

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 224

THURSDAY, 16 AUGUST 2012

1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

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

2. Ministerial Statement — Model Work Health and Safety Regulations — Conduct of the Public Comment Process

The Minister for Commerce made a Ministerial Statement with respect to the conduct of the Western Australian public comment process for the model Work Health and Safety Regulations.

3. Papers

The following Papers were laid on the Table by —

President

Annual Report —

Auditor General, Office of the, Annual Report 2011–2012 (Date received 16/08/2012) 4820

Leader of the House

Report —

Ministerial Resourcing Report (as at 2 August 2012) (Date received 16/08/2012)..... 4821

4. Joint Standing Committee on Delegated Legislation — Report No. 50 — Hospital Parking Fees — Queen Elizabeth II Medical Centre (Delegated Site) Amendment By-laws (No. 2) 2011, Royal Perth Hospital Amendment By-laws (No. 2) 2011, Women's and Children's Hospitals Amendment By-laws (No. 2) 2011, Fremantle Hospital Amendment By-laws (No. 2) 2011 and Osborne Park Hospital Amendment By-laws (No. 2) 2011

Hon Sally Talbot presented Report No. 50 of the Joint Standing Committee on Delegated Legislation in relation to *Hospital Parking Fees — Queen Elizabeth II Medical Centre (Delegated Site) Amendment By-laws (No. 2) 2011, Royal Perth Hospital Amendment By-laws (No. 2) 2011, Women's and Children's Hospitals Amendment By-laws (No. 2) 2011, Fremantle Hospital Amendment By-laws (No. 2) 2011 and Osborne Park Hospital Amendment By-laws (No. 2) 2011*. (Tabled Paper 4822).

5. Joint Standing Committee on Delegated Legislation — Report No. 51 — Town of Bassendean Repeal Local Law 2010 and Town of Bassendean Dust and Sand Local Law 2011

Hon Sally Talbot presented Report No. 51 of the Joint Standing Committee on Delegated Legislation in relation to the *Town of Bassendean Repeal Local Law 2010 and Town of Bassendean Dust and Sand Local Law 2011*. (Tabled Paper 4823).

6. Joint Standing Committee on Delegated Legislation — Report No. 52 — Liquor Control Amendment Regulations (No. 10) 2011

Hon Sally Talbot presented Report No. 52 of the Joint Standing Committee on Delegated Legislation in relation to the *Liquor Control Amendment Regulations (No. 10) 2011*. (Tabled Paper 4824).

7. Standing Committee on Uniform Legislation and Statutes Review — Report No. 73 — Community Protection (Offender Reporting) Amendment Bill 2011

Hon Donna Faragher presented Report No. 73 of the Standing Committee on Uniform Legislation and Statutes Review in relation to the *Community Protection (Offender Reporting) Amendment Bill 2011*. (Tabled Paper 4825).

8. Joint Standing Committee on the Corruption and Crime Commission — Report No. 29 — Guarding the guardians

Hon Nick Goiran presented Report No. 29 of the Joint Standing Committee on the Corruption and Crime Commission in relation to *Guarding the guardians*. (Tabled Paper 4826).

9. Statement by President — Resignation from Parliamentary Offices

The President made the following Statement —

I have a letter addressed to me as the President of the Legislative Council. It states —

Dear Mr President,

Consequent upon my appointment as Attorney General, I hereby submit my resignation from the following Parliamentary offices —

- Deputy Chairman of Committees
- Chairman and Member of the Standing Committee on Legislation; and
- Member of the Standing Committee on Uniform Legislation and Statutes Review.

It has been a signal honour to serve the Parliament of Western Australia in these capacities.

I sincerely thank you, the Officers of the Council (past and present) and the staff of the House and Committee office for the patient advice, generous counsel and invaluable support — professional and moral — that has made my time as a Presiding Officer and Committee Member a rewarding, stimulating and enjoyable experience.

Yours sincerely

Hon Michael Mischin

10. The Government's Failure to be Open and Accountable

Non-Government Business No. 1 having been called, Hon Sue Ellery moved, without notice —

That this Council condemns the Barnett Government for ignoring its own election commitment to “*restore integrity*” and “*respect fair, open and accountable Government*”; for example, its refusal to answer parliamentary questions.

Debate ensued.

Motion lapsed.

