**STATUTES AMENDMENT (WATER CONSERVATION PRACTICES) BILL 2003**

**House of Assembly, 27 May 2003, pages 3111-2**

Second reading

**The Hon. J.D. HILL (Minister for Environment and Conservation)** obtained leave and introduced a bill for an act to amend the Water Resources Act 1997 and the Waterworks Act 1932. Read a first time.

The Hon. J.D. HILL: I move: That this bill be now read a second time. I seek leave to have the second reading explanation inserted in Hansard without my reading it. Leave granted.

It is well known that South Australia is the driest State in the driest inhabited continent on Earth. It goes without saying that the sustainable use and management of water is critical to the State’s development and prosperity, our social well being, and the conservation of natural ecosystems and wildlife.

In recognition of this, successive Governments have supported, through legislation, systems for the management of the State’s water resources, which require the use of caution and safeguards to minimise the detrimental effects of water use and its management. However, while there are legislative provisions to restrict water use in certain circumstances, there are limited powers to ensure that water is used wisely.

Despite Australia currently experiencing one of the worst droughts in recorded history, there have not been widespread water restrictions in South Australia. This has been due to the State’s conservative approach to allocation of water and the provisions of the Murray Darling Basin Agreement, which ensure that South Australia receives an entitlement flow of water from the River Murray, except under extreme conditions.

South Australia’s Entitlement Flow from the River Murray is 1 850 Gigalitres per annum. However, the median flow received is approximately 4 850 Gigalitres per annum.

South Australia has been receiving only the Entitlement Flow since December 2001, resulting in reduced volumes of water (compared to the median annual flows) being available for the river and lake systems in the State. The most striking impact of this has been the significant restriction of flow through the Murray Mouth. It is only through action taken to dredge the Murray Mouth that has prevented its closure. South Australia now faces a real risk of not receiving even its entitlement flow in the coming water year.

In view of the high level of uncertainty attached to water resource availability in 2003/2004, a range of options to manage low flows and the impact on water quality, quantity and water levels are currently being examined. On the basis of these considerations, the Government has now announced its intention to impose restrictions on the amount of water diverted from the River Murray using section 16 of the Water Resources Act 1997. These restrictions will also impact on the amount of water taken from the River by SA Water, which will in turn limit SA Water’s ability to supply its customers at current levels of use. The Government has also initiated the Waterproofing Adelaide study aimed at determining longer-term solutions for reducing Adelaide’s dependence on water sources such as the River Murray. Importantly, it is the responsibility of all people in this state to value our water resources and use them wisely. The current circumstances in the River Murray and other water storages in South Australia serve to highlight the need for sustainable use of the water resources. However, this Bill is not targeted only at management in drought conditions but seeks to generally ensure that water use in the State is based on sound water conservation practices.

The Bill establishes and clarifies the legislative basis on which controls may be placed on the quantity of water that can be taken and used, the purposes for which water can be used, and the manner in which, or the means by which, the water may be used. These regulated use controls’ target the conservation of high waste and non–critical water use, and may include restrictions on use in times when water availability is low. For example, the controls may restrict the watering of gardens in the heat of the day, and the hosing down of paved areas in all but emergency situations.

Regulated use controls may comprise both temporary or short term controls, put in place from time to time to respond to changing conditions, and permanent or base-line controls which will reflect the need for certain minimum levels of water conservation practices to be met at all times.

This Bill proposes an amendment to Water Resources Act 1997 to provide the head power to ensure that regulated use controls may be established for all water users in the State. The Waterworks Act 1932 effectively only applies to the customers of SA Water.

Section 33A together with section 10 of the Waterworks Act 1932 provide the power to introduce certain controls for SA Water customers.

Section 10 of the Waterworks Act 1932 gives powers to the Governor to make regulations under the Act and includes a list of purposes for which regulations may be contemplated. Amongst the purposes is clause XI which states “the Governor may make regulations—for preventing the waste or misuse of water, whether supplied by meter or otherwise”. While it could be argued that section 10 currently has the flexibility to allow regulations to be made for any purpose of relevance to the Act it is considered desirable to add an additional clause specifically to ensure that regulations may be made for the purposes of water conservation.

The legislative option has been chosen because while an education program and voluntary controls may achieve some shortterm changes to water use practices, based on interstate experience, these changes are unlikely to be sustained over time. Nor does the voluntary option achieve the levels of reduction that regulated use controls are able to produce.

In addition to regulated use controls, an effective and practical management response to achieve water savings’ in the short term is to place restrictions on the amount of water taken for use. The power to do this is found in the Water Resources Act 1997 under section 16 and, to some extent, in the Waterworks Act 1932 under section 33.

