



FIRST SESSION OF THE THIRTY-SIXTH PARLIAMENT

**REPORT OF THE
STANDING COMMITTEE ON LEGISLATION
IN RELATION TO THE
ELECTORAL DISTRIBUTION REPEAL BILL 2001
AND THE
ELECTORAL AMENDMENT BILL 2001
*PROPOSAL TO TRAVEL***

Presented by Hon Jon Ford MLC (Chairman)

Report 6
October 2001

STANDING COMMITTEE ON LEGISLATION

Date first appointed:

May 24 2001

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

“1. Legislation Committee

- 1.1 A *Legislation Committee* is established.
- 1.2 The Committee consists of 7 members.
- 1.3 The functions of the Committee are -
 - (a) to consider and report on any bill referred by the House;
 - (b) to review the form and content of the statute book;
 - (c) to inquire into and report on any proposal to reform an existing law;
 - (d) to consider and report on a bill referred under SO 230 (c).
- 1.4 Unless otherwise ordered, the policy of a bill referred under subclause 1.3(a) at the second reading or any subsequent stage is excluded from the Committee’s consideration.
- 1.5 The Committee of its own motion, or on a reference from a Minister, may inquire into and report to the House on any or all aspects, including policy, of a proposal for an agreement or arrangement that, to have effect, would necessitate the enactment of legislation of a type described in SO 230 (c).”

Members as at the time of this inquiry:

Hon Jon Ford MLC (Chairman)	Hon Adele Farina MLC
Hon Giz Watson MLC (Deputy Chairman)	Hon Peter Foss MLC
Hon Kate Doust MLC	Hon Paddy Embry MLC
Hon George Cash MLC (substitute member for Hon Bill Stretch MLC pursuant to SO 326A)	

Staff as at the time of this inquiry:

Louis Gargan, Committee Clerk	Lisa Hanna, Research Officer
Paul Grant, Advisory Officer	

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ISBN 0 7307 6449 4

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EXECUTIVE SUMMARY AND RECOMMENDATIONS FOR THE
REPORT OF THE STANDING COMMITTEE ON LEGISLATION
IN RELATION TO THE
ELECTORAL DISTRIBUTION REPEAL BILL 2001 AND THE
ELECTORAL AMENDMENT BILL 2001
PROPOSAL TO TRAVEL

1 REFERRAL OF THE BILLS TO THE COMMITTEE

1.1 On September 27 2001 the Legislative Council referred the Electoral Distribution Repeal Bill 2001 and the Electoral Amendment Bill 2001 (the **Bills**) to the Standing Committee on Legislation (the **Committee**), for inquiry and to report back no later than **November 26 2001**.

1.2 The motion for the referral of the Bills to the Committee stated:

“That the orders of the day for the second reading of the Electoral Amendment Bill 2001 and the Electoral Distribution Repeal Bill 2001 be discharged and the Bills be referred to the Legislation Committee for inquiry and that it report the Bills to the House not later than 26 November 2001, and if the House is not sitting on that day, the report is to be presented to the President, who is to authorise its release and publication on receipt.”¹

1.3 Furthermore, the Legislative Council issued the following instruction to the Committee in its consideration of the Electoral Amendment Bill 2001:

“That it be an instruction to the Legislation Committee considering the Electoral Amendment Bill 2001 that the Legislation Committee have power -

(a) to receive and consider any proposal or submission relating to the basis upon which persons are elected to the Legislative Council, the

¹ Western Australia, *Parliamentary Debates (Hansard)*, Legislative Council, September 27 2001, p. 4321.

number of members constituting the Legislative Council, and any related matters;

(b) to report any findings or recommendations it desires to make arising from any proposal or submission described in (a).”²

2 TIME RESTRICTION PLACED ON THE COMMITTEE TO INQUIRE AND TO REPORT

- 2.1 The Legislative Council has imposed a comparatively short time frame, given the significant nature of the reforms that are the subject of the Bills, in which the Committee is to consider the Bills and report back to the House (approximately eight weeks).
- 2.2 The stated reason for the short time frame for the inquiry was the necessity for the Bills to be passed by both Houses prior to February 10 2002. It should be noted that it is unusual for the Parliament to sit during January or February in any year, and, therefore, the Bills would need to be passed by both Houses by the end of December 2001 to ensure that the deadline was met.
- 2.3 The reason for the February 10 2002 deadline can be found in s 2A of the *Electoral Distribution Act 1947*, which relevantly states:

“2A. Requirement for division of State into electoral districts and regions

(1) The State shall be divided into districts and regions in accordance with this Act as soon as practicable after the day of the commencement of the Acts Amendment (Electoral Reform) Act 1987.

(2) If the same division under this Act has applied in respect of 2 successive general elections for the Legislative Assembly the State shall be divided into districts and regions in accordance with this Act as soon as practicable after the day that is one year after the polling day for the second of those general elections.

...”

