



Legislative Assembly

Local Government Amendment (Anti-Corruption) Bill Hansard

Extract

28/05/2002

Second Reading

Mr WOODS (Clarence—Minister for Local Government, Minister for Regional Development, and Minister for Rural Affairs) [4.21 p.m.]: I move:

That this bill be now read a second time.

Local government is the tier of government with which many people have the most contact. While local government is no longer the domain of roads, rates and rubbish, the broadening services and functions of local government means that councils are in even more contact with members of the community and are major contributors to the wellbeing and quality of lifestyle in a community. For these reasons it is vital that councils operate effectively and that people can have confidence that their local council is operating effectively.

I have commented in this place before on the admirable job that councillors and council staff perform for the benefit of their communities. I do not wish to detract in any way from that good work, although I must speak about those few persons who, for their own selfish purposes, corrupt the system of local government by interfering inappropriately in it. As recent events affecting the Rockdale City Council have shown, unfortunately there are still some unscrupulous individuals who are so driven by greed that they are willing to chance the severe anti-corruption and criminal conduct sanctions that are currently in place in order to obtain financial benefit or some other benefit or favour for themselves. The scale of corruption exposed in the Independent Commission Against Corruption inquiry into activities at the Rockdale City Council has shocked the community.

All people involved in the local government sector would have been disappointed to see one councillor admitting corruption and another collected from his home by ICAC officers to appear before the inquiry to answer allegations of corruption. ICAC officers had completed rigorous and thorough investigations into the alleged corruption and the work of those officers and the inquiry is to be commended. I note that it appears to have only been in the face of overwhelming evidence collected by anti-corruption officers that one councillor did admit that he had engaged in corrupt conduct. The councillor has since publicly apologised for his disgraceful behaviour and resigned from the council.

Evidence at the ICAC inquiry has shown that at least one councillor received money from development applicants, via intermediaries, to assist with the successful passage of a particular application through council. The result for the community of such a scheme is the possibility of development that is not within the limits set by legislation or the council in consultation with its community. Residents or developers going to a council for approvals of one kind or another must be able to have security in the knowledge that their application will be dealt with on its merits, and according to the prescribed processes, and that the application will not be interfered with by corrupt councillors or staff. Decisions made on behalf of residents and ratepayers must not be made for the benefit of corrupt individuals.

The community has every right to expect that the State Government will ensure that corruption within councils is not tolerated and that councils will themselves undertake whatever reasonable measures may be necessary to render their organisations resistant to corruption. Moreover, the community is entitled to have confidence that appropriate measures are in place so that where corruption or other criminal behaviour does exist, it will be rooted out and the people involved punished. It is critically important in terms of deterrence of other councillors or staff who may potentially take corrupt action that those persons conducting corrupt activities are found out and dealt with appropriately under the law.

This bill evidences the Government's resolve to act promptly and decisively against corrupt councillors, corrupt council staff and councils which are afflicted by systemic corruption. The measures contained in the bill will allow the immediate suspension, without the need for further inquiry, of individual councillors and council staff who have been found to be corrupt by a formal inquiry conducted by the ICAC, or who have admitted corruption, or who have been charged with a criminal offence relating to their civic duty. The suspension will operate pending further action, which may involve prosecution of persons by the Director of Public Prosecutions, or other appropriate action.

Corruption rots an organisation from the inside out. The longer it is left, the more damage it can do, and the harder it is to eradicate. Therefore, the proposal provides that a suspension of a councillor or staff member may be based upon the findings of either an interim or final report of the ICAC. This element of the proposal, which focuses on timeliness, will ensure that there is little, if any, delay between the release of an adverse ICAC finding about an individual and that person being suspended from his or her civic office or council employment on a temporary basis.

It will no longer be possible for persons who have had an adverse recommendation made by the ICAC for their suspension or dismissal, who have admitted corruption or who have been charged with criminal conduct relating to their civic office, to continue on in their role, or to be paid fees or salary, or to be involved in the day-to-day decision making of their council while waiting for the due process of the law to reach its conclusion. The capacity to immediately suspend these persons is essential for the maintenance of community confidence in the system of local government.

If the person is a councillor, the Minister for Local Government will provide the councillor with an opportunity to make submissions as to why the councillor should not be dismissed from civic office. If the Minister is not satisfied that the councillor should retain his or her civic office, that councillor may be dismissed by the Governor, by proclamation. This power to dismiss a councillor is proposed as an option of last resort to remove a person who has been found to be engaging in corrupt conduct but who refuses to resign his or her position.

The period of dismissal will be determined in all the circumstances but is to be no longer than five years. This maximum period is consistent with the powers of the Local Government Pecuniary Interest Tribunal under the Local Government Act to disqualify a councillor against whom a complaint has been proven from holding civic office for a period of not more than five years. The proposed dismissal power applies only to councillors and not staff of councils. General managers have powers under the common law, industrial awards and agreements and employment contracts to deal with disciplinary matters relating to staff. Staff may also have further action taken against them by the Director of Public Prosecutions.

An exercise of power to dismiss a councillor for engaging in corrupt conduct is a serious matter. It is a power to protect the integrity and the reputation of a particular council and the local government sector as a whole. The ICAC considers that this proposal is critical to the effective removal of corrupt persons from civic offices. If corrupt conduct extends beyond a handful of councillors and council staff to the point where the whole council is tainted by corruption, the Governor will also be able to immediately dismiss the council where a formal inquiry conducted by the ICAC has exposed systemic corruption and recommended its removal. In those cases where a whole council has been dismissed due to evidence of systemic corruption, the council will immediately be replaced by an administrator appointed by the Minister for Local Government. The administrator will perform all of the functions of the council. The restoration of democratic local governance will occur as soon as it is deemed appropriate by the Government to hold fresh elections for the area.

The right to select local representatives by a democratic process is important and, as such, voting for a new council will be restored as soon as reasonably practicable. It is entirely appropriate that the recommendation to suspend a councillor or member of staff or to dismiss an individual councillor or an entire council is made to the Minister for Local Government by the ICAC following its investigations. The ICAC has primary responsibility for administering the Government's anti-corruption program affecting public authorities, including local councils. The ICAC is specially empowered to investigate the conduct of public officials and to make findings and recommendations. It may refer criminal conduct for prosecution by either the Director of Public Prosecutions or the police.

Due to the need for a prompt legislative response on this occasion, formal consultation with the peak local government sector organisations was not able to be pursued. However, I am confident that the local government industry acknowledges the urgent need to place greater barriers and to apply speedier sanctions against those persons who, through their selfish and greedy actions, would bring the whole sector into disrepute. The Government believes these new measures will provide a greater threshold of deterrence against persons holding civic office or employed by the local government authority from succumbing to the temptation to act in a criminal or corrupt way. It is my hope that the powers will need to be used only very rarely. I expect, and the community expects, councillors and council staff to respect their offices and to protect the integrity of local government. The measures in this bill will ensure that swift and strong action can be taken in those exceptional cases when councillors or council staff prefer personal profit or favour over the proper performance of their duties for the benefit of the community.

I anticipate and welcome bipartisan support for this important bill. The welfare of the community and the long-term stability and economic prosperity of the State are too important to extend any leniency to corrupt officials who seek to subvert the public institutions and values upon which our society is founded and depends. The people of this State are entitled to expect that the conduct of councillors and council officers is not for the purpose of personal profit and that they will always act honestly and fairly when carrying out their civic duties. I commend the bill to the House.