

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 71

TUESDAY, 1 DECEMBER 2009

1. Meeting of Council

The Council assembled at 11.00am pursuant to order.

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

2. Waste Avoidance and Resource Recovery Amendment Bill 2009

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

The President left the Chair.

In Committee

(Hon Jon Ford in the Chair)

Clause 5.

Debate resumed on the amendment of Hon Robin Chapple as follows -

Page 3, after line 20 — To insert —

- (5) Subject to subsections (6), (7) and (8), the Minister may grant a full or partial exemption to the levy imposed under this section for residual waste from either a —
 - (a) specified Resource Recovery Facility or Materials Recovery Facility; or
 - (b) specified class of Resource Recovery Facility or Materials Recovery Facility,provided in all cases that the specified facility or class of facility has demonstrated either an ability or a credible commitment to further reduce the amount of residual waste sent to landfill from that specified facility or class of facility.
- (6) The Minister may grant a partial exemption under subsection (5) using any methodology, including by exempting a specified Resource Recovery Facility or Materials Recovery Facility, or specified class of Resource Recovery Facility, by reference to the percentage of waste diverted from landfill by that facility or class of facility.
- (7) The Minister may only grant an exemption under subsection (5) if that exemption includes as conditions the requirements that —
 - (a) an operator of a waste facility the subject of the exemption pays an amount, equal to the levy that would otherwise have been payable on the exempted residual waste, into an account specifically created for that purpose by that operator;

- (b) an account referred to in paragraph (a) must be named “Landfill Levy Exemption Waste Research and Infrastructure Investment Account”;
 - (c) an operator of a waste facility the subject of the exemption must only spend the money in the account referred to in paragraph (a) on research and infrastructure designed to reduce the amount of residual waste sent to landfill from that particular facility.
- (8) The Minister may revoke, in whole or in part, any exemption granted under subsection (5) for any reason including —
- (a) a specified facility or class of facility is no longer demonstrating an ability or a credible commitment to further reduce the amount of residual waste sent to landfill from that specified facility or class of facility; or
 - (b) an operator of a waste facility the subject of an exemption fails to comply or fails to provide evidence demonstrating compliance with any of the standard conditions applied to that facility under subsection (7).

Hon Robin Chapple, by leave, amended his amendment by deleting “specified” wherever it appears and inserting -

prescribed

Debate ensued.

Hon Sally Talbot moved to further amend the amendment by inserting at the end of paragraph (5) after “class of facility” the following -

including providing the Minister with a precise and detailed definition of “non-organic material” and an account of programs planned or in place for the recovery of plastic, glass, paper and other recoverable waste in line with contemporary best practice

Debate ensued.

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 Ljiljana Ravlich
 Hon Sally Talbot
 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 Helen Morton
 Hon Simon O'Brien
 Hon Ken Baston (*Teller*)

Amendment thus negatived.

Debate resumed on the amendment of Hon Robin Chapple as follows -

Page 3, after line 20 — To insert —

- (5) Subject to subsections (6), (7) and (8), the Minister may grant a full or partial exemption to the levy imposed under this section for residual waste from either a —
 - (a) prescribed Resource Recovery Facility or Materials Recovery Facility; or
 - (b) prescribed class of Resource Recovery Facility or Materials Recovery Facility,
 provided in all cases that the prescribed facility or class of facility has demonstrated either an ability or a credible commitment to further reduce the amount of residual waste sent to landfill from that prescribed facility or class of facility.
- (6) The Minister may grant a partial exemption under subsection (5) using any methodology, including by exempting a prescribed Resource Recovery Facility or Materials Recovery Facility, or prescribed class of Resource Recovery Facility, by reference to the percentage of waste diverted from landfill by that facility or class of facility.
- (7) The Minister may only grant an exemption under subsection (5) if that exemption includes as conditions the requirements that —
 - (a) an operator of a waste facility the subject of the exemption pays an amount, equal to the levy that would otherwise have been payable on the exempted residual waste, into an account specifically created for that purpose by that operator;
 - (b) an account referred to in paragraph (a) must be named “Landfill Levy Exemption Waste Research and Infrastructure Investment Account”;
 - (c) an operator of a waste facility the subject of the exemption must only spend the money in the account referred to in paragraph (a) on research and infrastructure designed to reduce the amount of residual waste sent to landfill from that particular facility.
- (8) The Minister may revoke, in whole or in part, any exemption granted under subsection (5) for any reason including —
 - (a) a prescribed facility or class of facility is no longer demonstrating an ability or a credible commitment to further reduce the amount of residual waste sent to landfill from that prescribed facility or class of facility; or
 - (b) an operator of a waste facility the subject of an exemption fails to comply or fails to provide evidence demonstrating compliance with any of the standard conditions applied to that facility under subsection (7).

