

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 107

WEDNESDAY, 3 DECEMBER 2014

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. Paper

The following Paper was laid on the Table by —

Leader of the House

Reports -

Consultants Engaged by the Government (for the six months ended
31 December 2013)..... 2381

3. Special Adjournment

The Leader of the House moved, without notice —

That the House at its rising adjourn until Tuesday, 17 February 2015 at 2.00pm.

The motion requiring the concurrence of an absolute majority.

Question — put.

The President having counted the Council, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

4. Order of Business

Ordered — That Orders of the Day Nos 2, *City of Fremantle Alfresco Dining Local Law 2014 — Disallowance*, 4, *Shire of Dardanup Keeping and Control of Cats Local Law 2014 — Disallowance*, and 5, *School Education Amendment Regulations 2014 — Disallowance* be taken after Order of the Day No. 14, *Taxation Legislation Amendment Bill 2014*. (Leader of the House).

5. City of Greater Geraldton Animals, Environment and Nuisance Local Law 2014 — Disallowance

The Order of the Day having been read for the motion moved *pro forma* by Hon Robin Chapple, as follows —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *City of Greater Geraldton Animals, Environment and Nuisance Local Law 2014* published in the *Gazette* on 13 May 2014 and tabled in the Council on 17 June 2014 under the *Local Government Act 1995*, be and is hereby disallowed.

Hon Robin Chapple moved, without notice, to amend the motion as follows —
To insert after “Delegated Legislation,” —

Part 2 and Items 1 to 22 in Schedule 1 of

Amendment — put and passed.

Debate ensued.

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

6. Shire of Dardanup Dogs Local Law 2014 — Disallowance — Discharge from Notice Paper

The Order of the Day having been called, Hon Robin Chapple moved, without notice —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation ,
Order of the Day No. 3, *Shire of Dardanup Dogs Local Law 2014 — Disallowance*, be
discharged from the Notice Paper.

Question — put and passed.

7. Taxation Legislation Amendment Bill 2014

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.

The Acting President left the Chair.

In Committee

(Hon Adele Farina in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 3 agreed to.

Clause 4.

The Leader of the House representing the Minister for Finance moved —

Page 3, line 24 — To delete “*trade union*” and insert —

industrial association

Debate ensued.

Amendment — put and passed.

The Leader of the House representing the Minister for Finance moved —

Page 3, line 26 — To delete “53;” and insert —

53 or 54;

Amendment — put and passed.

The Leader of the House representing the Minister for Finance moved —

Page 3, line 27 — To delete “employees” and insert —

employees, or an association of employers,

Amendment — put and passed.

The Leader of the House representing the Minister for Finance moved —

Page 4, after line 2 — To insert —

- (ca) an association of employers registered or recognised as such (however described) under the law of another State or a Territory;

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 5.

The Leader of the House representing the Minister for Finance moved —

Page 4, line 29 — To delete “trust.” and insert —

trust, unless —

- (i) the trust is a discretionary trust; and
- (ii) the Commissioner decides in a particular case that it would be inequitable for the person to be treated as related to the relevant body.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 6.

The Leader of the House representing the Minister for Finance moved —

Page 5, line 8 — To delete the line and insert —

- (b) an industrial association;

Amendment — put and passed.

Hon Darren West moved —

Page 5, line 11 — To delete “or (e),” and insert —

, (e) or an agricultural association, a growers’ association or an agricultural cooperative,

Point of Order

Hon Jim Chown raised the following Point of Order —

It is my belief that Hon Darren West is a shareholder in Co-operative Bulk Handling Ltd and has not declared that interest in this Chamber in regard to this amendment and, as such, has an undeclared conflict of interest in moving this amendment. I would like some direction on the appropriate way forward.

Chair’s Ruling

The Chair ruled as follows —

Members, in relation to that point of order, the only Standing Order that I am able to locate is Standing Order 165 in relation to a pecuniary interest and activities on committees. No Standing Order is relevant to the conduct of the Chamber. The honourable Member is of course entitled to declare an interest at any time, but that will not disqualify him from participating in the consideration of and debate on the Bill.

