

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 194

WEDNESDAY, 29 JUNE 2016

1. Meeting of Council

The Council assembled at 1.00pm pursuant to Temporary Orders.

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

2. Ministerial Statement — Overseas Travel — Meeting of the Law, Crime and Community Safety Council

The Attorney General made a Ministerial Statement with respect to his attendance at the first meeting of the Law, Crime and Community Safety Council in New Zealand.

3. Paper

The following Paper was laid on the Table by —

President

Auditor General's Papers —

Maintaining the State Road Network — Follow-on Audit (Report No. 13) (June 2016) .. 4287

4. Taxi Drivers — Probationary System

Motion No. 1 having been called, debate resumed on the motion of Hon Ken Travers as follows —

That the Council calls on the Barnett Liberal Government to explain why it will have taken more than three years to introduce a demerit point and probationary system for taxi drivers.

Question — put.

The Council divided.

Ayes (9)

Hon Robin Chapple
Hon Alanna Clohesy
Hon Sue Ellery
Hon Lynn MacLaren
Hon Martin Pritchard

Hon Amber-Jade Sanderson
Hon Sally Talbot
Hon Ken Travers
Hon Samantha Rowe (*Teller*)

Noes (16)

Hon Martin Aldridge
 Hon Ken Baston
 Hon Paul Brown
 Hon Jim Chown
 Hon Peter Collier
 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 Michael Mischin
 Hon Simon O'Brien
 Hon Phil Edman (*Teller*)

Motion thus negatived.

5. Suspension of Standing Orders

The Leader of the House moved, without notice —

That so much of the Standing Orders be suspended to enable Consideration of Committee Reports be taken forthwith.

Debate ensued.

The motion requiring the concurrence of an absolute majority.

Question — put.

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

6. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

In Committee

(Hon Adele Farina in the Chair)

Standing Committee on Estimates and Financial Operations — Report No. 62 — Provision of Information to the Parliament

The Leader of the House moved, That consideration be postponed until the next sitting.

Question — put and passed.

Select Committee into the Operations of The Royal Society for the Prevention of Cruelty to Animals Western Australia (Inc) — Report No. 1 — Select Committee into the Operations of The Royal Society for the Prevention of Cruelty to Animals Western Australia (Inc)

Debate resumed on the motion of Hon Sue Ellery, That the Report be noted.

On the motion of the Leader of the House the debate was adjourned to the next sitting.

Standing Committee on Public Administration — Report No. 26 — Transport of Persons in Custody

The Leader of the House moved, That consideration be postponed until the next sitting.

Question — put and passed.

Standing Committee on Uniform Legislation and Statutes Review — Report No. 99 — Inquiry into the Statute Book

The Leader of the House moved, That consideration be postponed until the next sitting.

Question — put and passed.

Joint Standing Committee on the Commissioner for Children and Young People — Report No. 7 — Everybody's Business. An examination into how the Commissioner for Children and Young People can enhance WA's response to child abuse

The Leader of the House moved, That consideration be postponed until the next sitting.

Question — put and passed.

Joint Standing Committee on Delegated Legislation — Report No. 84 — Access to Australian Standards Adopted in Delegated Legislation

The Leader of the House moved, That consideration be postponed until the next sitting.

Question — put and passed.

The Acting President resumed the Chair.

The Chair of Committees reported that the Committee of the Whole House had considered the —

- (1) Standing Committee on Estimates and Financial Operations — Report No. 62 — *Provision of Information to the Parliament* and postponed consideration to the next sitting.
- (2) Select Committee into the Operations of The Royal Society for the Prevention of Cruelty to Animals Western Australia (Inc) — Report No. 1 — *Select Committee into the Operations of The Royal Society for the Prevention of Cruelty to Animals Western Australia (Inc)*, made progress, and seeks to sit again.
- (3) Standing Committee on Public Administration — Report No. 26 — *Transport of Persons in Custody* and postponed consideration to the next sitting.
- (4) Standing Committee on Uniform Legislation and Statutes Review — Report No. 99 — *Inquiry into the Statute Book* and postponed consideration to the next sitting.
- (5) Joint Standing Committee on the Commissioner for Children and Young People — Report No. 7 — *Everybody's Business. An examination into how the Commissioner for Children and Young People can enhance WA's response to child abuse* and postponed consideration to the next sitting.
- (6) Joint Standing Committee on Delegated Legislation — Report No. 84 — *Access to Australian Standards Adopted in Delegated Legislation* and postponed consideration to the next sitting.

