LEGISLATIVE COUNCIL

Thursday 4 June 2009

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:02 and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (11:03): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15pm.

Motion carried.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

Second reading.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (11:03): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The *Electoral (Miscellaneous) Amendment Bill 2009* amends the *Electoral Act 1985* and the *Constitution Act 1934* to increase participation in the electoral process and improve the efficiency and operation of the State's electoral system.

Most of the amendments in the Bill were recommended for consideration by the former State Electoral Commissioner in his reports on the 1997 and 2002 State Elections. Some were contained in the former Government's *Electoral Miscellaneous Amendment Bill* that was passed by another place in 2001. That Bill lapsed upon the calling of the 2002 election.

The Bill also addresses other matters raised by the Electoral Commissioner since the 2002 election report was released and contains Government initiated reforms to improve participation in the electoral process.

The amendments will:

- allow the Commissioner and her office to make better use of technology;
- protect roll information from commercial exploitation while improving the accuracy of the roll information provided to Members of Parliament, registered political parties and nominated candidates;
- introduce compulsory enrolment for State elections;
- encourage participation in the electoral process, including giving homeless people the right to vote and voters with certain caring responsibilities the right to make declaration votes;
- tighten the registration requirements for political parties;
- guarantee a 10-day grace period for enrolments after the calling of a State election;
- clarify the grounds of ineligibility for nomination as a candidate at a State election;
- improve the format and display of electoral material produced by the Electoral Commission of S.A.;
- enhance the transparency of electoral information provided to voters by candidates and parties;
- allow scrutineers greater access to election activities;
- make changes to the declaration voting regime, including imposing obligations on intermediaries who volunteer to lodge applications and votes on behalf of electors;
- allow a voter who changes address within the one electoral district, and who has been removed from the roll by objection, to make a declaration vote at the next State election;
- improve the efficiency of the scrutiny;
- clarify the grounds on which an election can be challenged in the Court of Disputed Returns;
- prohibit organisations, without a candidate's consent, claiming the candidate is associated with or supports the policies or activities of the organisation or advocating a first preference vote in the House of Assembly or a vote in the Legislative Council for the candidate;
- prohibit the posting of corflutes on structures, fixtures and vegetation on beside roads;

- improve the Commissioner's powers to enforce the *Electoral Act*, including increasing penalties for breaches of provisions of the Act;
- give the Electoral Districts Boundaries Commission the authority to employ its own administrative staff and more flexibility to conduct electoral redistributions ensuring it is able to consider the most up-to-date information about the South Australian electorate.

Amendments to the Electoral Act 1985

Public access to the electoral roll

Section 26 of the *Electoral Act* provides that copies of the latest prints of the electoral rolls must be available for inspection without fee at the offices of the Electoral Commissioner, the electoral registrars and returning officers and such other places as the Electoral Commissioner determines. Copies may also be purchased from the Office of the Electoral Commissioner.

The Bill makes these amendments to section 26.

Firstly, the Commissioner advises that maintaining up-to-date copies of the electoral roll in printed form at the offices of all electoral registrars and returning officers is no longer cost effective. It is easier and cheaper to provide electronic versions of the roll for inspection. Secondly, returning officers do not have access to a copy of the electoral roll for inspection until some time after their appointment as it takes some time to establish their offices.

To accommodate these matters, the Bill contains two amendments to section 26(1). These amendments remove the requirement that rolls be available for inspection at the offices of returning officers and that, elsewhere, an electronic or printed copy of the roll be made available for inspection. The Commissioner advises that, for the foreseeable future, a hard copy of the roll will be made available for inspection at the Electoral Commission of SA.

Thirdly, in his report on the 2002 election, the former Commissioner recommended the Government consider an amendment to section 26 to prohibit the use of roll data for commercial purposes, including by companies to build marketing databases. The Government agrees with this. There is strong feeling about the misuse of electoral roll information. The Federal Privacy Commissioner has found that 70% of consumers do not think that the electoral roll should be available for commercial marketing purposes. As such, the Bill repeals subsection (2) of section 26 that requires that copies of the latest print of the roll must be made available for purchase.

Fourthly, to ensure that Members of Parliament and registered political parties have access to up-to-date electoral roll data, the Bill adds a new subsection to section 26 to require the Commissioner to make available on request (at no cost):

- to each Member of the House of Assembly, an up-to-date electronic version of the electoral roll for that member's district;
- to each Member of the Legislative Council, an up-to-date electronic version of the roll for the Legislative Council;
- to the Registered Officer of a Registered Political Party, an up-to-date electronic copy of any electoral roll for any district; and
- to each nominated candidate, an up-to-date electronic version of the roll for the relevant district.

A new offence will prohibit a person using information obtained under section 26 for a purpose other than a State, Federal or local government purpose.

Power of the Electoral Commissioner to obtain information

Section 27 of the Act provides that the Commissioner may require any officer of the public service to provide information in connection with the preparation, maintenance or revision of electoral rolls.

The former Commissioner advised that there would be benefit in the Electoral Commission of SA having access to information from Government agencies and instrumentalities, such as the SACE Board of South Australia and the Residential Tenancies Tribunal whose officers are not officers of the public service. He advised that being able to obtain this information would be useful in maintaining up-to-date and accurate electoral rolls. For example, being able to obtain a list of year 12 students from the SACE Board would enable students to be sent information about enrolment, and being able to obtain information from the Tribunal would assist in ensuring that voters' addresses are kept up to date.

The Bill therefore extends section 27 to apply to any agency or instrumentality of the Crown or any other prescribed authority or any public sector employee. To ensure that the Commissioner's access to information can be appropriately limited, a new subsection will enable particular officers or agencies, or particular types of information, to be exempted from section 27.

Provision of information by the Electoral Commissioner

Section 27A of the *Electoral Act* provides for the provision of information held by the Electoral Commissioner about an elector. Subsection (2) provides that the Commissioner may, on application, provide a person of a prescribed class with:

- the elector's sex
- the elector's place of birth

- the age band within which the elector's age falls.

Subsection (4) authorises the Commissioner to impose conditions on and a fee for the provision of information. Breach of a condition is an offence under subsection (5).

The Government believes that the service that Members of Parliament can provide to their electors would be improved if they had access to an elector's date of birth rather than age band. For example, Members would be better placed to direct electors to age appropriate services. The Government also believes that, as Members of Parliament access roll information for legitimate public purposes, they should be exempt from the fees charged by the Commissioner.

The Bill therefore amends section 27A to—

- require the disclosure of the elector's date of birth rather than age band;
- delete subsection (3) that allows an elector to prevent his personal details being provided to a member of parliament;
- exempt a Member of Parliament from any fee charged by the Commissioner for provision of the information.

The penalty for a breach of section 27A is increased from $1,250 to $10,000 in line with advice from the former Commissioner.

Homeless voters

Section 29 of the *Electoral Act* sets out the criteria for enrolment to vote. In addition to age and citizenship requirements, a person is entitled to be enrolled only if he has his principal place of residence in a subdivision and has lived at that place of residence for a continuous period of at least one month immediately preceding the date of the claim for enrolment.

This requirement precludes the homeless from enrolling and voting in State elections.

The Government accepts that many people are homeless owing to circumstances beyond their control. That they have no home, and therefore no principal place of residence, should not, of itself, preclude them from enrolling and voting.

The *Commonwealth Electoral Act* recognises the plight of the homeless and makes provision for the enrolment of itinerant voters.

To ensure that homeless people can also vote in State elections, the Bill inserts a new section 31A into the *Electoral Act*.

New section 31A provides that a person without a principal place of residence who is in South Australia and who otherwise satisfies the requirements for enrolment under section 29 may apply to the Electoral Commissioner for enrolment. The Commissioner is given authority to nominate a subdivision having regard to certain information provided by the applicant and must place a special notation on the roll to indicate the person is enrolled under the new provision. A person so enrolled remains on the roll for the specified subdivision and may vote as an elector for that subdivision. Provision is made for the removal of an elector who qualifies under section 31A where they intend leaving or leave the State for more than one month, where they secure a principal place of residence that can be used to qualify for enrolment under section 29 or where they cease to be entitled to enrolment for some other reason.

Compulsory enrolment

Section 29(1) of the *Electoral Act* imposes no requirement on a person eligible for enrolment to enrol. Section 29 is couched in terms of a person's entitlement to be enrolled. However, under section 32, once enrolled, an elector must maintain his enrolment.

This can be contrasted with the position under the *Commonwealth Electoral Act* and in the other States and Territories where enrolment to vote is compulsory.

The Government supports compulsory enrolment. It believes that engagement in the political process through casting a vote at an election is an important civic duty. A person cannot vote if he is not enrolled. Increasing the proportion of eligible young South Australians (18-19 years) enrolled to vote to better the Australian average by 2014 is a State Strategic Plan Target.

As such, clause 9 of the Bill inserts new section 32 into the *Electoral Act*. New section 32 provides that a person who is entitled to be enrolled under section 29 must, within 21 days from the date on which he becomes entitled to be enrolled, must make a claim for enrolment. Persons entitled to be enrolled provisionally under section 29(2) or who are entitled to be enrolled as an itinerant voter under new section 31A are excluded from this requirement.

Criteria for Registration as a political party

Currently, a party seeking registration under the Act must have either:

- 150 members; or
- an elected member of an Australian Parliament (a 'parliamentary party').

The former Electoral Commissioner raised concerns about the registration of sham political parties qualifying under the low membership requirement and its potential effect on voting patterns, particularly in the Legislative Council. He recommended, in his report on the 2002 State Election, that the Government evaluate the criteria for party membership being adopted interstate.

The Government agrees that this is a risk and that measures ought to be taken to prevent it. Raising the minimum membership number is one way of reducing the opportunity for sham parties to obtain registration.

The question is what should the minimum number of members be?

In New South Wales the minimum number is 750. In comparing that State's population to South Australia's, the Government feels that 200 strikes an appropriate balance between the need to ensure a reasonable level of public support for registered political parties and the need to ensure that minority groups are able to form political parties and take advantage of the provision of the Act about parties.

The Government also believes that, to qualify as a 'parliamentary party' a party, should have either a member who is a member of the South Australian Parliament or one who represents South Australians in the Commonwealth Parliament.

The Bill amends section 36 of the Act so that, to qualify as an eligible political party, a party must have either 200 members or a member who is a member of the South Australian Parliament, a Senator for South Australia or a member of the House of Representatives chosen in South Australia. Consequential amendments:

- prohibit two or more political parties relying upon the same member for the purpose of qualifying as a party. A person relied upon by two or more parties will have to choose which party is to rely on his membership or he cannot be relied upon by any party;
- require a registered officer of a political party to provide an annual return and declaration to the Electoral Commissioner containing details of the party's membership or parliamentary representatives or both;
- authorise the Electoral Commissioner to deregister a party whose membership falls below 200 or that ceases to have an elected member in the South Australian Parliament or representing South Australia in the Commonwealth Parliament;
- make it an offence to provide false and misleading information to the Electoral Commissioner;
- protect the confidentiality of the names and addresses of electors provided to the Electoral Commissioner for the purposes of registration under the new provisions.

To protect parties already registered under the Act, the Bill includes a transitional provision to the effect that parties already registered under the Act need not comply with the new minimum membership requirements for a period of six months from the date of commencement of the amended provision. The Bill also provides that a party seeking registration must lodge its application six months before election day if it is to be registered for the purpose of an election.

Application for registration

Section 39 of the *Electoral Act* provides that an application for the registration of a political party may be made to the Commissioner by the secretary of the party (or any person authorised by the secretary), and the application must set out:

- the name of the party;
- any abbreviation of the name;
- the name and address of the person who is to be the registered officer of the party;
- the name and address of the applicant;
- copy of the party's constitution.

Apart from meeting the definition of 'eligible political party', providing the information under section 39 and meeting requirements about the party's name, no other registration criteria need be met.

The Commissioner advises there are just fewer than 30 parties registered under the South Australian legislation. This is higher than those States who have more stringent registration criteria aimed at stopping the registration of bogus parties.

For example, in New South Wales an application for registration must, in addition to requirements such as those specified under this State's legislation:

- set out the names and addresses (as enrolled) of the 750 members the party is relying upon to meet the membership requirements;
- be accompanied by declarations from those members;
- be accompanied by the payment of a registration fee of $2,000.

In his report on the 2002 election, the former Commissioner recommended more stringent registration requirements be considered.

The Government believes that more stringent registration requirements, based on those in force in New South Wales, will act as disincentive to the registration of sham political parties under the South Australian legislation.

As such, the Bill contains amendments to section 39 to:

- require an application for registration to be accompanied by the names and addresses of, and declarations from, the members on which the party relies to meet the minimum membership requirements; and
- require parties seeking registration to pay a fee of $500.

The Bill contains one further reform. Currently, once registered, a political party can immediately contest the next State election. The former Electoral Commissioner cited this as one factor in encouraging sham parties to register.

The Bill amends section 42 so that a party is required to be registered for at least six months before it can contest a State election as a political party.

Registration

Section 42 of the Act requires the Electoral Commissioner to determine a party's application for registration. Subsection (2) provides that the Commissioner must refuse an application where the party's name infringes conditions, including that it adopts or incorporates the name of another unrelated party so as to imply falsely some connection.

Concerns have been raised about the practice of some parties of registering names that, although permissible under section 42(2) because they do not adopt enough of an existing party's name to infringe against that section, nonetheless are misleading because they incorporate words that constitute a distinctive part of another party's name.

Amendments to section 42 address these concerns by authorising the Commissioner to refuse to register the name of a party where she is of the opinion that the proposed name for the party contains words that constitute a distinctive part of another registered party or parliamentary party, unless the other party consents.

Close of the rolls

Section 48 of the *Electoral Act* provides, at subsection (1), that a writ must fix the date and time for the close of the rolls, and, at subsection (3), that the date fixed for the close of the rolls must be a date falling not less than 7 days nor more than 10 days after the date of the issue of the writ.

Although providing some flexibility to the Government of the day in terms of setting the critical dates for the election period, subsection (3) creates uncertainty for those people who have not yet enrolled to vote before the election is called.

The Government believes that giving people as long as possible to enrol to vote after an election is called will encourage participation in the democratic process.

The Bill therefore amends section 48(3) to fix the date for the close of the rolls at 10 days after the date of the issue of the writ.

Qualifications of candidates

Sections 17 and 31 of the *Constitution Act* set out the grounds on which a member of the Legislative Council or House of Assembly must vacate his seat. Relevantly, these grounds are that the Member:

- is not or ceases to be an Australian citizen;
- takes any oath or makes any declaration or act of acknowledgment or allegiance to any foreign prince or power;
- does, concurs in, or adopts any act whereby the member may become a subject or citizen of any foreign state or power;
- becomes bankrupt;
- takes the benefit of any law relating to insolvent debtors;
- becomes a public defaulter;
- is attainted of treason;
- is convicted of an indictable offence; or
- becomes of insane mind,

The qualification of candidates for election is set out in section 52 of the *Electoral Act*. Section 52 provides that a person is not qualified to be a candidate for election as a member of the House of Assembly or Legislative Council unless the person is an elector. The criteria for being on the roll are set out in section 29. No other criteria (other than not nominating for more than one election) are specified. The disqualifying criteria prescribed in sections 17 and 31 of the *Constitution Act* are not replicated in section 52 meaning that, technically, a person who would be disqualified under section 17 or 31, could, nonetheless, nominate as a candidate in an election.

In his report on the 2002 State election, the former Commissioner recommended amendments to section 52 to provide that a person is not eligible to be a candidate for election if the person would be required to vacate his seat in the Legislative Council or House of Assembly under section 17 or 31 of the *Constitution Act*. This recommendation is taken up in the Bill.

Grouping of Candidates in Legislative Council elections

Section 58 of the *Electoral Act* provides for the grouping together of candidates on the ballot paper.

In general, parties put forward fewer candidates than the number of vacancies to be filled. Most major parties put forward six, seven or eight candidates for the 11 Legislative Council vacancies to be filled.

In his report on the 2002 State election, the former Commissioner raised concerns about the potential for a group or groups to put forward a higher number of candidates than the number of vacancies to be filled. This would distort the ballot paper and may make it impossible to create a ballot paper that can reasonably be used by voters. He recommended amendments to section 58 to prohibit a group putting forward more candidates than the number of vacancies to be filled. This recommendation is taken up in the Bill.

Printing of Legislative Council Ballot Papers

Section 59 of the *Electoral Act* prescribes how the ballot papers for the Legislative Council are to be set out. Currently, it does not deal with the situation where, because of the number of candidates, a second or subsequent row of candidates is necessary.

The Bill amends section 59 to deal with this situation by providing that the prescribed sequence (grouped candidates before individual candidates) may continue onto a second or subsequent row.

Voting Tickets

Section 63 of the Act provides for the lodgement of voting tickets. It provides that:

- notice must be given to the Electoral Commissioner of an intention to lodge a ticket at or before the hour of nomination;
- the ticket must be lodged within 72 hours of the close of nominations.

The ticket becomes the basis on which preferences are distributed for votes above the line. In the absence of a ticket, the Commissioner has no way of knowing how to distribute preferences to other candidates.

Ballot papers are printed over the weekend after the close of nominations. The papers contain a square for every candidate who has lodged a notice of intention.

The Commissioner is concerned about the potential for a candidate to lodge a notice of intention but not a ticket. Where this occurs, the Commissioner does not know how to distribute the candidate's preferences. Although this has not happened, a serious risk remains.

The Bill amends section 94 to provide that where a notice of intention, but no ticket, is lodged, the vote is classed informal unless it is formal below the line.

To provide protection to candidates who lodge tickets, section 59 is amended to provide that where a notice of intention to lodge a voting ticket has been lodged, the Commissioner must ensure that an additional square above the line is put on the ballot paper and section 63 is amended to provide that, where a notice of intention, but no ticket, is lodged the Commissioner must take all reasonable steps to notify the candidate, party or group, but need not take any further action about the notice.

Printing of descriptive information on ballot papers

Section 62(1)(d) of the *Electoral Act* enables a candidate to apply to the Electoral Commissioner to have a description consisting of the word *independent* followed by not more than five additional words printed adjacent to their name on the ballot paper.

The Electoral Commissioner has expressed concern that, if a political party objects to the use of its name as a description for an independent candidate, the party could seek to prevent the printing, distribution or even use of the ballot papers by way of injunction. This could cause serious disruption to the electoral process and, if the injunction were granted, the incurring of heavy costs in recalling, destroying and reprinting the ballot papers.

To address these concerns, the Bill amends section 62 to provide that a decision of the Electoral Commissioner to accept or reject an application under section 62(1)(d) is final and conclusive and not subject to review or appeal.

Consequential to the amendments to section 42 about the registration of a party's name, the Bill also amends section 62 to authorise the Commissioner to refuse to approve a description where the word or words constituting the description would infringe new section 42(2)(e).

Properly staffed polling places

Section 65(2) of the Act provides that no premises licensed to sell liquor may be used as a polling station.

Some polling booths, particularly in the country, are located in community halls and sporting clubs that have liquor licenses. This means that the Commissioner must approach the Liquor Licensing Commissioner for a

temporary cancellation or suspension of the licence for the days of polling. This is resource intensive in that the relevant premises must be identified and applications made to the Commissioner about them.

The Commissioner has recommended an amendment to section 65(2) to allow licensed premises to be used as a polling location provided no alcohol is consumed or sold on the premises while the booth is open for voting or otherwise being used for the purpose of the poll.

The Bill amends section 65(2) as recommended by the Commissioner.

Display of electoral material

Section 66 of the Act sets out the material that the Electoral Commissioner must make available for display in polling booths on polling day. This includes the how-to-vote cards submitted by candidates.

The Bill repeals section 66 and replaces it with a new provision.

