



EMERGENCY SERVICES LEVY AMENDMENT BILL 2024



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WHAT IS THE BILL?

The object of the Emergency Services Levy Amendment Bill 2024 (NSW) (the Bill) is to amend the Emergency Services Levy Act 2017 (NSW) (the Act) to permit the Treasurer to require insurers to provide information for the purposes of evaluating and implementing emergency services funding reforms.

WHAT IS A SHADOW SPI?

The Shadow SPI is a new initiative of the Susan McKinnon Foundation that builds upon the work of the Evidence Based Policy Research Project. It seeks to support parliamentarians in the Legislative Council of NSW during the legislative consideration and voting process, to inform decision making and robust parliamentary debate. It is also intended to improve the quality of tabled SPIs and their usefulness, and to shine a light on the importance of transparency in policy making. Each Shadow SPI is collectively developed by a collaborative team from two ideologically differentiated think tanks (Per Capita and Blueprint Institute) and is intended to be utilised as a companion to the tabled Government Statement of Public Interest in the Legislative Council of NSW.

Need: Why is the policy needed based on factual evidence and stakeholder input?

In November 2023, the NSW Government announced its commitment to pursue emergency services funding reform to establish a fairer and more sustainable system for funding the State's emergency services.ⁱ The reform will involve moving the point of payment from insurance premiums to a broad-based property tax. NSW remains the only jurisdiction to utilise a purely insurance-funded emergency service levy (ESL).ⁱⁱ

Recent years have seen a rise in devastating natural disasters, including bushfires and storms. Treasury projections indicate a significant escalation in the economic cost of natural disasters in the coming years, from \$7 billion in 2020–21 to up to \$24 billion by 2070–71.ⁱⁱⁱ The number of extreme weather events is likely to increase in coming years, which will put further pressure on already strained emergency services.

Presently, 73.7% of annual funding to Fire and Rescue NSW, the NSW Rural Fire Service and the NSW State Emergency Service is provided by insurance companies. They hold specific information on policyholders that pay premiums attributed to the ESL. In 2023–24, this is budgeted to cost insurers approximately \$1.4 billion.^{iv} The ESL, which is collected as part of customer premiums, is currently adding 18% to home insurance costs.^v Escalating costs will make it more difficult for households and businesses to afford adequate coverage. High insurance costs have already led to alarming rates of non-insurance across NSW, with 13% of households being uninsured.^{vi} These are the highest rates in Australia. NSW businesses are similarly strained by rising insurance costs. The cost of insurance is the number one concern for businesses in NSW, above energy costs, taxes, and other government charges.^{vii}

A critical first step towards the Government's goal of reforming emergency services funding is to develop detailed modelling of options for the reform, including distributional impact analyses at the household and business level. To do this the Government will need to be able to collect information from insurers on policyholders that pay premiums attributed to ESL. This Bill is needed to provide Treasury with the power to obtain required information from insurers, a power they currently do not have under the Act.

It is essential that Treasury have the power to collect this data. Inadequacies in financial modelling have hindered previous attempts to reform ESL. The Legislative Council Portfolio Committee No 4 (Legal Affairs NSW) noted in its 2017–18 *Inquiry into the Fire and Emergency Services Levy*, which inquired into the policy process and financial modelling underlying the provisions of the Act, that further work was needed to better address data gaps and limitations that hinder detailed modelling for ESL reform.^{viii} The Committee heard from the Executive Director of the Revenue and Intergovernmental Division of the NSW Treasury that '[t]he known limitation of the data was that [the NSW Treasury] could not match insurance premiums, which included the ESL to each individual property'.^{ix}

The Government's commitment to shift the levy from insurance to property owners, as announced at the 2023 Bradfield Oration, reflects the Government's recognition of the need for reform to alleviate financial strain on households, businesses and the State, and to ensure all people in NSW can benefit from fully funded, well-resourced and well-prepared emergency services. This Bill represents one of the steps the Government is taking to ensure that reforms to the ESL will lead to a fairer, more efficient, simpler and sustainable funding system for emergency service.

COMMENT

The Government SPI contains information on what this Bill seeks to do: to provide the Treasury with additional powers to obtain information so it can develop detailed modelling options in aid of the Government's commitment to pursue emergency services funding reform.

It acknowledges that majority of funding is provided by insurance companies who hold specific information on policyholders that pay premiums attributed to the ESL, and notes that access to that data is necessary for government to produce detailed modelling for the development of future ESL reforms.

The Government SPI, however, lacks a specific explanation as to why obtaining this data is critical and thus lacks evidence supporting the existence of the problem the Bill seeks to fix. Acknowledgment of recommendations and findings made by the Legislative Council Portfolio Committee No. 4 after a previously failed attempt to introduce a property-based ESL reform in 2017 would be useful in this section. This would support the need for the Bill and aid parliamentarians' understanding about why the data currently available to the Treasury is insufficient for the development of the detailed modelling that the Government seeks to undertake.

