

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 175

WEDNESDAY, 21 SEPTEMBER 2011

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### 1. Meeting of Council

The Council assembled at 2.00pm pursuant to Temporary Orders.

The President, Hon Barry House, took the Chair and read prayers.

### 2. Papers

The following Papers were laid on the Table by -

#### **President**

*Joint Standing Committee on Treaties (Commonwealth of Australia) -*

Treaties tabled on 13 September 2011 - Southern Indian Ocean Fisheries Agreement (Rome, 29 December 2006 Signed for Australia in Rome, 29 December 2006) and Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (Auckland, 14 November 2009) ..... 3732

#### **Minister for Energy**

*Annual Reports -*

Western Australian College of Teaching (1 April 2010 - 31 March 2011)  
(Date received 20/09/2011)..... 3733

#### **Minister for Child Protection**

*Annual Reports -*

Heritage Council (2009-2010) (Date received 20/09/2010)..... 3734

#### **Minister for Mental Health**

*Annual Reports -*

Animal Resources Authority (2010-2011) (Date received 20/09/2011) ..... 3735

Chiropractors Registration Board (For the year ended 17 October 2010)  
(Date received 20/09/2011) ..... 3736

Dental Board (For the year ended 17 October 2010) (Date received 20/09/2011)..... 3737

Medical Board (For the year ended 17 October 2010) (Date received 20/09/2011) ..... 3738

Optometrists Registration Board (For the year ended 17 October 2010)  
(Date received 20/09/2011)..... 3739

Podiatrists Registration Board (For the year ended 17 October 2010) (Date received 20/09/2011).....	3740
Psychologists Registration Board (For the period between 1 July 2010 to 17 October 2010) (Date received 20/09/2011).....	3741
Technology and Industry Advisory Council (2010-2011) (Date received 20/09/2011).....	3742
<i>Reports -</i>	
ChemCentre of Western Australia - Statement of Corporate Intent (2011 - 2012) (Date received 20/09/2011).....	3743

### **Parliamentary Secretary representing the Attorney General**

#### *Response to Reports -*

Joint Standing Committee on the Corruption and Crime Commission - Inquiry into the Use of Controlled Operations and Informants by Anti-Corruption and Law- Enforcement Agencies with Particular Emphasis on the Risks of Misuse of Power, Corruption, and Threat to Public Safety (Attorney General) (Date received 20/09/2011) .....	3744
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### **3. Coal Seam Gas Exploration and Mining - Moratorium - Amendment to Motion**

Hon Alison Xamon, pursuant to SO 146, amended Motion No. 10 as follows -

Delete the words “coal seam” in each instance where they appear in the motion and substitute -

“ unconventional ”.

### **4. Culture and the Arts Funding**

Motion No. 1 having been called, debate resumed on the amendment of the Minister for Mental Health representing the Minister for Culture and the Arts as follows -

To delete all of the words after “House” and insert —

applauds the Government for increasing funding to the Culture and the Arts in Western Australia in the 2011/12 Budget.

to the motion of Hon Linda Savage as follows -

That this House calls on the Government to immediately increase funding for Culture and the Arts in Western Australia to compensate for cuts made in the 2009/10 and 2010/11 budgets.

#### *President's Ruling*

The President ruled as follows -

On the last occasion the House debated this motion, the Leader of the Opposition asked whether the proposed amendment moved by the Minister for Mental Health was a direct negative and thereby against Standing Orders. Firstly, I note that there is no Standing Order regarding direct negative amendments. Secondly, there have been few rulings in this House relating to direct negative amendments. On the last two occasions on which rulings were given, the substance of the ruling has been that the test is whether the amendment has the same effect as voting against the motion, and an amendment that is simply a positive reframe of the issue is not a direct negative.

The practice in the House of Commons, as in many other Australian Parliaments, is to allow significant latitude for amendments to motions. Amendments are permissible even when they effectively evade an expression of opinion on the main question by entirely altering the question's meaning and intent. An example of such permissible amendments are those that propose the omission of all or most words of the question after the word "that" and substitute an alternative proposition that must, however, be relevant to the subject of the question. It is not in order to move the omission of all words of a question without inserting an alternative question. Similarly, to delete all words after the word "that" and not insert other words would also be interpreted as out of order.

The motion before the House calls on the Government to increase funding for culture and the arts to compensate for reductions made in the 2009-10 and 2010-11 budgets. The proposed amendment seeks to replace the motion with an entirely new question; namely, that this House applauds the Government for increasing funding to culture and the arts in the 2011-12 Budget. In my view, the proposed amendment is a permissible alternative proposition. The proposed amendment is relevant to the subject matter of the original motion and seeks to reflect changes in the Government's funding for culture and the arts since notice of the original motion was given. I rule that the proposed amendment is not a direct negative and is in order.

Debate resumed.

The Minister for Mental Health representing the Minister for Culture and the Arts, by leave, made a personal statement [SO 85] with respect to her amendment to the motion.

Amendment - put and passed.

