



Passenger Transport Amendment (Bus Reform) Bill.

Second Reading

Mr JOSEPH TRIPODI (Fairfield—Parliamentary Secretary) on behalf of Mr Craig Knowles [10.05 a.m.]: I move:

That this bill be now read a second time.

The Government, the community and the bus industry recognise the need to reform bus service delivery in New South Wales. In metropolitan areas, there is no real bus network. Services are planned as a series of individual operations and cannot operate freely outside exclusive contract areas. Bus service contracts have few measurable service requirements and are effectively granted in perpetuity. The funding model rewards operators for cost control rather than service provision. The minimum service level requirements force operators to plan indirect, slow and unattractive services. Not surprisingly, patronage levels on private bus services have fallen consistently since 1991. The Government and the industry share concerns over the financial viability of some operators under the current system.

Across rural and regional New South Wales, community funding is tied up in underutilised fleets. In some cases, services are duplicated while in too many cases an appropriate service is unavailable. Rather than taking a unified regional approach to service delivery, the State currently manages over 1,800 separate contracts for bus services in country New South Wales. The solutions to these problems have come from passenger, community, industry and Government submissions to the Unsworth review. Former Premier and Minister for Transport, Barrie Unsworth, investigated the planning, funding, contracting and statutory reforms required to achieve change. In March the Government gave in-principle support to these reforms.

Many of the ideas are simple, such as having routes that go where people want to go, but are difficult to deliver as things stand now. The Unsworth review crystallised around 3,000 submissions into a series of 48 recommendations. The recommendations aimed to introduce a network of strategic bus corridors supported by an expanded bus priority program, common standards with service levels tailored to each community, the pensioner excursion ticket to all buses across the metropolitan area, performance standards, community consultation, and staff training as key requirements of the new contracts. Another key requirement is better co-ordination of bus with rail and ferry services and the ability to direct public transport subsidies to where they are required.

In January 2004 the bus reform task force, comprising representatives from the industry and the Ministry of Transport, was established to develop options for transitioning to the proposed new arrangements. Limited legislative change is now required to affect these reforms. The Passenger Transport Amendment (Bus Reform) Bill introduces a more contestable regime of performance-based contracts to replace perpetual contracts with few measurable performance standards and gives the parties the flexibility to determine the terms and conditions of service by shifting the detail from the legislation to the contracts. It allows changes to be negotiated on the expiry of a contract term so that services meet changing needs and facilitates the introduction of more transparent and accountable funding arrangements, including the payment of School Student Transport Scheme [SSTS] subsidies based on actual travel undertaken. It provides an independent process for setting the maximum fares that private or Government-owned bus operators may charge and allows for existing commercial service contracts to be varied or terminated, if that becomes necessary to move to the new system.

The bill creates a new division 3, which deals solely with regular bus services, including transitway services. Contracts for regular bus services will no longer be fettered by legislative provisions which confer exclusive rights to operate services in the contract area, give operators a right of contract renewal in perpetuity on the same terms and conditions, and shackle service planning to rigid minimum service levels. Instead, the bill provides for passenger-focused, performance-based service contracts that are supported by more flexible service planning guidelines. The new division empowers the Director-General of the Ministry of Transport to enter into contracts for regular bus services for a maximum term of eight years. The intention is for new service contracts to be for a seven-year term, while giving the Director-General the ability to extend the contract for up to 12 months.

The bill makes it clear that there is no right or expectation of renewal for a regular bus service contract, except as may be set out in the contract. However, it is proposed that the contract will allow the Director-General to enter into a further contract with the contract holder, if the performance standards set out in the contract have been met and the parties can agree on any new terms. This will allow the Director-General to negotiate changes to contract area boundaries, service levels and performance standards, and subsidy payments, as needs change. The contract will detail how the contract holder is remunerated, including payment of SSTS subsidies on actuals and the right incentives to promote value for money and patronage growth. There will no longer be a distinction between "commercial" and "non-commercial" service contracts.

The new division also allows regulations to limit the number of contracts a person can hold to ensure a competitive

market for services and contracts. Proposed amendments to section 16 in division 1 in part 3 will allow a contract holder to enter into arrangements with other accredited operators, such as subcontracting arrangements, to provide services covered by the contract. The new division 3 also permits the Director-General to declare, vary or abolish bus contract regions and strategic corridors from time to time. This does not mean that unilateral changes can be made to service contracts entered into under the new arrangements while those contracts are on foot. In other words, the declaration, variation or abolition of a new contract region or strategic corridor will have no impact on the operation of a new contract.

The bill preserves the power to determine transitway routes. Given the significant public investment in transitway infrastructure, this ensures that the Government is in a position to negotiate the best possible return for taxpayers. It also ensures that the Government can achieve appropriate levels of service integration where a new transitway route crosses contract region boundaries or extends an existing route. Currently, the Independent Pricing and Regulatory Tribunal [IPART] determines the maximum fares that the State Transit Authority [STA] may charge, as a government monopoly service provider, for regular bus services. The new division 3 gives IPART the power to make binding determinations for the maximum fares that may be charged, no matter whether the contract is held by a private operator or the STA. Compliance with IPART's determination will be an essential term of the contract. In other words, the contract may be terminated if the holder charges more than the maximum fare set by IPART.

The bill also amends the accreditation regime for operators and drivers—other than taxi-cab and private hire vehicles—making it clear that different accreditation standards may be prescribed for different kinds of services. This provision aims to maximise flexibility and improve service delivery, particularly in rural and regional areas. As well as the provisions for contracting bus services, the bill contains savings and transitional provisions which preserve bus service contracts that are in force immediately prior to the commencement of the amendments, and provide the director-general with powers necessary for the transition to the new arrangements. The bill gives the Director-General of the Ministry of Transport power to vary and/or terminate existing commercial contracts, defined in the bill as commercial contracts and transitway contracts.

I wish to make it clear that the Government does not want to have to resort to legislation in order to extinguish existing contracts, and the Bus Reform Taskforce has established a process to achieve negotiated outcomes. However, the Government is committed to bus industry reform, and the power to end existing commercial contracts is necessary to give effect to that commitment if negotiated agreements cannot be reached. The bill also contains a clause protecting decisions to vary or terminate existing commercial contracts from judicial review. This clause is justified on public interest grounds because it aims to prevent unnecessary costs and delays, as well as to promote efficiency and provide finality. Ongoing uncertainty is not good for the industry or for the public, especially bus users.

The savings and transitional provisions also make it clear that the Crown will not be liable to pay compensation for damages, if any, arising from these reforms. This provision is based on section 65 of the current Act. It recognises that existing commercial contracts were not awarded through any kind of open competitive tender process, but that the 1990 Act handed them to existing bus operators, with contract areas reflecting traditional service "territories". It recognises that the viability of these businesses hinges on a large injection of taxpayer funds through SSTS payments and concession reimbursements: more than \$260 million in 2002-03. And it recognises that the Government is giving existing operators every opportunity to remain in the industry, under new performance-based contracts. Finally, some complementary or consequential amendments are also made to other Acts and regulations. This bill will enable the Government to deliver on the initiatives outlined in the Unsworth report and will allow operators to provide more passenger-focused and viable bus services. I commend the bill to the House.

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