Report adopted.

7. Local Government Legislation Amendment Bill 2014

The Acting President reported the receipt of Message No. 152 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Planning representing the Minister for Local Government moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Planning representing the Minister for Local Government moved, That the Bill be read a second time.

The Minister for Planning representing the Minister for Local Government tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4288).

Debate stands adjourned.

8. Aquatic Resources Management Bill 2015

The Acting President reported the receipt of Message No. 155 from the Legislative Assembly forwarding the Bill for concurrence.

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

The Attorney General representing the Minister for Fisheries tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4289).

Debate stands adjourned and Bill referred to the Standing Committee on Uniform Legislation and Statutes Review [SO 126].

9. Aquatic Resources Legislation Amendment Bill 2015

The Acting President reported the receipt of Message No. 156 from the Legislative Assembly forwarding the Bill for concurrence.

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

The Attorney General representing the Minister for Fisheries tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 4290).

Debate stands adjourned.

10. Order of Business

Ordered — That Orders of the Day Nos 1, *Albany Cemetery Board By-laws Amendment 2015 — Disallowance*, 2, *Shire of Kellerberrin Dogs Local Law 2016 — Disallowance*, 3, *Magistrates Court (Minor Cases Procedure) Amendment Rules (No. 2) 2016 — Disallowance*, and 4, *Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2016 — Disallowance*, be taken after Order of the Day No. 14, *Graffiti Vandalism Bill 2015*. (Leader of the House).

11. Estimates of Revenue and Expenditure — Consolidated Account Estimates 2016–2017

The Order of the Day having been read for the adjourned debate on the motion of the Attorney General representing the Treasurer as follows —

That pursuant to Standing Order 69(1) the Legislative Council take note of Tabled Paper No. 4085 A-E (2016–2017 Budget Statements), laid upon the Table of the House on Thursday, 12 May 2016.

On the motion of the Leader of the House the debate was adjourned to the next sitting.

12. Public Health Bill 2014 and Public Health (Consequential Provisions) Bill 2014

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

Debate resumed.

Question — That the *Public Health Bill 2014* be read a second time — put and passed.

Bill read a second time.

Question — That the *Public Health (Consequential Provisions) Bill 2014* be read a second time — put and passed.

Bill read a second time.

The Deputy President left the Chair.

In Committee

(Hon Adele Farina in the Chair)

Public Health Bill 2014

Clause 1 agreed to.

Clauses 2 and 3 agreed to.

Clause 4.

The Minister for Planning representing the Minister for Health moved —

Page 10, lines 14 to 19 — To delete the lines and insert —

- (b) a person employed or engaged in a health service provider (as defined in the *Health Services Act 2016* section 6);

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 5.

Hon Lynn MacLaren moved —

Page 13, line 6 — To delete the line.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (9)

Hon Robin Chapple
Hon Alanna Clohesy
Hon Sue Ellery
Hon Adele Farina
Hon Lynn MacLaren

Hon Amber-Jade Sanderson
Hon Sally Talbot
Hon Ken Travers
Hon Samantha Rowe (*Teller*)

Noes (15)

Hon Ken Baston
Hon Liz Behjat
Hon Jim Chown
Hon Peter Collier
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 Michael Mischin
Hon Simon O'Brien
Hon Phil Edman (*Teller*)

Amendment thus negatived.

13. Questions Without Notice

Questions without notice were taken.

The Minister for Commerce tabled documents in relation to prosecution outcomes for the Energy Safety Division of the Department of Commerce in 2015–2016, in response to a question without notice asked by Hon Kate Doust. (Tabled Paper 4291).

The Minister for Education tabled documents in relation to the occupational safety and health policy of the Department of Education, in response to a question without notice asked by Hon Sue Ellery. (Tabled Paper 4292).

