

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 87

THURSDAY, 11 SEPTEMBER 2014

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. President's Ruling — Electronic Devices

The President ruled as follows —

We have previously had occasions in the Chamber when electronic equipment has not been turned off or muted, and I continually warn Members. So I ask the offending Member to hand over their phone to a staff member and it will be returned to the Member at 2.00pm this afternoon.

3. Petitions

Hon Lynn MacLaren presented a petition from 545 petitioners requesting the Legislative Council to oppose the construction of a waste to energy incinerator in Western Australia. (Tabled Paper 1843).

4. Ministerial Statement — Healthy Workers Alcohol Program

The Minister for Mental Health made a Ministerial Statement with respect to the Healthy Workers Alcohol Program.

5. Papers

The following Papers were laid on the Table by —

Minister for Mental Health on behalf of the Leader of the House

Reports —

Interstate and Overseas Travel Undertaken by Ministers, Parliamentary Secretaries
and Government Officers on Official Business
(for the three months ended 31 December 2013) 1839

Attorney General on behalf of the Minister for Agriculture and Food

Annual Reports —

Water Corporation (2014) (Date received 10/09/2014) 1840

Reports —

AQWEST — Statement of Corporate Intent (2014–2015) 1841

Parliamentary Secretary representing the Minister for Regional Development

Notices —

Financial Management Act 2006 — Section 82 — Notice from the Minister for Regional Development in response to Question on Notice No. B30 asked in Legislative Council Estimates 2014 1842

6. Joint Standing Committee on the Corruption and Crime Commission — Report No. 17 — Annual Report 2013–14

Hon Nick Goiran presented Report No. 17 of the Joint Standing Committee on the Corruption and Crime Commission, *Annual Report 2013–14*. (Tabled Paper 1844).

7. Joint Standing Committee on Delegated Legislation — Report No. 74 — Inquiry into Access to Australian Standards Adopted in Delegated Legislation

Hon Robin Chapple presented Report No. 74 of the Joint Standing Committee on Delegated Legislation giving notice to the Legislative Council, pursuant to Standing Order No. 179(2), of a resolution of the Committee on 10 September 2014 to commence an Inquiry into Access to Australian Standards Adopted in Delegated Legislation. (Tabled Paper 1845).

8. Joint Standing Committee on Delegated Legislation — Report No. 73 — Inquiry into Proposed Template Waste Local Law

Hon Robin Chapple presented Report No. 73 of the Joint Standing Committee on Delegated Legislation giving notice to the Legislative Council, pursuant to Standing Order No. 179(2), of a resolution of the Committee on 10 September 2014 to commence an Inquiry into the Proposed Template Waste Local Law. (Tabled Paper 1846).

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

Hon Robin Chapple: To move on the next day of sitting —

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 Legislative Council on 17 June 2014 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled Paper 1484).

10. Local Government Amalgamations

Hon Ken Travers: To move on the next day of sitting —

That this House —

- (a) expresses its view that the *Local Government Act 1995* (the Act) never contemplated the use of boundary changes to amalgamate Local Governments;
- (b) believes that the correct approach under the Act is to abolish existing Local Governments and to create new Local Governments as this ensures that local communities are given a voice as intended by the Dadour provisions of the Act;
- (c) is of the view that any attempt to force Local Government amalgamations by using boundary changes to circumvent the intent of the Dadour provisions is an abuse of the Act; and
- (d) therefore calls on the Government to ensure that any proposals for amalgamation of existing Local Governments involve the abolition of all affected Councils and the creation of new Councils.

11. Marine Parks in Western Australia — Amendment to Notice of Motion

Hon Rick Mazza, pursuant to Standing Order 62(a), amended Motion No. 2 to read as follows –

That the Council supports —

- (a) a moratorium on the creation of any further marine parks in Western Australia; and
- (b) an investigation into the access to and management of the current marine parks in Western Australia, including allowing shore based fishing in sanctuary zones.

12. Vocational-Based Training

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

That this House condemns the Barnett Government for undermining vocational-based training through its changes to state training providers, including harsh rises in course fees.

