

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 160

WEDNESDAY, 18 NOVEMBER 2015

1. Meeting of Council

The Council assembled at 1.00pm 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

Auditor General's Papers —

Operating Theatre Efficiency (Report No. 25) (November 2015) 3616

Leader of the House

Reports —

Public Sector Commission — State of the WA Public Sector 2015, Creating Opportunities (November 2015) 3617

3. Retail Trading Hours Amendment Bill 2015

The Minister for Commerce: To move on the next day of sitting —

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.

4. Domestic Assault — Support Services

Motion No. 1 having been called, debate resumed on the motion of Hon Alanna Clohesy as follows —

That this Council notes the significant increase of reported domestic and other assaults in our community and calls on the Barnett Government to immediately commit to boost funding to enable the expansion of support services for women and children seeking to leave abusive or violent relationships.

Hon Helen Morton moved, without notice —

To delete “calls on the Barnett Government to immediately commit to boost” and insert —

that the Barnett Government is boosting

Debate ensued.

Question, That the words to be deleted, be deleted — put.

The Council divided.

Ayes (19)

Hon Martin Aldridge
Hon Liz Behjat
Hon Paul Brown
Hon Jim Chown
Hon Peter Collier
Hon Brian Ellis
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*)

Noes (10)

Hon Robin Chapple
Hon Alanna Clohesy
Hon Stephen Dawson
Hon Sue Ellery
Hon Adele Farina

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

Question thus passed.

Question, That the words to be inserted, be inserted — put.

The Council divided.

Ayes (19)

Hon Martin Aldridge
Hon Liz Behjat
Hon Paul Brown
Hon Jim Chown
Hon Peter Collier
Hon Brian Ellis
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
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Hon Adele Farina

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

Question thus passed.

Question, That the motion, as amended, be agreed to — put.

The Council divided.

Ayes (19)

Hon Martin Aldridge
Hon Liz Behjat
Hon Paul Brown
Hon Jim Chown
Hon Peter Collier
Hon Brian Ellis
Hon Donna Faragher
Hon Dave Grills
Hon Nigel Hallett
Hon Alyssa Hayden

Hon Col Holt
Hon Peter Katsambanis
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Hon Adele Farina

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

Question thus passed.

Motion, as amended, agreed to.

5. Container Deposit Scheme

Motion No. 2 having been called, Hon Darren West on behalf of Hon Sally Talbot, pursuant to notice, moved —

That this Council condemns the Barnett Government for its failure to introduce a container deposit scheme in Western Australia

Debate ensued.

Interruption pursuant to order.

6. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

In Committee

(Hon Adele Farina in the Chair)

Standing Committee on Uniform Legislation and Statutes Review — Report No. 93 — Review of the Planning and Development (Development Assessment Panels) Regulations 2011

Debate resumed on the motion of Hon Sue Ellery, That the Report be noted.

Question — put and passed.

Joint Standing Committee on the Commissioner for Children and Young People — Report No. 5 — 2014–2015 Annual Report

Hon Robyn McSweeney moved, That the Report be noted.

Debate ensued.

Question — put and passed.

Standing Committee on Estimates and Financial Operations — Report No. 55 — 2014–2015 Annual Report Hearings

Hon Liz Behjat moved, That the Report be noted.

Debate ensued.

Question — put and passed.

The Acting President resumed the Chair.

The Chair of Committees reported that the Committee of the Whole House had considered the —

- (1) Standing Committee on Uniform Legislation and Statutes Review — Report No. 93 — *Review of the Planning and Development (Development Assessment Panels) Regulations 2011* and had noted same.
- (2) Joint Standing Committee on the Commissioner for Children and Young People — Report No. 5 — *2014–2015 Annual Report* and had noted same.
- (3) Standing Committee on Estimates and Financial Operations — Report No. 55 — *2014–2015 Annual Report Hearings* and had noted same.

Report adopted.

7. Mental Health Amendment Bill 2015

The following Message from the Legislative Assembly was reported —

Mr President

Message No. 130

The Legislative Assembly acquaints the Legislative Council that it has agreed to the *Mental Health Amendment Bill 2015* without amendment.

Hon Michael Sutherland

Speaker

Legislative Assembly Chamber

Perth, 18 November 2015

8. Order of Business

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

9. Obsolete Legislation Repeal Bill 2015

The Attorney General, pursuant to notice, moved —

That a Bill for “An Act to repeal obsolete and spent legislation.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

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

The Attorney General tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 3618).

Debate stands adjourned.

10. Co-operatives Amendment Bill 2015

The Minister for Commerce, pursuant to notice, moved —

That a Bill for “An Act to amend the *Co-operatives Act 2009*.” 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 read a second time.

Interruption pursuant to order.

11. Questions Without Notice

Questions without notice were taken.

