

## Second Reading

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [7.24 p.m.]: I move:

That this bill be now read a second time.

It is my privilege to introduce the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Bill 2009. The time is ripe for legislative action to address the declining rate of electoral participation in Australia. Australia is one of the few democracies in which enrolment and voting are compulsory. Compulsory enrolment and voting encourages governments to take into account the full spectrum of social values when forming their policies. It recognises that civic participation is a responsibility as well as a right. Despite this, our system of compulsory enrolment and voting is being undermined by the fact the number of people on the electoral roll is declining. Nearly 10 per cent of eligible voters, or 1.2 million people, are not enrolled around Australia. The rate of electoral participation is even lower among young people, up to 18 per cent of whom are not enrolled.

These figures are consistent with research undertaken by the New South Wales Electoral Commission, which shows that of the approximately 67,000 17 to 18 year olds currently registered with the Board of Studies, only half will actually enrol to vote and exercise their democratic right. The New South Wales Electoral Commission estimates that only 90 per cent of the eligible voting population in New South Wales is enrolled—a decline of about 5 per cent over the last two election cycles. One of the most significant reasons for this decline is that our enrolment procedures have not kept pace with developments in technology.

At present the Australian Electoral Commission [AEC] is responsible for maintaining electoral rolls for Commonwealth, State and Local Government elections under the Joint Roll Arrangement. Information from State agencies such as the Roads and Traffic Authority is already used by the Australian Electoral Commission to check the accuracy of the rolls. Based on this information, the Australian Electoral Commission can initiate a process to remove a person from the roll, for example, where the person has changed their address and no longer is entitled to be enrolled for a particular district.

What the Australian Electoral Commission cannot do is enrol that person at their new address—even when it possesses information in relation to a person's change of details—unless the person physically fills out a pen and paper form. Each year approximately 2 per cent of electors are removed from the roll entirely through this process. This is having a lopsided effect on enrolment levels. Electoral authorities are becoming very efficient at taking people off the roll, but not at keeping them on. The Australian Electoral Commissioner has acknowledged that traditional strategies to encourage people to enrol or update their enrolment details are simply not working, and the high costs of initiatives such as mail-outs, advertising and field work are unsustainable.

It is hardly surprising that modern citizens—whose lives are increasingly busy and complex—struggle to fulfil their civic duty to update their electoral enrolment. People have come to expect that government-held information will be used in new and innovative ways to improve service delivery and reduce red tape. The success of our democracy depends upon civic participation by all citizens. It is time we modernised our enrolment practices to reflect this important fact. Consistent with the recommendations of the Joint Standing Committee on Electoral Matters in its review of the 2007 State election, the Government is committed to introducing a system of automatic enrolment for the purposes of New South Wales elections. This legislation is central to that process.

It will assign responsibility for the preparation of rolls for State and local Government elections to the New South Wales Electoral Commissioner. It will allow the Electoral Commissioner to enrol eligible New South Wales voters and to update the details of voters who are already enrolled based on reliable data held by other government agencies. The bill ensures that electors will be notified by the Electoral Commissioner and will be given the opportunity to raise any objections before they are enrolled or their details are updated. Our current electoral laws prevent people from voting if they have not submitted an enrolment form before the close of the roll for an election—that is, by 6.00 p.m. on the day the writs are issued.

The Electoral Commissioner has advised that if automatic enrolment is implemented in New South Wales there is no practical reason why eligible electors cannot enrol or update their details after the writs are issued. Indeed, there is no practical reason why people cannot enrol for a district and cast a vote on polling day. Under the proposed legislation, New South Wales will be the first jurisdiction in Australia to give voters the opportunity to enrol or update their enrolment details on polling day. This will ensure that New South Wales elections are no longer affected by the changes made by the former Howard Government in 2006—changes that are estimated to have locked tens of thousands of people out of the electoral process through the closure of the rolls on the day an election is called. The introduction of more convenient enrolment services for voters need not weaken the integrity of the electoral roll. The bill contains a range of checks and balances to ensure that the New South Wales electoral roll is both up to date and accurate.