Consistent with the amendments to section 62 prohibiting a candidate requesting a description where the word or words constituting the description would infringe new section 42(2)(e), new section 66 provides that how-to-vote cards must not identify a candidate:

- by reference to the registered name of a political party or composite name of two registered parties; or
- by using words that could not be registered as the name, or part of the name, under new subsection 42(2)(e),

unless the candidate is endorsed by the relevant party or the relevant party has consented to the use of the relevant name or names or word or words.

Section 66 also sets out the requirements for material displayed in polling booths. Currently, subsection (1) provides that the Electoral Commissioner must display posters, formed from the how-to-vote cards submitted by candidates, and for the Legislative Council election, posters containing the voting tickets registered for the purpose of the election. Subsection (4) provides that the order in which the electoral material must be displayed in the posters is to be determined by lot. Subsection (6) provides that posters containing the how-to-vote cards must be displayed in each voting compartment and the poster containing the voting tickets must be displayed at the booth.

Consistent with recommendations made by the former Electoral Commissioner in his report on the 2002 State election, new section 66 incorporates these changes.

New section 66(1)(b) provides that the Electoral Commissioner may display the Legislative Council voting tickets in either posters or booklet form. Currently, these have to be displayed on posters.

New section 66(2) provides that the posters and booklets must list candidates in the same order as their names will appear on the relevant ballot paper. Currently, the order of names must be determined by lot.

New section 66(5) requires the posters and booklets be displayed in a prominent place in each polling booth. Currently the requirement is that they be displayed in each voting compartment.

Scrutineers

Section 67 of the *Electoral Act* provides that a candidate may, by notice in writing to a district returning officer, appoint scrutineers for polling booths in the district and to represent his interests at the scrutiny.

The Bill makes two changes to section 67, both at the recommendation of the former Electoral Commissioner. First, scrutineers are to be appointed for the purposes of the election. This will overcome any doubts as to whether a scrutineer may be present at pre-polling activities. Second, rather than requiring a candidate to provide notice in writing of an appointment to the district returning officer, a scrutineer will be required to present a signed form of appointment to the electoral officer in charge of proceedings.

The Bill also amends section 119 of the Act to authorise the removal of a disruptive candidate or scrutineer from a polling booth. This was also a recommendation of the former Electoral Commissioner.

Manner of voting

Sections 32(1) and (2) of the *Electoral Act* provide, respectively, that:

- an elector whose principal place of residence changes from one subdivision to another must, within 21 days of becoming entitled to be enrolled for that other subdivision, notify an electoral registrar of the address of the principal place of residence;
- an elector whose principal place of residence changes from one address to another within the same subdivision must, within 21 days of the change, notify an electoral registrar of the address of the elector's current principal place of residence.

Where an electoral register determines that an elector has failed to update his principal place of residence, he may be removed from the roll by way of objection under sections 33 and 35 of the Act. This disqualifies the person from voting even though he would, but for failing to notify the Commissioner of his change of address, remain enrolled in that District or subdivision.

The Government believes it is reasonable that a person be required to notify the Commissioner of his change of address. It is inappropriate that such a failing on the person's part to carry out his legal obligation should preclude him from voting where he remains in the same District or even the same subdivision.

To ensure that electors in this situation can still vote at the next State election or by-election, the Bill amends section 71 of the *Electoral Act* to add, as an additional category of person entitled to lodge a declaration vote, a person who been objected off the roll because he has failed to notify a change of address where his previous and new address are both in the same House of Assembly district.

Registration as a declaration voter

The Bill makes amendments to section 74 of the Act that deals with registration as a declaration voter.

Firstly, the former Electoral Commissioner advised that a number of electors who had continuing caring responsibilities were experiencing difficulties attending polling booths. The Bill adds to the list of people entitled to register for declaration voting an elector who is unable to attend a polling booth because she is responsible for caring for a person who is seriously ill, infirm or disabled.

Secondly, the criteria to be satisfied by electors who live remotely are amended. Currently, section 74(3)(b)(iii) provides that an elector is entitled to register as a declaration voter if the remoteness of his place of residence is likely to preclude him from attending at a polling place. So to ensure consistency with the *Commonwealth Electoral Act* this is amended so as to set a 20km limit. A transitional provision will protect those electors currently registered under the remoteness provision who would not qualify under the new 20km rule. This will streamline the Electoral Commission's administrative processes and will also be easier for electors, who will need to fill in only one form for the purpose of claiming declaration status for both State and Federal elections.

Thirdly, section 74 is amended, on the advice of the former Commissioner, to allow for declaration voting papers to be issued or dispatched by post or in a manner prescribed by regulation.

Finally, the former Commissioner reported concerns that some party officials were failing to forward declaration voting papers given to them by electors in a timely manner. The Bill adds a new subsection (7) to section 74 that requires a person who is given an application for declaration voting papers by an elector to transmit the application to an appropriate officer as soon as possible.

Assistants

Section 80(1) provides that where a voter satisfies the presiding officer that he is unable to vote without assistance, the voter may be accompanied by an assistant of his choice in the polling booth.

To address concerns raised by the former Electoral Commissioner about the potential for inappropriate pressure or influence being applied to electors, the Bill amends section 80 to make it clear that candidates and scrutineers are prohibited from offering assistance.

Forwarding of declaration votes

Consistent with new section 74(7), the Bill amends section 82 of the Act (Declaration vote, how made) to require a person given a declaration vote for lodgement by an elector to do so as soon as possible.

Security of facilities

The term 'ballot box' is used in several provisions in the Act.

The former Electoral Commissioner advised that live ballot material is actually kept in secure facilities rather than ballot boxes as using ballot boxes has become impractical owing to large volumes. It is therefore recommended that the relevant provision (sections 82, 84 and 87 of the Act) be amended to take account of the use of secured facilities.

Amendments to sections 82, 84 and 87 to add 'secured facilities' are included in the Bill.

Compulsory voting

Section 85 of the Act imposes the requirement on every elector to vote or, more particularly, comply with the formalities of voting. Where an elector fails to vote, the Electoral Commissioner may send the elector a notice calling on him to show cause why proceedings for failing to vote without a valid and sufficient reason should not be instituted against him.

Section 85(5) requires an elector to whom a notice is sent to complete the form stating the reasons (if any) why proceedings for failing to vote at the election should not be instituted against him. Section 85(5) provides, expressly, that an elector do this by completing the form *at the foot of the notice*. In fact, the declaration is printed on the second page of the declaration. The Bill amends section 85(5) to reflect this.

Preliminary Scrutiny

Section 91 of the Act provides for the preliminary scrutiny of declaration votes. Subsection (1) provides that the returning officer or a deputy returning officer must produce all applications for declaration voting papers, and produce unopened all envelopes containing declaration ballot papers received and, before admitting the vote into the scrutiny, satisfy himself, by scanning the booth rolls, that the voter is entitled to vote at the election and, in the case of declaration voting papers of voters whose votes were not taken before an officer:

- that the signature of the declarant corresponds with the signature on the application for declaration voting papers; and
- that the vote was recorded before the close of poll.

The requirement to scan the rolls before admitting declaration votes into the scrutiny is intended as a safeguard against an elector voting more than once. However, advice from the Commissioner suggests that this is not a major problem. Firstly, the numbers of electors voting twice is a small number. The Commissioner advises that, for example, at the 2002 election a total of 12 people voted more than once. Secondly, section 91(1) applies only to declaration votes. An elector could still vote more than once by attending more than one booth and providing false information to the electoral official under section 72.

The problem is that the requirement that the returning officer scan the booth rolls before the vote is admitted into the scrutiny means declaration votes cannot be included in the preliminary count.

The Commissioner no longer considers the preliminary scrutiny necessary. She advises that the requirement be dropped so that declaration votes can be included in the preliminary count.

The Bill therefore amends sections 89 and 91 to allow declaration votes to be admitted into scrutiny before the scanning of the booth rolls.

De-centralised final scrutiny of Legislative Council ballot papers

The scrutiny of Legislative Council ballot papers is governed by section 95 and 96D.

Section 95 sets out the procedure to be followed when conducting the scrutiny of Legislative Council votes. This procedure requires the final scrutiny, including above-the-line votes, to be conducted centrally by the Returning Officer for the Legislative Council.

The procedure for conducting the scrutiny was established in 1985. At that time, there were 846, 250 ballot papers, eight groups and 36 candidates seeking election.

Since 1985, Legislative Council elections have become more complicated in that more votes are cast and more groups and candidates are contesting the election. In 2002, for example, there were 983, 567 ballot papers, 48 groups and 76 candidates. Complying with the prescribed procedures for the scrutiny is causing administrative and logistical problems for the Commissioner's office.

The Commissioner has recommended amendments so that, where it is appropriate to do so, the final scrutiny of ticket ballot papers (of above-the-line votes only) and obvious informal votes can be conducted by the Deputy Returning Officers at their office. Under this new procedure:

- the Deputy Returning Officer for each division will conduct the second scrutiny of the ballot papers to determine formality;
- the Deputy Returning Officer will count the valid ticket (above-the-line) votes for each candidate and informal votes but parcel up all non-ticket (below-the-line) votes, which would be sent to the Returning Officer for central scrutiny as now;
- the Deputy Returning Officer will transmit the results of his scrutiny (the number of valid ticket votes for each candidate and informal votes) to the Returning Officer who would ensure input into the count software;
- the Returning Officer will continue to oversee the final scrutiny of non-ticket (below-the-line) votes, the data input and processing of those preferential votes, amalgamation of all count data, and the determination of the quota and transfer values.

Where the new procedure is used, and this will be up to the Commissioner, all that will change is that the scrutiny and recording of ticket votes and obviously informal ballot papers now conducted by the Returning Officer will be conducted at the relevant Deputy Returning Officer's office.

Disputed Elections and Returns

The Bill addresses two matters about petitions to the Court of Disputed Returns.

Firstly, section 105 provides that the Commissioner is the respondent to any petition to the Court of Disputed Returns. Both the Commissioner and the Crown Solicitor have recommended that the candidate whose election is being challenged should be added as a respondent under section 105.

This would avoid any argument before the Court as to the candidate's standing to appear.

This is addressed in the Bill.

Secondly, the Bill clarifies the grounds on which an election may be declared void.

Although not expressly stated in the Act, the common law of elections applies in South Australia. At common law, the grounds on which an election may be declared invalid are:

- that there was no real election, that is, where it can be shown that the electors did not in fact have a free and fair opportunity of electing the candidate that the majority might prefer; or
- that the election was not really conducted under the requirements of the Act—that is, the conduct of the election departed so far from the requirements of the Act that it could not be said the election was conducted under those requirements;

In South Australia the common law principles must be modified to take account of section 107.

Section 107(3) provides that an election will not be declared void on the grounds of a defect in a roll or certified list of electors, or an irregularity in, or affecting, the conduct of the election, unless the Court is satisfied, on the balance of probabilities, that the result of the election was affected by the defect or irregularity. Section 107(4) provides that an election may be declared void on the ground of defamation of a candidate but, again, only if the Court is satisfied, on the balance of probabilities, that the result of the election was affected by the defamation.

The Bill makes several amendments to section 107 to better clarify the grounds on which an election may be declared void.

Firstly, a new subsection (5) is inserted. This expressly provides that an election may be declared void on the ground of misleading advertising, but only where the Court is satisfied on the balance of probabilities that the result of the election was affected by the advertising. This clarifies an inconsistency between the Court of Disputed Returns' judgment in *King* and the Full Court's judgment in *Featherstone* about petitions founded on misleading advertising.

The Bill also adds to the grounds on which an election may be declared void, these grounds:

- bribery (this is already an offence under s109 of the Act);
- undue influence (this is also an offence under s110 of the Act);
- interference with political liberty (an offence under s111).

Where anyone of these breaches is committed by the successful candidate or by a person acting on the candidate's behalf with that candidate's knowledge, the election may be declared void irrespective of whether the illegal conduct affected the outcome of the election.

Where someone other than the successful candidate, without the candidate's knowledge, commits the breach, the election may be declared void only if the court is satisfied, on the balance of probabilities, that the conduct affected the outcome of the election.

Printing and publication of electoral material (s112)

Section 112 prohibits a person publishing or distributing (or authorising the publication of) an electoral advertisement in printed form unless—

- the name and address (not being a post office box) of the author of the advertisement or the person who authorised its publication appears at the end;
- in the case of an electoral advertisement that is printed but not in a newspaper— the name and place of business of the printer appears at the end.

The Bill makes these amendments to section 112.

Firstly, section 112 refers to advertisements 'in printed form'. Political parties and candidates can, like any other person or organisation, place advertisements on the Internet.

The Bill amends section 112 so that it clearly applies to advertisements published in electronic form, including on the Internet.

Secondly, although section 112 requires that the name and address of the author of the advertisement (or the person who authorised the advertisement) appear at the end of the advertisement, there is a loophole that allows some authors to disguise their identity by using, in the case of a woman, her maiden name.

This loophole was highlighted in the matter of *King v Electoral Commissioner*. In that case, the petitioner alleged that some advertisements were misleading and in breach of s112, and sought to have the election of the successful candidate declared void. One of the advertisements for another candidate (a pamphlet) was authorised by the candidate's mother, using her maiden name.

The Bill amends section 112 to close this loophole by requiring, in subsection (1)(a) that the name and address cited is the name by which the person is usually known.

The Bill also increases the penalties for a breach of section 112 from $1,250 if the offender is a natural person and $5,000 if the offender is a body corporate, to $5,000 and $10,000.

Bogus how-to-vote cards

The Commissioner has raised concerns about the potential for bogus how-to-vote cards to be used at State elections.

The main type of bogus how-to-vote card that has caused problems interstate is the second-preference card, which is aimed at capturing the second preferences of persons who intend voting for one party, particularly a minor party or independent. These bogus cards, although advocating a vote for the minor party or independent, allocate preferences to one of the major parties. They are constructed to look like a minor party or independent issued them.

Although the Government believes there is nothing wrong with attempting to solicit the second-preferences of voters honestly, it does not believe the same can be said where bogus cards, purporting to be issued by an independent or minor party, dishonestly direct preferences to a major party (or any party or candidate). Bogus how-to-vote cards could, in a worst-case scenario, affect the outcome of an election decided on preferences. At the very least, they could affect voter confidence in the electoral process.

To address this problem, the Bill inserts two new sections, sections 112A and 112B, into the Act.

New section 112A requires that how-to-vote cards distributed during an election must include both the name and address of the person who authorised the card and the name of the relevant party (or independent candidate).

New section 112B prohibits a person from publishing or distributing how-to-vote cards or electoral advertisements that identify a candidate by reference to the name of a registered political party, or uses words that constitute a distinctive part of the name of another party, unless that person is an endorsed candidate of the party or the party has consented to the use of the particular words.

Publication of matter regarding candidates

The Bill inserts into the *Electoral Act* a new provision that replicates section 351 of the *Commonwealth Electoral Act*. New section 112C prohibits a person, on behalf of any association, league, organisation or other body, making an announcement or distributing material:

- in which it is claimed or suggested that a candidate in an election is associated with, or supports the policy or activities of that association, league, organisation or body; or
- that advocates or suggests that a voter should give his first preference vote in the House of Assembly to a candidate or allocate a valid preference to a candidate in a Legislative Council election not greater than the number to be elected,

without the consent of the candidate.

Misleading Advertising

Section 113 of the *Electoral Act* prohibits misleading advertising. The current penalties for a breach of section 113 are $1,250 if the offender is a natural person and $10,000 if the offender is a body corporate.

In light of advice from the former Commissioner about the adequacy of these penalties, the Bill amends section 113 to increase the penalties to $5,000 and $25,000.

Heading to electoral advertisements

Section 114 of the *Electoral Act* provides that where electoral matter is to be inserted in a newspaper, the proprietor of the newspaper must cause the word 'advertisement' to be printed as a headline to the electoral matter. Section 114 applies in respect of electoral matter for which payment or some other consideration is given for publication.

The Bill amends section 114 to delete the references to 'newspaper' and replaces these with 'journal', and then defines a 'journal to be a newspaper, magazine or other periodical, whether published for sale or distribution without charge.' It also extends section 114 to cover electronic publication on the internet.

Electoral Advertisements

The display of electoral advertising is regulated under section 115 of the *Electoral Act*.

Subject to some exceptions, section 115 prohibits the exhibition of an electoral advertisement on a vehicle, vessel, building, hoarding or other structure (e.g., a fence) that occupies an area in excess of one square metre.

The Bill amends section 115 to further restrict electoral advertising. New subsection (2a) will prohibit a person exhibiting an electoral advertisement by affixing it to a structure, fixture or vegetation that is situated on a road or road related area.

Published material

Section 116(1) provides that a person must not (during an election period) publish material consisting of, or containing, commentary on any candidate, party, issues being submitted to voters in written form, or by radio or television, unless the material is accompanied by a statement of a person who takes responsibility for the publication of the material.

Section 116(2) provides exceptions to the disclosure requirement in subsection (1). These are:

- the publication in a newspaper of a leading article;
- the publication of a report of certain meetings;
- the publication in a newspaper of an article, letter, report or other matter if the newspaper contains a statement to the effect that a person whose name and address appears in the statement takes responsibility for the publication of all electoral matter published in the newspaper;
- a news service or a current affairs programme on radio or TV.

The Bill amends section 116:

- so the requirement to include a statement will *also* apply to material consisting of, or containing, commentary on any candidate, party, issues being submitted to voters etc., that is published or broadcast on the Internet;

- to delete the third exception, *the publication in a newspaper of an article, letter, report or other matter if the newspaper contains a statement to the effect that a person whose name and address appears in the statement takes responsibility for the publication of all electoral matter published in the newspaper*; and
- to address concerns about the application of section 116 to letters and websites that already carry the name and address of the author, to amend section 116 to add a new subsection allowing for the further exclusion of particular types of material from section 116 by regulation.

Protection of the Commissioner and her staff from liability

There is at present no provision in the Act that protects the Commissioner or her staff from liability for losses suffered as a result of the acts or omissions of her office.

Many other Acts of a similar nature provide indemnity for persons working in the administration of the relevant Act, and provide that any liability will be against the Crown.

The Bill inserts a new section 137 that provides:

- immunity from liability for all persons involved in the administration of the Act for any act or omission in good faith in the exercise or purported exercise of powers or functions under the Act; and
- that any such liability would lie instead against the Crown.

Proposed Amendments to the Constitution Act 1934

The Bill also amends the provisions governing electoral redistributions in the *Constitution Act.*

Appointments to the Electoral Districts Boundaries Commission

Section 81 of the *Constitution Act* provides for the appointment of a Secretary to the Commission and allows for that person to be remunerated, as determined by the Commission. However, the Commission has no authority to appoint other staff to do things to assist the Commission in discharging its legislative responsibilities.

This amends section 81 to allow the Commission to appoint support staff to assist the Commission in discharging its legislative responsibilities.

Commencement of Electoral Districts Boundaries Commission proceedings

The Electoral Commissioner advises that with the 2001 amendments to the *Constitution Act* introducing fixed four-year terms, the current framework for conducting an electoral redistribution, which requires the Electoral Districts Boundaries Commission to commence its proceedings within three months of the election and complete those proceedings with all due diligence has caused logistical and operational difficulties for the Commission.

The data necessary to perform the process so that the boundaries reflect the demographics of the State as accurately and as up-to-date as possible are not, generally, available until the second or third year after an election.

For example, following the last State election the Commission was required to commence its proceedings by June 2006 and complete them with all due diligence. The last population census was conducted in August of 2006. The 2006 census data was not then available. This meant the Commission had to rely upon census data from 2001, with annual updates to 2006, and then project possible population data out to the timing for the subsequent election in 2010. The demographers have raised their concerns with using this method for determining population movements and trends so far into the future.

A similar problem will arise with the redistribution required to be conducted after the 2010 State election.

The Commission would benefit greatly, in both the currency and accuracy of demographic projections, if it were able to deliberate later in the parliamentary term.

The Bill therefore amends section 82(2) so that the Commission is required to commence its deliberation within 24 months of polling day (the half-way point of the electoral term). This will still leave two years to determine and implement the new boundaries. The Commissioner advises that this would give the Commission enough time to complete the process in time for the next election.

