

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 68

WEDNESDAY, 25 NOVEMBER 2009

1. Meeting of Council

The Council assembled at 2.00pm pursuant to order.

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

2. Statement by President - Legislative Council Chamber - Refurbishment

The President made the following Statement -

As Members will know, this chamber will undergo a major refurbishment - starting on Friday, in fact. As tomorrow is the last scheduled sitting in this chamber in this configuration, it will be somewhat of an historic day. Therefore, to record the history of the occasion, I have invited a photographer to come into the chamber at question time tomorrow to take some photographs of the chamber in session in this configuration.

3. Petition

Hon Nick Goiran presented a petition from 1011 petitioners, requesting the Legislative Council oppose euthanasia. (Tabled paper 1576).

4. Ministerial Statement - International Day for the Elimination of Violence against Women

The Minister for Child Protection made a Ministerial Statement with respect to White Ribbon Day.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

5. Papers

The following Papers were laid on the Table by -

President

Joint Standing Committee on Treaties (Commonwealth of Australia) -

Report No. 107 - Treaties tabled on 20 August (2) and 15 September 2009 1570

Leader of the House

Regulations -

Dangerous Goods Safety Act 2004 (Dangerous Goods Safety (Explosives) Amendment

Regulations (No. 2) 2009 G.G. 24/11/2009)..... 1571

Minister for Transport*Rules -*

Dental Act 1939 (Dental Board Amendment Rules 2009 G.G. 24/11/2009)..... 1572

Minister for Energy*Local Laws -*

Local Government Act 1995 (Shire of Dardanup Parking and Parking Facilities Local Law 2009
G.G. 23/11/2009 and Town of Claremont Parking and Parking Facilities Local Law 2009
G.G. 24/11/2009)..... 1573

Parliamentary Secretary representing the Treasurer*Regulations -*

Retail Trading Hours Act 1987 (Retail Trading Hours (Tourism Precincts and Holiday Resorts)
Amendment Regulations (No. 2) 2009 G.G. 24/11/2009)..... 1574

State Superannuation Act 2000 (State Superannuation Amendment Regulations 2009
G.G. 24/11/2009)..... 1575

6. Petroleum and Energy Legislation Amendment Bill 2009

The Minister for Mines and Petroleum: To move on the next day of sitting -

That a Bill for “An Act to amend -

- the *Petroleum and Geothermal Energy Resources Act 1967*; and
- the *Petroleum (Submerged Lands) Act 1982*; and
- the *Petroleum Pipelines Act 1969*,

and other Acts to reflect relevant legislation of the Parliament of the Commonwealth and for related purposes.” be introduced and read a first time.

7. Order of Business

Ordered - That Orders of the Day be taken forthwith. (Leader of the House).

8. Order of Business

Ordered - That Orders of the Day Nos 1, *Perth Parking Management Amendment Regulations (No. 2) 2009 - Disallowance*, 2, *Joint Authority Southern Demersal Gillnet and Demersal Longline Managed Fishery Management Plan Amendment (No. 2) 2009 - Disallowance*, and 3, *Metropolitan Region Scheme Amendment No. 1114/33 - Jandakot Structure Plan, Cell 1 - Mandogalup - Disallowance*, be taken after Order of the Day No. 10, *Criminal Investigation Amendment Bill 2009*. (Leader of the House).

9. Police Amendment Bill 2009

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

Debate resumed.

Question - put.

The House divided.

Ayes (18)

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

Hon Alyssa Hayden
Hon Col Holt
Hon Robyn McSweeney
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Noes (13)

Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Robin Chapple
Hon Kate Doust
Hon Sue Ellery
Hon Jock Ferguson
Hon Jon Ford

Hon Lynn MacLaren
Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Giz Watson
Hon Alison Xamon
Hon Ed Dermer (*Teller*)

Question thus passed.

Bill read a second time.

The President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Clause 1 agreed to.

Clause 2.

Debate ensued.

Hon Kate Doust moved -

Page 2, lines 8 and 9 — To delete “on a day fixed by proclamation, and different days may be fixed for different provisions” and insert —

to be proclaimed after a further five hundred police officers have been recruited and subscribed to the required engagement in accordance with section 10 of the Act

Debate ensued.

Amendment - put and negatived.

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

Clause 3 agreed to.

Clause 4.

Debate ensued.

Clause agreed to.

Clause 5 agreed to.

Clause 6.

Debate ensued.

Clause agreed to.

Clauses 7 and 8 agreed to.

Clause 9.

Debate ensued.

Clause agreed to.

Clause 10.

Debate ensued.

Hon Kate Doust moved -

Page 7, line 4 — To insert after “service” —

some or all of the powers, duties and obligations prescribed in regulations

Debate ensued.

Amendment - put and negatived.

