

EXPLANATORY MEMORANDUM

Government Trading Enterprises Bill 2022

Overview

The *Government Trading Enterprises Bill 2022* (the Bill) has been introduced to consolidate the governance requirements of GTEs which are presently replicated across multiple Establishing Acts. It aims to standardise governance and accountability, and strengthen oversight. The Bill retains the key elements of the Government Trading Enterprises (GTE) model which include the adoption of corporate practices and commercial discipline in the operation of GTEs,

The GTE Bill consolidates and updates the governance, strategic planning and financial management provisions in the Establishing Acts of the in-scope GTEs. The 12 in-scope GTEs are:

- **Electricity Corporations:** Horizon Power, Synergy and Western Power;
- **Water Corporations:** Bunbury Water Corporation, Busselton Water and Water Corporation;
- **Port Authorities:** Fremantle Port Authority, Pilbara Ports Authority, Mid-West Ports Authority, Kimberley Ports Authority and Southern Ports Authority; and
- **Western Australian Land Authority:** DevelopmentWA,

are collectively referred to as **Tranche 1 GTEs**.

In future, it is intended that the Bill may be expanded to encompass other GTEs. The partitioned inclusion of GTEs in the Bill reflects the current inconsistencies among GTE Establishing Acts and the subsequent undertaking required to achieve legislative uniformity to standardise governance of GTEs through legislative amendment. As such, priority has been given to GTEs whose Establishing Acts are most consistent with the broader framework of reform.

GTE Reform Program

GTEs are public entities that operate in a commercial business environment and in accordance with prudent commercial principles. GTEs' asset investments significantly contribute to Western Australia's Asset Investment Program and can impact on the legal, financial and economic standing of the State. The establishment of GTEs intended to create a more accountable, commercial and competitive environment for GTEs than that of general Government Agencies. The intention of establishing these entities at 'arm's length' from Government was to give GTEs the autonomy to introduce private sector disciplines, incentives, sanctions and competition that would secure operational efficiencies and ensure value for money service delivery.

In practice, the concept of GTEs operating at a distance from Government has changed over time, shaped by the individual views of boards, executives and State Governments about the roles and responsibilities of GTEs. This continued reinterpretation of the role of GTEs has been encouraged by inconsistencies between Establishing Legislation that corporatised the GTEs, with four different Establishing Acts in place across the Tranche 1 GTEs. These inconsistencies inhibit Government's ability to manage the financial, legal and reputational risks effectively and efficiently, as well as ensuring the GTEs' strategic and operational objectives are aligned with the expectations of Government and Western Australians.

The importance of a clear relationship between GTEs and Government to ensure well-informed decision making and cohesive long-term planning was highlighted by the Special Inquiry into Government Projects and Programs (2018) and the Service Priority Review (2017) (the Review).

The GTE Reform program aims to standardise governance and accountability and strengthen oversight of GTEs. The GTE Reform program seeks to:

- address inconsistencies between provisions of different Establishing Acts for the in-scope GTEs. These inconsistencies inhibit Government's ability to manage financial, legal, and reputational risks, as well as ensure GTEs' strategic and operational objectives are aligned with the expectations of Government;

- clarify the relationship between GTEs and Government to ensure well-informed decision making and cohesive long-term planning (consistent with Government's response to the recommendations of the Special Inquiry into Government Projects and Programs, and the Service Priority Review); and
- address issues raised by GTEs in navigating their relationship with Government.

GTE Governance Framework

A key outcome from the GTE Reform program will be a new governance framework containing transparent processes for several key areas including Board appointments, setting strategic direction, performance indicators and Ministerial approval of significant transactions.

The GTE Governance Framework is the assurance mechanism that assists with Government's visibility and management of risks associated with the corporatised GTE model. The following suite of documents will apply to GTEs:

- overarching GTE legislation (GTE Bill, GTEs Establishing Acts and Regulations);
- Guidance Notes; and
- Corporate Policies implemented by the GTEs.

These elements integrate to provide clear guidance as to the roles, responsibilities and accountabilities of Ministers, central agencies, policy agencies and GTE Boards in governing GTEs.

The GTE Governance Framework seeks to balance mandatory legislated elements to establish a benchmark for good governance in Government-owned entities, with non-mandatory guidance notes to maintain flexibility to meet market and industry changes, and Government objectives over time.

GTE Bill

The use of overarching legislation will enable updates to GTE governance with amendment of only one primary Act, while preserving any industry specific provisions within GTEs' Establishing Acts.

The Bill maintains the GTEs at 'arm's length' from the day-to-day activities of general Government, allowing GTEs discretion in the performance of their prescribed functions.

Clause notes

Contained below is a brief description and explanation of each clause contained within the *Government Trading Enterprises Bill 2022*.

Part 1 – Preliminary	
This Part includes the preliminary matters relating to this Bill.	
Clause 1	Short title When enacted this legislation will be named the <i>Government Trading Enterprises Act 2022</i> .
Clause 2	Commencement Provides that Part1 of this Bill will come into operation when the Act receives Royal Assent and the rest of the sections of the Act come into operation on a day or different days fixed by proclamation.
Clause 3	Terms used Defines the terms used in the Bill. Notable definitions include: GTE , for the purposes of the Bill, means one of the following GTEs: <i>Electricity Corporations Act 2005</i> section 4 <ul style="list-style-type: none"> Electricity Generation and Retail Corporation (Synergy) Electricity Networks Corporation (Western Power) Regional Power Corporation (Horizon Power) <i>Port Authorities Act 1999</i> section 4 <ul style="list-style-type: none"> Fremantle Port Authority Kimberley Ports Authority Mid-West Ports Authority Pilbara Ports Authority Southern Ports Authority <i>Water Corporations Act 1995</i> section 4 <ul style="list-style-type: none"> Bunbury Water Corporation (Aqwest) Busselton Water Corporation Water Corporation <i>Western Australian Land Authority Act 1992</i> <ul style="list-style-type: none"> Western Australian Land Authority (DevelopmentWA) <p>The Bill introduces the GTE Minister who will be responsible for the administration of the overarching GTE legislation and issuing whole of government policy orders. Governance requirements that are to apply to the entire GTE cohort covered by the GTE Bill (and regulations) will be determined by the GTE Minister. This is intended to be the Treasurer within the Treasurer's portfolio however the Bill allows for any Minister to be assigned the legislation under the gazettal of Administration of Departments, Authorities, Statutes and Votes.</p> <p>Portfolio Minister, for a GTE or a subsidiary of a GTE, means the Minister to whom the administration of the GTE's Establishing Act is committed.</p>
Clause 4	Term used: subsidiary Defines subsidiary for the purposes of the Bill.
Clause 5	Relationship to GTEs' Establishing Acts Provides that the Bill is to be read with a GTE's Establishing Act as if they were a single Act. Any consequential amendments to the GTEs' Establishing Acts are the result of the proposed provisions of the GTE Bill making the relevant provisions of the Establishing Acts redundant.

Clause 6	Acts binds Crown Provides that the Bill binds the Crown. This means that the Crown is required to comply with the provisions of this Bill.
Part 2 – Purpose and functions of GTEs GTE Bill introduces the concept of public benefit to reflect what would be shareholders' interests in the absence of a GTE having a shareholder. The Bill standardises the obligation to act in line with prudent commercial principles to maintain GTEs' focus on efficiencies in service delivery. The Board should consider the factors including but not limited to profit, delivery of Government policy objectives and social license to operate when determining how a GTE undertakes its functions.	
Clause 7	GTE's purpose Provides that the purpose of GTEs is to advance public benefit through the performance of functions. In performing its functions a GTE is to, consistently with its purpose, endeavour to achieve Government policy objectives and act in accordance with prudent commercial principles. Public benefit has a broad interpretation and can include financial benefit, community benefit and economic diversification.
Clause 8	GTE's Functions To ensure GTEs can continue to operate effectively, functions and powers established under the Establishing Acts will remain. GTE's Purpose and provisions relating to performance of GTE's functions, in the GTE Bill, should be read in conjunction with the Establishing Act's provisions on functions and powers. The GTE Bill links the Directors' abilities to discharge their duties, with the GTE's purpose, performance of its functions and the GTE's powers.
Clause 9	Performance of GTE's functions Sub clauses (1) and (2) provide that a GTE must perform its functions in accordance with strategic documentation, any policy objectives under a policy order and in accordance with prudent commercial principles.
Clause 10	GTE may act at its discretion The provision of a function to a GTE does not impose on the GTE an obligation or duty to do a particular thing. This discretion enables the Board to exercise their powers to determine how and when to undertake performance of the GTE's functions. This discretion is subject to limitations set out in the clause.
Part 3 – Boards of directors The GTE Bill provides a mechanism for greater consistency and transparency for board governance. The process of Board appointments enhances the objective and transparent basis for director appointments. It introduces assurance mechanisms to hold board members to account for good governance practices at Board level, including: <ul style="list-style-type: none"> • adoption of a board skills matrix in the board appointment process, agreed between a Portfolio Minister and GTE; and • requirement for regular external board performance reviews to be provided to the Minister. 	
Division 1 – Boards and board membership	
Clause 11	Boards to be GTE's governing body Provides that a GTE must have a board as its governing body with the authority to perform its functions, determine its policies, and control its affairs.

Clause 12	<p>Board membership</p> <p>Allows for the membership of the Board to be reflective of the size and complexity of the GTE.</p> <p>Regulations will cover the prescribed details for the board membership that is expected to be made publicly available.</p>
Clause 13	<p>Appointment of board members</p> <p>Provides the approval authority for appointment of board members to the GTE's board.</p> <p>It is noted with subclause (2) the Portfolio Minister requires the approval of the GTE Minister to appoint a GTE's CEO to the board. The GTE Minister's approval power in the process to appoint the CEO to the Board ensures that good governance practices, including the management of conflicts of interest, are addressed.</p> <p>To ensure board composition is reflective of the needs of individual GTEs, when making appointments to the Board, the Portfolio Minister must comply with any appointment requirements contained within the GTE's Establishing Act.</p> <p>Subclause (5) requires the Portfolio Minister to make the prescribed details of the appointment publicly available and aligns with Government's commitment to public transparency.</p>
Clause 14	<p>Directors' skills matrix</p> <p>Provides for the Portfolio Minister and the GTE Board to agree to a GTE Board Directors' skills matrix, which should establish the required skills, qualifications and experience required for Board Directors, both individually and collectively.</p> <p>Based on good governance principles, this clause requires the Portfolio Minister to consider the Directors' skills matrix when making an appointment to the Board, in addition to consideration of the current Board's skills and impending skill gaps with changes to Board composition or strategic direction of the GTE.</p> <p>Subclause (2) allows the Directors' skills matrix to be amended or replaced from time to time, as well as reviewed with each new term of a Statement of Expectations to ensure it remains relevant.</p>
Clause 15	<p>Recommending candidates for vacancies</p> <p>Provides an approach when a vacancy to the GTE's Board becomes available (or is known to soon become available). GTE's Board may recommend candidates to the Portfolio Minister for board appointments following a vacancy with advice on the extent the recommended candidate would satisfy the directors' skills matrix.</p> <p>As the governing body of the GTE, the Board is well placed to articulate the skills/gaps (as already agreed with the Minister via the skills matrix) they need addressed in upcoming vacancies and, if applicable, identify a suitable candidate to recommend to the Portfolio Minister – noting this approach does not prevent consultation with the Minister during the recruitment process. However, the Portfolio Minister should not be fettered by a requirement to wait for, or follow, a recommendation for a Board candidate.</p>
Clause 16	<p>Chairperson and Deputy chairperson</p> <p>Outlines the terms and conditions attached to the position of chairperson and deputy chairperson.</p>
Clause 17	<p>Terms and conditions of appointment</p> <p>Contains various terms and conditions of appointment of directors to the GTE Board.</p> <p>To enable consistency amongst GTEs, tenure on a GTE Board is to be consistently applied. Directors, other than a GTE's CEO, may hold office for such period (as specified in the instrument of appointment) but not exceeding 3 years per term of appointment. Directors are eligible for reappointment but must not hold office for a period of more than 9 consecutive years (subclause (3)).</p>