I now turn to the specific provisions of the bill. Schedule 1 to the bill contains the provisions that will facilitate the automatic enrolment of New South Wales electors. The bill makes clear that New South Wales will no longer rely

on the Commonwealth to prepare and maintain rolls for New South Wales elections. Rather, the New South Wales Electoral Commissioner will use enrolment data supplied by the Australian Electoral Commission and information obtained from State Government agencies to create a comprehensive list of New South Wales electors from which electoral rolls will be generated for State and local government elections. Such information will be subject to enhanced privacy protections by creating a new offence for the misuse of personal information acquired under the Act. This offence will carry a maximum penalty of 50 penalty units, currently \$5,500.

The bill provides for a new joint roll arrangement to accommodate the new enrolment procedures. New South Wales cannot proceed with automatic enrolment until such an arrangement has been negotiated. It is anticipated that the new arrangements will be modelled on those entered into by the Commonwealth and Victoria in 2004. It is also important to note that, until such time as the Commonwealth Electoral Act is amended to facilitate automatic enrolment for Federal elections, New South Wales voters will still have to fill out a form to be enrolled for the purposes of Commonwealth elections. The Commonwealth Government is currently considering the introduction of automatic enrolment as part of its electoral reform green paper process. In June, the Commonwealth Joint Standing Committee on Electoral Matters recommended that the Commonwealth Electoral Act be amended to allow the Australian Electoral Commission to use information provided by approved agencies for the purposes of directly updating the roll. New South Wales has written to the Commonwealth in support of a national system of automatic enrolment.

In the meantime, to minimise any inconsistencies between the Commonwealth and New South Wales electoral rolls, the Commonwealth will be made aware of the details of any person who is automatically enrolled in New South Wales or whose enrolment details have been updated. Commonwealth electoral authorities will then be able to make direct contact with those electors for the purposes of enrolling to vote at Commonwealth elections. It is important to remember that the New South Wales Electoral Commissioner already has the power to collect and use personal information held by government agencies for enrolment purposes. This bill simply enables the New South Wales Electoral Commission to use that information to directly update the roll.

The bill ensures that the Electoral Commissioner will not automatically enrol a person, or update their details, unless the person concerned is first contacted in writing—importantly, this includes either by email or SMS text message—and given a period of at least seven days to give reasons as to why the change should not be made. The current right of a person to lodge a formal objection, including the right to seek a review of the Electoral Commissioner's decision by a Local Court, will be maintained. The Electoral Commissioner will only send such notices to the elector's most recent address according to information received from other government agencies under the Act. Any person who is a silent elector under the Commonwealth Electoral Act will be taken to be silent elector under the New South Wales Act.

The provisions of the bill with respect to elector privacy are both fair and balanced in light of every person's obligation to be enrolled. Whilst automatic enrolment will in many cases help people fulfil their obligation to become enrolled, it is important to note that it will still be compulsory for New South Wales citizens to enrol within 21 days of becoming entitled to do so. At present, the maximum penalty for a person who fails to enrol and elects to have the matter dealt with by the Electoral Commissioner is \$11. Otherwise, the penalty is \$55. This is out of step with most other jurisdictions and sends the wrong message to the public about the importance of enrolment. It is important to note that automatic enrolment will reduce the number of people who would otherwise be fined for not enrolling. The bill ensures that a person is relieved of their obligation to enrol—and cannot be fined—if they have been automatically enrolled by the Electoral Commissioner.

The bill also ensures that the Electoral Commissioner cannot bring proceedings against a person for failing to enrol if that person has submitted a claim for enrolment. There will be cases where, despite the best efforts of the Electoral Commissioner, people deliberately try to avoid being enrolled. Therefore, the bill increases the maximum penalties for persons who deliberately ignore their enrolment obligations. A maximum penalty of \$55, instead of \$11, will apply if a person elects to have the matter dealt with by the Electoral Commissioner rather than by a Local Court. Otherwise, the maximum penalty for failing to enrol or transfer enrolment will be one penalty unit, currently \$110.

The bill amends section 106 of the Act to enable people with photo identification to enrol at any time after the writs for an election are issued, including on polling day. Evidence presented recently to the Commonwealth Joint Standing Committee on Electoral Matters indicates that tens of thousands of electors were unable to exercise the franchise correctly at the 2007 Federal election either because they were not on the roll or because their details were incomplete or incorrect. There is no practical reason why people should be deprived of their right to vote simply because they failed to fill in a form before the writs for the election were issued. Therefore, the bill provides that persons with photo identification may enrol and vote up to and including polling day. Such persons will still be required to fill out an enrolment form supported by evidence of their identity in accordance with the regulations. They will also be required to make a declaration in the approved form before an election official. The Government is confident that these changes will not compromise the smooth running of election day. The introduction of automatic enrolment will minimise the number of people that would otherwise wish to enrol or update their details on polling day.

