

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 101

TUESDAY, 26 SEPTEMBER 2006

1. Meeting of Council

The Council assembled at 3.00pm pursuant to order.

The President, Hon Nick Griffiths, took the Chair and read prayers.

2. Message from His Excellency the Governor - Assent to Bills

The President reported the receipt of a Message from His Excellency the Governor assenting to the following Bills -

22 September 2006 - Message No. 41	Act No.
Misuse of Drugs Amendment Bill 2006	40 of 2006
Parole and Sentencing Legislation Amendment Bill 2006	41 of 2006
Terrorism (Preventative Detention) Bill 2005	42 of 2006

3. Papers

The following Papers were laid on the Table by -

President

Annual Reports -

Inspector of Custodial Services, The Office of (2005-2006) (Date received 26/09/2006)..... 1912

Reports -

Corruption and Crime Commission of Western Australia - Report under the
Telecommunications (Interception and Access) Act 1979..... 1913

Leader of the House

Annual Reports -

Insurance Commission of Western Australia (2005-2006) (Date received 26/09/2006)..... 1914

Lotterywest (2005-2006) (Date received 26/09/2006)..... 1915

Rural Business Development Corporation (2005-2006) (Dated received 21/09/2006)..... 1916

State Government Insurance Corporation (2005-2006) (Date received 26/09/2006) 1917

Veterinary Surgeons' Board of Western Australia (2005-2006) (Date received 21/09/2006).... 1918

Rules -

Electricity Industry Act 2004 (Wholesale Electricity Market Rules - Amending Rules)..... 1919

Minister for Education and Training*Annual Reports -*

Marine Parks and Reserves Authority (2005-2006) (Date received 25/09/2006) 1920

**Parliamentary Secretary representing the Minister for Health on behalf of the
Parliamentary Secretary representing the Minister for Housing and Works***Annual Reports -*

Gold Corporation (2005-2006) (Date received 25/09/2006)..... 1921

Real Estate and Business Agents Supervisory Board (2005-2006)
(Date received 21/09/2006)..... 1922

Settlement Agents Supervisory Board (2005-2006) (Date received 21/09/2006)..... 1923

Parliamentary Secretary representing the Minister for Health*Annual Reports -*

Equal Opportunity Commission (2005-2006) (Date received 25/09/2006)..... 1924

Health Promotion Foundation, Western Australia [Healthway] (2005-2006)
(Date received 22/09/2006)..... 1925

Law Reform Commission of Western Australia, The (2005-2006)
(Date received 25/09/2006)..... 1926

State Coroner, Office of the (2005-2006) (Date received 22/09/2006)..... 1927

4. Standing and Sessional Orders Suspension - Motion

Hon Norman Moore moved, without notice -

That so much of Standing and Sessional Orders be suspended as will require - That Order of the Day No 298 *Select Committee into the Department for Community Development - Establishment*, as listed as Order of the Day No 1 for Wednesday, 27 September 2006, be put and determined at that day's sitting.

Point of Order

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

My point of order relates to Sessional Order 4(3), which provides that -

A motion without notice that is contingent upon an Order of the Day being called cannot be moved under subclause (1)(a)(v).

Subclause (1)(a)(v) refers to motions without notice. The way I read that is that this guillotine motion is contingent upon an Order of the Day being called tomorrow and, as such, it would be in breach of Sessional Order 4(3).

The President left the Chair at 3.20pm

The President resumed the Chair at 3.40pm

President's Ruling

The President ruled as follows -

The Leader of the Opposition moved, without notice -

That so much of Standing and Sessional Orders be suspended as will require that Order of the Day 298 - "Select Committee into the Department for Community Development - Establishment" - as listed as Order of the Day 1 for Wednesday, 27 September 2006, be put and determined at that day's sitting.

A point of order was taken to the effect that Sessional Order 4(3) was applicable. Sessional Order 4(3) reads -

A motion without notice that is contingent upon an Order of the Day being called cannot be moved under subclause (1)(a)(v).