Clause 18	<p>Remuneration</p> <p>Provides for the remuneration of directors of a GTE Board.</p> <p>It is intended that the Salaries and Allowances Tribunal (SAT) will determine the remuneration range for Directors of a GTE Board, and the Portfolio Minister will be able to set Directors' remuneration within the SAT determined range. SAT will also determine the amount of any relevant allowances to be paid to Directors of a GTE (such as an allowance for being a member of the Audit and Risk Committee).</p>
Clause 19	<p>Same remuneration for directors of GTE</p> <p>All appointed Directors, other than the Chairperson (and Deputy Chairperson if appointed), are to have the same rate of remuneration and allowances, with any future determinations or variations to apply to all Directors.</p>
Clause 20	<p>Expenses</p> <p>A GTE's Director may be reimbursed expenses reasonably incurred in the performance of their functions as a Director of a GTE's Board as determined by the Portfolio Minister.</p>
Clause 21	<p>Casual vacancies</p> <p>Provides circumstances for when the office of a director becomes vacant.</p>
Clause 22	<p>Leave of absence</p> <p>A GTE's Board may grant a director leave of absence, on terms and conditions that it considers appropriate for a period not exceeding 1 month. If this was to be an extended period of absence (over 1 month), the Portfolio Minister's approval is required.</p>
Clause 23	<p>Alternate directors</p> <p>The Portfolio Minister may also appoint an alternate Director (with equivalent entitlements during the time they are a Director) to act temporarily in the place of a Director (other than the Chair) who is unable to act because of [an extended period of] sickness, absence or other cause, and may remove the alternate Director at any time without giving reasons.</p> <p>Subclause (8) provides that an act or omission of an alternate director cannot be questioned on the ground that the occasion for the appointment or acting has not arisen or had ceased.</p>
Division 2 – Review of board performance	
Clause 24	<p>Review of board performance: self-assessment</p> <p>Requires a GTE Board to report to the Minister, on an annual basis, self-assessment on its performance.</p>
Clause 25	<p>Review of board performance: external review</p> <p>Provides for external review requirements regarding board performance. Frequency of review to be provided by Regulation.</p> <p>Regular and standardised insight of board performance allows for objective oversight by Government as the owner of GTEs.</p>
Division 3 – Board committees	
Clause 26	<p>Committees</p> <p>Provides for the functions and terms of a Board committee.</p> <p>Subclause (2) provides for committee to determine its operational procedures, subject to the Bill and the Board. Terms of Reference for the committee are determined by the Board.</p>

Clause 27	Audit and risk management committees Imposes the obligation on the GTE Board to have a Board committee to assist in performance of the Board's audit and risk management functions.
Division 4 – Board procedures Clauses 28-35 provide for operational procedures for GTE board meetings.	
Clause 28	Holding meetings Provides procedures applicable to frequency of meetings and ability of Chairperson and Directors to request a meeting.
Clause 29	Quorum Provides that the quorum for a meeting of the board is one-half of the number of directors. If one-half of the number of directors is not a whole number, the number of directors would be the next whole number. For example: if there are 7 directors, 4 directors would be required to make quorum.
Clause 30	Presiding members Subclause (1) provides that, if present, the chairperson must preside at a meeting of the board. Subclause (2) provides that where the chairperson is not present, the directors present at the meeting must elect 1 of their number to preside.
Clause 31	Procedure Provides that a GTE's Board may determine its own procedures to the extent they are not fixed under the GTE Bill.
Clause 32	Presence at meetings may be remote Provides that presence at a meeting of the GTE's Board may be via telephone or other means of instantaneous communication.
Clause 33	Voting Provides for a voting procedure at a meeting of a GTE's Board.
Clause 34	Resolution without meeting Resolutions may be passed without meetings (circular resolutions), provided the resolution is in writing, signed or otherwise agreed to by each Director of a GTE. A GTE's Board must ensure that accurate records of the proceedings of the Board are kept, including circular resolutions made without a meeting. Subclause (5) provides section 59 (Participation by interested members) has effect as if the resolution were being voted on at a meeting of the GTE's board.
Clause 35	Minutes to be kept Provides a GTE's Board must ensure that accurate records of the proceedings of the board are kept.

Part 4 – CEOs

The policy objectives of this Part of the GTE Bill are:

- harmonise the legislative approach to CEO appointments, performance expectations and assessment processes;
- outline how remuneration for CEOs is determined; and
- remove the requirement for any CEOs to be ex-officio Directors (noting that Portfolio Ministers are not precluded from appointing CEOs as GTE Directors).

Inclusion of CEO appointment and performance information ensures:

- a benchmark for best practice governance in State owned entities is established.
- a clear articulation of roles, responsibilities and accountabilities is provided in the governance of GTE's operations, recognising the Government's role; and
- Agencies and Ministers have the necessary insight, knowledge and information regarding GTE's decision making to support the Government's management of financial, legal and reputational risks.

Clause 36	GTE's chief executive officer Provides that each GTE is required to have a CEO and the function of a CEO is to administer the GTE's day-to-day operations, subject to control of the GTE Board.
Clause 37	Appointment Provides that the Board is responsible for appointing/reappointing or removing a CEO; and determining or altering their terms and conditions of appointment (subject to remuneration provisions), with the approval of the Portfolio Minister. This provision strengthens Portfolio Minister's involvement in the appointment of the CEO.
Clause 38	Selection criteria Provides that the Board of a GTE and the Portfolio Minister may agree upon the selection criteria used for selection of a GTE's CEO. This selection criteria may be amended or replaced from time to time, by agreement between the Board and the Portfolio Minister. A GTE's Board should provide the Portfolio Minister with sufficient rationale as to how the preferred candidate meets the selection criteria.
Clause 39	Remuneration Harmonises the approach to CEO remuneration across all in-scope GTEs and allows CEO remuneration range to be determined by an independent body. While the GTE's CEO is covered by the Salary and Allowances Tribunal (SAT), the Board must determine the CEO's remuneration within the range determined by SAT. If the GTE CEO position is not within the scope of the SAT determination, the Board (with the Portfolio Minister's approval) determines the remuneration.
Clause 40	Resignation Provides for CEO resignation procedures.

Clause 41	Acting chief executive officer Provides that a GTE's Board may appoint a person to act in place of the GTE's CEO either during a vacancy in that office or during any period when the CEO is unable to act. The term 'unable to act' is defined in clause 3.
Clause 42	Review of CEO's performance Provides that the Board of a GTE is responsible for monitoring CEO performance and is expected to provide regular updates on the assessment of the CEO's performance to the Portfolio Minister.
Part 5 – Duties of directors, CEOs and staff The GTE Bill consolidates the Director's duties which are currently covered by the Establishing Acts and the <i>Statutory Corporations (Liability of Directors) Act 1996</i> . It modernises the provisions to align with contemporary directors' duties currently in the Corporations Act 2001 (CA) and are inherently linked with the GTE performing functions consistent with the GTE's purpose.	
Division 1 – Preliminary	
Clause 43	Executive officers This clause allows for designation of executive officers by a GTE board.
Clause 44	Attempts Provides the consequence of an <i>attempt</i> to commit an offence under Part 5.
Division 2 – Duties stated	
Clause 45	Fiduciary relationship with, and duties to, GTE Provides for duties of directors and chief executive officer of GTE. <u>Subclause (2)</u> : duties are enforceable by the GTE Minister or the Portfolio Minister and not otherwise. <u>Subclause (3)</u> provides that the duties of a GTE's CEO under subclause (1) are enforceable by the GTE's board and not otherwise.
Clause 46	Care and diligence Introduces the 'business judgement rule' based on section 180 of the <i>Corporations Act</i> and provides for duty of care and diligence for director, chief executive officer and executive officer.
Clause 47	Good faith and proper purpose Provides for a duty for director or chief executive officer of a GTE to perform functions of their office in good faith and proper purpose.
Clause 48	Honesty Provides for a duty for directors, chief executive officer or executive officer of a GTE to act honestly in the performance of the functions of their office.

Clause 49	False or misleading information Addresses the consequences of the provision of false or misleading information including the applicable penalties.
Clause 50	Use of position Provides that directors, chief executive officer or member of staff of a GTE must not improperly use their position. Subclause (3) specifies that it is irrelevant that the person intended to gain, directly or indirectly, an advantage for the GTE or the GTE gained, directly or indirectly, an advantage.
Clause 51	Use of information Provides that directors, chief executive officer or member of staff of a GTE must not improperly use the information.
Clause 52	Conflict of duties: public service officers Provides for scenario where there is conflict between director's duties and the duties imposed on public service officers. Director's duties will prevail to the extent that there is a conflict and the director does not have the immunity of the Crown with respect to the duties and liabilities imposed the GTE Bill.
Division 3 – Remedies for breach of duties	
Clause 53	Civil proceedings for breach of duties Provides that if imposed duties are breached, and the person made a profit or the GTE suffered a loss as a result, or both, the GTE may seek a recovery for any loss or damage incurred. This clause ensures that the exposure to financial risk by the GTE, and subsequently the State, is minimised.
Clause 54	Compensation for breach of duties Allows a GTE to claim compensation for breach of duties stated under sections 46, 47, 48, 50 or 51.
Division 4 – Relief from liability	
Clause 55	Relief from liability Provides for how a person may be relieved from liability in proceedings under section 45, 53 22 or 54. This reflects the need for the Bill to adapt to the reality of the business environment in which a GTE operates, where unfavourable deals may be made to the detriment of the GTE. As a result, where circumstances permit, such actions can be classified as a business risk rather than a breach of duties as with privately owned corporations.
Clause 56	Application for relief from liability Provides for how a person may apply to be relieved from liability in proceedings under sections 45, 53, 22 or 54.

Division 5 – Disclosure of material personal interests	
Subdivision 1 – Directors	
Clause 57	<p>Term used: committee</p> <p>Defines the term ‘committee’.</p>
Clause 58	<p>Disclosure of material personal interests</p> <p>Provides for obligations relation to disclosing material personal interests.</p>
Clause 59	<p>Participation by interested members</p> <p>This clause provides for conditions for a Director or member of a Board committee to be able to participate in meetings when they have a material personal interest.</p> <p>This clause applies good governance principles to GTEs, ensuring that conflicts of interest are effectively managed.</p>
Clause 60	<p>Quorum if section 59 applies</p> <p>Provides quorum requirements if a director is unable to act because of section 59.</p>
Clause 61	<p>Portfolio Minister may declare section 59(1) or 60(1) inapplicable</p> <p>Provides that the Portfolio Minister may declare that a director with a material personal interest may vote and be present in meetings where the particular matter is being discussed.</p> <p>The declaration must be laid before Parliament.</p>
Clause 62	<p>Register of material personal interests</p> <p>Provides for the recording of material personal interests in a register and the availability of the register to other directors.</p>
Clause 63	<p>Matters to be included in Departments’ annual reports</p> <p>Provides that the use of the Portfolio Minister’s powers, in relation to matters under section 60(2) and section 61(1), be disclosed to for accountability and transparency.</p>
Subdivision 2 – CEOs	
Clause 64	<p>Disclosure of material personal interests</p> <p>Provides that the GTE’s chief executive officer disclose a material personal interest in a matter that relates to the GTE’s affairs.</p>
Division 6 – Loans, insurance, indemnities and exemptions	
Clause 65	<p>Prohibition on loans to directors and related persons</p> <p>Provides that a GTE or a subsidiary of a GTE must not provide financial accommodation to particular people.</p>