14. Public Health Bill 2014 and Public Health (Consequential Provisions) Bill 2014

Resumption of consideration of these Bills, in Committee of the Whole House (*see item 12 above*).

The President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

Public Health Bill 2014

Clause 5.

Debate resumed.

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

Clauses 6 to 63 agreed to.

Clause 64.

The Minister for Planning representing the Minister for Health moved —

Page 53, lines 13 to 16 — To delete the lines.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 65 to 265 agreed to.

Clause 266.

Debate ensued.

Question — put.

The Committee divided.

Ayes (17)

Hon Martin Aldridge
 Hon Ken Baston
 Hon Liz Behjat
 Hon Paul Brown
 Hon Jim Chown
 Hon Peter Collier
 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 Michael Mischin
 Hon Simon O'Brien
 Hon Phil Edman (*Teller*)

Noes (9)

Hon Robin Chapple
 Hon Alanna Clohesy
 Hon Kate Doust
 Hon Sue Ellery
 Hon Lynn MacLaren

Hon Martin Pritchard
 Hon Amber-Jade Sanderson
 Hon Ken Travers
 Hon Samantha Rowe (*Teller*)

Question thus passed.

Clause agreed to.

Clauses 267 to 278.

Debate ensued.

Question — put.

The Committee divided.

Ayes (17)

Hon Martin Aldridge
 Hon Ken Baston
 Hon Liz Behjat
 Hon Paul Brown
 Hon Jim Chown
 Hon Peter Collier
 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 Michael Mischin
 Hon Simon O'Brien
 Hon Phil Edman (*Teller*)

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Noes (9)

Hon Robin Chapple
Hon Alanna Clohesy
Hon Kate Doust
Hon Sue Ellery
Hon Lynn MacLaren

Hon Martin Pritchard
Hon Amber-Jade Sanderson
Hon Ken Travers
Hon Samantha Rowe (*Teller*)

Question thus passed.

Clauses 267 to 278 agreed to.

Clauses 279 to 292 agreed to.

Clause 293.

Debate ensued.

Question — put.

The Committee divided.

Ayes (17)

Hon Martin Aldridge
Hon Ken Baston
Hon Liz Behjat
Hon Paul Brown
Hon Jim Chown
Hon Peter Collier
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 Michael Mischin
Hon Simon O'Brien
Hon Phil Edman (*Teller*)

Noes (9)

Hon Robin Chapple
Hon Alanna Clohesy
Hon Kate Doust
Hon Sue Ellery
Hon Lynn MacLaren

Hon Martin Pritchard
Hon Amber-Jade Sanderson
Hon Ken Travers
Hon Samantha Rowe (*Teller*)

Question thus passed.

Clause agreed to.

Clauses 294 to 298 agreed to.

Clause 299.

The Minister for Planning representing the Minister for Health moved —

Page 218, line 25 — To delete “Word” and insert —

World

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 300 to 304 agreed to.

Clause 305.

The Minister for Planning representing the Minister for Health, by leave, moved —

Page 224, lines 6 to 15 — To delete the lines and insert —

- (4) If regulations adopt by reference a code or subsidiary legislation, other than any subsidiary legislation to which the *Interpretation Act 1984* section 41 applies —
 - (a) the code or subsidiary legislation is adopted as existing or in force when the regulations are made; and
 - (b) any amendments made to the code or subsidiary legislation after the regulations are made have no legal effect as part of the regulations unless they are specifically adopted by later regulations or a later amendment to the regulations.
- (4A) If regulations adopt by reference any subsidiary legislation to which the *Interpretation Act 1984* section 41 applies, the subsidiary legislation is adopted as existing or in force from time to time.
- (4B) Subsections (4) and (4A) do not apply if regulations state that a particular text is adopted.

Page 224, lines 16 to 17 — To delete “a code or subsidiary legislation by reference,” and insert —

by reference a code or subsidiary legislation to which subsection (4) applies,

Amendments — put and passed.

Clause, as amended, agreed to.

Clauses 306 to 322 agreed to.

Title agreed to.

Public Health (Consequential Provisions) Bill 2014

Clause 1 agreed to.

Clause 2.

Debate ensued.

Question, That the clause stand as printed — put and negatived.

New Clause 2.

