

**PUBLIC FINANCE AND AUDIT (CERTIFICATION OF FINANCIAL  
STATEMENTS) AMENDMENT BILL**

**Tuesday, 31 July 2007**

**The Hon. D.G.E. HOOD:** Family First, too, is happy to support the speedy passage of this bill. As you know, Mr Acting President, the bill seeks to amend the Public Finance and Audit Act to improve the certification of financial statements of government departments and public authorities. I note that the bill arises as a result of the now former auditor-general's recommendation that such a change occur, and I will return to that recommendation in a moment.

In one respect, the essential change is to bring best practice accounting, as presently contained in the accounting policy statements of the Treasurer, into this act to make clear the expectations concerning certification. This is one of the more agreeable aspects of a previous failed bill that included this measure. Adding a presiding officer of a supervisory board of, say, a government authority requires that board to take a direct interest in the statement; and all senior officers will want to be correct because, under this bill, contrary to the present act, a maximum \$5 000 fine will apply if they are found to intentionally, or recklessly, provide a non-compliance certificate.

The allegations of impropriety concerning the justice department were raised in the other place. I do wonder whether even the facts of that case, which I think remain in dispute, would have been strong enough to record a conviction under the section, as worded, but that is a moot point, really. In essence, I am saying that I think the government has struck the right balance with the offence provision because, clearly, some element of actual intent or recklessness is necessary to succeed in a prosecution. A mere oversight will not suffice, as the former chief executive officer of the justice department claimed in her evidence to the Economic and Finance Committee on 23 December 2004, when she said:

*... as far as I was aware, the finances as they were presented to me complied with all of the Audit Act and accounting standards.*

This appropriately worded penalty clause will cause law abiding citizens to be ultra careful to ensure that they know what the accounting statements say and, therefore, that they are accurate. I might add that I am not seeking to reopen old wounds in raising the justice department case. I use that case because it was mentioned in the debate in the other place as a case in point—and, indeed, it could not be missed in the Auditor-General's Report as one of his key reasons for making the recommendation encapsulated in this bill.

I think the Auditor-General, in his 2004-05 report, also outlined quite well the underlying reason for the change we see in this bill. He said:

*Public sector employees are required to serve governments of any political persuasion and must not knowingly and intentionally frustrate the implementation of the legitimate policy goals of the government of the day.*

This is an issue that transcends the party political process and goes to the values that underpin the system of government in this state. It is not for public sector employees to arrogate unto themselves the right to override a legitimate policy directive by a proper authority and seek to circumvent a specific policy requirement. Notwithstanding the fact that it may be considered that a particular policy requirement creates difficulties, where there is no physical and practical impossibility of compliance, it is, in my opinion, the duty of public sector employees to act in accordance with the policy directives.

In that light, I can see why there appears to be bipartisan support for this bill. A government of any persuasion would be horrified to discover that public servants are acting contrary to the policy direction chosen by the government. Sure, a public servant might complain to a friend, who then talks to the opposition, for example, but that is arguably of lesser concern than when it comes to frustrating in the millions of dollars the spending decisions set out in the state budget. A government is elected to govern and is answerable for the way in which the Public Service conducts itself. A government is therefore entitled to have confidence in the financial reports submitted by its chief executives, CFOs, and chairpersons of boards—and, of course, that applies to any government of any particular day; otherwise, as I recall one member of the

government saying during the justice department debate, you create the potential for a so-called *Yes, Minister* culture, where public servants are making the decisions and wielding the power, not the members elected by the public.

Another related benefit of having carefully scrutinised records at the top level is that the proper auditing is then enforced down through the structure of a government body to the individual service and project areas. This then ensures that what is reported at the chief executive officer level is an accurate indication of what is going on throughout the department or authority. It therefore enables the top-level management to scrutinise middle management to ensure that they are not running their own private empires within the Public Service. The top level management is entitled to be direct about such matters, as their own criminal record is potentially on the line.

Before I conclude, I want to quickly place on the record a question for the minister. Will the minister advise whether there is a potential duplication between the offence section in this bill and any other section of the criminal law? If possible, we would like that issue clarified during the minister's summing up of the second reading. Having said all that, and as members may by now have surmised, Family First supports this bill, and we look forward to its speedy passage through the council.