

**SUPERANNUATION ADMINISTRATION AMENDMENT BILL 2008**

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**Second Reading**

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [10.07 p.m.], on behalf of the Hon. Michael Costa: I move:

That this bill be now read a second time.

The bill seeks to amend the Superannuation Administration Act 1996 to enable the Superannuation Trustee Corporation [STC] to return non-State sector surplus employer reserves to funding providers, with the approval of the Treasurer; to enable the STC, with the approval of the Treasurer, to transfer surpluses between State sector employers' reserve accounts within the pooled fund so that the State sector can record additional financial assets that are excess to individual State sector employer superannuation funding requirements on the State sector balance sheet; and to insert a time limit of two years within which a person aggrieved by a decision made by the STC can lodge a dispute against that decision with the STC disputes committee.

The bill also makes miscellaneous minor amendments to the Superannuation Administration Act 1996 that will correct references to other Acts that have become outdated or are no longer appropriate. Some local government council employers had surplus reserves as at 30 June 2007 that might be better used by those councils to provide local community services, rather than to sit indefinitely in STC employer reserve accounts.

At 30 June 2007 STC held \$699 million in financial assets for and on behalf of State sector employers that could not be recorded as assets on the State sector balance sheet, despite the State sector having contributed the funds to the pooled fund. The legislation will allow those funds to be transferred within the State sector, which will have the effect of allowing these financial assets to be recorded on the State sector balance sheet with the result that net financial liabilities recorded on the State sector balance sheet will be lower.

A "surplus in excess of recovery available from schemes" exists in an employer's superannuation reserve when the value of assets exceeds the combined value of current and future superannuation liabilities. The extent of the surplus currently unavailable to the State sector is actuarially determined in accordance with accounting standards. Under accounting standard AASB119, "Employee Benefits", that part of a surplus that cannot be returned to an employer, is no longer recorded as an asset in the employer's financial statements. Employers are informed of the extent of the surplus on their superannuation position statements. These statements are prepared on an AASB 119 basis by an actuary for STC and are prepared at the end of every financial year.

The Superannuation Administration Act 1996 already enables transfers of funds from one Crown funded employer's reserve to another Crown funded reserve of the same employer. Without the bill the permanent surplus funds held in some State sector employer reserves would be held indefinitely in the pooled fund, even after all liabilities have been paid out. Permanent surpluses cannot currently be applied to funding superannuation liabilities over and above the current and future superannuation liabilities for that employer.

Before I conclude my remarks on the transfers between State sector accounts I will use this opportunity to reinforce an assurance given by the Parliamentary Secretary in the other place in response to the contribution of the member for Manly. In particular, I understand that the member for Manly, who has an active interest in the issue, has suggested that the Auditor-General have a role in reviewing transfers. I am told the Treasurer does not have an objection to the Auditor-General auditing transfers between the accounts of Crown employers. I am advised that the Treasurer and the Opposition, through its spokesperson the member for Manly, have agreed on a course of action that will provide transparency and accountability for these transfer transactions. It is with this co-operation that I can confirm that the Treasurer will write to the Auditor General to:

Request that the Auditor General provide a letter to the Treasurer, to be included in the New South Wales Treasury Crown Entity Annual report each year, advising that the Audit Office has reviewed the transfer transactions and provides written confirmation that the transactions were in the broad public interest and calculations are consistent with the relevant accounting standard, in this case AASB 119.

With regard to another aspect of the bill—the proposed two-year dispute limitation period—it should be noted that there is currently no time limit within which to lodge a dispute against an STC decision with the STC disputes committee. Amending the Superannuation Administration Act 1996 to insert a two-year time limit within which an

aggrieved person can lodge a dispute against an STC decision will enable a fairer review of the original decision than a review that takes place many years thereafter.

The Commonwealth regime has a limit of two years in which an aggrieved person can make a complaint about the trustee's decision to the Superannuation Complaints Tribunal, and the State pooled fund scheme should have a two-year dispute lodgement period also. Allowing for a two-year period within which to lodge a dispute is consistent with Commonwealth superannuation law. Under current provisions there is a clear inconsistency between the provisions for STC and Commonwealth-regulated superannuation funds.

