

WESTERN AUSTRALIA

# LEGISLATIVE ASSEMBLY

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## VOTES AND PROCEEDINGS

No. 105

FIRST SESSION OF THE THIRTY-SEVENTH PARLIAMENT

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THURSDAY, 21 SEPTEMBER 2006

### 1. Meeting of Assembly

The Assembly met at 9.00 a.m. pursuant to adjournment.

The Deputy Speaker took the Chair.

Prayers were read.

### 2. Petition

Australind Passenger Rail Service - Mr M.P. Murray presented a petition from 257 persons requesting that the Minister for Planning and Infrastructure ensure that the Australind passenger rail service is not reduced in any way but is upgraded and maintained as an important community service for people in the South West (P. 154).

### 3. Papers

The following papers were presented and ordered to lie upon the Table of the House -

By the Clerk -

Great Southern Development Commission - Annual Report 2005-2006 (1873).

Child Development Services, Western Australia - Future Directions for Western Australian  
Child Development Services, Report of the Review by the Health Reform Implementation  
Taskforce, July 2006 (1874).

### 4. Grievances

The Deputy Speaker called for grievances which were then made.

## **5. Joint Standing Committee on the Corruption and Crime Commission**

Mr J.N. Hyde, as Chairman, presented the following report which was ordered to lie upon the Table of the House -

Joint Standing Committee on the Corruption and Crime Commission - Annual Report 2005-2006, Report No. 12 (1875).

Mr J.N. Hyde spoke on the report.

## **6. Joint Standing Committee on Delegated Legislation**

Mr P.W. Andrews, as Chairman, presented the following report which was ordered to lie upon the Table of the House -

Joint Standing Committee on Delegated Legislation - Oaths, Affidavits and Statutory Declarations (Act Amendment) Regulations 2006, Report No. 19 (1876).

Mr P.W. Andrews spoke on the report.

## **7. Financial Management Bill 2006**

The Order of the Day for the third reading of the bill having been read, the Treasurer moved, That the bill be now read a third time.

Question put and passed.

Bill read a third time and forwarded to the Legislative Council for concurrence.

## **8. Auditor General Bill 2006**

The Order of the Day for the further consideration in detail of the bill was read.

### *CONSIDERATION IN DETAIL*

Clauses 16 to 24 agreed to.

Clause 25.

Mr M.W. Trenorden moved –

Page 15, lines 8 to 11 – To delete the lines.

Amendment put and negatived.

Clause agreed to.

Clauses 26 to 35 agreed to.

Clause 36.

Mr T.R. Buswell moved –

Page 21, line 9 – To delete “but may report it to the Public Accounts Committee” and substitute –  
“

and shall report it to the Public Accounts Committee, who shall determine *in-camera* whether the information shall be included in a report to be tabled in the Parliament

”.

Amendment put and negatived.

Clause agreed to.

Clauses 37 to 48 agreed to.

Schedule 1.

The Treasurer moved –

Page 28, after line 6 – To insert –

“

- (2) Before applications are sought for appointment to the office of Auditor General, the Minister must consult with the Public Accounts Committee as to the appropriate criteria for selection for appointment.

”

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*Paper*

The following paper was presented and ordered to lie upon the Table of the House -

By the Treasurer -

Auditor General Bill 2006 - Clause 1(2) of Schedule 1 to *Auditor General Bill 2006* – Advice from State Solicitor’s Office on Appointment of Auditor General – Meaning of Requirement to “Consult” (1877).

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Debate interrupted by the Chair and adjourned until a later stage of the sitting.

## **9. Members’ Statements**

The Acting Speaker called for members’ statements which were then made.

## **10. Questions**

Questions without notice were taken.

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*Paper*

The following paper was presented and ordered to lie upon the Table of the House -

By the Minister for Housing and Works -

Buying Land or Property Off-The-Plan - Fact Sheet by the Department of Consumer and Employment Protection when considering buying land or property off-the-plan (1878).

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Questions on notice Nos 1507 and 1508 were asked.