Amendment - put.

The Committee divided.

Ayes (12)

Hon Matt Benson-Lidholm
Hon Robin Chapple
Hon Kate Doust
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Hon Col Holt
Hon Robyn McSweeney
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Ken Baston (*Teller*)

Amendment thus negatived.

Hon Sally Talbot moved -

Page 3, after line 20 — To insert —

- (5) Any monies paid to the operating account pursuant to paragraph (4) must only be applied for purposes that adhere to the Objects of this Act specified in section 5.
- (6) The Minister may grant a partial exemption to recycling enterprises (both public and private sector) which have demonstrated either an ability or a credible commitment to reduce the amount of residual waste sent to landfill. The partial exemption is to be calculated according to the proportion of material which is recycled, so that the levy is reduced by the same proportion as the amount of material which is recycled.

3. Message from His Excellency the Governor - Assent to Bills

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

26 November 2009 - Message No. 79	Act No.
Land Administration Amendment Bill 2009	32 of 2009
Valuation of Land Amendment (Assessed Value) Bill 2009	33 of 2009

4. Questions Without Notice

Questions without notice were taken.

The Minister for Transport tabled, and by leave incorporated into Hansard, documents in relation to counts of traffic on South West Highway, in response to a question without notice asked by Hon Matt Benson-Lidholm. (Tabled paper 1595).

The Leader of the House representing the Premier in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 1381 asked by Hon Ken Travers will be provided on 4 March 2010.

The Leader of the House representing the Minister for State Development in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 1395 asked by Hon Robin Chapple will be provided on 4 March 2010.

The Minister for Transport in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 1388 asked by Hon Ken Travers will be provided on 2 March 2010.

The Minister for Child Protection representing the Minister for Agriculture and Food; Forestry in accordance with Standing Order No. 138(d), advised that an answer to questions on notice Nos 1369 and 1392 asked by Hon Giz Watson will be provided on 2 March 2010.

The Minister for Child Protection representing Minister for Planning in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 1384 asked by Hon Ljiljana Ravlich will be provided on 3 March 2010.

The Minister for Environment in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 1393 asked by Hon Robin Chapple will be provided in due course.

The Parliamentary Secretary representing the Minister for Housing and Works in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 1401 asked by Hon Lynn MacLaren will be provided on 2 March 2010.

5. Waste Avoidance and Resource Recovery Amendment Bill 2009

The President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

The Minister for Environment moved, That progress be reported and leave asked to sit again at a later stage of this day's sitting.

Question - put and passed.

The President resumed the Chair.

The Chairman of Committees reported that the Committee had considered the Bill, made progress, and asked leave to sit again at a later stage of this day's sitting.

Ordered - That the Committee have leave to sit again at a later stage of this day's sitting.

6. Leave of Absence

Hon Ed Dermer, by leave, moved, without notice -

That leave of the House be granted to Hon Adele Farina for the next three sitting days due to personal business.

Question - put and passed.

