

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 193

WEDNESDAY, 30 NOVEMBER 2011

1. Meeting of Council

The Council assembled at 2.00pm pursuant to Temporary Orders.

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

2. Ministerial Statement - Gorgon Gas Contracts

The Minister for Energy made a Ministerial Statement with respect to the Gorgon Gas contracts approved by Cabinet for the supply of gas to Synergy and Verve Energy for a period of twenty years, commencing in 2015.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

3. Ministerial Statement - Partnership, Acceptance, Learning and Sharing Program

The Minister for Indigenous Affairs made a Ministerial Statement with respect to the Partnership, Acceptance, Learning and Sharing (PALS) program initiative by the Department of Indigenous Affairs.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

4. Ministerial Statement - Ombudsman's Report - Planning for Children in Care

The Minister for Child Protection made a Ministerial Statement with respect to the Ombudsman's Report into care planning provisions for children in care.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

5. Ministerial Statement - Council of Official Visitors Annual Report 2010-11

The Minister for Mental Health made a Ministerial Statement with respect to the *Council of Official Visitors Annual Report 2010-11*.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

6. Paper

The following Paper was laid on the Table by -

Minister for Mental Health

Annual Reports -

Council of Official Visitors (2010-2011) (Date received 29/11/2011) 4134

7. Suspension of Temporary Orders

The Leader of the House moved, without notice -

That so much of the Temporary Orders be suspended as would enable Orders of the Day to be taken at the conclusion of Motion on Notice No. 1.

The motion requiring the concurrence of an absolute majority.

Question - put.

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

8. Marine Park Planning

Motion No. 1 having been called, debate resumed on the motion of Hon Sally Talbot as follows -

That this House condemns the Government for taking an old-fashioned, piecemeal and politically-driven approach to Marine Park planning in Western Australia.

Motion - put and negatived.

9. Order of Business

Ordered - That Orders of the Day Nos 1, *Shire of Derby/West Kimberley Waste Services Local Law 2011 - Disallowance*, 2, *Shire of Kalamunda Keeping and Control of Animals and Nuisance Local Law 2011 - Disallowance*, and 3, *Electricity Networks Access Code Amendment 2011 - Disallowance*, be taken after Order of the Day No. 11, *Evidence and Public Interest Disclosure Legislation Amendment Bill 2011*. (Leader of the House).

10. Residential Tenancies Amendment Bill 2011

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

The Minister for Finance representing the Minister for Housing moved, That the Bill be now read a third time.

The President having reported that the Deputy Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as agreed to in Committee, and reported.

Question - put and passed.

Bill read a third time and passed.

11. Criminal Appeals Amendment (Double Jeopardy) Bill 2011

The Order of the Day having been read for the consideration of the Committee's report upon this Bill.

The Parliamentary Secretary to the Premier on behalf of the Parliamentary Secretary representing the Attorney General 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.

12. Commercial Arbitration Bill 2011

The Order of the Day having been read for the consideration of the Committee's report upon this Bill.

The Minister for Finance on behalf of the Parliamentary Secretary representing the Attorney General 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.

13. Order of Business

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

14. Business Names (Commonwealth Powers) Bill 2011

The Minister for Commerce, pursuant to notice, moved -

That a Bill for "An Act —

- to adopt the *Business Names Registration Act 2011* (Commonwealth) and the *Business Names Registration (Transitional and Consequential Provisions) Act 2011* (Commonwealth), and to refer certain matters relating to the registration and use of business names to the Parliament of the Commonwealth, for the purpose of section 51(xxxvii) of the Constitution of the Commonwealth; and
- to amend the *Business Names Act 1962* to effect the transition of the regulation of business names from the State to the Commonwealth; and
- to make consequential amendments to various Acts, and for related purposes." 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 a copy of the *Business Names Registration Act 2011* (Commonwealth) and the *Business Names Registration (Transitional and Consequential Provisions) Act 2011* (Commonwealth). (Tabled paper 4135).

Debate stands adjourned and Bill referred to the Standing Committee on Uniform Legislation and Statutes Review.

15. Gas Services Information Bill 2011

The Minister for Energy, pursuant to notice, moved -

That a Bill for "An Act to provide for the establishment and operation of a gas bulletin board and the preparation of a gas statement of opportunities, and for related purposes." be introduced and read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Energy moved, That the Bill be now read a second time.

