

WESTERN AUSTRALIA

# LEGISLATIVE ASSEMBLY

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## VOTES AND PROCEEDINGS

No. 177

FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT

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WEDNESDAY, 2 NOVEMBER 2011

### 1. Meeting of Assembly

The Assembly met at 12.00 noon pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

### 2. Petitions

Uranium Mining in Western Australia – Ms L.L. Baker presented a petition from 423 persons requesting that the Legislative Assembly recognise the unacceptable risk to the community and the environment posed by uranium mining and to immediately reinstate the ban on uranium mining in Western Australia (P. 491).

Rostrata Avenue in Willetton – Dr M.D. Nahan presented a petition from 370 persons requesting that flashing LED lights be installed on Rostrata Avenue in Willetton outside the Rostrata Primary School as part of the State Government's electronic speed zones programme (P. 492).

Swan Valley Poultry Farm – Ms R. Saffioti presented a petition from 87 persons requesting that the Legislative Assembly note the local opposition to the proposed retrospective extension to the Swan Valley Poultry Farm (P. 493).

Ballajura Police Presence – Ms R. Saffioti presented a petition from 39 persons requesting that the Legislative Assembly move to establish a stronger police presence in Ballajura (P. 494).

Greenwood Senior High School – Ms A.R. Mitchell presented a petition from 156 persons requesting that the Legislative Assembly make the refurbishment of Greenwood Senior High School a priority (P. 495).

### 3. Papers

The following papers were presented and ordered to lie upon the Table of the House –

By the Clerk –

Commonwealth Heads of Government Meeting (Special Powers) Act 2011 – Regulations (Commonwealth Heads of Government Meeting (Special Powers) Amendment Regulations 2011 G.G. 21/10/2011) (4159).

Criminal Procedure Act 2004 – Regulations (Criminal Procedure Amendment Regulations (No. 3) 2011 G.G. 27/10/2011) (4160).

Dog Act 1976 – Local Laws (City of Mandurah Dogs Amendment Local Law 2011 G.G. 21/10/2011) (4161).

Health Act 1911 – Local Laws (Shire of Exmouth Health Amendment Local Law 2011 G.G. 21/10/2011) (4162).

Hospitals and Health Services Act 1927 – Regulations (Hospitals (Services Charges) Amendment Regulations (No. 6) 2011 G.G. 21/10/2011) (4163).

Juries Act 1957 – Regulations (Juries Amendment Regulations (No. 2) 2011 G.G. 27/10/2011) (4164).

Local Government Act 1995 – Local Laws (City of South Perth Parking Local Law 2011 G.G. 18/10/2011) (4165).

Local Government Act 1995 – Local Laws (City of South Perth Public Places and Local Government Property Local Law 2011 G.G. 18/10/2011) (4166).

Magistrates Court Act 2004 – Rules (Magistrates Court (Civil Proceedings) Amendment Rules (No. 2) 2011 G.G. 27/10/2011) (4167).

Rottneest Island Authority Act 1987 – Regulations (Rottneest Island Amendment Regulations (No. 3) 2011 G.G. 25/10/2011) (4168).

Settlement Agents Act 1981 – Rules (Settlement Agents' Code of Conduct Amendment Rules 2011 G.G. 21/10/2011) (4169).

Supreme Court Act 1935 – Notices (Rule of Court 2012 – Sittings and Winter Vacation for 2012 G.G. 25/10/2011) (4170).

Vocational Education and Training Act 1996 – Regulations (Vocational Education and Training (Colleges) Amendment Regulations 2011 G.G. 27/10/2011) (4171).

Vocational Education and Training Act 1996 – Regulations (Vocational Education and Training (General) Amendment Regulations (No. 2) 2011 G.G. 25/10/2011) (4172).

Vocational Education and Training Act 1996 – Regulations (Vocational Education and Training (General) Amendment Regulations 2011 G.G. 25/10/2011) (4173).

#### **4. Notices of Motion**

#### **5. Brief Ministerial Statements**

Brief Ministerial Statements were made by –

The Treasurer on the Commonwealth Business Forum that was undertaken as part of the Commonwealth Heads of Government Meeting.