Questions on notice Nos 1346, 1410, 1412, 1418 to 1424, 1428, 1437, 1443, 1448 and 1453 were answered.

## **11. Notice of Motion after the Time Prescribed**

Dr J.M. Woollard was granted leave to give a late notice of motion.

## **12. Additional Information under Standing Order No. 82A**

In accordance with Standing Order No. 82A, the Minister for Planning and Infrastructure provided additional information relating to Question without Notice No. 639 regarding Roe Highway Stage 7.

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*Paper*

The following paper was presented and ordered to lie upon the Table of the House -  
By the Minister for Planning and Infrastructure -

Question Without Notice No. 639 - Roe Highway Stage 7 (1879).

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**13. Variation to the Order of Business**

Ordered, That Government Business Orders of the Day Nos 3, 4 and 5 be next considered.

**14. Biosecurity and Agriculture Management Bill 2006**

**Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Bill 2006**

**Biosecurity and Agriculture Management Rates and Charges Bill 2006**

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

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*Cognate Debate*

Leave was granted to debate the Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Bill 2006 and the Biosecurity and Agriculture Management Rates and Charges Bill 2006 in conjunction with the Biosecurity and Agriculture Management Bill 2006.

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Debate resumed.

The Parliamentary Secretary representing the Minister for Agriculture and Food moved, That the debate be adjourned.

Question put and passed.

**15. Commissioner for Children and Young People Bill 2005**

Message No. 106 dated 20 September 2006 from the Legislative Council was reported as follows -

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Commissioner for Children and Young People Bill 2005* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

*Schedule indicating the amendments made by the Legislative Council in the Commissioner for Children and Young People Bill 2005*

**No. 1**

Clause 3, page 2, line 11 — To insert after “children” —

“ and young people ”.

**No. 2**

Clause 4, page 2, lines 16 to 22 — To delete the lines and insert instead —

“

- (a) children and young people are entitled to live in a caring and nurturing environment and to be protected from harm and exploitation;

- (b) the contributions made by children and young people to the community should be recognised for their value and merit;
- (c) the views of children and young people on all matters affecting them should be given serious consideration and taken into account;
- (d) parents, families and communities have the primary role in safeguarding and promoting the wellbeing of their children and young people and should be supported in carrying out their role.

”.

**No. 3**

Clause 5, page 2, line 27 — To delete the line and insert instead —

“

**“children and young people”** means people under 18 years of age, and **“child or young person”** has a corresponding meaning;

”.

**No. 4**

Clause 5, page 3, lines 14 to 19 — To delete all words after the word “agency”.

**No. 5**

Clause 5, page 3, after line 25 — To insert —

“

**“Standing Committee”** means the committee referred to in section 50.

”.

**No. 6**

Clause 5, page 3, line 26 — To insert after “children” —

“ and young people ”.

**No. 7**

Clause 5, page 3, line 27 — To insert after “children” —

“ and young people ”.

**No. 8**

Clause 7, page 4, lines 12 to 14 — To delete the lines and insert instead —

“

**7. Appointment and Selection of Commissioner**

- (1) A person is to be appointed to the office of Commissioner for Children and Young People by the Governor by commission under the Public Seal of the State on the recommendation of the Premier.
- (2) Before making a recommendation under subsection (1) the Premier shall —
  - (a) advertise throughout Australia for expressions of interest from people with professional qualifications and substantive experience in matters affecting children;

- (b) consult with the leader of any political party with at least 2 members in either House.

- (3) Children and young people must be involved in the selection process.

”.

**No. 9**

Clause 11, page 5, lines 16 to 28 — To delete the lines.

**No. 10**

Clause 13, page 6, line 26 — To delete “Minister” and insert instead —

“ Governor ”.

**No. 11**

Clause 13, page 7, line 3 — To delete “Minister” and insert instead —

“ Governor ”.

**No. 12**

Clause 18, page 9, line 4 — To insert after “children” —

“ and young people ”.

**No. 13**

Clause 18, page 9, line 5 — To insert after “children” —

“ and young people ”.

