

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 110

TUESDAY, 14 SEPTEMBER 2010

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. Papers

The following Papers were laid on the Table by -

Leader of the House

Annual Reports -

Electoral Commission (Political Finance) (2008-2009) (Date received 13/09/2010) 2412

Hairdressers Registration Board - Annual Report and Financial Statements
(Year ended 31 December 2009) (Date received 14/09/2010)..... 2413

Industrial Relations Commission, Department of the Registrar (2009-2010)
(Date received 14/09/2010)..... 2414

Codes -

Occupational Safety and Health, Commission for - Code of Practice - Man Overboard:
Prevention and Response (2010)..... 2415

WorkSafe Western Australia Commission - Code of Practice - Prevention and Control
of Legionnaires Disease(December 2000) 2416

Management Plans -

Fish Resources Management Act 1994 (West Coast Rock Lobster Management Plan
Amendment (No. 10) 2010 [979] G.G. 10/09/2010)..... 2417

Orders -

Fish Resources Management Act 1994 (Prohibition on Fishing for Rock Lobster Order 2010
G.G. 10/09/2010)..... 2418

Regulations -

Fish Resources Management Act 1994 (Fish Resources Management Amendment Regulations
(No. 7) 2010 G.G. 10/09/2010)..... 2419

Workers' Compensation and Injury Management Act 1981 (Workers' Compensation and
Injury Management Amendment Regulations (No. 2) 2010 G.G. 10/09/2010) 2420

Minister for Transport*Annual Reports -*

Bunbury Port Authority (2009-2010) (Date received 14/09/2010)	2421
Coastal Shipping Commission, [STATESHIPS] (2009-2010) (Date received 14/09/2010).....	2422
Fremantle Ports Authority (2009-2010) (Date received 14/09/2010)	2423

Regulations -

Tobacco Products Control Act 2006 (Tobacco Products Control Amendment Regulations (No. 2) 2010 G.G. 10/09/2010)	2424
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Minister for Energy*Local Laws -*

Local Government Act 1995 (City of Rockingham - Bush Fire Control and Bush Fire Brigades Amendment Local Law 2010 G.G. 10/09/2010, City of Rockingham Dogs Amendment Local Law 2010 G.G. 10/09/2010, City of Rockingham Pest Plants Amendment Local Law 2010 G.G. 10/09/2010, Shire of Collie Cemeteries Local Law 2010 G.G. 08/09/2010 and Shire of Collie Dog Local Law 2010 G.G. 08/09/2010)	2425
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Regulations -

Bush Fires Act 1954 (Bush Fires Amendment Regulations (No. 2) 2010 G.G. 10/09/2010)	2426
Emergency Management Act 2005 (Emergency Management Amendment Regulations 2010 G.G. 10/09/2010).....	2427

Minister for Environment*Leases -*

CALM Lease No. 1993/97 - Between CALM and Walganup Aboriginal Corporation - Portion of State Forest No. 29	2428
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Parliamentary Secretary representing the Treasurer*By-laws -*

Water Agencies (Powers) Act 1984 (Water Agencies (Charges) Amendment By-laws (No. 2) 2010 G.G. 10/09/2010)	2429
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Regulations -

Pay-roll Tax Assessment Act 2002 (Pay-roll Tax Assessment Amendment Regulations 2010 G.G. 07/09/2010).....	2430
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Parliamentary Secretary representing the Minister for Regional Development*Notices -*

Financial Management Act 2006, Under Section 82 - Freedom of Information Application by Hon Mark McGowan MLA on 9 September 2010	2431
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3. Order of Business

Ordered - That Orders of the Day Nos 1, *Shire of Capel - Keeping and Welfare of Cats Amendment Local Law 2009 - Disallowance*, 4, *Shire of Ravensthorpe Local Government Property Local Law 2010 - Disallowance*, 5, *Fish Resources Management Amendment Regulations (No. 4) 2010 - Disallowance*, 6, *Road Traffic Code Amendment Regulations (No. 2) 2010 - Disallowance*, and 7, *Shire of Koorda Standing Orders Local Law 2009 - Disallowance*, be taken after Order of the Day No. 13, *Retail Trading Hours Amendment Bill 2009*. (Leader of the House).