The Minister for Education on the Ministerial Mission to Korea involving Western Australian university Vice Chancellors and senior university officials from Curtin University of Technology, Murdoch University and the University of Western Australia.

The Minister for Environment on the Dolphin and Estuarine Health Working Group Report.

#### **6. Lotteries Commission Amendment Bill 2011**

The Premier, pursuant to notice, moved,

That a bill for “An Act to amend the *Lotteries Commission Act 1990*.” be introduced and read a first time.

Question put and passed.

The Premier presented an explanatory memorandum and bill read a first time.

The Premier moved, That the bill be now read a second time.

Mr D.A. Templeman moved, That the debate be adjourned.

Question put and passed.

#### **7. Agricultural Practices (Disputes) Repeal Bill 2011**

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

Question put.

The Assembly divided.

Ayes (26)

Mr P. Abetz  
Mr F.A. Alban  
Mr C.J. Barnett  
Mr I.C. Blayney  
Mr J.J.M. Bowler  
Mr T.R. Buswell  
Mr G.M. Castrilli  
Mr V.A. Catania  
Dr E. Constable

Mr J.H.D. Day  
Mr J.M. Francis  
Mr B.J. Grylls  
Dr K.D. Hames  
Mrs L.M. Harvey  
Mr A.P. Jacob  
Dr G.G. Jacobs  
Mr A. Krsticevic  
Mr W.R. Marmion

Mr P.T. Miles  
Ms A.R. Mitchell  
Dr M.D. Nahan  
Mr C.C. Porter  
Mr D.T. Redman  
Mr T.K. Waldron  
Dr J.M. Woollard  
Mr A.J. Simpson (*Teller*)

Noes (21)

Ms L.L. Baker  
Mr R.H. Cook  
Ms J.M. Freeman  
Mr W.J. Johnston  
Mr J.C. Kobelke  
Mr F.M. Logan  
Mr M. McGowan

Mrs C.A. Martin  
Mr M.P. Murray  
Mr A.P. O’Gorman  
Mr P. Papalia  
Ms M.M. Quirk  
Mr E.S. Ripper  
Mrs M.H. Roberts

Mr T.G. Stephens  
Mr C.J. Tallentire  
Mr P.C. Tinley  
Mr A.J. Waddell  
Mr P.B. Watson  
Mr B.S. Wyatt  
Mr D.A. Templeman (*Teller*)

Question thus passed.

Bill read a second time.

*CONSIDERATION IN DETAIL*

Clauses 1 to 3 agreed to.

Clause 4.

Mr C.J. Tallentire moved,

Page 4, lines 17 to 18 – To delete the lines and substitute:

“

(d) In the management or harvesting of a plantation done

”.

Debate interrupted by the Chair and adjourned until a later stage of the sitting.

## 8. Questions

Questions without Notice were taken.

Question on Notice No. 6794 was asked.

Questions on Notice Nos 6050, 6056, 6180, 6181, 6187, 6201, 6224, 6225, 6230, 6268 and 6277 to 6280 were answered.

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Paper tabled by the Minister for Education –

Question on Notice No. 6056 – Question in relation to a letter sent by the Minister of Education to BGC on 28 July 2011 stating the Department of Education’s number of successful sponsorship agreements with various large corporate donors (4174).

Papers tabled by the Minister for Police; Emergency Services –

Question on Notice No. 6180 – Summary of the total amount collected for the emergency services levy from local government agencies for the years 2009–2010 and 2010–2011 (4175).

Question on Notice No. 6181 – Summary of Community Safety and Crime Prevention Partnership Fund grants for the 2009–2010 and 2010–2011 years including location, duration and expected outcomes and amounts funded (4176).

## 9. Additional Information

The Minister for Forestry provided additional information relating to Question without Notice No. 741 from Mr M.P. Murray.

## 10. Variation to the Order of Business

Ordered, That consideration of Government Business Order of the Day No. 1 be resumed.

## 11. Agricultural Practices (Disputes) Repeal Bill 2011

The Order of the Day for the further consideration in detail of the bill was read.

### *CONSIDERATION IN DETAIL*

Clause 4.