Hon Giz Watson moved -

Page 7, after line 23 — To insert -

(7A) A police auxiliary officer must, at the reasonable request of a person, produce evidence of his or her appointment, terms and conditions.

Penalty: a fine of \$500.

Debate ensued.

Amendment - put and negatived.

Hon Kate Doust moved -

Page 8, lines 2 to 12 — To delete the lines and insert —

(1) The powers and duties and obligations of auxiliary police officers shall be prescribed in regulation to this Act.

(2) An exemption or exception to any written law other than this Act that applies to a police officer or a member of the police force can similarly apply to an auxiliary police officer once it is prescribed to do so by regulation.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (12)

Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Robin Chapple
Hon Kate Doust
Hon Sue Ellery
Hon Jock Ferguson

Hon Jon Ford
Hon Lynn MacLaren
Hon Ljiljanna Ravlich
Hon Giz Watson
Hon Alison Xamon
Hon Ed Dermer (*Teller*)

Noes (17)

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

Hon Alyssa Hayden
Hon Col Holt
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Amendment thus negatived.

Hon Kate Doust moved -

Page 8, line 24 — To insert after “officer” —

consistent with the regulations to this Act,

Debate ensued.

Amendment - put and negatived.

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

Clause 11 agreed to.

Clause 12.

Debate ensued.

10. Questions Without Notice

Questions without notice were taken.

The Minister for Environment in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 1282 asked by Hon Giz Watson will be provided on Thursday, 26 November 2009.

11. Police Amendment Bill 2009

The President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Clause 12.

Debate resumed.

Clause agreed to.

Clauses 13 to 25 inclusive agreed to.

Title agreed to.

The President resumed the Chair.

Bill reported without amendment.

Report adopted.

Ordered - That the third reading of the Bill be made an Order of the Day for the next sitting.

12. Higher Education Amendment Bill 2009

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 Minister for Training and Workforce Development moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

13. Suspension of Standing Orders

The Leader of the House moved, without notice -

That so much of the Standing Orders be suspended so as to enable the House to sit beyond 10.00pm for the purpose of completing all stages of Order of the Day No. 6, *Royalties for Regions Bill 2009*.

The motion requiring the concurrence of an absolute majority.

Question - put.

The 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.

14. Arson Legislation Amendment Bill 2009

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

Debate ensued.

Question - put and passed.

Bill read a second time.

Ordered - That consideration of the Bill, in Committee, be made an Order of the Day for the next sitting.

15. Royalties for Regions Bill 2009

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

Debate resumed.

The Parliamentary Secretary representing the Minister for Regional Development, by leave, tabled a table of funding to Aboriginal communities and Indigenous programs. (Tabled paper 1577).

The Parliamentary Secretary representing the Minister for Regional Development, by leave, tabled a list of funding for road projects in various shires. (Tabled paper 1578).

Question - put and passed.
Bill read a second time.
The President left the Chair.

In Committee
(Hon Jon Ford in the Chair)

Clause 1.
Debate ensued.
Clause agreed to.
Clauses 2 and 3 agreed to.
Clause 4.
Debate ensued.
Hon Robin Chapple moved -

Page 3, line 3 — To insert after “Western Australia” —

and to encourage investment in environmental protection and renewable energy generation,

Debate ensued.
Amendment - put and negatived.
Question - That the clause stand as printed - put and passed.
Clause 5.
Debate ensued.
Hon Ken Travers moved -

Page 4, after line 9 — To insert —

- (2) The sums to be allocated to each of the subsidiary funds nominated in subsection (1), including allocations under paragraph (d), are to be specified in the Budget for that year.

Debate ensued.
Amendment - put and negatived.
Question - That the clause stand as printed - put and passed.
Clauses 6 and 7 agreed to.
Clause 8.
Debate ensued.
Clause agreed to.
Clause 9.
Debate ensued.

Hon Robin Chapple moved -

Page 5, line 14 — To insert after “Treasurer’s concurrence” —

and having reasonably considered the advice of the Trust

Debate ensued.

Amendment - put and negatived.

Debate ensued.

Hon Robin Chapple moved -

Page 5, after line 22 — To insert —

- (2) Subject to subsection (3), in authorising the expenditure of money standing to the credit of the Fund, the Minister must give preference to those projects or causes that —
 - (a) enhance basic living needs including health services, housing availability and education availability; and
 - (b) address socio-economic disadvantage experienced by Indigenous people.
- (3) At least 30% of the money spent out of the Fund in each calendar year must be spent on or in relation to projects or causes that —
 - (a) benefit or protect the environment; and/or
 - (b) relate to the generation of renewable energy.

Debate ensued.

Hon Robin Chapple, by leave, amended his motion to read -

Page 5, after line 22 — To insert —

- (2) Subject to subsection (3), in authorising the expenditure of money standing to the credit of the Fund, the Minister must give preference to those projects or causes that —
 - (a) enhance basic living needs including health services, housing availability and education availability; and
 - (b) address socio-economic disadvantage experienced by Indigenous people.