Debate ensued.

Motion lapsed.

13. Mineral Resources Rent Tax — Goods and Services Tax

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

That this House —

- (a) congratulates the Federal Government on the abolition of the job destroying, anti-Western Australian mining tax, also known as the Mineral Resources Rent Tax; and
- (b) calls on the Federal Government to take urgent steps to abolish the current flawed system for the distribution of Goods and Services Tax (GST) revenue amongst the Australian states, and implement a new population-based system that provides Western Australia with its fair share of GST revenue.

Debate ensued.

Motion lapsed.

14. Order of Business

Ordered — That Orders of the Day Nos 1, *Regulation 11(3)(o) as inserted into the Retirement Villages Regulations 1992 by Regulation 6 of the Retirement Villages (Recurrent Charges, Prescribed Matters and Exemption Certificates) Amendment Regulations 2014 — Disallowance*, 2, *Shire of Shark Bay Local Government Property Amendment Local Law 2014 — Disallowance*, 3, *Firearms Amendment Regulations 2014 — Disallowance*, and 4, *Shire of Ashburton Fencing Local Law 2014 — Disallowance*, be taken after Order of the Day No. 11, *Statutes (Repeals) Bill 2013*. (Minister for Mental Health).

15. Mines Safety and Inspection Amendment Bill 2014

The Deputy President reported the receipt of Message No. 73 from the Legislative Assembly forwarding the Bill for concurrence.

The Attorney General on behalf of the Minister for Agriculture and Food representing the Minister for Mines and Petroleum moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Attorney General on behalf of the Minister for Agriculture and Food representing the Minister for Mines and Petroleum moved, That the Bill be read a second time.

The Attorney General on behalf of the Minister for Agriculture and Food representing the Minister for Mines and Petroleum tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1847).

Debate stands adjourned.

16. Criminal Investigation Amendment Bill 2014

The Deputy President reported the receipt of Message No. 74 from the Legislative Assembly forwarding the Bill for concurrence.

The Attorney General representing the Minister for Police moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Attorney General representing the Minister for Police moved, That the Bill be read a second time.

The Attorney General representing the Minister for Police tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1848).

Debate stands adjourned.

17. Mental Health Bill 2013 and Mental Health Legislation Amendment Bill 2013

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 Adele Farina in the Chair)

Mental Health Bill 2013

Clause 4.

Debate resumed on the amendment of the Minister for Mental Health as follows —

Page 4, lines 16 and 17 — To delete “mental health practitioner;” and insert —

other health professional;

The Minister for Mental Health tabled a document in relation to membership of the Mental Health Legislation Expert Group. (Tabled Paper 1849).

Debate resumed.

Amendment — put and passed.

The Minister for Mental Health moved —

Page 5, after line 26 — To insert —

health professional means —

- (a) a medical practitioner; or
- (b) a nurse; or
- (c) an occupational therapist; or
- (d) a psychologist; or
- (e) a social worker; or
- (f) in relation to a person who is of Aboriginal or Torres Strait Islander descent

—

- (i) a health professional listed in paragraphs (a) to (e); or

- (ii) an Aboriginal or Torres Strait Islander mental health worker;

Amendment — put and passed.

Debate resumed.

The Minister for Mental Health moved —

Page 6, lines 7 to 11 — To delete the lines and insert —

involuntary patient has the meaning given in section 21(1);

involuntary treatment order has the meaning given in section 21(2);

Amendment — put and passed.

Debate resumed.

Want of Quorum

There not being a quorum present, the Deputy Chair gave instructions for the ringing of the Bells.

A quorum being formed, the debate continued.

Clause, as amended, agreed to.

Clauses 5 and 6 agreed to.

Clause 7.

Debate ensued.

Clause agreed to.

Clause 8.

Debate ensued.

Clause agreed to.