4. Road Traffic (Charges and Fees) Amendment Regulations (No. 2) 2010 - Disallowance - Discharge from Notice Paper

The Order of the Day having been called, Hon Robin Chapple moved, without notice -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 2, *Road Traffic (Charges and Fees) Amendment Regulations (No. 2) 2010 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

5. Shire of Goomalling Waste Local Law 2010 - Disallowance - Discharge from Notice Paper

The Order of the Day having been called, Hon Robin Chapple moved, without notice -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 3, *Shire of Goomalling Waste Local Law 2010 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

6. Approvals and Related Reforms (No. 1) (Environment) Bill 2009

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

The Minister for Environment moved, That the report be adopted.

Question - put and passed.

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

7. Public Sector Reform Bill 2009

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.

Clause 2.

Debate ensued.

Clause agreed to.

Clause 3 agreed to.

Clause 4.

Hon Ljiljana Ravlich moved -

Page 4, after line 4 — To insert —

merit criteria, in relation to a person, means —

- (a) the extent to which the person has abilities, aptitude, skills, qualifications, knowledge, experience and personal qualities relevant to the carrying out of the duties in question; and

- (b) if relevant, the way in which the person carried out any previous employment or occupational duties and the extent to which the person has potential for development;

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (14)

Hon Matt Benson-Lidholm
 Hon Helen Bullock
 Hon Robin Chapple
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Lynn MacLaren

Hon Ljiljanna Ravlich
 Hon Linda Savage
 Hon Sally Talbot
 Hon Ken Travers
 Hon Giz Watson
 Hon Alison Xamon
 Hon Ed Dermer (*Teller*)

Noes (19)

Hon Liz Behjat
 Hon Peter Collier
 Hon Mia Davies
 Hon Wendy Duncan
 Hon Phil Edman
 Hon Brian Ellis
 Hon Donna Faragher
 Hon Philip Gardiner
 Hon Nick Goiran
 Hon Nigel Hallett

Hon Alyssa Hayden
 Hon Col Holt
 Hon Robyn McSweeney
 Hon Michael Mischin
 Hon Norman Moore
 Hon Helen Morton
 Hon Simon O'Brien
 Hon Max Trenorden
 Hon Ken Baston (*Teller*)

Amendment thus negatived.

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

Clauses 5 to 8 agreed to.

Clause 9.

Hon Ljiljanna Ravlich moved -

Page 5, after line 15 — To insert —

- (4) A Commissioner's instruction in relation to this section will provide for —
- (a) the process by which selection under the merit criteria will be undertaken for a stated type of appointment or secondment, providing for a streamlined process where appropriate; and
 - (b) the circumstances under which a competitive assessment of merit is not required.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (14)

Hon Matt Benson-Lidholm
 Hon Helen Bullock
 Hon Robin Chapple
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Lynn MacLaren

Hon Ljiljanna Ravlich
 Hon Linda Savage
 Hon Sally Talbot
 Hon Ken Travers
 Hon Giz Watson
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Hon Liz Behjat
 Hon Peter Collier
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 Hon Philip Gardiner
 Hon Nick Goiran
 Hon Nigel Hallett

Hon Alyssa Hayden
 Hon Col Holt
 Hon Robyn McSweeney
 Hon Michael Mischin
 Hon Norman Moore
 Hon Helen Morton
 Hon Simon O'Brien
 Hon Max Trenorden
 Hon Ken Baston (*Teller*)

Amendment thus negated.

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

Clauses 10 to 12 agreed to.

Clause 13.

Debate ensued.

Clause agreed to.