While the Bill is a step toward ESL reforms and does not introduce ESL reforms themselves, further detail on why emergency service funding reform is needed would be useful in arguing for the need for this bill. It also would help identify the stakeholders and affected parties whom, while not directly affected by this bill, are directly affected by the larger policy announcement and, thus, would provide better context for the bill. Information on the economic cost of natural disasters and the projected rising costs of insurance along with the consequential impact on households and businesses would be helpful for this section of the SPI. It would aid in arguing for the need for this Bill now, as a measure to enhance the development of a reform that is becoming increasingly urgent.

Objective: What is the policy’s objective couched in terms of the public interest?

The extra powers granted to Treasury will enable them to perform a more precise analysis of the distributional impacts of future ESL funding reforms. This allows for better understanding of how different segments of the population will be affected and ensures that future funding reforms effectively address the needs of the most vulnerable members of society. This serves the public interest by promoting social cohesion and inclusion.

By facilitating the development of detailed modelling options, the Bill aims to develop a plan that will improve the funding mechanism for emergency services. This serves the public interest by ensuring that emergency service agencies have adequate resources to respond effectively to crises, leading to the better protection of lives and property during emergencies, and rebuilding efforts following emergencies.

Empowering the Treasury with the authority to obtain necessary information enhances transparency and accountability in the reform process. By ensuring that decision-making is based on comprehensive data and analysis, the Government demonstrates its commitment to evidence-based policy making. This fosters public trust and confidence in the Government’s ability to effectively manage emergency services funding in the best interests of the community.

COMMENT

The Government SPI explains the policy objectives of the Bill but fails to adequately couch those objectives in terms of the public interest. The Government SPI explains the intended outcomes of the Bill, that data will be used to advise government on how ESL reform could be structured, but again fails to clearly couch that in terms of the public interest.

Options: What alternative policies and mechanisms were considered in advance of the bill?

A legislative amendment is required to provide Treasury with powers to require the provision of insurance data for the purpose of future emergency services funding reform. The Act does not currently provide the Treasury with this power.

An alternative avenue for developing emergency service funding reform by relying on aggregate data from industries and other sources would not require legislative amendments. This option has been considered; however, this approach would impede the Treasury’s ability to produce the distributional impact analysis at the household and business level that is required to adequately inform government on the appropriate settings for future ESL reform.

COMMENT

The Government SPI explains why legislative reform is needed. It notes there is a do-nothing option and explains that this would not be able to produce the distributional impact analysis at the household and business level required to adequately inform government on the appropriate settings for ESL reform.

Analysis: What were the pros/cons and benefits/costs of each option considered?

The Government is ultimately seeking to implement a fairer, more efficient, simpler, and sustainable system for funding the State's emergency services. Providing the Treasury with the additional powers proposed in this Bill is a critical first step towards meeting this goal. The Government has considered privacy concerns regarding the holding of personal information. ^x

To minimise these risks the Government has consulted the NSW Information and Privacy Commission on the development of this bill^{xi} and has included a number of safeguard provisions in the bill^{xii}. The Treasurer's authority will be transitional and limited to ESL reform within the current term of government – until 31 December 2026 – and the Bill requires all personal information collected under these new powers to be securely disposed of by 30 June 2028. Additionally, schedule 1 item 5 of the Bill prohibits the disclosure of personal information outside of the Treasury. These measures address potential privacy concerns and serve the public interest by safeguarding individuals' privacy.

The alternative option of doing nothing would not carry the same privacy risks, but it would run the risk of undermining the rationale for the proposed reform and potentially lead to unfair or inefficient outcomes in future ESL reforms. Past experiences developing ESL reform in NSW have revealed the challenges posed by data limitations in developing a fair, more efficient, simple, and sustainable funding system for emergency services. Data limitations hindered past attempts of ESL reform, leading to the deferral of a previously proposed property-based levy and the unnecessary expenditure of millions of dollars which could have otherwise been allocated to support vital sectors like hospitals, schools, or fire and emergency services.^{xiii}

COMMENT

The Government SPI acknowledges the benefits of implementing this reform in that it will enhance the Government's ability to use the best available data to inform the development of a fair and sustainable ESL reform.

The Government SPI acknowledges potential risks of this policy related to the extent of the power and nature of the data. It notes safeguards in the Bill and the steps the Government has taken to minimise potential privacy risks.

The Government SPI lacks information about any financial costs associated with the proposed data policy enabled by this Bill. It is unclear whether there are any additional costs related to the implementation of the Bill, including costs related to data security. The Government SPI would benefit from an acknowledgment of whether there are any notable additional financial costs that the parliament should be aware of.

The Government SPI discusses the drawback of a do-nothing option and notes that proceeding without this data policy would hinder the development of a fair and efficient ESL reform. This section could have been enhanced by referring to evidence provided to the Legislative Council Portfolio Committee No 4 about how data limitations have previously hindered attempts to develop a fair and workable ESL reform.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

Upon assent of this Bill, the Treasurer will have the power to require insurance companies to provide specific information to the Secretary of the Treasury. This power will end on 31 December 2026.