The motion moved by the Leader of the Opposition is not contingent upon the Order of the Day being called. The motion, if passed, would make a decision about what happens if and when the order is called. The question itself is not contingent upon the Order of the Day being called. Further, the intent of the Standing and Sessional Orders does not prevent a motion of suspension under Standing Order 433.

Our system is based on restraint being exercised on both sides. The House is the master of its own procedure, and Sessional and Standing Orders should be read to provide guidance for the orderly conduct of its business, and not to overly restrict the House. Further, Standing Orders should be restricted only so far as will enable the Sessional Orders to be given effect. I put this in the context of the fact that the motion before the House, if it is to be passed, would require an absolute majority.

Debate ensued.

The motion requiring the concurrence of an absolute majority.

Question - put.

There being a dissentient voice the President ordered the House to divide.

Ayes (11)

Hon Ken Baston
Hon George Cash
Hon Peter Collier
Hon Anthony Fels
Hon Nigel Hallett
Hon Ray Halligan

Hon Robyn McSweeney
Hon Norman Moore
Hon Helen Morton
Hon Barbara Scott
Hon Bruce Donaldson (*Teller*)

Noes (14)

Hon Shelley Archer
Hon Matt Benson-Lidholm
Hon Vincent Catania
Hon Kim Chance
Hon Murray Criddle
Hon Kate Doust
Hon Sue Ellery

Hon Paul Llewellyn
Hon Sheila Mills
Hon Louise Pratt
Hon Ljiljanna Ravlich
Hon Ken Travers
Hon Giz Watson
Hon Ed Dermer (*Teller*)

The concurrence of an absolute majority of the whole number of Members not being met Standing and Sessional Orders not suspended.

5. Road Traffic Amendment Bill 2005

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

The Leader of the House moved, That the report be adopted.

Ordered - That the third reading of the Bill be made an Order of the Day for the next sitting.

6. Hospitals and Health Services Amendment Bill 2005

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

The Parliamentary Secretary representing the Minister for Health moved, That the report be adopted.

Question - put and passed.

The Parliamentary Secretary representing the Minister for Health 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.

Debate ensued.

Question - put and passed.

Bill read a third time and passed.

7. Electoral Reform (Electoral Funding) Bill 2006

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

Debate resumed.

8. Questions Without Notice

Questions without notice were taken.

The Leader of the House tabled documents in relation to the Request for Proposal (RFP) 80100 and letters of conditional acceptance issued by the then Department of Contract and Management Services to Consultech Engineering Services Pty Ltd (EMS) and Magenta Linas Software Pty Ltd (Electrac), establishing the contractual arrangements for the provision of an Electorate Information Management system on behalf of the Ministry of the Premier and Cabinet, in response to a question without notice asked by Hon Norman Moore. (Tabled paper 1928).

The Parliamentary Secretary representing the Attorney General tabled a letter with appendices from Clayton Utz Lawyers to the Solicitor General in relation to the High Court Appeal of Andrew Mark Mallard v The Queen, in response to a question without notice asked by Hon Norman Moore. (Tabled paper 1929).

9. Electoral Reform (Electoral Funding) Bill 2006

Debate resumed on the second reading of this Bill (cf item 7 above).

Question - put and passed.

Bill read a second time.

The Acting President left the Chair.

In Committee

(Hon Ray Halligan in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clause 2.

Debate ensued.

The Parliamentary Secretary representing the Minister for Electoral Affairs moved -

That further consideration of Clause 2 be postponed until after Clause 13.

Question - put and passed.

Clause 3 agreed to.

Clause 4.

Debate ensued.

Clause agreed to.

Clause 5 agreed to.

Clause 6.

The Parliamentary Secretary representing the Minister for Electoral Affairs moved -

Page 4, line 6 — To delete “is”.

Page 4, line 7 — To insert before “taken” —

“ is ”.

Page 4, line 8 — To delete “or” and substitute —

“ and ”.

Page 4, line 9 — To insert before “the” —

“ thereafter is ”.

Debate ensued.

Amendments - put and passed.

Hon Giz Watson moved -

Page 8, after line 8 — To insert —

“

175LG. Circumstances in which payment not to be made

(1) In this section —

“allowable amount” means the specified amount per elector multiplied by the number of electors in each electorate contested by the political party, candidate or group on whose behalf a claim for payment is made under section 175LD;

“specified amount per elector” means the amount that is prescribed on the recommendation of the Electoral Commissioner.

