

Extract from Hansard

[ASSEMBLY — Tuesday, 12 April 2011]

p2721b-2758a

Mr Tony O’Gorman; Acting Speaker; Ms Andrea Mitchell; Ms Margaret Quirk; Mr Bill Johnston; Dr Mike Nahan; Ms Rita Saffioti; Mr Vincent Catania; Mr David Templeman; Mr Peter Abetz; Mr Mark McGowan; Mr Paul Miles; Mr Ian Britza; Mrs Liza Harvey; Ms Lisa Baker; Dr Tony Buti; The Acting Speaker

MS R. SAFFIOTI (West Swan) [5.27 pm]: I follow on from the member for Riverton and also that fine man, the member for Cannington. As has been outlined by members on this side, the opposition will be supporting the Small Business and Retail Shop Legislation Amendment Bill 2011. However, we will be asking questions in debate at the second reading stage and also during consideration in detail. As has been outlined, the Small Business and Retail Shop Legislation Amendment Bill 2011 is part of the overall agreement that was reached between the opposition and the government on retail trading hours’ reform, and is a very positive addition to Government, in a sense.

We were all a little shocked to see the way this process has been put in place with the role of the managing director of the Small Business Development Corporation disappearing, and that role being taken on by the Small Business Commissioner. As outlined by the member for Joondalup, his view is that this is a bit different from the Victorian model. The Victorian Small Business Commissioner is independent, whereas the Western Australian Small Business Commissioner will not have that degree of independence.

The other key issue is the funding of this new body and the new roles it will play. Clause 14 refers to the new functions that are enabled under this legislation, which include to investigate and report to the minister on the impact of legislation and government policy on small business and on the actions of public sector bodies that affect the commercial activities of small businesses. The bill includes a number of other things, such as facilitating and encouraging the fair treatment of small businesses by other businesses, promoting informed decision making by small business, and investigating and reporting to the minister on emerging market practice trends that adversely impact small business. A number of new functions have been added to the current role of the Small Business Development Corporation. The question is: how much additional funding has been allocated as part of this process? I would like the parliamentary secretary, in her response to the second reading debate, to tell us how much additional funding has been given to the agency to reflect this additional role, which is an expanded role.

I will highlight some of the points made by the member for Cannington, that fine man, about small business disputes and what is unfair market practice. Proposed section 15A states —

small business dispute means a dispute about —
(a) an unfair market practice that affects a small business;

Can the parliamentary secretary clarify the definition of “unfair market practice” and how it is assessed and applied?

As I said, we support the Small Business and Retail Shop Legislation Amendment Bill 2011, and we want to clarify the powers of the commissioner. However, we are disappointed that the relevant body has not been given additional funding even though the roles and functions of that body will increase significantly under this legislation. I have not checked the budget papers, but from the parliamentary secretary’s speech, it does not appear that the agency has been given any additional funding even though it will be undertaking significant additional functions.

I believe that the issue of deregulation has been poorly handled. Some of the evidence suggests that not a lot of people are utilising the 9.00 pm closing time. Labor’s proposal for a 7.00 pm or 8.00 pm closing time would have been a fairer and more progressive step towards total deregulation. It is disappointing that a game of brinkmanship was played and that there was no real negotiation on this issue early on. From the Premier’s point of view, it was my way or the highway, which has been to the detriment of small business.

Small business operators have contacted me and told me that the additional cost to their lease contracts is a significant issue, as is the changing market share. The question is: how much extra retail spending has occurred and where is it going through deregulation? The evidence so far suggests that it is going to the major retailers and not small businesses. Small business is facing the significant challenge of trying to open more hours without having more customers. Some businesses in the Sunday trading precincts opened on Sunday in the hope of getting more business, but the patronage just is not there and they are closing as a

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result. Probably more market share is going to the majors. I think the 9.00 pm closing time was a case of going too far too quickly. I do not believe it has been as well utilised as was expected or stated by the government.

I would have liked to have seen the 9.00 pm closing, the trading precincts and the small business protection measures brought on simultaneously. Another element of the reform package that the Labor Party agreed to is the trading of durable goods and electrical stores being open on Sundays. That is a big part of the package. Some businesses in Malaga have contacted me about that issue, including one retailer in Malaga who contacted me late last year. That business rang the government and asked when it would be able to open on Sundays. The retailer was told by someone from government that it was the opposition’s fault that that could not happen. That is not the case. The opposition put forward a proposal, and the government agreed to it, to allow durable goods and electrical stores to open on Sundays. We are still waiting for that part of the package. It would have been better and cleaner to have had an entire package. However, for political purposes, this has been rushed through in separate legislation, and now we are dealing with the key legislation that protects small business.

Another issue is the staff cap, which this legislation was never intended to address. However, that issue is affecting small business and it has been raised with me. There are limits to how big a small business can grow in order to open on a Sunday and weeknights while other businesses do not have any staff caps and can operate until 9.00 pm on weeknights and on Sundays. That issue is affecting small businesses throughout my electorate because they are losing market share and revenue. I have spoken to a number of small business owners about this. They cannot do much to compete in this instance because they are very limited by the size of the shop and the services and scope of what they can provide in their stores. An IGA in Wembley, which is not in my electorate, although the owners live in my electorate, is over the 13-employee cap and is therefore unable to open on Sunday. However, the Coles supermarket, which is not very far away in the Subiaco precinct, can open. We are talking about small business, and that is a major element for them. We are stopping small business from being able to take on the majors, which is not what we want. We want to ensure that the market share is diversified and does not go all one way. I know that some government members have acknowledged and discussed this issue but I do not know whether cabinet has considered it or whether it will be part of the overall package. We need to hear what the government intends to do about the 13-employee cap. Given where we are at with the amount of deregulation that has occurred, stopping businesses from being able to compete is a very bad thing. In a sense, we are putting them behind the eight ball. By deregulating the trading hours but not increasing the staff cap, people’s purchasing practices are changing. They are going to stores other than the IGAs and the other small businesses that are affected. This affects me in particular because there are a number of IGAs in my electorate. They are competing with stores that are allowed to open to 9.00 pm while IGA is not allowed to do that because it has more than 13 employees. IGA cannot expand or compete properly with the majors. I would like the parliamentary secretary to provide feedback on where the government is at on the 13-employee rule