Clauses 14 to 19 agreed to.

Clause 20.

Debate ensued.

Hon Ljiljanna Ravlich moved -

Page 11, after line 10 — To insert —

- (5A) The Commissioner shall consult widely with relevant stakeholders prior to issuing a Commissioner's instruction, including, but not limited to —
- (a) employing authorities; and
 - (b) organisations within the meaning of the *Industrial Relations Act 1979*.

Debate ensued.

8. Questions Without Notice

Questions without notice were taken.

The Leader of the House representing the Minister for State Development tabled a map in relation to land acquired by the Government and associated infrastructure for the Browse LNG Precinct, in response to a question without notice asked by Hon Robin Chapple. (Tabled paper 2432).

9. Public Sector Reform Bill 2009

The President left the Chair.

In Committee

(Hon Helen Morton in the Chair)

Clause 20.

Debate resumed on the amendment of Hon Ljiljanna Ravlich as follows -

Page 11, after line 10 — To insert —

- (5A) The Commissioner shall consult widely with relevant stakeholders prior to issuing a Commissioner's instruction, including, but not limited to —
- (a) employing authorities; and
 - (b) organisations within the meaning of the *Industrial Relations Act 1979*.

Amendment - put.

The Committee divided.

Ayes (13)

Hon Matt Benson-Lidholm
 Hon Robin Chapple
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Lynn MacLaren
 Hon Ljiljanna Ravlich

Hon Linda Savage
 Hon Sally Talbot
 Hon Ken Travers
 Hon Giz Watson
 Hon Alison Xamon
 Hon Ed Dermer (*Teller*)

Noes (18)

Hon Liz Behjat
 Hon Peter Collier
 Hon Mia Davies
 Hon Wendy Duncan
 Hon Phil Edman
 Hon Brian Ellis
 Hon Donna Faragher
 Hon Philip Gardiner
 Hon Nick Goiran

Hon Nigel Hallett
 Hon Alyssa Hayden
 Hon Col Holt
 Hon Robyn McSweeney
 Hon Michael Mischin
 Hon Norman Moore
 Hon Helen Morton
 Hon Simon O'Brien
 Hon Ken Baston (*Teller*)

Amendment thus negatived.

Debate resumed.

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

Clause 21 agreed to.

Clause 22.

Debate ensued.

Clause agreed to.

Clause 23 agreed to.

Clause 24.

Debate ensued.

Clause agreed to.

Clauses 25 to 33 agreed to.

Clause 34.

Hon Ljiljanna Ravlich moved -

Page 26, line 7 — To delete “delegate” and insert —

, in an extreme or emergency situation, delegate, for a defined time,

Debate ensued.

Amendment - put and negatived.

Hon Ljiljanna Ravlich moved -

Page 27, after line 13 — To insert —

- (6) A person to whom a power or duty is delegated under this section is bound by this Act.

Amendment - put and negatived.

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

Clauses 35 to 93 agreed to.

Clause 94.

Hon Ljiljanna Ravlich moved -

Page 75, after line 30 — To insert —

- (8) Disciplinary action against a former employee will only proceed where it is in the public interest. A decision to proceed will be made by the Commissioner in accordance with the relevant Commissioner’s instruction on public interest.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (12)

Hon Helen Bullock
 Hon Robin Chapple
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Lynn MacLaren

Hon Ljiljanna Ravlich
 Hon Linda Savage
 Hon Ken Travers
 Hon Giz Watson
 Hon Alison Xamon
 Hon Ed Dermer (*Teller*)

Noes (17)

Hon Liz Behjat
 Hon Peter Collier
 Hon Mia Davies
 Hon Wendy Duncan
 Hon Phil Edman
 Hon Brian Ellis
 Hon Donna Faragher
 Hon Philip Gardiner
 Hon Nick Goiran

Hon Alyssa Hayden
 Hon Col Holt
 Hon Robyn McSweeney
 Hon Michael Mischin
 Hon Norman Moore
 Hon Simon O'Brien
 Hon Max Trenorden
 Hon Ken Baston (*Teller*)

Amendment thus negatived.