Clause 66	<p>Directors and others not to be exempted or indemnified from certain liabilities</p> <p>Prevents a GTE or subsidiary of a GTE from exempting or indemnifying a director or chief executive officer from liability incurred to the GTE.</p>
Clause 67	<p>Insurance for certain liabilities of directors and other not to be provided</p> <p>Provides that a GTE or a subsidiary of a GTE must not pay, or agree to pay, a premium for a contract insuring a person who is or has been a director, CEO or executive officer against a liability (other than one for legal costs) arising out of conduct involving a wilful breach of duty in relation to the GTE or a subsidiary or a contravention of section 50(1) or 51(1) of the Bill.</p>
Clause 68	<p>Certain indemnities, exemptions and insurance void</p> <p>Provides that clauses 66 and 67 do not authorise anything that would otherwise be unlawful.</p>
<p>Part 6 – Strategic planning</p> <p>This Part introduces consistent and standardised strategic planning of GTEs, in line with good governance principles. It standardises provisions regarding the content and process for GTE's engaging with Government in the finalisation of a GTE's Strategic Planning documents.</p>	
<p>Division 1 – Preliminary</p>	
Clause 69	<p>Terms used</p> <p><u>Subclause (1)</u> provides definitions of key words used in Part 6 of the GTE Bill including community service obligation, general election, preparation period and statement period.</p> <p>The Bill introduces a deadline of four months (<i>preparation period</i>) after each election to have a Statement of Expectations approved by the Portfolio Minister and Treasurer, ensuring strategic alignment and a genuine performance agreement between Government and GTEs.</p>
<p>Division 2 – Statement of expectations</p> <p>The requirement for GTEs to submit a Strategic Development Plan (SDP) each year will be removed from the Establishing Acts of the in-scope GTEs. Instead, GTEs will be required to develop a term-of-government Statement of Expectations (SoE). The SoE will be required to be approved by the Portfolio Minister and the Treasurer.</p> <p>The SoE provides the ability for the GTE to articulate to the Portfolio Minister and Treasurer how the GTE is seeking to undertake activities in the short to medium term and how this aligns with the longer strategic outcomes set for the GTE by the Board. Government's expectations are articulated to the GTE by the Portfolio Minister (including the Government priorities applicable to the GTE).</p>	
Clause 70	<p>Statement of Expectations</p> <p>Provides for the contents to be included in a statement of expectations.</p> <p>The required contents of a statement of expectations ensures that the document has sufficient content, detail and information about the GTE's strategic objectives and operational activities.</p>

Clause 71	<p>Preparing draft statement of expectations</p> <p>Provides the minimum expected of GTEs in the consultation on and preparation of the statement of expectations.</p> <p>The GTE will be required to consult with the Portfolio Minister and Treasurer at an early stage of developing the SoE (as soon as possible after the election) to ensure that the SoE is cognisant of the Government's broader strategic priorities.</p>
Clause 72	<p>Adopting statement of expectations</p> <p>Provides for the Board and the Portfolio Minister to endeavour to agree to a draft statement of expectations for the statement period. The Treasurer's approval is required prior before the Portfolio Minister can agree to the SoE.</p> <p>If the Board and the Portfolio Minister cannot agree to a draft by the expiry of the preparation period, the Portfolio Minister, with the approval of the Treasurer, may impose a statement of expectations on the GTE.</p>
Clause 73	<p>Varying statement of expectations</p> <p>The SoE may be modified during the term of Government if there are material changes to the information contained in the SoE, such as the strategic direction or imperative of the GTE, for example due to a significant disruption to the industry in which the GTE operates.</p> <p>This clause reflects the need for the statement of expectations to be adaptable to the changing circumstances of the GTE's operating environment.</p>
<p>Division 3 – Annual performance statement</p> <p>The requirement for GTEs to submit a Statement of Corporate Intent (SCI) will be removed from the Establishing Acts. Instead, the annual performance statement (APS) will be adopted for each budget year.</p> <p>The APS is replacing the current SCI to ensure that strategic planning processes are transparent, consistent and represents a GTE Board's performance statement to which they are held to account by the Portfolio Minister.</p>	
Clause 74	<p>Terms used</p> <p>Defines terms applicable to annual performance statement provisions, including budget day, budget year, relevant budget papers, Under Treasurer and submission date.</p> <p>The submission date of a GTE's annual performance statement is aligned with the preparation of the relevant budget papers, reflecting the linkage between a GTE's annual performance statement and the State Budget.</p>
Clause 75	<p>Annual performance statement for GTE</p> <p>Provides for the contents of the annual performance statement, ensuring consistency and alignment with budget papers and priorities agreed in the SoE.</p>
Clause 76	<p>Submitting draft annual performance statement and related information</p> <p>Requires the GTE Board to submit to the Portfolio Minister and Treasurer, for a budget year, certain information for the purposes of preparing budget papers, a draft annual performance statement for the GTE and further information to assist the Portfolio Minister and Treasurer to consider the annual performance assessment.</p>

Clause 77	Adopting annual performance statement Provides that a GTE's Board must adopt the annual performance statement for the budget year and submit it to the Portfolio Minister and Treasurer before or as soon as practicable after budget day. <u>Subclause (2)</u> provides that if the annual performance statement adopted by the Board is inconsistent with the relevant budget papers, it will be modified by this subclause to the extent necessary to remove the inconsistency.
Clause 78	Varying annual performance statement Provides the ability to vary the GTE's annual performance statement.
Clause 79	Continuation of annual performance statement Provides for a GTE's annual performance statement to be in effect beyond a particular timeframe.
Part 7 – Accountability and control	
Division 1 – Reporting	
Clause 80	Terms used Defines the terms annual report, interim report and the separate subsidiary report.
Clause 81	Annual reports to be given to Portfolio Minister and Treasurer Provides that a GTE must give its annual report and any separate subsidiary report to the Portfolio Minister and Treasurer by 30 September after the end of the financial year to which it relates. Reporting requirements extend to subsidiaries as, like GTEs, their financial affairs and business dealings may impact on the financial standing of the State.
Clause 82	Interim reports to be given to Portfolio Minister and Treasurer Provides that a GTE must give an interim report to the Portfolio Minister and a copy to Treasurer within prescribed timeframes.
Clause 83	Copies of certain reports to be laid before Parliament Provides that annual report that is not a separate subsidiary report must be laid by Portfolio Minister before each House of Parliament within 14 sitting days of the House after the report is given to the Portfolio Minister.
Clause 84	Copies of certain reports to be made publicly available Provides for the annual report and separate subsidiary report to made publicly available.
Clause 85	Deletion of commercially sensitive information from copies of reports Provides that the Portfolio Minister must not agree to a request to delete commercially sensitive information from the copy of the annual report laid before Parliament unless the Auditor General gives a written opinion as to whether the information concerned is of a commercially sensitive nature.

Division 2 – Consultation and provision of information	
<p>The GTE Bill provides support to enhance information flow without hampering existing practices / information sharing mechanisms which are effective. GTEs as a matter of good governance practice should be keeping Government informed on issues that may be of interest or have impact – operational, financial position and performance of GTE and subsidiaries, any reputational matters.</p>	
Clause 86	<p>Terms used</p> <p>Defines the terms document, information, information request, personal information, relevant department, relevant Minister, and specified information.</p>
Clause 87	<p>Consultation</p> <p>Provides for consultation among the GTE and relevant Ministers, appropriate representatives and departments, on the functions, operations and affairs of a GTE and any subsidiary of a GTE.</p>
Clause 88	<p>Right to request, obtain and retain information</p> <p>The Minister's entitlement to information held by a GTE reflects Government's role. Ensures that the Minister has the right to be given information by the GTE or any subsidiary of the GTE, and has the right to request, obtain and retain information held by the GTE or subsidiary, including making use of the GTE's staff to access information. Articulates the expectation for GTEs to communicate openly and regularly with Government.</p>
Clause 89	<p>Duty to comply with information request</p> <p><u>Subclauses (1) and (2)</u> provides that a GTE must comply with an information request to the extent it is capable, however where the request includes personal information, the request needs to expressly provide that it extends to the personal information.</p> <p><u>Subclause (3)</u> provides that a GTE must make staff and facilities available to the relevant Minister as required to comply with an information request. Compliance with information requests reflects Government's role and that there should be no resistance or impediment by the GTE to communicate regularly and candidly with the relevant Minister.</p> <p><u>Subclause (4)</u> provides that the GTE must advise the relevant Minister if there are any special considerations in the information being provided, for example if the GTE believes any of the information is personal information, the subject of legal professional privilege or the confidential.</p>
Clause 90	<p>Minister must be kept informed</p> <p>Provides that GTEs must keep the Portfolio Minister reasonably informed of the operations, financial performance and financial position of the GTE and its subsidiaries and provide reports and information to enable the Minister to make an informed assessment of matters presented.</p> <p>It reflects the need for GTEs to proactively share such information so that Government can make informed decisions.</p> <p>Financial standing, attainment of key performance objectives and other Government expectations are all matters that impact on the operations and day-to-day decision making of Government.</p>

Clause 91	<p>Notice of financial difficulty</p> <p>Requires the GTE's Board to notify the Portfolio Minister and the Treasurer, in writing, if it forms the opinion that the GTE or a subsidiary of the GTE is unable to satisfy a financial obligation or will likely be unable to satisfy a financial obligation when it falls due.</p> <p>As the State may be adversely impacted by the financial standing of a GTE. This clause ensures that Government is promptly made aware of financial difficulty and can adequately manage the risk in accordance with its appetite.</p> <p>Powers in this clause extend to the GTE required to comply with directions given to cease or limit the performance of functions when financial difficulty is suspected.</p>
Clause 92	<p>Legal professional privilege preserved</p> <p>Provides for the impact of information being given in relation to legal professional privilege.</p>
<p>Division 3 – Matters requiring approval</p> <p>Early visibility and ongoing consultation provide all relevant parties with adequate time and resources to adequately evaluate significant disposals (SDs), significant transactions (STs) or significant initiatives (SIs), along with the opportunity to meaningfully engage with the Board on the drivers for transactions or initiatives given their potential impact on State finances and risks to the State.</p> <p>To minimise the use of resources on proposed SDs, STs and SIs that do not have in-principle support of the Government, notification must be provided as soon as practicable.</p> <p>The requirement for early notification and ongoing consultation is designed to prevent surprises and minimise approval risk through meaningful engagement.</p> <p>However, notification and ongoing consultation as part of the further development and realisation of proposed transactions does not imply approval. The GTE must not enter into a significant transaction unless the Portfolio Minister, with the approval of the Treasurer, approves the significant transaction.</p>	
<p>Subdivision 1 – Preliminary</p>	
Clause 93	<p>Term used: relevant entity</p> <p>This clause defines relevant entity for the purposes of Division 3 as a GTE or a subsidiary of a GTE.</p>
Clause 94	<p>Approvals and declarations</p> <p>Provides for the documentation of the Portfolio Minister and Treasurer's approval under Division 3.</p>
<p>Subdivision 2 – Disposal of significant assets</p> <p>Provisions relating to material disposals are intended to enhance transparency of disposal of assets of a significant value to GTEs and the State.</p>	
Clause 95	<p>Terms used</p> <p>Defines the terms disposal order, dispose of, group and significant asset.</p> <p>The Bill standardises across GTEs the formula for the quantitative thresholds for determining whether a disposal of a significant asset requires Ministerial approval.</p>

Clause 96	Restriction on disposal of significant asset Provides that a relevant entity must not dispose of a significant asset except in accordance with a disposal order that has effect under clause 98.
Clause 97	Consultation regarding disposal of a significant asset Provides that the Portfolio Minister and the Treasurer must be informed of a contemplated disposal of a significant asset that meets the threshold, as soon as practicable, and prior to engaging relevant parties to facilitate the disposal. Provides that with any contemplated disposal, the relevant entity must consult with the Portfolio Minister and the Treasurer, as the Ministers require, in developing and realising the contemplated disposal. Notification, prior to engaging consultants, advisors or agents, provides all parties to the transaction with adequate time and resources to evaluate the impact of the disposal, given the potential impact on the State's finances and other potential risks to the State.
Clause 98	Disposal orders Provides the process for a GTE or a subsidiary to dispose of a significant asset including the gazettal of the disposal order and the tabling of the disposal order in Parliament.
Subdivision 3 – Significant transactions The objective of this subdivision is to introduce a “no surprises” policy that ensures Government has sufficient information to make decisions that consider broader policy objectives, especially where the matter has an impact on wider industry policy, a certain sector within the community or the environment. These provisions ensure consistency between GTE's functions as articulated in governing instruments, such as the Statement of Expectations and Policy Orders, and proposed transactions. Where there is misalignment, this should trigger consultation to either review and update governing instrument, or review suitability of transaction.	
Clause 99	Terms used Defines a transaction relevant to subdivision 3
Clause 100	Term used: significant transaction Defines a significant transaction. It is intended to harmonise the quantitative thresholds across GTEs for determining whether a transaction requires Ministerial approval. At present, different Establishing Acts set out varying thresholds. As such, it is intended that a consistent threshold (expressed as the lesser of a fixed dollar value or a percentage of total consolidated assets) set out in regulations will apply to all in-scope GTEs. Provides for qualitative criteria for determining whether a transaction requires Ministerial approval. The dual criteria aims to reflect a contemporary quantitative threshold for the GTE cohort, while recognising a requirement for Government oversight of potentially highly sensitive transactions that may not be quantitatively large. This will mean that transactions that may have a low dollar value but have policy sensitivities or have material public policy implications, will also need to be submitted to the Minister for approval. For a proposed transaction to be qualitatively significant, it is likely to have significant social, economic, technological, industrial or other macro impacts, or is likely to be of significant public interest. Guidance notes will be provided on factors GTEs should consider to determine what 'qualitatively significant' or 'significant public interest' mean in this context.