Mr C.J. Tallentire had moved,

Page 4, lines 17 to 18 – To delete the lines and substitute:

“

(d) In the management or harvesting of a plantation done

”.

Amendment put.

The Assembly divided.

#### Ayes (22)

Ms L.L. Baker  
Ms A.S. Carles  
Mr R.H. Cook  
Ms J.M. Freeman  
Mr J.N. Hyde  
Mr W.J. Johnston  
Mr J.C. Kobelke  
Mr F.M. Logan

Mr M. McGowan  
Mr M.P. Murray  
Mr A.P. O’Gorman  
Mr P. Papalia  
Ms M.M. Quirk  
Mr E.S. Ripper  
Mrs M.H. Roberts  
Mr T.G. Stephens

Mr C.J. Tallentire  
Mr P.C. Tinley  
Mr A.J. Waddell  
Mr P.B. Watson  
Mr B.S. Wyatt  
Mr D.A. Templeman (*Teller*)

#### Noes (26)

Mr F.A. Alban  
Mr C.J. Barnett  
Mr I.C. Blayney  
Mr I.M. Britza  
Mr T.R. Buswell  
Mr G.M. Castrilli  
Dr E. Constable  
Mr J.H.D. Day  
Mr J.M. Francis

Mr B.J. Grylls  
Dr K.D. Hames  
Mrs L.M. Harvey  
Mr A.P. Jacob  
Mr R.F. Johnson  
Mr A. Krsticevic  
Mr J.E. McGrath  
Mr W.R. Marmion  
Mr P.T. Miles

Ms A.R. Mitchell  
Dr M.D. Nahan  
Mr C.C. Porter  
Mr D.T. Redman  
Mr M.W. Sutherland  
Mr T.K. Waldron  
Dr J.M. Woollard  
Mr A.J. Simpson (*Teller*)

Amendment thus negatived.

Clause 4 agreed to.

Clause 5 agreed to.

Title agreed to.

Consideration in detail concluded.

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

The Minister for Agriculture and Food moved, That the bill be now read a third time.

Debate ensued.

Question put and passed.

Bill read a third time and forwarded to the Legislative Council for concurrence.

## **12. Cat Bill 2011**

The Order of the Day for the consideration in detail of Legislative Council Message No. 184 was read.

The Message was as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Cat Bill 2011* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

*Schedule indicating the amendments made by the Legislative Council in the Cat Bill 2011*

### **No. 1**

Page 8, line 9 — To delete “an offence against —” and insert —

2 or more offences against any of the following —

### **No. 2**

Page 9, lines 9 to 11 — To delete “of 2 or more offences against this Act in the period of 12 months before the cancellation.” and insert —

within the period of 12 months before the cancellation of 2 or more offences against any of the following —

- (a) this Act;
- (b) the *Dog Act 1976*;
- (c) the *Animal Welfare Act 2002*.

### **No. 3**

Page 10, after line 29 — To insert —

- (3) A certificate referred to in subsection (2) cannot apply in respect of a cat that is under 6 months of age.

### **No. 4**

Page 12, after line 2 — To insert —

- (3) A certificate referred to in subsection (2)(a) cannot apply in respect of a cat that is under 6 months of age.

*CONSIDERATION IN DETAIL*

The Minister for Local Government moved, That amendment Nos 1 to 4 be agreed to.

Question put and passed.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

**13. Variation to the Order of Business**

Ordered, That Private Members' Business Notices of Motion Nos 16, 15 and 7 be next considered.

**14. Precedence of Franchising Bill 2010**

Mr P. Abetz, pursuant to notice, moved,

That so much of the Standing Orders be suspended as is necessary to require by this motion –

- (a) that the Order of the Day for the *Franchising Bill 2010* take precedence over all other items of Government Business and Private Members' Business until it has been finally dealt with in the Legislative Assembly; and
- (b) that the *Franchising Bill 2010* proceed without delay between the stages.

Debate ensued.

The Minister for Transport moved,

To delete the words "Government Business and".

Question put.

The Assembly divided.

