

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 161

THURSDAY, 19 NOVEMBER 2015

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### 1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

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

### 2. Ministerial Statement — 2015 Premier's Awards — Foyer Oxford

The Minister for Housing made a Ministerial Statement with respect to the Housing Authority's Foyer Oxford Project winning the overall prize for Excellence in Public Sector Management and another in the Strengthening Families and Communities Category.

### 3. Ministerial Statement — Liquor Regulation Changes

The Parliamentary Secretary representing the Minister for Tourism made a Ministerial Statement with respect to recent changes to the liquor regulations and how this will contribute to ensuring tourism in Western Australia continues to grow.

### 4. Papers

The following Papers was laid on the Table by —

#### President

##### *Reports —*

Ombudsman Western Australia — Investigation into Issues Associated With Violence  
Retraining Orders and Their Relationship with Family and Domestic Violence  
Fatalities (November 2015)..... 3627

Report of the President's attendance at the 53<sup>rd</sup> CPA Canadian Regional Conference  
(July 2015) and National Conference of State Legislatures, USA 2015  
Summit (August 2015) ..... 3628

### 5. Seniors Week 2015

Non-Government Business No. 1 having been called, Hon Alanna Clohesy moved, without notice —

In recognition of Seniors Week 2015, the Parliament commends the work of all the Western Australian groups, organisations and individuals who actively participated in the week's activities and calls on the Government to acknowledge the challenges faced by senior Western Australians.

Debate ensued.

*Motion lapsed.*

## 6. Statement by President — Community Wheelchair Challenge

The President made the following Statement —

Today Hon Stephen Dawson is participating in a wheelchair challenge, an event that supports the Wheelchair Sports Association of WA. It challenges people to spend just one day of their life in a wheelchair. The main aims of the wheelchair challenge are to raise much-needed funds, raise awareness of the work in the community, and raise awareness of the challenging daily issues of accessibility encountered by people with a physical disability by providing their able-bodied peers the opportunity to have firsthand experience in a wheelchair. As such, I have approved a temporary seating change for Hon Stephen Dawson for the balance of this day's sitting to facilitate the challenge.

## 7. Trade Offices in Southeast Asia

Private Members' Business No. 1 having been called, Hon Nigel Hallett moved, without notice —

That this Council—

- (a) commend the State Government, and in particular our Premier Colin Barnett, on his decision to retain the Jakarta Trade Office;
- (b) recognise the importance of trade offices to small business and the Western Australian economy; and
- (c) encourage the State Government to continue to reinforce our strong bilateral partnerships in Southeast Asia and recognise the importance of this rapidly growing market for Western Australia.

Debate ensued.

*Motion lapsed.*

## 8. Order of Business

Ordered — That Bills for Introduction No. 2 be taken forthwith (Leader of the House).

## 9. Retail Trading Hours Amendment Bill 2015

The Minister for Commerce, pursuant to notice, moved —

That a Bill for “An Act to amend the *Retail Trading Hours Act 1987* and, as a consequence, to repeal certain regulations and orders made under that Act.” be introduced and read a first time.

Debate ensued.

Question — put and passed.

Bill read a first time.

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

The Minister for Commerce tabled a Statutory Review of the *Retail Trading Hours Act 1987*. (Tabled Paper 3630).

The Minister for Commerce tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 3629).

Debate stands adjourned.

## 10. Order of Business

Ordered — That Orders of the Day No 3, *Planning and Development Amendment Regulations 2015 — Disallowance*, be taken after Order of the Day No. 7, *Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015*. (Leader of the House).

## 11. Shire of Ravensthorpe Fencing Local Law 2015 — Discharge from Notice Paper

Hon Robin Chapple moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. No. 1, *Shire of Ravensthorpe Fencing Local Law 2015*, be discharged from the Notice Paper.

Question — put and passed.

**12. City of Mandurah Fencing Local Law 2015 — Discharge from Notice Paper**

Hon Robin Chapple moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 2, *City of Mandurah Fencing Local Law 2015*, be discharged from the Notice Paper.

Question — put and passed.

**13. Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015**

The Order of the Day for the further consideration of this Bill, in Committee of the Whole House, having been read.

The Deputy President left the Chair.

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**In Committee**

(Hon Adele Farina in the Chair)

Clause 43.

Debate ensued.

Hon Ken Travers, by leave, moved —

Page 37, lines 19 to 21 — To delete the lines and insert —

(1) The Administrator must —

- (a) within 3 months of each anniversary of the commencement of Part 2 — prepare a report on how the Administrator carried out the Authority's functions as outlined in section 9 in the year prior to the anniversary; and
- (b) prior to the abolition of the Authority — prepare a final report on how the Administrator carried out the Authority's functions as outlined in section 9.

