



ECONOMICS AND GOVERNANCE COMMITTEE

Members present:

Mr LP Power MP (Chair)
Ms NA Boyd MP (via teleconference)
Mr DG Purdie MP
Ms KE Richards MP
Mr RA Stevens MP

Staff present:

Ms T Struber (Acting Committee Secretary)
Ms M Salisbury (Assistant Committee Secretary)
Mr M Binns (Inquiry Secretary)

PUBLIC BRIEFING—INQUIRY INTO THE MINISTERIAL AND OTHER OFFICE HOLDER STAFF AND OTHER LEGISLATION AMENDMENT BILL 2018

TRANSCRIPT OF PROCEEDINGS

MONDAY, 4 JUNE 2018

Brisbane

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The committee met at 3.59 pm.

CHAIR: Good afternoon. I declare open this public briefing of the committee's inquiry into the Ministerial and Other Office Holder Staff and Other Legislation Amendment Bill 2018. I want to acknowledge the traditional owners of the land on which we meet. My name is Linus Power, the member for Logan and chair of the committee. Other committee members are Ray Stevens MP, the member for Mermaid Beach and the deputy chair; Kim Richards MP, the member for Redlands; Dan Purdie MP, the member for Ninderry; and joining us via teleconference is Nikki Boyd, the member for Pine Rivers.

On 15 May 2018 the Premier and Minister for Trade, Hon. Anastacia Palaszczuk, introduced the Ministerial and Other Office Holder Staff and Other Legislation Amendment Bill into the parliament. The parliament referred the bill to the Economics and Governance Committee for examination, with a reporting date of 5 July 2018. The purpose of this briefing this afternoon is to assist the committee with its examination of the bill.

The briefing is a proceeding of the Queensland parliament and is therefore subject to the standing rules and orders of the parliament. It is being recorded and broadcast live on the parliament's website. Media may be present and will be subject to my direction. The media rules are available from committee staff if required. All those present today should note that it is possible that you might be filmed or photographed during these proceedings. Only the committee and invited officials may participate in the proceedings. Any person may be excluded from the briefing at my discretion or by order of the committee. I remind committee members that officers from the department are here to provide factual or technical information. Any questions about government or opposition policy should be directed through the responsible minister or shadow minister or left to debate on the floor of the House. We will now hear from representatives of the Department of the Premier and Cabinet who have been invited to brief the committee on the bill.

KIRTON, Mr Mike, Acting General Manager, Government Services, Department of the Premier and Cabinet

MORGAN, Ms Filly, Deputy Director-General, Corporate and Government Services, Department of the Premier and Cabinet

TIMPERLEY, Mr Andrew, Principal Policy Officer, Cabinet and Parliamentary Services, Department of the Premier and Cabinet

CHAIR: Good afternoon and welcome. I invite you to make a brief opening statement and then the committee may have some questions for you.

Ms Morgan: We are pleased to be able to assist the Economics and Governance Committee during the course of its inquiry into the Ministerial and Other Office Holder Staff and Other Legislation Amendment Bill 2018. I will now proceed to give a short overview of the bill. The bill has a number of objectives. Firstly, it will provide the Director-General of the Department of the Premier and Cabinet and the Clerk of the Parliament with explicit power to conduct criminal history checks to assess the suitability of persons to be engaged under the Ministerial and Other Office Holder Staff Act 2010 and the Parliamentary Service Act 1988. Secondly, it will update the plan details of the parliamentary precinct in the Parliamentary Service Act following the parliament's agreement in 2017 to relinquish a small parcel of land for the Queen's Wharf Brisbane project. Finally, it will make minor amendments to the Parliament of Queensland Act 2001 to correct and update certain references.

Administrative arrangements are currently in place that enable the Director-General of the Department of the Premier and Cabinet and the Clerk of the Parliament to undertake criminal history checking with consent. The bill will provide a specific head of power to conduct the checks. The legislative power proposed to be provided to the director-general and the Clerk is similar to that currently provided to chief executives of Queensland government departmental employees under the Public Service Act 2008. The bill places obligations on the director-general and the Clerk to seek

written consent in order to conduct the checks and outlines what information will be obtained. Safeguards are built into the bill around how the criminal history information can be used.