11. Regional Development — Investment in Infrastructure

Private Members' Business No. 1 having been called, Hon Ken Baston moved, without notice —

That the Council —

- (a) recognises the significance of investment in infrastructure to the continued development of regional Western Australia;
- (b) recognises the need to improve interstate infrastructure links; and
- (c) calls on the Federal Government to commit to the development of an additional interstate road link into Western Australia.

Debate ensued.

Motion lapsed.

12. Order of Business

Ordered — That Bills for Introduction No. 4, *Sentencing Amendment Bill 2012*, be taken forthwith. (Leader of the House).

13. Sentencing Amendment Bill 2012

The Attorney General, pursuant to notice, moved —

That a Bill for “An Act to amend the *Sentencing Act 1995*.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

The Attorney General moved, That the Bill be read a second time.

Debate stands adjourned.

14. Committee Membership – Appointment of Members

The Leader of the House, by leave, moved, without notice —

That —

- (1) Hon Nick Goiran be appointed to the Standing Committee on Uniform Legislation and Statutes Review.
- (2) Hon Alyssa Hayden be appointed to the Standing Committee on Legislation.
- (3) Hon Donna Faragher be appointed as the Chair of the Standing Committee on Legislation.
- (4) Hon Alyssa Hayden be appointed as a Deputy Chair of Committees.

Question — put and passed.

15. Order of Business

Ordered — That Orders of the Day Nos 1, *Women’s and Children’s Hospitals Amendment By-laws (No. 2) 2011 — Disallowance*, 2, *Queen Elizabeth II Medical Centre (Delegated Site) Amendment By-laws (No. 2) 2011 — Disallowance*, 3, *Royal Perth Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 4, *Metropolitan Health Service Amendment By-laws (No. 2) 2011 — Disallowance*, 5, *Fremantle Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 6, *Osborne Park Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 7, *Hospitals (Services Charges) Amendment Regulations (No. 7) 2011 — Disallowance*, 8, *Queen Elizabeth II Medical Centre (Delegated Site) Amendment By-laws (No. 2) 2011 — Disallowance*, 9, *Fremantle Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 10, *Osborne Park Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 11, *Royal Perth Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 12, *Women’s and Children’s Hospitals Amendment By-laws (No. 2) 2011 — Disallowance*, 13, *Liquor Control Amendment Regulations (No. 10) 2011 — Disallowance*, 14, *Town of Bassendean Repeal Local Law 2010 — Disallowance*, 15, *Town of Bassendean Dust and Sand Local Law 2011 — Disallowance*, 16, *City of Swan Standing Orders Local Law 2010 — Disallowance*, 17, *Mindarie Regional Council Standing Orders Amendment Local Law 2012 — Disallowance*, and 18, *City of Bayswater Standing Orders Local Law 2012 — Disallowance*, be taken after Order of the Day No. 26, *Water Services Legislation Amendment and Repeal Bill 2011*. (Leader of the House).

16. Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2012 and Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012

The Orders of the Day for the further consideration of these Bills, in Committee of the Whole House, having been read.

The Deputy President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2012

Clause 39.

Debate resumed.

Clause agreed to.

Clause 40.

Debate ensued.

Clause agreed to.

Clauses 41 to 68 agreed to.

Clause 69.

The Attorney General moved —

Page 65, after line 8 — To insert —

- (fa) a licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 19 or 43 is not in force in respect of the vehicle; and

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 70 agreed to.

New Part 4 Division 7A.

The Attorney General moved —

Page 66, after line 16 — To insert —

Division 7A — *Road Traffic (Vehicles) Act 2012* amended

70A. Act amended

This Division amends the *Road Traffic (Vehicles) Act 2012*.

70B. Section 5 amended

In section 5(3):

- (a) in paragraph (e) delete “vehicle.” and insert:

vehicle; and

- (b) after paragraph (e) insert:

- (f) a licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 19 or 43 is not in force in respect of the vehicle; and
- (g) the vehicle is not immobilised under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95C; and
- (h) the vehicle’s number plates have not been removed under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95F; and

- (i) a vehicle licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95G is not in force in respect of the vehicle; and
- (j) a vehicle licence cancellation order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95J is not in force in respect of the vehicle.

70C. Section 16 amended

(1) After section 16(1) insert:

(2A) If a vehicle licence suspension order is made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95G in respect of a person, a licence held by that person in respect of the vehicle specified in the order is, by force of this section, suspended so long as the vehicle licence suspension order continues in force and during that period is of no effect.

