

This will supplement the existing annual reporting framework. The government notes and accepts recommendation 3, which suggests the Public Accounts Committee conduct regular reviews of the regulations covering investment of public bank account moneys to ensure that overall risk remains low. I believe that this bill is an important step in the continuing process of financial management reform, and I commend the bill to the house.

Debate adjourned, on motion by **Dr S.C. Thomas**.

AUDITOR GENERAL BILL 2006

Introduction and First Reading

Bill introduced, on motion by **Mr E.S. Ripper (Treasurer)**, and read a first time.

Explanatory memorandum presented by the Treasurer.

Second Reading

MR E.S. RIPPER (Belmont - Treasurer) [11.50 am]: I move -

That the bill be now read a second time.

This bill seeks to establish and guide the activities of the Auditor General of Western Australia, a function previously performed by the Financial Administration and Audit Act 1985. The changes introduced in this bill seek to enhance and protect the Auditor General's independence, strengthen the relationship with the Parliament, widen some powers, introduce new accountabilities for the Auditor General, and clarify some provisions in the current legislation. These changes are in line with many of the key recommendations of both the 1992 Royal Commission into Commercial Activities of Government and Other Matters and the 1995 Commission on Government.

This bill recognises that the audit provisions of the FAAA have been in operation for more than 20 years and require updating to accommodate contemporary audit practice and expectations. Through the excellent work done by the Public Accounts Committee in its inquiry into the Auditor General and Financial Management Bills, this bill has benefited from input from the Auditor General of Western Australia, the Australasian Council of Auditors-General, the Chamber of Commerce and Industry of Western Australia, the Institute of Chartered Accountants in Australia, CPA Australia and the Department of Treasury and Finance. I thank the Public Accounts Committee for its hard work in examining this bill, and am pleased to say that the three amendments recommended by the committee have been implemented and are included in the bill before us.

I will now examine the proposed changes, relative to the current FAAA, in greater detail. As the external auditor of government, the Auditor General requires the highest degree of independence from executive government and the broader public sector. Part 1 of this bill states that -

The purposes of this Act are -

- (a) to ensure that the State has an Auditor General with the necessary functions, immunities and independence; and
- (b) to provide for the independent external audit of the public sector and related entities.

A number of provisions in the bill will enhance the independence of this position, either through the safeguarding in legislation of relevant current practices or through requirements to improve current practice.

Part 2 of the bill establishes that the Auditor General is an independent officer of Parliament, and "subject to this Act and other written laws, has complete discretion in the performance of those functions". Part 2 goes on to clarify the meaning of independence, stating that the Auditor General is not subject to direction from anyone in relation to whether or not a particular audit is to be conducted, the way in which a particular audit is to be conducted, whether or not a particular report is to be made, what is to be included in a particular report, or the priority to be given to any particular matter.

For the Auditor General to be truly and effectively independent, the resourcing of the Auditor General must not be vulnerable to any undue influence by executive government. To that end, the Royal Commission into Commercial Activities of Government and Other Matters and the Commission on Government both recommended a greater degree of parliamentary involvement in and oversight of the resourcing of the Office of the Auditor General. Part 6 of this bill gives Parliament, through the Public Accounts Committee, this increased role. The bill requires the minister to have regard to the recommendations of the committee on the budget, organisational structure and resources of the Office of the Auditor General. Under ideal circumstances, this function may not need to be exercised. However, should future governments be seen to threaten the independence of the Auditor General through their resourcing decisions, this bill would provide a safety net of parliamentary involvement. The bill further strengthens this organisational independence through establishing in law the capacity of the Auditor General to delegate and deputise, while remaining fully accountable.

Part 2 establishes in legislation the new position of Deputy Auditor General, bolstering the organisational structure of the OAG and providing more support for the Auditor General. Part 4 of the bill provides for the delegation of the majority of audit duties, including signing of opinions.

Beyond resourcing decisions, this bill strengthens the Auditor General's relationship with and accountability to the Parliament in a number of other ways. Part 2 of the bill directs the Auditor General to have regard to the audit priorities of Parliament, as determined by either house or the Public Accounts Committee. These priorities can be communicated through a resolution of the house, or more informally by the Public Accounts Committee. The power to request an audit is a useful way for Parliament to communicate audit priorities to the Auditor General, and provides an additional mechanism for accountability matters that might arise from time to time outside the normal operations of audit. Part 3 of the bill gives the Treasurer and the Public Accounts Committee the power to request an audit, although reserving the right for the Auditor General to decline, and schedule 1 increases parliamentary involvement in the appointment process for new Auditors General. The parliamentary leader of each political party with party status within Parliament and the Public Accounts Committee must be consulted in the appointment process. Taking this into account, the ultimate decision will then be made by the Governor on the recommendation of the minister.

As members know, the current Auditor General has announced his intention to leave the post later this year. It is my hope that this legislation will be in place in time for the new Auditor General to benefit from these appointment provisions.

This bill seeks to improve upon the current legislation governing the Auditor General through the provisions of widened audit powers in two key respects. The first improvement extends the audit function to take account of the changing methods of delivery of public services, whereby government is increasingly contracting the private and not-for-profit sectors to carry out public services. Under the FAAA, the Auditor General's auditing jurisdiction was largely confined to departments and statutory authorities. Part 3 of the bill widens the Auditor General's jurisdiction to allow the Auditor General to audit the accounts and financial statements of any commercial activities of entities, when they are carrying out the functions of an agency. It is important to note here that this bill does not allow the Auditor General to become the external auditor of the private sector, but merely to follow the dollar when functions are performed on behalf of the public sector.

