LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION (INCORPORATING THE PUBLIC ACCOUNTS COMMITTEE)

REPORT ON

THE OPERATION OF THE FINANCIAL MANAGEMENT ACT 1996

Finance Committee Report No 6
June 2000

RESOLUTION OF APPOINTMENT

The Standing Committee for the Chief Minister’s Portfolio was appointed by the Legislative Assembly on 28 April 1998 to examine any matter under the responsibility of the Chief Minister’s portfolio. The Assembly also resolved that the committee perform the duties of a public accounts committee, specifically:

(a) to examine:

- (i) the accounts of the receipts and expenditure of the Australian Capital Territory;
- (ii) the financial affairs of authorities of the Australian Capital Territory; and
- (iii) all reports of the Auditor-General which have been laid before the Assembly;

(b) to report to the Assembly, with such comments as it thinks fit, on any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Assembly should be directed; and

(c) to inquire into any question in connection with the public accounts which is referred to it by the Assembly and to report to the Assembly on that question.

On 26 November 1999, the Assembly retitled the committee as the Standing Committee on Finance and Public Administration (Incorporating the Public Accounts Committee), omitted reference to matters under the responsibility of the Chief Minister’s portfolio and included reference to women’s affairs, Aboriginal and Torres Strait Islander issues, asset management, gaming and racing and any other related matter.

MEMBERSHIP OF THE COMMITTEE

Mr Ted Quinlan MLA Committee Chair

Mr Trevor Kaine MLA Deputy Committee Chair

Mr Greg Cornwell MLA

Secretary: Bill Symington

1. THE INQUIRY

Scope of the inquiry

1.1. On 6 May 1999 the Assembly resolved that the committee inquire into and report on the operation of the Financial management Act 1996 (FMA) with particular reference to:

(a) the effectiveness of this Act and the arrangements made under it for managing the Territory's financial operations, assets and liabilities;
(b) the efficiency and economy effects of the implementation of the provisions of this Act and the arrangements made under it for managing the Territory's financial operations, assets and liabilities;
(c) the effectiveness of this Act and the arrangements made under it in facilitating scrutiny of the financial management of the government of the Territory;
(d) the impact of this Act and the arrangements made under it have had on the achievement of the objectives of the government of the Territory;
(e) the possibility of incorporating environmental and social accounts into the financial management framework; and
(f) any other matter relating to the financial management of the Territory, as it relates to the Act

The committee was required to report by 9 December 1999.

1.2. The committee advertised the terms of reference in the ACT print media, inviting submissions from interested persons and organisations, and contact was made with a range of bodies to draw attention to the inquiry and to elicit comment. Two submissions were received.

1.3. The committee had wide ranging discussions with the Department of the Treasury and Infrastructure. Those discussions canvassed issues being addressed by Treasury in its review of the FMA and it was agreed that the Treasury provide a formal submission incorporating matters arising from the Treasury review of the Act. In that regard, Treasury advised that all chief executives had been requested to comment on the operation of the FMA as it related to their ability to effectively manage their areas of responsibility in relation to matters such as (but not limited to):

- monthly and annual financial reporting
- budgets and appropriations
- quarterly performance reporting
- banking and investment
- borrowing, finance leases and guarantees
- trust monies; and
- Territory authorities

1.4. The committee was advised that the government would be seeking to have the FMA amended to remove ambiguities and establish an appropriate legal basis for the financial operations and obligations of government.

1.5. In view of this, the committee suggested to the Treasurer, and the Treasurer agreed, that the government submission to the committee include an exposure draft of the government's proposed amended FMA.

Development of the inquiry

1.6. At this point, it should be recognised that the committee was given a formidable task. The FMA is the prime instrument in having significant effect and implications for the governance of the ACT. It provides for the financial management of the government, the scrutiny of that management by the Assembly and specifies financial reporting requirements for the government.

1.7. Of further considerable importance has been the continuing performance audit of the Bruce Stadium redevelopment by the Auditor-General. This audit could be expected to have wide ramifications for the financial governance of the ACT and, accordingly, to have direct interest to this committee not only in terms of its broad responsibility to the Assembly as a public accounts committee but also in relation to the FMA. Yet a further matter of interest to the committee will be the report of the Select Committee on Government Contracting and Procurement which is due to report by the first sitting day after 30 June.

1.8. The committee made clear to the Treasurer that it had no wish to propose legislative change which would unnecessarily or unreasonably clog up the machinery of government. However, the committee has been concerned that the FMA should appropriately protect the public interest by ensuring that governments are properly accountable. The committee's approach to this inquiry, therefore, has been to ensure the Act is examined with a view to achieving an appropriate balance between efficient and effective public administration and the elimination of loopholes which have the potential for the Act to be misused.

1.9. In order to accommodate the anticipated exposure draft the committee sought, and received from the Assembly on 14 October 1999, an extension until the first sitting day after 30 June 2000 for its report.

Government input to the inquiry

1.10. In an exchange of correspondence with the Treasurer during February/March this year the Treasurer advised that the government had made significant progress in its internal review of the operations of the FMA which had included:

- Issuing revised guidelines under section 67 to clarify investment controls
- Issuing a revised set of delegations of power under the FMA
- The completion of Mr Bernie Fraser's independent review of the operations of the Central Financing Unit and the Superannuation and Insurance Provision Unit, and
- Substantial progress on the review of the internal processes and procedures under the FMA

1.11. The Treasurer advised that the issues emerging as part of the review of the FMA were complex in nature and required extensive consultation with agencies, the Auditor-General, the Government Solicitor and the Government's Law Reform Unit.

1.12. Given the complexity of the issues emerging from the review, the Treasurer was unable to provide the committee with an exposure draft of the proposed amendments to the Act, but advised that endeavours would be made to provide a submission to the committee as soon as possible highlighting areas the government considers require amendment and the major issues involved in administering the Act.

1.13. At the time of reporting the committee had not received the government submission.

Committee comment

1.14. The committee is fully aware of the importance of the matter under reference to it. However, it sees no particular value in persevering with the inquiry at the present time while the government, with the considerable resources available to it, is having apparent difficulty in developing draft legislation and in articulating to the committee the areas of concern within the FMA.

1.15. Without government input to the inquiry there is little the committee can usefully do to progress the inquiry or to provide meaningful insight about the operation of the FMA in the limited time available and especially having regard to other matters before the committee and the members' commitments in relation to the estimates process and budget deliberations.

1.16. Accordingly, the committee will recommend that the Assembly await the government's proposed amendments to the FMA and, should it be deemed appropriate, that the Assembly refer the amendments to the committee for examination and report.

2. RECOMMENDATION

2.1. The committee recommends that upon presentation to the Assembly of the government's proposed amendments to the Financial Management Act 1996, the Assembly refer the proposed amendments to the committee for examination and report should that course be deemed necessary in light of the proposed amendments.

Ted Quinlan MLA
Chair
June 2000