



NSW Legislative Council Hansard

Teaching Services Amendment Bill

Extract from NSW Legislative Council Hansard and Papers Thursday 9 December 2004.

Second Reading

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands) [1.33 a.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Carr Government is committed to ensuring that the New South Wales education system continues to meet the challenges of the twenty-first century and delivering world-class results. Since coming to government in 1995 we have increased funding of education and training by almost \$4 billion, an increase of more than 65 per cent. Since 1995 we have undertaken the most comprehensive review and updating of the syllabus, beginning with the primary syllabus, then the Higher School Certificate, and finally the years 7 to 10 syllabus. We have introduced more rigour into the curriculum, with a focus on literacy in all years. We have employed more than 900 reading recovery teachers to provide one-on-one tuition to students who are falling behind with their reading. Over the next four years we will be spending more than \$460 million to progressively reduce class sizes in the early years of school to give our students the best possible start to their schooling.

We are seeing the results of our investment in education. New South Wales is leading the way in many key areas of education—a fact confirmed by the recent Productivity Commission report on government services. Our year 5 students are the best in Australia when it comes to their writing skills. The commission found that 95.9 per cent of children in year 5 achieved the national writing benchmark. The commission also found that our year 3 students were above the Australian average when it came to achieving the writing benchmark, with 89.9 per cent of students achieving the benchmark, almost half a per cent above the national average.

These results come on top of last year's finding by the Productivity Commission that 15-year-olds in New South Wales were among the best in the world in literacy. New South Wales outperformed most OECD countries in literacy—including the United States of America and the United Kingdom. We have a world-class system, delivering world-class results. But we cannot rest on our laurels. That is why the reforms we are introducing tonight will ensure that our schools continue to meet the challenges of a twenty-first century education system.

Two major reforms are encompassed in this bill. The first is to allow for the merit-based appointment of people from outside the New South Wales public education system to executive positions in schools. The second is the introduction of a framework for enhanced accountability for government school principals. Both will have significant, positive impacts on the quality of educational leadership in government schools. More importantly, they will enhance the quality of learning for students in those schools. In June 2004 I announced a major initiative to enhance public education and the role of principals.

The initiative included a \$50 million pay rise for principals, and all executive staff in schools, on top of the 12 per cent increase for all school teachers awarded by the Industrial Relations Commission. Principals will receive a total increase of between 17.5 per cent and 19.5 per cent between January this year and January 2005. The increase is fully funded by Treasury. The increases brought government school executive staff in line with staff of Catholic schools. It is therefore important that they are subject to similar systems of merit selection and accountability.

This Government recognises the important role the school principal plays in shaping the educational outcomes and management of a school. We want to give our principals greater authority in the running of their schools, but we are also requiring a greater level of accountability. The bill is not a complete rewrite of the Teaching Services Act. Rather, the bill acknowledges and builds on the existing structure of the Education Teaching Service, which is renamed simply "the Teaching Service". There are a number of minor amendments that are intended to tidy up the Act by removing obsolete references, and generally reflecting the structure and practices of the Department of Education and Training in 2004.

Two definitions are fundamental to this bill. The first is the term "senior position". This new term is defined in the bill as "any position in the Teaching Service to which a person employed in the Teaching Service could be promoted". The second key term defined in the bill is "merit". The bill adopts definitions of "merit" that are currently used elsewhere in New South Wales public sector employment legislation. In particular, "merit" is defined in essentially the same terms as in the Public Sector Employment and Management Act 2002. Merit of persons seeking appointment to a vacant position is to be determined by having "regard to the nature and duties of the position and to the abilities, qualifications, experience, standards of work performance and personal qualities of those persons that are relevant to the performance of those duties".

It also reflects the definition of "merit" contained in the Technical and Further Education Commission Act 1990, which applies to the appointment and promotion of TAFE teachers by the Technical and Further Education Commission. For too long we have had a system which, while based on merit, did not necessarily ensure the best possible candidate for each

vacant position. This bill rectifies that anomaly. Section 47A (2) requires that all appointments to vacant senior positions are to be made on the basis of merit. Section 47A (5) requires the director-general to determine the comparative merit, as defined, of persons seeking appointment. No longer will it be a requirement for appointment to a senior position that the person be currently employed as an officer of the Education Teaching Service.