Debate resumed on the motion, as amended.

Motion, as amended, agreed to.

## **5. Household Fees and Charges**

Motion No. 2 having been called, Hon Ken Travers, by leave, [SO 146], amended Motion No. 2 as follows -

Delete "\$1400" and insert —

\$1700

Delete "46" and insert —

57

Delete "30" and insert —

46

Hon Ken Travers, pursuant to notice, moved Motion No. 2 as amended -

That this House condemns the Barnett/Grylls Government for the savage increases in household fees and charges and the abolition of assistance payments to families such as the \$400 "It pays to learn allowance" which has resulted in families being up to \$1700 worse off.

We note that the savage 57 percent increase in electricity and 46 percent increase in water charges over two years has resulted in an increase in the dividends the State Government is receiving from the power and water utilities.

We say enough is enough and call on the Barnett/Grylls Government to keep future increases to below the rate of inflation.

Debate ensued.

*Interruption pursuant to Temporary Orders.*

**6. Consideration of Committee Reports and Ministerial Statements**

Pursuant to Temporary Orders for the consideration of Committee Reports and Ministerial Statements.

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**In Committee**

(Hon Matt Benson-Lidholm in the Chair)

**Landfill Levy - Ministerial Statement**

Debate resumed on the motion of Hon Sally Talbot, That the Ministerial Statement be noted.

Question - put and passed.

**7. Questions Without Notice**

Questions without notice were taken.

The Minister for Finance representing the Minister for Transport, in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 4532 asked by Hon Ken Travers will be provided on 29 September 2011.

The Minister for Energy representing the Minister for Police tabled a document detailing gifts, hospitality or other benefits received by Western Australia Police since 23 September 2008, in response to question on notice No. 4547 asked by Hon Robin Chapple. (Tabled paper 3745).

The Minister for Mental Health tabled documents in relation to details of hospital bed availability for mental health patients in each health region and the number of staff vacancies in each hospital, in response to question on notice No. 4403 asked by Hon Ljiljana Ravlich. (Tabled paper 3746).

**8. Consideration of Committee Reports and Ministerial Statements**

Pursuant to Temporary Orders for the consideration of Committee Reports and Ministerial Statements (cf item 6 above).

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**In Committee**

(Hon Matt Benson-Lidholm in the Chair)

**Joint Standing Committee on the Commissioner for Children and Young People - Report No. 5 - Functions and Powers of the Joint Standing Committee on the Commissioner for Children and Young People - Committee Report**

Hon Nick Goiran moved, That the Report be noted.

Debate ensued.

Hon Kate Doust moved, That consideration be postponed until the next sitting.

Question - put and passed.

**Mental Health Review - Ministerial Statement**

Hon Ljiljana Ravlich moved, That the Ministerial Statement be noted.

Debate ensued.

*Interruption pursuant to Temporary Orders.*

The Deputy President resumed the Chair.

The Chairman of Committees reported that the Committee of the Whole House had considered the -

- (1) Landfill Levy - Ministerial Statement and had noted same.
- (2) Joint Standing Committee on the Commissioner for Children and Young People - Report No. 5 - Functions and Powers of the Joint Standing Committee on the Commissioner for Children and Young People - Committee Report, made progress, and asked leave to sit again.
- (3) Mental Health Review - Ministerial Statement, made progress, and asked leave to sit again.

Report adopted.

## 9. Order of Business

Ordered - That Bills for Introduction be taken forthwith. (Leader of the House).

## 10. Industrial Legislation Amendment Bill 2011

The Minister for Commerce, pursuant to notice, moved -

That a Bill for “An Act to amend the following Acts —

- the *Construction Industry Portable Paid Long Service Leave Act 1985*;
- the *Industrial Relations Act 1979*;
- the *Minimum Conditions of Employment Act 1993*;
- the *Employment Dispute Resolution Act 2008*,

and to make minor amendments to other Acts.” be introduced and read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Commerce moved, That the Bill be now read a second time.

Debate stands adjourned.

## 11. Agricultural Practices (Disputes) Repeal Bill 2011

The Minister for Child Protection representing the Minister for Agriculture and Food, pursuant to notice, moved -

That a Bill for “An Act to repeal the *Agricultural Practices (Disputes) Act 1995* and for related purposes.” be introduced and read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Child Protection representing the Minister for Agriculture and Food moved, That the Bill be now read a second time.

Debate stands adjourned.

## 12. Order of Business

Ordered - That Orders of the Day Nos 1, *Planning and Development Amendment Regulations (No. 4) 2011 - Disallowance*, and 2, *Strata Titles General Amendment Regulations 2011 - Disallowance*, be taken after Committee Report No. 26, *Standing Committee on Environment and Public Affairs - Report No. 23 - Inquiry into the Transportation of Detained Persons: The Implementation of the Coroner’s Recommendations in Relation to the Death of Mr Ward and Related Matters - Committee Report*. (Leader of the House).