Debate stands adjourned.

16. Adoption Amendment Bill 2011

The Minister for Child Protection, pursuant to notice, moved -

That a Bill for "An Act to amend the *Adoption Act 1994*." be introduced and read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Child Protection moved, That the Bill be now read a second time.

Debate stands adjourned.

The President left the Chair at 3.37pm

The President resumed the Chair at 4.30pm

17. Questions Without Notice

Questions without notice were taken.

The Leader of the House representing the Premier, in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 4899 asked by Hon Giz Watson will be provided on 1 December 2011.

The Minister for Energy representing the Minister for Education, in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 4883 asked by Hon Ljiljanna Ravlich will be provided on 1 December 2011.

The Minister for Energy representing the Minister for Education tabled documents in relation to advertising costs related to staff recruitment for each independent school for 2010 and 2011, in response to question on notice No. 4881 asked by Hon Ljiljanna Ravlich. (Tabled paper 4136).

The Minister for Energy representing the Minister for Education tabled documents in relation to year 12 student enrolments for 2011, in response to question on notice No. 4885 asked by Hon Ljiljanna Ravlich. (Tabled paper 4137).

The Minister for Energy representing the Minister for Education tabled documents in relation to current enrolments in Western Australian non-government schools of students with a disability, in response to question on notice No. 4947 asked by Hon Ljiljanna Ravlich. (Tabled paper 4138).

The Minister for Energy representing the Minister for Education tabled documents in relation to increases in tariffs, fees or charges greater than the consumer price index in agencies under the Education portfolio since 23 September 2008, in response to question on notice No. 4728 asked by Hon Ken Travers. (Tabled paper 4139).

The Minister for Mental Health, in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 4896 asked by Hon Alison Xamon will be provided on 1 December 2011.

18. Standing Committee on Procedure and Privileges - Report No. 22 - Review of the Standing Orders - Committee Report

The Order of the Day having been read for the adjourned debate on the motion of the Leader of the House as follows -

That the Report do lie upon the Table and be printed and adopted and agreed to.

The Leader of the House moved, without notice -

That the Motion be considered in the Committee of the Whole House.

Debate ensued.

Question - put and passed.

The President left the Chair.

In Committee

(President in the Chair)

The Leader of the House moved, without notice, the following amendment -

To delete all words after "That" and substitute -

- (1) the Report do lie upon the Table and be printed;
- (2) in relation to the proposed Standing Orders tabled in the House by the *Procedure and Privileges Committee*, the House adopts proposed Standing Orders 1 to 4, 6, 8 to 14, 16, 18 to 20, 22, 24 to 36, 38 to 50, 52, 54 to 76, 78 to 91, 94 to 99, 101 to 106, 108, 109, 111 to 124, 126, 128 to 173, 175 to 178, 181 to 186, 188 to 239, Schedule 1 Items 1 to 4 and 7 and 8, and Schedules 2 to 4;
- (3) in relation to the proposed Standing Orders tabled in the House by the *Procedure and Privileges Committee*, the House adopts -
 - (a) proposed Standing Order 5;
 - (b) proposed Standing Order 7;
 - (c) proposed Standing Order 15;
 - (d) proposed Standing Order 17;
 - (e) proposed Standing Order 21;
 - (f) proposed Standing Order 23;
 - (g) proposed Standing Order 37;
 - (h) proposed Standing Order 51;
 - (i) proposed Standing Order 53;
 - (j) proposed Standing Order 77;
 - (k) proposed Standing Order 92;
 - (l) proposed Standing Order 93;
 - (m) proposed Standing Order 100;
 - (n) proposed Standing Order 107;
 - (o) proposed Standing Order 110;
 - (p) proposed Standing Order 125;
 - (q) proposed Standing Order 127;
 - (r) proposed Standing Order 174;
 - (s) proposed Standing Order 179;
 - (t) proposed Standing Order 180;
 - (u) proposed Standing Order 187;
 - (v) proposed Schedule 1, Item 5 - *Uniform Legislation and Statutes Review Committee*; and
 - (w) proposed Schedule 1, Item 6 - *Joint Delegated Legislation Committee*;
- (4) the current Standing Orders be repealed and replaced by the proposed Standing Orders adopted by the House, effective from the first sitting day in 2012;
- (5) the Clerk be authorised to make clerical amendments to the proposed Standing Orders adopted by the House; and
- (6) the *Procedure and Privileges Committee* conduct an inquiry into the operation of the new Standing Orders and report to the House during the Spring sittings in 2012.