The Minister for Planning representing the Minister for Health moved —

Page 2, after line 3 — To insert —

2. Commencement

- (1) This Act comes into operation as follows —
 - (a) Part 1 — on the day on which this Act receives the Royal Assent;
 - (b) Part 2 — on a day fixed by proclamation;
 - (c) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.
- (2) Subsection (1)(c) is subject to sections 212 and 353.

Amendment — put and passed.

New Clause agreed to.

Clauses 3 to 54 agreed to.

Clause 55.

The Minister for Planning representing the Minister for Health moved —

Page 36, lines 14 and 15 — To delete “Hospital Board of King Edward Memorial Hospital,” and insert —

chief executive of the health service provider for King Edward Memorial Hospital under the *Health Services Act 2016*,

Amendment — put and passed.

The Minister for Planning representing the Minister for Health moved —

Page 36, line 25 — To delete “Hospital Board of that hospital; and” and insert —

chief executive of the health service provider for that hospital under the *Health Services Act 2016*; and

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 56 to 100 agreed to.

Clause 101.

The Minister for Planning representing the Minister for Health moved —

Page 78, after line 11, the Table the 7th row the 2nd column — To delete “s. 39(2)(a)(i), 69(8)(a) and 95(4)(f)(iii)” and insert —

s. 39(2)(a)(i), 69(8)(a) and (9A)(b) and 95(4)(f)(iii)

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 102 to 110 agreed to.

New Part 3 Division 5A

The Minister for Planning representing the Minister for Health moved —

Page 84, after line 17 — To insert —

Division 5A — *Botanic Gardens and Parks Authority Act 1998* amended

110A. Act amended

This Division amends the *Botanic Gardens and Parks Authority Act 1998*.

110B. Section 44A amended

Delete section 44A(1) and insert:

(1) In this section —

Chief Health Officer has the meaning given in the *Public Health Act 2014* section 4(1);

public health has the meaning given in the *Public Health Act 2014* section 4(1).

110C. Various references to Executive Director amended

In the provisions listed in the Table delete “Executive Director, Public Health” (each occurrence) and insert:

Chief Health Officer

Table

44A(2)	44A(3)
44A(4)(a) and (b)	44A(5)
53A(2)	

Amendment — put and passed.

New Part agreed to.

Clauses 111 to 147 agreed to.

Clause 148.

The Minister for Planning representing the Minister for Health moved —

Page 95, lines 3 to 12 — To delete the lines.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 149.

The Minister for Planning representing the Minister for Health moved —

Page 95, line 23 — To delete the line.

Amendment — put and passed.

The Minister for Planning representing the Minister for Health moved —

Page 96, line 1 — To delete the line.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 150 to 152 agreed to.

The Minister for Planning representing the Minister for Health sought leave to put clauses 153 to 159 as one question [SO 132].

Leave granted.

Clause 153 to 159.

Question, That clauses 153 to 159 stand as printed — put and negatived.

Clauses deleted.

Clauses 160 to 165 agreed to.

New Clauses 165A and 165B.

The Minister for Planning representing the Minister for Health, by leave, moved —

Page 101, after line 3 — To insert —

165A. Section 3 amended

- (1) In section 3(1) delete the definition of *Executive Director, Public Health*.
- (2) In section 3(1) insert in alphabetical order:

Chief Health Officer has the meaning given in the *Public Health Act 2014* section 4(1);

Page 101, after line 3 — To insert —

165B. Section 64 amended

Delete section 64(1C)(c) and insert:

- (c) the Chief Health Officer;

Amendments — put and passed.

New clauses agreed to.

Clause 166.

Debate ensued.

Question, That the clause stand as printed — put and negatived.

New Clause 166.

The Minister for Planning representing the Minister for Health moved —

Page 101, after line 3 — To insert —

166. Section 69 amended

- (1) In section 69(8a) delete “Executive Director, Public Health —” and insert:

Chief Health Officer —

- (2) In section 69(9A) delete “Executive Director, Public Health” and insert:

Chief Health Officer

Amendment — put and passed.

New Clause agreed to.

Clause 167 to 176 agreed to.

Clauses 177 to 183.

Question, That clauses 177 to 183 stand as printed — put and negatived.