**13. Metropolitan Redevelopment Authority Bill 2011**

The Order of the Day for the further consideration of this Bill, in Committee, having been read.  
The Deputy President left the Chair.

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**In Committee**

(Hon Brian Ellis in the Chair)

Clause 18.

Debate resumed on the amendment of Hon Lynn MacLaren as follows -

Page 12, line 15 — To delete “the amount prescribed by the regulations” and insert —

\$1 000 000

Amendment - put and negatived.

Question - That the clause stand as printed - put and passed.

Clause 19 agreed to.

Clause 20.

Debate ensued.

Hon Lynn MacLaren moved -

Page 14, line 1 — To delete “30” and insert —

42

Debate ensued.

Amendment - put and negatived.

Debate ensued.

Question - That the clause stand as printed - put and passed.

Clauses 21 and 22 agreed to.

Clause 23.

Hon Lynn MacLaren moved -

Page 15, line 22 — To insert after “by order” —

published in the *Gazette*

Debate ensued.

Amendment - put and negatived.

Hon Lynn MacLaren moved -

Page 15, line 31 — To delete “despite” and insert —

subject to

Debate ensued.

Amendment - put and negatived.

Hon Lynn MacLaren moved -

Page 15, after line 31 — To insert —

- (6) The Governor may, by further order published in the *Gazette*, amend or revoke an order under subsection (2).
- (7) The *Interpretation Act 1984* section 42 applies to an order under subsection (2) or (6) as if the order were a regulation.

Debate ensued.

Amendment - put and negatived.

Question - That the clause stand as printed - put and passed.

Clauses 24 to 28 agreed to.

Clause 29.

Hon Lynn MacLaren moved -

Page 19, after line 3 — To insert —

- (1A) In this section —  
***Minister*** means the Planning Minister.

Debate ensued.

Amendment - put and negatived.

Hon Lynn MacLaren moved -

Page 19, line 28 — To delete “30” and insert —

60

Debate ensued.

Amendment - put and negatived.

Hon Lynn MacLaren moved -

Page 19, after line 29 — To insert —

- (e) table the proposed redevelopment/scheme regulations and the reasons for declaring a redevelopment area in Parliament, together with the position of the WAPC/relevant Local Government.

Debate ensued.

Amendment - put and negatived.

Hon Sally Talbot moved -

Page 20, after line 14 — To insert after “WAPC” —

or relevant local government

Amendment - put.

The Committee divided.

**Ayes (13)**

Hon Matt Benson-Lidholm  
 Hon Helen Bullock  
 Hon Robin Chapple  
 Hon Sue Ellery  
 Hon Adele Farina  
 Hon Jon Ford  
 Hon Lynn MacLaren

Hon Linda Savage  
 Hon Sally Talbot  
 Hon Ken Travers  
 Hon Giz Watson  
 Hon Alison Xamon  
 Hon Ed Dermer (*Teller*)

**Noes (17)**

Hon Liz Behjat  
 Hon Jim Chown  
 Hon Peter Collier  
 Hon Mia Davies  
 Hon Wendy Duncan  
 Hon Phil Edman  
 Hon Brian Ellis  
 Hon Philip Gardiner  
 Hon Nick Goiran

Hon Nigel Hallett  
 Hon Col Holt  
 Hon Robyn McSweeney  
 Hon Michael Mischin  
 Hon Helen Morton  
 Hon Simon O'Brien  
 Hon Max Trenorden  
 Hon Ken Baston (*Teller*)

Amendment thus negatived.

Question - That the clause stand as printed - put and passed.

Clause 30.

Debate ensued.

Clause agreed to.

Clause 31.

Debate ensued.

Clause agreed to.

Clause 32 agreed to.

Clause 33.

Debate ensued.

Clause agreed to.

Clause 34.

Hon Lynn MacLaren moved -

Page 23, line 22 — To delete “Authority or Planning Minister” and insert —

WAPC

Debate ensued.

Amendment - put and negatived.

Question - That the clause stand as printed - put and passed.

Clauses 35 and 36 agreed to.

Clause 37.

Debate ensued.

The Minister for Mental Health representing the Minister for Planning moved, That progress be reported and leave asked to sit again.

Question - put and passed.

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The President resumed the Chair.

The Deputy Chairman of Committees reported that the Committee had considered the Bill, made progress, and asked leave to sit again.

Ordered - That the Committee have leave to sit again.

#### **14. Cat Bill 2011**

The President reported the receipt of Message No. 204 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Child Protection representing the Minister for Local Government moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Child Protection representing the Minister for Local Government moved, That the Bill be now read a second time.

Debate stands adjourned.

#### **15. Members' Statements**

Statements were taken.

**16. Adjournment**

The House adjourned at 10.14pm until Thursday, 22 September 2011 at 10.00am.

**Members present during the day's proceedings**

Attendance: Present all Members except Hon Donna Faragher.

**MALCOLM PEACOCK**  
Clerk of the Legislative Council

**HON BARRY HOUSE**  
President of the Legislative Council