## Ayes (27)

Mr P. Abetz  
Mr F.A. Alban  
Mr I.C. Blayney  
Mr J.J.M. Bowler  
Mr I.M. Britza  
Mr T.R. Buswell  
Ms A.S. Carles  
Mr G.M. Castrilli  
Mr V.A. Catania

Dr E. Constable  
Mr J.M. Francis  
Mr B.J. Grylls  
Dr K.D. Hames  
Mrs L.M. Harvey  
Mr A.P. Jacob  
Dr G.G. Jacobs  
Mr R.F. Johnson  
Mr A. Krsticevic

Mr J.E. McGrath  
Mr W.R. Marmion  
Mr P.T. Miles  
Ms A.R. Mitchell  
Dr M.D. Nahan  
Mr C.C. Porter  
Mr T.K. Waldron  
Dr J.M. Woollard  
Mr A.J. Simpson (*Teller*)

## Noes (20)

Ms L.L. Baker  
Mr R.H. Cook  
Ms J.M. Freeman  
Mr J.N. Hyde  
Mr W.J. Johnston  
Mr J.C. Kobelke  
Mr F.M. Logan

Mr M. McGowan  
Mr A.P. O'Gorman  
Mr P. Papalia  
Ms M.M. Quirk  
Mr E.S. Ripper  
Mrs M.H. Roberts  
Mr T.G. Stephens

Mr C.J. Tallentire  
Mr P.C. Tinley  
Mr A.J. Waddell  
Mr P.B. Watson  
Mr B.S. Wyatt  
Mr D.A. Templeman (*Teller*)

Question thus passed.

Motion, as amended, agreed to.

**15. Franchising Bill 2010**

The Order of the Day for the further consideration in detail of the bill was read.

*CONSIDERATION IN DETAIL*

Clauses 1 and 2 agreed to.

Clause 3.

Mr P. Abetz moved,

Page 2, lines 14 and 15 – To delete the lines and substitute:

“ **Commissioner** has the meaning given to that term by the *Fair Trading Act 2010* section 6. ”.

Amendment put and passed.

Clause, as amended, agreed to.

Clause 4.

Mr P. Abetz moved,

Page 3, lines 17 and 18 – To delete all words after “a” and substitute:

“ franchise business in, or substantially in, Western Australia. ”.

Amendment put and passed.

Mr P. Abetz moved,

Page 3, after line 26 – To insert:

“

- (3) This Bill does not apply to agreements which are excluded under sections 5(3)(a) and (b) of the Franchising Code of Conduct.

”.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 5 to 10 agreed to.

Clause 11.

Mr P. Abetz moved,

Page 6, line 9 – To delete “means” and substitute:

“ includes ”.

Amendment put and passed.

Clause, as amended, agreed to.

Clause 12.

Mr P. Abetz moved,

Page 7, line 20 – To delete “*Trade Practices Act 1974*” and substitute:

“ *Competition and Consumer Act 2010* ”.

Amendment put and passed.

Mr P. Abetz moved,

Page 7, line 21 – To delete “1987” and substitute:

“ 2010 ”.

Mr P. Abetz moved,

Page 8, line 2 – To delete “1987” and substitute:

“ 2010 ”.

Amendments put and passed.

Clause, as amended, agreed to.

Clause 13.

Mr P. Abetz moved,

Page 9, line 1 – To delete:

“ a franchisee under a WA franchise agreement or ”.

Amendment put and passed.

Clause, as amended, agreed to.

Clause 14.

Mr P. Abetz moved,

Page 9, line 21 – To delete “*Trade Practices Act 1974*” and substitute:

“ *Competition and Consumer Act 2010* ”.

Amendment put and passed.

Mr P. Abetz moved,

Page 9, line 23 – To delete the line.

Mr P. Abetz moved,

Page 9, lines 27 to 30 – To delete the lines.

Amendments put and passed.

Clause, as amended, agreed to.

Clause 15.

Mr P. Abetz moved,

Page 10, lines 20 to 25 – To delete the lines.

Amendment put and passed.

Mr P. Abetz moved,

Page 10, lines 26 and 28 – To delete “harm” where it occurs in both places and substitute:

“ loss or damage ”.

Amendment put and passed.

Clause, as amended, agreed to.

Title agreed to.

Consideration in detail concluded.

Mr P. Abetz moved, That the bill be now read a third time.