7. Papers

The following Papers were, by leave, laid on the Table by -

Parliamentary Secretary representing the Treasurer

Budget Papers and Related Papers -

Quarterly Financial Results Report 2009-2010 (September 2009) 1594

Leader of the House

Documents -

Prohibited Behaviour Orders Bill 2009 - Draft Bill for Public Comment..... 1596

8. Order of Business

Ordered - That Order of the Day No. 1, Waste Avoidance and Resource Recovery Amendment Bill 2009, be resumed. (Leader of the House).

9. Waste Avoidance and Resource Recovery Amendment Bill 2009

The President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Clause 5.

Debate resumed on the amendment of Hon Sally Talbot as follows -

Page 3, after line 20 — To insert —

- (5) Any monies paid to the operating account pursuant to paragraph (4) must only be applied for purposes that adhere to the Objects of this Act specified in section 5.
- (6) The Minister may grant a partial exemption to recycling enterprises (both public and private sector) which have demonstrated either an ability or a credible commitment to reduce the amount of residual waste sent to landfill. The partial exemption is to be calculated according to the proportion of material which is recycled, so that the levy is reduced by the same proportion as the amount of material which is recycled.

Amendment - put.

The Committee divided.

Ayes (13)

Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Robin Chapple
Hon Kate Doust
Hon Sue Ellery
Hon Jon Ford
Hon Lynn MacLaren

Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Ken Travers
Hon Giz Watson
Hon Alison Xamon
Hon Ed Dermer (*Teller*)

Noes (18)

Hon Liz Behjat
Hon Jim Chown
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Hon Wendy Duncan
Hon Phil Edman
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 Ken Baston (*Teller*)

Amendment thus negatived.

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

Clause 6.

Hon Sally Talbot moved -

Page 3, after line 28 — To insert —

- (4) Any monies paid to the operating account pursuant to paragraph (3) must only be applied for purposes that adhere to the Objects of this Act specified in section 5.

Debate ensued.

Amendment - put and negatived.

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

Clause 7.

Debate ensued.

Hon Sally Talbot moved -

Page 4, lines 11 to 14 — To delete “such amount of the levy credited to the Department’s operating account under section 73(4) as is specified by the Minister.” and insert —

- (a) any levy paid: and
- (b) any amount paid by way of penalty under section 76.

Amendment - put and negatived.

Hon Sally Talbot moved -

Page 4, line 18 — To delete “25” and insert —

100

Page 4, line 22 — To delete “25” and insert —

100

Amendments - put.

The Committee divided.

Ayes (13)

Hon Matt Benson-Lidholm
 Hon Helen Bullock
 Hon Robin Chapple
 Hon Sue Ellery
 Hon Jock Ferguson
 Hon Jon Ford
 Hon Lynn MacLaren

Hon Ljiljanna Ravlich
 Hon Sally Talbot
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 Hon Col Holt
 Hon Robyn McSweeney
 Hon Michael Mischin
 Hon Norman Moore
 Hon Helen Morton
 Hon Simon O'Brien
 Hon Ken Baston (*Teller*)

Amendments thus negatived.

Hon Sally Talbot moved -

Page 4, line 21 — To insert after “31 December 2009” —

unless the Waste Authority is able to demonstrate to the Minister's satisfaction that it has fully costed plans to expend more than would be available under this formula

Page 4, line 23 — To insert after “for the financial year” —

unless the Waste Authority is able to demonstrate to the Minister's satisfaction that it has fully costed plans to expend more than would be available under this formula

Debate ensued.

Amendments - put and negatived.

Debate ensued.

Hon Sally Talbot moved -

Page 4, after line 23 — To insert —

- (c) where the forecast levy for a financial year and the actual amount of levy collected for a financial year differ, the higher amount is to be used to calculate the amount specified under subsection (3A).

Amendment - put.

The Committee divided.

Ayes (13)

Hon Matt Benson-Lidholm
 Hon Helen Bullock
 Hon Robin Chapple
 Hon Kate Doust
 Hon Sue Ellery
 Hon Jon Ford
 Hon Lynn MacLaren

Hon Ljiljanna Ravlich
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 Hon Col Holt
 Hon Robyn McSweeney
 Hon Michael Mischin
 Hon Norman Moore
 Hon Helen Morton
 Hon Simon O'Brien
 Hon Ken Baston (*Teller*)

Amendment thus negatived.

