

Bill introduced on motion by Mr O'Farrell.

Agreement in Principle

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

That this bill be now agreed to in principle.

One of the things that the people of New South Wales voted for on 26 March was to have honest, accountable government in New South Wales again. This bill is part of a series of measures that the Government will take to restore confidence in public administration in New South Wales—confidence destroyed, confidence sapped after 16 years of Labor government and a culture and a decisions-for-donations culture that had grown up. We are determined to ensure that people see how decisions are made. We are determined that people understand that decisions are made on the basis of public interest. We are determined to ensure that we are a government for all of New South Wales, and that we are accessible for all of New South Wales. As I said, this is the first of a number of measures that are designed to deliver on that commitment, which was an important part of our Five Point Action Plan.

The Lobbying of Government Officials Bill will make it a criminal offence, punishable by a fine, for a lobbyist to be paid a success fee—a payment that is contingent on the outcome of the lobbying of a government official. We know that lobbyists are paid fees. Lobbyists are paid fees that do not generally connect to whether or not they are successful, because ultimately decisions are made, and hopefully made on the basis of what is in the best interest. But if there is a success fee it means that a lobbyist has skin in the game and that the lobbyist could cut ethical corners because there is an incentive to do so. We want to remove that incentive.

This bill is a move towards cleaning up politics in New South Wales. It corrects years of shady deals under Labor and is the fulfilment of yet another election commitment. Lobbyist success fees raise questions about not only access but also decisions. The fees create incentives for lobbyists to cut ethical corners and they undermine public confidence in government. This can, as the Independent Commission Against Corruption said, create a climate conducive to corruption. The community voted to shut the back door in New South Wales: I am slamming it, bolting it and throwing away the key.

This bill bans the giving or receiving of a success fee and any agreement to give or receive a success fee. On 4 August 2009 I announced that a New South Wales Liberals and Nationals government would ban success fees as part of a strategy to restore integrity to the political process in this State. Today I fulfil the commitment I gave back in August 2009. In November of that year I called upon the then Premier, Nathan Rees, to support my calls to ban success fees and follow in the footsteps of the Queensland Labor Premier, Anna Bligh, who was embarrassed into legislating to outlaw success fees after a series of corruption scandals. However, the current member for Toongabbee refused to do so. The Keneally Labor Government's silence on the issue was equally deafening.

For my Government the decision to ban success fees is simple: We need to restore integrity and honesty to the way in which politics operates in this State. No member of this House

should have to suffer again what occurred over 16 years: crook headlines, whether from Wollongong or elsewhere. The decisions were not being made in the interests of their communities or the public but in the interests of developers or others who were paying dollars into the Labor Party machine. That has to end, whoever is in government. This bill will help ensure that lobbying in New South Wales is done ethically and with the highest possible standards. It will conserve and enhance public confidence and trust in the integrity, objectivity and impartiality of government decision-making and public policy development.

The payment of a success fee for achieving a favourable outcome can create not just the perception but the reality that access to government has been bought. Banning payments that are contingent upon a particular government decision removes a potential incentive for unethical or inappropriate conduct by lobbyists. The ban will also create a more level playing field by improving the ability of all stakeholders to present their input, their advice and their comments in relation to policy development. While in Australia only Queensland at this stage has so far legislated to ban success fees, success fees are banned in Canada and in the United States of America, at both Federal and State levels.

This legislation will regulate third-party lobbyists—that is, persons or organisations that carry on the business of lobbying on behalf of others. It will apply to communications by a lobbyist with government officials, whether they are made in person, by telephone, electronically or in writing. It will apply to communications with government officials for the purpose of representing the interests of another person in relation to legislation or proposed legislation, or a government decision or policy or proposed government decision or policy. It will apply to communications about planning applications and it will apply to communications about the exercise by the official of his or her official functions.

Giving or receiving a success fee and agreeing to give or receive a success fee will be an offence punishable by a fine of a maximum of \$55,000 for a corporation and a maximum of \$22,000 for an individual. If a person is found guilty of breaching the ban any success fee will be forfeited to the Crown. The Lobbyists Code of Conduct enables the Director General of the Department of Premier and Cabinet to remove people from the register of lobbyists, and people who are found to have breached this law who either receive success fees or agree to receive success fees. This bill makes specific provisions, however, for success fees paid to technical advisers, such as legal and financial advisers for whom contingency fee arrangements are not uncommon and are industry practice. Those arrangements will not be affected where a success fee is paid primarily for the provision of professional services other than lobbying services.

This bill will strengthen the regulation of lobbyists in this State and is part of a series of measures that we will take not just in relation to lobbying but in other areas to restore the confidence that people in New South Wales voted for on 26 March. Every member of this House—even those opposite—surely got the message out of the election that people in New South Wales want clean politics: they want openness and transparency; they want the public put at the heart of government again. The New South Wales Liberal and Nationals Government is determined to achieve that.