Page 37, lines 23 and 24 — To delete “the report referred to in subsection (1), prior to the abolition of the Authority.” and insert —

a report under subsection (1)(a) within 14 sitting days after the preparation of the report; and the final report under subsection 1(b) prior to the abolition of the Authority.

Amendments — put and negatived.

Question, That the clause stand as printed — put and negatived.

New Clause 43.

The Attorney General moved —

Page 37, line 18 — To insert —

**43. Reports on Authority's functions**

(1) The Administrator must —

- (a) within 3 months after each anniversary of the commencement of Part 2 — prepare a report on how the Administrator carried out the Authority's functions as outlined in section 9 in the year prior to the anniversary; and
- (b) within 3 months after each anniversary of the commencement of Part 2 — prepare a report on how the Administrator carried out the Authority's functions as outlined in section 9 in the year prior to the anniversary; and

- (2) The final report under subsection (1)(b) must —
  - (a) set out each recommendation of the Authority under sections 35 and 36; and
  - (b) set out each determination of the Governor under Part 4 Division 3; and
  - (c) state whether a determination of the Governor under Part 4 Division 3 of an amount to be paid to, or property to be transferred to or vested in, a person differed from a recommendation in a report of the Authority under section 34 in relation to the person.
- (3) A report under subsection (1) need not contain reasons in relation to the matters referred to in subsection (2).
- (4) The Minister is to cause to be laid before each House of Parliament —
  - (a) a report under subsection (1)(a) within 6 sitting days after the preparation of the report; and
  - (b) the final report under subsection (1)(b) within 6 sitting days after the day on which the Authority is abolished.

Amendment — put and passed.

Clause 44 agreed to.

Clause 45.

The Attorney General, by leave, moved —

Page 38, line 27 — To delete “by” and insert —

under

Page 38, line 29 — To delete “by” and insert —

under

Page 38, after line 31 — To insert —

- (c) the registration of a WA Bell Company to be reinstated, and (without limiting that) the functions in the Corporations Act section 601AH to be performed and the matters provided for in that section to occur.

Amendments — put and passed.

Clause, as amended, agreed to.

Clause 46.

Debate ensued.

Clause agreed to.

Clause 47 agreed to.

Clause 48.

The Attorney General moved —

Page 42, lines 4 and 5 — To delete “to proceedings in a court to challenge the constitutional validity of this Act.” and insert —

to —

- (a) proceedings in a court to challenge the constitutional validity of this Act; or
- (b) proceedings in a court contemplated by this Act.

Examples for this subsection:

For the purposes of subsection (6)(b), proceedings referred to in sections 67 and 68 are examples of proceedings contemplated by this Act.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 49.

Debate ensued.

Question, That the clause stand as printed — put and negatived.

New Clause 49.

The Attorney General moved —

Page 42, line 6 — To insert —

#### **49. Certain deregistered companies not to be reinstated by certain persons**

- (1) A person (other than the Authority) must not take any step for achieving the reinstatement of the registration of a deregistered company listed in Schedule 1.

Penalty: a fine of \$10 000.

- (2) Before the day on which section 7 comes into operation, subsection (1) does not apply to a WA Bell Company, a liquidator of a WA Bell Company or a former liquidator of a deregistered company.
- (3) On and after the day on which section 7 comes into operation, subsection (1) does not apply to a person if the person has the written approval of the Authority to take the step referred to in subsection (1).

Amendment — put and passed.

Clause 50

Debate ensued.

Clause agreed to.

Clauses 51 to 66 agreed to.

Clause 67.

The Attorney General moved —

Page 54, after line 31 — To insert —

- (2) To the extent to which a right to make a taxation objection, or a right or capacity to seek the review of, or to appeal against, a decision of the Commissioner in relation to a taxation objection, is property of the company, subsection (1) does not apply to the right or capacity.

- (3) Words and expressions used in subsection (2) and also in the *Taxation Administration Act 1953* (Commonwealth) Part IVC have the same meanings in that subsection as they have in that Part.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 68.

The Attorney General to move —

Page 55, line 10 — To delete “certiorari” and insert —

certiorari, or a remedy having the same effect as a remedy that could be provided by means of such a writ,

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 69 to 71 agreed to.

Clause 72.

The Hon Ken Travers moved —

Page 56, line 16 — To insert after “is” —

not

Debate ensued.

Amendment — put.

The Committee divided.