Hon Robin Chapple moved -

Page 4, lines 8 to 33 — To delete the lines.

Debate ensued.

Amendment - put and negatived.

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

Clause 8.

Hon Robin Chapple moved -

Page 5, line 17 — To insert after “waste” —

, other than —

- (i) any programmes that relate to the nuclear fuel cycle in any way, including programmes relating to uranium mining; and
- (ii) any programmes that relate to mining tailings

Debate ensued.

Amendment - put and negatived.

Hon Robin Chapple moved -

Page 5, line 20 — To insert after “schemes” —

(including container deposit schemes)

Amendment - put and negatived.

Hon Sally Talbot moved -

Page 5, after line 26 — To insert —

- (d) at least 50% of the moneys credited to the WARR Account each financial year are to be used for research and provision of approved MSW Resource Recovery Facilities.

- (2) Moneys held in the WARR Account are not to be applied -

Debate ensued.

Amendment - put and negatived.

Hon Robin Chapple moved -

Page 5, line 32 — To insert after “Authority” —

and reasonable reimbursement for the role of local governments, particularly enforcement activity that relates to illegal dumping

Debate ensued.

Amendment - put and negatived.

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

Clause 9.

Debate ensued.

Clause agreed to.

Clause 10.

Debate ensued.

Clause agreed to.

Clause 11 agreed to.

Clause 12.

Debate ensued.

Clause agreed to.

New Clause 7A.

Hon Robin Chapple moved -

Page 3, after line 29 — To insert —

7A. Section 78 amended

After section 78(2) insert:

- (3) Any amount paid by way of penalty under subsection (1) is to be credited to the WARR Account.

Debate ensued.

New clause negatived.

New Clause 13.

Hon Robin Chapple moved -

Page 7, after line 20 — To insert:

13. Expiry of Amendment Act

- (1) The Amendment Act expires on the second anniversary of the day on which it receives Royal Assent.
- (2) Expiry of the Amendment Act in accordance with section (1) does not affect the validity of anything done while the Amendment Act was in effect.

Debate ensued.

New Clause - put and negatived.

New Clause 13.

Hon Robin Chapple moved -

Page 7, after line 20 — To insert —

13. Review of Amendment Act

After section 99(2) to insert:

- (3) The Minister must review the impact of the *Waste Avoidance and Resource Recovery Amendment Act 2009* to determine whether —
 - (a) the policy objectives upon which that amendment Act was based remain valid; and
 - (b) the terms of that Amendment Act remain appropriate for securing those objectives,

as soon as is practicable after the second anniversary of the day on which that Amendment Act received Royal Assent.
- (4) The Minister must prepare and table in each House of Parliament a report based on the review set out in section (4), by no later than the date that is 12 months after the expiry of the period set out in section (4).

Debate ensued.

New Clause negatived.

Title agreed to.

The President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Minister for Environment 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.

Debate ensued.

Question - put.

The House divided.

Ayes (18)

Hon Liz Behjat
Hon Jim Chown
Hon Peter Collier
Hon Mia Davies
Hon Wendy Duncan
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 Ken Baston (*Teller*)

Noes (13)

Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Robin Chapple
Hon Kate Doust
Hon Jock Ferguson
Hon Jon Ford
Hon Lynn MacLaren

Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Ken Travers
Hon Giz Watson
Hon Alison Xamon
Hon Ed Dermer (*Teller*)

Question thus passed.

Bill read a third time and passed.

10. Special Adjournment

The Leader of the House moved, without notice -

That the House at its rising adjourn until a date and time to be fixed by the President.

Debate ensued.

Question - put and passed.

11. Adjournment

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

Question - put and passed.

The House adjourned at 6.04pm until a date and time to be fixed by Mr President.

Members present during the day's proceedings

Attendance: Present all Members except Hon Adele Farina and Hon Max Trenorden.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council