In response to comments raised by the committee following the introduction of the bill, the Department of the Premier and Cabinet has provided a written submission to confirm certain aspects of the employment screening provisions contained in the bill. The written submission confirms that the Clerk of the Parliament has asked to have the option of seeking criminal history check information from either the Queensland Police Commissioner or an accredited agency referred to in the bill as another entity. The Clerk has confirmed that the contract between the Legislative Assembly and the accredited agency contains safeguards around the disclosure and use of information. The submission also notes that the bill does not contain a specific provision which requires a staff member who is charged with an indictable offence to immediately disclose notice of the charge as it was considered that this requirement is covered by applicable policies and codes of conduct.

As I have already mentioned, the bill also contains a number of procedural provisions relating to amendments to the Parliamentary Service Act 1988 in relation to the planned details for the parliamentary precinct and a minor correction to the Parliament of Queensland Act 2001. I can provide more detail on those provisions if the committee wishes.

CHAIR: Thank you very much.

Mr STEVENS: I notice the explanatory notes in relation to other areas such as other states and the Commonwealth. They do not have any legislation of this kind whatsoever. Why is there the need? Why is it necessary for Queensland to bring forward what some might think—I know if the Queensland Law Society were here—are fairly heavy-handed requirements in relation to disclosures?

Ms Morgan: As I indicated, there are administrative arrangements in place to be able to undertake the checks with a person's consent. We received some legal advice around the need to legislate to ensure the ability of the director-general to issue a directive under the Ministerial and Other Office Holder Staff Act cannot be challenged. The other reason for legislating is that the Queensland Police Service has indicated that it requires a head of power in order to undertake the checks, and that is its preference.

Mr STEVENS: I understand, but in legislation in all other states and the Commonwealth there is no requirement to legislate for this disclosure. Why is it necessary in Queensland?

Mr Timperley: I do not doubt your word. I know that when we did the legislation—

Mr STEVENS: It is here in the briefing paper.

Mr Timperley: When we did the legislation we did not do a jurisdictional check, so I could not say. There may be provisions in other states. I think the way—

Mr STEVENS: The explanatory notes state—

The Bill is specific to the State of Queensland, and is not uniform with or complementary to legislation of the Commonwealth or another state.

Mr Timperley: I think our wording around that is that this is a piece of legislation specific to Queensland and we have not based it on or made it complementary to anything that operates in any other state, but we would happily take it on notice and go away and do a jurisdictional check to find out—

Mr STEVENS: Yes, to find out what the other states do for their disclosure. I am not arguing about the disclosure; I am just—

Mr Timperley: You just want to know why we are doing it in Queensland—

Mr STEVENS: Yes, special legislation is required when other states have a system in place obviously for these checks, or if they do not have criminal history checks I would want to know why they do not have criminal history checks.

CHAIR: You are seeking to put a question on notice—and I will just paraphrase if I may—that the department provide information regarding legislation in other states and how they deal with this situation.

Mr Timperley: Dealing with not only ministerial or opposition staff but also the staff in parliaments and the other jurisdictions.

Ms Morgan: Sure, yes.

Mr STEVENS: Exactly.

Mr Timperley: Yes, we will happily—

Mr STEVENS: It is fairly interesting for us in terms of the parliamentary staff.

Mr Timperley: Sure.

Ms Morgan: Yes, absolutely.

Mr Timperley: No, that is fine.

Ms RICHARDS: Can you expand a little bit on the changes to the parliamentary precinct and what that planning detail and those changes look like?

Mr Timperley: We will give to the committee a copy of the map from the Clerk of the Parliament. Most of the dealings around the loss of land were dealt with between the Clerk of the Parliament and the then department of state development, but I will show you on the map. It is a very small sliver of land near the bikeway down near car park A and car park B. There is a very small sliver of land that went in relation to that. There is some other land—and, again, we can get you more information given the Clerk has this more than we do—but there also is land around car park C that the parliament lost in relation to the project. That land apparently was never actually part of the parliamentary precinct. It was land that the parliament had—and I just do not have the correct words with me here—but there was some arrangement that the parliament had in relation to that land. When it was decided that they were going to lose that, the parliament did not really have too much of a say in it because it was never their land. I can show you the map now, but it is a very small sliver of land down near the back boundary of those two car parks. Because of that, they had to resurvey. Because the resurvey has a new plan number, it needs to be amended in the act so that everything is A-OK.

