



NSW Legislative Assembly Hansard

Registered Clubs Legislation Amendment Bill

Extract from NSW Legislative Assembly Hansard and Papers Wednesday 1 September 2004.

Second Reading

Mr GRANT McBRIDE (The Entrance—Minister for Gaming and Racing) [7.30 p.m.]: I move:

That this bill be now read a second time.

The legislation before the House represents the next phase in the program of improving the governance, accountability and conduct of registered clubs. As we all know, registered clubs in New South Wales enjoy significant concessions in their gaming activities, and these activities generate many millions of dollars of profit for some of our larger clubs. It is important that clubs are accountable not just to their members but also to their staff and the broader community regarding how they manage the large profits they derive from gaming machine and liquor operations.

In August last year I established a new Club Industry Task Force, which is a working partnership between the Government and the club industry. The task force includes representatives of major club industry and club employee associations. Stage one of the task force was completed last year and resulted in a range of enhancements to the corporate governance provisions of the Registered Clubs Act and the Registered Clubs Regulation. Stage two of the task force's deliberations is currently under way. These involve further consultation with key stakeholders and club industry participants regarding club amalgamations, election of club directors, codes of conduct and industry benchmarking.

More recently, I have also established a Special Ministerial Advisory Group to assist and augment the role and duties of the Club Industry Task Force. The advisory group constitutes the chief executive officers of nine significant registered clubs, and provides a wide range of detailed advice on policy and management issues by people who have lengthy experience in the long-term management of clubs. While these processes are under way, it is clear that there still remain some significant issues in relation to club governance and the role of clubs as employers. As honourable members would be aware, the registered clubs industry is a significant source of employment for the people of New South Wales. In recent times, threats have been made by club management to sack some club employees on fairly spurious grounds. For example, I am aware of one club making a decision to dismiss a number of staff last November on the basis that the new gaming machine tax might affect the club's future earnings. That new tax only came into effect today and, further, the first tax under the new arrangements is not due to be paid until 21 December—some 13 months after the decision was made to sack the workers last November. It defies belief that a club could use the new tax rates as an excuse to sack workers more than a year before the new tax arrangements came into effect.

The bill has several components to make clubs more accountable to their members and their work force, and I will give a quick outline of the key elements. The bill will provide protection for any club employee or director who divulges any legitimate matter of concern to the Department of Gaming and Racing. The proposed amendments will also provide those in the club industry greater opportunity to make legitimate complaints about registered clubs. The bill will amend the provisions relating to special inquiries into registered clubs to make it clear that such inquiries can make findings in relation to corrupt or improper conduct in certain circumstances. The bill will also standardise the powers of investigation that may lead to different types of complaint action, and provide a power for the Director of Liquor and Gaming to be reimbursed for the cost of any such investigation if a complaint is subsequently established. Finally, the bill will amend the legislation to provide for greater disclosure of information to ensure full transparency of club operations.

I will now turn to the details of the bill. The Liquor Act presently nominates employee organisations as one of the parties that can make a formal complaint against a licensee. The Registered Clubs Act does not include a similar provision. It is proposed to address this anomaly and add employee organisations to the list of parties that may take formal complaint action against a registered club. As honourable members would appreciate, club employees are often in a position where they can observe first-hand any improper or corrupt practices that might be taking place at a club. However, despite any concern they might have about the best interests of the club and its members, employees may be quite fearful about reporting improper conduct to the Department of Gaming and Racing for fear of losing their job or having other action taken in retribution against them.

The bill will insert certain protections for employees who "blow the whistle" on improper practices at their club. The proposed whistleblower amendments are based on provisions in the Protected Disclosures Act 1994, which provide protection for public officials. The bill will make it an offence for any registered club or person to take detrimental action against a club employee or director that is largely in reprisal for the employee or director disclosing information to the Director of Liquor and Gaming concerning the conduct of a club. There are protections provided to the club in return. It is an offence for an employee or director to disclose information to the director that the person knows is false or misleading. Also, the club has a defence to any prosecution for taking action against a whistleblower if it can establish that the disclosure was frivolous or vexatious. The bill also provides that the director may refer employment-related matters arising out of an investigation or a special inquiry to the Industrial Relations Commission or to the department administering the Industrial Relations Act 1996, currently the Department of Commerce.

I turn now to amendments that relate to special inquiries that may be conducted into registered clubs. The Act already enables the Director of Liquor and Gaming to establish an inquiry into corrupt or improper conduct in relation to a registered club. The bill will amend those provisions to make it clear that the person presiding at an inquiry may report a finding of corrupt or improper conduct by a registered club or by any person in relation to a registered club. A finding in relation to corrupt or improper conduct can only be made if the person presiding over the inquiry is a judge or a legal practitioner of at least seven years standing. Another restriction is that a finding of corrupt or improper conduct can only be made if the presiding officer is of the opinion that the conduct concerned may involve a criminal offence or a disciplinary offence. The bill also provides power for the person presiding at an inquiry to recommend that the director refer matters to a law enforcement agency or other person.

As an adjunct to this, the bill provides the director with the power to refer matters arising from an inquiry to a law enforcement agency or other person, including the Industrial Relations Commission and the Department of Commerce. The bill also clarifies that the director may divulge or publish part or all of a report of an inquiry. The director may only divulge or publish details of the report if the Minister is of the opinion that it is in the public interest to do so. The Director of Liquor and Gaming can currently take complaint action against either a registered club under section 17 of the Registered Clubs Act, or against a secretary or a director under section 35 of the Act. The legislation presently gives the director specific powers of investigation to determine whether to make a complaint under section 35 against a secretary or director, but there are no similar powers of investigation in relation to whether to take a complaint against the club itself.

The bill will provide one generic set of powers of investigation in order for the director to determine whether to take complaint action against a club, or against a secretary or director of a club, or whether there has been any breach of the club governance requirements under part 4A of the Act. The bill will also provide the director with power to refer the outcome of investigations to a law enforcement agency or any other person who might have an interest in the matter if the director is satisfied that the matter might relate to a breach of the law or may constitute grounds for taking proceedings against a registered club or person. The bill also provides the director with the power to recover the costs of an investigation in limited circumstances.

I turn now to the proposals in relation to improving the transparency and accountability of registered clubs. The Act currently requires a director or top executive of a registered club to declare any gift from

any affiliated body of the club that has a value of more than \$500. It is proposed to extend this requirement to include remuneration, fees for service and the like, that a club director or top executive receives from an affiliated body. This is intended to require the disclosure of fees that a club director would receive from a football club or other enterprise where there is an interdependent financial relationship. The bill will also permit the public disclosure of information arising out of or relating to the administration of the Gaming Machines Act 2001 or the Gaming Machine Tax Act 2001 if it is in the public interest to do so.

This will allow the publication of individual gaming machine tax and profit figures in the future when it is considered to be in the public interest. Finally, it is proposed to amend the Gaming Machines Act 2001 to make it clear that the Liquor Administration Board may suspend or cancel a hotel or club's authorisation to keep gaming machines if the hotel or club fails to pay its monitoring fee or gaming machine tax. This is a power that the board previously exercised, with some effect, when the gaming machine provisions resided in the Liquor Act and the Registered Clubs Act, when the board was responsible for revenue collection. In transferring this role to the Office of State Revenue, the need to keep the sanction of revoking the right to keep gaming machines was overlooked. The Government has already made many significant improvements to the accountability and corporate governance of registered clubs. However, it is clear that there remains a great deal to be done. The package of amendments before the House today represents the next step in ensuring that there is a viable and responsible club industry in New South Wales. I commend the bill to the House.