Schedules 2 to 4 to the bill amend the Act to modernise and improve provisions relating to postal voting, pre-poll

voting and voting in declared institutions. These amendments implement certain recommendations of the New South Wales Joint Standing Committee on Electoral Matters and the New South Wales Electoral Commissioner, including centralised processing of postal votes by the Electoral Commissioner, which will help to ensure that all postal vote applications are processed in time for people to cast their vote. The bill will also offer voters the option of applying for a postal vote via the New South Wales Electoral Commission's website. It will extend the right to apply for a postal vote and pre-poll vote to persons with a disability, and persons who believe that attending a polling place on polling day will place their personal safety at risk. Persons with a disability and persons in declared institutions, such as nursing home residents, will be eligible to become general postal voters.

The bill will also enable voting at declared institutions to be undertaken on any day during the seven days before polling day. It will allow the Electoral Commissioner to appoint interstate and overseas places as pre-poll voting places. Pre-poll voters will also be permitted to cast an ordinary vote into a ballot box if they make an application to a pre-poll voting officer in their home district, consistent with the recommendations of the Commonwealth Joint Standing Committee on Electoral Matters in its report on the 2007 Federal election. Schedule 5 to the bill makes miscellaneous amendments to implement the recommendations made by the New South Wales Joint Standing Committee on Electoral Matters in its report on the 2007 State election and requests made by the New South Wales Electoral Commissioner.

Consistent with the committee's recommendations, the bill makes clear that the display of posters within six metres of the entrance to a building appointed as a polling place is prohibited. The bill will also ensure that the relevant size restrictions on posters apply from the six-metre mark up to and including the outer wall, fence or other boundary of the building. This will ensure that the relevant size limits apply not only within the immediate vicinity of a building appointed as a polling place, but within the remainder of the grounds in which a polling place is situated.

The bill also provides that the Electoral Commissioner may arrange for mobile polling booths to visit remote districts for pre-poll voting. It seeks to address the committee's concerns about the display of electoral material on electronic billboards and digital road signs by providing that it is an offence, carrying a maximum penalty of five penalty units—currently \$550—or imprisonment for six months, to display certain electoral advertisements on an electronic billboard, digital road sign or other similar device without the name and address of the person on whose instructions the matter was displayed. A number of amendments set out in schedule 5 respond to practical concerns raised by the Electoral Commissioner. Most of these concerns arise because many of the Act's provisions are outdated. For example, to reflect changes in communication technology, the bill allows the Electoral Commissioner to determine the best manner in which to comply with his obligation to publicly advertise notices and information, rather than prescribing that all notices must be published by newspaper.

In line with the changes to the penalty for failing to enrol, schedule 5 increases the maximum penalty payable under a penalty notice for failing to vote to 0.5 penalty units, or \$55, and increases the maximum penalty payable on conviction in a court for failing to vote to one penalty unit, or \$110. This will make New South Wales penalties for failing to vote comparable with other jurisdictions, including the Commonwealth and Victoria. The changes serve to acknowledge that penalties for failing to vote serve a dual purpose. They encourage people to participate in the electoral process and discourage them from neglecting their civic duties. This bill makes a positive change in the history of the franchise in New South Wales.

The Government has consulted extensively with the New South Wales Electoral Commission in relation to all aspects of the bill. I place on the record the thanks of the Government to the New South Wales Electoral Commissioner and his staff for their invaluable contribution to the preparation of this bill. One thing is clear: If the Government does not take action now, the number of people on the roll will continue to decline. Our system of compulsory voting, which is a hallmark of Australian democratic and political culture, will be rendered a fiction. A number of groups in our society, such as young people, indigenous Australians, people with disabilities and people from non-English-speaking backgrounds, will continue to be under-represented on the electoral roll. Their voices simply will not be heard in our electoral process. This bill strikes the right balance between the need to safeguard the integrity of the roll and the need to ensure that it is accurate so that the franchise is accessible to every citizen who is entitled to exercise it. I commend bill to the House.