



State Owned Corporations Legislation Amendment (Staff Directors) Bill 2013 (Proof)

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Second Reading

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [5.38 p.m.]: I move:

That this bill be now read a second time.

The State Owned Corporations Legislation Amendment (Staff Directors) Bill 2013 seeks to facilitate transparent board director appointments on State-owned corporation boards by removing the mandatory requirement for directors to be appointed to fill staff and union positions. Currently, the State Owned Corporations Act 1989 requires each board to have a staff director. This requirement is removed in some corporations legislation and modified by others. The Energy Services Corporation Act 1995, the Hunter Water Act 1991, the State Water Corporation Act 2004 and the Superannuation Administration Authority Corporatisation Act 1999 require that the staff director be selected from a panel nominated by Unions NSW. The Ports and Maritime Administration Act 1995 requires that the staff director be elected by employees of the port corporation.

This Government has made a commitment to improve the efficiency and management of State-owned corporations. These are economically and socially significant businesses that are vital to this State and to the people of New South Wales. We must ensure that the boards making these management and operational decisions are best placed to drive the performance of the businesses and ensure the provision of quality, cost effective services. Ensuring that State-owned corporations have effective, accountable and suitably experienced boards is a key component to improving the performance of State-owned corporations, which is an important commitment that this Government made in "NSW 2021: A Plan to Make NSW Number One". This bill ensures that the Government has the ability to make skills-based appointments to our State-owned corporation boards. Under the current process, the chair and board have little influence on prospective union- and staff-elected directors.

There is no skills-based process for the appointment of staff and union directors. This Government has reformed that process to bring it into line with board governance best practice. Chairs and directors are selected through a skills-based appointment process that ensures boards have the right balance of professional and industry skills and member interaction to meet the current and emerging needs of the individual business. In addition, directors will generally be appointed for a maximum of three terms. Without the removal of constraints on the appointment of staff and union directors, we cannot guarantee that we will have the best possible board for each of our State-owned corporations.

This Government said that it would improve the director recruitment process for State-owned corporation boards, and it has done that. However, more must be done. This bill is a further step in ensuring that the Government has control over those individuals who are put in these responsible positions. It will ensure that we have individuals of high quality with professional skills and industry experience appropriate to the business. The removal from legislation of the requirement to appoint directors to staff and union positions addresses the potential for misunderstanding around the role of these directors, who are not there to represent the interests of staff but have a fiduciary duty to the State-owned corporation. These directors have a difficult task in balancing their duties as directors with the expectations of staff and representative bodies, and that is addressed by the amendments.

This bill addresses inconsistencies between the State Owned Corporations Act 1989 and the enabling legislation covering individual corporations. That legislation has differing requirements about whether a staff- or union-nominated director is required, and variations in the mechanism for their selection and appointment. While this bill will remove the legislative requirement to have union or staff directors on State-owned corporation boards, the total number of director positions will be unchanged. The bill provides for existing union and staff directors to continue in their role until a date determined by the Governor or the voting shareholders. Merit-based

appointments will be made as roles become vacant.

Our State-owned corporations operate according to the principles of clear commercial objectives, managerial authority and autonomy, and rewards and sanctions for performance. These are compromised by a requirement to include a staff or union director on the boards when those roles are filled without a skills-based appointment process and input by the board's chair or nomination committee, and without reference to the requirements of the board. This Government is committed to having a corporate governance framework that is independent and robust, not one that is blurred by the requirement to appoint staff-elected and union-nominated directors. Those roles do not serve any social, regulatory or commercial objective. I commend the bill to the House.