<p>Clause 101</p>	<p>Restriction on effecting significant transaction</p> <p>Provides that the Portfolio Minister must approve a significant transaction under clause 103.</p> <p>This clause also provides that the relevant entity must not organise or structure a transaction with the sole or dominant purpose of avoiding the approval of the Portfolio Minister. A contravention of this restriction it does not affect the validity of the transaction so as to not detrimentally impact the third party.</p>
<p>Clause 102</p>	<p>Consultation regarding significant transaction</p> <p>Requires a relevant entity to inform the Portfolio Minister and the Treasurer as soon as practicable when contemplating a significant transaction, including ongoing consultation to develop and realise the contemplated transaction.</p> <p>This clause aims to minimise the use of resources for transactions that do not have in-principle support and provides Ministers and Agencies early sight of these transactions. This allows for sufficient time for robust analysis and evaluation that also considers whole-of-government policies, along with the opportunity to meaningfully engage with the Board about the transactions or initiatives given their potential impact on State finances and risks to the State.</p> <p>During the early notification and consultation stage, the Portfolio Minister and Treasurer may choose to communicate their preferences regarding the level of ongoing consultation they require based on the nature of the transaction (such as scope, value, risk and GTE expertise).</p>
<p>Clause 103</p>	<p>Approval of significant transaction</p> <p>Provides that, with the approval of the Treasurer, the Portfolio Minister may approve a significant transaction.</p> <p>The requirement for the Treasurer to approve (rather than concur to the Portfolio Minister's approval) significant transactions, will enhance consideration of the impacts on State Budget and State finances in the approval (or not) of such transactions.</p> <p>Government approval of significant transactions reflects the enhanced accountability of the Board to Government on the management of potential financial and reputational risks that the State may be exposed to through the transaction.</p>
<p>Clause 104</p>	<p>Excluded transaction</p> <p>Provides the ability for the Portfolio Minister, with the approval of the Treasurer, to exempt a transaction on a singular basis or specified class of transactions from clauses 99 to 103 for a GTE. Exclusions may come with terms and conditions determined by the Portfolio Minister and Treasurer.</p> <p>Exclusion provisions aim to cater for those transactions that are part of a GTEs activities considered as 'business as usual' (such as repeat transactions on standardised terms and conditions) with low residual risk to the State.</p>

Subdivision 4 – Significant initiatives

The purpose of this subdivision is to require all the GTEs to notify the Portfolio Minister and Treasurer before undertaking any actions in relation to a significant initiative and to consult with both parties during the further development and realisation of the initiative, in a similar manner and for the same reasons as significant transactions.

This will provide oversight and governance of initiatives that do not necessarily involve transactions but are rather a course of action of a GTE that is likely to have significant social, economic, technological, industrial or other impacts, or is likely to be of significant public interest.

The same qualitative criteria that apply in relation to significant transactions will also apply in relation to determining whether an initiative requires Ministerial approval.

Clause 105 Term used: significant initiative

Defines the term significant initiative for the purposes of Subdivision 4.

Clause 106 Consultation regarding significant initiatives

Requires a relevant entity to inform the Portfolio Minister and the Treasurer as soon as practicable when contemplating a significant initiative, including ongoing consultation to develop and realise the contemplated initiative.

Early and on-going consultation provides all relevant parties to the initiative with time and resources to adequately evaluate potential risks and provide meaningful engagement between the Board and the Ministers.

Division 4 – Ministerial directions**Clause 107 GTEs not generally subject to direction by Government**

Provides that a GTE is not required to comply with any direction or administrative request given by the Government unless mandated by this Bill or any other written law. This clause reflects the need for a GTE to operate on a day-to-day basis at an 'arm's length' from Government.

Clause 108 Ministerial directions

Provides that a GTE must give effect to a direction in writing from the Portfolio Minister, either generally or on a specific matter.

Ministerial directions allow a Portfolio Minister to direct a GTE to perform a specific operational activity, apply a specific policy, or ensure GTE strategic documents reflect Government policy. The ability for Ministers to mandate the actions of a GTE reflects Government's position as the owner of a GTE and the need to retain a degree of direct control over GTE operations, if required.

The text of the Ministerial direction issued by the Portfolio Minister must be laid before Parliament as a transparency mechanism.

Clause 109 Limitation on directions under section 108

Provides that section 108 does not apply where a GTE's Establishing Act expressly provides that a direction of that kind cannot be given or where the power to direct is already conferred on Portfolio Minister.

This clause relates specifically to the *Electricity Corporations Act 2005*.

Clause 110	<p>When directions take effect</p> <p>Reflects the importance of compliance with Ministerial directions in a timely manner but also the need for GTEs to adapt and prepare for the subsequent operational impact to comply with the direction.</p>
<p>Division 5 – Policy orders</p> <p>The objective of Policy orders is to enable the Government to apply a specific Government policy outcome to all in-scope GTEs. The example of Policy orders currently in place for Government Agencies would be Premier’s Circular.</p> <p>Policy orders are intended to be outcomes-focused, not prescriptive about how an outcome is to be achieved and cannot expand a GTE’s statutory functions under its Establishing Act.</p> <p>Policy orders will lapse at the end of the Government’s term unless revoked earlier.</p>	
Clause 111	<p>Policy orders</p> <p>Provides for the GTE Minister, with the approval of the Portfolio Minister for each GTE to which the policy order applies, to issue a policy order setting out policy objectives.</p>
Clause 112	<p>When policy orders cease to apply</p> <p>Provides for the use of policy orders as a mechanism to reflect the policy objectives of the Government of the day. The policy order ceases at the end of a statement period. A statement period is defined in clause 69(1).</p>
<p>Division 6 – Subsidiaries</p>	
<p>Subdivision 1 – Formation, acquisition and control of subsidiaries</p>	
Clause 113	<p>Restriction on forming or acquiring a subsidiary</p> <p>As the business operations of a subsidiary can directly affect the parent company / majority stakeholder, Government has a vested interest in exercising a degree of control over any proposed formation or acquisition of a subsidiary. This clause seeks to minimise reputational, legal or financial risks to the State from the activities and operations of a subsidiary.</p>
Clause 114	<p>Consultation regarding formation or acquisition of subsidiary</p> <p>Requires a GTE to inform the Portfolio Minister and the Treasurer of any contemplated arrangements to form or acquire a subsidiary, as soon as is practicable and prior commencing the process for formation or acquisition.</p> <p>By requiring GTEs to inform and consult with the Portfolio Minister and Treasurer, Government has early sight of any potential risks to the State and enhances informed decision making by the Ministers.</p>
Clause 115	<p>Control of subsidiary</p> <p>Requires a GTE to ensure that the constitution of each of its subsidiaries contains provisions to the effect of those set out in Schedule 1 and is consistent with this Bill and the GTE’s Establishing Act.</p> <p>Requires the GTE Board to provide to the Portfolio Minister prior written notice of the Board’s intention to appoint the GTE’s CEO or a member of the GTE’s staff to the board of the subsidiary.</p>

Clause 116	Provisions affecting the Corporations Act Provides that nothing in this Bill makes a GTE or Portfolio Minister a director of a subsidiary for the purposes of the Corporations Act.
Subdivision 2 – Remuneration and expenses of directors and CEOs of wholly owned subsidiaries Clauses 117-121 provides for the remuneration and expenses of directors and CEOs of wholly owned subsidiaries. As wholly owned subsidiaries of a GTE, such entities are required to adhere to the same provisions as GTEs. This assurance mechanism reflects a subsidiary's potential to impact the financial, economic and legal standing of the State through the subsidiary's business activities.	
Clause 117	Terms used Defines the terms director and wholly owned subsidiary, in relation to this Subdivision.
Clause 118	Remuneration of directors Provides that the remuneration of a director of a wholly owned subsidiary must be determined by the Portfolio Minister within the range determined by the Salaries and Allowance Tribunal. Provides circumstances where the remuneration determined by SAT does not apply and the Portfolio Minister determines the remuneration of a director. Subclause (6) provides for the circumstances where the director is not entitled to remuneration including where the director is also an employee of the GTE. This provision is subject to the requirements in clause 119 relating to the requirement for directors of a subsidiary to be remunerated the same.
Clause 119	Same remuneration for directors of subsidiary This clause provides that the directors of wholly owned subsidiaries received the same remuneration applies. This requirement does not apply to the chairperson and a director whose office is prescribed under section 7D(1)(b) under the <i>Salaries and Allowances Act 1975</i> . The determination the Portfolio Minister makes under clause 118 applies to each director to which clause 119 applies. The Portfolio Minister is not required to make an individual appointment
Clause 120	Expenses of directors This clause provides that a director of a wholly owned subsidiary may be reimbursed expenses reasonably incurred in the performance of their function as a director, as determined by the Portfolio Minister from time to time. From time to time, the Portfolio Minister would determine types of expenditure that are reasonably incurred in the performance of Directors' functions that would be reimbursed. This could be covered in appointment letters and will be set once and varied if and when required.

Clause 121	<p>Remuneration of chief executive officers</p> <p>This clause provides for the remuneration of a CEO, including a CEO of a wholly owned subsidiary, while the subsidiary is a Government Entity. It provides the remuneration to be determined by the GTE's Board within the range determined by the Salaries and Allowances Tribunal and in accordance with section 7C of the <i>Salaries and Allowances Act 1975</i>.</p> <p>Where the wholly owned subsidiary is either not a Government entity or the CEO position is prescribed under paragraph (b) of section 7C(1) of the <i>Salaries and Allowances Act 1975</i>, the GTE Board must determine the level of remuneration, with the approval of the Portfolio Minister.</p>
Division 7 – Protection from liability	
Clause 122	<p>No liability for certain acts and omissions: disclosure of information and documents</p> <p>If information or documents are disclosed in good faith for the purposes of Division 1 or 2 by a GTE, a subsidiary of a GTE, officers of a GTE or director, this clause provides that no civil or criminal liability is incurred, and the disclosure is not regarded as a breach of duty of confidentiality or secrecy imposed by law or breach of conduct or professional ethics and standards.</p> <p>This clause is not extended to circumstances where the manner of action is contrary to a duty to exercise reasonable care and diligence.</p> <p>This clause aims to enhance information sharing between Government and GTEs to support Government's understanding of the GTE's strategic and operational issues. The Bill aims to counteract formal requests of information to be default position.</p>
Clause 123	<p>No liability for certain acts and omissions: compliance with Ministerial directions</p> <p>Provides an officer of a GTE protection from liability where doing [in good faith] anything required to be done by a ministerial direction unless it has been done in a manner that is contrary to sections 46 or 48.</p>
Part 8 – Financial provisions	
<p>In view of the Government's ultimate "ownership" of financial, legal, and reputational risks associated with the business activities of GTEs, the objective of this Part is to provide clear direction for GTEs to enter into investments and conduct their financial arrangements in a manner that is consistent with Government's risk appetite.</p> <p>Visibility and consistency of financial management activities across GTEs will enable the Government to manage risk exposure and achieve efficient delivery of policy and financial objectives across the whole-of-government.</p>	
Division 1 – Preliminary	
Clause 124	<p>Terms used</p> <p>Provides the definitions of accountability authority and statutory authority from the <i>Financial Management Act 2006</i>.</p> <p>Currently, not all GTEs are covered by the scope of the <i>Financial Management Act 2006</i>. Clause 124 applies financial management practices across all in-scope GTEs, creating standardisation to enhance Government oversight of the business practices of GTEs.</p>