**No. 14**

Clause 18, page 9, line 8 — To insert after “children” —

“ and young people ”.

**No. 15**

Clause 18, page 9, line 10 — To insert after “children” —

“ and young people ”.

**No. 16**

Clause 18, page 9, lines 11 and 12 — To delete “and to monitor the trends in complaints made by and on behalf of children”.

**No. 17**

Clause 18, page 9, after line 12 — To insert —

“

- (d) to monitor the way in which a government agency investigates or otherwise deals with a complaint made by a child or young person and the outcome of the complaint;
- (e) to monitor the trends in complaints made by children and young people to government agencies;

”.

**No. 18**

Clause 18, page 9, line 15 — To insert after “children” —

“ and young people ”.

**No. 19**

Clause 18, page 9, line 18 — To insert after “children” —

“ and young people ”.

**No. 20**

Clause 18, page 9, line 20 — To insert after “children” —

“ and young people ”.

**No. 21**

Clause 18, page 9, line 23 — To insert after “children” —

“ and young people ”.

**No. 22**

Clause 18, page 9, line 26 — To insert after “Minister” the first time it occurs —

“ or the Standing Committee ”.

**No. 23**

Clause 18, page 9, line 27 — To insert after “children” —

“ and young people ”.

**No. 24**

Clause 18, page 9, line 31 — To insert after “children” —

“ and young people ”.

**No. 25**

Clause 18, page 9, line 32 — To insert after “Minister” —

“ or the Standing Committee ”.

**No. 26**

Clause 18, page 10, after line 3 — To insert —

“

- (l) to consult with children and young people from a broad range of socio-economic backgrounds and age groups throughout Western Australia each year;
- (m) to do anything which the Commissioner considers is necessary or convenient to further the principle in section 3 or any of the guiding principles in section 4.

”.

**No. 27**

Clause 19, page 10, line 9 — To insert after “children” —

“ and young people ”.

**No. 28**

Clause 19, page 10, line 10 — To insert after “children” —

“ and young people ”.

**No. 29**

Clause 19, page 10, line 11 — To insert after “children” —

“ and young people ”.

**No. 30**

Clause 19, page 10, line 15 — To insert after “children” —

“ and young people ”.

**No. 31**

Clause 19, page 10, after line 16 — To insert —

“

- (d) develop guidelines for government agencies and non-government agencies regarding the participation by children and young people in decisions which affect them;

”.

**No. 32**

Clause 19, page 10, line 17 — To delete “as far as practicable,”.

**No. 33**

Clause 19, page 10, line 19 — To insert after “children” —

“ and young people ”.

**No. 34**

Clause 19, page 10, line 20 — To delete “children’s participation” and insert instead —

“ the participation of children and young people ”.

**No. 35**

Clause 19, page 10, line 27 — To insert after “**children**” —

“ **and young people** ”.

**No. 36**

Clause 19, page 10, line 27 — To insert after “children” —

“ and young people ”.



**No. 37**

Clause 19, page 10, line 29 — To insert after “**children**” —

“ **and young people** ”.

**No. 38**

Clause 19, page 10, line 29 — To insert after “children” —

“ and young people ”.

**No. 39**

Clause 21, page 11, line 21 — To delete “law” and insert instead —

“ prescribed written enactment ”.

**No. 40**

Clause 22, page 12, line 4 — To insert after “child” —

“ or young person ”.

**No. 41**

Clause 22, page 12, line 6 — To delete “a child’s” and insert instead —

“ young person or his or her ”.

**No. 42**

Clause 22, page 12, line 9 — To delete “a child’s” and insert instead —

“ young person or his or her ”.

**No. 43**

Clause 22, page 12, line 12 — To insert after “children” —

“ and young people ”.

**No. 44**

Clause 22, page 12, line 13 — To insert after “child” —

“ or young person ”.

**No. 45**

Clause 25, page 13, line 14 — To delete “exceptional circumstances” and insert instead —

“ reasonable grounds ”.

