

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 199

FIRST SESSION OF THE THIRTY-SEVENTH PARLIAMENT

THURSDAY, 15 MAY 2008

1. Meeting of Assembly

The Assembly met at 9.00 a.m. pursuant to adjournment.

The Deputy Speaker took the Chair.

Prayers were read.

2. Petition

Public Access Way, Greenwood - Mrs J. Hughes presented a petition from 272 persons requesting that the Legislative Assembly stop the closure of the Public Access Way between Dericote Way and Greenwood Village Shopping Centre Car Park and investigate and review the decision to close the public access way in consultation with the local community (P. 303).

3. Brief Ministerial Statement

The following Brief Ministerial Statement was made by -

The Minister for the Environment on the role of Department of Environment and Conservation's volunteers program.

4. Grievances

The Deputy Speaker called for grievances which were then made.

5. Procedure and Privileges Committee

Ms D.J. Guise, as Deputy Chairman, presented the following report which was ordered to lie upon the Table of the House -

Procedure and Privileges Committee – Report on Person Adversely Referred to in the Legislative Assembly: Mr Mike Allen, Report No. 3, 2008 (3887) .

Ms D.J. Guise spoke on the report.

6. Procedure and Privileges Committee

Ms D.J. Guise, as Deputy Chairman, presented the following report which was ordered to lie upon the Table of the House -

Procedure and Privileges Committee – Review of the Legislative Assembly Committee System (Part A), Report No. 4, 2008 (3888).

Ms D.J. Guise, and Mr M.W. Trenorden spoke on the report.

7. Education and Health Standing Committee

Mr T.G. Stephens, as Chairman, presented the following report which was ordered to lie upon the Table of the House -

Education and Health Standing Committee – Ways Forward - Beyond the Blame Game: Some Successful Initiatives in Remote Indigenous Communities in WA (3889).

Mr T.G. Stephens, Dr K.D. Hames, Mr T.K. Waldron and Mr M.P. Whitely spoke on the report.

8. Public Accounts Committee

Dr S.C. Thomas, as Deputy Chairman, presented the following report which was ordered to lie upon the Table of the House -

Public Accounts Committee – Inquiry into Funding Arrangements for Western Australian Infrastructure Projects, Report No. 9, 2008 (3890).

Dr S.C. Thomas, Mr D.T. Redman, Mr B.S. Wyatt, and Mr P.B. Watson spoke on the report.

9. Education and Training Legislation Amendment and Repeal Bill 2008

The Minister for Education and Training, pursuant to notice, moved,

That a bill for “An Act –

- to amend the *Vocational Education and Training Act 1996*; and
- to repeal the *Industrial Training Act 1975*,

and, as a consequence, to amend various Acts, and for related purposes.” be introduced and read a first time.

Question put and passed.

The Minister for Education and Training presented an explanatory memorandum and bill read a first time.

The Minister for Education and Training moved, That the bill be now read a second time.

Mr R.F. Johnson moved, That the debate be adjourned.

Question put and passed.

10. Nickel Refinery (BHP Billiton Nickel West Pty Ltd) (Termination of Agreements) Agreement Bill 2008

The Minister for Resources, pursuant to notice, moved,

That a bill for “An Act –

- to ratify an agreement, as varied by a subsequent agreement, between the State and BHP Billiton Nickel West Pty Ltd that provides for the termination of an agreement made on 19 January 1968 and subsequently varied, and an agreement made on 4 November 1970 and subsequently varied, between the State and BHP Billiton Nickel West Pty Ltd (under its former name, Western Mining Corporation Limited); and
- to validate the renewal of certain mineral leases.” be introduced and read a first time.

Question put and passed.

The Minister for Resources presented an explanatory memorandum and bill read a first time.

The Minister for Resources moved, That the bill be now read a second time.

Mr A.J. Simpson moved, That the debate be adjourned.

Question put and passed.

11. Appropriation (Consolidated Account) Bill (No. 1) 2008

Appropriation (Consolidated Account) Bill (No. 2) 2008

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

Debate resumed.

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

12. Members' Statements

The Acting Speaker called for members' statements which were then made.

13. Variation to the Order of Business

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

14. Appropriation (Consolidated Account) Bill (No. 1) 2008

Appropriation (Consolidated Account) Bill (No. 2) 2008

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

Debate resumed.

Debate interrupted by the Chair (Mr J.N. Hyde speaking) and adjourned until a later stage of the sitting.

15. Questions

Questions without notice were taken.

Questions on notice Nos 3377 and 3378 were asked.

Questions on notice Nos 3324 and 3349 were answered.

16. Papers

By the Mr T.G. Stephens, as Chairman of the Education and Health Standing Committee –

Education and Health Standing Committee – Ways Forward - Beyond the Blame Game: Some Successful Initiatives in Remote Indigenous Communities in WA, Submissions (3891).