The Minister for Mental Health tabled documents in relation to mental health services available to young people in the South West Region, in response to a question without notice asked by Hon Adele Farina. (Tabled Paper 3620).

The Minister for Aboriginal Affairs tabled documents in relation to notes relating to agenda item 3.10 (Roe 8 extension s.18 application) taken by the Department of Aboriginal Affairs staff who attended the Aboriginal Cultural Materials Committee meeting on 13 February 2013, in response to question on notice No. 3441 asked by Hon Lynn MacLaren. (Tabled Paper 3621).

The Minister for Education tabled documents in relation to current and projected future staffing of South West schools in semester two of 2015, in response to question on notice No. 3482 asked by Hon Adele Farina. (Tabled Paper 3622).

The Minister for Education tabled documents in relation to the number of demountable classrooms and the duration of their use in schools in the South West Region as at 1 October 2015, in response to question on notice No. 3489 asked by Hon Adele Farina. (Tabled Paper 3623).

The Minister for Education tabled documents in relation to school psychologist time allocations in the South West Education Region in 2015, in response to question on notice No. 3491 asked by Hon Adele Farina. (Tabled Paper 3624).

The Attorney General on behalf of the Minister for Agriculture and Food representing the Minister for Water tabled documents in relation to the *Department of Water – Pilbara Surplus Mine Dewater Study – Summary Report* published in July 2015, in response to question on notice No. 3443 asked by Hon Robin Chapple. (Tabled Paper 3625).

12. Co-operatives Amendment Bill 2015

The Minister for Commerce continued his introductory remarks in moving, That the bill be read a second time (*see item 10 above*).

The Minister for Commerce tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 3619).

Debate stands adjourned and the Bill referred to the Standing Committee on Uniform Legislation and Statutes Review [SO 126].

13. Genetically Modified Crops Free Areas Repeal Bill 2015

The Leader of the House on behalf of the Minister for Agriculture and Food, pursuant to notice, moved —

That a Bill for “An Act to repeal the *Genetically Modified Crops Free Areas Act 2003* and to consequentially amend the *Biosecurity and Agriculture Management Act 2007*.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House on behalf of the Minister for Agriculture and Food moved, That the Bill be read a second time.

The Leader of the House on behalf of the Minister for Agriculture and Food tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 3626).

Debate stands adjourned.

14. Order of Business

Ordered — That Orders of the Day Nos No. 1, *Shire of Ravensthorpe Fencing Local Law 2015 — Disallowance*, and 2, *City of Mandurah Fencing Local Law 2015 — Disallowance*, be taken after Order of the Day No. 6, *Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015*. (Leader of the House).

15. 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.

In Committee

(Hon Adele Farina in the Chair)

Clause 31 agreed to.

Clause 32.

The Attorney General moved —

Page 28, lines 3 and 4 — To delete the lines and insert —

- (2A) The Authority may prepare more than one draft report.
- (3) The Authority must provide each draft report to each person who gave particulars of a liability under section 30.
- (3A) The first draft report under subsection (2) must be prepared, and provided in accordance with subsection (3), within the period of 150 days beginning on the transfer day.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 33 agreed to.

Clause 34.

The Attorney General moved —

Page 28, line 28 — To delete “A report under this section” and insert —

The report under subsection (1)

Amendment — put and passed.

The Attorney General moved —

Page 28, after line 29 — To insert —

- (2A) Before making a final determination under section 33, the Authority may make one or more interim reports to the Minister based on its preliminary determination of the property and liabilities of each WA Bell Company under section 33.
- (2B) The Authority must make a report under subsection (2A) if directed to do so by the Minister.
- (2C) A report under subsection (2A) may contain a description of any contingencies and uncertainties and any interim recommendations of the Authority under section 35 or 36.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 35.

The Attorney General moved —

Page 30, after line 12 — To insert —

- (2A) A recommendation in an interim report under section 34(2A) is an interim recommendation.
- (2B) A recommendation in the report under section 34(1) is a final recommendation and must take into account any amount or property that the Governor under section 36A(2) has determined is to be paid to, or transferred to or vested in, a person.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 36.

The Attorney General moved —

Page 31, line 8 — To delete “litigation” and insert —

litigation, whether directly or indirectly

Debate ensued.

Amendment — put and passed.

The Attorney General, by leave, moved —

Page 32, after line 9 — To insert —

- (3A) A recommendation in an interim report under section 34(2A) is an interim recommendation.
- (3B) A recommendation in the report under section 34(1) is a final recommendation and must take into account any amount or property that the Governor, under section 36A(2), has determined is to be paid to, or transferred to or vested in, a person.

Page 32, line 24 — To delete “mentioned in section 25 or 26”.

Amendments — put and passed.

Clause, as amended, agreed to.

Heading to Division 3.