**No. 46**

Clause 26, page 13, line 26 to page 14, line 13 - To delete the lines and insert instead —

“

(1) The Minister may request the Commissioner —

(a) to furnish information in the possession of the Commissioner to the Minister; or

- (b) to give the Minister access to such information.
- (2) The Commissioner must comply with a request under subsection (1) unless, in the Commissioner's opinion, there are reasonable grounds for not complying with the request.
- (3) If the Commissioner decides to comply with a request under subsection (1), the Commissioner must make the Commissioner's staff and facilities available to the Minister for the purposes of obtaining the information and furnishing it to the Minister.

”.

**No. 47**

Clause 26, page 14, lines 15 to 17 — To delete the lines.

**No. 48**

Clause 28, page 15, line 5 — To insert after “children” —

“ and young people ”.

**No. 49**

Clause 28, page 15, lines 6 and 7 — To delete the lines and insert instead —

“

- (2) Before conducting a special inquiry the Commissioner must inform the Minister in writing of his or her intention to do so.

”.

**No. 50**

Clause 30, page 16, lines 4 and 5 — To delete “children's participation in, and” and insert instead —

“ the participation of children and young people in, and their ”.

**No. 51**

Clause 35, page 17, line 28 to page 18, line 2 — To delete the line and insert instead —

“

- (1) Subject to subsection (2), nothing in this Part prevents a person from refusing to give an answer or produce a document because the answer would relate to, or the document contains, information in respect of which the person claims legal professional privilege.
- (2) A government agency, or an employee or officer of a government agency, may not refuse to answer a question or produce a document on the ground that the answer or the document is subject to legal professional privilege.
- (3) If a government agency, or an employee or officer of a government agency, answers a question or produces a document which is claimed to be subject to legal professional privilege the Commissioner may not include the answer or document or the substance of the answer or document, in any report to Parliament but may report the answer or document confidentially to the Standing Committee.
- (4) If the Commissioner reports an answer or document confidentially to the Standing Committee under subsection (3) the Standing Committee must consider in private session whether the answer or question should be

reported to Parliament, and, if the Standing Committee considers it appropriate, the Standing Committee may report the answer or document to the Parliament.

”.

**No. 52**

Clause 45, page 21, line 5 — To insert after “children” —

“ and young people ”.

**No. 53**

Clause 47, page 21, line 15 — To delete “require” and insert instead —

“ request ”.

**No. 54**

Clause 47, page 21, lines 16 and 17 — To delete “, and the Commissioner must comply with the requirement”.

**No. 55**

Clause 47, page 21, lines 18 to 22 — To delete the lines and insert instead —

“

- (4) The Commissioner is not required to —
  - (a) undertake consultation in response to a request under subsection (3); or
  - (b) make changes to a draft report as a result of any comments issued under subsection (2) or consultation undertaken in response to a request under subsection (3).

”.

**No. 56**

Clause 49, page 22, lines 7 to 9 — To delete “that, to the extent the Commissioner considers appropriate, is suitable for children” and insert instead —

“

suitable for children and young people unless the Commissioner considers that it is not appropriate to do so

”.

**No. 57**

Clause 49, page 22, after line 12 — To insert —

“

- (2) The version referred to in subsection (1)(a) may consist of the whole report or such parts of the report as the Commissioner considers appropriate.

”.

**No. 58**

Clause 50, page 23, lines 3 to 14 — To delete the lines and insert instead —

“

- (1) Subject to subsection (2), the Commissioner may establish advisory committees and reference groups to assist in the performance of the Commissioner’s functions.

- (2) The Commissioner must establish advisory committees consisting of children and young people, who the Commissioner considers are from a broad range of socio-economic and cultural backgrounds and age groups, to assist in the performance of the Commissioner's functions. These committees should be established in regional areas as well as the metropolitan area.
- (3) The membership of advisory committees and reference groups should include representatives of non-government agencies concerned with the rights, interests and well being of children.
- (4) The Commissioner may discharge, alter or reconstitute an advisory committee.
- (5) Subject to subsection (2), an advisory committee is to consist of such people as the Commissioner determines.