Treasury has begun and is continuing to consult with the NSW Information and Privacy Commission to inform its work relating to data collection, handling and storage procedures.

All personal information collected under these new powers must be securely disposed of by 30 June 2028, as provided for in the Bill.

COMMENT

The pathway for implementation of this Bill is clearly outlined in the Government SPI. In addition, further steps relating to consultation with the NSW Privacy and Information Commission have been outlined in the Government SPI. It also includes a timeline for when powers provided by the Bill will end and when all personal information must be securely disposed of.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The NSW Information and Privacy Commission has been consulted regarding matters relating to privacy and data security in the development of this Bill.^{xiv}

Meetings with property and retail industry stakeholders including the Real Estate Institute of New South Wales, the Property Council of Australia, the Shopping Centre Council of Australia, along with representatives from the insurance sector, commenced in December 2023.^{xv} Stakeholder views, where relevant to this legislation, were considered in developing this policy.

Alongside this Bill, other steps are being taken by the Government to tackle ESL reform, informed by stakeholder views.

COMMENT

The Government SPI notes that stakeholder views were considered in the development of this policy, but it does not name any key stakeholders. This information is available in media releases and in the Bill's second reading speech. The SPI would benefit from a more detailed response to this question.

Whilst the inclusion of details about further planned consultations related to future ESL reforms as present in the government SPI is useful in providing broader context to the Bill, this should not be a focus in the SPI.

ASSESSMENT

PER CAPITA COMMENT:

The Government SPI omits useful, relevant, and available information that would enhance the SPI and aid in its intended purpose: to provide Members with information that will assist them to make an informed decision as to how to deal with the Bill, and to demonstrate sound policy-making (Premier's Memorandum M2022-03). It fails to clearly outline how these changes affect the public interest and as a result, the Government SPI only adequately fulfils the requirements of an SPI.

BLUEPRINT INSTITUTE COMMENT:

We agree with Per Capita that the government SPI was limited in providing specific information informing the decision-making processes of this Bill. Evidence for how the Bill will serve the public interest, the range and impact of stakeholder consultation, and broader context on the need for the ESL reform is available in the public domain—for example, in media releases, reading speeches, and the Legislative Council Portfolio Committee No 4's report—and therefore should have been included in the government SPI.

We would argue that the government SPI demonstrates a tendency towards misplacing focus on future ESL reform rather than the powers granted to the Treasury via the Bill. Although information on the ESL reform is relevant within the broader context of the Bill's formation, the SPI should be primarily concerned with the decision-making processes and policies of the Bill currently under consideration.

Assessment of the tabled Statement of Public Interest

Exemplary

Good Practice

Adequate

Insufficient

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- ⁱ Sky News Australia, 'Chris Minns Outlines Vision for Sydney at Bradfield Oration' (YouTube, 16 November 2023) 00:18:32–00:25:09 <<https://www.youtube.com/watch?v=kW3w2LYl8o8>>.
- ⁱⁱ Diane Leow, 'A State-by State Guide to Fire Levies', *Urban.com.au* (Web Page, 8 December 2020) <<https://www.urban.com.au/news/a-state-by-state-guide-to-fire-levies>>.
- ⁱⁱⁱ New South Wales, *Parliamentary Debates*, Legislative Council, 14 March 2023, 26 (Daniel Mookhey, Treasurer).
- ^{iv} *Ibid.*
- ^v Insurance Council of Australia, *A Stronger NSW – Policy Recommendations for the Next NSW Government* (Report, February 2023) 5.
- ^{vi} *Ibid.* 6.
- ^{vii} Business NSW, *NSW Business Conditions – A Cautious Start to 2023* (Report, March 2024) 15.
- ^{viii} Legislative Council Portfolio Committee No 4 – Legal Affairs (NSW), Parliament of New South Wales, *Inquiry into the Fire and Emergency Services Levy* (Report No 37, November 2018) 38.
- ^{ix} Evidence to Legislative Council Portfolio Committee No 4 – Legal Affairs (NSW), Parliament of New South Wales, Sydney, 13 August 2018, 8 (Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury).
- ^x New South Wales, *Parliamentary Debates*, Legislative Council, 14 March 2023, 26 (Daniel Mookhey, Treasurer).
- ^{xi} *Ibid.*
- ^{xii} See also, Legislation Review Committee, Parliament of New South Wales, *Legislation Review Digest* (Digest No 11/58, 19 March 2023) 21, 50–1.
- ^{xiii} Legislative Council Portfolio Committee No 4 – Legal Affairs (NSW), Parliament of New South Wales, *Inquiry into the Fire and Emergency Services Levy* (Report No 37, November 2018) vii.
- ^{xiv} New South Wales, *Parliamentary Debates*, Legislative Council, 14 March 2023, 26 (Daniel Mookhey, Treasurer).
- ^{xv} NSW Government, 'Consultation Begins on Reforming Emergency Services Levy' (Media Release, NSW Treasurer, 12 December 2023) <<https://www.nsw.gov.au/media-releases/reforming-emergency-services-levy>>.