The Commission will still be able to commence the process earlier; however, it will not be required to commence a redistribution until two years after the election.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Electoral Act 1985*

4—Amendment of section 4—Interpretation

This clause inserts a definition of *voting ticket square* into the Act, reflecting its use in the amendments made by this measure.

5—Amendment of section 26—Inspection and purchase of rolls

This clause amends section 26(1) to make it clear that copies of the roll may be made available for inspection in electronic form and to delete the requirement that copies be available for inspection at the offices of returning officers. The clause also substitutes a new subsection (2) requiring the Electoral Commissioner to provide certain persons with an up-to-date copy of the relevant electoral roll (which may be in electronic form). Other new subsections provide for additional information to be made available to House of Assembly members and nominated candidates where there has been an electoral redistribution and set out procedural matters related to the operation of subsection (2). In addition, there is a new offence for misuse of a copy of the roll punishable by a maximum fine of $10,000.

6—Amendment of section 27—Power to require information

This clause extends the bodies or persons from whom the Electoral Commissioner can require information under section 27 to include an agency or instrumentality of the Crown or any other prescribed authority, or a public sector employee, and also provides for an exemption power under the regulations related to those bodies or persons, or certain information or material in their possession or control.

7—Amendment of section 27A—Provision of certain information

This clause amends section 27A to enable the Electoral Commissioner to give the relevant person information about an elector's date of birth. The penalty for contravention of a condition related to the giving of the information is increased to $10,000, and Members of Parliament are exempted from the need to pay a fee for the provision of the information. In addition, the current subsection (3) is deleted.

8—Substitution of Part 5 Division 3

This clause inserts new Division 2A into Part 5 of the Act, dealing with the enrolment of itinerant persons. The new section 31A sets out procedures for enrolment and disenrolment in such cases.

The existing Division 3 is replaced with a new Division providing for compulsory enrolment. Failure to make a claim for enrolment is an offence punishable by a maximum penalty of $75. The Division also includes the provisions currently in Division 3 regarding transfer of enrolment and notification of a change of address within the same subdivision.

9—Amendment of section 36—Definitions and related provisions

This clause makes amendments to section 36 to modify the definitions of *eligible political party* and *parliamentary party*. To be an eligible party for the purposes of the Part, a political party must, if it is not a parliamentary party, have at least 200 electors in its membership. A parliamentary party is now defined by the presence of at least 1 member who is a member of the South Australian Parliament, or a South Australian Senator or member of the House of Representatives.

The clause also inserts new subsections (3) and (4), setting out procedures in the case of a member that is relied on by 2 or more parties.

10—Amendment of section 39—Application for registration

This clause inserts new paragraphs (f), (g) and (h) into section 39(2) of the Act, setting out additional required contents in relation to applications for registration of an eligible political party consequential to the amendment of section 36 and providing for payment of a non-refundable application fee of $500.

11—Amendment of section 40—Order in which applications are to be determined

This clause provides that if an application is received for registration of a political party within 6 months of a general election, the application must not be determined until after the general election.

12—Amendment of section 42—Registration

This clause substitutes section 42(3). Proposed new subsection (3) enables the Electoral Commissioner to refuse an application for registration of a political party if the name, or an abbreviation or acronym of the name comprises or contains a word or words that constitute a distinctive aspect or part of the name of another political party (not being a related political party) that is a parliamentary party or a registered political party, or that so closely resembles a distinctive aspect or part of the name etc of such a party that it appears that that distinctive aspect or part of that name is being adopted by the political party applying for registration. Proposed new subsection (3a) provides that this will not apply if the relevant parliamentary party or registered political party consents to the use of the word or words.

13—Insertion of section 43A

This clause inserts new section 43A into the Act. The new section requires the furnishing of annual returns by the registered officer of a registered political party. The new section sets out procedural matters related to such returns.

14—Amendment of section 45—De-registration of political party

This clause amends paragraph (b) of section 45(1) to enable the Electoral Commissioner to de-register a political party that has ceased to fulfill the membership requirements.

15—Insertion of sections 46A and 46B

This clause inserts new sections 46A and 46B into the Act.

Section 46A provides that it is an offence for a person to knowingly make a false or misleading statement when furnishing information for the purposes of this Part. The maximum penalty is a fine of $5,000.

Section 46B provides for the protection and confidentiality of the names and addresses of electors provided to the Electoral Commissioner in connection with the membership requirements for registration, or continued registration, as a political party. That information is not available for public inspection under the Part.

16—Amendment of section 48—Contents of writ

This clause substitutes a new section 48(3), providing that the date fixed for the close of the rolls must be 10 days after the issue of the writ (unless that day would be a Saturday, Sunday or public holiday, in which case the date must be the next day after that, not being a Saturday, Sunday or public holiday).

17—Amendment of section 52—Qualifications of candidate

This clause inserts new subsection (1a) into section 52, which provides that a person is not qualified to be a candidate for election as a member of either House if he or she would, if elected, be required to immediately vacate his or her seat under the specified provisions of the *Constitution Act 1934*.

18—Amendment of section 58—Grouping of candidates in Legislative Council election

This clause inserts a new subsection (4) into section 58 of the Act, requiring that the number of candidates in a group not exceed the number of candidates required to be elected at the relevant Legislative Council election.

19—Amendment of section 59—Printing of Legislative Council ballot papers

This clause amends paragraph (a) of section 59(1) of the Act, regarding the setting out of the candidates' names on the Legislative Council ballot paper where there are grouped and non-grouped candidates. The clause also substitutes a new subsection (2) providing that if a notice of intention to lodge a voting ticket has been given then an additional square must be printed on the ballot paper (currently this provision only applies where a voting ticket has actually been lodged).

20—Amendment of section 62—Printing of descriptive information on ballot papers

This clause substitutes the current section 62(3), dealing with the question of when the Electoral Commissioner can reject an application to have a description consisting of the word 'Independent' followed by not more than 5 additional words. Currently the Commissioner may reject such an application if the description is obscene or frivolous but under the proposed subsection the Commissioner may also reject it if the words are caught by the operation of section 42(2)(e) or proposed section 42(3)(b) and the relevant party has not indicated that it supports the application. Such a decision of the Electoral Commissioner is not reviewable.

21—Amendment of section 63—Voting tickets

This clause amends section 63 to require the Electoral Commissioner to take reasonable steps to contact the relevant candidates where notice of intention to lodge a voting ticket has been given but no voting ticket has been lodged.

22—Amendment of section 65—Properly staffed polling booths to be provided

This clause amends section 65(2) of the Act, allowing premises the subject of a licence to sell liquor to be used as a polling booth, provided the Electoral Commissioner has taken reasonable steps to ensure that liquor will not be sold or consumed on the premises while the polling booth is being used for the purposes of the poll.

23—Substitution of section 66

This clause substitutes a new section 66 in the Act. The new provision sets out the electoral material that the Electoral Commissioner must have had prepared for use in polling booths on polling day and sets out requirements relating to the materials.

24—Amendment of section 67—Appointment of scrutineers

This clause amends section 67 of the Act, requiring notice of the appointment of a scrutineer by a candidate to be given to the presiding officer at the relevant place before the scrutineer can so act.

25—Amendment of section 71—Manner of voting

This clause inserts new subsections (3) and (4) into section 71 of the Act, setting out an additional circumstance in which a person can make a declaration vote at an election, and making a related provision.

26—Amendment of section 74—Issue of declaration voting papers by post or other means

This clause amends section 74 of the Act by inserting a new subsection (2a), enabling declaration voting papers to be issued or dispatched by means (other than by post) set out in the regulations, and also extends the circumstances in which a person can register as a declaration voter to include carers of seriously ill, infirm or disabled persons, and electors who live more than 20km from any polling place (including a place where a mobile polling booth is likely to be established).

The clause also provides an offence for a person who, when given an application by an elector for the issue of declaration voting papers on the basis that the person will deliver the application to the appropriate officer, fails to transmit the application to the appropriate officer as soon as possible.

27—Amendment of section 80—Voter may be accompanied by an assistant in certain circumstances

This clause inserts a new section 80(4) into the Act, providing that a candidate, or a scrutineer appointed by a candidate, must not act as an assistant to a voter under that section. To do so is an offence punishable by a maximum penalty of $1,250.

28—Amendment of section 82—Declaration vote, how made

This clause makes consequential amendments to section 82 of the Act, and also provides a new offence in new subsection (4a) for a person who is given an envelope containing a declaration vote of an elector for transmission to a returning officer, and who fails to lodge it with, or forward it by post to, the appropriate district returning officer as soon as possible.

29—Amendment of section 84—Security of facilities

This clause amends section 84 of the Act to reflect the fact that secured facilities other than ballot boxes may be used at an election.

30—Amendment of section 85—Compulsory voting

This clause makes minor consequential amendments to section 85.

31—Amendment of section 87—Ballot boxes or other facilities to be kept secure

This clause amends section 87 of the Act to reflect the fact that secured facilities other than ballot boxes may be used at an election.

32—Amendment of section 89—Scrutiny

This section inserts new subsection (3) into section 89, allowing the returning officer or a deputy returning officer in relation to an election to undertake a preliminary scrutiny of declaration voting papers (without opening any envelope) before the close of the poll.

33—Amendment of section 91—Preliminary scrutiny

This clause substitutes a new subsection (1) into section 90, setting out the procedures relating to preliminary scrutiny at an election and reflecting the broader amendments made by this measure.

34—Amendment of section 94—Informal ballot papers

This clause amends section 94(1) to reflect the fact that secured facilities other than ballot boxes may be used at an election and inserts a new subsection (4a) into that section. The new subsection sets out the circumstances in which a ballot paper is informal in a case where a notice of intention to lodge a voting ticket for a Legislative Council election was given under section 63(2)(a), but a voting ticket was not then lodged in accordance with section 63(2)(b) and a voter uses the voting ticket square on the ballot paper.

35—Amendment of section 95—Scrutiny of votes in Legislative Council election

This clause makes amendments to section 95 to accommodate the effects the amendments made by this measure have had on the procedures for scrutiny in a Legislative Council election.

The amended subsection (3), and the new subsection (4a), set out the amended scrutineering process for such an election.

36—Amendment of section 96D—Use of approved computer program in election

This clause makes a consequential amendment following the insertion of new section 95(4a).

37—Amendment of section 105—Respondents to petitions

This clause amends section 105 of the Act to provide that the Electoral Commissioner and the person who was the successful candidate at the relevant election are both respondents to any petition in which the validity of an election or return is disputed.

38—Amendment of section 107—Orders that the Court is empowered to make

This clause inserts new subsections (5) and (6) into section 107 of the Act. Subsection (5) provides that an election may be declared void on the ground of misleading advertising if the Court of Disputed Returns is satisfied that the result of the election was affected by that advertising.

Subsection (6) sets out circumstances in which a breach of section 109, 110 or 111 of the Act can lead to a declaration that an election is void.

39—Amendment of section 112—Publication of electoral advertisements, notices etc

This clause amends section 112 of the Act to include electoral advertisements published electronically on the internet in the operation of the section, increases the penalty for contravention of subsection (1) and makes a minor technical amendment.

40—Insertion of sections 112A , 112B and 112C

This clause inserts new sections 112A, 112B and 112C into the Act.

New section 112A sets out provisions regulating the distribution of how-to-vote cards during an election period.

New section 112B sets out provisions prohibiting the use of certain descriptions in electoral advertisements or how-to-vote cards. In particular, candidates must not identify themselves by reference to a registered political party, or by using words that could not be, or may not be able to be, registered because of section 42(2)(e) or (3)(b), unless he or she is endorsed by the party, or the party has consented to the use of the names or words.

New section 112C creates an offence relating to the publication or announcement of certain kinds of material relating to a candidate in an election without the authority of the candidate and is based on section 351 of the *Commonwealth Electoral Act 1918*.

41—Amendment of section 113—Misleading advertising

This clause increases the penalty for a contravention of section 113 of the Act to a maximum fine of $5,000 for a natural person, or $25,000 for a body corporate.

42—Substitution of section 114

This clause substitutes a new section 114 which extends the type of publication to which the section applies, and increases the penalty for a contravention of the section to a maximum fine of $1,250 for a natural person, or $5,000 for a body corporate.

43—Amendment of section 115—Limitations on display of electoral advertisements

This clause increases the penalty for a contravention of section 115(1) of the Act to a maximum fine of $5,000 and inserts a new offence (in proposed section 115(2a)) of exhibiting an electoral advertisement (regardless of the size of the advertisement) by affixing it to a structure, fixture or vegetation on a road or road related area, punishable by a fine of $5,000. The offence does not extend to material exhibited on private land but so as to be visible from a road or road related area. Proposed section 115(2b) provides that proposed section 115(2a) will expire after the 2014 State election.

44—Amendment of section 116—Published material to identify person responsible for political content

This clause extends the material to which the section applies, but also provides for the exemption of prescribed material, and increases the penalty for a contravention of the section to a maximum fine of $1,250 for a natural person, or $5,000 for a body corporate.

45—Amendment of section 119—Offender may be removed from polling booth

This clause amends section 119 of the Act to make it clear that candidates and scrutineers may be removed from a polling booth if they engage in conduct in breach of section 119(1).

46—Insertion of section 137

This clause inserts a new section 137 into the Act, providing a standard immunity from civil liability for the Electoral Commissioner and other persons administering the Act.

Schedule 1—Related amendments and transitional provision

Part 1—Related amendment to *Constitution Act 1934*

1—Amendment of section 81—Staff

This clause amends section 81 of the Act to allow the Commission to appoint staff.

2—Amendment of section 82—Electoral redistributions

This clause amends section 82 of the Act to require the Commission to commence proceedings for the purpose of making an electoral redistribution within 24 months after each polling day rather than the current 3 months.

Part 2—Transitional provisions

This Part sets out transitional provisions related to the enactment of this measure.

Debate adjourned on motion of Hon. D.W. Ridgway.

WATERWORKS (RATES) AMENDMENT BILL

In committee.

(Continued from 3 June 2009. Page 2526.)

Clause 8.

The Hon. S.G. WADE: I move:

Page 3, lines 28 and 29 [clause 8, inserted section 65CAA(1)(a)]—Delete '1 June in any particular year' and substitute:

31 December in the year preceding the commencement of the financial year.

This amendment seeks to deal with the government's tacking on to this bill an attempt to hide the water price rise scheduled for December this year until after the next election in June 2010. I stress to the committee that this has nothing to do with quarterly billing, so it has no place in this bill, but the government tacked it on nonetheless.

The Hon. P. Holloway interjecting:

The Hon. S.G. WADE: The minister says 'Rubbish'. I will be interested in his response to hear him explain why it has nothing to do with quarterly billing. There is good reason to maintain a December price announcement date, and particularly in this year it is important for the electors of South Australia to know the price path going forward. The minister might tell us, 'We've given the community information about our forward price path', but in reality that has been in broad headline terms and not in terms of the detail you get in a pricing announcement involving price structures, price thresholds and differences between industrial/commercial users and others.

We believe it is important in an election year, following the government's announcement to double the size of the desalination plant, that the South Australian community have not just government assurances of what prices might do but also a clear legislated commitment to prices in the 2010-11 year. Secondly, as I said in my second reading comments, it is important that consumers know well in advance what the prices will be for the coming year. It may well be that that would be influential on their making a water saving investment. We need to give people an opportunity to be price responsive. Thirdly, it is our assertion that in the normal cycles of the state budget the Treasurer would need to know what the revenue take from SA Water will be in any given year; so, as the decision will be made roughly by December, anyway, why not make it public?

Fourthly, if it is delayed until the end of the budget process (for example, being announced in June), it actually increases the risk that SA Water will be used as a milch cow. It is certainly an issue that the South Australian public has had to suffer with under this government. Over the first five financial years of the Rann government, it took $1.7 billion of funds out of SA Water. In the same period, it invested something of the order of $440 million in capital expenditure, and I should stress that that $440 million figure was for the Adelaide system capital investment. If the Rann government had been investing in capital at the same rate as other governments were investing in their main metropolitan water utilities, the Rann government would have invested an additional $460 million.

Clearly, this government has a preference for using SA Water as a milch cow rather than investing in water security for South Australia. In that context, we think it is very important that SA Water be given a respectful distance from the pointy end of the budget process and that its revenue expectations are set early in the process to reduce the risk of the Treasurer making late budget process decisions that draw even further on SA Water's revenues.

The Hon. P. HOLLOWAY: What a load of nonsense! Isn't it extraordinary that here is a Liberal Party that actually hopes to be in government next year—and, given that it is a two-horse race, you would think that members opposite would think that they have some chance! What the opposition is saying is that the price of water should be determined in December this year, which would then apply for the financial year 2010-11. So, if there were to be a change of government at the next election, an incoming Liberal government would have to use the price that was set by this government for the next 15 months. I just find that extraordinary, although perhaps it is not quite so extraordinary, because opposition members know that they have no chance of winning the election. So, they are playing politics with it, rather than giving themselves, as any responsible government should do, at budget time next year, the opportunity to set the price of water.

The Hon. Mr Wade is the shadow minister for, I think, state/local government relations. I ask the Hon. Mr Wade: if you think this is such a great idea, why would you not do it for local government? Why would you not make local government determine the rates for a financial year seven or eight months out? It really is a dopey idea. There is a reason for water pricing being set in December, and that is that the billing cycle—when we had the consumption year, as it was called—began shortly thereafter. So, you needed to set the price by December so that, within a month of that, the consumption year would begin for some people. With this bill, we are moving away from

the consumption year, which was a rolling period; that is, depending on when your meter was read, the year in which your consumption was measured would begin in December.

The whole point of this bill is to ensure that everyone will be billed quarterly and the new price will apply over the financial year. So, surely it is logical that you should have that price beforehand, but why not have it, as the government has suggested, by 1 June, which is a month's notice, so that you can determine the price at the particular time? I would have thought that was simple logic. No company would set its prices seven months out if there was no reason for doing so, and you would not do it for local government. As I have said, if the Hon. Mr Wade thinks this is such a great idea, I challenge him to explain why he would not do it for other areas of government. Let him put it up. I know what the Local Government Association and councils would very quickly say, and that is, 'What a dopey idea.'

The Hon. Mr Wade has also accused this government of trying in some way to cover up in relation to the price. The Minister for Water Security has made it clear that there will be a near doubling of the water price over the next five years.

The Hon. S.G. Wade: What about the threshold?

The Hon. P. HOLLOWAY: Yes, water prices are going to rise, and it is desirable that they rise. The Minister for Water Security has also mentioned, as we had this year, an indicative 17.9 per cent real increase in water pricing. There is absolutely no way the government has been anything other than totally up-front in relation to those increases.

Yes, we know that there will be big increases; the price of water will have to roughly double over the next five years. Surely, it makes sense to set the price around the time of the budget. The budget will be coming down later this afternoon, and that is when a whole lot of other financial indicators for the coming financial year will be set. Why should water be any different? Clearly, there is only one reason why the opposition is doing this, and that is that it wants to play politics with the price.

It is just nonsense to suggest that, somehow or other, things have not changed in relation to the setting date. The setting date was always December, because the consumption year began within 30 days of that date. Now that we have gone to a new system, there is no reason why that price cannot be set 30 days from the new date. That is why the government opposes this amendment.

I think all members, particularly the Independent members, should reject this notion that the government is in some way hiding the price increase or that there is some logic in making it six or seven months before the price increase comes into effect. There is no need to do it and it is not logical to do it, and you would not do it for any other area of government. You do not set your fees and charges nine months out. All fees and charges are set, depending on CPI and other factors, a month or so before the start of the financial year. That is what companies do, and it is what every sensible person would do.

The Hon. S.G. WADE: I believe that the minister has just confirmed our central concern about this government's approach to water pricing. He suggested, as some sort of wise advice from an old dinosaur about to retire, that it would be valuable for us, as an incoming Liberal government, to have up our sleeves a surprise water price increase after we get elected in March 2010. That shows that this government is willing to use SA Water as a milch cow. It is willing to use SA Water as an opportunity to boost government revenues without any regard to the national competition policy.