Debate ensued.

Amendment (1) - put.

Debate ensued.

Amendment - put and passed.

Amendment (2) - put and passed.

Amendment (3)(a) - put.

Debate ensued.

The Leader of the House moved -

In proposed Standing Order 5, paragraph (5) — To insert —

- (a) at the discretion of the President, a further ten minutes of Members' Statements, during which a Member who has not made a Members' Statement may respond to a matter raised by another Member during Members' Statements;

Debate ensued.

Amendment to proposed Standing Order 5 - put and passed.

Amendment (3)(a), as amended - put and passed.

Amendment (3)(b) - put.

Hon Nick Goiran moved -

In proposed Standing Order 7 — To delete “time appointed on each day for the meeting of the Council” and insert —

- (a) time appointed on each day for the meeting of the Council; and
- (b) resumption of the proceedings following a suspension of the Council.

Debate ensued.

Question - That the words be deleted - put and passed.

Question - That the words be inserted - put.

Hon Adele Farina moved -

In paragraph (b) — To delete “of the proceedings following a suspension” and insert —

following a suspension of the proceedings

Debate ensued.

Question - That the amendment to the amendment be agreed to - put and passed.

Question - That amendment (3)(b), as amended, be agreed to - put and passed.

Amendment (3)(c) - put.

Debate ensued.

The Leader of the House moved, That consideration of amendment (3)(c) be postponed until after consideration of amendment (3)(w).

Question - put and passed.

Amendment (3)(d) - put.

Hon Nick Goiran moved -

To amend proposed Standing Order 17 as follows —

In paragraph (3) — To delete “resolved” and insert —

put

In paragraph (4) — To delete “resolved” and insert —

put

In paragraph (5) — To delete “resolved” and insert —

put

Debate ensued.

Amendments to proposed Standing Order 17 - put and passed.

Amendment (3)(d), as amended - put and passed.

Clerical Amendment

The following clerical amendment was authorised -

Proposed Standing Order 31, paragraph (3) — To delete “resolved” and insert —

put

Amendment 3(e) - put.

The Leader of the House moved -

In proposed Standing Order 21, under the heading “Matter of Privilege (SO 92)” — To insert —

Mover in Reply

10 minutes.

Amendment to proposed Standing Order 21 - put and passed.

Amendment (3)(e), as amended - put and passed.

Clerical Amendment

The following clerical amendment was authorised -

Proposed Standing Order 39, paragraph (1) — To insert after “substantive motion” —

, a Matter of Privilege,

Amendment (3)(f) - put.

Debate ensued.

Amendment (3)(f) - put and passed.

Amendment (3)(g) - put.

Debate ensued.

Hon Matt Benson-Lidholm moved -

In proposed Standing Order 37 —

In paragraph (1) — To insert before “A Member” —

Except as provided under (2),

After paragraph (1) — To insert —

- (2) When debating a motion on notice under Standing Order 15(2), a Member may speak once -
- (a) on the motion and any amendment thereon; or
 - (b) in reply.

Debate ensued.

Amendments to proposed Standing Order 37 - put and passed.

Amendment (3)(g), as amended - put and passed.

Amendment (3)(h) - put.

Debate ensued.

Amendment (3)(h) - put and passed.

Amendment (3)(i) - put.

Debate ensued.

Hon Nick Goiran moved -

In proposed Standing Order 53, paragraph (4) — To delete “debate is resumed” and insert —

- (a) debate is resumed; and
- (b) the mover does not lose the right to speak in the debate.

Hon Nick Goiran, by leave, withdrew his amendment.

Amendment (3)(i) - put and passed.

Amendment (3)(j) - put.

Debate ensued.

Amendment (3)(j) - put and passed.

Amendment (3)(k) - put.

Debate ensued.

The Leader of the House moved -

In proposed Standing Order 92 - That paragraph (2) be re-numbered as (3), and paragraph (3) be re-numbered as (2).

Debate ensued.

The Leader of the House, by leave, withdrew his amendment.

The Leader of the House moved -

In proposed Standing Order 92 -

- (a) in paragraph (3) — To delete “otherwise”; and
- (b) to renumber paragraph (3) as (1).

Amendment to proposed Standing Order 92 - put and passed.