Clause 125	<p>Delegation by Treasurer</p> <p>Provides for the Treasurer's delegation of powers or duty conferred by this Act to a Minister or Treasury officer.</p> <p>Reflects the need for efficiency in the operations of Government when working with GTEs. As the State's primary financial advisor, Treasury is well positioned to advise on financial management of GTEs.</p>
Division 2 – Bank and other accounts	
Clause 126	<p>Terms used</p> <p>Defines a range of terms to be applied in this Bill relating to financial provisions by reference to the provisions in the <i>Financial Management Act 2006</i> (FMA), including agency special purpose account, bank, bank account and Public Bank Account.</p>
Clause 127	<p>Primary account of a GTE</p> <p>Requires the primary account of the GTE, to be established for the purposes of its operations, to be operated through the Public Bank Account as an agency special purpose account.</p> <p>These provisions enhance whole of government liquidity management. The provisions are aimed at improving Government's oversight of liquid assets held by GTEs and providing a mechanism to access GTE moneys in the event of a liquidity crisis. These funds will become part of the State's credit ratings assessment.</p>
Clause 128	<p>Other bank accounts of a GTE</p> <p>Provides that a GTE may establish and maintain a bank account outside the Public Bank Account with the Treasurer's approval.</p>
Clause 129	<p>Operation of accounts</p> <p>Requires all moneys received or expended by a GTE to be through the Public Bank Account or another bank account as approved by the Treasurer. The transfer of funds outside of Public Bank Account requires Treasurer's approval.</p>
<p>Division 3 – Investment</p> <p>This Division provides for GTEs to be able to invest funds until they are required for the performance of their functions.</p> <p>Alignment between the investment appetite of the Board and the Government is important to ensure the Government has visibility of the risk exposure GTE Boards have adopted .</p>	
Clause 130	<p>Application of Financial Management Act 2006 Part 3 Division 3</p> <p>Provides that the <i>Financial Management Act 2006</i> is to apply to all in-scope GTEs for the purposes of investments.</p>

Clause 131	<p>Investment of funds</p> <p>This clause provides the circumstances in which a GTE may invest funds under section 37 or 39 of the <i>Financial Management Act 2006</i>. The investment of funds may be subject to regulations and relate to funds not immediately required for the performance of its functions.</p> <p>Alignment between the risk appetite of the Board and Government is important to ensure the Government is not exposed to into any arrangements that are outside of Government's appetite.</p>
Division 4 – Borrowing and guarantees	
Clause 132	<p>Borrowing powers</p> <p>Refers to the power of a GTE to borrow money or arrange for a financial accommodation, subject to conditions set out in section 133, and may exercise this ability by borrowing or arranging a financial accommodation with the Western Australian Treasury Corporation, the Treasurer or any third party, with the Treasurer's approval on terms and conditions.</p> <p>A GTE is required keep any registers prescribed by the regulations for the purposes of clause 132.</p> <p>The ability of a GTE to access funding through borrowing allows for a cost-effective source of capital to ensure day-to-day functions of the business can be met.</p> <p>For GTEs, borrowing powers enables them to undertake capital expenditure programs beyond the value of immediately available cash or reliance on Government equity injections. The GTE Bill is consistent with the borrowing provisions previously within the GTE Establishing Acts and ensures that borrowing powers are suitably measured and maintained through the Western Australian Treasury Corporation and the Treasurer.</p>
Clause 133	<p>Borrowing limits</p> <p>Provides for limits to be set in relation to a GTE's borrowing powers.</p> <p>Government may be called to pay creditors if a GTE is unable to meet the requirements of any loans. Ultimately, this clause aims to minimise the risk incurred by Government by the imposition of limits, while still allowing GTEs the commercial freedom to borrow money.</p>
Clause 134	<p>Breach of borrowing limits</p> <p>Outlines protections for lenders for any GTE breach of borrowing limits.</p> <p>This clause allows for GTEs to remain commercially viable by ensuring that borrowing limits do not impose on the GTE's ability to obtain funding from lenders who may be concerned that a GTE's liability will be rendered unenforceable.</p>
Clause 135	<p>Guarantee by Treasurer</p> <p>Allows the Treasurer, with the approval of the Portfolio Minister, to provide a Government guarantee on the performance of a GTE's obligation. The clause provides for the Treasurer to set the terms and conditions of the guarantee.</p> <p>When borrowing, a GTE may request for the Treasurer to provide a guarantee of behalf of the State, increasing a GTE's borrowing power where a lender may not be willing to lend on a GTE's own financial position.</p>

Clause 136	<p>Charges for guarantee</p> <p>Allows the Treasurer to fix a charge for providing a guarantee to the GTE's loan to meet competitive neutrality objectives.</p>
Division 5 – Risk management	
Clause 137	<p>Hedging transactions</p> <p>Defines key terms related to hedging transactions.</p> <p>Allows a GTE, after consultation with the Western Australian Treasury Corporation, to enter a hedging transaction to manage, limit or reduce business risk to the GTE.</p>
Division 6 – Dividends	
Clause 138	<p>Solvency requirement</p> <p>Defines the conditions required for a GTE to meet its solvency requirements on the payment of a dividend.</p>
Clause 139	<p>Dividend formula</p> <p>Provides that each financial year the Portfolio Minister and the Treasurer may determine the formula for the calculation of the GTE's final dividend to Government and must notify the GTE of the formula determined.</p>
Clause 140	<p>Final dividend</p> <p>Provides that the GTE Board must recommend to the Portfolio Minister whether the GTE should pay a dividend and the amount of dividend.</p> <p>Clause provides the considerations the GTE Board must undertake in determining the recommended dividend and the timing requirements for the payment.</p> <p>The capacity of a GTE to provide Government with stable and growing financial distributions is an important metric that reflects on the health of the GTE business to meet both its operating and capital expenses, along with providing returns to Government as the GTE's owner. Payment of dividends in a specified timeframe allows Government a degree of financial certainty for the State.</p>
Clause 141	<p>Interim and special dividends</p> <p>Outlines mechanisms and timeframes for the payment of interim and special dividends by GTEs.</p> <p>A special dividend may result from a discrete event or change that necessitates a dividend being paid that is not expected to be maintained over the foreseeable future. While all GTE Establishing Acts contain provisions for the payment of interim and final dividends, with varying degrees of detail provided for determining the amount payable, not all Acts provide for a special dividend to be paid. The GTE Bill provides consistency among all in-scope GTEs for the payment of special dividends where a return of equity may be appropriate.</p>

Division 7 – Financial administration and audit	
Clause 142	Terms used Provides definitions for key terms used throughout Division 7.
Clause 143	Obligation to keep financial records Provides that GTEs are required to keep relevant financial records as a necessary foundation for compliance and reporting requirements.
Clause 144	Preparation of annual financial reports and directors' reports Requires a GTE to prepare a financial report and a directors' report for each financial year in accordance with FAA regulations. The financial report is to comply with accounting standards except as provided by Treasurer's GTE instructions.
Clause 145	Audit and financial report Provides for the requirements for auditing the GTE's annual financial report and the application of information provisions under the <i>Auditor General Act 2006</i> . Audits by the Auditor General and their delegates ensures that Government receives independent assurance of the financial standing of GTE and the financial liabilities of the State.
Clause 146	Preparation of interim reports Provides for the preparation of interim reports for prescribed periods within a financial year in accordance with FAA regulations. Interim reporting enables Government continuous oversight of the financial and operational well-being of a GTE, allowing for issues and consequential risks to be raised in a timely manner with Government.
Clause 147	Application of <i>Financial Management Act 2006</i> sections 81 and 82 Provides that GTEs are subject to the same information sharing requirements to Parliament as statutory authorities under sections 81 and 82 of the <i>Financial Management Act 2006</i> . The GTE's Portfolio Minister and the GTE Board are to ensure that no action or arrangement is entered into that would inhibit the Portfolio Minister's provision of information concerning the conduct or operation of the GTE to Parliament. Where the Portfolio Minister decides its reasonable and appropriate not to provide Parliament certain information concerning the operation of the GTE there is a requirement for the Portfolio Minister to cause of written notice of that decision to be laid before Parliament and given to the Auditor General.
Clause 148	Treasurer's GTE instructions Enables the Treasurer to issue, amend or revoke instructions with respect to the preparation of reports under this Division, with those instructions to be maintained on a Treasury website. Provides that the GTE must comply with the Treasurer's GTE instructions. The Treasurer's GTE Instructions must not be inconsistent with the [GTE] Act or the FAA regulations.

Clause 149	Regulations concerning financial administration and audit Enables regulations to provide for the financial administration and audit of GTEs.
Division 8 – Local Government rates exemption	
Clause 150	Exemption from local government rates Provides that land vested in a GTE or under its care, control or management, or exclusively for the performance of the GTE's functions, is not rateable for the purposes of the <i>Local Government Act 1995</i> . If the GTE leases or rents the land it becomes rateable.
Clause 151	Payment in lieu of local government rates Provides that GTEs must pay the Treasurer the amount equivalent to local government rates and charges they would have otherwise been liable to pay in respect of a financial year, unless the land has been prescribed for the purposes of this section. This clause allows for commercial neutrality outcomes where GTEs would not otherwise pay local government rates.
Part 9 – General provisions	
Division 1 – Protection of persons dealing with GTEs	
Clause 152	Persons dealing with GTE may make assumptions Provides for the assumptions people dealing with the GTE can make. Limits the GTE's ability to assert in proceedings that the assumption that person was entitled to make was not correct.
Clause 153	Third party may make assumptions Recognises the right of a third party contracting with a new owner, who has acquired or purports to have acquired title to a property from a GTE, is entitled to make assumptions detailed under clause 154.
Clause 154	Assumptions that may be made Outlines the assumptions that a person dealing with a GTE can make. This is a standard provision included in legislation to protect persons contracting with GTEs.
Clause 155	Exception to sections 152 and 153 Precludes a person from making an assumption if they have (actual) knowledge that the assumption is, or ought to know it is, incorrect. Where a person or a third party is not entitled to make an assumption based on the above, preclusion no longer applies to a GTE to make an assertion in proceedings that the assumption made by the person/this party is not correct.

