

PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT FURTHER AMENDMENT BILL 2008

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Bill introduced on motion by Mr Barry Collier, on behalf of Mr David Campbell.**Agreement in Principle****Mr BARRY COLLIER** (Miranda—Parliamentary Secretary) [10.52 a.m.]: I move:

That this bill be now agreed to in principle.

The Public Sector Employment and Management Act 2002 is the main employment legislation for the New South Wales Public Service. Earlier this year the Act was reviewed by the Government. Public sector agencies and unions were widely consulted as part of the review process. A report on the review was tabled in Parliament in June this year. The report concluded that the Act is fundamentally sound and the identified policy objectives of the Act remain valid. It made a number of recommendations to further improve the operation of the Act. The bill implements the first stage of changes recommended in the report. The changes will ensure that the Public Sector Employment and Management Act 2002 will continue to meet its identified policy objectives. The bill will assist agencies in continuing to provide quality services to the people of New South Wales.

The New South Wales Government's State Plan Priority P3 commits the Government to reducing unnecessary red tape. The bill will assist in reducing red tape for government agencies by providing greater flexibility for agencies and streamlining processes. The changes will also benefit employees by clarifying the operation of the Act in a number of areas and facilitating the appointment of long-term temporary employees to permanent positions. Most of the changes apply only to Public Service departments; however, some changes will also apply more broadly across the public sector. The Government consulted with public sector agencies and unions on the draft bill and has received wide support for the proposals.

As mentioned earlier, the bill will allow temporary employees who have been employed in any department for at least two years to be appointed to a vacant position within their department without the need to advertise the position. This will only be able to occur where the employee was originally employed through a merit-based process and the department head is satisfied that the person has the necessary skills for the position. At the moment only permanent officers can be appointed to those positions. The bill will make it clear that public sector employees on long-term secondments within the same agency can be appointed to the new position without the position having to be advertised or having to serve a period of probation. This only applies where the secondment was initiated by the employee. If being appointed to a higher graded position, the person must have been selected, on merit, through some form of open competition to perform in the position.

The bill provides further clarification in relation to disciplinary and conduct matters, including the operation of probation provisions in the Act. Currently the Act provides that every person admitted to the Public Service as an officer is initially appointed on probation for six months or such longer period as a department head directs. The changes made by the bill clarify that the initial probationary period can be extended at any time before the person's appointment is confirmed or annulled. The bill also clarifies the operation of the suspension provisions. When a Public Service officer has been charged with a serious offence the officer may be suspended from duties. The bill makes it clear that when the officer is found guilty of the offence the suspension remains in place until any disciplinary or remedial action being considered by the Department Head has been dealt with.

In relation to recruitment, the bill will provide for greater flexibility, particularly where there are shortages of qualified applicants. Currently the Act prevents a person who does not have Australian citizenship or permanent residency from being appointed as a Public Service officer. The bill will allow the Director of Public Employment—currently the Director General of the Department of Premier and Cabinet—to exempt a person from this requirement in any case the director considers appropriate. The exemptions are likely to be granted in employment areas where there are identified shortages. I note that the current restrictions in the Act apply to the Public Service and not across the broader public sector.

The bill will also enable appointments to be made pending the vacation of an executive officer position, or any other position in the Government Service, by an officer. A position can become vacant in a number of circumstances. A person may decide to retire or resign and it may be desirable for there to be a hand-over period to mentor the person replacing the current holder of the office. When the incumbent officer has notified the employer that the officer does not intend to continue with the position, the bill will enable recruitment to be undertaken in anticipation of the vacation of the position. The appointment of the new officer may take effect before the incumbent vacates the position. This change will allow agencies to avoid unnecessary red tape and ensure a smooth transition between office holders.

The bill will introduce a new inquiry power into the Act. The Act currently enables the Premier to direct that a special inquiry be held into any matter relating to the Government Service, using royal commission powers. There may be times when it is appropriate for the Director General of the Department of Premier and Cabinet, as head of the Public Service, to inquire into the administration, management or services of agencies or officers in a less formal manner. The bill will authorise the Director General of the Department of Premier and Cabinet, or a person authorised by the Director General, to carry out an inquiry into the administration or management of a public sector agency. This would include the whole or any part of a public sector service, but does not include the New South Wales Police Force, the service of either House of Parliament or the President or Speaker.

The bill makes a number of amendments in relation to the State Contracts Control Board. The board has responsibility for the procurement of goods and services for the public sector. The bill enables public sector agencies from overseas to access contractual arrangements established by the New South Wales State Contracts Control Board for the New South Wales public sector provided those other agencies operate in New South Wales. In addition, the bill will streamline the membership of the State Contracts Control Board by providing that there is to be a minimum of three rather than five members of the board in addition to the chairperson, and the chairperson is to be appointed by the Minister rather than necessarily being the Director General of the Department of Commerce.

The bill also makes a number of other minor amendments, including, firstly, modifying the criteria for determining merit when appointing a person to a position, by replacing the terms "abilities" and "personal qualities" with "capabilities"; secondly, extending the delegation power of the Director of Public Employment; and, thirdly, clarifying that when a cross-agency position is created the public sector agencies involved can create a single position across the two agencies rather than two separate part-time positions. The measures in the bill will assist agencies in delivering quality services to the people of New South Wales by improving the flexibility of agencies, streamlining processes and cutting red tape. I commend the bill to the House.