

SECOND READING SPEECH

STATE SERVICE AMENDMENT BILL 2012

Lara Giddings MP
Premier

I move – That the Bill now be read for the second time.

Mr Speaker, the primary purpose of this Bill is to amend the *State Service Act 2000* to support improved governance, role clarity and increased accountability.

The amendments form part of the State Service Structural Reform Program, and support the implementation of a number of the recommendations from an independent report (the Review of Governance and Structural Arrangements in the Tasmanian State Service) undertaken by Mr George O'Farrell, which was completed in March 2012. This review considered the roles and responsibilities of the Employer, the State Service Commissioner and the Tasmanian Industrial Commission.

Extensive consultation with key stakeholders, including unions and Heads of Agency, indicates that there is

general acceptance of the need for the following changes:

- define the role of Employer;
- abolish the Office of the State Service Commissioner;
- review and determine selection and other employment decisions heard by the Tasmanian Industrial Commission; and
- an independent body to evaluate the performance of the State Service.

The O'Farrell Report found that the State Service is in reasonable health. However, as might be expected, the Report outlined areas where reform and improvement would be beneficial. In particular, the Report finds that the arrangements about the exercise of the powers of the employer of State Service employees could be clarified.

Of particular concern were:

- the statutory ability of a Minister of the Crown to make decisions about the appointment, promotion or termination of an individual State Service employee;

- the diminished role of the State Service Commissioner which is contrary to the structure of the State Service Act; and
- confusion about who should properly exercise the powers of the employer on behalf of the Crown.

Mr Speaker, given this background the Bill I present to the House today is motivated by a desire by the Government to:

- align the Employer's functions to a single office with the appropriate roles and responsibilities vested in the Head of the State Service. This makes explicit the importance of stewardship of the Tasmanian State Service and makes explicit the requirement of the Head of the State Service to uphold, promote and to implement arrangements for effective service delivery and state service workforce management;
- strengthen the role of workforce planning, management and evaluation by the requirement of annual reporting by the Head of the State Service to the Parliament;

- give the Tasmanian Industrial Commission responsibility for Tasmanian State Service employee reviews. The Commission's accountability is strengthened by its annual reporting requirements to the Parliament on the performance of this review function;
- maintain the independent scrutiny of state service management by providing for the Auditor-General to examine the performance and exercise of the Employer's functions and powers; and
- further strengthen the ability of the Employer to refer matters and investigations to an independent body such as the Auditor-General.

The State Service Amendment Bill 2012 (the Bill) amends the *State Service Act*, and consequentially amends the *Audit Act 2008*, *Industrial Relations Act 1984* and the *Integrity Commission Act 2009*.

The State Service Act is the principal Act which sets out the governance arrangements for the State Service including the roles of Heads of Agency and employment matters relating to public sector employees.

This Amendment Bill:

- abolishes the Office of the State Service Commissioner;
- defines and clarifies the role of the Minister administering the State Service Act as the Employer;
- creates a set of responsibilities and accountability processes under the title Head of the State Service;
- identifies the Auditor-General as the independent body to undertake reviews and investigations into the performance of the Head of the State Service; and
- empowers the Tasmanian Industrial Commission to review applications by employees in relation to selection and other actions relating to their State Service employment.

The Bill establishes the Employer as the Minister administering the State Service Act. The Employer has clearly defined responsibility to uphold, promote and ensure adherence to the State Service Principles and that employment practices are in place to support the more than 27 450 State Service employees we have working for us around the State. We want to ensure that

the governance structure is in place to ensure they are skilled, rewarded and developed so they can continue to effectively and efficiently deliver the best outcomes for this State.

Currently the role of the Employer is confused with the State Service Commissioner issuing Commissioner's Directions and the Minister issuing Ministerial Directions which in some cases related to the same matters.

Under this Bill Employment Directions issued by the Employer, provide a single direction regarding the management of the State Service. The Employer will consult with unions and other stakeholders prior to Employment Directions being issued. Employment Directions will not over-ride the scope of the Industrial Act or award entitlements.

The Employer also has the power to carry out his/her own investigations into administrative and management matters to assist in the performance of the Employer role and may request the Auditor-General to do this.

Historically the Secretary of the Department of Premier and Cabinet has accepted responsibility for many of the Employer's functions, on behalf of the Minister. In 2004

the State Service Commissioner delegated a number of functions of this office to the Secretary of the Department of Premier and Cabinet, supported through the Public Sector Management Office. These delegations were only recently withdrawn with the appointment of Mr Frank Ogle as Commissioner in June this year.

