

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 199

WEDNESDAY, 21 MARCH 2012

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. Petition

Hon Lynn MacLaren presented a petition from 51 petitioners requesting the Legislative Council to note the proposed legislation to be contained in the review of the *Retirement Villages Act 1992* and the various concerns of the residents of the Leederville Gardens Retirement Village. (Tabled Paper No. 4339).

3. Ministerial Statement - Social Innovation Grants Program

The Minister for Community Services made a Ministerial Statement with respect to projects made possible by the Social Innovation Grants Program.

4. Ministerial Statement - Draft Mental Health Bill 2011

The Minister for Mental Health made a Ministerial Statement with respect to the draft Mental Health Bill 2011.

5. Papers

The following Paper was laid on the Table by -

Leader of the House

Regulations -

Dangerous Goods Safety Act 2004 (Dangerous Goods Safety (Explosives) Amendment Regulations (No. 3) 2012 G.G. 16/03/2012, Dangerous Goods Safety (Explosives) Amendment Regulations 2012 G.G. 16/03/2012, Dangerous Goods Safety (General) Amendment Regulations 2012 G.G. 16/03/2012, Dangerous Goods Safety (Major Hazard Facilities) Amendment Regulations 2012 G.G. 16/03/2012, Dangerous Goods Safety (Security Risk Substances) Amendment Regulations (No. 2) 2012 G.G. 16/03/2012 and Dangerous Goods Safety (Storage and Handling of Non-explosives) Amendment Regulations 2012 G.G. 16/03/2012).....4316

Minister for Finance

Regulations -

Building Act 2011 (Building Regulations 2012 G.G. 13/03/2012).....4317
Building Services (Complaint Resolution and Administration) Act 2011 (Building Services (Complaint Resolution and Administration) Amendment Regulations 2012 G.G. 12/03/2012).....4318
Building Services (Registration) Act 2011 (Building Services (Registration) Amendment Regulations 2012 G.G. 12/03/2012).....4319

Construction Industry Portable Paid Long Service Leave Act 1985 (Industrial Relations Commission Amendment Regulations 2012 G.G. 16/03/2012)	4320
Employment Dispute Resolution Act 2008 (Employment Dispute Resolution Amendment Regulations 2012 G.G. 16/03/2012)	4321

Minister for Energy

Regulations -

Building and Construction Industry Training Fund and Levy Collection Act 1990 (Building and Construction Industry Training Fund and Levy Collection Amendment Regulations 2012 G.G. 13/03/2012)	4322
Emergency Management Act 2005 (Emergency Management Amendment Regulations 2012 G.G. 13/03/2012)	4323
Vocational Education and Training Act 1996 (Vocational Education and Training (General) Amendment Regulations 2012 G.G. 16/03/2012)	4324
Weapons Act 1999 (Weapons Amendment Regulations 2012 G.G. 13/03/2012)	4325

Minister for Child Protection

Local Laws -

Agriculture and Related Resources Protection Act 1976 (Shire of Brookton Pest Plants Local Law 2012 G.G. 06/03/2012)	4326
Cemeteries Act 1986 (Shire of Brookton Cemeteries Amendment Local Law 2012 G.G. 06/03/2012)	4327
Dog Act 1976 (Shire of Augusta-Margaret River Dogs Amendment Local Law 2011 G.G. 16/03/2012 and Shire of Brookton Dogs Amendment Local Law 2012 G.G. 06/03/2012)	4328
Local Government Act 1995 (City of Albany Activities on Thoroughfares and Public Places and Trading Local Law 2011 G.G. 09/03/2012, City of Albany Local Government Property Local Law 2011 G.G. 09/03/2012, City of Gosnells Thoroughfares and Public Places Local Law 2012 G.G. 12/03/2012, City of Swan Standing Orders Local Law 2010 G.G. 16/03/2012, Shire of Brookton Local Government Property Local Law 2012 G.G. 06/03/2012 and Town of Bassendean Dust and Sand Local Law 2011 G.G. 06/03/2012)	4329

Minister for Mental Health

Annual Reports -

National Environment Protection Council (2010-2011) (Date received 20/03/2012)	4330
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Notices -

Health Act 1911 (City of Armadale - Health Fees and Charges (2012) G.G. 16/03/2012)	4331
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Regulations -

Hospitals and Health Services Act 1927 (Hospitals (Services Charges) Amendment Regulations (No. 2) 2012 G.G. 13/03/2012)	4332
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Parliamentary Secretary representing the Attorney General

Regulations -

Bail Act 1982 (Bail Amendment Regulations 2012 G.G. 06/03/2012)	4333
Evidence Act 1906 (Evidence (Video and Audio Links Fees and Expenses) Amendment Regulations 2012 G.G. 09/03/2012)	4334
Fines, Penalties and Infringement Notices Enforcement Act 1994 (Fines, Penalties and Infringement Notices Enforcement Amendment Regulations 2012 G.G. 16/03/2012)	4335
Freedom of Information Act 1992 (Freedom of Information Amendment Regulations (No. 2) 2012 G.G. 06/03/2012 and Freedom of Information Amendment Regulations 2012 G.G. 06/03/2012)	4336
Legal Profession Act 2008 (Legal Profession Amendment Regulations 2012 G.G. 06/03/2012)	4337
Sentencing Act 1995 (Sentencing Amendment Regulations 2012 G.G. 06/03/2012)	4338