(2) In section 16(2) delete “Subsection (1) does” and insert:

Subsections (1) and (2A) do

(3) After section 16(3) insert:

(4) If a vehicle licence cancellation order is made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95J in respect of a person, a licence held by that person in respect of the vehicle specified in the order is, by force of this section, cancelled.

70D. Section 125 amended

In section 125(8) delete “section 19 or 43.” and insert:

section 19, 43, 95G or 95J.

New Part 4 Division 7A — put and passed.
Clauses 71 to 73 agreed to.

New Clause 74.

Hon Giz Watson moved —

Page 66, after line 27 — To insert —

74. Monitoring of Act by Ombudsman

- (1) For the period of 3 years after the commencement of this section, the Ombudsman is to keep under scrutiny the operation of the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012* and the *Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Act 2012* and enforcement fees pursuant to regulations made under those Acts and the *Fines, Penalties and Infringement Notices Enforcement Act 1994*.
- (2) The scrutiny referred to in subsection (1) is to include review of the impact of the operation of the provisions referred to in that subsection on Aboriginal and Torres Strait Islander communities.
- (3) For that purpose, the Ombudsman may require the Commissioner of Police or any public authority to provide information about police or the public authority's participation in the operation of the provisions referred to in subsection (1).
- (4) The Ombudsman must, as soon as practicable after the expiration of that 3 year period, prepare a report on the Ombudsman's work and activities under this section and furnish a copy of the report to the Attorney General and the Minister for Police and the Commissioner of Police.
- (5) The Ombudsman may identify, and include recommendations in the report to be considered by the Attorney General about, amendments that might appropriately be made with respect to the operation of the provisions referred to in subsection (1).
- (6) The Attorney General is to lay (or cause to be laid) a copy of the report furnished to the Attorney General under this section before both Houses of Parliament as soon as practicable after the Attorney General receives the report.

Debate ensued.

New Clause — put.

The Committee divided.

Ayes (14)

Hon Matt Benson-Lidholm
 Hon Helen Bullock
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Lynn MacLaren
 Hon Ljiljanna Ravlich

Hon Linda Savage
 Hon Sally Talbot
 Hon Ken Travers
 Hon Max Trenorden
 Hon Giz Watson
 Hon Alison Xamon
 Hon Ed Dermer (*Teller*)

Noes (16)

Hon Liz Behjat
 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 Nigel Hallett
 Hon Alyssa Hayden
 Hon Michael Mischin
 Hon Norman Moore
 Hon Helen Morton
 Hon Ken Baston (*Teller*)

New Clause thus negatived.

Postponed Clause 25.

The Attorney General moved —

Page 22, after line 6 — to insert —

or

- (c) the person is a person protected under a violence restraining order, or police order, in force under the *Restraining Orders Act 1997*; or
- (d) the publication of the relevant details would endanger the person's safety.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Title agreed to.

Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012

Clause 1 agreed to.

Clauses 2 to 4 agreed to.

Title.

Debate ensued.

Title agreed to.

—————
The Deputy President resumed the Chair.

The *Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2012* was reported with amendments.

The *Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012* was reported without amendment.

Ordered — That consideration of the Committee's Report be made an Order of the Day for the next sitting.

17. Water Services Bill 2011 and Water Services Legislation Amendment and Repeal Bill 2011

The Orders of the Day having been read for the adjourned debate on the second reading of these Bills.

Debate resumed.

Question — That the *Water Services Bill 2011* be read a second time — put and passed.

Bill read a second time.

Question — That the *Water Services Legislation Amendment and Repeal Bill 2011* be read a second time — put and passed.

Bill read a second time.

The Deputy President left the Chair.

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In Committee

(Hon Matt Benson-Lidholm in the Chair)

Water Services Bill 2011

Clause 1.

Debate ensued.

18. Questions Without Notice

Questions without notice were taken.

19. Water Services Bill 2011 and Water Services Legislation Amendment and Repeal Bill 2011

The President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Water Services Bill 2011

Clause 1.

Debate resumed.

Clause agreed to.

Clauses 2 to 6 agreed to.

Clause 7.

Debate ensued.

The President resumed the Chair.

The Chair of Committees reported that the Committee of the Whole House had considered the Bills, made progress, and sought to sit again.

Ordered — That the Committee of the Whole House sit again.

20. Members' Statements

Statements were taken.

21. Adjournment

The Council adjourned at 5.44pm until Tuesday, 21 August 2012 at 3.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Robin Chapple, Hon Jon Ford, Hon Colin Holt and Hon Robyn McSweeney.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council