I quote here from the report of the Public Accounts Committee review of the bill -

In the Committee's opinion the Clause correctly recognises the need for all public sector bodies, programmes and activities involving any use of public resources to be subject to audit by the Auditor General, regardless of whether they are delivered by public sector agencies or by the private sector.

The second expansion of audit powers strengthens the Auditor General's access to information. The FAAA currently provides for the Auditor General to have broad access to information required to perform his duties effectively. Division 2 of part 4 of the bill defines this more clearly and ensures that these powers to access information override other duties and rights. This bill also recognises the responsibilities to manage this information appropriately. Audit information is protected by the confidentiality provisions in part 6 of the bill. Further, when a minister believes that it is not in the public interest for highly sensitive information to be included in an Auditor General's report to Parliament, the minister can direct that the information is not to be included in a report to Parliament. The Auditor General may instead report directly and solely to the Public Accounts Committee. This bill balances these widened audit powers and enhanced independence with strengthened accountability for the Auditor General.

Part 4 of the bill makes the Auditor General more accountable to agencies. This requires the inclusion in reports to Parliament of agencies' responses to audit findings. This new practice will not only ensure a fairer and balanced process, but also provide greater opportunity for Parliament and the public to hold agencies accountable for their proposed responses to audit findings.

Schedule 1 enhances the accountability of the position to Parliament, changing appointment provisions to a fixed, non-renewable term. This preserves the independence of the position, and is in line with more contemporary attitudes to accountability. Current arrangements appoint an Auditor General for an unlimited period, subject to appropriate termination and resignation provisions.

Finally, part 3 of the bill contains two key measures that update legislation to be more aligned with contemporary audit practice. The first such measure allows the Auditor General to waive the audit of an entity when it has not been in operation for the reporting period - an audit must still be completed at least every three years - and provides for the Auditor General to consult with the Treasurer and the Public Accounts Committee when waiving an audit. This provision will allow more efficient use of public resources, and is in line with practice in the private sector and the Australian auditing standards. The second measure allows for a more flexible application of Australian auditing standards, requiring the Auditor General to have regard to, rather than comply with, standards as detailed in section 79 of the FAAA. The bill will provide the Auditor General with

the responsibility to apply standards in a manner sensitive to the operating context of the public sector and also the Western Australian jurisdiction. This will allow our Auditor General to use judgment and broader notions of public accountability and probity to influence interpretation and implementation of auditing standards. I commend the bill to the house.

Debate adjourned, on motion by **Dr S.C. Thomas**.

FINANCIAL LEGISLATION AMENDMENT AND REPEAL BILL 2006

Introduction and First Reading

Bill introduced, on motion by **Mr E.S. Ripper (Treasurer)**, and read a first time.

Explanatory memorandum presented by the Treasurer.

Second Reading

MR E.S. RIPPER (Belmont - Treasurer) [12.00 pm]: I move -

That the bill be now read a second time.

Passage of the Financial Management Bill 2006, which I have just second read, will require a substantial number of amendments to other legislation, without which the new legislation would not be fully functional. There are also a number of transitional provisions contained in this bill that will allow various items and instruments under the Financial Administration and Audit Act 1985 to continue in effect. Examples of these are trust accounts, departmental operating accounts, determinations by the Treasurer and Treasurer's instructions.

This bill is an essential part of the transition from the FAAA to the proposed Financial Management Act and Auditor General Act, and I commend the bill to the house.

Debate adjourned, on motion by **Dr S.C. Thomas**.

PRISONS AND SENTENCING LEGISLATION AMENDMENT BILL 2006

Consideration in Detail

Resumed from 27 June.

Clause 33: Sections 112 to 113C inserted -

Debate was adjourned after the clause had been partly considered.

Mr R.F. JOHNSON: When debate was adjourned on Tuesday, we were up to clause 33. The minister was going to research my concern about the disclosure of information that the chief executive officer may make to a victim of a prisoner or to a person acting on a victim's behalf. I shared my belief that all victims who, unless they state otherwise, wish to be informed of a prisoner's early release or a prisoner's absence from prison for whatever reason should be warned of these events so that they can take whatever precautions they believe are necessary to protect themselves. A victim could then ensure that a prisoner did not in any way disturb the normal running of the victim's life, make a nuisance of himself or harm the victim. Since then the minister's adviser has telephoned me and assured me that that will be the case. All I ask the minister to do is to place on the record exactly what will be the case so that if in future a victim who should have been contacted was not contacted, it will give me the opportunity, as the shadow Minister for Justice, to be able to criticise the minister for the CEO's failure to provide a victim with that information. The CEO will have a great responsibility put in his shoulders. However, he is getting paid to do a job and I insist that it be done properly. I have a much bigger concern for the victims of crime rather than for the perpetrators of crime. If the minister can put that on the record, we can quickly get through the legislation.

Ms M.M. QUIRK: I thank the member for Hillarys for his indication that he is prepared to pass the legislation in its current form as long as I give an assurance. The assurance is that any victims on the Victim Notification Register will continue to be provided with information on a range of matters, including where a prisoner is held and transferred within the prison system; changes to a prisoner's security rating; notice of appeals and parole hearings, and the outcome of these hearings; a prisoner's inclusion in resocialisation or other rehabilitation programs that involve a prisoner's temporary absences from prison; escapes and recapture; and the release dates of when and the location of where a released prisoner will reside. The government is in the process of developing regulations that will prescribe the full range of information that can be provided to victims.

Mr R.F. JOHNSON: Does each victim have the right to be placed on the Victim Notification Register?

Ms M.M. Quirk: Yes.

Mr R.F. JOHNSON: Do victims automatically go on the register?

Ms M.M. Quirk: No.

Mr R.F. JOHNSON: Do they have to apply?