

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 35

THURSDAY, 4 JUNE 2009

1. Meeting of Council

The Council assembled at 11.00am pursuant to order.

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

2. Water Catchments - South West Recovery Program

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

That in the light of the declining rainfall and catastrophic decline in surface water inflow to our dams, and the impact of salinity on our South West water catchments this House calls on the Government to implement as a matter of priority a comprehensive upper catchment recovery program based on farm forestry that aims to restore water and salt balance in the six key water catchments in the region.

The Parliamentary Secretary representing the Minister for Water moved -

Line 1 — To delete “catastrophic”.

Lines 2 to 3 — To delete “calls on” and insert —
“ notes ”.

Line 3 — To insert after “Government” —
“ initiatives ”.

Line 4 — To insert after “forestry” —
“ and other initiatives ”.

Debate ensued.

Interruption of Debate [SO 195].

3. Suspension of Standing Orders

The Leader of the House moved, without notice -

That so much of the Standing Orders be suspended as would enable Orders of the Day to be taken forthwith.

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.

4. Order of Business

Ordered - That Orders of the Day Nos 1, *Occupational Safety and Health Amendment Regulations 2008 - Disallowance*, 2, *Children and Community Services Amendment Regulations 2008 - Disallowance*, 3, *Genetically Modified Crops Free Areas Exemption Order (No. 2) 2009 - Disallowance*, 4, *Fish Resources Management Amendment Regulations (No. 3) 2009 - Disallowance*, 5, *Psychologists Amendment Regulations 2009 - Disallowance*, 6, *City of Joondalup - Local Government and Public Property Amendment Local Law (No. 2) 2008 - Disallowance*, 7, *Southern Metropolitan Regional Council Standing Orders Local Law 2008 - Disallowance*, 8, *City of Gosnells - Local Government Property Local Law 2009 - Disallowance*, and 9, *City of Stirling - Fencing Local Law 2008 - Disallowance*, be taken after Order of the Day No. 20, *Child Exploitation Material and Classification Legislation Amendment Bill 2009*. (Leader of the House).

5. Estimates of Revenue and Expenditure - Consolidated Fund Estimates 2009-2010

The Order of the Day having been read, debate resumed on the motion of the Parliamentary Secretary representing the Treasurer as follows -

That pursuant to Standing Order No. 49(1)(c) the Legislative Council take note of Tabled Paper No. 773A-H (2009-2010 Budget Statements), laid upon the Table of the House on 14 May 2009.

On the motion of the Leader of the House the debate was adjourned to a later stage of this day's sitting.

6. Parliamentary Commissioner Amendment Bill 2009

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

The President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

New Clause 8A.

Debate resumed on the amendment of Hon Giz Watson as follows -

Page 5, after line 13 — To insert —

8A. Section 22B amended

In section 22B insert:

- (e) is disclosed to a person who is —
 - (i) the Commissioner for Children and Young People; or
 - (ii) a member of the staff of the Commissioner for Children and Young People authorised for the purposes of this subparagraph by the Commissioner,
 and concerns a matter that is relevant to the death of a child.

Amendment - put and passed.

Title agreed to.

The 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.

7. National Gas Access (WA) Bill 2008

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

Debate resumed.

Question - put and passed.

Bill read a second time.

The President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Clause 1 agreed to.

Clauses 2 to 6A agreed to.

Clause 6B.

Debate ensued.

Hon Giz Watson moved -

Page 4, after line 20 — To insert —

- (3) Despite subsection (1), section 42 of the *Interpretation Act 1984* applies to an order made under section 7A(2) as if the order were a regulation.
- (4) Despite subsection (1), section 42 of the *Interpretation Act 1984* applies to the making of regulations under section 10(1).

Debate ensued.

The Minister for Energy moved, That progress be reported and leave asked to sit again at a later stage of this day's sitting.

Question - put and passed.

The President resumed the Chair.

The Deputy Chairman of Committees reported that the Committee had considered the Bill, made progress, and asked leave to sit again at a later stage of this day's sitting.

Ordered - That the Committee have leave to sit again at a later stage of this day's sitting.

8. Order of Business

Ordered - That Order of the Day No. 10, *Estimates of Revenue and Expenditure - Consolidated Fund Estimates 2009-2010*, be taken forthwith. (Leader of the House).

9. Estimates of Revenue and Expenditure - Consolidated Fund Estimates 2009-2010

Debate resumed on the motion of the Parliamentary Secretary representing the Treasurer (cf item 5 above).

On the motion of Hon Ken Baston the debate was adjourned to the next sitting.

10. National Gas Access (WA) Bill 2008

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

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Clause 6B.

