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## **Public Works Committee Amendment Bill 2006**

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## Public Works Committee Amendment Bill 2006

**Date introduced:** 21 June 2006

**House:** Senate

**Portfolio:** Finance and Administration

**Commencement:** On Royal Assent

### Purpose

The major purposes of the Bill are to:

- amend the definition of a ‘public work’ to include works funded through public–private partnerships (‘PPPs’) and other similar arrangements
- increase from \$6 million to \$15 million the threshold value of projects that require referral to the Parliamentary Standing Committee on Public Works (‘the Committee’)
- provide for the threshold value to be varied by regulation, and
- insert gender-neutral language into the Act.

### Background

The *Public Works Committee Act 1969* (‘the Act’) governs the work of the Parliamentary Standing Committee on Public Works. The Committee was originally established by the *Commonwealth Public Works Committee Act 1913* and first met in 1915.<sup>1</sup> It is one of the oldest investigative committees of the Parliament.<sup>2</sup>

The Act requires that all public works for the Commonwealth which exceed \$6 million in value be referred to the Committee by either House of the Parliament or by the Governor-General. With some exceptions, all public works sponsored by Commonwealth departments and major statutory authorities with large building programs come within the ambit of the Committee’s investigative powers.<sup>3</sup>

The Act empowers the Committee to inquire into each public work referred to it and then provide a report to Parliament on:

- the stated purpose of the proposed work and its suitability of the purpose
- the need for the work

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- the cost-effectiveness of the proposal
- the amount of revenue it will produce if the work is revenue-producing, and
- the current and prospective value of the work.<sup>4</sup>

The Bill amends the Act by making changes to the definition of a ‘public work’. The change in definition means that works funded by PPPs, through leasing or other similar arrangements will be reviewed by the Committee (or in the case of PPPs, will continue to be reviewed). Last year the Committee completed 23 reports; in the first six months of 2006, it completed 11 reports (see graph below for further details). It is anticipated that the change in the threshold to \$15 million would reduce the number of referrals by one quarter.

The amendments will also increase the threshold at which projects would need to be referred to the Committee, from the current \$6 million to \$15 million. The threshold was originally set at \$750,000 in 1969, was raised to \$2 million in 1973, and again to \$6 million in 1985. The change reflects twenty years of inflation. The Bill also provides that in future this figure may be amended by regulation rather than by an amending Act.

In addition, gender-neutral language replaces terms such as ‘Chairman’, ‘he’ and ‘his’.

### **Pros and cons**

The amendments are designed to clarify that works by PPPs fall within the Committee’s purview, and to include other similar arrangements such as leasing arrangements in which the Commonwealth has a vested interest. This means the Committee has a wider ambit within which to investigate public works for the Commonwealth which might increase the volume of projects to review. On the other hand, the higher threshold might mean that fewer projects will be reviewed by the Committee. Further, no documentation has been provided to justify the increase in the threshold value or why the figure of \$15 million was selected.

### **Financial implications**

The Bill will have minimal financial impact, especially because works funded through PPPs are already referred to the Committee.<sup>5</sup>

The changes to the threshold amount might mean a reduction in the compliance costs for projects valued between \$6–15 million because they will not need to be referred to the Committee. However, those public works already being scrutinised by the Committee which are under \$15 million will continue to be scrutinised.

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Additionally, there might be an increased cost in investigating works funded through leasing arrangements as those projects will need to be referred to the Committee.

## Main provisions

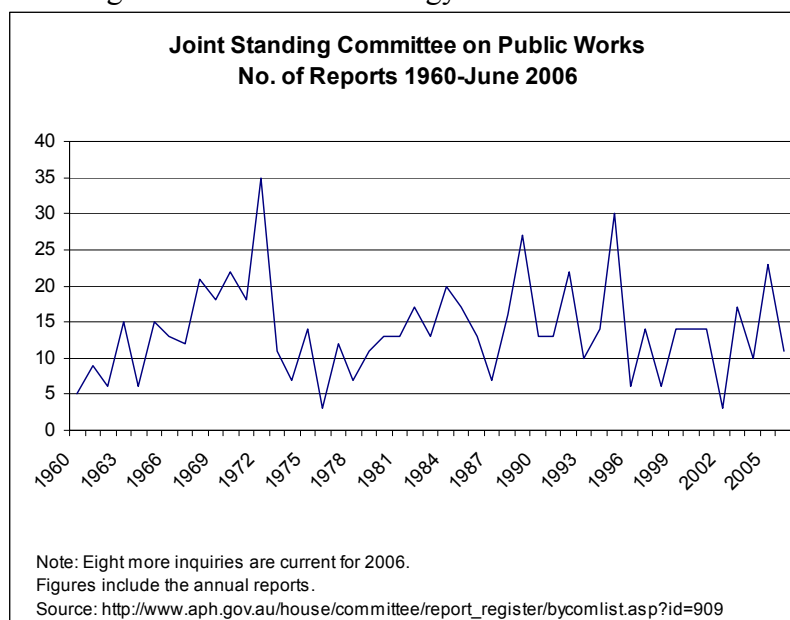
Part 1 of Schedule 1 contains amendments relating to the definition of public works and changes to the threshold amount. Part 2 of Schedule 1 inserts gender-neutral language into the Act.

## Concluding comments

The Bill introduces amendments to the *Public Works Committee Act 1969* in relation to the amount and definition of a ‘public work’; these reflect changes in the procurement environment since the Act was last amended in 1989.<sup>6</sup> The amendments will ensure that the Committee has the ability to review works funded through public–private partnerships (PPPs), leasing arrangements and other similar arrangements.

It is assumed that the increase in the threshold amount reflects twenty years of inflation. However no documentation on the current value of projects has been provided to make an assessment on whether there is a need to increase the threshold value to \$15 million or why that figure was selected.

The change in the arrangement to determine the threshold amount will mean there is flexibility to update the amount without the need to seek further amendments to the Act. The technical changes put forward by the Bill bring the Act into line with modern legal parlance in the use of gender-neutral terminology.



Graph devised by Patrick O’Neill, compiled from Public Works reports from 1960-2006.

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## Endnotes

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1. National Archives of Australia, 'Walter Burley Griffin and the design of Canberra', *Fact Sheet 95*, 2004, <http://www.naa.gov.au/fSheets/fs95.html>.
2. Department of Finance and Administration, 'Public Works Committee', 2005, [http://www.finance.gov.au/finframework/public\\_works\\_committee.html](http://www.finance.gov.au/finframework/public_works_committee.html).
3. *ibid.*
4. S. 17 (3).
5. Explanatory Memorandum, p. 1.
6. *ibid.*

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