By the Minister for Energy –

Energy Smart – Energy Smart Government, 2006/07, Sustainable Energy Development Office (3892).

17. Variation to the Order of Business

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

18. Appropriation (Consolidated Account) Bill (No. 1) 2008**Appropriation (Consolidated Account) Bill (No. 2) 2008**

The Order of the Day for the resumption of the debate upon the second reading of the bills was read.
Debate resumed.

Messages from the Governor

Messages from His Excellency the Governor were reported recommending the purpose of the appropriations for the following bills -

Appropriation (Consolidated Account) Bill (No. 1) 2008 (Message No. 15).

Appropriation (Consolidated Account) Bill (No. 2) 2008 (Message No. 16).

Appropriation (Consolidated Account) Bill (No. 1) 2008 read a second time and pursuant to Standing Order No. 222 the Bill and Estimates were referred to the Estimates Committees A and B.

The Order of the Day for the second reading of the Appropriation (Consolidated Account) Bill (No. 2) 2008 was read.

Question put and passed.

Appropriation (Consolidated Account) Bill (No. 2) 2008 read a second time and pursuant to Standing Order No. 222 the Bill and Estimates were referred to the Estimates Committees A and B.

19. Variation to the Order of Business

Ordered, That Government Business Order of the Day No. 13 be next considered.

20. Medical Practitioners Bill 2006

The Order of the Day for the consideration in detail of Legislative Council message No. 207 was read.

The message was as follows -

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Medical Practitioners Bill 2006* 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 Medical Practitioners Bill 2006

No. 1

Clause 66, page 48, line 5 — To insert after “visiting” —

“ force ”

No. 2

Clause 78, page 55, line 17 — To delete “a” and insert instead —

“ any other ”

No. 3

Schedule 3, page 142, lines 8 to 18 — To delete the lines.

No. 4

Schedule 3, page 153, lines 18 to 23 — To delete the lines.

No. 5

Schedule 3, page 154, lines 19 to 26 — To delete the lines.

No. 6

Schedule 3, page 155, lines 7 to 14 — To delete the lines.

No. 7

Schedule 3, page 156, lines 1 to 8 — To delete the lines.

No. 8

Schedule 3, page 156, line 21 to page 157, line 3 — To delete the lines.

CONSIDERATION IN DETAIL

The Minister for Health moved, That amendment Nos 1 to 8 be agreed to.

Questions put and passed.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

21. Legal Profession Bill 2007

Message No. 211 dated 15 May 2008 from the Legislative Council was reported as follows -

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Legal Profession Bill 2007* 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 Legal Profession Bill 2007

No. 1

Clause 44, page 48, line 30 — To delete “admission” and insert instead —
“ legal profession ”.

No. 2

Clause 44, page 49, line 1 — To delete “admission” and insert instead —
“ legal profession ”.

No. 3

Clause 44, page 49, line 27 — To delete “admission” and insert instead —
“ legal profession ”.

No. 4

Clause 44, page 49, line 29 — To delete “admission” and insert instead —
“ legal profession ”.

No. 5

Clause 76, page 76, after line 27 — To insert —

“

- (3) If a condition is imposed on a local practising certificate because of the infirmity, injury or mental or physical illness of the holder of the practising certificate, the Board may omit from the register any part of the condition that includes the reason for the imposition of the condition or other information in relation to the infirmity, injury or mental or physical illness.

”.

No. 6

Clause 225, page 175, line 15 — To insert after “Part” —

“ (other than subsection (3)) ”.

No. 7

Clause 225, page 175, after line 16 — To insert —

“

- (3) Subsection (1) does not apply in relation to trust money that is held by the person under another trust when it is paid into the general trust account or controlled money account.

”.

No. 8

Clause 433, page 304, lines 16 and 17 — To delete the lines.

No. 9

Clause 433, page 304, line 18 — To delete “the complainant” and insert instead —

“ a party ”.

No. 10

Clause 433, page 304, lines 21 and 22 — To delete “who is entitled to appear before the Complaints Committee or”.

No. 11

Clause 519, page 367, lines 16 and 17 — To delete “who has or has had control of documents relating to the affairs of the practice”.

No. 12

Clause 520, page 368, lines 20 to 22 — To delete “who has or has had control of documents relating to the affairs of the lawyer”.

No. 13

Clause 520, page 369, line 10 — To delete “of” the first time it occurs and insert instead —

“ or ”.

No. 14

Clause 523, page 371, lines 3 and 4 — To delete the lines.

No. 15

Clause 523, page 371, line 5 — To delete “residential” and insert instead —

“ any ”.

Leave given for, Legislative Council Message No. 211 to be considered in detail forthwith.