Debate resumed on the amendment of Hon Giz Watson as follows -

Page 4, after line 20 — To insert —

- (3) Despite subsection (1), section 42 of the *Interpretation Act 1984* applies to an order made under section 7A(2) as if the order were a regulation.
- (4) Despite subsection (1), section 42 of the *Interpretation Act 1984* applies to the making of regulations under section 10(1).

The Minister for Energy moved, That consideration of clause 6B be postponed until after clause 72.

Question - put and passed.

Clause 7 agreed to.

Clause 7A.

The Minister for Energy moved, That consideration of clause 7A be postponed until after clause 72.

Question - put and passed.

Clause 7B.

The Minister for Energy moved, That consideration of clause 7B be postponed until after clause 72.

Question - put and passed.

Clauses 8 to 18 agreed to.

Clause 19.

Debate ensued.

The Minister for Energy moved -

Page 16, after line 10 — To insert —

- (a) The national provisions do not affect the continuance or operation of an exempt contract.

Amendment - put and passed.

The Minister for Energy moved -

Page 16, line 12 — To insert after “apply” —

to a contract other than an exempt contract

Amendment - put and passed.

The Minister for Energy moved -

Page 16, lines 16 to 20 — To delete the lines and insert —

exempt contract —

- (a) means a contract in respect of which a declaration under the *Gas Corporation Act 1994* Schedule 5 clause 6 was in force immediately before the coming into operation of the *Dampier to Bunbury Pipeline Act 1997* Schedule 4 clause 17(4); and
- (b) includes a contract entered into —
 - (i) in substitution for a contract referred to in paragraph (a) or any provision of such a contract; or
 - (ii) by way of amendment of a contract referred to in paragraph (a) or subparagraph (i);

national provisions means the National Gas Access (Western Australia) Law, the Rules made under that Law, and the National Gas Access (Western Australia) Regulations;

relevant national provisions means any of the national provisions having the same purpose as a provision of the Gas Code, as defined in the National Gas Access (Western Australia) Law section 2.

Amendment - put and passed.

Debate ensued.

Question - That the clause, as amended, be agreed to - put.

The Committee divided.

Ayes (28)

Hon Liz Behjat
 Hon Matt Benson-Lidholm
 Hon Helen Bullock
 Hon Jim Chown
 Hon Peter Collier
 Hon Mia Davies
 Hon Ed Dermer
 Hon Kate Doust
 Hon Phil Edman
 Hon Sue Ellery
 Hon Brian Ellis
 Hon Donna Faragher
 Hon Adele Farina
 Hon Jock Ferguson

Hon Jon Ford
 Hon Philip Gardiner
 Hon Nick Goiran
 Hon Nigel Hallett
 Hon Alyssa Hayden
 Hon Col Holt
 Hon Michael Mischin
 Hon Norman Moore
 Hon Helen Morton
 Hon Simon O'Brien
 Hon Ljiljanna Ravlich
 Hon Sally Talbot
 Hon M.W. Trenorden
 Hon Ken Baston (*Teller*)

Noes (4)

Hon Robin Chapple
 Hon Lynn MacLaren

Hon Alison Xamon
 Hon Giz Watson (*Teller*)

Question thus passed.

Clause, as amended, agreed to.

Clauses 20 and 21 agreed to.

Clause 22.

Debate ensued.

The Minister for Energy moved, That consideration of clause 22 be postponed until after clause 72.

Question - put and passed.

Clauses 23 to 72 agreed to.

Postponed Clause 6B.

Debate resumed on the amendment of Hon Giz Watson as follows -

Page 4, after line 20 — To insert —

- (3) Despite subsection (1), section 42 of the *Interpretation Act 1984* applies to an order made under section 7A(2) as if the order were a regulation.
- (4) Despite subsection (1), section 42 of the *Interpretation Act 1984* applies to the making of regulations under section 10(1).

11. Questions Without Notice

Questions without notice were taken.

The Minister for Child Protection tabled, and by leave incorporated into Hansard, an answer in relation to Child Protection Orders issued in 2008 and 2009, in response to a question without notice asked by Hon Sue Ellery. (Tabled paper 841).

Point of Order

The Leader of the House raised the following Point of Order -

I draw the President's attention to Standing Order 140(a), which states that questions shall be concise and not contain a variety of other matters. Firstly, the question is not concise and, secondly, it contains matters which are inferences, arguments, imputations and hypothetical matters. I believe the question is out of order.

President's Ruling

The President ruled as follows -

The question is not concise and it contains a lot of information that is supplementary to the heart of the question being asked. In that regard, I rule it out of order.