The bill also provides for miscellaneous amendments to the Superannuation Administration Act 1996. The Act contains some references to FTC, which, after the passage of the First State Legislation Amendment (Conversion) Act 2005, are no longer appropriate. The Superannuation Administration Act 1996 also contains references to the Public Sector Management Act 1998 that require updating to the Public Sector Employment and Management Act 2002.

**The Hon. MATTHEW MASON-COX** [10.13 p.m.]: I lead for the Opposition in debate on the Superannuation Administration Amendment Bill 2008. The purpose of the bill is to amend the Superannuation Administration Act 1996 to enable the STC Trustee Corporation to transfer State sector surplus employer reserves to reserve accounts and to return non-State sector surplus employer reserves to those employers—local councils. The bill also includes a two-year limit within which people may dispute an STC Trustee Corporation decision and makes a number of other miscellaneous amendments.

While the Opposition is generally supportive of the broad thrust of the bill, we have some concerns in respect of the accountability of the Government, and in particular the Treasurer, under the current provisions of the bill. Our concerns have been well articulated in the other place by the shadow Minister for Finance and member for Manly, Mike Baird. I will draw on some of those comments to bring this matter to the attention of the House. The primary concern is the power that this bill bestows on the Treasurer to access the superannuation reserves of public sector employers and to transfer these reserves to other accounts. The trouble is that we do not know exactly what accounts the Government plans to debit or credit, nor do we have the details in respect of the formal process to be undertaken to determine any surplus reserves in superannuation accounts.

Given the Treasurer's form on minimising the Government's liability for unfunded superannuation by adopting a higher discount rate than the Commonwealth and other States, thereby accessing additional funds that are diverted to fund spending on other items in the budget, the Opposition is naturally concerned to ensure that superannuation members' interests are protected at all times. Indeed, when one considers the gyrations that have occurred in world financial markets over the past few months it is apparent how quickly the value of superannuation assets can dissipate in difficult economic times. This is borne out by the fact that surplus superannuation assets were determined to be \$699 million as at 30 June 2007, yet only last month Treasury revealed in its briefing that the surplus had decreased to \$350 million, a 50 per cent fall in just 12 months.

In the light of these factors it is the Opposition's view that the Government must provide more protection to superannuation fund members through the bill. We believe that that can be achieved by an amendment that will require the Auditor-General to carry out a performance audit pursuant to section 38B of the Public Finance and Audit Act 1983 in those years in which a transfer of surplus funds has occurred. However, the shadow Minister for Finance, Mike Baird, put these concerns to the Government, which conceded that the concerns were valid and could be met by a method stipulated by the Parliamentary Secretary as:

[A] Request that the Auditor General provide a letter to the Treasurer, to be included in the New South Wales Treasury Crown Entity Annual report each year, advising that the Audit Office has reviewed the transfer transactions and provides written confirmation that the transactions were in the broad public interest and calculations are consistent with the relevant accounting standard, in this case AASB 119.

I note that the undertaking by the Government was given in the Parliamentary Secretary's contribution to the debate. The undertaking is very welcome and has been received by the Opposition. We believe that this bill represents a measure being adopted in the public interest and in the interests of producing greater transparency and accountability. I note that the Opposition put a similar proposition to the Government in respect of privatisation of the State's electricity assets. In that case we have also called for the involvement of the Auditor-General to ensure that decisions made by the Government are made in the public interest.

The rationale for the Opposition's approach is the sad fact that the Government cannot be trusted to deliver on the promise it made before the last State election not to sell the State's electricity assets; nor can it be trusted with service delivery across the State. The crumbling infrastructure of the State is more than sufficient testament to the Government's mismanagement. The budget that we heard this week will not change the fundamentals of that position, despite the fact that the Government continues to throw money at problems that will not go away. However, on this occasion the Government has seen the sense of the Opposition's views and has acted to involve the Auditor-General. That action has been taken strongly in the public interest. Accordingly, the

Opposition will not oppose the bill.