Division 2 – Formalities	
Clause 156	<p>Execution of documents</p> <p>Provides the authority to execute documents on behalf of a GTE.</p> <p>This clause provides procedural elements of contracting typically found in a company's constitution.</p>
Clause 157	<p>Contract formalities</p> <p>Provides that the GTE can contract in the same manner as if it were a natural person including under the GTE's common seal.</p>
Part 10 – Miscellaneous	
Clause 158	<p>Making certain things publicly available</p> <p>Allows for public disclosure requirements of GTEs to be met via the relevant entity's website.</p> <p>It is intended that the provision of this clause encourages electronic disclosure by both Ministers and GTEs.</p>
Clause 159	<p>Laying documents before Parliament not sitting</p> <p>Provides the process for laying documents before Parliament when the House is not sitting.</p>
Clause 160	<p>Regulations</p> <p>Provides that the Governor has the power to make regulations that are required by this Bill or deemed necessary to the purpose of the Bill.</p> <p>Where the regulations relate to financial administration and audit matters under clause 149, the regulations may only be made on the recommendation of the Treasurer.</p>
Part 11 – Transitional provisions	
Division 1 – Preliminary	
Clause 161	<p>Terms used</p> <p>Defines key terms applicable to transitional provisions of the Bill.</p>
Clause 162	<p>New provisions that correspond to old provisions</p> <p>States how new provisions [in the Act] correspond to old provisions [amended or repealed by this Act] in dealing with matters.</p>
Division 2 – Application of <i>Interpretation Act 1984</i>	
Clause 163	<p>Application of the <i>Interpretation Act 1984</i></p> <p>This clause does not limit the operation of the Interpretation Act 1984 except where matters are prescribed or provided for under the Act prevail to the extent of any inconsistency.</p>

Division 3 – General transitional provisions	
Clause 164	<p>Completion of things commenced before commencement day</p> <p>Provides that anything commenced by a person under an old provision may be continued after commencement day, if it corresponds to a new provision.</p> <p>The clause aims to minimise any disruption in the business activities of GTEs as the Bill comes into force by allowing for the continuation of matters where a provision allows for the continuation.</p>
Clause 165	<p>Continuing effect of things done before commencement day</p> <p>Applies to an act, matter or thing acted on under an old provision before commencement day by a person to the extent it continues to have force of significance after that day. If there is a corresponding new provision then, from commencement day, that act, matter, or thing, is taken to be done under the new provision.</p> <p>This clause aims to minimise any disruption in the business activities of GTEs as the Bill comes into force by allowing for the continuation of relevant business matters.</p>
Clause 166	<p>Relationship of this Division to other transitional provisions</p> <p>This clause provides that provisions of Division 4 [specific transitional provisions] and regulations made for the purpose of Part 11 prevail over Part 11 Division 3 to the extent of any inconsistency identified.</p>
Division 4 – Specific transitional provisions	
Clause 167	<p>Boards of directors</p> <p>Address the members of the GTE's governing body immediately before commencement day becoming members of the GTE's Board on commencement day. The board member retains office under the terms and conditions, including term, of the existing appointment.</p>
Clause 168	<p>Chief executive officers</p> <p>Enables the continuation of the person in the office of a GTE's CEO (permanent or acting capacity) on commencement day of the Bill. The CEO retains office under the terms and conditions, including term of the existing appointment, but does not prevent a casual vacancy or a review of remuneration occurring.</p>
Clause 169	<p>Designation of executive officers</p> <p>The designation of an executive officer, under certain Establishing Acts, in effect before commencement day continues in effect from commencement day.</p>
Clause 170	<p>Indemnities, exemptions and insurance for certain liabilities of directors and others</p> <p>This clause specifies certain agreements and contracts to continue to be valid, where they would have been partly or wholly void under clause 68, on the basis that they were not prohibited by the Establishing Acts prior to commencement day.</p>

Clause 171	<p>Statement of expectations</p> <p>Provides that the current strategic development plan under the GTE's Establishing Act continues in effect until the GTE's first statement of expectation is approved under section 72.</p> <p>This clause ensures that strategic outcomes and business goals contained within existing strategic development plans continue until the statement of expectation takes effect.</p>
Clause 172	<p>Annual performance statement</p> <p>Provides that a GTE's statement of corporate intent under Establishing Acts will continue to have effect as the GTE's annual performance statement.</p> <p>This section ensures that performance objectives and outcomes contained within existing strategic documents continues until provisions under the Bill take effect.</p>
Clause 173	<p>Bank and other accounts</p> <p>Requires the GTE to establish bank accounts in accordance with sections 127 and 128 as soon as practicable after commencement day.</p> <p>This clause ensures that existing bank accounts established by GTEs under Establishing Acts remain valid under the GTE legislation on commencement day.</p>
Clause 174	<p>Hedging transactions</p> <p>Provides for arrangements under the former hedging provisions in the Establishing Acts continue in effect on commencement day.</p>
Clause 175	<p>Dividends</p> <p>Provides that despite the repeal of former dividend provisions, a dividend or interim dividend that had become payable, but remains unpaid at commencement day, continues to be payable under sections 140 and 141.</p>
Clause 176	<p>Financial administration and audit</p> <p>This clause provides that despite the repeal of the former financial administration and audit provisions, the clause will continue to have effect until a prescribed date.</p>
Clause 177	<p>Local government rates</p> <p>This clause provides that an amount payable under the former local government rates provisions that remain unpaid at commencement day continues to be payable under section 151.</p>
	Division 5 – Transitional regulations
Clause 178	<p>Transitional regulations</p> <p>Provides that regulations may deal with matters of a savings or transitional nature as a result of the Bill being enacted including the impacts on subsidiary legislation made under the Establishing Acts.</p>

Part 12 – Consequential amendments

Part 12 deals with matters required to give effect to the above clauses. This includes making consequential amendments to other Acts including the:

- Electricity Corporations Act 2005;
- Gold Corporation Act 1987;
- Perth Market (Disposal) Act 2015;
- Pilbara Ports Assets (Disposal) Act 2016;
- Port Authorities Act 1999;
- Salaries and Allowances Act 1975;
- Statutory Corporations (Liability of Directors) Act 1996;
- Water Corporations Act 1995;
- Western Australian Land Authority Act 1992; and
- Western Australian Treasury Corporation Act 1986.

Division 1 – *Electricity Corporations Act 2005* amended

Clause 179	Act amended This Division amends the <i>Electricity Corporations Act 2005</i> .
Clause 180	Section 3 amended Deletes, adds and amends selected definitions in section 3 of the <i>Electricity Corporations Act 2005</i> .
Clause 181	Section 3A inserted A new clause 3A is inserted into the <i>Electricity Corporations Act 2005</i> to ensure the GTE Act and the <i>Electricity Corporations Act 2005</i> are read as if they form a single Act.
Clause 182	Part 2 Division 2 deleted Deletes Part 2 Division 2 of the <i>Electricity Corporations Act 2005</i> in relation to the board of directors with provisions now contained within this Bill.
Clause 183	Part 2 Division 3 Subdivision 1 deleted Deletes Part 2 Division 3 Subdivision 1 of the <i>Electricity Corporations Act 2005</i> in relation to provisions for the GTE's CEO with provisions now contained within this Bill.
Clause 184	Part 2 Division 3 Subdivision 2 heading replaced Amends Part 2 Division 3 Subdivision 2 of the <i>Electricity Corporations Act 2005</i> , replacing the heading 'Other staff' with 'Power to engage and manage staff'.
Clause 185	Section 20 deleted Deletes section 20 of the <i>Electricity Corporations Act 2005</i> , with the designation of executive officers now contained within this Bill.
Clause 186	Section 21 amended Provides for the minimum standards of staff management under the <i>Electricity Corporations Act 2005</i> and its application to chief executive officers.
Clause 187	Part 2 Division 3 Subdivision 5 heading replaced Amends the heading of Part 2 Division 3 Subdivision 5 of the <i>Electricity Corporations Act 2005</i> from 'General' to 'Superannuation'.

Clause 188	Part 2 Division 4 heading replaced Amends the heading of Part 2 Division 4 of the <i>Electricity Corporations Act 2005</i> from 'Duties of, and relating to, directors and staff' to 'Staff codes of conduct'.
Clause 189	Sections 27 to 30 deleted Deletes sections 27 to 30 of the <i>Electricity Corporations Act 2005</i> relating to duties imposed on directors, the CEO, executive officers, and members of staff with corresponding provisions contained in this Bill for the above officers.
Clause 190	Section 33 amended Amends section 33(1) of the <i>Electricity Corporations Act 2005</i> to reference clause 81 of the Bill to alter the annual reporting requirements requiring a GTE to give its annual report, and any separate subsidiary report, to the Portfolio Minister and the Treasurer by 30 September after the end of the financial year.
Clause 191	Section 53 amended Replaces section 53(7) of the <i>Electricity Corporations Act 2005</i> , 'Administration under delegated power' with the same provisions for the performance of community service obligations, but now references the GTE Act definition of that obligation.
Clause 192 – 195	Sections 54 – 58 amended Deletes sections 54 to 58. of the <i>Electricity Corporations Act 2005</i> .
Clause 196	Section 59 amended This clause removes 'subject to' references from sections 59(3)(g) and 59(4)(b) of the <i>Electricity Corporations Act 2005</i> and ensures that the GTE's power to perform its functions are subject to the provisions of the GTE Act .
Clause 197	Section 60 amended Deletes reference to 'section 107' under section 60(6) of the <i>Electricity Corporations Act 2005</i> and replaces it with "GTE Bill section 144".
Clause 198	Section 61 replaced Replaces section 61 of the <i>Electricity Corporations Act 2005</i> with a new provision applicable to the Electricity Networks Corporation.
Clause 199	Section 63 amended Deletes section 63(5) of the <i>Electricity Corporations Act 2005</i> as it references deleted Schedules 5 and 6 of the <i>Electricity Transmission and Distribution Systems (Access) Act 1994</i> .
Clause 200	Sections 64 to 70 deleted Deletes sections 64 to 70 of the <i>Electricity Corporations Act 2005</i> relating to subsidiaries of a GTE, including acquisition and control of a subsidiary, and associated Ministerial powers, as they relate to provisions contained within this Bill.
Clause 201	Section 71 amended Deletes reference to section 13 'Committees' under section 71(2)(d) of the <i>Electricity Corporations Act 2005</i> and inserts reference to committee provisions under section 26(1) of the Bill. Amended section 71(2)(d) does not apply to the execution of documents.

Clause 202	<p>Part 3 Division 4 deleted</p> <p>Deletes Part 3 Division 4 'Protection of persons dealing with a corporation' in the <i>Electricity Corporations Act 2005</i> with provisions now contained within this Bill.</p>
Clause 203	<p>Part 5 heading replaced</p> <p>Replaces the heading Part 5 of the <i>Electricity Corporations Act 2005</i> 'Provisions about accountability' with 'Ministerial directions'</p>
Clause 204	<p>Part 5 Division 1 to 3 deleted</p> <p>Deletes Part 5 Divisions 1 to 3 of the <i>Electricity Corporations Act 2005</i> relating to provision of strategic documentation and quarterly and annual reports, with provisions within this Bill requiring the preparation of a statement of expectations, annual performance statement and financial reports.</p>
Clause 205	<p>Part 5 Division 4 heading deleted</p> <p>Deletes the heading of Part 5 Division 4 of the <i>Electricity Corporations Act 2005</i> in relation to Ministerial directions.</p>
Clause 206	<p>Sections 110 to 113 replaced</p> <p>Deletes sections 110 to 113 of the <i>Electricity Corporations Act 2005</i> relating to Ministerial direction, with provisions now contained within the Bill.</p> <p>This clause inserts a new section 111 into the <i>Electricity Corporations Act 2005</i> stating that the Minister cannot give direction where the performance of a function of the corporation is under Part 9 of the <i>Electricity Industry Act 2004</i> or associated regulations under that Part.</p>
Clause 207	<p>Part 5 Divisions 5 and 6 deleted</p> <p>Deletes Part 5 Divisions 5 ('Consultation and provision of information') and 6 ('Protection of liability') of the <i>Electricity Corporations Act 2005</i>.</p>
Clause 208	<p>Part 6 deleted</p> <p>Deletes Part 6 'Financial provisions' of the <i>Electricity Corporations Act 2005</i>, with corresponding provisions contained within the Bill.</p>
Clause 209	<p>Sections 134 to 136 replaced</p> <p>Deletes sections 134 to 136 of the <i>Electricity Corporations Act 2005</i> relating to the laying of documents before Parliament when the House is not sitting, the execution of documents and dealing with a contract.</p> <p>A new section 134 is inserted to provide for the laying of documents before Parliament when the House is not sitting, with reference to section 159 of this Bill.</p>
Clause 210	<p>Section 138 amended</p> <p>Inserts further provisions under section 138(2) of the <i>Electricity Corporations Act 2005</i> to validate the relationship between GTE Bill regulations and regulations made under the <i>Electricity Corporations Act 2005</i>.</p>