6. Joint Standing Committee on the Corruption and Crime Commission - Report No. 24 – The intention of the Parliamentary Inspector of the Corruption and Crime Commission to retire

Hon Nick Goiran presented Report No. 24 of the Joint Standing Committee on the Corruption and Crime Commission in relation to *The intention of the Parliamentary Inspector of the Corruption and Crime Commission to retire*. (Tabled Paper No. 4340).

7. Standing Committee on Procedure and Privileges - Appointment of Members

The Leader of the House moved, without notice -

That the following Members be appointed to the Standing Committee on Procedure and Privileges -

- Hon Giz Watson;
- Hon Wendy Duncan; and
- Hon Nick Goiran.

Debate ensued.

Hon Sue Ellery moved to amend the motion as follows -

- (1) To delete “Hon Giz Watson” and insert -

Hon Ken Travers

and

- (2) To insert at the end of the motion the following -

and the following Members be appointed as co-opted Members to the Procedure and Privileges Committee -

- Hon Giz Watson; and
- Hon Michael Mischin.

Point of Order

The Leader of the House raised the following Point of Order -

The deletion of “Hon Giz Watson” and the substitution of “Hon Ken Travers” is in fact a direct negative of the motion that I have moved and therefore is not an amendment of the sort we would normally accept.

President’s Ruling

The President ruled as follows -

I do not believe the amendment is a contradiction, because it is merely seeking to substitute the names of some members with others, and where Hon Giz Watson’s name occurs in both instances, it is in a different capacity in the amendment as a co-opted Member rather than as a substantive Member. I will let the amendment stand.

Debate resumed.

Pursuant to SO 160, Hon Sue Ellery requested that a ballot be conducted to elect Members to the Standing Committee on Procedure and Privileges.

Point of Order

The Leader of the House raised the following Point of Order -

The ballot I presume is for three members. So I wonder whether the fact that the Leader of the Opposition has moved an amendment that in effect makes it five members should be dealt with, or whether the ballot will be just for the three positions that currently exist on the committee.

President's Ruling

The President ruled as follows -

To assure all members of exactly where we are at, the ballot would be according to clause 7.2 of the terms of reference of the Procedure and Privileges Committee, which states -

The Committee consists of 5 Members, including the President and the Chair of Committees, and any Members co-opted by the Committee whether generally or in relation to a particular matter. The President is the Chair, and the Chair of Committees is the Deputy Chair, of the Committee.

Therefore, the ballot would be for three names to fill that committee, because the President and the Chair of Committees are part of that committee.

The President left the Chair at 2.53pm

The President resumed the Chair at 3.10pm

Statement by President

The President made the following Statement -

Members, a ballot being called for, I asked for a division. I ask that the bells be rung.

[Bells rung.]

Members, initially I asked that the staff circulate the ballot papers. Before Members rush to print, I will explain the method as staff circulate the ballot papers. You are being asked to put three names on your ballot papers. What has happened here today has already exposed an anomaly in our Standing Orders. Unlike as occurs for the election of President and Chair of Committees, there is no nomination process. To overcome that, I will permit the leaders of the various parties, if they wish, to stand and put to the House their suggestions for the Members they wish to be included on the Standing Committee on Procedure and Privileges. That will be one of the first issues that the new committee has to consider in reviewing the Standing Orders.

The method of voting will be as per Standing Order 160(2)(f) and (g), which states -

(f) the Members who receive the most votes shall be declared by the President to be elected;

(g) if 2 or more Members have an equality of votes for the last place or places on the Committee, a second ballot shall be conducted to determine that place or those places;

Members have four names from which to choose. For example, if one Member gets 10 votes, one gets eight votes, one gets six votes and another gets four votes, the Members with 10, eight and six votes will be declared elected. If the result is that one Member gets 10 votes, one gets eight votes and two get five votes, the Members who get 10 votes and eight votes respectively will be declared elected and there will be another run-off ballot for the third position.

The ballot papers have been distributed. It is a secret ballot. The ballot box will then be sent around for the collection of votes.

The Leader of the House moved -

That Hon Giz Watson, Hon Wendy Duncan and Hon Nick Goiran be nominated.

Hon Sue Ellery moved -

That Hon Ken Travers, Hon Giz Watson and Hon Michael Mischin be nominated.

There being no further nominations, each Member so proposed having submitted themselves to the will of the Council, the Council proceeded to a Ballot.

The Clerk and Deputy Clerk acted as scrutineers.

The President announced that as a result of the Ballot, That Hon Giz Watson, Hon Wendy Duncan and Hon Nick Goiran had been elected to the Standing Committee on Procedure and Privileges.