We, on the other hand, are committed to the national water initiative, and we are committed to the national competition policy water reforms processes. We believe that these processes should be established not by politicians but by an independent economic regulator. We committed to that two years ago, and we have recommitted to that in recent weeks. We will not be doing a Rann government and taking $1.7 billion of revenue out of SA Water over five years and only investing $440 million in Adelaide metropolitan water at a time when South Australia is in a water crisis.

I believe that the minister has shown why it is so important that the committee supports this amendment because, clearly, this government is willing to treat SA Water as a political football and use the revenue as it wants to prop up the budget. This shows even more clearly why the government should be required to disclose its prices before the election and that that should be an ongoing process.

The minister also suggested that we have the 17.8 or 17.9 per cent so we should just be quiet and be happy with that. That is not what we need. We need full disclosure in terms of the price, not just an overall percentage: what are the prices at different levels? This government has increased the number of steps in the inclining block tariff. Are we getting more of that? We do not know, because the government is not going to tell us until June next year. We need to know before the next election, and not in some press release that apparently the minister can screw up after the election because for him budget pressures mean that we need to get more out of SA Water.

We need a legislated price increase by the end of this year, and I cannot see any reason why consumers in South Australia should not have access to early price information. We have been able to do it for at least the past 18 years according to the advice that the minister gave yesterday. Why shouldn't we be able to do it in the future?

The Hon. P. HOLLOWAY: Again, that dishonest part of the honourable member's last comments needs to be corrected on the record. The reason December was the date was that it did apply within 30 days of it. The honourable member can keep repeating it until the cows come home, but it will not make it true. There was a reason why December was the date. That is no longer the case. The case now is that the water pricing will apply for a financial year. It will begin on 1 July each year and that is why there is no reason why one should set it until 30 days before. Really, let us be blunt: the Liberals want to play politics with this. They know that water prices are going up.

Members interjecting:

The Hon. P. HOLLOWAY: You know it is going up; of course you do. We know the way the Legislative Council operates. I find it extraordinary that a future incoming government would have this attitude every time there is a change of government (and, at some stage in the future, governments will change either way). There is a price set. It will be 15 months before there could be any determination of it. It just does not make sense in terms of price-setting. If we are talking about real prices and real increases, how do we know what the inflation rate is going to be, for example, seven months away? It may fall; it may rise. There are all sorts of reasons. It was set at December before for a simple reason, and that was that the consumption year began shortly afterwards.

We all know in here why the opposition is doing this and, of course, it will concoct reasons: it is pure unadulterated politics. We know what the opposition did in government. We know how much money it took out of the water system during the eight years it was in office, so we can dismiss all that sort of holier than thou type of nonsense that the Hon. Mr Wade came up with. We saw what the Liberals did in government. Which other state or other area of government would set its prices that far in advance? The fact is there are none.

The CHAIRMAN: I don't intend to extend this debate much further.

The Hon. S.G. WADE: I don't intend to either, Mr Chairman. I just want to correct the record. The minister suggested that the Olsen and Brown Liberal governments under-invested in water infrastructure. The reality is that industry data shows that the only time in the past 20 years when the water infrastructure investment in this state has exceeded the national average was in the period of the Olsen Liberal government.

The Hon. M. PARNELL: I know you are keen to move on with this, but this is a fairly critical amendment and it does impact on other amendments that are before us, so I think that some time spent on resolving this now will be well spent. I have made it clear that the Greens are supporting the move to quarterly billing.

We know what the repercussions were of having the complicated arrangement with consumption years and financial years. In fact, it was clear that not even ministers understood the complexities of the billing regime. The minister makes the valid point that the reason for setting the price in December each year is that, for some consumers, their consumption year, and therefore the water they consume, will be charged at a new rate and therefore it is important to give some notice.

I think the fundamental principle—with which I do not think anyone would disagree—is that it is improper to retrospectively price-hike. We have to make sure that everyone knows in advance what the cost will be for water that they will consume into the future. The question before us is: how far in advance? The Hon. Stephen Wade's amendment proposes to maintain the status quo in terms of the December setting of the price, but we know that the consumption year is being done

away with as a concept, and we will end up with the financial year effectively setting the price six months early for everyone.

It is also worth remembering that even under the current regime, whilst some consumers' consumption year might have started in December, others' will start later, so for some people they were getting effectively six months' notice of the price going up. The question then is whether, under this new regime, we should lock in the six months' notice as, I guess, a best case notice provision for consumers for all time.

I have some sympathy with the Hon. Stephen Wade's position in relation to the next election. The minister is describing it as fairly crass politics, but the Greens for a number of years have questioned the government's priorities over water. We have questioned its commitment to one or two water security options at the expense of cheaper and more sustainable options; and I am referring to the government putting all its eggs into the desalination basket rather than cheaper and more sustainable options, such as stormwater harvesting.

The minister has said, quite rightly, that the government has made it clear that the price of water will rise; the price will double. I think that the people of South Australia have a right to know in the year that we are committing to the desalination plant—we are committing to what effectively will end up being $2 billion worth of expenditure, and members should recall that we do not have a price for connecting the pipeline between south and north—what the impact of some of these decisions will be in relation to the next water price hike.

When we get to the schedule of this bill, I will be moving that as a transitional arrangement for the next financial year we set the price in December so that people will know three months out from the election what the impact of this government's decisions will be on water price. My position is that, after having got the next announcement out of the way, we can reasonably go to a June setting of the water price—which is consistent with other charges. Certainly, most people like to know as far as possible in advance what prices will be, but whether it is in the business sector, or wherever else, it is rare for price rises to be flagged that far out.

My position is that, while I am sympathetic with what the Hon. Stephen Wade is trying to do in perpetuity, there is a case for saying, 'Let's make the government accountable in December this year by telling us what the price will be for the next financial year. Having got this period out of the way, we can then move onto the new arrangements.' What that means is that every four years people will have to think back nine months as to what the last water price rise was—if that is something which will influence their vote—rather than having to think back three months. I do not think we need to go down that path as a long-term solution in the future, but I think the current situation, the current emergency and the current focus on this government's and previous governments' inaction over many years, results in the South Australian people deserving to know in December this year what the next price rise will be.

With those comments, I will not be supporting the Hon. Stephen Wade's amendment, but I urge all members to support my amendment (when we get to it), which is to say, 'Let's find out this December what the price will be next year.'

The Hon. R.L. BROKENSHIRE: Family First is very happy to see water prices up front before any election, irrespective of whether it is a Liberal or Labor government. In 2001-02, I saw many press releases from the Premier that talked about openness, accountability and transparency. I do not know what the difference is between 2002 and 2009, but Family First wants the community to see whether the government has done a good enough job to be re-elected and have another four year term. Part of that includes illustrating what sort of money they will have to pay for water.

When I was on the train from Noarlunga this morning, I saw railway sleepers being stacked up, old sleepers being replaced, heavy earthworks at the desalination plant and, on arrival at Adelaide central, I saw a pretty little banner talking about the greenfields site for the new RAH. It is like fireworks: capital works are happening everywhere in this state at present. In fact, seven months worth of capital works which are happening now should have been happening over a seven year period—and I am happy to see those capital works at any time.

I congratulate the government for at last getting on with it, but when it comes to the water issue we want a solid debate, anywhere and everywhere—and I am sure my colleagues and members of other parties want it, as well—about whether this government has delivered satisfactorily and sustainably for South Australians in this regard. It failed on the River Murray bill; and that is now being highlighted day in, day out in the media right across the eastern seaboard.

We missed out there. We should have been fast tracking stormwater harvesting, aquifer storage and recovery, and dual reticulation. Only 15 months ago the government categorically ruled out a desalination plant. They said, 'No way will we have a desalination plant,' but when push comes to shove we now have one and, thanks to the Prime Minister, its size will be doubled.

I want people to know up front what they will be paying in order to make an assessment as to whether this government has done a good job when it comes to water pricing and water availability. Therefore, we will be supporting amendments that tell people up front what the Premier always wanted in opposition; that is, openness, accountability and transparency.

The Hon. P. HOLLOWAY: We understand that the Hon. Mr Brokenshire will support that, but is he supporting the Liberals' amendment or Mr Parnell's amendment?

The Hon. R.L. BROKENSHIRE: I will be supporting both amendments. If the Liberals get rolled, then I will be going with the Greens, because we want to see, one way or another, an openness on price for the next period of water price setting.

The Hon. P. HOLLOWAY: I need to say that that shows how silly this debate is getting. First, I point out that the amendments are incompatible, except for the first 12 months. I should say that at least the Hon. Mr Parnell recognises the long-term need and the absurdity of keeping the thing indefinitely. He puts a case for 12 months, and at least there is some logic to that. In relation to the issues the Hon. Mr Brokenshire raised, apart from all the diversions about what has happened with the River Murray, and so on, how far ahead do we need to know prices?

If you take it to its logical conclusion, going to an election, you should probably put it out for four years in front. However, the problem with that is that you do not know the changing economic conditions or what new proposals or extensions might be done. There has to be some reasonable time limit. As with everything else, the sensible thing is to do it in the budget. So, even if there is a change of government at an election, or thereafter, the budget is always the vehicle—

The Hon. R.L. Brokenshire interjecting:

The Hon. P. HOLLOWAY: Why not do it for local government? Does the member think that local government should set its rates six months, or more, in advance? Put up a private member's bill; go and tell the local government people. Why not do it for everything? Why not do it for all taxes, or revenue? No-one in the world does it—no-one else in the world is stupid enough—and it just shows really what a cloud-cuckoo-land can sometimes exist here in the Legislative Council. But let us get on with it.

The Hon. S.G. WADE: The minister took the opportunity to heap praise on a crossbench amendment. I just highlight the positive aspect (which I think the Hon. Robert Brokenshire has highlighted), which is that every four years we will have an election cycle water price. So, it is quite appropriate that this council says that, because we know it can work—we have been doing it for years—we need to have clarity and transparency leading up to an election. The Liberal Party is committed to independent economic regulation, and we are committed to supporting this amendment, even though we know that in a very short time we may well be on the Treasury benches. However, we are willing to submit to that accountability: the government is not. It wants to hide water prices, while we want to be open.

The Hon. P. HOLLOWAY: The Hon. Mr Wade wants to play politics, and in this debate he is not going to do anything less. I understand that he wants to play politics. I understand that such is the nature of the Legislative Council that politics is always played here, and it will be played today. However, I just want to make sure that he is exposed for doing it. There is absolutely no logical reason why you would do it. You would not do it with anything else. He deserves to be exposed, because if he hopes to be a minister one day, of course, there is no way that he would apply that sort of logic to any other area, and nor should he.

The Hon. A. BRESSINGTON: I would like the minister to clarify (because I have obviously missed the point here) what are the repercussions, if you like, for the government and the department providing this information by December rather than June. Can the minister point out what the obstacles are?

The Hon. P. HOLLOWAY: One can set a price seven months in advance of when it will take up, but there are a whole lot of economic factors that can change within the seven months. This government and the Minister for Water Security have made it clear that there will be a significant price rise; virtually a doubling over the five year period. It will be built into the next price

rise. She has indicated the indicative 17.9 per cent real increase. So, that is what the price will be next year.

The only point I am making is that we index a number of charges, and so on, and that is always done about a month before the end of the financial year, because then we are in a better financial position to know what the indexation rate is, and it makes sense to do it about a month out. Everyone has information in advance about what the rate will be. However, if you do it seven months away, clearly, economic conditions can change.

To take Mr Wade's logic, why not do it 12 months or two years in advance? What point do you pick? What we are talking about here is what is a reasonable point at which to pick it. We say a month is about the right time. When that decision is made, it is made with the best available economic information, because it is the most current information, reflecting conditions generally as they are known to government.

The councils, for example, are announcing their rates, I think, about this time of the year. They will apply in September, but they need to know what their revenue will be. They are doing their budgets now for the next financial year. You would not expect them last calendar year to do their budgets for this year, because the budgets will have less relevance, or less credibility, in terms of current economic conditions.

It is really as simple as that. It is not that we do not know, given the way water prices are, the sort of scale of increases that we need. That has been made quite clear by the government, and I am sure that will be an issue at the time. However, if we are to address the infrastructure issues, it has to be paid for. We have made it quite clear what the scale of that increase will be; there is no hiding that. However, with respect to the setting process, it just makes sense to do it closer to the time, because it will more accurately reflect the economic conditions.

The Hon. A. BRESSINGTON: So, in fact, this amendment requires SA Water to basically do a projection budget at the end of December, which is only halfway through the financial year, instead of doing it like everyone else does it, which is a month before the end of the financial year. Is that what the minister is saying?

The Hon. P. HOLLOWAY: I think that is a pretty fair summary. In relation to water prices, the reason why you can do it a little early is that there are the national water pricing mechanisms and guidelines, which governments nowadays follow. The Hon. Mr Wade was earlier claiming how a Liberal government would follow these sorts of guidelines. Of course, all states must and do follow them, as this government has been doing for some time. However, the actual fine tweaking, if you like, of that is something that is obviously best done closer to the time at which it will apply, because it will then best reflect the economic conditions. It is as simple as that.

The Hon. S.G. WADE: The minister's argument is predicated on the basis that, the closer you are to the financial year, the less risk you have of not having the best information to get the best revenue projections. Can the minister give us an indication about what variance there is between SA Water's revenue projections at their current setting date, which is December, for the following financial year, compared with other rates and taxes that the government raises? After all, if SA Water's forecasting skills are poor, perhaps his argument would have merit. However, we have been given no evidence to suggest that the government is not finding a December announcement as unreliable in its budgeting process.

The Hon. P. HOLLOWAY: It is not just a matter of forecasting something. I suppose it also relates to what works a government might indicate. That is really why I was referring to the Hon. Mr Wade and whether he wanted to be a minister one day and, perhaps, wanted to do additional things, for example. They have to be paid for, presumably. He would need to tell people. We are talking about accountability here. If he is the shadow spokesperson at the next election and if he wishes to put up alternative or additional options, the Hon. Mr Wade will need to tell the people of this state how and when he will fund them and how he proposes to do that.

The Hon. S.G. WADE: I indicate to the minister that if I was the minister for water I certainly would not be planning major capital works expenditure in the last month of the financial year.

The CHAIRMAN: Order! That has nothing whatsoever to do with the debate, and it is a big 'if'.

The Hon. R.I. LUCAS: I was listening to the debate in my room and I kept hearing the statements being made by the Leader of the Government, the minister in charge of the bill, that the

government, already being open and transparent, had made it quite clear that the price of water was going to increase by 100 per cent over the next five years and that it had already given the indicative price of about 17 per cent as the average price.

That information, as the minister knows, is misleading and untrue, because in the recent federal budget the announcement was made that the size of the desal plant would be doubled. The cost of the desal plant is going to increase by at least $400 million to $500 million, or so, and the minister in charge of water security in South Australia has indicated that there will be flow-on implications in terms of price which everyone will have to have a look at. The announcements which the minister was talking about related to the smaller desal plant and the previous announcements that had been made about it doubling.

What we will see and what this minister and the government are trying to hide before the election are the implications of the doubling of the size of the desal plant, the increase in the cost (at least $400 million to $500 million) and the flow-on implications of that in terms of water pricing. It is clear that there will be more than a doubling under the current government's policy, and that is what this minister and the government are trying to hide before the state election. The only other point I would make is to reinforce what the Hon. Mr Wade said almost 40 minutes ago. I do not have the exact figures, but the government has already indicated that the figure of 17 per cent is, in essence, the average impact, but for the very low consumers in terms of usage I understand that the increase is of the order of 30 to 40 per cent.

The Hon. Mr Wade or someone else may well have the exact figure, but that 17 per cent figure about which we are talking is an average impact figure on households. However, for the very low water use users it is a much higher figure of something like 30 to 40 per cent. The point the Hon. Mr Wade made earlier, and it bears reinforcing, is that we are not just talking about the average figure. The government, if it is required to release its decision in December this year prior to the election, not only will have to release the average figure but will also have to release the range of impacts across the board on the low water users through to the high water users and how that is structured.

The average figure might be 17 per cent plus another few per cent as a result of the increased cost of the desal plant, so we might be talking about an average figure of 20 or 25 per cent. However, depending on how the government structures it, certain consumers (low water usage consumers or others) may well be facing increases of 40 and 50 per cent, and the people of South Australia deserve to know that. The minister knows that the claims he is making are wrong and, in my view, they will mislead this committee in terms of their accuracy.

The Hon. P. HOLLOWAY: The misleading comes from the Hon. Mr Lucas. Again, he indicates that obviously he has no faith in the chances of his party winning the next election. We all know that, with the investment going in, there will be large increases in water prices to pay for it. What members opposite want is for the government to put it up so that they can criticise it but not have an alternative. If they did put up an alternative there would be no point because it will be set in December and it would not be able to be changed again until the following 12 months, regardless of the election.

Again, I reiterate the point that that indicates how little confidence members opposite have that they cannot possibly come up with any sort of alternative restructuring. If they really want to know the detail of it, why would they not, if they have any confidence that they will win the election, leave it until June? They might think they can come up with a better one, but, clearly, they cannot. Again, I make that point. In relation to the size of the increase, there is no hiding it. We know that the price is going up and, if the Liberal Party wishes to do anything other than that, it will have to campaign in an alternative way at the next election and say, 'Look, we're not going ahead with the additional desalination plant.'

Members opposite will have to come up with a credible policy, but they do not want to do that, and that is what this debate is all about. They really do not want to put up an alternative. Their skill, their expertise, is in knocking. They have become experts at it. They will oppose anything. They will wait for the government to put it up. They are quite incapable of having any alternative of their own. They are quite incapable of putting forward any direction. They will just knock because they are experts at it.

The committee divided on the amendment:

AYES (11)

Brokenshire, R.L.	Darley, J.A.	Dawkins, J.S.L.
Hood, D.G.E.	Lawson, R.D.	Lensink, J.M.A.
Lucas, R.I.	Ridgway, D.W.	Schaefer, C.V.
Stephens, T.J.	Wade, S.G. (teller)	

NOES (10)

Bressington, A.	Finnigan, B.V.	Gago, G.E.
Gazzola, J.M.	Holloway, P. (teller)	Hunter, I.K.
Parnell, M.	Winderlich, D.N.	Wortley, R.P.
Zollo, C.		

Majority of 1 for the ayes.

Amendment thus carried.

The Hon. S.G. WADE: I move:

Page 4, after line 5 [clause 8, inserted section 65CAA(1)(a)]—Delete '1 June in any particular year' and substitute:

31 December in the year preceding the commencement of the financial year

Even before the minister's breath has passed, we have an opportunity to highlight a misleading statement he made in his previous contribution. He said that this government follows national water initiative COAG principles, etc. Here we have an opportunity for the government to show that it supports COAG principles. COAG principles say that contributed assets should be taken out of the asset base in the calculation of the price. This government does not do it and the previous Liberal government did not do it. However, the Liberal Party has committed itself to independent economic regulation of water. In moving this amendment, we are asking the committee to keep the government to its word, which is simply to follow the COAG water reform principles of 1994.

I remind members that they are Labor government principles, reinforced by the National Water Initiative and reinforced very recently by the COAG group on NWI principles; that is, contributed assets should be taken out of the asset base. The government does not do that for pre-1995 assets. The Liberal Party is supported by the Essential Services Commission of South Australia. It is clearly demonstrable that it increases the price that South Australians have to pay. It is not reasonable that assets which are contributed by developers through augmentation charges and the like which SA Water took on at corporatisation should remain part of the asset base. Other states and territories have managed to do the calculation to avoid contributed assets being included in their asset base.

We do not believe it is beyond the wit of SA Water to do that. We believe that it is a matter of being honest with our ratepayers and that they should be paying for assets that were paid for, but not for assets that were contributed. We would call on the government and all members of the committee to support what the government says it is doing, which is supporting sound water reform principles.