Debate ensued.

Question put.

The Assembly divided.

#### Ayes (24)

Mr P. Abetz	Mr F.M. Logan	Mr T.G. Stephens
Ms L.L. Baker	Mr M. McGowan	Mr C.J. Tallentire
Mr J.J.M. Bowler	Mrs C.A. Martin	Mr P.C. Tinley
Mr R.H. Cook	Mr A.P. O’Gorman	Mr A.J. Waddell
Ms J.M. Freeman	Mr P. Papalia	Mr P.B. Watson
Dr G.G. Jacobs	Ms M.M. Quirk	Mr M.P. Whitely
Mr W.J. Johnston	Mr E.S. Ripper	Mr B.S. Wyatt
Mr J.C. Kobelke	Mrs M.H. Roberts	Mr D.A. Templeman ( <i>Teller</i> )

#### Noes (24)

Mr F.A. Alban	Mr J.M. Francis	Mr W.R. Marmion
Mr C.J. Barnett	Mr B.J. Grylls	Mr P.T. Miles
Mr I.C. Blayney	Dr K.D. Hames	Ms A.R. Mitchell
Mr I.M. Britza	Mrs L.M. Harvey	Dr M.D. Nahan
Mr T.R. Buswell	Mr A.P. Jacob	Mr C.C. Porter
Ms A.S. Carles	Mr R.F. Johnson	Mr T.K. Waldron
Mr V.A. Catania	Mr A. Krsticevic	Dr J.M. Woollard
Dr E. Constable	Mr J.E. McGrath	Mr A.J. Simpson ( <i>Teller</i> )

The votes being equal, the Speaker cast his vote with the noes.

The question was thus resolved in the negative.

Bill defeated.

## 16. Kwinana Air-Quality Buffer

Mr R.H. Cook, pursuant to notice, moved,

That this House –

- (1) condemns the Barnett Government for its mismanagement of the extension of the Kwinana Air-Quality Buffer and its impact on the residents and landholders in the Mandogalup and Wattleup areas; and
- (2) calls on the Government to fully compensate those residents, including many elderly residents and landholders, for the loss of land value and sterilisation of their property values.

Debate ensued.

Question put.

The Assembly divided.

**Ayes (20)**

Ms L.L. Baker  
Ms A.S. Carles  
Mr R.H. Cook  
Ms J.M. Freeman  
Mr W.J. Johnston  
Mr J.C. Kobelke  
Mr F.M. Logan

Mr M. McGowan  
Mrs C.A. Martin  
Mr M.P. Murray  
Mr P. Papalia  
Mr E.S. Ripper  
Mrs M.H. Roberts  
Mr C.J. Tallentire

Mr P.C. Tinley  
Mr A.J. Waddell  
Mr P.B. Watson  
Mr M.P. Whitely  
Mr B.S. Wyatt  
Mr D.A. Templeman (*Teller*)

**Noes (25)**

Mr P. Abetz  
Mr F.A. Alban  
Mr C.J. Barnett  
Mr I.C. Blayney  
Mr J.J.M. Bowler  
Mr I.M. Britza  
Mr G.M. Castrilli  
Dr E. Constable  
Mr M.J. Cowper

Mr J.H.D. Day  
Mr J.M. Francis  
Mr B.J. Grylls  
Dr K.D. Hames  
Mrs L.M. Harvey  
Mr A.P. Jacob  
Mr R.F. Johnson  
Mr A. Krsticevic  
Mr J.E. McGrath

Mr W.R. Marmion  
Mr P.T. Miles  
Ms A.R. Mitchell  
Mr M.W. Sutherland  
Mr T.K. Waldron  
Dr J.M. Woollard  
Mr A.J. Simpson (*Teller*)

Question thus negatived.

**17. Adjournment**

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

Question put and passed.

The Assembly adjourned accordingly at 7.00 p.m. until Thursday, 3 November 2011 at 9.00 a.m.

*Members present during any part of the day's proceedings* – All the members except Dr A.D. Buti and Mr J.R. Quigley.

**PETER J. McHUGH**  
Clerk of the Legislative Assembly

**HON. GRANT WOODHAMS**  
Speaker of the Legislative Assembly