Amendment (3)(k), as amended - put and passed.

Amendment (3)(l) - put.

The Leader of the House moved -

In proposed Standing Order 93 — To delete paragraphs (1) and (2) and insert —

- (1) The Council has power to determine that any particular act constitutes a contempt.
- (2) Criteria for the Council to take into account when determining whether a contempt has been committed and examples of conduct which may be treated as a contempt of the Council are provided in Schedule 4.
- (3) The list of examples in Schedule 4 is not exhaustive nor do they or the criteria derogate from the power of the Council to determine that any particular act constitutes a contempt.

Debate ensued.

The Leader of the House moved, That consideration of amendment (3)(l) be postponed until after consideration of amendment (3)(w).

Question - put and passed.

Amendment (3)(m) - put.

Debate ensued.

Amendment (3)(m) - put and passed.

Amendment (3)(n) - put.

Debate ensued.

Amendment (3)(n) - put and passed.

Amendment (3)(o) - put.

Debate ensued.

Hon Sue Ellery moved -

In proposed Standing Order 110, paragraph (1) — To insert after “notice” —

, Bills for introduction

Amendment to proposed Standing Order 110 - put and passed.

Debate ensued.

Amendment (3)(o), as amended - put and passed.

Amendment (3)(p) - put.

Hon Sue Ellery moved -

In proposed Standing Order 125, paragraph (1) — To insert after “Legislation Bill” —

and shall give reasons as to why

Debate ensued.

Amendment to proposed Standing Order 125 - put and passed.

Amendment (3)(p), as amended - put and passed.

Amendment (3)(q) - put.

Debate ensued.

Amendment (3)(q) - put and passed.

Amendment (3)(r) - put.

Debate ensued.

Amendment (3)(r) - put and passed.

Amendment (3)(s) - put.

Debate ensued.

Hon Giz Watson moved -

In proposed Standing Order 179 — To delete paragraph (4).

Debate ensued.

Amendment to proposed Standing Order 179 - put and passed.

Amendment (3)(s), as amended - put and passed.

Amendment (3)(t) - put.

Debate ensued.

Hon Sue Ellery moved -

In proposed Standing Order 180, subparagraph (h) — To insert after “the” —

Committee or the

Debate ensued.

Amendment to proposed Standing Order 180 - put and negatived.

Debate resumed.

Question - That amendment (3)(t) stand as printed - put and passed.

Amendment (3)(u) - put.

Debate ensued.

Hon Sue Ellery moved -

In proposed Standing Order 187, subparagraph (2)(b) — To insert before “listed” —

except for reports pertaining to Bills,

Amendment to proposed Standing Order 187 - put and passed.

Amendment (3)(u), as amended - put and passed.

Amendment (3)(v) - put.

Debate ensued.

Hon Liz Behjat moved -

In proposed Schedule 1, Item 5 (proposed terms of reference of the *Uniform Legislation and Statutes Review Committee*) — To delete subparagraph 5.3(c).

Debate ensued.

Amendment to proposed Schedule 1, Item 5 - put.

The Committee divided.

Ayes (14)

Hon Liz Behjat
 Hon Helen Bullock
 Hon Robin Chapple
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Jon Ford

Hon Lynn MacLaren
 Hon Ljiljana Ravlich
 Hon Linda Savage
 Hon Ken Travers
 Hon Giz Watson
 Hon Alison Xamon
 Hon Ed Dermer (*Teller*)

Noes (17)

Hon Jim Chown
 Hon Peter Collier
 Hon Mia Davies
 Hon Wendy Duncan
 Hon Brian Ellis
 Hon Donna Faragher
 Hon Philip Gardiner
 Hon Nick Goiran
 Hon Nigel Hallett

Hon Alyssa Hayden
 Hon Col Holt
 Hon Robyn McSweeney
 Hon Norman Moore
 Hon Helen Morton
 Hon Simon O'Brien
 Hon Max Trenorden
 Hon Ken Baston (*Teller*)

Amendment to proposed Schedule 1, Item 5 thus negatived.

Interruption pursuant to Temporary Orders.

19. Members' Statements

Statements were taken.

20. Adjournment

The House adjourned at 10.18pm until Thursday, 1 December 2011 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Michael Mischin.

MALCOLM PEACOCK
 Clerk of the Legislative Council

HON BARRY HOUSE
 President of the Legislative Council