a net competitive advantage over private sector entities on the basis of their government ownership.

**Hon Dr STEVE THOMAS:** I am aware that it is done for issues of competitive neutrality. I guess we all understand that it galls local governments that a rate is applied to the GTEs, but instead of paying the rate to the local government, they pay it to Treasury. Local governments are not all that fond of that.

**Hon Stephen Dawson:** If you were Treasurer after the next election, would you suggest that this payment be paid to local governments?

**Hon Dr STEVE THOMAS:** I would have a good look and then make a decision on all the facts in the fullness of time.

**Hon Stephen Dawson:** Interesting.

**Hon Dr STEVE THOMAS:** I will commit to examining the issue, how about that? It depends what the iron ore price might be, because if it were at the current level, we could probably afford to do anything!

**Hon Stephen Dawson:** A get-out clause; I see.

**Hon Dr STEVE THOMAS:** I have committed only to having a look at it. I have not committed to do anything in particular. I do not want to be brave, minister.

**Hon Stephen Dawson:** Or foolhardy.

**Hon Dr STEVE THOMAS:** Or foolhardy. Are they synonyms? They are in this place. Anyway, he has distracted me again, deputy chair. He is terrible for that.

**The DEPUTY CHAIR:** Do you have a question?

**Hon Dr STEVE THOMAS:** I am going to make a short statement instead because it is effectively the last clause and I suspect this might be the last statement of the day in the committee stage of the bill. The minister has another one to come. Excellent. I will let him do that first.

**Hon STEPHEN DAWSON:** Again my diligent advisers have been working feverishly to get the member an answer to that. I am advised the government rates equivalent information is available in budget paper No 3, in appendix 8.

**Hon Dr STEVE THOMAS:** Excellent. I thank the minister for that. I am pleased that the advisers have been able to do that. I will pull that out at some stage and review that and just check and see, but it does irritate local government that a rate is paid from the GTE to the Treasury, so it is effectively more money in the Treasury on effectively a local government rate.

**Hon Stephen Dawson:** To pay for schools and roads and hospitals.

**Hon Dr STEVE THOMAS:** Jaunts, trips, whatever else we want to attach it to—that is the trick of budgets.

**Hon Stephen Dawson:** It is probably for the lights in here and the lights in your chair even.

**Hon Dr STEVE THOMAS:** That could be the very bit that is paying for the operations of Parliament. It might be the contribution that pays for the staff at the table—how about that?—and, hopefully, the bottle of wine the minister is going to give them.

I make the point that this has been an issue for local government for a very long time. I indicate that this is the final clause on which I want to go into detail and we can move forward to the third reading of the bill.

**Clause put and passed.**

**Clauses 152 to 303 put and passed.**

**Schedule 1 put and passed.**

**Title put and passed.**

Bill reported, without an amendment, and the report adopted.

*Third Reading*

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Emergency Services)** [3.42 pm]: I move —

That the bill be now read a third time.

**The ACTING PRESIDENT (Hon Sandra Carr)**: Minister—sorry, Leader of the Opposition.

**HON DR STEVE THOMAS (South West — Leader of the Opposition)** [3.43 pm]: Excellent! I like the recognition of potential, if not the optimism that we are not far away. I appreciate that. Excellent work. Thank you, deputy chair—Acting President. We have shifted to the third reading stage from the committee stage. Here I was saying I still occasionally call it 2022 and the McGowan government! But anyway, let us see where we end up.

I want to make a very short contribution to the third reading stage. I thank the minister for his assistance during the debate on the Government Trading Enterprises Bill 2022. It has been a pretty cooperative and collegial debate. We have debated this bill for part of at least six parliamentary sitting days and given it good and adequate scrutiny. Despite the government's intransigence in not accepting a couple of very good amendments, the bill before the house is a reasonable one. The question that we will face, of course, is whether it works as well in operation as it does in theory. Obviously, there is a role for the opposition to test this. It is umbrella legislation that sits over a number of GTE establishing acts. In some cases, it appears to be a bit repetitive of those acts. I am informed there are no conflicts in it and we will have to test that over a number of years to work out whether that is the case.

The real question before us is whether the bill will ultimately give better oversight and transparency of the performance of GTEs and in particular whether we have professionalised the performance and functions of the boards. I think that is going to be the acid test. The intent of the bill, which I might remind members started many years ago under previous governments and has been looked at for decades, has always been to try to bring GTE boards' structure and function to a position close to the operations of those of federal corporations under the Corporations Act. I cannot see how the bill that we have passed today makes that more difficult. It may well make it better, and, as long as that is the case, we have done some good work. Another question is: how close does it get it? Unfortunately, like many of these things, there is a bit of suck it and see as we go. Let us hope that we see a greater level of oversight in GTE board operations.

A few really good points have come out of this debate. One that I will chase up in the fullness of time is that board minutes have always been available to ministers if they needed them, whether it was under the establishing acts or this current act, despite the protestations of not this minister but other members of the government who have indicated to the house that they were not. Those are little battles that we will have going forward. Overall, I think we have done some great work. We have given it due consideration and, hopefully, we have made the role of the boards more professional; and, if not, perhaps even a tiny bit more transparent, perhaps not gold-standard transparency, but a little bit more transparent than they were, and so I think we have done some good work. Could the minister please pass on some thanks to his staff at the table. We kept them around the house for two sitting weeks, but it was well worth it to do this bill well and properly. I thank them for their consideration.

I commend the third reading of the bill to the house.

Question put and passed.

Bill read a third time and passed.