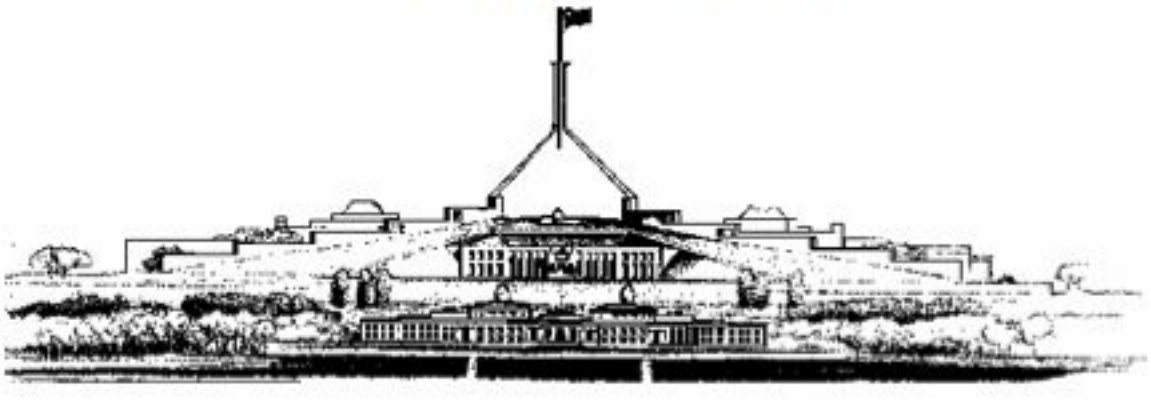
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

PROOF

BILLS

Superannuation Legislation Amendment (Trustee Governance) Bill 2015

Second Reading

SPEECH

Tuesday, 20 October 2015

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date	Tuesday, 20 October 2015	**Source**	House
Page	47	**Proof**	Yes
Questioner		**Responder**	
Speaker	Brodtmann, Gai, MP	**Question No.**	

Ms BRODTMANN (Canberra) (16:30): With all due respect to those proud servants of democracy who are sitting in the advisers' boxes and the hard work they have put in to create and draft this bill, in my view, it is a complete farce. That is why I rise today to join my Labor colleagues in opposing the Superannuation Legislation Amendment (Trustee Governance) Bill 2015. This legislation makes amendments to the SI(S) Act 1993 to enforce super funds to ensure that one-third of directors, including the chairperson, are independent.

Regarding the lack of women on boards, I think we recently received the figures from the ASX on the representation of women, and it is still underdone. I note my colleague did a review of the recent reports of representation on Commonwealth governance boards. Even though there is a target of 40 per cent on those boards, unfortunately, under this government that has slipped. I want to underscore the need for representation of women and diversity more generally on boards.

Labor have a number of concerns with this legislation. First and foremost, it is not needed. It is redundant. It is, in many ways, farcical. There are no issues with super fund governance. I speak from experience here. I do have a strong interest in governance. I am a member of the Joint Committee of Public Accounts and Audit. I used to be deputy chair of that committee. I am a former director of a number of boards in Canberra and I was also a former audit committee member on those boards. I do have a very strong interest in governance and I am always looking at ways to improve governance of private boards, governments boards and not-for-profit boards. I do have a strong interest in governance and I want it to be as best as it can be.

At this stage, there are no issues with super fund governance. The notion that this legislation has been created to address that issue is completely nonsensical. As my colleague the member for Charlton has just mentioned and other colleagues have mentioned, this legislation is purely ideological. On this side of the House, we do not support it for that very reason. It will not achieve its stated goal to improve super fund governance. Rather than focus on the behaviour or skills required of directors, the bill introduces a quota of so-called independent directors based upon the relationships a director may have with the fund or its sponsoring employers and unions. There is no evidence whatsoever to support that having a majority of independent directors will give rise to better performance or better governance. That said, as the member for Charlton has mentioned, if people choose to have independent directors, well and good. If the board chooses to have a mix of independent directors and they deem that that is worthwhile for the board in terms of the culture and behaviour of the board and if they think it is going to end up with a better bottom line, then bring it on. But that should be the decision of the board. It should not be mandated.