This Amendment Bill formally recognises and establishes the role of the Head of the State Service who has the authority to perform and exercise the Employer's functions and powers on behalf the Employer.

The Head of the State Service may delegate the Employer function and powers, however accountability remains with the Head of the State Service and will be required to report to the Parliament annually.

This is not a new position we are creating. It is the formalisation of a role that will be assigned to a current Head of Agency. In practice this will probably be the Secretary of the Department of Premier and Cabinet, however, the Bill allows the Government of the day to determine which Head of Agency takes on that role, as a future Government may determine that the

responsibility of administering the State Service Act does not sit with the Premier.

I also stress that while the Head of the State Service undertakes the functions and powers of the Employer, this Bill preserves the Minister's authority to terminate a State Service employee.

The Amendment Bill does not diminish the accountability of public sector administration and management. In fact it increases it by requiring the Employer to report to Parliament each year on the performance and exercise of the Employer's functions and powers.

The Bill also requires Heads of Agency to report each year to the Head of the State Service to assist the Head of the State Service prepare this report.

It is critical for good governance that there is independent oversight of the performance and exercise of the Employer's functions and powers, and there is a process for review of employment decisions.

The Auditor-General will still be able to undertake independent and authoritative examinations of the efficiency and effectiveness of Tasmanian State Service governance. The Audit Act provides the Auditor-

General with the power to examine the compliance of a State entity with written law or its own internal policies.

This Bill clearly provides for the Auditor-General to examine the performance and exercise of the Employer's functions and powers.

The Auditor-General's annual plan will include examinations he considers are required. Under the present Audit Act, the Auditor-General must, in the development of the annual plan, consult with the Public Accounts Committee, and cause the annual plan to be sent to the President of the Legislative Council and Speaker of the House of Assembly.

The Audit Act also provides that any of the reports on examinations may be provided, to both Houses of Parliament, Public Accounts Committees or Joint Committees.

The Bill also provides that applications by employees involving selection or any other actions currently heard by the State Service Commissioner will now be the responsibility of the Tasmanian Industrial Commission. This maintains the independent review of the matters affecting individual employees.

This Amendment Bill also provides certainty of structure for the Tasmanian Industrial Commission by ensuring that the Commission has a President and Deputy President. Additional commissioners will also be able to be appointed to meet varying workloads or to undertake specific tasks. Commissioners can be selected based on their knowledge and experience in public sector administration. Commissioners may also be appointed if they hold similar roles in other jurisdictions.

It is also important that the Tasmanian Industrial Commission does not find itself in a situation where it has to review its own decisions in relation to State Service reviews. Therefore any reviews the Commission undertakes under the State Service Act cannot be referred to the Full Bench of the Commission.

The Amendment Bill allows for the Commission to not hear matters lodged with the Integrity Commission, Anti-Discrimination Commissioner, or Ombudsman. This will minimise matters being referred to multiple bodies.

To support these changes consequential amendments are also being made to the Audit Act and the Integrity Commission Act.

The opportunity has also been taken in this Bill to clarify the State Service Act provisions relating to the reversions rights of officers. This amendment does not alter any existing provisions or entitlements, but removes ambiguity.

The drivers for these changes have been to improve the efficiency and effectiveness of the governance structures, and to provide for clear roles and responsibilities. While the abolition of the Office of the State Service Commissioner will provide some financial saving for the Government, the supporting bodies taking on new or increasing their role under the new model do need to be appropriately resourced.

Mr Speaker I stress that this initiative is not driven by budget savings, but are necessary to ensure the continued effective governance of our State Service.

Mr Speaker, in summary the State Service Amendment Bill 2012:

- clarifies the Employer's functions and powers;
- aligns the Employer's functions to be undertaken by the Head of the State Service;

- gives the Tasmanian Industrial Commission responsibility for Tasmanian State Service employee reviews;
- strengthens the accountability by requiring annual reporting by the Head of the State Service through the Minister to the Parliament;
- strengthens the independent scrutiny of state service management by providing for the Auditor-General to examine the performance of the Employer's functions and powers, and
- enables the Employer to refer matters and investigations to an independent body such as the Auditor-General.

These amendments will make sure that we have a robust governance structure in place to continue to support in the most efficient and effective way, our skilled and valued State Service employees, and that we, the Government through the Employer, is accountable to you, the Parliament.

Mr Speaker, I commend the Bill to the House.