The Hon. P. HOLLOWAY: The government opposes this amendment. It was interesting that the Hon. Mr Wade referred to the corporatisation of SA Water, which, of course, happened under the previous Liberal government. Of course, it did not do that at the time. Of course, the longer we are removed from that event, clearly, the more complex, in many ways, that will be. The determination of prices under national obligations has regard to the valuing of assets, and arguably this should take account of assets that have been funded by others or gifted to the water utility; that is, contributed assets. However, the treatment of contributed assets in determining water prices has been a matter of difference between the government and the Essential Services Commission for some years.

ESCOSA has argued that the provision the government has made for contributed assets is insufficient. The government has allowed for assets contributed since the corporatisation of SA Water in 1995, arguing that it is generally accepted nationally that contributed assets should be deducted from the regulatory asset base only if adequate information is available to identify those

contributed assets. The government's position is that there are major data deficiencies in estimating pre-corporatisation contributed assets. It is not that there is so much of an issue in theory. Incidentally, we are talking about what happened in 1995 under the previous Liberal government. It did not deal with that matter at the time. However, to go back now, given the major data deficiencies in estimating those pre-corporatisation contributed assets, in the government's view, is the difficulty with this proposition, and that is why we oppose the amendment.

The Hon. S.G. WADE: I concede that this task is not without difficulties, and that is why the amendment specifically provides that the Essential Services Commission, on application by the corporation, can provide exceptions or adjustments. The essential services commissioner obviously thinks it is a doable task, otherwise he would not have asked time and again that the government do it. We, on the other hand, are giving the government the latitude to work with the commissioner to come up with a fair price.

Certainly some assets would be extremely difficult to value pre-corporatisation, but I assure members that the South Australian Water Corporation's annual report 1995-96, the first one, was not a blank document and had an estimated valuation of assets. We believe it is not beyond the wit of the government to work with the essential services commissioner to come up with a reasonable estimate of the contributed assets that can be included in the regulated asset base. We believe this amendment gives the government the flexibility to work with the commissioner to respect the principles of water reform, which it says it is committed to.

The Hon. M. PARNELL: To assist the committee, the Greens do not believe the benefits of this amendment justify the difficulties of its implementation and we will not support it.

Amendment negatived; clause passed.

Clauses 9 to 12 passed.

New clause 12A.

The Hon. S.G. WADE: The minister may have responses to questions asked yesterday in relation to metering, water conservation, and so forth.

The Hon. P. HOLLOWAY: I have some information. The material cost of a 20mm meter is currently around $40. South Australia Water's current fee for installing a 20mm meter on a manifold is $388. This fee covers the cost of installing a 20mm meter on the manifold at the boundary and includes a share of the cost of providing the manifold. Such a meter installation would be relevant for a typical single-storey strata or community titled unit complex. The figure assumes that the connecting pipe to the main already exists.

I have also some statistics in relation to the average water use for different types of dwellings. The following data is based on research across four billing groups over the past four quarterly reads. For normal detached dwellings it was 192 kilolitres and for home units 110 kilolitres.

The Hon. S.G. WADE: I move:

Page 5, after line 13—After clause 12 insert:

12A—Insertion of section 86C

After section 86B insert:

86C—Scheme to install separate meters for all properties

(1) The Corporation must establish a scheme under which all land—

(a) that is subject to a separate occupation; and

(b) that is supplied with water by the Corporation as part of a reticulated water system,

will have a meter that records the amount of water supplied to that piece of land.

(2) The Corporation must seek to ensure that the meters required for the purposes of subsection (1) are fitted by 31 December 2014.

(3) However—

(a) the scheme established under subsection (1) is not required to extend to premises where it is not reasonably practicable to fit a separate meter; and

(b) in the case of land within a country region of the State, the Corporation is not required to install a meter in a particular case if the Corporation has an agreement with the owner of the land to the effect that the land need not be within the ambit of the scheme established under subsection (1).

(4) An agreement under subsection (3)(b) must be for a period not exceeding 5 years (but may then be renewed from time to time by further agreement).

(5) The Corporation must, as part of each annual report up to and including the 2014-15 annual report, set out information about the scheme established under subsection (1) and the extent to which the goal set out in subsection (2) is being (or has been) achieved.

(6) For the purposes of this section, the country regions of the State will be those parts of the State that are not within—

(a) Metropolitan Adelaide; or

(b) any other city or township areas brought within the ambit of this paragraph by the regulations.

(7) In this section—

Metropolitan Adelaide means Metropolitan Adelaide as defined by the *Development Act 1993*.

The discussion on this was commenced on clause 1, so I will continue in the spirit of that discussion. One of the matters raised was the key issue behind this amendment. The amendment proposes that individual meters be provided in the metropolitan area and, unless otherwise agreed, in country areas, because we believe it is shown to be an extremely useful measure to promote water conservation. It is a bit like saying that, if we took the meter off a petrol pump, people would not use more. The reality is that, if you drive up to a petrol station and stick it in, you would show much less regard for what you are consuming.

The minister was not able to provide any information on the water conservation impacts of metering. It is almost half an anecdote, but I offer one example that I believe highlights the benefits of water metering. Christchurch and Auckland are two of the largest cities in New Zealand, similar in climate and in socio-economic circumstances. Both water districts have meters: Auckland has meters, as does Christchurch. Because of political factors Christchurch does not read its meters, except for system management needs. So, Christchurch water users do not have the benefit of that water throughput information or the benefit of the price impact of using too much water.

The information I have been able to obtain since yesterday's discussion shows that in Christchurch the average yearly consumption of water is 164 megalitres. In contrast, Auckland, which enjoys meters that are read, has on average residential water consumption of 65 megalitres. Those figures come from different sources, so they may not be exactly right, but the anecdote I heard at a water function within the past month was that it was in the order of 40 per cent lower, so those figures may overstate it. However, it is clear that the experience of Christchurch and Auckland show that metering supports water conservation, and why would it not? The government is saying that water prices matter. Water prices only matter if you have access to a bill in which there is a relationship between your personal consumption and the price you pay.

The government has seen fit to introduce meters into Housing Trust properties. We believe that, within the spirit of that step, it is an opportunity to implement metering more broadly, as part of an effort to inform consumers and to support them in responsible water use.

The Hon. P. HOLLOWAY: We had a discussion on this matter last night, and certainly the government would disagree with the Hon. Mr Wade's point that, if you have metering, it is more likely to lead to less water consumption than otherwise might be the case. However, the point is (and this is illustrated in the figures that I have just provided to the committee) that, in relation to home units, for example, their consumption is already significantly lower. It is most unlikely that those sorts of dwellings would have the sort of gardens that normal detached dwellings would have, although in times of water restrictions that is probably less relevant. But we do still permit some watering of gardens and, of course, if the residents are pensioners, other exemptions might apply.

Remember that most home units, which average 110 kilolitres consumption, do not have meters, whereas normal detached dwellings, for which the average is 192 kilolitres, which is much higher, do have meters.

I referred to this point last night: the real reason why we oppose the amendment does not have so much to do with philosophical issues as with the practical issue; that is, if you are to require meters to be retrofitted to existing units (and I think this was conceded last night) there are some sorts of dwellings where you could not do it because the cost would be totally prohibitive, for example, in high-rise buildings.

However, even in relation to other sorts of single storey units, there could still be significant costs, which would have to be met by the owner of the property and, presumably, the owner of the property, if it is a group of flats, would pass those costs on to the people renting the property. The cost could be significant if, for example, you have to dig up a concrete driveway. It cannot just be done at the meter because, if you have extra meters, you have to have separate pipes where previously there might have been one pipe serving the entire number of units within the property.

So, there could be quite significant costs involved in the process. Given that in these sorts of home units the average is 110 kilolitres, you are already down to the basic level, and it would take a very long time to save more money than it might cost householders to apply that meter. It is unlikely that, in those sorts of situations, you will get reduced consumption, anyway, since it is already so low, and it would be much more difficult and take a much longer time to recover the sort of costs that might be involved in that process. So, I think that is really a significant impediment to the implementation of this measure, even though, in principle, it would obviously be a good thing if everyone had a meter.

There is also the point that we do have a common land issue in community title properties and, clearly, that raises another issue. If the strata group decides that they want to manage their common land in a particular way, should they not have the opportunity to decide whether or not they want to deal with that through a common meter? So, it is not just a simple question of what is good in principle; there are some very significant practical issues involved. Certainly, it is the government's strong view that, given the sort of information that I have put on the record, the cost of this process would significantly outweigh the benefits.

The Hon. S.G. WADE: With all due respect to the minister, I do not know how the government can assert that the costs outweigh the benefits, because I understand that the government has not done a business case to that end. On the issue of where it is not reasonable, I would highlight to the committee that the opposition's amendments specifically include a reasonably practical clause, that is, proposed section 86C(3)(a), which provides:

> The scheme established under subsection(1) is not required to extend to premises where it is not reasonably practical to fit a separate meter.

I will briefly highlight the differences as I see them between the amendment I have moved on behalf of the opposition and the amendment to be moved by the Hon. Robert Brokenshire. As I see them, there are two key differences. First, the opposition amendment has a time frame of 31 December 2014; whereas, the amendment filed in the name of the Hon. Mr Brokenshire has a deadline of 31 December 2012.

Secondly, the Hon. Mr Brokenshire is suggesting a very similar scheme but that it apply throughout the state. The opposition is of the view, because of the special circumstances that often exist in the country, that, whilst there is a statewide obligation on SA Water, with the agreement of the owner of the land, the need to install a meter in a particular case can be waived, and that amendment relates to proposed section 86C(3)(b).

The Hon. R.L. BROKENSHIRE: I move my amendment in an amended form, as follows:

Page 5, after line 13—After clause 12 insert:

12A—Insertion of section 86C

After section 86B insert:

86C—Scheme to install separate meters for all properties

(1) The corporation must establish a scheme under which all land owned by the South Australian Housing Trust—

(a) that is subject to a separate occupation; and

(b) that is supplied with water by the corporation as part of a reticulated water system,

will have a meter that records the amount of water supplied to that piece of land.

(2) The corporation must seek to ensure that the meters required for the purposes of subsection(1) are fitted by 31 December 2012.

(3) The scheme is not required to extend to premises where it is not reasonably practicable to fit a separate meter.

(4) The corporation must, as part of each annual report up to and including the 2012-13 annual report, set out information about the scheme established under subsection (1) and the extent to which the goal set out in subsection (2) is being (or has been) achieved.

In moving my amended amendment, I put on the record that my instruction, through my adviser, to parliamentary counsel was incorrect. So, I accept responsibility for having to amend my amendment. The original amendment, under clause 86C(1), provided:

The corporation must establish a scheme under which all land—

I have amended my amendment to include after the words 'under which all land' the words 'owned by the South Australian Housing Trust'. I advise colleagues that the amendment (in its amended form) is different to the Liberal Party amendments because the intent of Family First is different. We have not had private sector tenants coming to us saying that they have a problem with how they are charged for water rates. Some colleagues might have, but we have not had a rush of people coming to us.

An honourable member: You will if this amendment goes through, though.

The Hon. R.L. BROKENSHIRE: Well, not with this amendment to the amendment. I make it clear that the amendment that Family First is proposing is different to the Liberal amendment. Our intention is confined to Housing Trust stock. I am sure that lots of other colleagues in the committee are aware of all the issues around water meters and water charges and inequities with South Australian Housing Trust stock. Family First wanted to see an earnest effort by the government of the day to ensure equity for Housing Trust tenants wherever it is practicable to install separate meters. That is our amendment in a nutshell.

The Hon. M. PARNELL: I am happy to direct my question to the Hon. Stephen Wade in the first instance, but I note that identical words are in the amendment of the Hon. Robert Brokenshire. It relates to the point that the Hon. Stephen Wade just talked about, and that is the exception to the rule, if you like, that meters have to be fitted. The words in both members' amendments are identical: 'where it is not reasonably practicable to fit a separate meter.'

It seems to me that there are two issues here. One is a question of accessibility, such as in cases where it would just be physically too hard to access the necessary pipe to put the meter on. However, I ask the honourable member: does he envisage that those words 'where it is not reasonably practicable' would include the situation where very low volumes of water are needed and therefore it is not economically justifiable, as opposed to where it is a case of physical access to the pipes?

The Hon. S.G. WADE: I thank the honourable member for the question. It is certainly my understanding that the capacity for the scheme to allow for circumstances would be broad, and I think it is a timely opportunity to remind ourselves of the status of the corporation.

The corporation is a government business enterprise established under the Public Corporations Act. Government ministers can theoretically direct the corporation only by way of a ministerial direction. Rumour has it that ministers have been known to use less orthodox methods from time to time, but that is the government's regime under which the corporation sits. In that context it is actually not only the government that drafts this scheme; it will be the corporation abiding by a legislative requirement of this council.

The corporation would need to come up with a scheme that was convincing in terms of what is reasonably practicable, and my view of it would be that, if the minister to whom the corporation is responsible comes up with a scheme which the minister believes is just a cop-out which avoids the need to introduce what is a key demand management tool, the minister would give a direction. The minister would say, 'No; the threshold for flows will not be 125 kilolitres; it will be five,' or whatever is appropriate.

We do not want to be prescriptive, but we want them to be workable for both the corporation and the government. I would certainly not, by way of commentary in the chamber, suggest that this should be limited in the way that we read it. As the honourable member

suggested, the issue might be one of installation costs or flow issues. Those things can all be factored into the scheme.

This statement is clear insofar as the Liberal Party believes that all South Australians should be encouraged to manage their demand for water and be provided with the information to do that. Unlike Family First, we are not just targeting public tenants; we believe that the whole community has a responsibility.

The Hon. P. HOLLOWAY: I will address my response to both the Hon. Mr Wade and the Hon. Mr Brokenshire. They want to change the legislation so that it will prescribe that a scheme must be established to deal with the issue of meters, but who do they suggest should pay for it? Obviously, having put this in, they expect the government or SA Water will have to go away and come up with a scheme. The government will have the final say, so they are dictating that we should have the scheme, but they are not prepared to say who should actually pay for it at the end of the day.

I would have thought that it was a reasonable thing, because the government has already made it clear that it does not believe, in most cases, based on the information that I have given, that this passes a cost benefit test. If it is going to cost this significant amount of money—about $25 million for additional meters at the boundary and about $100 million to property owners, who in most cases will then pass it on to tenants—who is going to pay this cost?

The Hon. A. BRESSINGTON: That was actually going to be my question relating to the Hon. Robert Brokenshire's amendment where this would apply only to Housing Trust tenants. I think it was last night that the Hon. Paul Holloway said that, if this were to be a requirement for people who own a high-rise building or the like, those costs would ultimately be passed on to the tenants through increased rent and so forth.

In relation to the Hon. Robert Brokenshire's amendment, which applies only to Housing Trust properties, would that then mean that the trust would have to put up its rent to accommodate the costs of these water meters; and, if that is the case, I would ask the Hon. Robert Brokenshire how low-income earners in Housing Trust houses would be able to cover those expenses or the increase in rent.

The Hon. R.L. BROKENSHIRE: It is not the intent at all, and it would be not be expected with this amendment by Family First for the cost recovery to go back to the tenants. It is unfortunate for this government—

The Hon. R.P. Wortley: It's an unintended consequence.

The ACTING CHAIRMAN: (Hon. J.S.L. Dawkins): Order! The Hon. Mr Brokenshire has the floor. The Hon. Mr Wortley is out of order.

The Hon. R.L. BROKENSHIRE: It does not necessarily have to be a consequence for the tenant. It is a decision of the government. It is unfortunate that—

The Hon. R.P. Wortley interjecting:

The ACTING CHAIRMAN: Order! I remind the Hon. Mr Wortley that he is out of order. The Hon. Mr Brokenshire has the floor.

The Hon. R.L. BROKENSHIRE: Thank you, sir. There has been debate for a long time about inequity in relation to water meters and the water charging situation within the Housing Trust. As far as the practicalities and decision-making are concerned, whether imposts are picked up by Housing SA or the government through a contribution from Treasury, they are decisions for the government of the day. I feel sorry for this government because this has occurred under quite a few governments, but governments have to take the good with the bad. This matter must be addressed, and I am trying to accelerate this process if my colleagues believe that they want to support it; and that is what democracy is about.

The Housing Trust over many years could have made a conscious decision to ensure that there were water meters there so we did not have this outrageous situation where, as a result of infill and different development processes, a large family with many children can live on a large block with a swimming pool and next-door there is a single person. My advice is that there is total inequity in relation to the water situation.

We support base water rates so families do not get hammered, and that is why they have capital value in the private sector. My point is that this is an opportunity to retrofit and fix, once and

for all, the problems of inequity in water charges to tenants. I am representing a number of tenants and the Housing Trust Association Tenants Association, which has said for many years that this matter needs to be addressed.

I give credit to the former minister (Hon. Jay Weatherill), who was in the process of addressing the issue, which has fallen by the wayside since. The government has put up these amendments, so we feel it is worth while raising this matter in debate. If the committee feels inclined to put pressure on the government of the day to address the problem with the Housing Trust, it has the opportunity to do so now.

The Hon. S.G. WADE: I remind members that this decision should not be seen in isolation. The reality is that water utilities around the world are procuring demand management opportunities to avoid expanding their systems. In other words, if they can encourage water users to reduce their consumption it might mean they do not need to build the next dam or, if you like, buy the next entitlement from the River Murray. I appreciate that the minister has done back of the envelope estimates of the cost, but we have not been given detailed information on the costs and the benefits.

Members interjecting:

The ACTING CHAIRMAN: Order! Other members will get the call in a moment, if they wish.

The Hon. S.G. WADE: This is a significant opportunity to offset the $100 million guesstimated cost for the installation of meters by the fact that augmentation opportunities might not need to be implemented. Let us not see this as a one-sided equation.

The Hon. P. HOLLOWAY: In summary, the government believes that the cost is significant, and that is why we do not support the amendment. It is interesting that the debate which began this morning was all about declaring water prices. Clearly, if we are going to do something that incurs a significant additional cost to the system, it will increase the cost and someone somewhere has to pay for it all.

New clauses negatived.

Clause 13 passed.

Schedule and title passed.

Bill reported with an amendment.

Bill read a third time and passed.

STATUTES AMENDMENT (PUBLIC HEALTH INCIDENTS AND EMERGENCIES) BILL

Adjourned debate on second reading.

(Continued from 2 June 2009. Page 2416.)

The Hon. DAVID WINDERLICH (12:23): I rise to support the second reading of the bill and to briefly indicate that, while I am generally supportive of the bill—it clarifies a range of powers that will apply in the case of public health emergencies, and those powers are obviously necessary—as is my general inclination with the exercise of any great power, I will be examining it closely and listening to the debate to see whether there is any need for transparency or oversight or other checks and balances on the use of those powers.

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (12:24): I thank all honourable members for their important contributions. In response to questions about the avian influenza, I can assure members that planning has continued in the Department of Health and across government. It should be noted, however, that almost all human cases of avian influenza have had close contact with infected poultry, usually from their own flocks. However, for the H1N1 virus there is person-to-person transmission.

The measures before the chamber today have been brought forward at this time because of the emergence of the H1N1 Influenza 09 virus (swine influenza) and the lack of knowledge, particularly when it first emerged, about where it was going and the risks of its becoming a pandemic. The Director-General of the WHO raised the level of influenza pandemic alert from

phase 4 to phase 5 on 29 April 2009. Phase 5 is a human-to-human spread of the virus, with community level infection into at least two countries in one WHO region.

Thankfully, as events have unfolded and there is a clearer picture of the illness in Australia, while it is readily transmissible, it appears so far to have been relatively mild in Australia and, thankfully, people who have had it have recovered very quickly. However, these viruses do change their make-up, and the expert advice is that we need to continue to be vigilant about it and be able to respond, and the legislation is one part of the armoury to enable us to respond.

