Charter of Budget Honesty Amendment Bill 2011

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Law and Bills Digest Section

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Charter of Budget Honesty Amendment Bill 2011

Date introduced: 22 August 2011
House: House of Representatives
Portfolio: Private Member's Bill: Joe Hockey, MP

Commencement: Sections 1–3 on Royal Assent; Schedule 1 on the day on which Part 2 of the Parliamentary Budget Office Act 2011 commences. However, if Part 2 of the Parliamentary Budget Office Act 2011 does not commence within 24 months of the Royal Assent, the provisions of this Bill do not commence at all.

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill's home page, or through http://www.aph.gov.au/bills/. When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.

Purpose

The purpose of the Charter of Budget Honesty Amendment Bill 2011 (the Bill) is to amend the Charter of Budget Honesty Act 1998 (CBH Act) so that the requirement for the Leader of the Opposition to request the Prime Minister to refer costings of election commitments to the Departments of the Treasury and Finance is removed.

The Bill is a companion to the Parliamentary Budget Office Bill 2011, also introduced into the House of Representatives as a Private Member’s Bill by Joe Hockey, MP.

Background

Charter of Budget Honesty

The main purpose of the CBH Act is to provide for a Charter of Budget Honesty (the Charter) to improve fiscal policy outcomes by providing a framework for the conduct of government fiscal

1. Information about the Parliamentary Budget Office Bill 2011 can be viewed on the relevant Bills homepage: http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillhome%2Fbillhome%2Fbillhome%2F461922

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It seeks to achieve this objective by requiring the Government’s fiscal strategy to be based on sound fiscal management and provides for the publication of regular reports setting out such fiscal strategy.

Part 7 of Schedule 1 to the CBH Act requires the publication of a pre-election report setting out the fiscal and economic outlook once a general election is called. Under the CBH, the Prime Minister, or the Leader of the Opposition, may request the secretaries of the Departments of the Treasury and Finance to prepare a costing of any of their publicly announced policies once a general election has been called and for the publication of such costings. The request from the opposition must be made through the Prime Minister and is subject to the agreement of the Prime Minister.

The Charter of Budget Honesty sets out what Parliament and the public could expect of the Government in managing and reporting on the economy. This will facilitate informed decisions being made by the public based on the state and projected progress of the economy. Further, informed judgments could be made by the electorate on the performance of the Government and whether the economy could sustain the promises made by the Government and the Opposition before each Federal election.

It has been reported that:

The 1998 legislation was meant to reduce the likelihood of elections being won—or lost—on the basis of shoddily costed promises. In the event, the measure might better have been described at the “charter of budget dishonesty” since both sides have abused the system by providing insufficient time or information for the process to take its course.

Agreement for a Better Parliament

Following the 2010 Federal election, the Australian Labor Party (ALP) entered into an agreement with the Australian Greens and independent members to establish a Parliamentary Budget Office to provide independent costings, fiscal analysis and research to all members of the Parliament, especially non-government members.

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3. Section 1, CBH Act.
4. Subclause 29(1), Schedule 1, CBH Act.
5. Subclause 29(4), Schedule 1, CBH Act.

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The Joint Select Committee on the Parliamentary Budget Office (Joint Select Committee) was established under a resolution of appointment passed by the House of Representatives on 18 November 2010 and by the Senate on 22 November 2010. The Joint Select Committee tabled its report on 23 March 2011.\(^9\)

That report made a series of recommendations including that the Government establish a Parliamentary Budget Office dedicated to serving the Australian Parliament.\(^10\) In addition, it recommended that the Government empower the Parliamentary Budget Office to undertake the following functions, consistent with its mandate:

- prepare responses to the requests of individual Senators and Members, regardless of party or government status, and parliamentary committees, including the preparation of costings in relation to proposed policies and Bills outside the caretaker period
- make formal contributions to committee inquiries
- initiate its own work in anticipation of the interests of its clients, and
- prepare costings of election commitments during the caretaker period.\(^11\)

The recommendations appear to have gained bipartisan support. No dissenting or minority opinion was expressed in the final report.

Government response to the Joint Select Committee report

The Government tabled its response to the recommendations in July 2011.\(^12\) It agreed to 23 out of 28 of the recommendations and agreed in principle to the remaining five recommendations.\(^13\)

That being the case, the Government subsequently introduced the Parliamentary Service Amendment (Parliamentary Budget Officer) Bill 2011 which is currently before the Parliament.\(^14\) That Bill establishes:

- the Department of the Parliamentary Budget Office to provide to all Members of the House of Representatives and Senators with independent information and analysis of budget-related matters, including costings of policies, and

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\(^10\) Ibid., recommendation 1.

\(^11\) Ibid., recommendation 3.


\(^13\) The Australian Government agreed in principle to recommendations 10, 14, 19, 26 and 28.

