

FREEDOM OF INFORMATION (FEES) AMENDMENT BILL – 30 Sept 2010

Adjourned debate on second reading.

(Continued from 16 September 2010.)

Mr PEDERICK (Hammond) (10:54): I wish to continue my previous comments from a couple of weeks ago in this house. I was talking about the federal review and amendment of the Freedom of Information Act. The former Rudd opposition claimed that it would reform the Freedom of Information Act 1982 (the commonwealth act) to promote a pro-disclosure culture and more openness in government. There was a small legislative reform in late 2008, which was more about process than openness.

The state legislation is modelled on the commonwealth legislation passed in 1982. All Australian states and the Australian Capital Territory have adopted similar legislation. National consultation was undertaken for the release of the draft Freedom of Information Amendment Reform Bill 2009 and, ultimately, it was introduced and passed in the federal parliament. Additionally, a separate bill providing for the Information Commissioner was also passed.

The Finance and Public Administration Legislation Committee, which included Senator the Hon. George Brandis SC, tabled a report in March 2010 on the federal reform bills. The coalition supported many of the provisions of the bill but, in the first instance, opposed the change in the onus of proof of appeals to the Administrative Appeals Tribunal, effectively requiring that applicants must show why secret government documents should not remain secret. It makes it incredibly difficult for applicants to successfully appeal decisions by the Information Commissioner (in South Australia it is the equivalent of the Ombudsman) and, secondly, remained concerned about the changes to fees and charges, in particular, discriminating between individual researchers and those deemed journalists or from non-government organisations.

This bill proposes reform as follows:

- (a) It strengthens the objects of the act, emphasising open access to government documents to increase public participation in government processes, etc.
- (b) Introduction of an Information Publication Scheme. This requires an agency to prepare a plan and publish information outlining the structure of the organisation, functions, appointment of officers, information in annual report, etc. Additionally, agencies are under an obligation to ensure the information published is up-to-date, correct and accurate. There is also a provision for review of the Information Publication Scheme within five years.
- (c) To amend the public interest test for exemptions; the new definition of 'conditionally exempt documents'. The factors to be taken into account in the assessment are now clearly defined, together with factors that must not be taken into account—for example, embarrassment to government, loss of confidence in the government, and access could result in a person misinterpreting or misunderstanding the document. These are currently frequently used to refuse access to documents.
- (d) Providing power to investigate the conduct of agencies on freedom of information matters.
- (e) Introduction of a process declaring a person to be a vexatious applicant.
- (f) Reducing the period for cabinet documents exemption from 20 years to 10 years.

This bill only includes amendments consistent with the strengthening of transparency as promoted by the federal Australian Labor Party. I support the bill and commend it to the house.