

GOVERNMENT SECTOR EMPLOYMENT BILL 2013
MEMBERS OF PARLIAMENT STAFF BILL 2013

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Bills introduced on motion by Mr Barry O'Farrell, read a first time and printed.

Second Reading

Mr BARRY O'FARRELL (Ku-ring-gai—Premier, and Minister for Western Sydney) [4.08 p.m.]: I move:

That these bills be now read a second time.

I bring before the House the Government Sector Employment Bill 2013 and the Members of Parliament Staff Bill 2013. As I have said before, we demand extraordinary things from our public service. Whether in executive or non-executive capacity, or on the front line, people in our public service are engaged in protecting lives, educating our children and keeping our communities safe, along with developing the policy solutions to the most complex and challenging problems we face. Yet the legislation that governs the New South Wales public sector workplaces was largely written before we had heard of the internet. Over the last 30 years, in our fast-moving global economy, private and non-government workplaces have adapted to make the most of change. In the public sector, the way we interact with customers, stakeholders and each other is fundamentally different from the way it used to be.

In February this year the New South Wales Government accepted recommendations of the Public Service Commissioner to rewrite the Public Sector Employment and Management Act and to modernise our public service, building on related recommendations made in the New South Wales Commission of Audit released in January 2012. The reforms will create an outward looking, customer-focused organisation with resources shifted to the front line to assist in the delivery of those services that people rely upon each day.

We are determined to deliver on our election commitments, a key one of which was to establish a New South Wales Public Service Commissioner to be the independent leader of reform to restore the integrity, performance and accountability of the State's public sector. The inaugural New South Wales Public Service Commissioner, Graeme Head, is delivering reforms and recommendations to Government which will: ensure New South Wales has the best-qualified and most professional public service in the nation; restore the highest levels of impartiality, ability, accountability and leadership in the New South Wales Public Service; ensure public service positions are filled on the basis of merit and qualifications, not patronage or favouritism; promote a public sector culture in which initiative, the achievement of results and individual responsibility are strongly valued; build a new customer service culture; and strengthen the public's confidence and trust in the New South Wales Public Service.

The proposals set out in the bill here today will provide for a government sector that is responsive and adaptive, and I thank the Public Service Commissioner for his work across the public service in developing this long overdue overhaul and modernisation of the framework

for public sector employment.

In January 2012 the Commission of Audit issued wideranging recommendations on reforming the public sector's workforce. It found that the structure of government employment required fundamental overhaul, with many recommendations specifically going to improving its executive's performance. The commission's report identifies areas for reform in just about all parts of government employment, including: lack of transparent leadership responsibility; too many employment divisions and controlled entities; need for greater flexibility in staff deployment; overly layered middle management; insufficient responsibility devolved to the highest levels; managers' spans of control should increase; and the pressing need for a capability framework. Recommendation 45 specifically focused on the need for comprehensive review and reform of executive structures.

Many of the issues identified by the Commission of Audit were also the subject of detailed commentary in the Public Service Commissioner's inaugural State of the Public Sector Report, which I released in November last year. Considering the Commission of Audit Report, his own State of the Public Sector Report and other relevant analysis, the commissioner subsequently found that departments and agencies are hampered by a poorly designed, outdated and rigid set of public sector workforce arrangements. The commissioner agreed to lead the implementation of the workforce recommendations of the Commission of Audit. The primary statutory instrument, the Public Sector Employment and Management Act 2002, has been patched and modified over the years but without the benefit of a comprehensive review. The reforms introduced today reflect a commitment to supporting the critical work of the New South Wales public sector through arrangements that encourage good performance, reward talent, support building of career paths, simplify organisation structures and reduce red tape, and improve service delivery and results to the people who pay for our New South Wales public service—the taxpayers and citizens of our State.

I urge all members to examine the provisions of the bill in detail. These provisions outline the Government's plans and intentions to give effect to the objectives and wishes of the people of New South Wales, who overwhelmingly demanded change to the form and function of the State's public sector service delivery and culture, in the election of March 2011. The provisions in this bill deliver on the content of our policy statements and commitments by the New South Wales Liberals and Nationals in opposition and in government, and are a further step in delivering our commitments as we have promised to do. The Government Sector Employment Bill creates an Act that will simplify decades of accreted complexity and deal only with employment matters; an Act that creates a simple and easily understood structure. The current Act provides for a complex array of employment structures, including the government service, the public sector, the public sector services and the public service. The Government Sector Employment Bill simplifies this complexity by establishing only two employment structures: the government sector and the public service.

New employment structures are created by part 4 of the bill for the public service. The bill creates the new public service by amalgamating the current government service and the

current public service. It absorbs the government service divisions within schedule 1 of the Public Sector Employment and Management Act. Contemporary organisational structures call for a mobile workforce that allows employers opportunity to move staff expeditiously to priority areas, open opportunities for employees to move to new roles, and enhance the appeal of the public service to the best and brightest. Under the new framework the public service will consist of those persons who are employed by the Government in the service of the Crown. All public service employees, including senior executives, will be employed at a classification and assigned to a role within their agencies. Employees can be reassigned to a different role at the same classification to suit the department or agency's present needs.

A second phase of reforms will align the NSW Police Force Senior Executive Service, the Health Executive Service and the Transport Senior Service. The senior executive structure will absorb the current Chief Executive Service, Senior Executive Service and award-based executives with the new public service executive arrangements, and the bill provides for the new senior executives to be employed on continuing contracts with clear termination provisions. We are replacing past executive arrangements by providing for ongoing employment for senior executives. They will work to contractually defined termination provisions, and non-performance will be dealt with fairly and quickly. These reforms will be challenging and will confront some outdated traditions and practices, but we are determined that the new executive will create a modern, professional public service that uses the best management approaches from both the private sector and leading public sectors, here and internationally.

