

**ELECTION FUNDING, EXPENDITURE AND DISCLOSURES CONSEQUENTIAL
AMENDMENT BILL 2014**

Page: 36

Bill introduced on motion by Mr Mike Baird, read a first time and printed.**Second Reading**

Mr MIKE BAIRD (Manly—Premier, Minister for Infrastructure, Minister for Western Sydney) [4.01 p.m.]: I move:

That this bill be now a read a second time.

In the past two months this State has been confronted by the real challenge of ensuring that political donations do not buy influence and are not perceived to do so. It has been a problem in this State for a long time. It is a complex issue that has long been grappled with in New South Wales. Late last year in the High Court of Australia, Unions NSW successfully shut down the Government's first attempt to eradicate the hidden influence of election funding by corporate and sectional interests. The peak union body argued that the 2012 provisions, which banned corporate donations and aggregated the campaign expenditure limits of parties and their affiliates, infringed an implied constitutional freedom of political communication. Although the Government was disappointed with that outcome, the High Court has now spoken on this matter and our further attempts to address the risks associated with political donations will take that decision into account.

The first step we need to take is to ensure that, following the High Court's decision, corporate donations are regulated in the same way as all other political donations. The purpose of the Election Funding, Expenditure and Disclosures Consequential Amendment Bill 2014 is to address a gap in election funding regulation that has arisen as a result of the High Court striking down these reforms. While the High Court's decision invalidated sections 96D and 95G (6) of the Election Funding, Expenditure and Disclosure Act, it did not affect various consequential amendments made at the time of the introduction of these two provisions, which therefore remain in force. The general effect of this is that the Act allows for donations from individuals and corporations, but the supporting provisions of the Act only contemplate donations made by individuals. This means that the disclosure requirements applying to donations made by individuals do not apply in their entirety to corporate donations. The bill will resolve this issue.

The bill will formally remove the provisions invalidated by the High Court and restore the 2010 provisions that were replaced by the two invalid provisions. Most importantly, the bill will also reverse the associated consequential amendments. In particular, this will mean that, should the bill be passed, corporate donations made between the date of the High Court's decision and the passing of the bill should be caught by the same disclosure requirements as apply to all other political donations. Donations made by a corporation will also be required to be aggregated during a particular financial year, or where they are made to elected members, groups or candidates of the same party as occurs at present in respect of donations

made by individuals. The amendments made by the bill will be taken to have commenced on 18 December 2013, being the date of the High Court's *Unions NSW* decision. The key impact of treating the amendments contained in the bill as having commenced on this date is that corporate donations will be regulated in exactly the same way as all other donations from that same date.

Applying these amendments retrospectively will help to enhance the transparency and accountability of election funding and expenditure by ensuring that corporate donations made since the corporate donations ban was struck down on 18 December do not slip through a regulatory loophole. For fairness, the bill provides transitional arrangements that will allow additional time to comply with certain restored disclosure obligations in relation to corporate donations until 28 days after the commencement of the amending Act or such longer period as the Electoral Commissioner may allow. There is, of course, more work to be done to change the culture of hidden influence and misplaced expectations of access that appear to follow even modest political donations in this State.

This Government is committed to this task and is working to develop sensible reforms that will clean up election funding in New South Wales. In the meantime, the amendments in this bill must not be delayed. It is important that the amendments are in force before the end of the annual disclosure period for political donations and electoral expenditure, which concludes on 30 June. In closing, I note that the Electoral Commissioner and representatives from the NSW Electoral Commission have been consulted closely in preparing this bill and that the Electoral Commissioner supports it. I commend the bill to the House.

Debate adjourned on motion by Mr Paul Lynch and set down as an order of the day for a future day.