

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 204

TUESDAY, 1 MAY 2012

1. Meeting of Council

The Council assembled at 3.00pm pursuant to order.

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

2. Message from His Excellency the Governor – Senate Vacancy

The President read the following message -

The Governor transmits to the Legislative Council a copy of a despatch which he has received today from the Honourable the President of the Senate of the Commonwealth of Australia notifying that a vacancy has happened in the representation of the State of Western Australia in the said Senate.

3. Joint Sitting to fill Senate Vacancy

The Leader of the House moved, without notice -

That with reference to the message reported to the Council by the President from His Excellency the Governor, the Honourable Mr President be requested to confer with the Honourable Mr Speaker in order to fix a day and place whereon and whereat the Legislative Council and the Legislative Assembly, sitting and voting together, shall choose a person to hold the place of the senator whose place has become vacant.

Question - put and passed.

4. Messages from His Excellency the Governor – Assent to Bills

The President reported the receipt of Messages from His Excellency the Governor assenting to the following Bills -

4 April 2012 - Message No. 2	Act No.
Local Government Amendment Bill 2011	2 of 2012
10 April 2012 - Message No. 3	Act No.
Western Australia Day (Renaming) Bill 2011	3 of 2012
Reserves (Wanjarri Nature Reserve) Bill 2011	4 of 2012
Gas Services Information Bill 2011	5 of 2012
Business Names (Commonwealth Powers) Bill 2011	6 of 2012

5. Petitions

Hon Philip Gardiner presented a petition from 493 petitioners requesting the Legislative Council to support the enactment of a moratorium on hydraulic fracturing . (Tabled Paper 4426).

Hon Giz Watson presented a petition from 25 petitioners requesting the Legislative Council to oppose the Criminal Organisations Control Bill 2011. (Tabled Paper 4427).

Hon Giz Watson presented a petition from 84 petitioners requesting the Legislative Council to oppose any anti-association laws, however framed. (Tabled Paper 4428).

Hon Alison Xamon presented a petition from 97 petitioners requesting the Legislative Council to support the enactment of a moratorium on hydraulic fracturing. (Tabled Paper 4429).

6. Ministerial Statement – National Youth Week

The Minister for Youth made a Ministerial Statement with respect to the success of National Youth Week 2012 and the Western Australian Youth Awards.

7. Statement by President – Standing Committee on Uniform Legislation and Statutes Review

The President made the following Statement –

Members, I wish to report formally to the house the contents of a letter I previously sent to Members. On 5 April 2012, I wrote to all Members of the Legislative Council. It reads —

5 April 2012

To all Members of the Legislative Council

Dear Member

On Thursday, 22 March 2012, I reported to the House that Hon. Nigel Hallett and Hon. Liz Behjat had resigned from the Standing Committee on Uniform Legislation and Statutes Review. As the House did not resolve subsequent appointments to the Committee prior to rising for a 4 week adjournment period on Thursday, 29 March 2012, I have the following concerns:

- (1) the Committee cannot meet due to its incapacity to meet the quorum requirements;
- (2) the Education and Care Services National Law (WA) Bill 2011 currently stands referred to the Committee until 20 April 2012;
- (3) the Legislative Council will not sit again before Tuesday, 1 May 2012; and
- (4) subject to the Standing Orders, debate on the above Bill cannot resume until the Committee reports the Bill to the House, and this report cannot be forthcoming given the Committee's inability to meet.

After consultation with Party Leaders and relevant Members, I have decided to resolve this impasse and ensure the continued and effective operation of the Committee, and its obligation in reporting the Bill to the House. Standing Order 159(5) provides that the President may appoint a Member to fill a vacancy until an appointment can be made or confirmed by the Council.

Accordingly, pursuant to Standing Order 159(5), I have appointed Hon Michael Mischin and Hon Donna Faragher to the Uniform Legislation and Statutes Review Committee, effective from today. I will formally report this decision to the Council at its next sitting, at which time the Council can either confirm this decision or resolve otherwise.

Kind regards

Hon Barry House MLC

President

The Leader of the House moved, without notice -

That consideration of the letter regarding the appointment of Members to the Standing Committee on Uniform Legislation and Statutes Review pursuant to Standing Order 159(5) tabled by the President be made an Order of the Day for the next sitting of the Council.

Question – put and passed.

The President tabled the letter to all Members of the Legislative Council advising of the appointment of Hon Michael Mischin and Hon Donna Faragher to the Uniform Legislation and Statutes Review Committee pursuant to Standing Order 159(5). (Tabled paper 4388).