Debate ensued.

Amendment - put and negatived.

Hon Ken Travers moved -

Page 5, after line 22 — To insert —

- (d) to ensure regions which generate royalties income are provided with infrastructure and services which enable them to sustain long-term diverse populations.

Debate ensued.

The Parliamentary Secretary representing the Minister for Regional Development, by leave, tabled a chart for provisional regional fund allocation (2008/09-2012/13). (Tabled paper 1579).

Amendment - put.

The Committee divided.

Ayes (12)

Hon Matt Benson-Lidholm
Hon Robin Chapple
Hon Kate Doust
Hon Sue Ellery
Hon Jock Ferguson
Hon Jon Ford

Hon Lynn MacLaren
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 Mia Davies
Hon Wendy Duncan
Hon Phil Edman
Hon Brian Ellis
Hon Donna Faragher
Hon Philip Gardiner
Hon Nick Goiran

Hon Alyssa Hayden
Hon Col Holt
Hon Robyn McSweeney
Hon Michael Mischin
Hon Norman Moore
Hon Simon O'Brien
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Amendment thus negatived.

Hon Robin Chapple moved -

Page 5, line 25 — To insert before “expenditure” —

reasonable

Page 5, line 27 — To insert before “expenditure” —

reasonable

Debate ensued.

Amendments - put and negatived.

Hon Robin Chapple moved -

Page 6, line 1 — To insert before “expenditure” —

reasonable

Amendment - put and negatived.

Question, That the Clause stand as printed - put and passed.

Clause 10.

Debate ensued.

Hon Robin Chapple moved -

Page 6, line 9 — To insert after “year” —

, which information must include —

- (a) the total amount of money credited to the Fund since the last annual report; and
- (b) the total amount of money spent from the Fund since the last annual report; and
- (c) an itemised list of —
 - (i) the causes and projects upon which money in the Fund was spent since the last annual report; and
 - (ii) the amount of money spent on each of the causes and projects provided under subparagraph (i); and
- (d) details regarding —
 - (i) which of the causes and projects provided under paragraph (c) enhance basic living needs or address socio-economic disadvantage experienced by Indigenous people; and
 - (ii) the total amount of Fund money spent on projects or causes that enhance basic living needs since the last annual report; and
 - (iii) the total amount of Fund money spent on projects or causes that address socio-economic disadvantage experienced by Indigenous people since the last annual report; and
 - (iv) what the total amounts provided under subparagraphs (ii) and (iii) are as a percentage of the total amount of money spent from the Fund since the last annual report; and
- (e) details regarding —
 - (i) which of the causes and projects provided under paragraph (c) benefit or protect the environment and which relate to the generation of renewable energy; and
 - (ii) the total amount of Fund money spent on projects or causes which benefit or protect the environment since the last annual report; and
 - (iii) the total amount of Fund money spent on projects or causes which relate to the generation of renewable energy since the last annual report; and
 - (iv) what the total amounts provided under subparagraphs (ii) and (iii) are as a percentage of the total amount of money spent from the Fund since the last annual report

Debate ensued.

Amendment - put and negatived.

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

Clause 11 agreed to.

The House having continued to sit until 12 midnight

Thursday, 26 November 2009

Debate continued.

Clause 12.

Debate ensued.

Hon Ken Travers moved -

Page 7, after line 10 — To insert —

- (ba) to provide advice and make recommendations on prioritization of proposals for expenditure under the subsidiary accounts specified in section 5(1); and

Debate ensued.

Amendment - put and negatived.

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

Clause 13.

Debate ensued.

Hon Ken Travers moved -

Page 7, line 17 — To insert after “commission” —

of a region that has been a significant generator of the State’s royalty income over the preceding three years

Debate ensued.

Amendment - put and negatived.

Hon Robin Chapple moved -

Page 7, line 19 — To delete “at least 3 but not more than 5 other people,” and insert —

- at least one expert in the area of regional health services, regional housing or regional education; and
- (c) at least one expert in the area of socio-economic disadvantage experienced by Indigenous people; and
- (d) at least one expert in the area of environmental protection or renewable energy generation; and
- (e) not more than 2 other people,

Debate ensued.

Amendment - put and negatived.

Debate ensued.

Hon Ken Travers moved -

Page 7, lines 24 and 25 — To delete the lines and insert —

- (3) The Minister must consult with the Leader of the Opposition on an appointment made under subsection 1(b).

Debate ensued.

Amendment - put and negatived.

Hon Robin Chapple moved -

Page 8, line 1 — To insert before “The Minister” —

Without limiting section 13(1),

Debate ensued.

Amendment - put and negatived.

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

Clauses 14 to 19 agreed to.