The Attorney General moved —

Page 33, line 4 — To delete “**Determination by**” and insert —

Determinations of

Amendment — put and passed.

Clause 37.

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

New Clause 36A.

The Attorney General moved —

Page 33, line 5 — To insert —

36A. Governor may determine amounts and property: interim determinations

- (1) The Minister may submit to the Governor an interim report of the Authority under section 34(2A).
- (2) The Governor may, by instrument in writing, determine an amount to be paid to, or property to be transferred to or vested in, a person.

Debate ensued.

Amendment — put and passed.

New Clause agreed to.

New Clause 37.

The Attorney General moved —

Page 33, line 5 — To insert —

37. Governor may determine amounts and property: final determination

- (1) The Minister must submit to the Governor the report of the Authority under section 34(1).
- (2) The Governor may, by instrument in writing, determine an amount to be paid to, or property to be transferred to or vested in, a person.
- (3) The amount or amounts to be paid to, and the property to be transferred to or vested in, a person under this Division —
 - (a) is in respect of the aggregate of all liabilities of all WA Bell Companies to that person as a creditor; and
 - (b) may be by way of compensation for providing funding or an indemnity.

Amendment — put and passed.

New Clause agreed to.

New Clause 37A.

The Attorney General moved —

Page 33, line 5 — To insert —

37A. Determinations: general provisions

- (1) Nothing in this Act requires the Governor to determine that any amount is to be paid to, or any property is to be transferred to or vested in, any person on any account whatsoever.
- (2) Nothing in this Act requires that the aggregate value of all money determined by the Governor to be paid, and all property determined by the Governor to be transferred or vested, under this Division must be equal to the value of the money or property held by the Authority or the total liabilities of all WA Bell Companies as determined under section 33.
- (3) The Minister must give a determination of the Governor to the Authority.
- (4) A determination need not contain reasons.
- (5) A determination is not subsidiary legislation for the purposes of the *Interpretation Act 1984*.
- (6) Nothing in this Division creates any right in, or for the benefit of, a creditor of a WA Bell Company or any other person.
- (7) The Governor has absolute privilege in making a determination and in relation to any fact or matter stated in it.
- (8) On the making of the determination under section 37(2), every liability of every WA Bell Company to a person to whom nothing is to be paid and to whom no property is to be transferred and in whom no property is to be vested under a determination under this Division is, by force of this Act, discharged and extinguished.

Amendment — put and passed.

New Clause agreed to.

Clause 38.

The Attorney General, by leave, moved —

Page 34, line 11 — To delete “the determination of the Governor under section 37,” and insert —

a determination of the Governor under Division 3,

Page 34, after line 12 — To insert —

- (aa) notify each person specified in the determination to or in whom the Governor has determined an amount is to be paid or property is to be transferred or vested; and

Amendments — put and passed.

The Attorney General, moved —

Page 34, line 26 to page 35, line 12 — To delete the lines and insert —

- (4) Subsection (5) applies to a person covered by the determination of the Governor under section 37(2).
- (5) At the end of the period of 3 months beginning on the day on which notice of the determination of the Governor under section 37(2) is given to the person —
 - (a) every liability of every WA Bell Company to the person is, by force of this Act, discharged and extinguished; and
 - (b) if the person has not given a duly executed deed in accordance with subsection (3) in relation to a determination of the Governor under Division 3 — the determination ceases to have effect in relation to the person.
- (6) Subsection (7) applies to a person covered by a determination of the Governor under section 36A(2) but not covered by the determination of the Governor under section 37(2).
- (7) At the end of the period of 3 months beginning on the day on which the Governor makes the determination under section 37(2) —
 - (a) every liability of every WA Bell Company to the person is, by force of this Act, discharged and extinguished; and
 - (b) if the person has not given a duly executed deed in accordance with subsection (3) in relation to a determination of the Governor under section 36A(2) — the determination ceases to have effect in relation to the person.
- (8) A reference to a person covered by a determination of the Governor is a reference to a person to or in whom the Governor has determined an amount is to be paid or property is to be transferred or vested.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 39 agreed to.

Clause 40.

The Attorney General, by leave, moved —

Page 36, lines 6 and 7 — To delete “under section 38”.

Page 36, line 8 — To delete the line and insert —

- (b) the end of the period of 6 months beginning on the day on which the Governor makes the determination under section 37(2).

Amendments — put and passed.

Clause, as amended, agreed to.

Clause 41 and 42 agreed to.

Interruption pursuant to order.

The President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the Bill, made progress, and seeks to sit again.

Ordered — That the Committee of the Whole House sit again.

16. Members’ Statements

Statements were taken.

17. Adjournment

The Council adjourned at 6.40pm until Thursday, 19 November 2015 at 10.00am.

Members present during the day’s proceedings

Attendance: Present all Members except Hon Ken Baston, Hon Jacqui Boyde, 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