Unlike the rest of the public sector in New South Wales, and employment in the rest of the community throughout Australia, there was no capacity for good candidates from outside the system to throw their hats in the ring. In effect we were saying, "We welcome everyone to be a teacher, but if you are outside the system, you will have to start as a classroom teacher, no matter what your previous experience." Now, with this bill, good teachers from public schools interstate, or good teachers from non-government schools who want to make a contribution to public education, will get that chance. We have the best teachers and principals in our system, and we want to make sure that we will be able to continue to attract the best to our public schools. Our students deserve it, and their parents expect it.

The second reform provides the separation of performance issues from conduct issues for principals in government schools and the introduction of a new, streamlined process for dealing with a small number of under-performing principals. The bill introduces, for the first time, a performance management framework for principals. These provisions are set out in the proposed new sections 52, 53 and 54. The proposal will require the director-general to conduct a performance review of every principal, and to do so on at least an annual basis. The director-general retains the right to do so more frequently if individual circumstances warrant it.

The process for dealing with a principal who, after a performance review, is considered not to meet the required level of performance comprises two components. First, where there are concerns about the performance of a principal, he or she will be informed of those concerns and will be required to undertake a performance improvement program designed around the identified concerns. If at the end of the program the principal's performance is still not satisfactory, the director-general is empowered to take appropriate action, including dismissal or demotion. Principals will maintain their existing right of appeal to either the Industrial Relations Commission or the Government and Related Employees Tribunal against dismissal or demotion. With these protections in place the bill removes additional internal review processes for principals subject to dismissal or demotion for unsatisfactory performance. Section 83 of the Act makes it clear that performance issues for principals are to be separated from disciplinary or misconduct issues. As such, prescribed officers will no longer investigate principals for performance-related issues. These processes have proved unnecessarily cumbersome and time consuming.

To give operational effect to these amendments the Department of Education and Training will introduce a principal assessment and review schedule that will allow an annual assessment of school principals measured against key accountabilities. This will include an analysis of indicators such as learning outcomes, educational leadership, community and staff feedback, resource and risk management, staff and community relationships, and planning and budget management.

The package strengthens the role of principals in relation to occupational health and safety and introduces, among other things, an on-line leave management system that will save time for teachers and principals. Enhanced accountabilities for principals will allow the director-general to ensure that the expected level of expertise and leadership is in fact delivered. Another key element of this reform package is the introduction of a review of a principal's appointment to a particular school every five years.

It is recognised that schools have different needs depending on their stage of development. This initiative is designed to match the skills and abilities of principals with the needs of schools. The review will consider the principal's performance since appointment to a school against the major areas of accountability for principals: the development of the school, the skills and abilities necessary to drive continuous improvement, and feedback from parents/caregivers, students and staff. Following the five-year review, the principal will be either transferred to a new school or retained at their current school.

Where performance issues are identified, the new performance management provisions will apply. I mentioned earlier that the proposed reforms are built on the existing framework of the Teaching Services Act. For this reason many of the existing benefits that are currently applicable to teachers will continue to apply. For example, section 60 currently contains a right for an officer to appeal to the director-general where the officer is dissatisfied with the process of filling a vacant position. This appeal right is preserved and enhanced in the revised section 60. It is important to note that the existing transfer system is retained.

The director-general's power to transfer staff on a permanent or temporary basis has been updated to reflect changes that previously were introduced on the commencement of sections 86 and 87 of the Public Sector Employment and Management Act 2002. The new provisions underpin the existing transfer system. It is intended that the existing transfer scheme will continue to operate and thus enable staff who obtain transfer points to be considered for a transfer to a preferred school. A transfer in these circumstances will continue to be permitted by the two reforms introduced in this bill.

Finally, I wish to clarify for the House the reason for some of the additional machinery provisions that have been included in proposed section 47A. In relation to merit appointments, I have indicated that the bill has relied on the definition of "merit" in the Public Sector Employment and Management Act 2002. It is entirely appropriate, then, that the bill also picks up the other associated provisions from that Act, such as section 18, relating to advertising of positions, and section 22, relating to legal proceedings in relation to appointments. These reforms are commonsense, practical improvements that will strengthen the public education system in New South Wales.

I wish to acknowledge the contribution of the New South Wales Teachers Federation on behalf of the Primary Principals Association, the Secondary Principals Council and the Public Principals Forum for their contribution in developing this package. I commend the bill to the House.