The Minister for Energy representing the Minister for Local Government tabled documents in relation to Royalties for Regions - Country Local Government Fund 2008-2009 Funded Projects, in response to a question without notice asked by Hon Kate Doust. (Tabled paper 842).

Statement by President

The President made the following Statement -

I do not like ruling questions out of order but in the case today there was no option, as Members will see from the Standing Orders. I encourage Members to read chapter XII of the Standing Orders, in particular Standing Order 140(a)(i).

12. National Gas Access (WA) Bill 2008

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

The President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Postponed Clause 6B.

Debate resumed on the amendment of Hon Giz Watson as follows -

Page 4, after line 20 — To insert —

- (3) Despite subsection (1), section 42 of the *Interpretation Act 1984* applies to an order made under section 7A(2) as if the order were a regulation.
- (4) Despite subsection (1), section 42 of the *Interpretation Act 1984* applies to the making of regulations under section 10(1).

The Minister for Energy moved, That all postponed clauses be further postponed until after Schedule 1.

Question - put and passed.

Schedule 1.

Hon Giz Watson moved -

Page 33, after line 22 — To insert —

5A. Section 23 modified

In section 23 after “with respect to” insert:

ecologically sustainable development,

The Minister for Energy moved, That progress be reported and leave asked to sit again.

Question - put and passed.

The President resumed the Chair.

The Chairman of Committees reported that the Committee had considered the Bill, made progress, and asked leave to sit again.

Ordered - That the Committee have leave to sit again.

13. Appointment of Members to Standing Committees

The Leader of the House moved, without notice -

That the following Members be appointed to the following Committees -

- (1) Standing Committee on Environment and Public Affairs -
 - Hon Brian Ellis;
 - Hon Kate Doust;
 - Hon Phil Edman;
 - Hon Colin Holt;
 - Hon Lynn MacLaren; and
 - the Chair to be Hon Brian Ellis and the Deputy Chair Hon Kate Doust.

- (2) Standing Committee on Legislation -
- Hon Michael Mischin;
 - Hon Sally Talbot;
 - Hon Helen Morton;
 - Hon Mia Davies;
 - Hon Alison Xamon; and
 - the Chair to be Hon Michael Mischin and the Deputy Chair Hon Sally Talbot.
- (3) Standing Committee on Public Administration -
- Hon Max Trenorden;
 - Hon Jon Ford;
 - Hon Ken Baston;
 - Hon Jim Chown;
 - Hon Ed Dermer; and
 - the Chair to be Hon Max Trenorden and the Deputy Chair Hon Jon Ford.
- (4) Standing Committee on Estimates and Financial Operations -
- Hon Giz Watson;
 - Hon Philip Gardiner;
 - Hon Liz Behjat;
 - Hon Ken Travers;
 - Hon Ljiljanna Ravlich; and
 - the Chair to be Hon Giz Watson and the Deputy Chair Hon Philip Gardiner.
- (5) Standing Committee on Uniform Legislation and Statutes Review -
- Hon Adele Farina;
 - Hon Nigel Hallett;
 - Hon Helen Bullock;
 - Hon Liz Behjat; and
 - the Chair to be Hon Adele Farina and the Deputy Chair Hon Nigel Hallett.
- (6) Joint Standing Committee on Delegated Legislation -
- Hon Robin Chapple;
 - Hon Alyssa Hayden;
 - Hon Jim Chown; and
 - Hon Jock Ferguson.
- (7) Joint Standing Committee on the Commissioner for Children and Young People -
- Hon Helen Bullock; and
 - Hon Nick Goiran.

- (8) Joint Standing Committee on the Corruption and Crime Commission -
- Hon Nick Goiran; and
 - Hon Matt Benson-Lidholm.
- (9) Parliamentary Services Committee -
- Hon Barry House;
 - Hon Matt Benson-Lidholm;
 - Hon Nigel Hallett;
 - Hon Sally Talbot;
 - Hon Ken Baston; and
 - Hon Wendy Duncan.

Debate ensued.

Question - put and passed.

14. Appointment of Deputy Chairmen of Committees

The Leader of the House moved, without notice -

That the following Members be appointed Deputy Chairmen of Committees -

- Hon Ken Travers;
- Hon Jon Ford;
- Hon Michael Mischin;
- Hon Helen Morton; and
- Hon Max Trenorden.

Question - put and passed.

15. Special Adjournment

The Leader of the House moved, without notice -

That the House at its rising adjourn until Tuesday, 16 June 2009 at 3.30pm.

Question - put and passed.

16. Adjournment

The Leader of the House moved, That the House do now adjourn.

Question - put and passed.

The House adjourned at 4.57pm until Tuesday, 16 June 2009 at 3.30pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Wendy Duncan.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council