

WESTERN AUSTRALIA

**LEGISLATIVE COUNCIL**

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**MINUTES OF PROCEEDINGS**

**No. 90**

**TUESDAY, 25 MAY 2010**

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**1. Meeting of Council**

The Council assembled at 3.00pm pursuant to Temporary Orders.

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

**2. Petitions**

Hon Sally Talbot presented a petition from 100 petitioners requesting the Legislative Council take immediate action to stop emissions from Cockburn Cement Ltd, Munster. (Tabled paper 2066).

Hon Sally Talbot presented a petition from 33 petitioners requesting the Legislative Council support the ban of plastic shopping bags. (Tabled paper 2067).

**3. Papers**

The following Papers were laid on the Table by -

**Minister for Transport**

*Regulations -*

Health Services (Conciliation and Review) Act 1995 (Health Services (Conciliation and Review) Regulations 2010 G.G. 21/05/2010) ..... 2057

**Minister for Energy**

*Local Laws -*

Local Government Act 1995 (Shire of Dowerin Fencing Amendment Local Law 2010 G.G. 18/05/2010)..... 2058

*Statutes -*

Edith Cowan University Act 1984 (Edith Cowan University - Amending Statute No. 3 of 2009 G.G. 18/05/2010 and Edith Cowan University - Amending Statute No. 4 of 2009 G.G. 18/05/2010)..... 2059

**Minister for Child Protection**

*Addendums -*

Greater Bunbury Region Scheme Amendment No. 0004/41 Capel East ..... 2060

*Plans -*

Greater Bunbury Region Scheme Amendment No. 0004/41 Capel East .....	2063A
Greater Bunbury Region Scheme Amendment No. 0006/41 Shire of Capel .....	2063B

*Regulations -*

Biosecurity and Agriculture Management Act 2007 (Biosecurity and Agriculture Management Industry Funding Scheme (Cattle) Regulations 2010 G.G. 21/05/2010, Biosecurity and Agriculture Management Industry Funding Scheme (Grains) Regulations 2010 G.G. 21/05/2010 and Biosecurity and Agriculture Management Industry Funding Scheme (Sheep and Goats) Regulations 2010 G.G. 21/05/2010) .....	2061
Child Care Services Act 2007 (Child Care Services (Rural Family Care) Regulations 2010 G.G. 21/05/2010).....	2062

*Reports -*

Greater Bunbury Region Scheme Amendment 0004/41 - Capel East (March 2010).....	2064A
Greater Bunbury Region Scheme Amendment 0006/41 - Areas Identified in the Capel Townsite Strategy - Shire of Capel (March 2010) .....	2064B

**Parliamentary Secretary representing the Minister for Regional Development***Proposals -*

Land Administration Act 1997 - Excision of Land and Provision for two easements on Class A Reserve No. 24913 - Shire of Denmark.....	2065
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#### **4. Standing Committee on Uniform Legislation and Statutes Review - Fifty-First Report - Pay-roll Tax Assessment Amendment Bill 2010**

Hon Adele Farina presented the Fifty-First Report of the Standing Committee on Uniform Legislation and Statutes Review in relation to the *Pay-roll Tax Assessment Amendment Bill 2010*. (Tabled paper 2068).

Hon Adele Farina moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

#### **5. Liquor Control Amendment Regulations 2010 - Disallowance - Withdrawal of Motion**

Hon Robin Chapple, by leave, withdrew Motion for Disallowance No. 4, *Liquor Control Amendment Regulations 2010*, from the Notice Paper pursuant to the recommendation of the Joint Standing Committee on Delegated Legislation.