”.

**No. 59**

Clause 51, page 23, lines 20 to 23 — To delete “, relevant to children, in one or more of the fields of health, education, child protection, child advocacy, child development, disabilities, law, employment, sport and recreation, and culture and arts.” and insert instead —

“

in a field that the Commissioner considers relevant to the well being of children and young people.

”.

**No. 60**

Clause 51, page 23, lines 24 to 26 — To delete the lines.

**No. 61**

Clause 52, page 23, line 28 — To delete “(a) and (b)”.

**No. 62**

Clause 57, page 26, line 1 — To insert after “Act” —

“ , the *Public Interest Disclosure Act 2003* ”.

**No. 63**

Clause 58, page 26, line 19 — To delete “or 48”.

**No. 64**

Clause 58, page 26, line 23 — To delete “or the Commissioner, as the case requires,”.

**No. 65**

Clause 58, page 26, after line 24 — To insert —

“

- (2) If —
  - (a) at the commencement of a period referred to in section 48(1) in respect of a document a House of Parliament is not sitting; and
  - (b) the Commissioner is of the opinion that that House will not sit during that period,
 the Commissioner must transmit a copy of the document to the Clerk of that House.

”.

**No. 66**

New Clause 8, page 4, after line 14 — To insert the following new clause —

“

**8. Removal or suspension of Commissioner**

- (1) The Commissioner may, at any time, be suspended or removed from his office by the Governor on addresses from both Houses of Parliament.
- (2) Where the Governor is satisfied that the Commissioner —
  - (a) is incapable of properly performing the duties of his office;
  - (b) has shown himself incompetent properly to perform, or has neglected, those duties;
  - (c) has applied to take, or has taken, advantage of any law relating to bankruptcy, or has compounded, or entered into any arrangement, with his creditors; or
  - (d) has been guilty of misconduct,
 he may suspend the Commissioner from his office.
- (3) When the Commissioner has been suspended from his office under subsection (2) he shall be restored to office unless —
  - (a) a statement of the grounds of his suspension is laid before each House of Parliament during the 7 sitting days of that House following the suspension; and
  - (b) each House of Parliament, during the session in which the statement is so laid, and within 30 sitting days of that statement being so laid, passes an address praying for his removal.

”.

**No. 67**

New Clause 55, page 25, after line 1 — To insert the following new clause —

“

**55. Recommendations by the Standing Committee**

In the determination of the budget for the Commissioner for a financial year regard is to be had to any recommendation as to that budget made to the Treasurer by the Standing Committee.

”.

**No. 68**

New Part 7, page 22, after line 12 — To insert the following new Part —

“

**Part 7 — Standing Committee**

**50. Standing committee of Houses of Parliament**

- (1) The Houses of Parliament are to establish a joint standing committee comprising an equal number of members appointed by each House.

- (2) The functions and powers of the Standing Committee are determined by agreement between the Houses and are not justiciable.

”.

Ordered, That consideration in detail of Legislative Council message No. 106 be made an Order of the Day for the next sitting of the Assembly.

**16. Speaker's Statement - Resignation of Member from Education and Health Standing Committee**

The Acting Speaker advised members that the Speaker had received today Mr J.N. Hyde's resignation as a member of the Education and Health Standing Committee. She noted that Mr J.N. Hyde was appointed as an additional member to this Committee in May last year, and as such his resignation did not create a vacancy in the Committee's membership.

**17. Adjournment**

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

Question put and passed.

The Assembly adjourned accordingly, at 5.16 p.m. until Tuesday, 26 September 2006 at 2.00 p.m.

*Members present during any part of the day's proceedings* - All the members except Mr J.B. D'Orazio, Mr B.J. Grylls, Ms S.M. McHale, Ms M.M. Quirk, Mr T.K. Waldron, Ms S.E. Walker and Mr G.A. Woodhams.

**PETER J. McHUGH**  
Clerk of the Legislative Assembly

**HON. FRED RIEBELING**  
Speaker of the Legislative Assembly