\(^14\) A Holmes and R Webb, Parliamentary Service Amendment (Parliamentary Budget Officer) Bill 2011, op. cit.

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• the office of Parliamentary Budget Officer who, as Secretary of the Department of the Parliamentary Budget Office, will be responsible for providing those services.

In addition, the Parliamentary Service Amendment (Parliamentary Budget Officer) Bill 2011 amends the CBH Act to, among other things, extend the provision of policy costings during a caretaker period to the leader of a minority party. 15

Position of the Coalition

Despite the apparent bipartisan acceptance of the recommendations of the Joint Select Committee, the Coalition has now introduced this Bill and its companion. The Explanatory Memorandum for this Bill which was circulated by Mr Hockey states:

A key element of the Charter [of Budget Honesty] were arrangements for more equal access to Treasury and Finance costings of election commitments by the Government and Opposition.

One shortcoming of these arrangements for the Opposition is that they require the agreement of the Prime Minister for Opposition costings to be submitted to the Departments of the Treasury and Finance.

They also require the public release of the costing of a policy which has been submitted.

These arrangements create an environment where costings are not confidential and cannot be challenged or reviewed prior to being made public.

The Coalition has introduced the Parliamentary Budget Office Bill 2011 which seeks to establish an independent statutory authority which will provide objective and impartial advice and analysis on ... the costs of policy proposals ...

The policy costing function of the PBO will differ from that in the Charter of Budget Honesty. Requests by non government MPs or Senators for policies to be costed will not require the agreement of the Prime Minister. Further, the costings will be confidential as they will not be able to be released to the public without the express approval of the relevant MP or Senator.

The costings provision in the PBO will supersede and make redundant the comparable provision in the Charter of Budget Honesty. 16

The difference between the Government Bill and the Private Member’s Bill is summed up in the second reading speech by Andrew Leigh, MP:

This bill would unwind the Charter of Budget Honesty ... Consistent with the recommendations of the joint committee, the Government’s bill proposes that the election costing process will be fully transparent and that all requests and costings made during a caretaker period are to be

15. Ibid.

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publicly released, as they should be and as is the case under the charter process. Members can of course seek confidential costings outside of the caretaker period for a general election ...

The bill... does not distinguish between costings during caretaker and non-caretaker periods. In both periods, Parliamentary Budget Office costings could be entirely confidential. The Parliamentary Budget Office function would fully replace the current option for the opposition to submit their costings to Treasury or Finance under the charter—replacing a transparent process where costings are required to be public with a non-transparent process where costings can remain confidential. ¹⁷

It has been reported that the Government Bill will ‘make life difficult for the opposition’. ¹⁸

Developing a policy is an iterative process. Ideally, an opposition or a government comes up with an idea, sketches it out, perhaps is surprised at how much it costs (or doesn’t cost), fine-tunes it, sends it back for another costing and so on, until the policy and costing are final.

The new PBO will enable oppositions to do that. For the first time oppositions will be able to put ideas to an official costing organization in confidence and keep coming back until they get it right.

Except that they won’t, once the campaign starts. Unhelpfully, the provisions of the government’s bill remove confidentiality with the issue of writs. After the campaign starts (exactly the time oppositions might need to fine-tune policies) consultation then becomes a one-shot game. An opposition can submit a policy to the PBO, but it won’t know what the PBO makes of it until just before the finding is published on the PBO website. No opposition will take that gamble, at least about something risky. ¹⁹

During the debate of the Government Bill in the House of Representatives, it was this issue that was hotly contested. Mr Hockey moved a number of amendments relating to the ‘public release of costings, responses and submissions’ including:

Schedule 1, item 16, sections 64L and 64L(a) of the current bill provide that requests for costings made to the PBO during the caretaker period and before polling day—and the costings themselves—must be publicly released as soon as practicable. I move to omit these sections and to substitute new sections. ²⁰


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However, the amendment was not passed.\footnote{Ibid.}

Committee consideration

At the time of writing this Bills Digest, the Private Member’s Bill had not been referred to a Committee for inquiry and report.

Financial implications

According to the Explanatory Memorandum accompanying the Bill, it would have no financial impact.

Key provisions

Items 2–6 of Schedule 1 to the Bill amend Part 8 of the CBH Act which refers to the costing of election commitments to remove the right for the Leader of the Opposition to make requests for costings of publicly announced policies during a caretaker period for a general election.

These matters are dealt with by the companion to this Bill—the Parliamentary Budget Office Bill 2011.\footnote{A Holmes and R Webb, \textit{Parliamentary Service Amendment (Parliamentary Budget Officer) Bill 2011}, op. cit.}

\footnote{http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansardr%2Fh0135%22}
Members, Senators and Parliamentary staff can obtain further information from the Parliamentary Library on (02) 6277 2434.

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