Clause 211	<p>Schedules 1 to 4 deleted</p> <p>Deletes schedules 1 to 4 of the <i>Electricity Corporations Act 2005</i> with corresponding provisions included in this Bill on the constitutions and proceedings of the board, duties of directors, matters to be included in a subsidiary's constitution, and the GTE financial administration and audit.</p>
Division 2 – <i>Gold Corporation Act 1987</i> amended	
Clause 212	<p>Act amended</p> <p>This Division amends the <i>Gold Corporation Act 1987</i>.</p>
Clause 213	<p>Various references to <i>Salaries and Allowances Act 1975</i> s.7C amended</p> <p>Redefines the term 'Government Entity' by replacing references to section 7C(1) with section 7BA of the <i>Salaries and Allowances Act 1975</i>.</p>
Division 3 – <i>Perth Market (Disposal) Act 2015</i> amended	
Clause 214	<p>Act amended</p> <p>This Division amends the <i>Perth Market (Disposal) Act 2015</i>.</p>
Clause 215	<p>Section 28 amended</p> <p>Removes reference to a breach of duty relating to disclosure provisions under the <i>Western Australian Land Authority Act 1992</i> Schedule 1A.</p>
Division 4 – <i>Pilbara Ports Assets (Disposal) Act 2016</i> amended	
Clause 216	<p>Act amended</p> <p>This Division amends the <i>Pilbara Port Assets (Disposal) Act 2016</i>.</p>
Clause 217	<p>Section 27 amended</p> <p>Removes provisions from the <i>Pilbara Port Assets (Disposal) Act 2016</i> in relation to disclosure of information under the <i>Port Authorities Act 1999</i> Schedule 3 and <i>Western Australian Land Authority Act 1992</i> Schedule 1A.</p>
Division 5 – <i>Port Authorities Act 1999</i> amended	
Clause 218	<p>Act amended</p> <p>This Division amends the <i>Port Authorities Act 1999</i>.</p>
Clause 219	<p>Section 3 amended</p> <p>Deletes, adds and amends selected definitions in section 3(1) and 3(4) of the <i>Port Authorities Act 1999</i>, with the inclusion of the definition of the GTE Act.</p>
Clause 220	<p>Section 3A inserted</p> <p>Clause 3A is inserted into the <i>Port Authorities Act 1999</i> to ensure the GTE Act and the <i>Port Authorities Act 1999</i> are read as if they form a single Act.</p>

Clause 221	<p>Part 2 Division 2 heading replaced</p> <p>Replaces the heading of Part 2 Division 2 in the <i>Port Authorities Act 1999</i> 'Boards of directors' with 'Community consultation committees'.</p>
Clause 222	<p>Sections 7 to 13 deleted</p> <p>Deletes sections 7 to 13 of the <i>Port Authorities Act 1999</i> in relation to boards of directors, with associated provisions now contained within this Bill.</p>
Clause 223	<p>Section 14A amended</p> <p>Amends section 14A(2) 'Community consultation committees' of the <i>Port Authorities Act 1999</i> requiring a board of port authority to establish a committee for each port under its control and management.</p>
Clause 224	<p>Sections 14, 15A, 15B and 15 deleted</p> <p>Deletes sections 14, 15A, 15B and 15 of the <i>Port Authorities Act 1999</i> dealing with the board's powers to appoint a CEO, and the CEO's functions and remuneration, with provisions now contained within this Bill.</p>
Clause 225	<p>Section 17 amended</p> <p>Replaces section 17(3) 'Minimum standards for staff management' in the <i>Port Authorities Act 1999</i> ensuring that the provisions for minimum standards applicable to the management of staff also applies to the CEO.</p>
Clause 226	<p>Section 20 deleted</p> <p>Deletes section 20 of the <i>Port Authorities Act 1999</i> as it refers to provisions in a deleted Schedule 3 in relation to duties of the CEO and staff, with provisions now contained within this Bill.</p>
Clause 227	<p>Section 23 amended</p> <p>Section 23(1) of the <i>Port Authorities Act 1999</i> is amended to reference the board's 'delivery of the annual report' to the Minister to provisions within this Bill, rather than to provisions contained in the <i>Port Authorities Act 1999</i>.</p>
Clause 228	<p>Part 4 Division 1 heading deleted</p> <p>Deletes the heading of Part 4 Division 1 of the <i>Port Authorities Act 1999</i> 'Functions, powers and related provisions'.</p>
Clause 229	<p>Section 31 replaced</p> <p>Deletes section 31 of the <i>Port Authorities Act 1999</i> enabling Port authorities to act at their discretion, with relevant provisions now contained within this Bill. The replaced section 31 now provides that nothing in the Act will limit or affects the operation of the <i>Environmental Protection Act 1986</i> in relation to a port, a port authority or port operations.</p>
Clause 230	<p>Section 32 amended</p> <p>Section 32 of the <i>Port Authorities Act 1999</i> is amended to refer to the Minister under the GTE Bill Part 7 Division 4. The heading of section 32 is also amended to 'Port Authority has control of port'</p>

Clause 231	Sections 33, 34A and 34 deleted Deletes sections of the <i>Port Authorities Act 1999</i> relating to a port authorities' requirements to comply with State budgetary requirements, policy instruments, and to act on commercial principles, with relevant provisions now contained within this Bill.
Clause 232	Section 35 amended Amends sections 35(2)(k) of the <i>Port Authorities Act 1999</i> by removing references to approvals by the Minister to enable the participation in a business arrangement under the <i>Port Authorities Act 1999</i> and giving effect to those approvals under this Bill.
Clause 233	Sections 39 to 43 deleted Deletes these sections of the <i>Port Authorities Act 1999</i> relating to matters including the acquisition of subsidiaries of a port authority and associated consultation and approvals processes, with relevant provisions now contained within this Bill.
Clause 234	Section 44 amended Amends reference to a power of delegation by a port authority to a committee under the <i>Port Authorities Act 1999</i> , with provisions for the delegation now contained within this Bill. The clause also replaces section 44(7) of the <i>Port Authorities Act 1999</i> to provide authority to execute documents on behalf of a port authority in accordance with this Bill.
Clause 235	Part 4 Division 2 deleted Deletes Part 4 Division 2 of the <i>Port Authorities Act 1999</i> relating to the protection of people dealing with port authorities, with relevant provisions now contained within this Bill.
Clause 236	Part 5 deleted Deletes Part 5 of the <i>Port Authorities Act 1999</i> relating to provisions on port authorities' accountability, including development and provision strategic documentation and annual reporting, within relevant provisions now contained within this Bill.
Clause 237	Part 6 heading deleted Deletes heading 'Financial provisions' of Part 6 of the <i>Port Authorities Act 1999</i> .
Clause 238	Part 6 Division 1 to 5 deleted Deletes Part 6 Divisions 1 to 5 of the <i>Port Authorities Act 1999</i> which includes provisions on borrowings, guarantees, financial administration and audit and any payments to the State, within relevant provisions now contained within this Bill.
Clause 239	Part 6 Division 6 heading deleted Deletes the heading 'Financial targets' to Part 6 Division 6 of the <i>Port Authorities Act 1999</i> .
Clause 240	Sections 133 to 135 replaced Deletes sections 133 to 135 of the <i>Port Authorities Act 1999</i> relating to laying documents before Parliament, execution of documents by the port authority and formalities of contracts with port authorities, with relevant provisions now contained within this Bill. Also, a replacement section 133 provides that where there is a provision under the <i>Port Authorities Act 1999</i> that requires the Minister to lay a document before Parliament and a House is not sitting, then section 159 of the Bill will apply.

Clause 241	Section 139 amended Amends section 139 of the <i>Port Authorities Act 1999</i> to acknowledge that regulations made under the <i>Port Authorities Act 1999</i> prevail over this Bill and to include the requirement for regulations to be made on the recommendation of both the Portfolio Minister and GTE Minister.
Clause 242	Part 12 deleted Removes the review of the Act provisions under Part 12 of the <i>Port Authorities Act 1999</i> as it has no further effect.
Clause 243	Schedules 2 to 5 deleted Removes Schedules 2 to 5 of the <i>Port Authorities Act 1999</i> , with corresponding provisions included within this Bill.
Division 6 – <i>Racing and Wagering Western Australia Act 2003</i> amended	
Clause 244	Act amended This Division amends the <i>Racing and Wagering Western Australia Act 2003</i> .
Clause 245	Section 21A Amended Redefines the term ‘Government Entity’ by replacing references to section 7C(1) with section 7BA of the <i>Salaries and Allowances Act 1975</i> .
Clause 246	Section 21B Amended Redefines the term ‘Government Entity’ by replacing references to section 7C(1) with section 7BA of the <i>Salaries and Allowances Act 1975</i> .
Division 7 – <i>Salaries and Allowances Act 1975</i> amended	
Clause 247	Act amended This Division amends the <i>Salaries and Allowances Act 1975</i> .
Clause 248	Section 4 amended Inserts under section 4(1) of the <i>Salaries and Allowances Act 1975</i> the definition of GTE with the meaning as provided under the Bill.
Clause 249	Section 7C replaced Removes the remuneration provisions of certain executive officers under section 7C of the <i>Salaries and Allowances Act 1975</i> and inserts new provisions for the remuneration and allowances of directors, executive officers and audit and risk committee members of Government entities.
Clause 250	Section 8 amended Expands section 8(1) of the <i>Salaries and Allowances Act 1975</i> to enable the Salaries and Allowances Tribunal to report and make a determination within four years of the previous determination in relation to the remuneration of GTE directors and audit and risk committee members.

Clause 251	Section 10 amended Amends section 10(4)(d) of the <i>Salaries and Allowances Act 1975</i> to expand application of the remuneration provisions to include those of directors and audit and risk committee members.
Clause 252	Section 10A amended Amends section 10A(2) of the <i>Salaries and Allowances Act 1975</i> to correctly reference amended sections of the Act in relation to the Tribunal's determination of remuneration of executive officers and directors, and allowances payable to directors who are also members of the audit and risk management committee.
Clause 253	Schedule 2 amended Amends Schedule 2 of the <i>Salaries and Allowances Act 1975</i> by deleting references to entities as defined under the <i>Electricity Corporations Act 2005</i> , <i>Water Corporations Act 1995</i> and <i>Western Australian Land Authority Act 1992</i> and inserting at the start of Schedule 2 references to a GTE and a wholly owned subsidiary of a GTE, with respect to appointments of executive officers, and captures the appointments previously made under the deleted references.

Division 8 – Statutory Corporations (Liability of Directors) Act 1996 Amended	
Clause 254	Statutory Corporations (Liability of Directors) Act 1996 amended This Division amends the <i>Statutory Corporations (Liability of Directors) Act 1996</i> .
Clause 255	Section 4 Amended Inserts under section 4 of the <i>Statutory Corporations (Liability of Directors) Act 1996</i> the definition of GTE with the meaning as provided under the Bill. The definition of corporation is also amended to ensure that the definition does not include a GTE.
Clause 256	Schedule 1 Amended Deletes references to port authorities and the Western Australian Land Authority in Schedule 1 where the duties of the directors of certain corporations are provisioned, with relevant provisions now contained within this Bill.
Division 9 – Water Corporations Act 1995 amended	
Clause 257	Act amended This Division amends the <i>Water Corporations Act 1995</i> .
Clause 258	Section 3 amended Deletes various definitions in section 3(1) of the <i>Water Corporations Act 1995</i> as the definitions are now provisioned within this Bill. Definition of GTE Act inserted into section 3(1) of the <i>Water Corporations Act 1995</i> .
Clause 259	Section 3A inserted Clause 3A is inserted into the <i>Water Corporations Act 1995</i> to ensure the GTE Act and the <i>Water Corporations Act 1995</i> are read as if they form a single Act.