The response to a public health emergency needs to be proportionate. The bill provides for such a response, and we believe that the opposition amendments do not. Members may have noted comments by the Queensland Minister for Health at the weekend. A public health emergency was declared under Queensland's public health emergency powers to force the operators of a cruise ship terminal to allow the *Pacific Dawn* to dock. The operators of the terminal did not want the ship brought into the terminal.

The Queensland health minister indicated that it was a significant step to take, which he would rather not have had to take, but that it was necessary to ensure the cooperation of the port operators. The point remains, however, that the legislation was in place to enable that step to be taken, however reluctantly that was.

The matter of emergency officers was also raised by the opposition. There is a need to have such officers appointed under the proposed public health provisions to assist the public health response. There would not be an army of such officers. It is expected that a limited number of persons would be appointed—for example, the department's senior public health officials. However, in circumstances where there was a significant public health emergency affecting a large part of the population, it may be necessary to appoint a wider group of emergency officers, with conditions on their appointment spelling out those limitations.

For example, in a country community where a large number of people are affected by an influenza pandemic there may be a need to appoint medical officers or senior nursing personnel as emergency officers to give them the powers to direct people into quarantine. This could, in some circumstances, extend to para-professionals, as mentioned in the minister's second reading explanation. This reference was intended to encompass a range of personnel (such as medical students, physician assistants and allied health assistants) where, if the situation rapidly escalated in clinical severity and magnitude and the health workforce became stretched and there was a need to bring in additional people to assist, for example, in flu clinics, their level of training makes them capable of functioning in that capacity and they could be authorised and supported to do so under the clinical governance structure of such clinics. I commend the bill to the council and I look forward to the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. J.M.A. LENSINK: I move:

Page 3, line 3—Delete 'Public Health Incidents and'

I will speak broadly to all the amendments as most of them are consequential. I will treat this as a test clause. As I stated in my second reading contribution, the Liberal Party agrees with the expansion of tasks of emergency officers, which is clause 9 of the bill. It also agrees with the expansion of 'emergency' to include events which are outside the state, which is clause 4, and I think that those are fairly self-evident. We do believe that the bill takes too broad an approach in that it has not identified specific aspects of the acts which are to be amended; rather, it takes a very broad-brushed approach.

I think that this reflects that this bill was introduced in an opportunistic manner rather than refining the bill to amend certain aspects of certain acts. The bill is very broad in its scope. Amendment No. 5 relates to the Controlled Substances Act, and I will treat that one separately. All the amendments, other than amendment No. 5 in my name, establish new powers for Health to declare incidents, and, in so doing, enables it to recruit health staff to perform roles in emergencies. While on face value this might make sense, I would like to draw to the attention of members what these powers are in that, obviously, health staff would be required to perform health duties whereas

these powers are, perhaps, what one might consider to be more in line with police officers, and the like.

I will refer to the Emergency Management Act under which officers can already be appointed. The powers that are provided to those officers include breaking into buildings, taking possession and control over land and destruction of any building, structure, vehicle, vegetation and so forth, which are really not what one would normally consider to be the duties of health staff. In relation to some of the potentially foreseeable circumstances in which there may be a health emergency, for example, at a flu clinic (and I think that the government has mentioned that it would consider establishing flu clinics), one could foresee the scenario where a doctor or a nurse might be dealing with very hysterical people who really should be managed by people who have experience in taking charge of those situations.

Rather than that conflicting with their health duties, we believe they should be enabled to continue to perform health tasks and allow those jobs to be done by people who are more suitably emergency services staff. I move the amendment and indicate that the rest of them, apart from amendment No. 5, are consequential. This will be a test clause.

The Hon. G.E. GAGO: The opposition has filed a number of amendments and the government opposes all of them, except No. 5. The amendments, we believe, will emasculate the bill, and therefore we oppose them. The scheme within the bill maintains the Emergency Management Act 2004 (EM act) as the principal overarching legislation for the management of a state emergency. It provides an additional mechanism to respond to public health incidents or emergencies under the Public and Environmental Health Act 1987 (PEH act), without needing to seek declaration under the Emergency Services Act until such time as it may be required.

The bill enables a two-staged approach from an emergency management perspective. In the initial stages, health, with its expertise and responsibility to manage a health issue, will manage the response. If the situation escalates in magnitude, such as a fully blown whole of state emergency response is necessary, under the EM act the state coordinator would be approached, seeking a declaration under the Emergency Management Act. This would ensure a coordinated approach to whole of government strategic decision making and would bring in a range of other agencies, where needed.

The Commissioner of Police is the state coordinator under the EM act. These proposals have been developed in consultation with SAPOL and SAPOL supports them. SAPOL does not support removing specific provisions by which public health incidents and emergencies can be declared without seeking to invoke the whole of government emergency arrangements that come into play with the declarations under the EM act, which is what is being proposed by the opposition's amendments.

The Hon. A. BRESSINGTON: I must say that I was a little confused at the beginning of this; that is, the relevance of the previous act to what we are amending now. However, I did take the time to contact assistant commissioner Bryan Fahy, who, I believe, is the state controller for the State Emergency Service. I will put his response on the record, as follows:

Further to our discussion yesterday, this email is to confirm SAPOL support for the proposed omnibus legislation currently before Parliament regarding Statutes Amendment (Public Health Act Incidents and Emergencies) Bill.

Rationale for such support is primarily based on community reassurance and, ensuring clear delineation of responsibility and accountability for the lead agency involved in health issues, being the Department of Health. That is, the proposed legislation identifies that an issue regarding public health should be dealt with firstly in a preventative manner, by the appropriate agency before consideration is given to enacting the State's high level emergency management arrangements.

Emergency Management Act activation with its commensurate authorities relies on a formal declaration by the State Coordinator or Governor. A decision to enact this high level legislation is a serious matter and unlikely to occur in a build up to an incident where matters such as obvious emergency services response, potential economic impact, and community concern are not apparent.

The proposed legislation provides the health agency with the right tools to fulfil their responsibilities independent of the Emergency Management Act, but with the safeguard when the incident is beyond the capacity of the primary agency, then the broader response and coordination legislation could be enacted. The current legislation within the Public and Environmental Health Act 1987 places some restrictions around the ability to act quickly during a health incident.

A similar approach to having the 'right tools for the job' is found within the Fire and Emergency Services Act, whereby those key agencies are provided with powers/authorities kindred to the Emergency Management Act to

enable those agencies to independently fulfil their responsibilities prior to an enactment of the Emergency Management Act.

This letter basically cemented my support for the government's bill. However, I do flag that I will be moving an amendment requiring a declaration from the minister to act to take it to the next level. I think keeping that with ministerial responsibility and accountability is important, especially in times of crisis, and in that way the general public is aware that the minister has his or her finger on the pulse in such matters. I also indicate that, because I will support the government's bill, and based on this letter from assistant commissioner Fahey, I will not support the Liberal Party's amendments.

The Hon. DAVID WINDERLICH: I oppose the first amendment.

The Hon. R.L. BROKENSHIRE: Family First will support the government on this bill. We have done some homework on it. We must look after our community when it comes to health care. I do not believe it is a political issue but an issue that has to be addressed. It is better to be over the top with things like this than have a real problem. Prevention is better than cure.

I also put on the public record that we checked with some government agencies, and the advice we received is that government agencies put this up as a group of government agencies to the minister, so it was an initiative of the people who have the day-to-day on the ground responsibility for health and well-being. I do not see any politics in this at all but rather something that is important.

Amendment negatived; clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. DAVID WINDERLICH: I refer to the definition of emergency. The bill reads:

emergency means an event (whether occurring in the state, outside the state or in and outside the state) that causes or threatens to cause the death of or inquiry or other damage to the health of any person or the destruction of or damage to any property...

There is no qualification such as 'significant' or 'major'. Something like 'the destruction of' or 'damage to any property' sounds like the explosion of a backyard toilet could trigger the emergency powers of the state. Why is there no qualification, especially as later in the bill it talks about public health incidents and emergencies, where it has qualifications such as 'major emergency' or 'a disaster'? It does use some sort of hierarchy there, and I am just wondering why there is no hierarchy at all in the definition of 'emergency'.

The Hon. G.E. GAGO: I have been advised that the determination of the degree of significance of an emergency, or the qualifiers of the significance of an emergency, are dealt with in other legislation. For instance, there are provisions in the Emergency Management Act that classify the categories of significance. Also, there are provisions relating to incidences and emergencies within the Public and Environmental Health Act which I think judge the significance of the length of time something is in place. So, it is dealt with but within other legislation.

Clause passed.

Clauses 5 to 10 passed.

Clause 11.

The Hon. J.M.A. LENSINK: I move:

Page 5, lines 33 to 36 [clause 11, inserted section 26A(1)]—Delete subsection (1) and substitute:

(1) The minister may, by notice in the gazette, modify the operation of section 18, 26 or 31 of the Controlled Substances Act 1984 for the duration of the declaration of an identified major incident, a major emergency or a disaster if satisfied that it is necessary to do so in order to meet—

(a) the demand for drugs for medical purposes arising from the incident, emergency or disaster; or

(b) the ordinary demand for drugs for medical proposes despite interruptions to medical services or supplies or other difficulties arising from the incident, emergency or disaster.

The current provisions within the bill insert new section 26A, which would have the effect of the minister being able to modify the operation of the Controlled Substances Act, which is a substantial

act of some about 70 sections. That act regulates or prohibits the manufacture, production, sale, supply, possession, handling or use of certain poisons, drugs, therapeutic and other substances, and of certain therapeutic devices. That is quite a substantial power, and we believe that should be qualified.

In effect, this amendment limits the impact of sections 18, 26 and 31 of the Controlled Substances Act. They are the areas which the minister, in his second reading contribution, indicated were the provisions that the bill was, in effect, targeting. So, rather than giving such broad sweeping powers, which I think, if limited, protects the minister in some way from having that power, it will assist the minister to not go beyond the scope of what was intended.

The Hon. G.E. GAGO: The government supports the amendment. We believe that it clarifies the circumstances and provisions under which modification to the Controlled Substances Act can occur, and it articulates the circumstances which were in mind when the clause was drafted.

Amendment carried; clause as amended passed.

Clauses 12 to 23 passed.

Clause 24.

The Hon. A. BRESSINGTON: I move:

Page 9, line 10 [clause 24 (3), inserted definition of Public Health Emergency Management Plan]—After 'Chief Executive' insert:

and approved by the Minister.

This amendment seeks to require the CE of health to obtain the approval of the minister before making a declaration and also to require, as a consequential amendment, the chief executive to obtain the minister's approval for the Public Health Emergency Management Plan because, under new section 37C, the plan may contain guidelines setting out circumstances in which the declaration should be made.

In practice, this would occur. The matter would have been discussed by the State Emergency Management Committee, of which the Commissioner of Police, as the State Coordinator, is a member and also the Emergency Management Council of cabinet of which the minister is a member.

The Hon. G.E. GAGO: The government supports the amendment. We think it is a sensible amendment in terms of requiring the appropriate authorisation of the minister responsible.

The Hon. J.M.A. LENSINK: The Liberal Party also supports the amendment. The provisions as they exist in the act left the original declarations with the CE. We believe it is appropriate that this ought to also have earlier and closer scrutiny by the minister as the elected person within the executive government.

Amendment carried; clause as amended passed.

Clause 25 passed.

Clause 26.

The Hon. A. BRESSINGTON: I move:

Page 10—

Line 21 [clause 26, inserted section 37A(1)]—After 'may' insert:

, with the approval of the Minister,

Line 34 [clause 26, inserted section 37B(1)]—After 'may' insert:

, with the approval of the Minister,

The amendments serve the same purpose as my earlier amendment.

Amendments carried; clause as amended passed.

Remaining clauses (27 and 28) and title passed.

Bill reported with amendments.

Bill read a third time and passed.

[Sitting suspended from 12:55 to 14:18]

STATUTES AMENDMENT (ENERGY EFFICIENCY SHORTFALLS) BILL

His Excellency the Governor assented to the bill.

CROWN LAND MANAGEMENT BILL

His Excellency the Governor assented to the bill.

MARITIME SERVICES (ACCESS) (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

PAYROLL TAX BILL

His Excellency the Governor assented to the bill.

PETROLEUM PRODUCTS SUBSIDY ACT REPEAL BILL

His Excellency the Governor assented to the bill.

STAMP DUTIES (TAX REFORM) AMENDMENT BILL

His Excellency the Governor assented to the bill.

SUPPLY BILL

His Excellency the Governor assented to the bill.

PAPERS

The following papers were laid on the table:

By the Minister for Mineral Resources Development (Hon. P. Holloway)—

Determination and Report of the Remuneration Tribunal—No. 3 of 2009—Ministers of the Crown and Officers and Members of Parliament
Budget Overview 2009-10—Budget Paper No. 1
Budget Speech 2009-10—Budget Paper No.2
Budget Statement—2009-10—Budget Paper No. 3
Portfolio Statement—2009-10—Budget Paper No. 4, Volume 1
Portfolio Statement—2009-10—Budget Paper No. 4, Volume 2
Portfolio Statement—2009-10—Budget Paper No. 4, Volume 3
Capital Investment Statement—2009-10—Budget Paper No. 5
Regional Statement 2009-10—Budget Paper No. 6

NATURAL RESOURCES COMMITTEE

The Hon. R.P. WORTLEY (14:21): I bring up the report of the committee on the Adelaide and Mount Lofty Ranges Natural Resources Management Board Proposal 2009-10.

Report received.

QUESTION TIME

SMALL BUSINESS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:23): I seek leave to make a brief explanation before asking the Minister for Small Business a question about small business red tape reductions.

Leave granted.

The Hon. D.W. RIDGWAY: I have a copy of the government's publication 'Reducing red tape for business in SA', with a foreword signed by the Treasurer who is the minister responsible for that. On page 10, under the heading 'Industry reviews', it talks about wine grape growing and wine production. Under the heading 'Key outcomes' it states:

South Australia takes the initiative ahead of other states and territories and introduces standardised labelling requirements in line with an agreement with the World Wine Trade Group.

Later in the publication, Appendix 2.7.5, 'Wine labelling', states:

> Streamline wine labelling requirements (note: initiative jointly implemented with Department of Justice and savings shared equally i.e. total savings in excess of $14 million.

It further states that the red tape reduction is $7,183,700. Also, I believe that this program has not yet been implemented. My question to the minister is: how is the red tape saving calculated down to the last $100, and why has the government not implemented this initiative?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:26): I did have some involvement in the issue of wine labelling when I first became the minister for agriculture, food and fisheries and as a member of the Wine Council. This has been a huge issue that has bedevilled the wine industry for many years. This government has—

The Hon. D.W. Ridgway: Why did you implement it then?

The Hon. P. HOLLOWAY: Well, to get the benefit that one needs to have a national system of labelling and for all sorts of reasons. We are the major wine producer in the country, as I am sure the honourable member would be aware, but there were all sorts of reasons why other jurisdictions were not as keen as they should have been to be involved in this.

I understand that those matters had, after many attempts, finally been resolved. As they are really in the province of my colleague the Treasurer, I will seek that information for the honourable member and bring back a response.

TRAVEL COMPENSATION FUND

The Hon. J.M.A. LENSINK (14:26): I seek leave to make an explanation before asking the Minister for Consumer Affairs a question about the Travel Compensation Fund.

Leave granted.

The Hon. J.M.A. LENSINK: On 25 March this year I asked a question of the minister about the Travel Compensation Fund and the potential risk to the tourism industry because of the loss of industry and consumer confidence in the operation of the fund. Since that date, industry concerns have escalated and statistics show that last year the collapse of a number of travel agents grew to its highest level in a decade.

The Travel Compensation Fund's 2008 annual report indicates that the fund's reserve is some $24.5 million and, in that year, it paid out some $2 million. My question to the minister is: given the potential for high levels of collapse of travel agents, reduced funds being entered into the fund from agencies and public concerns which are impacting on travel, such as the swine flu, does the minister have concerns about the ability of the fund to meet its intended purpose, and has she been approached for additional funding commitments in light of these matters?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:27): There have been considerable changes within the industry that have raised concerns. The issue was raised at our ministerial council meeting in Hobart on 8 May where consumer affairs ministers from all states and territories, together with our federal counterpart, came together. That was an item at that ministerial meeting.

In terms of the concerns raised, ministers did acknowledge emerging concerns about the appropriateness of the current scheme for protecting consumers around travel-related services, as well as some of the complexities around expanding and increasing technology confusing that picture even further. There is a sort of officers working committee as part of that council, so the council directed that committee to commission a review of consumer protection measures in the travel and travel-related services market, including the role of the Travel Compensation Fund. As I said, that resolution was passed at the 8 May meeting. It is a concern right around Australia, and I think that a coordinated national approach is a sensible way to address these concerns.

WATER SECURITY

The Hon. S.G. WADE (14:30): I seek leave to make a brief explanation before asking the Leader of the Government a question about water security.

Leave granted

The Hon. S.G. WADE: Yesterday, in answer to a question from the Leader of the Opposition, the Leader of the Government said:

> The Hon. Mr Wade clearly has an ability that the rest of us do not have, and he can predict droughts. He knows when a drought is coming.

Good government planning for water security is not a matter of predicting droughts; it is a matter of planning for them. In 2003, Premier Rann launched the Water Proofing Adelaide initiative which, coincidentally, was called 'Beyond the Drought'. Since that initiative was launched in 2003, National Water Commission data show that per capita spending in water and wastewater infrastructure in South Australia has fallen.

In 2003-04, per capita spending, according to the National Water Commission, was $100, but by 2007-08, it had fallen to $73. In the years in between, there was an average of $80; whereas, in other jurisdictions the average was $103 in 2003-04, and by 2007-08 it had actually risen to $208. Capital expenditure by the main metropolitan water utilities more than doubled from $1.1 billion in 2002-03 to $2.8 billion in 2007-08, a 130 per cent increase. Why has the government reduced per capita funding for water and sewerage supplies since Water Proofing Adelaide, while nationally governments have more than doubled their investment?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:31): Very shortly, the Treasurer will be bringing down his budget, and I am sure that, in relation to expenditure on water and, indeed, all other areas of infrastructure, what this government is doing will compare very favourably indeed with what was done during the term of the previous government. Indeed, in relation to transport, I think it is something like five or six times higher investment in this budget than happened under the previous government. The difference is massive. The increase in expenditure under this government is massive.

Members opposite ask, 'Why hasn't your government spent more on infrastructure', when we are spending five times more than they spent. What did they spend their money on? They ran up a debt. They added $2 billion. The Liberal Party in its eight years in government added $2 billion of unsourced debt through the budget. It flogged off ETSA, which was the only way it could reduce it. When this government came to office, we had to make very significant cuts to expenditure, and we had the sort of fiddles of the Hon. Rob Lucas—and it is a pity that he is not here. He and the then health minister, Dean Brown, were not talking to each other in the last year of government, so what happened in the health system is that the individual health units ran up deficits.

Consequently, when this government came to office, there was tens of millions of dollars, not in the health commission, but all parcelled off to each of the individual health units. It was a fiddle. It was like Christopher Skase and Alan Bond accounting. Of course, what Mr Lucas did as treasurer was put a little note on there saying, 'They will all have to pay back next year.' Of course, when we came to government, the Under Treasurer, Jim Wright, blew the whistle on Mr Lucas. Of course, Rob Lucas has spent the past seven years in this place trying to reinvent history to justify himself.

I invite any of the newer members, particularly the crossbenchers, to look at those early debates (after this government came to office in 2002) about what that previous government did to try to rort the books to disguise the debt that was hidden within its budget. What sickens me is when you have people such as Bevan and Abraham on morning radio treating Rob Lucas as if he is some sort of economic guru. They were around at the time. If I can remember it, why can't they and some of the other journalists in this state remember what really happened?