Mr PURDIE: Thanks for your summary at the start, Ms Morgan; it was good. This provides for staff members to disclose after they have been committed to stand trial. Is that when it takes effect? The paperwork I have here also talks about prior to that and after charging that there are other policies already in place requiring a staff member to advise that they have been charged. However, this talks about providing that advice after they have been committed to stand trial. Is that right or have I got that wrong?

Ms Morgan: In the initial stages a person will be asked to consent to a criminal history check. When they are nominated for appointment they will be asked to consent to a criminal history check. In the consent form they will be asked if they have been charged or convicted on an indictable offence prior to the check being undertaken. Once they are employed, under the policies and procedures that are currently in place—that is, under the directive for ministerial staff—they would be required to advise if they are charged with an offence or convicted of an indictable offence. There is an obligation on them to advise the Director-General of the Department of the Premier and Cabinet if they are charged or convicted.

There is also an obligation in the bill for the Police Commissioner and the Director of Public Prosecutions to advise the director-general whether a ministerial staff member has been charged with an indictable offence or committed to stand trial and then if they are convicted. The Parliamentary Service process is similar to that. There are policies in place in the Parliamentary Service requiring Parliamentary Service staff to advise if they have been charged or convicted of an indictable offence.

Mr STEVENS: For current employees in a department who have not had criminal history checks previously and who want to apply for another position in another department, there will have to be a criminal history check for that new position. What if they say that they have been there for 15 years and they may have a criminal conviction in their past that they do not really want disclosed after 15 years of service? Does that mean they will not do duties if they do not provide that criminal history?

Ms Morgan: Obviously they have to consent to a criminal history check.

Mr STEVENS: Say they do not.

Ms Morgan: If they do not, it is a matter for the employing member. If it is the Parliamentary Service, it is for the Clerk of the Parliament to discuss that with the employing member as to whether they want to employ the person, but there is no obligation to employ them. For ministerial staff, it is for the director-general—

Mr STEVENS: Of the department—

Ms Morgan: Yes, to discuss with the relevant minister or the Premier.

Mr STEVENS: Whether they want to take the chance, if you like, without a criminal history check?

Ms Morgan: Yes, exactly, but there is no obligation to employ if they do not consent.

Mr STEVENS: Okay. There is no ramification for them if they do not get the job because they will not consent to a criminal history check?

Ms Morgan: No, no ramification.

CHAIR: You mentioned that this is similar to the powers that chief executive officers have under the Public Service Act 2008. When those amendments were made to the Public Service Act, I assume it was meant to capture all Public Service employees and it is an oversight that this particular group of Public Service employees did not have that oversight. Was it considered at the time?

Ms Morgan: Ministerial staff and Parliamentary Service staff are not classified as Public Service employees. I am not aware of any consideration around ministerial staff at that time. That may have happened. I am not aware of that, but they are not Public Service staff and they do not come under the act—

CHAIR: In a strict sense.

Ms Morgan: Yes, they do not come under the Public Service Act. Prior to that time were they employed under the Parliamentary Service Act?

Mr Timperley: Parliamentary Service staff—your electorate office staff, committee staff and everybody who works here at the parliament—are employed under the Parliamentary Service Act, not the Public Service Act. As to your question whether it was thought of at that time, we are not sure but it is certainly being thought of now and being addressed now in relation to Parliamentary Service staff and ministerial staff which also extends to opposition office staff. It is being addressed now.

Ms RICHARDS: I have one final question with regard to the time frame for retaining those notices and those criminal histories. We note that ‘as soon as practicable’ has not been included in the bill. How do you intend to deal with time frames for destruction of that information?

Ms Morgan: They would be destroyed as soon as they are no longer required for that selection process.

CHAIR: There being no further questions, that concludes the briefing. I note that a question has been taken on notice. A response is required by 5 pm on Wednesday, 6 June so that we can include that in our deliberations and report. Thank you for the information you have provided today. I also thank the Hansard reporters. A transcript of these proceedings will be available on the committee’s web page in due course. I declare the public briefing closed.

The committee adjourned at 4.17 pm.