Debate resumed.

Amendment — put.

The Committee divided.

Ayes (8)

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

Hon Amber-Jade Sanderson
 Hon Ken Travers
 Hon Darren West
 Hon Samantha Rowe (*Teller*)

Noes (19)

Hon Ken Baston
 Hon Liz Behjat
 Hon Paul Brown
 Hon Jim Chown
 Hon Peter Collier
 Hon Brian Ellis
 Hon Donna Faragher
 Hon Nick Goiran
 Hon Dave Grills
 Hon Nigel Hallett

Hon Alyssa Hayden
 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*)

Amendment thus negatived.

The Leader of the House representing the Minister for Finance moved —

Page 5, lines 12 to 16 — To delete the lines and insert —

trade, industry or commerce, unless the main purposes of the body are charitable purposes that fall within the first 3 categories (being relief of poverty, advancement of education and advancement of religion) identified by Lord Macnaghten in *Commissioners for Special Purposes of Income Tax v Pemsel* [1891] AC 531 as developed by the common law of Australia from time to time;

Amendment — put and passed.

Hon Ken Travers moved —

Page 5, lines 17 and 18 — To delete the lines.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (10)

Hon Alanna Clohesy
 Hon Stephen Dawson
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina

Hon Ljiljanna Ravlich
 Hon Amber-Jade Sanderson
 Hon Ken Travers
 Hon Darren West
 Hon Samantha Rowe (*Teller*)

Noes (19)

Hon Ken Baston
 Hon Liz Behjat
 Hon Paul Brown
 Hon Jim Chown
 Hon Peter Collier
 Hon Brian Ellis
 Hon Donna Faragher
 Hon Nick Goiran
 Hon Dave Grills
 Hon Nigel Hallett

Hon Alyssa Hayden
 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*)

Amendment thus negated.

The Leader of the House representing the Minister for Finance moved —

Page 7, after line 28 — To insert —

(3A) The Minister must —

- (a) provide written reasons to the applicant for a decision in relation to an application under section 96B; and
- (b) provide written reasons for a decision to amend or revoke a beneficial body determination to the body in respect of which the determination is made.

Debate ensued.

Amendment — put and passed.

Hon Ken Travers moved —

Page 9, after line 5 — To insert —

96D. Guidelines about the taxation exemption of charities, issue of

- (1) The Minister shall issue guidelines relating to matters which the Minister may take into consideration when exercising the ministerial discretion to reconsider the taxation of charities.
- (2) The Minister may at any time amend or revoke guidelines.
- (3) Guidelines must be published in the *Gazette* within 14 days of being issued.

Debate ensued.

Amendment — put and negated.

Clause, as amended, agreed to.

Clauses 7 and 8 agreed to.

Clause 9.

The Leader of the House representing the Minister for Finance moved —

Page 11, line 8 — To delete the line and insert —

- (b) an industrial association;

Debate ensued.

Amendment — put and passed.

Hon Darren West moved —

Page 11, line 11 — To delete “or (e),” and insert —

, (e) or an agricultural association, a growers’ association or an agricultural cooperative,

Amendment — put and negatived.

The Leader of the House representing the Minister for Finance moved —

Page 11, lines 12 to 16 — To delete the lines and insert —

trade, industry or commerce, unless the main purposes of the body are charitable purposes that fall within the first 3 categories (being relief of poverty, advancement of education and advancement of religion) identified by Lord Macnaghten in *Commissioners for Special Purposes of Income Tax v Pemsel* [1891] AC 531 as developed by the common law of Australia from time to time;

Amendment — put and passed.

The Leader of the House representing the Minister for Finance moved —

Page 13, after line 17 — To insert —

(3A) The Minister must —

- (a) provide written reasons to the applicant for a decision in relation to an application under section 38AB; and
- (b) provide written reasons for a decision to amend or revoke a beneficial body determination to the body in respect of which the determination is made.

Amendment — put and passed.

8. Questions Without Notice

Questions without notice were taken.

The Minister for Fisheries tabled documents in relation to exemptions made enabling the deployment of shark capture gear, in response to a question without notice asked by Hon Lynn MacLaren. (Tabled Paper 2382).