- 2.4 As one of the central aims of the Bills is to repeal the *Electoral Distribution Act 1947* and change the time at, and method by, which a redistribution of State electoral boundaries takes place, it is important for the Government’s electoral reform program

² Ibid.

that a redistribution does not occur under s 2A(2) of the *Electoral Distribution Act 1947* prior to the Bills being passed by both Houses.

- 2.5 The last time that electoral boundaries were determined in Western Australia was in 1994. The formal process under the *Electoral Distribution Act 1947* commenced on June 3 1994 and culminated in the gazetting of the State's new electoral regions and districts in *Government Gazette* No. 168 of November 28 1994.³ State general elections have been held in accordance with the 1994 redistribution of electoral boundaries on December 14 1996 and February 10 2001.⁴
- 2.6 Accordingly, pursuant to s 2A(2) of the *Electoral Distribution Act 1947*, the next redistribution of electoral boundaries is due as *soon as practicable* after February 10 2002.
- 2.7 The legal meaning of the phrase "as soon as practicable" is discussed by Pearce and Geddes in their legal textbook *Statutory Interpretation in Australia*:

*"This expression is a little more flexible than 'as soon as possible'. The length of time permitted is to be judged against what is practicable from the viewpoint of the person or body who has to comply with the requirement having regard to its normal procedures and all other surrounding circumstances: Martin v Commonwealth (1975) 7 ACTR 1."*⁵

3 TERMS OF REFERENCE ADOPTED BY THE COMMITTEE FOR THE INQUIRY

- 3.1 In order to define the scope of its inquiry into the Bills, the Committee resolved to adopt the following terms of reference:

"The Committee has resolved to conduct its inquiry into the above Bills by examining the basis upon which members are elected to the Legislative Assembly and the Legislative Council, and, more particularly, the matters listed in paragraphs 1-4 below:

- 1. The concept of "one vote, one value", and the weighting of votes cast by rural and remote voters in determining the composition of the Legislative Assembly.*

³ *Redistribution – or Division of the State*, Western Australian Electoral Commission, at Internet site: <http://www.waec.wa.gov.au/frames.asp?section=electorate>

⁴ Ibid.

⁵ Pearce D C and Geddes R S, *Statutory Interpretation in Australia*, 5th Edition, Butterworths, 2001, p. 301.

2. *Regional representation in the Legislative Council, and the means of ensuring that there is adequate representation, and resourcing of representatives, for rural and remote areas.*
3. *The manner and form requirements, if any, for the repeal of the Electoral Distribution Act 1947.*
4. *Any other matter relevant to the aforementioned Bills.”*

4 REQUIREMENT TO TRAVEL

- 4.1 The Bills provide for major changes to the Western Australian electoral system. In particular, the Bills provide for a change in the way that the people of Western Australia will be represented in the Parliament.
- 4.2 The Committee is of the view that the Bills raise issues of significance to all Western Australians, and that the Committee’s inquiry into the Bills cannot be effectively undertaken without hearing the views of as many of the people of Western Australia as possible.
- 4.3 With such a short time period in which to conduct this inquiry, the Committee is of the view that calling for written submissions alone, particularly with only a few weeks for interested parties to respond, would not be effective in facilitating the broad consultation with the community that the Committee believes these Bills require.
- 4.4 The Committee therefore proposes to hold public hearings throughout various regions of Western Australia, at which the Committee will have an opportunity to receive oral submissions from the public.
- 4.5 The Committee intends to travel to all regions of the State in order to obtain as wide a spread of views as possible.

5 THE COMMITTEE’S APPROACH TO THE INQUIRY

- 5.1 Given that it has only eight weeks in which to consider and report on the Bills, the Committee has adopted the following approach to the inquiry:
 - 5.1.1 An advertisement was placed in the following newspapers on or around Saturday **October 6 2001** inviting written submissions (and seeking expressions of interest from those wishing to make oral submissions) on the terms of reference for the inquiry, with a submission deadline of Friday **October 19 2001** (or within 10 working days of the advertisement in the case of certain regional newspapers):

- a) *The West Australian*
- b) *Kimberley Echo*
- c) *Broome Advertiser*
- d) *Northern Guardian*
- e) *Kalgoorlie Miner*
- f) *Esperance Express*
- g) *MidWest Times*
- h) *Merredin-Wheatbelt Mercury*
- i) *Wagin Argus*
- j) *Albany Advertiser*
- k) *Manjimup-Bridgetown Times*
- l) *Bunbury South West Times*
- m) *North West Telegraph*
- n) *Elders Farm Weekly*
- o) *Countryman*

5.1.2 The Committee had planned a much wider advertising program that would have included coverage in a larger number of local newspapers in rural and remote areas. Unfortunately, the Committee was unable to secure the required funding.

5.1.3 The Committee has written directly to individuals and groups that were identified as having a particular interest or specialist knowledge in matters which are the subject of the Bills seeking written submissions addressing the terms of reference for the inquiry. A deadline of Friday **October 19 2001** was also given for these submissions.

5.1.4 As part of its consultation with relevant experts, the Committee has written to the heads of the faculties of law, political science and mathematics in all five Western Australian universities seeking submissions.