Part 4, division 5 of the bill provides for the employment arrangements for non-executive public service employees. The current Public Sector Employment and Management Act contains detailed provisions in this area. The principle in this part is that these employees should retain statutory certainty around the critical areas of their employment. More procedural and variable aspects are better dealt with by regulation or in the rules. The bill provides clarity about key aspects of employment. Clause 45 ensures that they will be employed in a classification of work. Clause 46 ensures their assignment in roles within their classifications and the basis for reassigning them to a different role; and clause 47 sets out the grounds for termination of employment. A head of power provided at clause 48 allows the Public Service Commissioner to make rules dealing with matters relating to their employment.

Apart from moving award-based executives into the new contract-based senior executive structure, existing public sector industrial instruments are not changed by the bill. Section 21 of the current Public Sector Employment and Management Act, which provides a right of appeal to the Industrial Relations Commission against promotions, will not be brought into the new Act. Agencies will be required instead to have proper review mechanisms to deal with procedural issues, and any appeals before the Industrial Relations Commission at the commencement of the Act will be allowed to pursue their course under existing provisions. Government sector is the other employment structure set out in part 5. The new government sector will embrace virtually all New South Wales Government employees. The sector will

comprise: the public service, teaching service, NSW Wales Police Force, NSW Health Service, and any other service of the Crown. The regulations may prescribe others. Government employees that may be outside the government sector will be parliamentary and ministerial staff, State-owned corporations employees and the staff of the Independent Commission Against Corruption, the Judicial Commission and the office of the Auditor-General.

Chapter J, section 63 provides a stronger approach to workforce diversity. Part 9A of the Anti-Discrimination Act 1977 currently sets out the requirements for equal employment opportunity employment in the public sector and focuses on compliance and reporting. The Government wholeheartedly supports the principles of equal employment opportunity, but as a result of successful bipartisan embrace of these principles over recent decades these provisions should now sensibly sit within an Act that describes employment arrangements across the public sector. I thank the chair of the Anti-Discrimination Board and others across the public sector for their support of this provision. Proposals here do not in any way affect a person's capacity to make complaints about discrimination but bring a focus on workforce diversity to the centre of workforce planning.

The new government sector employment rules will deal with the details of workplace diversity and, as a minimum, must make provision for equal employment opportunity target groups as currently defined by the Anti-Discrimination Act 1977. Concurrently, the Public Service Commissioner will be able to identify any sector-wide priorities and mandate their adoption. The Minister for Health, the Minister for Police and the Minister for Transport support aligning the health service, transport service, and the Police Senior Executive Service with the new public service. The years of uncoordinated service delivery structures which act against valuable professional mobility are to end. I have asked the Public Service Commissioner to lead that alignment process with the directors general of Health and Transport and the Commissioner of Police. Work is already underway with strong cooperation and collaboration to achieve this alignment seamlessly. I will bring a bill to this House in August to provide for the Government's agreed changes.

I now turn to the Members of Parliament Staff Bill 2013. In New South Wales staff engaged to work in Ministers' offices, and the office of the Leader of the Opposition in the Legislative Assembly, are currently employed as special temporary employees by the Director General of the Department of Premier and Cabinet under the Public Sector Employment and Management Act. That Act provides that they are taken to constitute a branch of the department. Different arrangements apply in other jurisdictions. In the Commonwealth, ministerial staff members are employed directly by the relevant Minister, on behalf of the Commonwealth, subject to such general arrangements, conditions and terms as are set by the Prime Minister. Current arrangements in New South Wales can obviously give rise to difficulties and confusion.

Part 2 of the Members of Parliament Staff Bill provides for new and more appropriate arrangements under which staff of political office holders are employed, with those officer

holders being Ministers and the Leader of the Opposition in the Legislative Assembly. Part 3 of the bill provides for new arrangements under which staff that assist members of Parliament in their electorate and parliamentary duties are employed.

Part 3 of the bill provides that each member, on behalf of the State, is to be the employer of his or her staff. The Parliamentary Remuneration Tribunal will continue to determine the number of staff that each member is entitled to employ. Members who hold a specified parliamentary office—the Whips, the Speaker and President and their deputies—will be entitled to employ additional staff. The relevant Presiding Officer is otherwise to determine the employment powers of each member and the arrangements for the exercise of those powers. These new arrangements are broadly modelled on the arrangements that have applied in the Commonwealth, which have served members of the Federal Parliament exceedingly well for almost three decades. The reforms in the two bills will create a more professional public service, operating along best practice lines, such as one would find in the most innovative, effective public sector, private sector and non-government organisation anywhere in the world. It also will equip our New South Wales public service to meet the needs and expectations of individuals, businesses, families, customers and taxpayers in an increasingly competitive global economy.

This State is the biggest employer in the country, and taxpayers spend more than \$60 billion a year on New South Wales public services. We owe it to the taxpayers to ensure that the public service is the best that it can be. As the service needs of our civic domain change, what will matter is the shape, not the size, of the government and the outcomes it delivers for citizens and customers. We want an innovative, professional and accountable public sector that encourages and rewards performance, delivers the best possible front-line services for local communities across the State and creates the most competitive landscape for investors, economic growth and job creation in New South Wales. I am proud of the achievements of our New South Wales public service, and the New South Wales Government is determined to give our public service executive the tools it needs to continue to develop its strengths and capabilities to serve our community. I commend the bills to the House.

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