The Hon. T.J. Stephens interjecting:

The Hon. P. HOLLOWAY: I will tell you about the State Bank. I will be happy to tell you about the State Bank. The story of the State Bank began in the Legislative Council. When the Bannon government was in office—

The Hon. B.V. FINNIGAN: Mr President, I rise on a point of order. The Hon. Mr Stephens clearly interjected, 'You're a crook' across the chamber. He should withdraw.

The PRESIDENT: The Hon. Mr Stephens will also resist pointing his finger and throwing around his arms in the chamber. The word 'crook' directed at the minister is unparliamentary and he should withdraw it.

The Hon. T.J. STEPHENS: I am happy to withdraw, Sir. I apologise for any offence I might have caused the minister when I was questioning his morality with regard to their efforts with the State Bank.

The Hon. P. HOLLOWAY: I take no offence at what the Hon. Terry Stephens ever says in this place. It is nice to see some animation today. The Hon. Terry Stephens assists this place at times with entertainment, and I appreciate that. If I can remember the question, I will come to it.

The Hon. Mr Wade asked about water policy. As he quite correctly pointed out, this government had its strategy. If one goes to the Liberal website and looks at its water policy, it is littered with references to the government's Waterproofing Adelaide Strategy. It is one of the greatest acts of plagiarism I have ever seen. Importantly, the budget is delivered today, so the honourable member should wait before asking questions about how much money we spend on water.

The Hon. J.S.L. Dawkins interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: In relation to foresight, I will conclude on this note—

The Hon. J.M.A. Lensink: Please don't.

The Hon. P. HOLLOWAY: Maybe I will go on, if the honourable member wishes—I am happy to do that. In relation to water policy, there will be more details in the budget this afternoon. If one has foresight in relation to that and could predict doubts, as the Hon. Mr Wade is predicting, what about floods? This state could have a one in 100-year flood soon.

The Hon. D.W. Ridgway: That would be a good thing.

The Hon. P. HOLLOWAY: It probably would be a good thing if it was in the right places. Whether in relation to water security, flooding or whatever, one has to make a risk-based assessment. The point I was making in relation to water was that one designs water security on a reasonable risk base, which is determined by history and one's knowledge of that. If for some reason, as we have seen in recent years, that historical assessment of risk is turned on its head because we have unprecedented events, we have to go back and reassess all our policy, and the same would apply in relation to flood. If we get a flood, will the honourable member ask why this government did not do more in terms of flood mitigation?

In relation to stormwater and other issues, I was referring earlier to what happened in the first budget of this government. One of the first things we did in the second budget was to double from $2 million to $4 million, if I recall correctly, the amount of money this government spends in relation to stormwater issues. It was a very significant increase.

ADELAIDE HILLS HOUSING

The Hon. B.V. FINNIGAN (14:39): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question regarding the demand for new housing in the Adelaide Hills.

Leave granted.

The Hon. B.V. FINNIGAN: Mount Barker has a long history of European settlement since the area was cleared for grazing and crop production in the early years of South Australia. In February 1840, the proposed layout of the township of Mount Barker was announced and it expanded rapidly with the settlement of mill workers and the opening of businesses to supply the needs of those early settlers. Mount Barker district became known as the cream bowl, as the discovery of clover in the late 19th century resulted in the dairy industry flourishing in that part of the Adelaide Hills. In the late part of the last century, the construction of the South-Eastern Freeway and, more recently, the Heysen Tunnels have made it much quicker to travel from Mount Barker to the metropolitan area.

Understandably, that has also increased the township's popularity as a commuter base for people wanting to live in a country atmosphere within the Hills while still being able to journey to work in the city. This accessibility has led to a rapidly growing population (almost 30,000 at the last census), and the growth has increased pressure to provide retail and other services in the town centre. Given the increased—

An honourable member interjecting:

The Hon. B.V. FINNIGAN: What an extraordinary claim coming from an opposition member! Opposition members make second reading speeches when asking a question. My explanation is factual. Given the increased popularity of Mount Barker as a place to live and the associated rise in demand for commercial, retail and other services, will the minister—

An honourable member interjecting:

The Hon. B.V. FINNIGAN: Have I ever been there? I drive past regularly, I have family living not far from there and I visit often. Will the minister provide details of government initiatives to ensure that the district copes with these challenges?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:41): I thank the honourable member for his very timely question. I have recently written to the District Council of Mount Barker to inform councillors of my decision to initiate a review of the township's current development plan. This review will investigate areas surrounding the current town boundary to assess their suitability for other land uses and any possible changes to the Mount Barker development plan that is required to achieve that objective.

Such possible changes to the Mount Barker development plan are being investigated in tandem with the review of township boundaries that is currently being conducted as part of the drafting of the 30 Year Plan for Greater Adelaide. The main purpose of this process is to identify suitable areas for residential, commercial, retail and community development that will enable Mount Barker to support a larger population.

Government policies are making South Australia a more attractive place to live and providing certainty for industry to invest, which is good news for the economy and jobs, but it does put enormous pressure on the existing supply of land. Although the state government has already adjusted the urban growth boundary to increase the supply of land within metropolitan Adelaide, there is still strong demand for new residential land within the Adelaide Hills. With the current rate of growth making it highly likely that South Australia will reach its population target of two million people by 2050, two decades earlier than expected (in other words, in the decade from 2020 to 2030), it is essential that the government identify areas that can provide a broadacre supply of land for housing and employment.

An honourable member interjecting:

The Hon. P. HOLLOWAY: I am pleased that I can share it with members in the chamber. The investigation will inform the preparation—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Not everyone listens to the ABC. The investigation will inform the preparation of a draft ministerial development plan amendment, the process that leads to the updating of current zoning arrangements within a council area. The district council and local residents should be assured that the community will be given ample opportunity to participate in determining the final shape of the amended development plan.

Once completed, the draft development plan amendment will be available for public consultation to allow members of the community and local government to have their say. A public meeting will also be held within the community at the end of the consultation period so that concerned citizens can speak to their submission. Public responses to the development plan amendment are to be considered by the independent Development Policy Advisory Committee (DPAC), which will advise me on the final shape of the development plan amendment.

South Australia's population is growing, and that is a good thing. However, it does create numerous challenges when you consider the changed face of Adelaide in the past 30 years. If members think back to 1979, it should give them some idea of the task involved in contemplating the future for the next 30 years. Unless we want Adelaide's boundaries to sprawl ever northward and southward, we need a plan that not only encourages greater housing density within the urban growth boundary but also manages the pressure on townships in the greater Adelaide region for new housing. Obviously, we have to look at both those considerations, and that is the complex juggling act that is before the government. The investigation of the options for further growth in Mount Barker is part of that necessary planning process.

Development plans are key documents in the South Australian planning and development system. These documents contain the zones, maps and written rules that guide property owners

and others as to what can and cannot be done in the future on any piece of land in the area covered by the development plan.

These zones, maps and policies then provide the detailed criteria against which development applications are assessed. Better planning ensures that we are in a stronger position to meet the challenges and demands placed on government for new land, new infrastructure and expanded services.

It also ensures orderly development as the planning authorities assess applications against the shared objectives and desired characteristics established by the community with the development plan. I look forward to working with the local community, the Mount Barker council and other stakeholders in devising a development plan that looks to the future.

ADELAIDE HILLS HOUSING

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:45): As a supplementary question arising out of the answer in relation to the 30 year plan, what value is the government putting on high-value high-rainfall highly productive agricultural land in its 30 year plan?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:45): That will obviously be revealed when the plan comes out. Of course it is one of the factors, but it is a juggling act. I well recall that my great-uncle used to have a celery farm at Lockleys which was some of the best land around. He had 10 acres or something; he used to grow celery and it was some of the best celery I ever tasted. Of course, that area, just there on the Torrens flood plain, has long been consumed by housing.

Increasingly, agriculture has moved out but, fortunately, in relation to that element of horticulture, hydroponics has, to some extent, taken over. I know that when I had the pleasure of opening a glasshouse at d'VineRipe, north of the Gawler River, hydroponics was used. In that way, you can effectively have your horticulture in areas that are not necessarily highly productive or high rainfall land.

That is how we are dealing with it, but clearly that is one of the trade-offs. Not only do we need to ensure that we have minimal impact on our highly productive land but also land that has the remaining high-value vegetation and environmental value. That is where transit-oriented developments are one of the keys to making sure that is happening. Clearly, the more that we can increase high density within the existing urban growth boundary, and the more effective we are in that, the less pressure there will be at the fringes.

At this stage, we have pressure on both and, clearly, until we can get the acceptance of the community to appreciate and be part of that higher-density living, which is done very successfully in other parts of the world, there is going to be pressure on the fringes. That is why it is so important that we convince the public and produce the quality of living in transit-oriented developments along our major corridors that people want to live in. That is, of course, one of the reasons for the visit that the Minister for Transport and I made overseas recently.

ADELAIDE HILLS HOUSING

The Hon. M. PARNELL (14:48): As a supplementary question, can the minister advise whether any private planning consultants are involved in the preparation of the development plan amendment and, if so, are any of those private consultants also known to represent the interests of property developers with interests in the Mount Barker area?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:48): The fact is that, as we have discussed in the past couple of days, there is a small number of planning companies that specialise as planning consultants in this city. They do work for the government, and they do work for the industry. What is important is that they do not have any involvement in relation to ownership of the land concerned in respect of the work being done.

It is inevitable, in a city like Adelaide, that those consultants will do work both for the government and, at times, for the private sector. I am not quite sure what the honourable member suggests would be an alternative for the sort of work that the government does. Private developers may want to sponsor a development plan amendment because, if they did not do so, it might take years to go through the normal council processes. If we did not have that, then no development would occur. The Greens might think that is a good thing, but I do not think the rest of the

community would think that. If proper consideration is to be given, of course the government must have oversight of it.

As I said yesterday, it is not uncommon with those sorts of proposals that consultants will do it. We are fortunate in this city to have a small group of highly qualified consultants in the planning area who do this work—and do it professionally—but it is important that the work is vetted by government. They do the work, but it is vetted by all the various government agencies; and that is inevitable.

If one were to bring in developers from interstate who had no connection with local property developers—although most of them are national bodies anyway—I am sure that members opposite would attack the government because it did not give the contracts to local people. In any case, those local people would have the expertise.

What is important when local planning consultant companies are involved in that sort of consideration is that it is made quite clear up front that it is a development plan amendment—whether it comes from the minister or a council, it should be clear who is doing the work—and any connections with developers should be well known. Secondly, of course, that work needs to be properly vetted by the government—and it is.

ADELAIDE HILLS HOUSING

The Hon. J.S.L. DAWKINS (14:52): I have a supplementary question.

The Hon. B.V. Finnigan: A follow-up question again. You can't come up with anything.

The PRESIDENT: Order!

The Hon. J.S.L. DAWKINS: What focus does the government have on the future demand for rural living areas and animal husbandry zones in Mount Barker and other peri urban districts?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:52): This is essentially the same question that the Hon. Mr Ridgway asked about high value agricultural land, and I think that the answer is essentially the same. In places such as Mount Barker, what you often find as development—and this applies particularly to Mount Barker—is that, as you get fringe development up to a boundary, there are various interface issues at the boundary of the township with the rural boundary. If spraying is taking place on the agricultural land opposite a residential zone, as housing is built up to that zone there will be pressure to remove the rural activities that take place; so you will get complaints.

There are always problems when there is a boundary between an agricultural zone and a residential zone. There can even be problems at boundaries between different types of agricultural zones. For example, the spraying on vineyards may conflict with another sort of horticulture where different sprays are used at different times of the year. So there are all these different sorts of conflicts. Having those buffers is a particularly complex idea—

The Hon. J.S.L. Dawkins interjecting:

The Hon. P. HOLLOWAY: That relates to another planning issue. I do not want to spend the rest of question time talking about general planning issues but, clearly, one of the issues at Mount Barker—and this is along Bald Hills Road, which is the current urban growth boundary—is that sprouts on one side are being put under pressure because of residential development that has occurred in previous years. Also, because of the sorts of rural living zones there, where people have larger properties, it is part of lower density living. Where you have lower density rural living—which may be blocks of one or two hectares or more—that tends to reduce the quality of land available for the higher values of agriculture, and it also leads to a much greater level of sprawl. These are all issues that need to be addressed in a development plan, as to how much of that lower density living you have at the fringes.

HEALTH DEPARTMENT

The Hon. J.A. DARLEY (14:55): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations, representing the Minister for Health, questions about the Department of Health.

Leave granted.

The Hon. J.A. DARLEY: A recent article in *The Advertiser* outlined that the Chief Executive of the health department, Dr Tony Sherbon, met with representatives of the Public Service Association and indicated that the health department will be conducting a review of the department to identify possible job cuts and other efficiency savings. I understand that, instead of asking the staff of the health department, who, given their experience, would be in the best position to highlight possible deficiencies and suggest improvements, an external consultant, Ernst & Young, has been engaged to conduct a review of the department. My questions to the minister are:

1. What is the cost to contract the consultant for the review?

2. Why could not the review have been conducted in-house by the Chief Executive Officer or his delegates?

3. How long has the consultant been given to complete the review?

4. Will the minister provide an answer to these questions before the end of the review or, at the very least, within the next four weeks?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:56): I will refer the member's important question to the Minister for Health in another place and bring back a response.

REGIONAL DEVELOPMENT AUSTRALIA

The Hon. J.S.L. DAWKINS (14:57): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about Regional Development Australia.

Leave granted.

The Hon. J.S.L. DAWKINS: The Local Government Association of South Australia was advised that commonwealth and state funding levels would be retained in establishing the new Regional Development Australia network. The Local Government Association's circular, released on 16 March 2009, states:

> The State and Australian Governments have indicated they will commit the total annual existing funding amounts provided to both the Regional Development Boards Program and the Area Consultative Committees to the funding agreement to be negotiated with each new Regional Development Australia committee.

The Local Government Association has now informed councils that, as a result of the federal budget handed down on 12 May, the commonwealth has decreased its annual investment of $1.4 million to no more than $1.2 million. My questions are:

1. Is the minister aware that the Local Government Association was promised that state and federal funding levels would be retained in the establishment of Regional Development Australia?

2. Was the minister also advised by her federal colleagues that the commonwealth investment of $1.4 million would be quarantined in the establishment of the new Regional Development Australia network?

3. As the minister responsible for relations with local government, is she concerned that less than a month after releasing the memorandum of understanding the commonwealth decreased its funding to $1.2 million?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:58): This is obviously a policy area that overlaps with that of the Hon. Paul Caica, but I have some responsibilities for this in relation to local government. As the honourable member rightly pointed out, in 2008-09 the commonwealth government announced in its budget that the Regional Development Australia (RDA) program would become its major vehicle for engagement with regional communities.

The aim of this RDA program is to build on the federal government's Area Consultative Committees program, with RDAs taking on a broader role to provide input into national programs and to improve the coordination of federal and regional initiatives and link closely with local

government and other regional organisations. It was agreed in July 2008 that the Regional Development Council meeting of federal, state and territory ministers and the Australian Local Government Association (ALGA) would move forward in aligning these RDAs with regional development organisations; and, in South Australia's case, regional development boards.

We believe that these will provide an opportunity to put in place an agenda of renewal and an opportunity for regional South Australia to help sustain regional communities into the future. The ministers and the ALGA agreed to a memorandum of understanding in terms of a number of principles to form the basis of aligning those structures. It is noteworthy that South Australia is the only jurisdiction that has sought to establish an RDA with local government as a founding partner. It is proposed that our state move from 13 RDBs and five area councils to seven new RDAs in regional South Australia and one RDA to cover metro Adelaide.

They will closely align with the state government's regional boundaries in response to the Economic Development Board's recommendations. The transition process in terms of moving into these new structures will be headed by the Hon. Rob Kerin. The process will acknowledge the diversity of our regions and result in the RDAs being capable of attracting high calibre community and business leaders assisting regional communities to meet the social and economic challenges which they currently face.

As I said, this is an important structure to help promote regions to better coordinate their interests and better respond to their development needs. I do not have the details of the funding arrangements with me today, but I am happy to take those questions on notice and bring back a response.

ANNA STEWART MEMORIAL PROGRAM

The Hon. I.K. HUNTER (15:02): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the Anna Stewart Memorial Program.

Leave granted.

The Hon. I.K. HUNTER: The Anna Stewart Memorial Program commenced, as I understand it, in 1984 and is held annually by SA Unions to commemorate the achievements of Anna Stewart, a former journalist and union official, who worked tirelessly and passionately for women. Will the minister update the council on the Anna Stewart Memorial Program?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:03): I am very pleased to do this. Anna Stewart worked passionately and tirelessly towards pay equity and to improve working conditions for women. She died in 1983 at the age of just 35. The Anna Stewart Memorial Program continues to honour her in the best way possible.

From 1974 until 1983 Anna Stewart, a former journalist and Victorian trade union official, worked to involve women directly in deciding on principles and priorities to be put before unions and government in order to achieve real quality of status and opportunity for women. Anna entered the industrial arena at a time when women workers made up just a third of the paid workforce, and the few industries in which women were employed were almost invariably in the unskilled or semi-skilled areas. Women were poorly paid, lacked job security and job satisfaction and rarely had access to promotional opportunities. Anna developed a radical re-evaluation of the rights of female labour within the economy, which led to a fundamental reappraisal of these issues throughout the labour movement. Both personally and industrially, Anna made demands upon the social system and forced the work environment to accommodate the rights and needs of working women.

At its congress in 1977, the ACTU adopted the Working Women's Charter and set up the first women's committee of the ACTU. Anna was one of the founding members of that committee and one of the four women chosen to be its nucleus. She remained an active force in that committee working for implementation of that charter. Only a couple of weeks before her death, she successfully argued the future program of the ACTU's women's committee before the ACTU Executive.

The influence of Anna's work remains immeasurable. The Anna Stewart Memorial Project is held annually and is one way to ensure that her efforts were not in vain. The program aims to increase women's active union involvement and to increase the union movement's acceptance and understanding of women members and the issues that are of concern to women. It is designed

specifically to give women an insight into how unions operate and how women can be more active in their union and pursue issues of their interest and concern.

As part of that program, a group of women union members are placed in different unions for two weeks' work experience. During this time, participants see how the union is organised and its relationship to other unions. Participants become involved in issues which are important to members in union offices and meetings with members, officials other than unions and SA Unions. The Anna Stewart program commenced in Victoria (as the honourable member said) in 1984, and SA Unions (formerly the UTLC) held its first program in 1985. While women's share of union membership is rising, their participation in union affairs is lagging and participation levels reflect the major share of child rearing and domestic work that many women undertake.

As Minister for the Status of Women, I am pleased to host the Anna Stewart Memorial Project Lunch at Parliament House tomorrow (Friday). It is particularly of interest to me, given that I was an Anna Stewart Memorial participant. I was trying to remember the date that I participated: I think it was around 22 years ago. I think I was in the second or third group that passed through the program. It certainly changed my life. Being a fairly outspoken person in the workplace, it helped me understand the role of unions and the importance of speaking out. It also helped me understand industrial structures and processes. That certainly empowered me in being able to pursue concerns that I and my colleagues had. It also led me to my interest in and now membership of parliament. It was certainly a pivotal experience in my life and I am very pleased to be able to host this event tomorrow.

DISABILITY SA

The Hon. A. BRESSINGTON (15:08): I seek leave to make a brief explanation before asking the minister representing the Minister for Families and Communities questions about disability funding.

Leave granted.

The Hon. A. BRESSINGTON: I have been contacted by a constituent with a seven year old son, Matthew, who is severely disabled and is totally dependent for all functions of daily living and has chronic and complex health needs. For three years, this family was fortunate enough to have 26 nights respite a year provided by a wonderful volunteer group. When that came to an end at the beginning of last year, Matthew was placed on a waiting list for another 'saint' family, but saints are in short supply and the family is still waiting. Meanwhile, the family was advised that they must exhaust all community options before being considered for respite funding.