Clauses deleted.

New Part 3 Division 25A.

The Minister for Planning representing the Minister for Health moved —

Page 108, after line 20 — To insert —

Division 25A — *Private Hospitals and Health Services Act 1927* amended

190A. Act amended

This Division amends the *Private Hospitals and Health Services Act 1927*.

190B. Section 2 amended

In section 2(1) delete the definition of *infectious disease*.

Amendment — put and passed.

New Part agreed to.

Clauses 184 to 196 agreed to.

Clause 197.

The Minister for Planning representing the Minister for Health moved —

Page 110, lines 20 to 24 — To delete the lines.

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 198 to 205 agreed to.

Clause 206.

Debate ensued.

Question, That the clause stand as printed — put and negatived.

Clause deleted.

Clauses 207 to 212 agreed to.

Clause 213.

Debate ensued.

Question, That the clause stand as printed — put and negatived.

Clause deleted.

Clauses 214 to 256 agreed to.

New Part 4 Division 14A.

The Minister for Planning representing the Minister for Health moved —

Page 123, after line 14 — To insert —

Division 14A — Part XIII B amended

256A. Section 340AB amended

In section 340AB(3)(d) delete “Princess Margaret Hospital for Children,” and insert:

Perth Children’s Hospital,

Debate ensued.

Amendment — put and passed.

New Part agreed to.

Clauses 257 to 259 agreed to.

Clause 260.

The Minister for Planning representing the Minister for Health moved —

Page 124, line 2 — To delete ““133,” and insert —

“133(1),

Amendment — put and passed.

Clause, as amended, agreed to.

Clauses 261 to 283 agreed to.

New Clause 283A.

The Minister for Planning representing the Minister for Health moved —

Page 128, after line 15 — To insert —

283A Schedule 6 amended

After Schedule 6 clause 5(2) insert:

- (2A) The persons who held office under section 340AB(3)(d) as members of the Perinatal and Infant Mortality Committee, or as deputies of those members, immediately before the coming into operation of the *Public Health (Consequential Provisions) Act 2014* section 256A continue in office, under and subject to Part XIIIIB, as members or, as the case requires, deputies of members of the Committee until the expiry of their respective terms as if they had been appointed by the Minister on the nomination of the chief executive of the health service provider for Perth Children’s Hospital under the *Health Services Act 2016*.

Amendment — put and passed.

New Clause agreed to.

Clauses 284 to 288 agreed to.

Clauses 289 and 290.

Question, That clauses 289 and 290 stand as printed — put and negatived.

Clauses deleted.

Clauses 291 to 310 agreed to.

Clause 311.

Debate ensued.

Question, That the clause stand as printed — put and negatived.

New Clause 311

The Minister for Planning representing the Minister for Health moved —

Page 137, after line 9 — To insert —

311. Section 69 amended

- (1) In section 69(8)(a) delete “*Health (Miscellaneous Provisions) Act 1911*; or” and insert:

Public Health Act 2014; or

- (2) In section 69(9A)(b) delete “*Health (Miscellaneous Provisions) Act 1911.*” and insert:

Public Health Act 2014.

Amendment — put and passed.

New Clause agreed to.

Clauses 312 to 352 agreed to.

Clause 353 agreed to.

Title agreed to.

The President resumed the Chair.

Bills reported with amendments.

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

15. Members’ Statements

Statements were taken.

16. Electoral Amendment Bill 2016

The following Message from the Legislative Assembly was reported —

Mr President

Message No. 158

The Legislative Assembly acquaints the Legislative Council that it has agreed to the *Electoral Amendment Bill 2016* without amendment.

Mr I.M. Britza

Acting Speaker

Legislative Assembly Chamber

Perth, 29 June 2016

17. Adjournment

The Council adjourned at 6.41pm until Thursday, 30 June 2016 at 10.00am.

Members present during the day’s proceedings

Attendance: Present all Members except Hon Jacqui Boydell, Hon Stephen Dawson, Hon Brian Ellis, Hon Robyn McSweeney, Hon Helen Morton, and Hon Darren West.

NIGEL PRATT

Clerk of the Legislative Council

HON BARRY HOUSE

President of the Legislative Council