The Parliamentary Secretary representing the Minister for Health tabled documents in relation to details of Christmas and New Year shut down arrangements for metropolitan public hospital clinical services and elective surgery theatres, in response to a question without notice asked by Hon Amber-Jade Sanderson. (Tabled Paper 2383).

The Minister for Mental Health tabled, and by leave incorporated into Hansard, documents in relation to staffing structures for positions at Hawthorn House, in response to a question without notice asked by Hon Stephen Dawson. (Tabled Paper 2384).

The Parliamentary Secretary representing the Minister for Health, by leave incorporated into Hansard, information in relation to staffing details at St John Ambulance in Bunbury, in response to a question without notice asked by Hon Adele Farina.

The Parliamentary Secretary representing the Minister for Transport tabled documents in relation to a report on improving Perth’s wheelchair accessible taxi service, in response to a question without notice asked by Hon Ken Travers. (Tabled Paper 2385).

The Minister for Aboriginal Affairs, by leave incorporated into Hansard, information in relation to remote Aboriginal communities located in Western Australia, in response to a question without notice asked by Hon Stephen Dawson.

The Minister for Education tabled documents in relation to staff employed at each school in the South West electoral district for semester 2 of 2014, in response to question on notice No. 1805 asked by Hon Adele Farina. (Tabled Paper 2386).

The Minister for Education tabled documents in relation to demountable classrooms in each school in the South West region, in response to question on notice No. 1848 asked by Hon Adele Farina. (Tabled Paper 2387).

The Minister for Education tabled documents in relation to projected student enrolment numbers from kindergarten to year 12 for 2015, 2016 and 2017, in response to question on notice No. 2013 asked by Hon Sue Ellery. (Tabled Paper 2388).

The Minister for Mental Health, in accordance with Standing Order No. 108(2), advised that an answer to question on notice No. 1814 asked by Hon Adele Farina will be provided on 17 February 2014.

The Minister for Child Protection tabled documents in relation to applicants to the Hardship Utility Grant Scheme in the South West region in 2012, 2013 and 2014 to date, in response to question on notice No. 1841 asked by Hon Adele Farina. (Tabled Paper 2389).

The Minister for Mental Health tabled documents in relation to Mental Health Commission funded Non-Government organisations in the South West, Warren, Blackwood and Vasse region in 2014–15, in response to question on notice No. 2026 asked by Hon Adele Farina. (Tabled Paper 2390).

The Minister for Mental Health representing the Minister for Community Services tabled documents in relation to Country High Schools Hostel Authority Redress Scheme details, in response to question on notice No. 2146 asked by Hon Stephen Dawson. (Tabled Paper 2391).

The Attorney General representing the Minister for Emergency Services tabled documents in relation to South West fire brigades yet to receive radiant heat shields, in response to question on notice No. 1909 asked by Hon Adele Farina. (Tabled Paper 2392).

The Parliamentary Secretary representing the Minister for Transport tabled documents in relation to contract details in relation to the Forrestfield – Airport Rail Link, in response to question on notice No. 1759 asked by Hon Ken Travers. (Tabled Paper 2393).

The Parliamentary Secretary representing the Minister for Transport tabled documents in relation to fare paying boardings in 2013–2014, in response to question on notice No. 1835 asked by Hon Ken Travers. (Tabled Paper 2394).

The Parliamentary Secretary representing the Minister for Health tabled documents in relation to School Dental Clinic Scheme details for the South West region for 2011, 2012, 2013 and 2014, in response to question on notice No. 1858 asked by Hon Adele Farina. (Tabled Paper 2395).

The Parliamentary Secretary representing the Minister for Health tabled documents in relation to Bunbury and Busselton dental clinic details as at 1 July of 2011, 2012, 2013 and 2014, in response to question on notice No. 1864 asked by Hon Adele Farina. (Tabled Paper 2396).

The Parliamentary Secretary representing the Minister for Health tabled documents in relation to emergency department attendances at each hospital in the South West region in 2011, 2012, 2013 and 2014, in response to question on notice No. 1865 asked by Hon Adele Farina. (Tabled Paper 2397).