8. Papers

The following Papers was laid on the Table by -

President

Auditor General's Papers -

Beyond Compliance: Reporting and Managing KPIs in the Public Sector
(Report No. 3) (April 2012) (Deemed tabled 19/04/2012)..... 4387

Reports -

Corruption and Crime Commission - Report on the Investigation of Alleged Public Sector Misconduct in Relation to the Use of Taser Weapons by Officers of the Western Australia Police and the Department of Corrective Services
(16 April 2012) (Deemed tabled 16/04/2012) 4389

Leader of the House

Management Plans -

Fish Resources Management Act 1994 (West Coast Rock Lobster Management Plan Amendment 2012 [1077] G.G. 13/04/2012) 4390

Orders -

Fish Resources Management Act 1994 (Prohibition on Line Fishing (Metal in Lines and Traces) Amendment Order 2012 [1074] G.G. 27/03/2012, Prohibition on Fishing by Line from Fishing Boats (Pilbara Waters) Amendment Order 2012 [1075] G.G. 27/03/2012 and Prohibition on Fishing (Coral, 'Live Rock' and Algae) Amendment Order 2012 [1080] G.G. 03/04/2012) 4391

Regulations -

Liquor Control Act 1988 (Liquor Control (Yakanarra Restricted Area) Amendment Regulations 2012 G.G. 27/04/2012)..... 4392

Racing and Wagering Western Australia Act 2003 (Racing and Wagering Western Australia Amendment Regulations (No. 2) 2011 G.G. 03/04/2012) 4393

Response to Reports –

Joint Standing Committee on Delegated Legislation - Shire of Kellerberrin Dogs
Local Law 2011 (Report No. 45) (Premier)..... 4394

Minister for Finance

Local Laws -

Dividing Fences Act 1961 (Shire of East Pilbara Fencing Local Law 2011 G.G. 26/03/2012)..... 4395

Regulations -

Electricity Act 1945 (Electricity Amendment Regulations 2012 G.G. 13/04/2012, Electricity (Licensing) Amendment Regulations 2012 G.G. 13/04/2012 and Electricity (Supply Standards and System Safety) Amendment Regulations 2012 G.G. 13/04/2012)..... 4396

Fair Trading Act 2010 (Fair Trading (Infringement Notices) Regulations 2012 G.G. 24/04/2012)..... 4397

Road Traffic Act 1974 (Road Traffic (Authorisation to Drive) Amendment Regulations 2012 G.G. 05/04/2012)..... 4398

Workers' Compensation and Injury Management (Acts of Terrorism) Act 2001 (Workers' Compensation and Injury Management (Acts of Terrorism) (Final Day) Amendment Regulations 2012 G.G. 27/04/2012) 4399

Reports -

Operation and Maintenance of the Young Adults Facility Contract Between The Commissioner of the Department of Corrective Services, for and on Behalf of the State of Western Australia and Serco Australia Pty Ltd (March 2012)..... 4400

Minister for Energy

Addendums -

Education, Department of – Annual Report (2010-2011) (Date received 12/04/2012) 4401

Codes -

Electricity Industry Act 2004 (Electricity Networks Access Code Amendment 2012 G.G. 17/04/2012).....	4402
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Local Laws -

Bush Fires Act 1954 (Shire of East Pilbara Bush Fire Brigades Local Law 2011 G.G. 26/03/2012)	4403
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Orders -

Misuse of Drugs Act 1981 (Misuse of Drugs (Amounts of Prohibited Drugs) Order 2012 G.G. 13/04/2012).....	4404
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Minister for Child Protection*Local Laws -*

Dog Act 1976 (Shire of East Pilbara Dogs Local Law 2011 G.G. 26/03/2012 and City of South Perth Dog Amendment Local Law 2012 G.G. 13/04/2012)	4405
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Local Government Act 1995 (Shire of East Pilbara Public Places and Local Government Property Local Law 2011 G.G. 26/03/2012, City of South Perth Public Places and Local Government Property Amendment Local Law 2012 G.G. 13/04/2012 and City of South Perth Parking Amendment Local Law 2012 G.G. 13/04/2012)	4406
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Notices -

Financial Management Act 2006 – Section 82 – Question on Notice No. 7216 asked in the Legislative Assembly	4407
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Regulations -

Caravan Parks and Camping Grounds Act 1995 (Caravan Parks and Camping Grounds Amendment Regulations 2012 G.G. 13/04/2012).....	4408
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Heritage of Western Australia Act 1990 (Heritage of Western Australia Amendment Regulations 2012 G.G. 27/03/2012).....	4409
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Local Government Act 1995 (Local Government (Financial Management) Amendment Regulations 2012 G.G. 20/04/2012)	4410
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Minister for Mental Health*Local Laws -*

Health Act 1911 (Shire of East Pilbara Health Local Law 2011 G.G. 26/03/2012)	4411
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Orders -

Water Services Licensing Act 1995 (Water Services Licensing (West Pilbara Controlled Area - Water Supply Services) Order 2012 G.G. 24/04/2012)	4412
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Regulations -

