

**PARLIAMENTARY ELECTORATES AND ELECTIONS AMENDMENT
(REDISTRIBUTIONS) BILL 2012
ELECTION FUNDING, EXPENDITURE AND DISCLOSURES FURTHER
AMENDMENT BILL 2012**

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Bills introduced on motion by Mr Barry O'Farrell, read a first time and printed.

Second Reading

Mr BARRY O'FARRELL (Ku-ring-gai—Premier, and Minister for Western Sydney) [4.28 p.m.]:

I move:

That these bills be now read a second time.

Maintaining an electoral system that we can all have confidence in necessitates regular revision of electoral district boundaries in our various Australian jurisdictions to take account of population growth, and the social and economic changes that prompt demographic movements. Our robust democracy is strengthened by impartial, professional and independent governance and administration of our redistribution process. In New South Wales, electoral redistributions are conducted according to law by three electoral district commissioners who are appointed by the Governor.

The Parliamentary Electorates and Elections Amendment (Redistributions) Bill 2012 implements the recommendations of the electoral district commissioners following the 2004 redistribution of New South Wales districts. A redistribution of New South Wales districts is required because the current electoral boundaries have applied at two consecutive elections. The Parliamentary Electorates and Elections Act 1912 will provide that the redistribution is to be carried out by three independent persons, known as the electoral district commissioners, appointed by the Governor. Section 28 of the Constitution Act 1902 provides that:

In any distribution of New South Wales into electoral districts, the boundaries must be determined so that there are an equal number of voters in each electorate at the time the redistribution is made, subject to a margin of allowance not exceeding 10 per cent of the average enrolment. That is known as the "current margin of allowance".

Section 17A of the Parliamentary Electorates and Elections Act 1912 sets out additional criteria that the commissioners must be consider when carrying out a distribution. In particular, it provides that the commissioners must have regard to the demographic trends within the State and endeavour to ensure that at the time of the next State election the number of voters in each electorate will be equal, subject to a margin of allowance not exceeding 3 per cent of the average enrolment. This is known as the projected margin of allowance.

In their report on the 2004 redistribution the commissioners expressed the view that the 3 per cent projected margin of allowance was too restrictive to take into account strong growth electorates and that the requirement to comply with that Act to limit their ability to set

electoral boundaries that adequately addressed the other criteria set out in subsection 17A (1) (b) of the Parliamentary Electorates and Elections Act such as, first, the community of economic, social and regional interests within an electoral district; secondly, the means of communication and travel within the electorate; thirdly, the physical features and area of an electoral district; and, fourthly, the boundaries of the existing electoral districts. In their 2004 report the commissioners said that the existing quota is:

... too restrictive to take into account strong growth electorates, especially given the demographic trends, considerations of communities of interest, existing infrastructure, geographic and other spatial information. Given the continued population shift from regional New South Wales to the coast and centres of major population, there will be increasing pressures on in future distributions to meet the criteria of section 17A (1) (b) of the Parliamentary Electorates and Elections Act.

The difficulties identified by the commissioners are clear when you look at the statistics. At the March 2007 election, the number of electors in 21 electorates was outside the 3 per cent quota, including 12 that were greater than the quota and nine that were less than the quota. In the 1999 election, which occurred a year after the 1998 redistribution, 25 of the State's 93 electorates were over or under quota by the time the election occurred. For the benefit of the House, in March last year the number of electors in 29 electorates was outside the 3 per cent quota, including 13 that were greater than the quota and 16 that were lower.

In the 2004 report, the electoral district commissioners appointed by the former Government recommended that the projected margin of allowance be increased to 2 per cent. There is no provision in the legislation to change the provisions under section 28 of the Constitution Act. This bill seeks to implement the recommendation of the 2004 commissioners by making a minor amendment to subsection 17A (1) (a) of the Parliamentary Electorates and Elections Act 1912. The Electoral Commissioner, Colin Barry, who also served as an Electoral Districts Commissioner for the purposes of the 2004 redistribution has endorsed this approach. He said in a statement issued today:

I am pleased the Premier has accepted my recommendation to revisit this issue and to introduce amendments to the legislation.

...

I hope the legislation is passed through Parliament in the coming weeks so the redistribution for 2015 can be commenced in January 2013.

The cognate bill, the Election Funding, Expenditure and Disclosures Further Amendment Bill 2012, has also been proposed by the Electoral Commissioner. It makes minor amendments to the Election Funding, Expenditure and Disclosures Act 1981 to ensure that the Electoral Funding Authority is able to enforce certain offences that are prescribed by regulation. The State's disclosure regime is based on the principle that all parties, groups and candidates, and elected members are required to lodge an annual declaration with the authority that declares political donations and electoral expenditure. The obligation to lodge a declaration is intended to apply also where the declaration contains no specific disclosures of donations or expenditure; in other words, a nil return. This basic obligation ensures that the public has access to reliable information about the donation activity of all participants in the electoral process and assists the authority with its audits and investigative functions.

The authorities raised concerns that the offence of failing to lodge a declaration may not be enforceable in relation to nil declarations; that is, declarations that do not contain any specific disclosure of donations or expenditure. The bill and its measure will put beyond doubt that all parties, groups and candidates, and elected members, regardless of whether they have received donations or incurred electoral expenditure, will be prosecuted by the authority if they fail to comply with their basic disclosure obligations under the Act. The bill will also make clear that a party that fails to comply with its obligations under section 41 of the Act by not appointing a party agent also commits an offence against that section.

These amendments have been introduced at the request of the electoral commissioner to assist him and the Electoral Funding Authority with the enforcement of what has become a complex and unwieldy piece of legislation. That is why the Government looks forward to the views of the Joint Standing Committee on Electoral Matters on how the Act might be further improved when it reports on its reviews of the State's electoral legislation, both the Parliamentary Electorates and Elections Act and the Electoral (Amendment) (Political Funding) Act. These cognate bills, on the recommendation of the 2004 independent redistribution commissioner and the Electoral Commissioner, strengthen the governance, responsiveness and integrity of our electoral system.

All members of this House have a responsibility to maintain an electoral system that encourages and garners public support and confidence. To do this, we must enable regular revision of electoral boundaries to take into account population movements and the socio-economic changes caused by demographic trends, robust democracy strengthened by impartial professional independent governance and the administration of the redistribution process along those lines. As members well know, electoral redistribution commissioners will be a past or current Supreme Court judge, the New South Wales Electoral Commissioner, and the Surveyor General. Earlier today I reported to the House that this process has commenced. The Government has advised the Governor to approve the appointment of the former President of the Court of Appeal and Supreme Court judge, Keith Mason, as Chairperson of the Redistribution Commission.

The redistribution is a legal process conducted in a transparent public environment and the process is complex work involving community consultation, which, should this legislation be passed, will commence in January of next year. The commissioners will be supported in that work if the legislative proposals are passed today. These are changes that reflect expert independent advice and reflect the realities of what ABC psephologist Antony Green describes as the inexact science of predicting future enrolments. They are changes that deserve the support of this House and I commend them to the House.