New Clause 8A

Hon Stephen Dawson moved —

Page 14, after line 2 — To insert —

8A. Advance health directive

- (1) Notwithstanding anything in this Act to the contrary, the scheme of the *Guardianship and Administration Act 1990* relating to advance health directives must be followed in its entirety in order to give them full force and effect.
- (2) A psychiatrist must not act contrary to an advance health directive unless the State Administrative Tribunal has determined that the psychiatrist can do so.
- (3) The State Administrative Tribunal shall have jurisdiction to make a determination in subsection (2) and shall, in exercising this jurisdiction, follow the provisions of the *Guardianship and Administration Act 1990*.

Debate ensued.

New Clause — put.

The Committee divided.

Ayes (10)

Hon Robin Chapple
 Hon Alanna Clohesy
 Hon Stephen Dawson
 Hon Kate Doust
 Hon Sue Ellery

Hon Adele Farina
 Hon Lynn MacLaren
 Hon Ljiljana Ravlich
 Hon Sally Talbot
 Hon Amber-Jade Sanderson (*Teller*)

Noes (19)

Hon Liz Behjat
 Hon Jacqui Boydell
 Hon Paul Brown
 Hon Jim Chown
 Hon Brian Ellis
 Hon Donna Faragher
 Hon Nick Goiran
 Hon Dave Grills
 Hon Nigel Hallett
 Hon Alyssa Hayden

Hon Col Holt
 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*)

New Clause thus negatived.

Clauses 9 to 18 agreed to.

Clause 19.

Debate ensued.

Hon Stephen Dawson moved —

Page 20, after line 2 — To insert —

; and

- (d) advising that the person may refuse to consent to the admission or treatment and that, if the person does give consent, the person can withdraw consent at any time; and
- (e) advising that the person may obtain independent legal and medical advice about the admission or treatment before consent is given and that the person may request assistance to obtain that advice; and
- (f) informing the person about any financial advantage that may be gained by any medical practitioner or mental health service in respect of the admission or treatment, except information about the fees and charges payable by or on behalf of the person for the admission or treatment; and
- (g) informing the person about any research relationship between any medical practitioner and any mental health service that may be relevant to the admission or treatment.

Debate ensued.

Want of Quorum

There not being a quorum present, the Deputy Chair gave instructions for the ringing of the Bells.

A quorum being formed, the debate continued.

Amendment — put and negatived.

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

Clause 20.

The Minister for Mental Health moved —

Page 20, line 22 — To delete “medical practitioner or other”.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 21 and 22 agreed to.

Clause 23.
 Debate ensued.
 Clause agreed to.
 Clause 24 agreed to.
 Clause 25.
 Debate ensued.

The Hon Stephen Dawson moved —

Page 23, lines 1 and 2 — To delete the lines.

Debate ensued.

18. Questions Without Notice

Questions without notice were taken.

The Minister for Mental Health representing the Minister for Environment tabled a document in relation to the rate of litter accumulation, as published in the forest fire behaviour tables for Western Australia, in response to question on notice No. 1454 asked by Hon Lynn MacLaren. (Tabled Paper 1850).

The Minister for Mental Health representing the Minister for Environment tabled a map of the most recent year of logging for all forests in the Augusta-Margaret River Shire, in response to question on notice No. 1455 asked by Hon Lynn MacLaren. (Tabled Paper 1851).

The Attorney General on behalf of the Minister for Fisheries tabled a document in relation to a survey of the satisfaction rate of the Western Australian community across key fisheries management areas in 2013–14, in response to question on notice No. 1423 asked by Hon Lynn MacLaren. (Tabled Paper 1852).

19. Mental Health Bill 2013 and Mental Health Legislation Amendment Bill 2013

Resumption of consideration of these Bills in Committee of the Whole House (*see item 17 above*).
 The President left the Chair.

In Committee

(Hon Alanna Clohesy in the Chair)

Mental Health Bill 2013

Clause 25.
 Debate resumed on the amendment of Hon Stephen Dawson as follows —
 Page 23, lines 1 and 2 — To delete the lines.

Interruption pursuant to order.

The Acting President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the Bill, made progress, and seeks 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 5.58pm until Tuesday, 16 September 2014 at 3.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Peter Collier.

NIGEL PRATT
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council