Clause 260	Section 7A amended Amends section 7A(2)(h) of the <i>Water Corporations Act 1995</i> to reference the submission of outstanding reports to provisions now contained within this Bill.
Clause 261	Part 2 Division 2 replaced Removes Part 2 Division 2 in relation to provisions relating to boards of directors (relevant provisions contained within this Bill) and replace Division 2 with special provisions dealing with appointments to the boards of regional water corporations.
Clause 262	Sections 13, 14A, 14B and 14 deleted Deletes sections 13, 14A, 14B and 14 of the <i>Water Corporations Act 1995</i> dealing with the board's powers to appoint a CEO, and the CEO's functions and remuneration, with provisions now contained within this Bill.
Clause 263	Section 16 amended Replaces section 16(4) 'Minimum standards for staff management' in the <i>Water Corporations Act 1995</i> ensuring that the provisions for minimum standards applicable to the management of staff also applies to the CEO.
Clause 264	Section 18 deleted Deletes section 18 of the <i>Water Corporations Act 1995</i> , with the designation of executive officers now contained within this Bill.
Clause 265	Part 2 Division 4 heading replaced Amends the heading of Part 2 Division 4 of the <i>Water Corporations Act 1995</i> from 'Duties of, and relating to, directors and staff' to 'Staff codes of conduct'.
Clause 266	Sections 20 to 23 deleted Deletes sections 20 to 23 of the <i>Water Corporations Act 1995</i> in relation to duties imposed on directors, the CEO, executive officers, and members of staff, with provisions now contained within this Bill.
Clause 267	Section 26 amended Alters the requirement under section 26(1) of the <i>Water Corporations Act 1995</i> to only provide the annual report to the Minister, to now include the Treasurer under section 81 of the GTE Act.
Clause 268	Sections 28A and 28 deleted Deletes section 28A and 28 of the <i>Water Corporations Act 1995</i> enabling a corporation to act at their discretion and to perform its functions in accordance with its strategic policy documents, with relevant provisions now contained within this Bill.
Clause 269	Section 29 amended Amends sections 39(2)(g) of the <i>Water Corporations Act 1995</i> by removing references to approvals by the Minister to enable the participation in a business arrangement under the <i>Water Corporations Act 1995</i> , and now giving effect to those approvals under the Bill.

Clause 270	<p>Sections 30 to 34 deleted</p> <p>Deletes these sections of the <i>Water Corporations Act 1995</i> relating to matters including the requirement for the Corporation to act on commercial principles, acquisition of subsidiaries of a port authority and associated consultation and approvals processes, with relevant provisions now contained within this Bill.</p>
Clause 271	<p>Section 35 amended</p> <p>Amends reference to a power of delegation by a corporation to a committee under the <i>Water Corporations Act 1995</i>, with provisions for the delegation now contained within this Bill. The clause also inserts section 35(7) of the <i>Water Corporations Act 1995</i> to provide authority to execute documents on behalf of a corporation in accordance with this Bill.</p>
Clause 272	<p>Part 3 Division 3 deleted</p> <p>Deletes Part 3 Division 3 of the <i>Water Corporations Act 1995</i> relating to the protection of people dealing with a corporation, with relevant provisions now contained within this Bill.</p>
Clause 273	<p>Parts 4 and 5 deleted</p> <p>Deletes Part 4 of the <i>Water Corporations Act 1995</i> relating to provisions on corporation's accountability, including development and provision strategic documentation and quarterly and annual reporting, with relevant provisions now contained within this Bill.</p> <p>Deletes Part 5 of the <i>Water Corporations Act 1995</i> which includes provisions on borrowings, guarantees, financial administration and audit and any payments to the State, with relevant provisions now contained within this Bill.</p>
Clause 274	<p>Section 87 to 89 replaced</p> <p>Deletes sections 87 to 89 of the <i>Water Corporations Act 1995</i> relating to laying documents before Parliament, execution of documents by the corporation and formalities of contracts under the authority of the corporation, with relevant provisions now contained within this Bill.</p> <p>Also, a replacement section 87 provides that where there is a provision under the <i>Water Corporations Act 1995</i> that requires the Minister to lay a document before Parliament and a House is not sitting, then section 159 of the Bill will apply.</p>
Clause 275	<p>Section 91 amended</p> <p>Amends section 91 of the <i>Water Corporations Act 1995</i> to acknowledge that regulations made under the <i>Water Corporations Act 1995</i> prevail over this Bill, and to include the requirement for regulations to be made on the recommendation of both the Portfolio Minister and GTE Minister.</p>
Clause 276	<p>Schedules 1 to 4 deleted</p> <p>Removes Schedules 1 to 4 of the <i>Water Corporations Act 1995</i>, with corresponding provisions included within this Bill.</p>
Division 10 – Western Australian Land Authority Act 1992	
Clause 277	<p>Act amended</p> <p>This Division of the Bill amends the <i>Western Australian Land Authority Act 1992</i>.</p>

Clause 278	Section 4 amended Deletes various definitions in section 4(1) of the <i>Western Australian Land Authority Act 1992</i> as the definitions are now provisioned within this Bill. Definition of GTE Act inserted into section 4(1) of the <i>Western Australian Land Authority Act 1992</i> .
Clause 279	Section 4A inserted Clause 4A is inserted into the <i>Western Australian Land Authority Act 1992</i> to ensure the GTE Act and the <i>Water Corporations Act 1995</i> are read as if they form a single Act.
Clause 280	Section 6 to 8B deleted Deletes sections 6 to 8B of the <i>Western Australian Land Authority Act 1992</i> in relation to boards of directors, with associated provisions now contained within this Bill.
Clause 281	Sections 10 to 11B deleted Deletes sections 10 to 11B of the <i>Western Australian Land Authority Act 1992</i> dealing with the board's powers to appoint a CEO, and the CEO's functions and remuneration, with provisions now contained within this Bill.
Clause 282	Section 12 amended Replaces section 12(3) 'Minimum standards for staff management' in the <i>Western Australian Land Authority Act 1992</i> ensuring that the provisions for minimum standards applicable to the management of staff also applies to the CEO.
Clause 283	Section 14 amended Deletes reference to the appointment of a CEO or member of staff within the <i>Western Australian Land Authority Act 1992</i> , and now links that reference to provisions within this Bill.
Clause 284	Section 14A deleted Deletes section 14A of the <i>Western Australian Land Authority Act 1992</i> with respect to the prescription of duties of the CEO and members of staff, and the designation of executive officers, with relevant provisions now contained within this Bill.
Clause 285	Section 14D amended Alters the requirement under section 14D(1) of the <i>Western Australian Land Authority Act 1992</i> to only provide the annual report to the Minister, to now include the Treasurer under section 81 of the GTE Act.
Clause 286	Section 16A deleted Deletes section 16A of the <i>Western Australian Land Authority Act 1992</i> requiring the GTE to act in accordance with its policy instruments, with provisions now contained within this Bill.
Clause 287	Section 16C deleted Deletes section 16C of the <i>Western Australian Land Authority Act 1992</i> providing a GTE discretion to perform its function, with provisions now contained within this Bill.

Clause 288	Section 17 amended Inserts section 17(3A) of the <i>Electricity Corporations Act 2005</i> to provide that the Authority's exercise of its powers to perform its functions are subject to provisions contained within this Bill.
Clause 289	Sections 17A to 17C deleted Deletes sections 17A to 17C of the <i>Western Australian Land Authority Act 1992</i> requiring Ministerial approval to for the Authority to enter a transaction, with provisions now contained within this Bill.
Clause 290	Section 19 deleted Deletes section 19 of the <i>Western Australian Land Authority Act 1992</i> relating to the requirement for the Authority to act on commercial principles, with relevant provisions now contained within this Bill.
Clause 291	Section 22 deleted Deletes section 22 of the <i>Western Australian Land Authority Act 1992</i> relating to requirements for subsidiaries of the Authority, including acquisition, management and compliance, with relevant provisions now contained within this Bill.
Clause 292	Section 23 amended Amends reference to a power of delegation by the Authority to a committee under the <i>Western Australian Land Authority Act 1992</i> , with provisions for the delegation now contained within this Bill. The clause also replaces section 23(7) of the <i>Western Australian Land Authority Act 1992</i> to provide authority to execute documents on behalf of an Authority in accordance with this Bill.
Clause 293	Sections 23A to 23D deleted Deletes sections 23A to 23D of the <i>Western Australian Land Authority Act 1992</i> , with this Bill containing relevant provisions for the assumptions that a person dealing with a GTE can make.
Clause 294	Parts 3A and 5 deleted Deletes Part 3A of the <i>Western Australian Land Authority Act 1992</i> relating to provisions on Authority's accountability, including development and provision of strategic documentation and quarterly and annual reporting, with relevant provisions now contained within this Bill. Deletes Part 5 of the <i>Western Australian Land Authority Act 1992</i> , which includes provisions on investments, borrowings, guarantees, guarantees, financial administration and audit and any payments to the State, with relevant provisions now contained within this Bill.
Clause 295	Sections 45, 45AA and 45A replaced Deletes sections 45, 45AA and 45A of the <i>Western Australian Land Authority Act 1992</i> , relating to laying documents before Parliament, execution of documents by the Authority and formalities of contracts under the mandate of the Authority, with relevant provisions now contained within this Bill. Also, a replacement section 45 provides that where there is a provision under the <i>Western Australian Land Authority Act 1992</i> that requires the Minister to lay a document before Parliament and a House is not sitting, then section 159 of this Bill will apply.

Clause 296	Section 47 amended Amends section 91 of the <i>Western Australian Land Authority Act 1992</i> to acknowledge that regulations made under the <i>Western Australian Land Authority Act 1992</i> prevail over this Bill, and to include the requirement for regulations to be made on the recommendation of both the Portfolio Minister and GTE Minister.
Clause 297	Schedules 1 and 1A deleted Removes Schedules 1 to and 1A of the <i>Western Australian Land Authority Act 1992</i> , with corresponding provisions included within this Bill.
Clause 298	Schedule 2 amended Amends the reference in Schedule 2 of the <i>Western Australian Land Authority Act 1992</i> from “[s 16(1)(c)]” to “[s 16(1)(d)]”.
Clause 299	Schedules 3 and 3A deleted Deletes Schedules 3 and 3A with relation to the constitution provisions of subsidiaries and for the Authority’s financial administration and audit requirements under the <i>Western Australian Land Authority Act 1992</i> , with provisions now contain within this Bill.
Division 11 – <i>Western Australian Treasury Corporation Act 1986</i> amended	
Clause 300	Act amended This Division of the Bill amends the <i>Western Australian Treasury Corporation Act 1986</i> .
Clause 301	Section 8AA amended Redefines the term ‘Government Entity’ by replacing references to section 7C(1) with section 7BA of the <i>Salaries and Allowances Act 1975</i> .
Clause 302	Section 8AB amended Redefines the term ‘Government Entity’ by replacing references to section 7C(1) with section 7BA of the <i>Salaries and Allowances Act 1975</i> .
Clause 303	Section 9 amended Amends section 9(1)(d) of the <i>Western Australian Treasury Corporation Act 1986</i> to add to the Corporation’s function to advise authorities on financial matters referred to in section 137 of the GTE Act.

Schedule 1 – Effect of provisions to be included in constitution or governing instrument of subsidiary of GTE

Clauses 1-5 provide for provisions that are to be included in the constitution or governing instrument of a GTE's subsidiary.

Like GTEs, the business operations of a subsidiary can impact the financial and economic standing of the State. Government is interested in managing these risks through the GTE Bill.

Schedule 1 limits the ability of a subsidiary to dilute Government's control over the entity, with the strengthening of provisions on the disposal and issue of shares, and requiring Portfolio Ministers to approve members of the board prior to appointment. More so, a subsidiary cannot form or acquire a subsidiary of their own as this subsidiary would be outside the scope of Government control.

Clause 1	<p>Disposal of shares or interests</p> <p>Provides that a GTE must not sell or dispose of shares or interests in its subsidiary except with the written approval of the Portfolio Minister.</p> <p>Subclause (2) provides the Portfolio Minister with the power to transfer shares and interests in the subsidiary.</p>
Clause 2	<p>Board or governing body</p> <p>Provides for the appointment of directors and members of a governing body of a subsidiary, responsibility and authority for decisions on the operations of the subsidiary and reporting accountability of the subsidiary.</p>
Clause 3	<p>Issue and transfer of shares or interests restricted</p> <p>Provides that issue or transfer of shares or interests in the subsidiary cannot proceed without the written approval of the Portfolio Minister.</p>
Clause 4	<p>Subsidiary must not have subsidiaries</p> <p>Precludes a subsidiary, on its own, from forming a subsidiary, participating in the formation of a subsidiary or acquiring a subsidiary.</p>
Clause 5	<p>Subsidiary to furnish information to GTE</p> <p>Provides that a subsidiary must provide the GTE with information that the GTE requires in order to comply with its obligations under Part 7 and stipulates that the subsidiary must not do a thing that would prevent it from providing that information.</p>