Environmental Protection Act 1986 (Environmental Protection (Controlled Waste) Amendment Regulations 2012 G.G. 05/04/2012)	4413
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Food Act 2008 (Food Amendment Regulations 2012 G.G. 20/04/2012)	4414
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Hospitals and Health Services Act 1927 (Hospitals (Services Charges) Amendment Regulations (No. 3) 2012 G.G. 20/04/2012)	4415
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Occupational Therapists Act 2005 (Occupational Therapists Amendment Regulations 2012 G.G. 30/03/2012).....	4416
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Reports -

Radiological Council (Year ended 31 December 2011) (Date received 19 04/2012).....	4417
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Parliamentary Secretary to the Attorney General*Regulations -*

Children's Court of Western Australia Act 1988 (Children's Court (Fees) Amendment Regulations 2012 G.G. 27/03/2012)	4418
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District Court of Western Australia Act 1969 (District Court (Fees) Amendment Regulations 2012 G.G. 27/03/2012).....	4419
Magistrates Court Act 2004 (Magistrates Court (Fees) Amendment Regulations (No. 2) 2012 G.G. 27/03/2012 and Magistrates Court Amendment Regulations 2012 G.G. 27/04/2012)	4420
Supreme Court Act 1935 (Supreme Court (Fees) Amendment Regulations 2012 G.G. 27/03/2012).....	4421

Parliamentary Secretary representing the Minister for Regional Development

Proposals -

Land Act 1933 – Submission No. 7/2012 – Cancellation of Class B Reserve 7324, being Lot 207 on Deposited Plan 103892, for inclusion into Pastoral Lease CL250/1976.....	4422
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Land Administration Act 1997 – Submission No. 1/2012 - Excision from Class A Reserve 41545 Gnarabup	4423
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Regulations -

Strata Titles Act 1985 (Strata Titles General Amendment Regulations 2012 G.G. 13/04/2012)	4424
Transfer of Land Act 1893 (Transfer of Land Amendment Regulations 2012 G.G. 13/04/2012).....	4425

9. Standing Committee on Uniform Legislation and Statutes Review - Education and Care Services National Law (WA) Bill 2011 - Extension of Reporting Time

Hon Adele Farina presented a Report of the Standing Committee on Uniform Legislation and Statutes Review in relation to the *Education and Care Services National Law (WA) Bill 2011* seeking an extension of time for the Committee to report to 3 May 2012. (Tabled paper 4430).

Hon Adele Farina moved, That the Report do lie upon the Table and be adopted and agreed to.

Question - put and passed.

10. Order of Business

Ordered - That Orders of the Day Nos 1, *Town of Kwinana Extractive Industries Local Law 2011 - Disallowance*, 2, *Shire of Kellerberrin Parking and Parking Facilities Local Law 2011 - Disallowance*, and 3, *Mining Amendment Regulations (No. 5) 2011 - Disallowance* be taken after Order of the Day No. 6, *Evidence and Public Interest Disclosure Legislation Amendment Bill 2011*. (Leader of the House).

11. Workers' Compensation and Injury Management Amendment Bill 2012

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

Debate resumed.

12. Questions Without Notice

Questions without notice were taken.

The Leader of the House representing the Premier tabled letters in relation to the needs of Western Australian children and families, in response to a question without notice asked by Hon Linda Savage (Tabled Paper 4431).

The Minister for Fisheries tabled a document in relation to the review of the research division within the Department of Fisheries, in response to a question without notice asked by Hon Giz Watson. (Tabled Paper 4432).

The Minister for Mines and Petroleum tabled a document in relation mining lease applications in the Mt Manning area of the Great Woodlands, in response to question on notice No. 5151 asked by Hon Robin Chapple. (Tabled Paper 4433).

The Minister for Fisheries tabled a document in relation to shark fisheries in operation off Western Australia, in response to question on notice No. 5216 asked by Hon Giz Watson. (Tabled Paper 4434).

The Minister for Finance on behalf of the Parliamentary Secretary representing the Attorney General tabled a document in relation to the crime used property substitutions under the *Criminal Property Confiscation Act 2000*, in response to question on notice No. 5121 asked by Hon Giz Watson. (Tabled Paper 4435).

The Minister for Child Protection representing the Minister for Tourism tabled a document in relation to Tourism Western Australia's complete evaluation of 'Citites on a CD', in response to question on notice No. 5218 asked by Hon Lynn MacLaren. (Tabled Paper 4436).

The Minister for Child Protection representing the Minister for Forestry tabled a document in relation to the compiled accounting standard (AASB 141) for agriculture, in response to question on notice No. 5117 asked by Hon Giz Watson. (Tabled Paper 4437).