Secondly, this bill creates unnecessary red tape for super funds and it is heavy-handed in that process. To those opposite, what happened to reducing red tape? We have had much fanfare from the other side on that. From memory, it is usually in the Autumn sitting that the government come into this place and outline how they are reducing red tape in so many different ways, when quite often it is just about changing a few semicolons and dot points in legislation. If this government are deeply committed to reducing red tape then what are they doing introducing this piece of legislation?

This legislation adopts a heavy-handed, one-size-fits-all approach regardless of the super fund size or the circumstances of its membership. Corporate governance, as we know, is not something where one-size-fits-all. Yes, we do have corporate law that governs that. We have codes of ethics and codes of behaviours through the AICD that help guide directors. In terms of one-size-fits-all, there is broader legislation that does provide some degree of governance, but it really is up to the boards to guide what is best for the organisation. That is especially true in our super system, which has intentionally provided for alternative governance models. This has delivered undeniable benefits for competition over the past two years, and I will speak more on that later.

Labor are also concerned that a considerable number of people who are qualified and experienced to be independent directors will be excluded due to the criteria in this legislation. As I said, the member for Charlton

highlighted the fact that a number of boards do decide to bring on independent directors; they do see merit in that. That is a good thing and bring it on. Surely, representative trustee boards and their shareholders are capable of making decisions in the best interests of beneficiaries and it should not be mandated. It should be up to those boards to work out the appropriate decision for the mix on the board in accordance with good governance outcomes, good investment outcomes for superannuation funds and good bottom-line outcomes, should it be a business.

Our final concern with this legislation is that, as I said, it is simply not needed. It is redundant. The existing legislation is only two years old and it provides significant rigor around governance. There is already significant regulatory oversight of superannuation funds. The Australian Prudential Regulation Authority, APRA, has the power to set and supervise compliance with and enforce prudential standards so that funds meet the financial promises they make to beneficiaries. APRA funds are required to continuously report on the composition of their boards and whether boards and individual directors have the required mix of skills and expertise. Boards are also required to conduct ongoing performance reviews, manage conflicts of interest and make sure that directors are fit and proper. This is already happening.

As I said, many of these requirements are new. They were only introduced in July 2013, so they are just over two years old. Further time should be allowed to assess their effectiveness before changing legislation. These are very, very new laws. They are still in many ways, I imagine, being bedded down. So, as I said, this legislation is not needed. It is redundant. There are already enough checks and balances in place to ensure that there is good governance.

The relevant APRA prudential standards are making sure that funds are well governed. This is already out there. This is already in existence. Some of the requirements of SPS 510 require an RSE licensee: to ensure that the chairperson of each board committee that has responsibility for activities related to prudential matters is a director of the RSE licensee; develop and implement a policy on board renewal to ensure that there are succession plans and that they are refreshing constantly; and have procedures for regular assessment of board performance to ensure that the board is achieving what you want it to achieve—that is, the best bottom line or the best investments.

As I said, this is already in existence. The standard requires a remuneration policy that aligns remuneration and risk management and covers all responsible persons of the RSE licensee, excluding approved auditors and actuaries. It requires a board remuneration committee and a board audit committee, each of which is comprised of only non-executive directors. Also required is an internal audit function that can be either operated in-house or provided by an outsourced service provider.

It is also already in existence that you have to make sure that directors are fit and proper. SPS 520 requires the RSE licensee to have a fit and proper policy with certain minimum features, including a process for assessing the fitness and propriety of each responsible person of the licensee and a process for dealing with any responsible persons who are found to be not fit and proper.