The level of phone calls and emails was ramped up, whilst the exercise became an all consuming task of nothing but dead ends and rejections. Six months later, at breaking point, the family requested funding from Disability SA. Their request for five hours respite care per week was initially denied and, only after extensive debate, were they eventually given five hours per fortnight. However, the carer provided could not bathe Matthew due to the need to lift him in and out of the bath. Matthew was also on the equipment waiting list for a lifter.

After dozens of phone calls, forms, emails and meetings with two bureaucrats, the mother was informed that to access respite through Disability SA she would have to relinquish the miniscule respite she has already had, as well as the occasional out-of-home respite they had through carer respite and support care and CARA Respite House. She was told that she would have to do this to be considered for an individual funding package in the future, but with no guarantee of funding being made available through their agency for individualised funding, anyway. My questions to the minister are:

1. What possible logic or rationale would lead Disability SA to require any family pleading for additional services to relinquish the meagre services they have already without any promise of a comparable service to replace those being forfeited?

2. When did the minister become aware that such a policy was being applied to desperate families?

3. When was this policy implemented within Disability SA?

4. Will people with disabilities, their families and carers see a prompt transition to individualised funding within the lifetime of this current government's term in office?

5. Will the minister investigate this matter as soon as possible and advise this chamber of the outcome of that investigation and what action can be taken to assist this family?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:11): I will refer the honourable member's important questions to the Minister for Families and Communities in another place and bring back a response.

LIVESTOCK TRANSPORT LEGISLATION

The Hon. C.V. SCHAEFER (15:12): I seek leave to make a brief explanation before asking the minister, representing the Minister for Transport, a question on livestock transport legislation.

Leave granted.

The Hon. C.V. SCHAEFER: The Livestock Carriers Association of South Australia is holding its annual conference this weekend and, as part of its press release, the President, Mr David Smith of Tumby Bay, said that drivers are still struggling to comply with fatigue laws eight months after the regulations were introduced. The biggest thing is that everyone is scared of the new laws and, instead of trying to embrace them, people are struggling to come to terms with the very complicated fine details.

Conflicting laws were evident in the scenario of drivers running out of hours within half an hour of their destination. He has said that he might have a driver who needs to stop half an hour from Murray Bridge, even though he has only another half an hour to drive. If that driver has a truck full of livestock and has to stop in high temperatures for seven hours to have a break, he is then in breach of the Australian Animal Welfare Standards for the Transport of Livestock.

Long haul drivers are losing the flexibility of working 12 days in 14, because they now have to take a day off every six days, which could mean they have to take a day off in the middle of their trip when they just want to get home. Clearly these laws do not pass the common sense test. When this legislation was introduced into this place we asked a series of questions, pointing out the anomalies within the legislation and we were assured at the time that common sense and flexibility would apply, particularly to livestock transporters, and that consideration for animal welfare would be taken into account. Clearly, this has not happened. Did the minister deliberately mislead this place and the Livestock Transport Association? If not, when and how soon can we expect common sense amendments to that legislation?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:14): I will refer the honourable member's questions to the Minister for Transport in another place and bring back a response.

SOUTH AUSTRALIAN INNOVATORS

The Hon. R.P. WORTLEY (15:14): Is the Minister for Small Business aware of any recent success by South Australian innovators on the world stage, and how has the government assisted in ensuring South Australia achieves this sort of recognition?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:15): I thank the honourable member for his question. Port Adelaide's Todd Street Business Chambers has been recognised on the world stage, winning two award categories at the 2009 International Incubator Conference in Kansas City, Missouri. On behalf of the government, I congratulate Todd Street Business Chambers on its well deserved success.

Todd Street Business Chambers won the 2009 International Incubator of the Year award in the non-technology category, while one of the chamber's graduates, Alfresco Pergolas and Design, was awarded the 2009 Outstanding Incubator Graduate of the Year award. In the past 10 years, Todd Street Business Chambers has assisted 68 successful businesses with a combined annual revenue of more than $147 million and has created 167 new full-time jobs, making a major contribution to the economic rejuvenation of the area.

The US-based National Business Incubation Association chose Todd Street Business Chambers ahead of a number of standout entries from incubation programs around the world. This is an outstanding achievement and recognition of the contribution made by Todd Street Business Chambers to economic wealth and employment in the Port Adelaide area. A panel of more than

20 NBIA judges was impressed with the South Australian entrant's financial sustainable model of operation and the innovative programs it offered.

On behalf of the government, I also acknowledge the efforts of Lyn Hay, the General Manager of Todd Street Business Chambers' parent organisation, North West Business Development Centre, and the team in Port Adelaide. Todd Street Business Chambers assists businesses on the cusp of growth by providing flexible work space, onsite mentoring, and tailored business support. Some businesses have come to Todd Street Business Chambers as small owner operators, graduated from its three-year program, and grown into companies with a multimillion dollar turnover.

I am pleased to inform members that the Department of Trade and Economic Development has played a crucial part in the success of the Port Adelaide incubator project. The department has provided the chamber with assistance with many of the coaching and training programs offered to its businesses. Again, I congratulate Ms Hay and her team at the North West Business Development Centre and all those involved in the continuing success of the Todd Street project.

HOMELESSNESS

The Hon. DAVID WINDERLICH (15:17): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations, representing the Minister for Housing, questions about the number of homeless people in the Adelaide area.

Leave granted.

The Hon. DAVID WINDERLICH: Last Wednesday, the Minister for Housing made a questionable claim that the number of homeless South Australians in the Adelaide area had decreased by 50 per cent over two years. The minister's figures were based on data collected by the Social Inclusion Unit, which purported to show that the number of South Australians sleeping rough in Adelaide had decreased from 108 to 53 over the two years since mid-2007. However, both of these claims are questionable when compared with the latest report from the Australian Institute of Health and Welfare, which showed that South Australia has the highest level of unmet demand in Australia, with only 63.7 per cent of cases being attended to. Unmet demand suggests a severe shortage of services, and it is hard to see how this can be consistent with a decline in the levels of homelessness or the number of South Australians sleeping rough.

Homeless shelters in and around the Adelaide CBD have also reported an increase in the mortality of homeless people during the past year. That means that more homeless people are dying. There are also indications that the methodology used by the Social Inclusion Unit to compile its figures on those sleeping rough may be flawed, because the number of homeless people refusing to participate in the survey from 2007 to May 2008 increased by 55 per cent. In real terms, that means that 87 of Adelaide's 260 homeless people refused to participate in the Social Inclusion Unit's survey. In other words, the number of people who refused to participate is greater than the claimed reduction in the number of people sleeping rough. My questions are:

1. Can the minister give an explanation for the discrepancy between the government's claimed reductions in homelessness and sleeping rough and the Australian Institute of Health and Welfare's report, which shows that South Australia has the highest level of unmet demand?

2. How does the minister know that the reduction in sleeping rough is not the result of an increase in the number of homeless people simply refusing to participate in the government's survey?

3. Does the minister know whether more homeless people have died over the period that the data was collected, and what impact would this increase in mortality have on the results of research into the number of South Australians sleeping rough?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:20): I thank the honourable member for his most important questions. The Rann Labor government has committed considerable effort and money around the issues of homelessness, particularly in relation to those people sleeping rough who have a chronic issue, which is often associated with substance abuse or mental health issues and suchlike. So, they were a particular target audience.

What this government did in terms of that commitment was to establish the Social Inclusion Unit, which was an initiative of the Rann Labor government. It established a Social Inclusion Commissioner, Monsignor Cappo, and one of the terms of reference that it gave to the Social Inclusion Unit was, of course, to investigate the issue of homelessness and to look at solutions around that.

Indeed, Monsignor Cappo and the Social Inclusion Unit did undergo the most extraordinary efforts, and also achievements, in relation to that particular term of reference and that initiative. I do not have the figures on me, but considerable funds were put into this initiative and a number of very practical on-the-ground initiatives were rolled out. One that I would particularly mention is the way that particular individuals, who are well known within the system in terms of chronic homelessness, were case managed, which was found to be a very successful technique in finding them more permanent accommodation.

I am also aware that in a number of hospitals positions were established—because, often, a number of people suffering from homelessness present themselves to emergency departments of public hospitals—for staff to identify these particular people, to ensure that their health needs were met but to also follow them, if you like, and case manage them back out into the community and assist them to find more permanent accommodation.

They are just a couple of the initiatives that I can recall offhand. Obviously, this is not an area that I am responsible for, and I would be very pleased to pass that question on to the Minister for Housing in another place and bring back a response.

APY LANDS, ROAD MAINTENANCE

The Hon. T.J. STEPHENS (15:23): I seek leave to make a brief explanation before asking the Leader of the Government a question about road maintenance on the APY Lands.

Leave granted.

The Hon. T.J. STEPHENS: I recently received a letter from a person who lives and works on the lands. This person is concerned about the state of the roads in the area, specifically in the western communities of the lands. This is certainly an issue that concerns me, and I have raised it here in the past. Let me share part of the letter, as follows:

> It appears that funding has dried up for road maintenance on the APY Lands, demonstrated by the fact that a grader has not visited the western community since before Christmas. Since grading of roads here has ceased conditions have become dangerous and very costly for road users, with suspension failure occurring even in brand new Toyota Landcruisers.

My questions to the minister are:

1. Can he confirm the last time a grader was sent up to the western communities in the APY lands?

2. What action will be taken by the government to ensure that, at the very least, these roads are graded to a safe and acceptable standard?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:24): I thank the honourable member for his questions. I will refer them to the appropriate minister in another place and bring back a response.

LOCAL GOVERNMENT ASSOCIATION

The Hon. J.M. GAZZOLA (15:24): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the outcome of the Local Government Association presidential elections.

Leave granted.

The Hon. J.M. GAZZOLA: As you are aware, women were well represented in the recent Local Government Association presidential election. Indeed, both contenders were women, as was the outgoing president. Will the minister provide more detail on the outcome of the election?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:24): It is my

great pleasure to answer this very important question, in my capacity as both Minister for State/Local Government Relations and also as Minister for the Status of Women. We know that local government nationally is grappling with the issue of under-representation of women both as elected members and in executive positions. South Australia is no exception with women holding only 26 per cent of elected member positions in local government out of 740 positions.

Of the 68 councils, 48 have popularly-elected mayors, and only 10 of those are women. It is a similar picture for managers as well. I hope that the well publicised local government presidential elections will encourage more women to consider making local government part of their future.

The newly elected President of the Local Government Association, the Mayor of Marion, Ms Felicity-Ann Lewis, was officially sworn in by the outgoing president, Mayor Joy Baluch, in late April. Both are very hard-working and committed women, and I would like to acknowledge the great effort of the Mayor of Tea Tree Gully, Mayor Miriam Smith, who made this election a very close contest.

I acknowledge in particular the wonderful work of Mayor Joy Baluch. She was certainly a very interesting character to work with and, although Joy and I did not see eye to eye on everything, nevertheless it was quite an experience working with her and I enjoyed that experience. I look forward to working with the new president in the very constructive relationship that government does have with local government.

LEGISLATIVE COUNCIL

The PRESIDENT (15:27): Tomorrow is 5 June, which means that it is 70 years since this chamber was opened.

PUBLIC SECTOR BILL

Bill recommitted.

Clause 13.

The Hon. D.G.E. HOOD: I move:

Page 14, line 13 [clause 13(2)]—Delete 'or by the Minister'

The effect of this amendment is to remove the ability of the minister to assign functions to the commissioner. The provision in this bill is worded in such a way that the minister can dictate to the commissioner and this amendment, if successful, will remove that capacity. In order to make the commissioner a truly independent position, Family First believes that the minister should not have the power to assign these functions to the commissioner, and if the amendment is successful it will have that effect.

The Hon. D.W. RIDGWAY: The opposition will support both the amendments being moved by Family First.

The Hon. G.E. GAGO: The government opposes the amendment. The power to assign further functions to the commissioner mirrors section 22(1)(g) of the PSM act. There has never been a suggestion that this provision has caused any problem. This is a sensible provision to allow for some flexibility as unforeseen issues emerge.

What can possibly be threatening about this position? It is hard to see the concerns and why members feel threatened by this provision. The commissioner is the protector of merit, standards and values. Any additional functions will not work to the detriment of employees or the Public Service.

The committee divided on the amendment:

AYES (12)

Brokenshire, R.L.	Dawkins, J.S.L.	Hood, D.G.E. (teller)
Lawson, R.D.	Lensink, J.M.A.	Lucas, R.I.
Parnell, M.	Ridgway, D.W.	Schaefer, C.V.
Stephens, T.J.	Wade, S.G.	Winderlich, D.N.

NOES (9)

Bressington, A.	Darley, J.A.	Finnigan, B.V.
Gago, G.E. (teller)	Gazzola, J.M.	Holloway, P.
Hunter, I.K.	Wortley, R.P.	Zollo, C.

Majority of 3 for the ayes.

Amendment thus carried; clause as amended passed.

Clause 14.

The Hon. D.G.E. HOOD: I move:

Page 14, after line 2—After subclause (5) insert:

(6) Sections 10 and 10A of the Subordinate Legislation Act 1978 apply to the code, or a variation of the code, as if it were a regulation within the meaning of that act.

This amendment deals with the code of conduct specifically; and the effect of the amendment, should it be successful, will be to enshrine the code of conduct in the regulations. The reason for that is essentially that if the code of conduct is presented in the form of regulations then, of course, it is subject to parliamentary scrutiny and parliament can overturn the regulations, should it choose, or it certainly opens them to more scrutiny, at the very least.

Further, we believe it will also have the other effect of strengthening the way it is received in the public sector because it will be seen as a higher authority, if you like, given that it is under regulation.

The Hon. D.W. RIDGWAY: The opposition is very happy to support the Hon. Mr Brokenshire's amendment moved on his behalf by the Hon. Mr Hood.

The Hon. G.E. GAGO: The government opposes the amendment. The code of conduct is to be issued by the commissioner. This is what currently happens, and there has never been a suggestion that this has caused any problems. Evidently, the Hon. Robert Brokenshire does not trust the commissioner to get this right. This is bizarre, given his support for the commissioner to be a person deciding on the termination of public servants. It portrays a misunderstanding of the commissioner's role under the bill. Most of the public would find it pretty odd that politicians would be deciding on the detailed conduct rules of public servants—we do, too.

At this point, I table the South Australian Public Sector Employees Code of Conduct, which was requested by the Hon. Rob Lucas.

The Hon. R.I. LUCAS: I take this opportunity to place on record an issue that I raised last night which relates tangentially to the Public Sector Employees Code of Conduct. It is the only clause that is open. I ask the minister to take on notice a further question. I asked a series of questions of the minister last evening about whether or not there was a policy of executives being appointed for five years and then being reappointed for three years. The minister indicated that there was no such policy but that it had been the practice for a period of time.

Information provided to me today advises that on 25 October 2004 cabinet approved a policy that chief executives would be appointed initially for a period of five years and, after that, could be offered a further three-year contract of renewal only in the same position. After that, they could not continue in that chief executive position but could then be moved to another chief executive position in another department, or leave. The maximum that they could spend as a chief executive in one department was eight years.

I put those questions to the minister last night and she said that there was no such policy. I am wondering whether, without delaying the proceedings this afternoon, she is prepared to undertake to revisit that to see whether or not her answer last evening was wrong or misleading and whether, in fact, it is correct, as I have been advised, that on 25 October 2004 cabinet approved such a policy.

The Hon. G.E. GAGO: The response I gave to the question yesterday was in accordance with the advice that I have received. I do not have any other advice further to that. However, I am happy to have the information that the Hon. Rob Lucas has put on the record today followed up and to bring back a response.

The committee divided on the amendment:

AYES (13)

Bressington, A.	Brokenshire, R.L.	Dawkins, J.S.L.
Hood, D.G.E. (teller)	Lawson, R.D.	Lensink, J.M.A.
Lucas, R.I.	Parnell, M.	Ridgway, D.W.
Schaefer, C.V.	Stephens, T.J.	Wade, S.G.
Winderlich, D.N.		

NOES (8)

Darley, J.A.	Finnigan, B.V.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hunter, I.K.
Wortley, R.P.	Zollo, C.	

Majority of 5 for the ayes.

Amendment thus carried; clause as further amended passed.

Bill reported with further amendments.

Bill read a third time and passed.

PUBLIC SECTOR MANAGEMENT (CONSEQUENTIAL) AMENDMENT BILL

Bill read a second time and taken through its remaining stages.

SECOND-HAND VEHICLE DEALERS (COOLING-OFF RIGHTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 May 2009. Page 2345.)

The Hon. A. BRESSINGTON (15:49): I rise briefly to indicate my support for this bill. This bill primarily seeks to give secondhand car purchasers the right of a cooling-off period of two days, during which time they are to be granted access for the purposes of a test drive or other vehicle inspection. It must be noted that the right of a cooling-off period may be waived. Ultimately, this is sensible. One would not seek to lock in a person who has made a deliberate trip from a remote location to a metropolitan or regional centre for the purpose of purchasing a vehicle to wait for two days unnecessarily.

However, I am concerned that it will be more than this select group who opts out of the statutory protection the government is seeking to provide. Unlike the cooling-off period provided for by the Fair Trading Act 1987—specifically contracts resulting from telemarketing where receipt of goods purchased, to my understanding, does not rescind the right to a cooling-off period—a person purchasing a secondhand motor vehicle who takes possession on the day of the purchase is required to waive that right.

On most occasions, the purchase of a motor vehicle is significant and a person of maturity, or more appropriately a person who has been fleeced before, will see the cooling-off period as a useful time to review their purchase. More exuberant customers will see it as an impediment to taking possession of their new vehicle. However, ultimately, that is their choice to make, and the bill does ensure that this is an informed choice, with section 18B(2) requiring the purchaser to rescind in writing.

The bill also provides for an expanded definition of dealer and attaches several additional rebuttable assumptions designed to catch those operating a quasi dealership from their home premises. I am hopeful that this will result in such dealerships coming under the scrutiny of the principal act and the Office of Consumer and Business Affairs. To my mind, this is where there is real potential for abuse and swindle, and it is these consumers who need the protections offered by the Secondhand Vehicle Dealers Act 1995.

I am also supportive of the government's move to transfer responsibility for determination of a claim on the Secondhand Vehicles Compensation Fund from the Magistrates Court to the Commissioner for Consumer Affairs. There is no doubting that our court system, particularly the

Magistrates Court, is under stress and, while I do not envisage that this move will significantly alleviate that burden, it will contribute as well as offering several benefits to consumers.

I take this opportunity to indicate to the council that I will be moving an amendment to this bill that will require secondhand vehicle dealers to arrange for an inspection not dissimilar to that provided by the RAA to be conducted on all secondhand vehicles, and to make the results known to prospective purchasers upon request and to all purchasers prior to the finalisation of the contract of sale. The intent of this amendment is quite simple: full disclosure of any defects that the vehicle may have.

However, in my opinion, several other benefits will be derived. For example, if an inspection report identifies a significant issue this will, due to the report being available to the consumer, have to be reflected in the asking price—something that may not necessarily have occurred otherwise. The inspection will also assist dealers to identify obligations or potential obligations arising from part 4 of the act. This is particularly true for cars of a value less than $3,000—those which are not normally subject to an obligation.

I believe this to be a sensible amendment offering real protection for consumers, and I will be seeking the support of members during committee. In saying that, I support the second reading of the bill.

Debate adjourned on motion of Hon. R.P. Wortley.

PUBLIC SECTOR BILL

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:54): I seek leave to insert in *Hansard* without my reading it an answer to a question asked by the Hon. Robert Lucas in committee in relation to the Public Sector Bill.

Leave granted.

ANSWERS TO QUESTIONS

PUBLIC SECTOR BILL

In reply to the **Hon. R.I. LUCAS (3 June 2009).**

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:55): I was asked to provide a list of the public sector agencies to be excluded under the PSM act. I have been advised that only one agency, the Australian Energy Market Commission, is not a public sector agency for the purposes of the PSM act.

At 15:55 the council adjourned until Tuesday 16 June 2009 at 14:15.