(2) A payment is not to be made under this Division —

- (a) in the case of a political party on whose behalf a claim for payment has been made under section 175LD, if the political party has —
 - (i) failed to lodge a return with the Electoral Commissioner in accordance with section 175SA;
 - (ii) lodged a return with the Electoral Commissioner in accordance with section 175SA that discloses electoral expenditure that exceeds the allowable amount; or
 - (iii) failed to lodge financial statements in accordance with section 175LH for any one or more financial year or years between the election preceding the election to which the claim for payment relates and the making of the claim for payment under section 175LD;

- (b) in the case of a candidate on whose behalf a claim for payment has been made under section 175LD, if the candidate has —
 - (i) failed to lodge a return with the Electoral Commissioner in accordance with section 175SB; or
 - (ii) lodged a return with the Electoral Commissioner in accordance with section 175SB that discloses electoral expenditure that exceeds the allowable amount;
- (c) in the case of a group on whose behalf a claim for payment has been made under section 175LD, if the group has —
 - (i) failed to lodge a return with the Electoral Commissioner in accordance with section 175SC; or
 - (ii) lodged a return with the Electoral Commissioner in accordance with section 175SC that discloses electoral expenditure that exceeds the allowable amount.
- (3) Subsection (2)(a)(iii) has no application to a claim for payment made on behalf of a political party relating to electoral expenditure incurred in the first election occurring after this section comes into effect.

175LH. Annual financial statements of political parties

- (1) For the purpose of section 175LG(2)(a)(iii), the agent of a political party must, by 30 November in each year, lodge financial statements with the Electoral Commissioner in an approved form setting out details of all income received and expenditure incurred during the financial year which ended on the last preceding 30 June.
- (2) The Electoral Commissioner must, as soon as practicable after receiving a financial statement under subsection (1), make the financial statements available for public inspection.
- (3) In the event that the Electoral Commission does not approve a form for the financial statements referred to in subsection (1), it shall be sufficient for the financial statements to contain details sufficient to comply with the requirements of financial statements of incorporated associations under the *Associations Incorporation Act 1987*.

”.

Debate ensued.

Amendment - put and negatived.

Clause, as amended, agreed to.

Clauses 7 to 13 agreed to.

Postponed Clause 2.

Debate ensued.

The Parliamentary Secretary representing the Minister for Electoral Affairs moved -

Page 2, line 4 — To delete “Section 1 and this section come”, and insert instead —

“ This Act comes ”.

Page 2, lines 6 to 7 — To delete the lines.

Amendments - put and passed.

Clause, as amended, agreed to.

New Clause 5.

Hon Giz Watson moved -

Page 2, after line 18 — To insert —

“

5. Section 175 amended

Section 175 is amended in the definition of “electoral expenditure” by inserting after paragraph (g) —

- (h) the development of policy to present to the electorate at an election.

”.

Debate ensued.

New Clause - put and negatived.

Title agreed to.

The Acting 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.

10. Commissioner for Children and Young People Bill 2005

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 175

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Commissioner for Children and Young People Bill 2005*.

Mrs D.J. Guise

Deputy Speaker

Legislative Assembly Chamber

Perth, 26 September 2006

11. Retail Shops and Fair Trading Legislation Amendment Bill 2005

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 176

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Retail Shops and Fair Trading Legislation Amendment Bill 2005*.

Mr P.B. Watson

Acting Speaker

Legislative Assembly Chamber

Perth, 26 September 2006

12. Pawnbrokers and Second-hand Dealers Amendment Bill 2005

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.

Leave was granted to proceed forthwith to the third reading of the Bill.

The Leader of the House moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

13. Members' Statements

Members' statements were taken.

14. Adjournment

The House adjourned at 9.52pm until Wednesday, 27 September 2006 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Adele Farina and Hon Jon Ford.

MIA BETJEMAN

Clerk of the Legislative Council

HON NICK GRIFFITHS

President of the Legislative Council