The Minister for Child Protection representing the Minister for Forestry tabled a document of the Forest Products Commission in relation to native forest contracts of sale as at 2012, in response to question on notice No. 5132 asked by Hon Giz Watson. (Tabled Paper 4438).

The Minister for Child Protection representing the Minister for Forestry tabled a document in relation to contractors who have contracts with the Forest Products Commission to supply native forest and plantation logs as at April 2012, in response to question on notice No. 5133 asked by Hon Giz Watson. (Tabled Paper 4439).

The Minister for Child Protection representing the Minister for Forestry tabled a document in relation to the Forest Products Commission's value added processing, in response to question on notice No. 5207 asked by Hon Giz Watson. (Tabled Paper 4440).

The Minister for Child Protection tabled a document in relation to the Department of Child Protection's FTE allocation and vacancies in February 2012 and vacancies subject to advertising/pool recruitment processes, 29 February 2012, in response to question on notice No. 5138 asked by Hon Sue Ellery. (Tabled Paper 4441).

The Minister for Child Protection tabled a document in relation to the Hardship Utility Grant Scheme applicants processed between February 2011 and February 2012, in response to question on notice No. 5261 asked by Hon Sue Ellery. (Tabled Paper 4442).

The Minister for Mental Health representing the Minister for Health, in accordance with Standing Order No 107(2), advised that an answer to question on notice No. 5092 asked by Hon Lynn MacLaren will be provided on 15 May 2012.

The Minister for Mental Health representing the Minister for Health in accordance with Standing Order No 107(2), advised that an answer to question on notice No. 5099 asked by Hon Linda Savage will be provided on 15 May 2012.

The Parliamentary Secretary representing the Minister for Regional Development tabled a document of the South West Development Commission in relation to grant agreement summary of information, in response to question on notice No. 5119 asked by Hon Giz Watson. (Tabled Paper 4443).

13. Workers' Compensation and Injury Management Amendment Bill 2012

Debate resumed on the second reading of this Bill (see item 11 above).

Question - put and passed.

Bill read a second time.

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

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

Question - put and passed.

Bill read a third time and passed.

14. Criminal Organisations Control Bill 2011

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

Debate resumed.

Hon Giz Watson moved, without notice -

- (1) That Order of the Day No. 9, *Criminal Organisations Control Bill 2011* be discharged and referred to the Standing Committee on Legislation for consideration and report not later than 14 August 2012.
- (2) The Committee has the power to consider the policy of the Bill.

On the motion of the Minister for Finance the debate was adjourned to a later stage of this day's sitting.

15. Statement by President - Joint Sitting to fill Senate Vacancy

The President made the following Statement -

I wish to advise Honourable Members that in accordance with the resolution of the House passed earlier today, Mr President and Mr Speaker have fixed the time and date of the joint sitting of the Houses to choose a person to fill the vacancy in the Senate caused by the death of Senator Judith Adams to be 11.00am, Wednesday, 2 March 2012 in the Legislative Council Chamber.

16. Order of Business

Ordered - That Order of the Day No. 9, *Criminal Organisations Control Bill 2011*, be taken forthwith. (Minister for Finance).

17. Criminal Organisations Control Bill 2011

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

Debate resumed on the motion of Hon Giz Watson as follows -

- (1) That Order of the Day No. 9, *Criminal Organisations Control Bill 2011* be discharged and referred to the Standing Committee on Legislation for consideration and report not later than 14 August 2012.
- (2) The Committee has the power to consider the policy of the Bill.

Question - put.

The Council divided.

Ayes (3)

Hon Lynn MacLaren
Hon Giz Watson

Hon Alison Xamon (*Teller*)

Noes (27)

Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Jim Chown
Hon Mia Davies
Hon Ed Dermer
Hon Kate Doust
Hon Wendy Duncan
Hon Phil Edman
Hon Sue Ellery
Hon Brian Ellis
Hon Donna Faragher
Hon Philip Gardiner
Hon Nick Goiran
Hon Nigel Hallett

Hon Alyssa Hayden
Hon Col Holt
Hon Robyn McSweeney
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Ljiljanna Ravlich
Hon Linda Savage
Hon Sally Talbot
Hon Ken Travers
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Question thus negatived.

Debate resumed.

On the motion of the Leader of the House the debate was adjourned until the next sitting day.

18. Retail Trading Hours Amendment Bill 2012

The President reported the receipt of Message No. 245 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Commerce moved, That the Bill be now 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.

The Minister for Commerce tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4444).

Debate stands adjourned.

19. Members' Statements

Statements were taken.

Hon Giz Watson, by leave, tabled the *WA Country Health Service Multiple Chemical Sensitivity/Chemical Hypersensitivity Guidelines*. (Tabled Paper 4445).

20. Adjournment

The Council adjourned at 10.31pm until Wednesday, 2 May 2012 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Robin Chapple and Hon Jon Ford.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council