

Second Reading

The Hon. MELINDA PAVEY (Parliamentary Secretary) [4.36 p.m.]: I move:
That this bill be now read a second time.

The Government is pleased to introduce the Public Interest Disclosures Amendment Bill 2011, which will strengthen the protection of public sector whistleblowers and improve the public interest disclosures regime. The Government is committed to improving public sector administration. This bill is one of a range of measures that the Government is taking to restore confidence in public administration in New South Wales. The Public Interest Disclosures Act 1994 plays a critical role in maintaining the integrity of public administration in this State. It does this by protecting public officials who disclose wrongdoing in the public sector in accordance with the Act. The Act makes it a criminal offence to take detrimental action against a public official substantially in reprisal for making a public interest disclosure.

Recognising the importance of this Act, the Government delivered on its 100 Day Action Plan commitment to introduce legislation to strengthen the protection of whistleblowers. The bill improves the protections afforded to persons who make public interest disclosures and strengthens the capacity of the Ombudsman to oversight public authorities and resolve disputes. First, the bill expands the types of disclosures that can be made to the Chief Executive, Division of Local Government, Department of Premier and Cabinet regarding wrongdoing by local councils. Currently the Act only permits public interest disclosures to be made directly to the chief executive in relation to serious and substantial waste of local government money. As the Division of Local Government can investigate a range of other conduct by local councils, the Government considers that public officials should be able to disclose a wider range of wrongdoing directly to the head of that division and receive the protections under the Act.

To implement this, the bill will also allow the chief executive to receive disclosures about corrupt conduct, maladministration and breaches of pecuniary interest obligations under the Local Government Act and a failure by councils to exercise functions properly in accordance with the Government Information (Public Access) Act 2009. The bill also will impose express statutory obligations on the heads of public authorities. These include responsibility for ensuring that the public authority has a public interest disclosure policy, that staff are aware of the policy and the protections of the Act, and ensuring that the public authority complies with the policy and its obligations under the Act. Placing these obligations in legislation will assist in emphasising the importance of top-down support for public officials who make public interest disclosures. It is proposed also to empower the Ombudsman to assist in resolving certain disputes that might arise from a public official making a public interest disclosure.

New regulation-making powers have been included in the bill for this purpose. To assist with prosecutions of offences of taking reprisal action against whistleblowers the bill will also clarify that responsibility for investigating and preparing a brief of evidence lies with the appropriate investigating agency. This will assist in providing proper briefs of evidence to the Department of Public Prosecutions for the prosecution of offences of taking reprisal action. The Department of Public Prosecutions will be responsible for prosecuting offences. The bill will also improve the feedback from agencies to whistleblowers about their concerns. Public authorities will be required to send a copy of the agency's policy to a person who has made a

public interest disclosure and to acknowledge receipt of a disclosure within 45 days. This requirement will need to be included in the public authority's public interest disclosures policy.

Legislation passed last year established a Public Interest Disclosures Steering Committee in March. Currently its members are the Ombudsman as chairperson, the Director General of the Department of Premier and Cabinet, the Auditor General, the Commissioner for the Independent Commission Against Corruption, the Commissioner for the Police Integrity Commission, the Chief Executive of the Division of Local Government in the Department of Premier and Cabinet, and the Commissioner of Police. The role of the steering committee is to provide the Premier with advice on the operation of the Act and recommendations for reform. The bill will include the Information Commissioner on the steering committee as public interest disclosures can be made to the Information Commissioner regarding a failure to exercise functions properly in accordance with the Government Information (Public Access) Act 2009.

The Government looks forward to working closely with the steering committee. It will give careful consideration to any suggestions for future enhancements to the Act which the steering committee may make. New annual reporting obligations on public authorities will commence on 1 January 2012. These reports will provide useful data to the Public Interest Disclosures Steering Committee and the Ombudsman for his new oversight role to analyse whether the Act is operating effectively to protect whistleblowers. In addition to these annual reports, the bill will also require each public authority to provide to the Ombudsman statistics regarding its compliance with the Act on a six monthly basis. This will facilitate increased oversight by the Ombudsman of public authorities' compliance with the Act. I commend the bill to the House.