Point of Order

Hon Ken Travers raised the following Point of Order -

I noticed you having a vote, Mr President. I am not questioning that in any way, but it is something that needs to be considered by the committee as part of its review, unless you wish to make a ruling on it at this stage. I am not necessarily asking for that ruling; I am just raising it for future consideration and deliberation as to whether the President would get a deliberative vote or only a casting vote in ballots.

President's Ruling

The President ruled as follows -

I did vote during that ballot because I took it that every one of the 36 Members who was in the chamber was entitled to vote on a ballot. I think that is a point that will be noted by the Procedure and Privileges Committee in its review.

8. Local Government Council Reform

Motion No. 1 having been called, Hon Ljiljanna Ravlich continued her introductory remarks in moving the motion as follows -

That this Council calls on the Minister for Local Government to explain why he has not been able to achieve local government council reform and to provide details on how much has been spent to date on this failed government policy.

Debate ensued.

9. Questions Without Notice

Questions without notice were taken.

10. Local Government Council Reform

Debate resumed on the motion of Hon Ljiljanna Ravlich (*see item 8 above*).

Question - put.

The Council divided.

Ayes (10)

Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Robin Chapple
Hon Kate Doust
Hon Lynn MacLaren

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

Noes (17)

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

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

Motion thus negatived.

11. Roe Highway Stage 8

Motion No. 2 having been called, Hon Lynn MacLaren, pursuant to notice, moved -

That, for the purposes of —

- (a) saving the Beeliar wetlands by preserving ecological linkages and a range of other key values including —
 - (i) regionally significant vegetation, which is becoming rare as a result of encroaching urbanisation;
 - (ii) habitat for a great many fauna species, especially internationally and nationally significant migratory birds, as well as seriously threatened species like the Carnaby's Cockatoo and the Graceful Sun Moth; and
 - (iii) residential amenity, recreation and education; and
- (b) protecting our unique Aboriginal heritage; and
- (c) redirecting funds into more sustainable transport solutions, such as an expanded rail freight system and a passenger light rail network,

this House calls upon the Barnett Government to abandon the proposed Stage 8 of the Roe Highway development, and to request the Western Australian Planning Commission to initiate an amendment to the Metropolitan Region Scheme in order to delete the current zoning for a road reserve over the area of the proposed Stage 8 of the Roe Highway development.

Debate ensued.

Interruption pursuant to order.

12. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Standing Committee on Environment and Public Affairs - Report No. 23 - Inquiry into the Transportation of Detained Persons: The Implementation of the Coroner's Recommendations in Relation to the Death of Mr Ward and Related Matters

Hon Brian Ellis moved, That the Report be noted.

Debate ensued.

Question – put and passed.

Standing Committee on Public Administration - Report No. 13 - Inquiry into Western Australian Strata Managers

Hon Jim Chown moved, That the Report be noted.

Debate ensued.

Interruption pursuant to order.

The Deputy President resumed the Chair.

The Deputy Chairman of Committees reported that the Committee of the Whole House had considered the -

- (1) Standing Committee on Environment and Public Affairs - Report No. 23 - Inquiry into the Transportation of Detained Persons: The Implementation of the Coroner's Recommendations in Relation to the Death of Mr Ward and Related Matters and had noted same.
- (2) Standing Committee on Public Administration - Report No. 13 - Inquiry into Western Australian Strata Managers, made progress, and seeks to sit again.

Report adopted.

13. 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. 8, *Adoption Amendment Bill 2011*. (Leader of the House).

14. Legal Deposit Bill 2011

The Order of the Day having been read for the consideration of the Committee's report upon this Bill. The Minister for Mental Health representing the Minister for Culture and the Arts moved, That the report be adopted.

Question - put and passed.

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

15. Business Names (Commonwealth Powers) Bill 2011

The Order of the Day having been read for the third reading of this Bill.

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

The Deputy President having reported that the Deputy Chairman 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.

16. Order of Business

Ordered - That Bills for Introduction be now taken (Leader of the House).

17. Workers' Compensation and Injury Management Amendment Bill 2012

The Minister for Commerce, pursuant to notice, moved -

That a Bill for "An Act to amend the *Workers' Compensation and Injury Management Act 1981*." be introduced and 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 No. 4342)

Debate stands adjourned.

18. Western Australia Day (Renaming) Bill 2011

The Deputy President reported the receipt of Message No. 239 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Premier moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Leader of the House representing the Premier moved, That the Bill be now read a second time.

The Leader of the House representing the Premier tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper No. 4341)

Debate stands adjourned.

19. Order of Business

Ordered – That Members' Statements be taken forthwith. (Leader of the House).

20. Members' Statements

Statements were taken.

21. Adjournment

The Council adjourned at 9.46pm until Thursday, 22 March 2012 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Mia Davies, Hon Jon Ford, Hon Alyssa Hayden and Hon Max Trenorden.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council