5.1.5 The Committee has resolved to travel to rural and regional areas of the State to conduct public hearings. It is proposed that the following towns be visited:

- a) Kalgoorlie
- b) Esperance
- c) Bruce Rock
- d) Lake Grace
- e) Kununurra
- f) Fitzroy Crossing
- g) Broome
- h) Port Hedland
- i) Karratha
- j) Tom Price
- k) Carnarvon
- l) Geraldton
- m) Meekatharra
- n) Wagin
- o) Jerramungup
- p) Mount Barker
- q) Manjimup

6 TRAVEL UNDERTAKEN TO DATE AS PART OF THE INQUIRY

6.1 On Sunday, October 21 2001, the Committee travelled to, and held public hearings in, Kalgoorlie and Esperance (Eastern Goldfields Region).

6.2 On Monday, October 22 2001, the Committee travelled to, and held public hearings in, Bruce Rock and Lake Grace (Central and Southern Wheatbelt Regions).

6.3 Approval of funds to undertake the travel on October 21-22 2001 was obtained from the Clerk.

6.4 Accordingly, this travel proposal relates only to the Committee's proposed travel to the North West, Great Southern and South West Regions of the State.

7 PARTICIPANTS IN THE PROPOSED TRAVEL

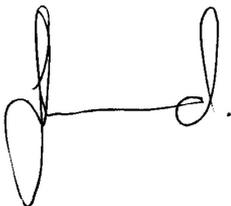
7.1 All Committee members will be travelling over the course of the inquiry, although on a few days only certain members will be available to travel. Two staff members and two Hansard reporters will assist the Committee.

7.2 The Committee's proposed travel itinerary is at **Appendix 1**.

7.3 The estimated costings for the proposed travel are set out at **Appendix 2**.

Recommendation 1: The Committee recommends that the Legislative Council note the Committee's approach to the conduct of its inquiry into the Electoral Distribution Repeal Bill 2001 and the Electoral Amendment Bill 2001.

Recommendation 2: The Committee recommends that the Legislative Council give its approval to the Committee to seek funds from the Clerk for the purposes of undertaking the travel set out in this report.



**Hon Jon Ford MLC
Chairman**

Date: October 17 2001

APPENDIX 1
PROPOSED ITINERARY

North West Hearings:

SUNDAY OCTOBER 28 2001

- Depart Perth for Kununurra.

MONDAY OCTOBER 29 2001

- Public Hearings in Kununurra (9.00am)
- Depart Kununurra for Fitzroy Crossing
- Public Hearings in Fitzroy Crossing (2.30pm)
- Depart Fitzroy Crossing for Broome

TUESDAY OCTOBER 30 2001

- Public Hearings in Broome (9.00am)
- Depart Broome for Port Hedland
- Public hearings in Port Hedland (3.00pm)
- Depart Port Hedland for Karratha

WEDNESDAY OCTOBER 31 2001

- Public hearings in Karratha (9.00am)
- Depart Karratha for Paraburdoo
- Depart Paraburdoo for Tom Price
- Public hearings in Tom Price (3.00pm)

THURSDAY NOVEMBER 1 2001

- Depart Tom Price for Paraburdoo
- Depart Paraburdoo for Carnarvon
- Public hearings in Carnarvon (3.00pm)
- Depart Carnarvon for Geraldton

FRIDAY NOVEMBER 2 2001

- Public hearings in Geraldton (9.00am)
- Depart Geraldton for Meekatharra
- Public hearings in Meekatharra (2.00pm)
- Depart Meekatharra for Perth

South West:

SUNDAY NOVEMBER 4 2001

- Depart Perth for Wagin
- Public hearings in Wagin (10.00am)
- Depart Wagin for Jerramungup
- Public hearings in Jerramungup (3.00pm)
- Depart Jerramungup for Albany

Great Southern:

MONDAY NOVEMBER 5 2001

- Depart Albany for Mount Barker
- Public hearings in Mount Barker (9.00am)
- Depart Mount Barker for Manjimup via Albany
- Public hearings in Manjimup (2.30pm)
- Depart Manjimup for Perth

APPENDIX 2
COSTINGS

Total Costings for North West, Great Southern and South West Tour

Flights (charter)	\$46 620 ¹
Accommodation (11 people x 6 nights)	\$9 024
Meals/Incidentals (\$75 x 11people x 8 days)	\$6 600
Float (for things such as occasional taxi ride and meal outlets where credit cards are not accepted – unlikely to be used in its entirety)	\$1 500
Hire of venue ² for hearings North West	\$600
Hire of venue for hearings South West/Great Southern	\$200
Refreshment during hearings (tea/coffee)	\$100
Bus/Car Hire for transport to and from airfields	\$885
TOTAL COST	\$65 529

¹ Fee of Corporate Services is included in the charter flight cost and is approximately 10% of total. Pilot's food and accommodation costs are also included in this total.

² Venues for hearings include town halls, council chambers, community/civic centres, hotel board/conference rooms and local recreation centres.