9. Message from Her Excellency the Governor — Assent to Bills

The President reported the receipt of a Message from Her Excellency the Governor assenting to the following Bills —

3 December 2014 — Message No. 30	Act No.
Custodial Legislation (Officers Discipline) Amendment Bill 2013	29 of 2014
Petroleum Titles (Browse Basin) Bill 2014	30 of 2014
Criminal Investigation Amendment Bill 2014	31 of 2014
Statutes (Repeals) Bill 2013	32 of 2014
Mines Safety and Inspection Amendment Bill 2014	33 of 2014
Child Support (Adoption of Laws) Amendment Bill 2014	34 of 2014

10. Taxation Legislation Amendment Bill 2014

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

The President left the Chair.

In Committee

(Hon Adele Farina in the Chair)

Clause 9.

Debate resumed.

Clause, as amended, agreed to.

Clause 10 agreed to.

Clause 11.

The Leader of the House representing the Minister for Finance moved —

Page 17, line 20 — To delete “*trade union*” and insert —

industrial association

Amendment — put and passed.

The Leader of the House representing the Minister for Finance moved —

Page 17, line 22 — To delete “53;” and insert —

53 or 54;

Amendment — put and passed.

The Leader of the House representing the Minister for Finance moved —

Page 17, line 23 — To delete “employees” and insert —

employees, or an association of employers,

Amendment — put and passed.

The Leader of the House representing the Minister for Finance moved —

Page 17, after line 29 — To insert —

- (ca) an association of employers registered or recognised as such
(however described) under the law of another State or a Territory;

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 12 and 13 agreed to.

Clause 14.

The Leader of the House representing the Minister for Finance moved —

Page 19, line 29 — To delete the line and insert —

(b) an industrial association;

Amendment — put and passed.

Hon Darren West moved —

Page 20, line 2 — To delete “or (e),” and insert —

, (e) or an agricultural association, a growers’ association or an agricultural cooperative,

Amendment — put and negatived.

The Leader of the House representing the Minister for Finance moved —

Page 20, lines 3 to 7 — To delete the lines and insert —

trade, industry or commerce, unless the main purposes of the body are charitable purposes that fall within the first 3 categories (being relief of poverty, advancement of education and advancement of religion) identified by Lord Macnaghten in *Commissioners for Special Purposes of Income Tax v Pemsel* [1891] AC 531 as developed by the common law of Australia from time to time;

Amendment — put and passed.

The Leader of the House representing the Minister for Finance moved —

Page 22, after line 9 — To insert —

(3A) The Minister must —

- (a) provide written reasons to the applicant for a decision in relation to an application under section 42B; and
- (b) provide written reasons for a decision to amend or revoke a beneficial body determination to the body in respect of which the determination is made.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 15 agreed to.

Clause 16.

The Leader of the House representing the Minister for Finance moved —

Page 27, line 11 — To delete “*trade union*” and insert —

industrial association

Amendment — put and passed.

The Leader of the House representing the Minister for Finance moved —
Page 27, line 13 — To delete “53;” and insert —

53 or 54;

Amendment — put and passed.

The Leader of the House representing the Minister for Finance moved —
Page 27, line 14 — To delete “employees” and insert —

employees, or an association of employers,

Amendment — put and passed.

The Leader of the House representing the Minister for Finance moved —
Page 27, after line 20 — To insert —

- (ca) an association of employers registered or recognised as such
(however described) under the law of another State or a Territory;

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 17 to 21 agreed to.

Title agreed to.

The President resumed the Chair.

Bill reported with amendments.

Pursuant to order, suspending standing orders so as to enable the passage of the Bill through all stages, the Leader of the House representing the Minister for Finance moved, That the report be adopted.

Question — put and passed.

The Leader of the House representing the Minister for Finance moved, That the Bill be read a third time.

The President announced that the Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Question — put and passed.

Bill read a third time and passed.

11. Members' Statements

Statements were taken.

12. Adjournment

The Council adjourned at 6.10pm until Tuesday, 17 February 2015 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Sally Talbot.

NIGEL PRATT
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council