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

Clause 95.

The Leader of the House representing the Premier, by leave, moved -

Page 76, after line 19 — To insert —

- (ia) a decision made in respect of the Government officer under section 79(3)(b) or (c) or (4); or

Page 77, lines 1 to 16 — To delete the lines.

Page 77, after line 24 — To insert —

- (ia) a decision made in respect of the employee under section 79(3)(b) or (c) or (4); or

Debate ensued.

Amendments - put and passed.

Clause, as amended, agreed to.

Clause 96 agreed to.

Clause 97.

Hon Ljiljanna Ravlich moved -

Page 82, after line 19 — To insert —

- (d) must consider the evidence available.

Debate ensued.

Amendment - put and negatived.

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

Clauses 98 to 105 agreed to.

Clause 106.

Hon Ljiljanna Ravlich moved -

Page 90, after line 9 — To insert —

- (1) In section 94(2)(c) insert after “paragraph (a)” —

subject to the proviso that such an offer shall be at salary, hours and conditions not less than those applicable to that employee’s substantive position

Debate ensued.

Amendment - put and negatived.

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

Clauses 107 to 109 agreed to.

Clause 110.

The Leader of the House representing the Premier moved -

Page 94, line 15 — To delete “an employing authority”.

Amendment - put and passed.

Clause, as amended, agreed to.

New Clause 53A.

Hon Ljiljanna Ravlich moved -

Page 34, after line 28 — To insert —

53A. Section 73 amended

- (1) In section 73 delete “Notwithstanding” and insert:

- (1) Despite

- (2) At the end of section 73 insert:

- (2) For the purposes of subsection (1)(b), a person engaged under a contract for services under section 100(1) to assist a political office holder includes a person who is a director of, or engaged or employed by, a body corporate that —
- (a) is engaged under a contract for services under section 100(1) to assist a political office holder; and
 - (b) is providing the person to assist a political office holder under the contract for services referred to in paragraph (a).

Debate ensued.

New Clause - put and negatived.

Title agreed to.

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.

10. Cannabis Law Reform Bill 2009

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

Debate resumed.

Hon Kate Doust, by leave, tabled an email from Mark Allen, owner of Pipe Dreams, Rockingham, to Members of the Legislative Council in relation to the *Cannabis Law Reform Bill 2009*. (Tabled paper 2433).

Interruption pursuant to Temporary Orders.

11. Members' Statements

Statements were taken.

12. Trade Measurement Legislation (Amendment and Expiry) Bill 2010

The President reported the receipt of Message No. 129 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Minister for Commerce moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Leader of the House representing the Minister for Commerce moved, That the Bill be now read a second time.

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

13. Cement Works (Cockburn Cement Limited) Agreement Amendment Bill 2010

The President reported the receipt of Message No. 130 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Minister for State Development moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Leader of the House representing the Minister for State Development moved, That the Bill be now read a second time.

The Leader of the House representing the Minister for State Development tabled maps in relation to Plan C and Plan D referred to in the *Cement Works (Cockburn Cement Limited) Agreement Amendment Bill 2010* variation agreement. (Tabled paper 2434).

The Leader of the House representing the Minister for State Development tabled a consolidated copy of the agreement incorporating proposed variations in relation to the *Cement Works (Cockburn Cement Limited) Agreement Amendment Bill 2010*. (Tabled paper 2435).

The Leader of the House representing the Minister for State Development tabled an Explanatory Memorandum relating to the Bill. (Tabled paper 2436).

Debate stands adjourned.

14. Adjournment

The House adjourned at 10.36pm until Wednesday, 15 September 2010 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Jim Chown and Hon Jon Ford.

NIGEL LAKE
Acting Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council