In the context of the need to place restrictions on taking water from the River Murray, utilising section 16 of the Water Resources Act 1997, it has become apparent that the full range of penalties available under the Water Resources Act 1997 may not be applied for contravention of a section 16 notice of restriction. For example, the ability to apply financial penalties (set each year) for overuse of water is not available for transgression of section 16 notices of restriction. This Bill, therefore, contains an additional amendments to section 132 of the Water Resources Act 1997 to provide for financial penalties to be applied in relation to contravention of a section 16 notice of restriction.

Section 33 of the Waterworks Act 1932 may be limited in its application in contemporary circumstances due to the inclusion of a threshold condition that is required prior to the powers of the section being invoked, namely that the ‘quantity of water stored in any reservoir has been diminished to such an extent as to render it necessary or expedient in the opinion of the Corporation to lessen the quantity of water supplied’. The lack of a definition of reservoir within the Act reflects the age of the statute, predating as it does the construction of pipelines from the River Murray to supplement the water supply to Adelaide. A literal interpretation of the current Waterworks Act 1932 may preclude the powers of section 33 being used except in extreme situations where water cannot be supplemented with River Murray supplies. This limits the flexibility of SA Water to use the powers in any situation where a water supply is threatened whether it is a reservoir, river or groundwater supply and irrespective of whether it can be readily supplemented from another source or not. The Bill, therefore, proposes an amendment to section 33 of the Waterworks Act 1932 to provide a broader threshold that allows consideration of the state of a water supply source separate from any other related sources.

The introduction of regulated use controls, provided by the Bill, will have a positive impact on the environment by ensuring that water use is underpinned by conservation practices, and wasteful and inefficient water use is discouraged. This will also ensure that our State’s precious water resources are used to their best effect for human use, the environment and economic development. All sections of the South Australian community will be able to play a part in the conservation of this essential and valuable natural resource. In addition, a community education and information strategy will be developed which will be run in harmony with drought related strategies for the River Murray and the Water Proofing Adelaide study.

The Bill provides that regulated use controls which would be more permanent in nature would be prescribed by regulation. In situations involving a water shortage, the Minister would be able to act by notice issued in the Gazette and an advertisement in a newspaper generally circulating throughout the State. This scheme is similar to the scheme presently applying under the Waterworks Act 1932 with respect to SA Water’s customers, and the use of regulations would enliven coordination through the Cabinet process.

The Bill makes it an offence to not comply with a regulated use control requirement. It establishes an appropriate penalty for non-compliance that is consistent in both relevant Acts. The maximum penalty will be $5 000 for natural persons and $10 000 for bodies corporate.

The Bill also provides for expiation notices to be issued by authorised officers for people who fail to comply with the requirements established by the legislation. The expiation fee will be $315. I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment provisions

An amendment under a heading specifying a particular Act amends the Act so specified.

Clause 3: Amendment of section 16—Restrictions relating to the taking of water

These amendments relate to the imposition of restrictions or prohibitions with respect to the taking of water. An amendment will provide that the Minister can act if the Minister is of the opinion that the quantity of water available, or likely to be available, in a watercourse, lake or well is such that measures should be imposed so as to provide for the conservation or efficient use or management of water. It will now be possible to issue expiation notices under the section.

Clause 4: Insertion of Part 4 Division 1A The Governor will be able to introduce water conservation practices by regulation under proposed new section 17A.

The Minister will also be able to act on the basis of a determination that it is necessary to address a situation that may affect the quantity of available water in particular circumstances.

Clause 5: Amendment of section 132—Declaration of penalty in relation to the unauthorised or unlawful taking or use of water

The Minister will be able to use the penalty system under section 132 of the Act to support the measures promulgated under section 16.

Clause 6: Amendment of section 10—Regulations

These amendments will allow measures for the control of the use of water to be introduced by regulations under the Act.

Clause 7: Amendment of section 33—Power to lessen or discontinue supply

Section 33 is currently limited in its operations to situations where a reduction in water has occurred in a reservoir. This is to be revised.

Clause 8: Amendment of section 33A—Restrictions on the use of water

These amendments will ensure that the powers of the Corporation in relation to the conservation or efficient use or management of water can be consistent with the scheme under the Water Resources Act 1997.

Clause 9: Amendment of section 35A—Reduction in water supply to cope with demand

Clause 10: Amendment of section 43—Interfering with or by-passing meter

These amendments ensure consistency with the other penalties that are to apply in relation to the conservation or use or management of water under the Act.

Mr MEIER secured the adjournment of the debate.