#### Ayes (9)

Hon Robin Chapple  
Hon Alanna Clohesy  
Hon Stephen Dawson  
Hon Kate Doust  
Hon Sue Ellery

Hon Lynn MacLaren  
Hon Martin Pritchard  
Hon Ken Travers  
Hon Samantha Rowe (*Teller*)

#### Noes (18)

Hon Martin Aldridge  
Hon Liz Behjat  
Hon Jacqui Boydell  
Hon Jim Chown  
Hon Peter Collier  
Hon Donna Faragher  
Hon Dave Grills  
Hon Nigel Hallett  
Hon Alyssa Hayden

Hon Col Holt  
Hon Peter Katsambanis  
Hon Mark Lewis  
Hon Rick Mazza  
Hon Robyn McSweeney  
Hon Michael Mischin  
Hon Helen Morton  
Hon Simon O’Brien  
Hon Phil Edman (*Teller*)

Amendment thus negatived.

The Deputy Chair moved the following Committee Recommendation —

Page 56, lines 18 and 19 — To delete the lines.

Amendment — put and negatived.

Question, That the clause stand as printed — put and passed.

Clauses 73 to 77 agreed to.

Clause 78

The Attorney General moved —

Page 58, lines 2 and 3 — To delete the lines and insert —

This Act expires at the end of the 6 years beginning on the day on which the Governor makes the determination under section 37(2).

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Schedule 1.

The Attorney General, by leave, moved —

Page 59, after line 5 — To insert —

3A. Belcap Nominees Pty Ltd ACN 009 265 178 (Deregistered)

Page 59, after line 12 — To insert —

10A. B. P. T. Pty Ltd ACN 009 190 292 (Deregistered)

Page 59, after line 26 — To insert —

24A. TBGL Securities Pty Ltd ACN 008 713 513 (Deregistered)

Amendments — put and passed.

Schedule 1, as amended, agreed to.

Schedule 2 agreed to.

Title agreed to.

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The Acting President resumed the Chair.

Bill reported with amendments.

The Attorney General, by leave, moved, That the report be adopted.

Report adopted.

The Attorney General moved, without notice —

That so much of the Standing Orders and Temporary Orders be suspended so as to enable the bill to be read a third time forthwith.

The motion requiring the concurrence of an absolute majority.

Question — put.

The Acting President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

The Attorney General moved, That the Bill be read a third time.

Debate ensued.

The Acting President announced that the Deputy Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Question — put and passed.

Bill read a third time and passed.

**14. Child Support (Adoption of Laws) Amendment Bill 2015**

The Order of the Day having been read for the adjourned debate on the second reading of this Bill.  
Debate resumed.

Question — put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading of the Bill.

The Attorney General moved, That the Bill be read a third time.

Question — put and passed.

Bill read a third time and passed.

**15. Terrorism (Extraordinary Powers) Amendment Bill 2015**

The Order of the Day having been read for the adjourned debate on the second reading of this Bill.

Debate resumed.

**16. Questions Without Notice**

Questions without notice were taken.

The Minister for Aboriginal Affairs tabled documents in relation to notes relating to agenda item 3.4 (Roe 8 extension section 18 application) during the 10 June 2015 meeting of the Aboriginal Cultural Materials Committee, in response to a question without notice asked by Hon Lynn MacLaren. (Tabled Paper 3631).

The Attorney General representing the Minister for Corrective Services tabled documents in relation to Corrective Services deaths in custody since November 2005, in response to a question without notice asked by Hon Robin Chapple. (Tabled Paper 3632).

The Minister for Education, by leave incorporated into *Hansard*, a table in relation to proposed Vocational Education Training funding by school for 2016, in response to a question without notice asked by Hon Sue Ellery.

The Minister for Education tabled documents in relation to proposed vocational education and training funding for 2016, by school, in response to a question without notice asked by Hon Sue Ellery. (Tabled Paper 3634).

The Attorney General on behalf of the Minister for Agriculture and Food representing the Minister for Water tabled documents in relation to data related to groundwater flow estimates from the Department of Water, in response to Question on Notice No. 3431 asked by Hon Robin Chapple. (Tabled Paper 3633).

**17. Terrorism (Extraordinary Powers) Amendment Bill 2015**

Debate resumed on the second reading of this Bill (*see item 15 above*).

*Interruption pursuant to order.*

**18. Members' Statements**

Statements were taken.

**19. Adjournment**

The Council adjourned at 5.28pm until Tuesday, 24 November 2015 at 2:00pm.

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

Attendance: Present all Members except Hon Ken Baston, Hon Paul Brown, Hon Nick Goiran, Hon Amber-Jade Sanderson (*leave of absence*) and Hon Sally Talbot.

**NIGEL PRATT**  
Clerk of the Legislative Council

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