Clause 20.

Debate ensued.

Hon Robin Chapple moved -

Page 10, line 7 — To insert before “remuneration” —

reasonable

Debate ensued.

Amendment - put and negatived.

Question, That the Clause stand as printed - put and passed.

Clauses 21 to 23 agreed to.

Clause 24.

Debate ensued.

Hon Robin Chapple moved -

Page 11, line 2 — To insert after “pecuniary” —

or other

Page 11, line 9 — To insert after “pecuniary” —

or other

Debate ensued.

Amendments - put and negatived.

Debate ensued.

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

Clauses 25 to 32 agreed to.

New Clause 6A.

Hon Ken Travers moved -

Page 4, after line 13 — To insert —

6A. Country Local Government Fund

- (1) Each local authority wishing to apply for funding under the Country Local Government Fund must each year set out a strategic plan for the next four years for the provision of infrastructure and services by that authority. The format of the strategic plan will be established by regulation.
- (2) The strategic funds can only be allocated under the Country Local Government Fund to projects identified as part of a local authority's strategic plan.
- (3) Priority will be given to funding where a local authority can demonstrate that it has worked with other local governments within their region to develop a coordinated plan for the provision of infrastructure or services for which funding is sought.
- (4) Any funding formula used for the fund must not discourage local authorities from engaging in a rationalization of boundaries or services.
- (5) The Minister for Local Government is to be provided with the opportunity to comment on all proposed allocations under this fund before they are made.

Debate ensued.

Amendment - put and negatived.

New Clause 10A.

Hon Ken Travers moved -

Page 6, after line 2 — To insert —

10A. Report Prepared by Accountable Authority of Department

Without limiting the application of the *Financial Management Act 2006*, every six months a report is to be prepared by the accountable authority of the Department and is to be tabled in the Parliament, setting out in respect to the Fund and each of its subsidiary accounts, all expenditure that has been approved and all monies expended in the preceding six months.

Debate ensued.

Amendment - put and negatived.

Title agreed to.

The President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Parliamentary Secretary representing the Minister for Regional Development moved, That the Bill be now read a third time.

The President having reported that the Deputy Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as agreed to in Committee, and reported.

Question - put and passed.

Bill read a third time and passed.

16. Mines Safety and Inspection Amendment Bill 2009

The President reported the receipt of Message No. 73 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Mines and Petroleum moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Mines and Petroleum moved, That the Bill be now read a second time.

Debate stands adjourned.

17. Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009

The President reported the receipt of Message No. 74 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

Ordered - That the second reading of the Bill be made an Order of the Day for the next sitting.

18. Occupational Safety and Health Legislation Amendment Bill 2009

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 75

The Legislative Assembly acquaints the Legislative Council that it has agreed to the *Occupational Safety and Health Legislation Amendment Bill 2009* without amendment.

Ms L.L. Baker

Acting Speaker

Legislative Assembly Chamber

Perth, 25 November 2009

19. Road Traffic Legislation Amendment (Registration Labels) Bill 2009

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 76

The Legislative Assembly acquaints the Legislative Council that it has agreed to the *Road Traffic Legislation Amendment (Registration Labels) Bill 2009* without amendment.

Mrs L.M. Harvey

Acting Speaker

Legislative Assembly Chamber

Perth, 25 November 2009

20. Partial Revocation of State Forests Nos 4 and 65

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 77

The Legislative Assembly acquaints the Legislative Council that it has agreed to the following resolution -

“That in response to Legislative Council Message No. 55, the proposal for the partial revocation of State Forests Nos 4 and 65 laid on the Table of the Legislative Assembly on Tuesday, 10 November 2009 be carried out.”

Mrs L.M. Harvey

Acting Speaker

Legislative Assembly Chamber

Perth, 25 November 2009

21. Fisheries Adjustment Schemes Amendment Bill 2009

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 78

The Legislative Assembly acquaints the Legislative Council that it has agreed to the *Fisheries Adjustment Schemes Amendment Bill 2009* without amendment.

Ms L.L. Baker

Acting Speaker

Legislative Assembly Chamber

Perth, 25 November 2009

22. Fish Resources Management Amendment Bill 2009

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 81

The Legislative Assembly acquaints the Legislative Council that it has agreed to the *Fish Resources Management Amendment Bill 2009* without amendment.

Ms L.L. Baker

Acting Speaker

Legislative Assembly Chamber

Perth, 25 November 2009

23. Special Adjournment

The Leader of the House moved, without notice -

That the House at its rising adjourn until Thursday, 26 November 2009 at 10.00am.

Question - put and passed.

24. Adjournment

The Leader of the House moved, That the House do now adjourn.

Question - put and passed.

The House adjourned at 1.38am until Thursday, 26 November 2009 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Adele Farina and Hon Nigel Hallett.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council