CONSIDERATION IN DETAIL

The Attorney General moved, That amendment Nos 1 to 15 be agreed to.

Questions put and passed.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

22. Food Bill 2005

Message No. 210 dated 15 May 2008 from the Legislative Council was reported as follows -

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Food Bill 2005* 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 Food Bill 2005

No. 1

Clause 2, page 2, lines 5 to 10 — To delete the lines and insert instead —

“

(1) This Act comes into operation as follows:

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

”.

No. 2

Clause 9, page 10, line 8 — To delete “3B” and insert instead —

“ 6 ”.

No. 3

Clause 33, page 26, line 23 — To delete “any” and insert instead —

“ reasonable ”.

No. 4

Clause 33, page 26, line 29 — To delete “any” and insert instead —

“ reasonable ”.

No. 5

Clause 38, page 32, after line 11 — To insert —

“

- (3) With respect to powers of entry, inspection and seizure by and pursuant to section 38, the exercise of all such powers of the authorised officer must be reasonable under the circumstances.

”.

No. 6

Clause 121, page 82, line 25 — To delete “officer” and insert instead —

“ authority ”.

No. 7

Clause 121, page 82, lines 27 and 28 — To delete “*Financial Administration and Audit Act 1985* section 66” and insert instead —

“ *Financial Management Act 2006* Part 5 ”.

No. 8

Clause 124, page 84, after line 17 — To insert —

“

- (3) An advisory committee is to consist of members appointed from persons having expertise in one or more of the following areas —
 - (a) the food industry;
 - (b) public health;
 - (c) the interests of consumers;
 - (d) the enforcement of food legislation.
- (4) In addition the Minister may appoint as members of an advisory committee persons having expertise in nutrition, toxicology, microbiology, and food technology and such other persons as the Minister considers have appropriate expertise, qualification or experience as will enable them to make a valuable contribution to the advisory committee.

”.

No. 9

Clause 141, page 95, lines 15 to 25 — To delete the lines and insert instead —

“

- (1) Any matter or thing done or omitted to be done by an enforcement agency, an advisory committee, or a protected person does not, if the matter or thing was done or omitted in good faith for the purpose of executing any provision of this Act or any other law, subject a protected person personally to any action, liability, claim or demand.
- (2) In subsection (1) —

“protected person” means any of the following —

 - (a) the Minister;
 - (b) the head of an enforcement agency;
 - (c) any member of an enforcement agency or the staff of an enforcement agency;
 - (d) an authorised officer;
 - (e) any person acting under the direction of the head of an enforcement agency;
 - (f) any member of an advisory committee; or
 - (g) a person employed by the Crown to carry out analyses for the purposes of this Act or a person carrying out analyses under the supervision of such a person.

”.

No. 10

Clause 144, page 98, after line 26 — To insert —

“

- (iii) for the purpose of reducing obesity — the advertising of any food.

”.

No. 11

Clause 147, page 101, line 22 — To delete “repealed.” and insert instead —

“amended by deleting “246O(2), 246P, 246Q(3) and (4), 246Z(5) and (6), 246ZH(2), 246ZM(1),”.”

No. 12

Clause 148, page 102, line 10 — To delete “*Licensing*” and insert instead —

“ *Control* ”.

No. 13

New Clause 141, page 95, after line 13 — To insert the following new clause —

“

141. Payment of compensation to be charged to Consolidated Account

The Consolidated Account —

- (a) is charged with the payment of any compensation payable by the CEO or an enforcement agency prescribed by the regulations that is payable —
 - (i) under section 35, 56, 60 or 70; or
 - (ii) as the result of a review by the State Administrative Tribunal under section 35, 56 or 70;
- and
- (b) is appropriated accordingly.

”.

No. 14

New Clause 149, page 102, after line 29 — To insert the following new clause —

“

149. *Volunteers and Food and Other Donors (Protection from Liability) Act 2002* amended

Section 3(1) is amended in the definition of “food” by deleting “section 3(1) of the *Health Act 1911*,” and inserting instead —

“ the *Food Act 2005* section 9; ”.

”.

Ordered, That consideration in detail of Legislative Council message No. 210 be made an Order of the Day for the next sitting of the Assembly.

23. Special Adjournment

The Leader of the House moved, That the House at its rising adjourn until Tuesday, 10 June 2008 at 2.00 p.m.

Question put and passed.

24. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly, at 7.02 p.m. until Tuesday, 10 June 2008 at 2.00 p.m.

Members present during any part of the day's proceedings - All the members except Mr M.J. Birney, Mr A.J. Carpenter, Dr E. Constable, Mrs C.A. Martin, Mr P.D. Omodei and Mr J.R. Quigley.

PETER J. McHUGH

Clerk of the Legislative Assembly

HON. FRED RIEBELING

Speaker of the Legislative Assembly