#### **6. Order of Business**

Ordered - That Orders of the Day Nos 1, *Agriculture and Related Resources Protection (European House Borer) Amendment Regulations 2010 - Disallowance*, 2, *Retail Trading Hours (Tourism Precincts and Holiday Resorts) Amendment Regulations (No. 2) 2009 - Disallowance*, 3, *State Trading Concerns (Authorisation) Amendment Regulations (No. 2) 2009 - Disallowance*, 4, *State Trading Concerns (Authorisation) Amendment Regulations 2009 - Disallowance*, 5, *City of Albany Parking and Parking Facilities Local Law 2009 - Disallowance*, 6, *State Trading Concerns (Authorisation) Amendment Regulations (No. 2) 2009 - Disallowance*, 7, *City of Gosnells Animals, Environment and Nuisance Local Law 2009 - Disallowance*, 8, *Shire of Busselton Dust and Building Waste Control Local Law 2009 - Disallowance*, and 9, *Mining Amendment Regulations 2009 - Disallowance*, be taken after Order of the Day No. 13, *Appropriation (Consolidated Account) Capital 2007-08 and 2008-09 (Supplementary) Bill 2009*. (Leader of the House).

## **7. Revenue Laws Amendment and Repeal Bill 2010**

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

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a third time.

The President having reported that the 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.

## **8. Revenue Laws Amendment Bill 2010**

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

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a third time.

The President having reported that the 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.

## **9. Rail Safety Bill 2009**

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

The President left the Chair.

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### **In Committee**

(Hon Matt Benson-Lidholm in the Chair)

Clause 78.

Debate resumed on the amendment of the Minister for Transport as follows -

Page 67, after line 18 — To insert —

- (b) If it is not practicable for a rail safety worker to produce the identification on being requested to do so, the rail safety worker may produce it within a period considered reasonable by the requesting rail safety officer.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 79 to 87 agreed to.

Clause 88.

Hon Adele Farina moved the following Committee Recommendation -

Page 76, after line 34 — To insert —

- (3) If a place is entered under subsection (1) and the occupier is present at the place, the occupier is entitled to observe the inspection.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 89 to 92 agreed to.

Clause 93.

Hon Alison Xamon moved -

Page 79, line 3 — To delete “justice” and insert —

Magistrate

Page 79, line 18 — To delete “justice” and insert —

Magistrate

Page 79, line 22 — To delete “justice” and insert —

Magistrate

Page 79, line 23 — To delete “justice” and insert —

Magistrate

Page 79, line 25 — To delete “justice” and insert —

Magistrate

Page 79, line 26 — To delete “justice” and insert —

Magistrate

Page 79, line 27 — To delete “justice” and insert —

Magistrate

Debate ensued.

Amendments - put and negatived.

Question - That the Clause stand as printed - put and passed.

Clauses 94 to 117 agreed to.

Clause 118.

Hon Adele Farina moved the following Committee Recommendation -

Page 97, line 15 — To delete “.” and insert —

; and

- (e) that it is an offence to do or not to do the stated act; and
- (f) that the penalty for an offence is a fine of \$28 000 for an individual and for a body corporate, \$280 000.

Debate ensued.

#### **10. Questions Without Notice**

Questions without notice were taken.

The Minister for Mines and Petroleum tabled documents in relation to proposed additional staff for resource safety as at 1 January 2010, in response to a question without notice asked by Hon Jon Ford. (Tabled paper 2069).

The Minister for Mines and Petroleum tabled copies of mine record book entries and improvement notices issued by the Department of Mines and Petroleum under the *Mines Safety and Inspection Act 1994*, in response to question on notice No. 2279 asked by Hon Robin Chapple. (Tabled paper 2070).

The Minister for Training and Workforce Development tabled documents in relation to details of contracts awarded to the Chamber of Commerce and Industry of Western Australia, in response to question on notice No. 2225 asked by Hon Ljiljanna Ravlich. (Tabled paper 2071).

#### **11. Rail Safety Bill 2009**

The President left the Chair.

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#### **In Committee**

(Hon Helen Morton in the Chair)

Clause 118.