Another point is on managing conflicts of interest. This is dealt with in SPS 521. This requires a licensee to develop and implement a conflict management policy that is approved by the board and to develop and maintain up-to-date registers of relevant interests and duties.

Aside from these standards, super funds are also required: to maintain adequate financial resources to address losses from operational risks; to have systems for identifying, assessing, managing, mitigating and monitoring material risks to ensure that all outsourcing arrangements involving material business activities entered into by an RSE licensee be subject to appropriate due diligence, approval and ongoing monitoring; and to implement a whole-of-business approach to business continuity management that is appropriate to the size of the business. It acknowledges that there are businesses with different business models. Super funds are also required to implement a sound investment governance framework and to manage investments in a manner consistent with the interests of beneficiaries. The governance and business operations of super funds are already extensively supervised and extensively governed by that list of requirements I have just outlined.

We, Labor, have proud track record on superannuation. We introduced universal superannuation and we also introduced the compulsory superannuation guarantee. Superannuation is part of Labor's DNA. We created it. We are always looking for ways to improve it and to ensure that Australians enjoy a comfortable retirement. I am particularly concerned about women, because they are way behind the eight ball with where they are at with

their super when they retire. Super has been part of our DNA. We introduced superannuation. We introduced the compulsory superannuation guarantee. We are the party that wants to ensure that Australians retire comfortably.

That is in contrast to those opposite. Those opposite never believed in a universal superannuation scheme. They opposed the creation of superannuation. They opposed every increase to the compulsory superannuation guarantee, and they are opposed to industry superannuation. That is where we arrive. That is the nub of this issue —industry superannuation. Their opposition to industry super is purely ideological.

This legislation attacks a model that is clearly working. It seeks to change the representative model of governance of industry super funds which can only be called successful. Every single year, industry super funds are the most successful and highest performing funds in the sector. The numbers prove it. The average performance of industry funds for the year was 10.2 per cent compared to 9.6 per cent for retail funds. As the member for Bendigo said earlier, nine out of 10 industry super fund members have expressed satisfaction with their super fund.

I want to go to *Money* magazine. It is something I subscribed to when I set up my own small business. When you set up your own business you have to make your own contributions. There is no-one making a co-contribution. I went to my financial adviser and she told me how much I needed to put in to reach my superannuation target for my retirement. Then I had to go about the business of working out the best super fund to invest in. I turned to *Money* magazine. The beauty of *Money* magazine is that at the back of every edition is this thing called 'databank'. It has your guide to super data. I will go to the October edition. It lists the best super funds and balanced options, which is what most people default to. I will go through the top 10. No 1. is Telstra Super, which is a corporate fund. Then we have UniSuper, which is an industry fund. Then there is AustralianSuper, which is an industry fund. Then there is CareSuper, which is an industry fund, Hostplus, which is an industry fund, REST, which is an industry fund, Equip, which is an industry fund, Kinetic Super, which is an industry fund, Cbus, which is an industry fund, HESTA, which is an industry fund, and AustSafe, which is an industry fund. Of the top 11 balanced super funds nominated by *Money* magazine, 10 of them are industry funds.

Then, if you want to look at diversified funds, which are also another option for people who want to take a bit more of a risk with their super, we have the top seven here. Hostplus, which is an industry fund, is No. 1. Then we have AustralianSuper industry fund at No. 2 and Statewide Super, an industry fund, at No. 4. We have CareSuper industry fund at No. 5, AustSafe Super industry fund at No. 6 and REST super, which is also an industry fund, whose bond option is No. 7.

In concluding, I again call out this legislation for what it is, which is nothing more than ideology. I have just listed where *Money* magazine rates industry super funds. In the case of balanced funds, 10 out of the top 11 are all industry super funds. In the case of diversified funds, six out of the top seven are all industry super funds. So, I think that the jury has spoken in terms of their performance. This legislation is nothing more than ideological. The bottom line is that the representative super model is working and does not need to be changed. It is an attack on industry super and I completely oppose it. *(Time expired)*