Debate resumed on the Committee Recommendation moved by Hon Adele Farina as follows -

Page 97, line 15 — To delete “.” and insert —

; and

- (e) that it is an offence to do or not to do the stated act; and
- (f) that the penalty for an offence is a fine of \$28 000 for an individual and for a body corporate, \$280 000.

Amendment - put and negatived.

Question - That the Clause stand as printed - put and passed.

Clauses 119 to 126 agreed to.

Clause 127.

Hon Adele Farina moved the following Committee Recommendation -

Page 103, lines 4 and 5 — To delete “are recoverable” and insert —

may be recovered

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 128 agreed to.

Clause 129.

Hon Adele Farina moved the following Committee Recommendation -

Page 104, lines 5 to 13 — To delete the lines and insert —

If, in the course of an investigation, an independent investigator reasonably believes that immediate action is required to prevent an occurrence involving the rolling stock or rail infrastructure of a rail transport operator that could result in, or that has the potential to result in —

- (a) the death of, or injury to, any person; or
- (b) damage to any property or equipment,

the independent investigator may, in writing, advise the CEO, the Rail Safety Regulator and the rail transport operator that that action is required.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 130 to 152 agreed to.

Clause 153.

Debate ensued.

Clause agreed to.

Clause 154.

Hon Adele Farina moved the following Committee Recommendation -

Page 119, after line 31 — To insert —

- (iii) the penalty for an offence is a fine of \$28 000.

Debate ensued.

Amendment - put and negatived.

Question - That the Clause stand as printed - put and passed.

Clause 155.

Debate ensued.

Hon Adele Farina moved the following Committee Recommendation -

Page 120, lines 25 to 27 — To delete the lines.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 156 to 164 agreed to.

Clause 165.

Hon Adele Farina moved the following Committee Recommendation -

Page 126, line 11 — To delete “.” and insert —

; and

(c) must advise that the penalty for an offence is a fine of \$11 000.

Debate ensued.

Amendment - put and negatived.

Hon Adele Farina moved the following Committee Recommendation -

Page 126, line 17 — To delete “.” and insert —

; and

(c) states that the penalty for an offence is a fine of \$11 000.

Debate ensued.

Hon Adele Farina, by leave, withdrew the amendment.

The Minister for Transport moved -

Page 126, line 17 — To delete “.” and insert —

; and

(c) sets out the penalty for the offence.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 166 to 270 agreed to.

New Clause 218A.

Hon Adele Farina moved the following Committee Recommendation -

Page 168, after line 14 — To insert —

**218A. Immunity for administering a test or taking a sample**

No action may be taken against a person who, in good faith, administers a test or takes a sample of blood or urine or other body tissues or fluids carried out under this Act.

Debate ensued.

Amendment - put and passed.

Title agreed to.

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The Deputy President resumed the Chair.

Bill reported with amendments.

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

## **12. Pharmacy Bill 2010**

The Deputy President reported the receipt of Message No. 96 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Transport representing the Minister for Health moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Transport representing the Minister for Health moved, That the Bill be now read a second time.

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

## **13. Criminal Code Amendment (Identity Crime) Bill 2009**

The Order of the Day having been read for the adjourned debate on the second reading of this Bill.

Debate ensued.

The Parliamentary Secretary representing the Attorney General, by leave, tabled letters from the Attorney General to the Standing Committee on Uniform Legislation and Statutes Review and to the Clerk Assistant (Committees). (Tabled paper 2072).

Question - put and passed.

Bill read a second time.

*Interruption pursuant to Temporary Orders.*

## **14. Members' Statements**

Statements were taken.

## **15. Adjournment**

The House adjourned at 10.17pm until Wednesday, 26 May 2010 at 2.00pm.

### **Members present during the day's proceedings**

Attendance: Present all Members except Hon Kate Doust and Hon Colin Holt.

**MALCOLM PEACOCK**  
Clerk of the Legislative Council

**HON BARRY HOUSE**  
President of the Legislative Council