

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 158

FIRST SESSION OF THE THIRTY-SEVENTH PARLIAMENT

TUESDAY, 18 SEPTEMBER 2007

1. Meeting of Assembly

The Assembly met at 2.00 p.m. pursuant to adjournment.

The Deputy Speaker took the Chair.

Prayers were read.

2. Brief Ministerial Statements

The following Brief Ministerial Statements were made by -

The Minister for Sport and Recreation on safety concerns relating to the “King of the Cage” mixed martial arts fighting event to be held in October 2007.

The Minister for Tourism on record expenditure in Western Australia by international, interstate and intrastate visitors.

The Minister for Police and Emergency Services on the Government’s response to the recommendations of the Joint Standing Committee on the Corruption and Crime Commission report titled “Inquiry into the Future Operation of Witness Protection Programs in Western Australia”.

Paper

The following paper was presented and ordered to lie upon the Table of the House -

By the Minister for Police and Emergency Services -

Joint Standing Committee on the Corruption and Crime Commission - Government Response to Report No. 26, titled “Inquiry into the Future Operation of Witness Protection Programs in Western Australia” (3110).

3. Questions

Questions without Notice were taken.

Questions on Notice Nos 2674 to 2697 were asked.

Questions on Notice Nos 2493, 2504, 2505, 2513, 2518 to 2520, 2522 to 2526, 2528, 2531 to 2535, 2537, 2538, 2540, 2541, 2543, 2550, 2553, 2561, 2564, 2565, 2568, 2575 to 2577, 2582, 2584, 2590, 2593, 2595, 2598, 2601, 2602, 2607, 2609 to 2611, 2634, 2635, 2637, 2638, 2645, 2653, 2661, 2664, 2668 and 2672 were answered.

Paper tabled by the Minister for Public Sector Management -

Question on Notice No. 2564 - Registered Redeployees as at 30 June 2007 (3109).

4. Personal Explanation

Mr J.B. D'Orazio made a personal explanation on the matters relating to his traffic infringement notice vs the Fines Enforcement Registry and the subsequent awarding to him of \$15,000 compensation by the State Government in lieu of costs.

5. Petitions

Volumetric Fees for Water Storage - Dr S.C. Thomas presented a petition from 425 persons requesting that the Legislative Assembly examine the Government's proposal and remove volumetric fees for water storage (P. 242).

Greenbushes to Bunbury Railway Line - Dr S.C. Thomas presented a petition from 195 persons requesting that the Legislative Assembly ensures that the reopening of the railway line between Greenbushes and Bunbury occurs as promised (P. 243).

Daylight Saving - Dr J.M. Edwards presented a petition from 300 persons requesting that the Legislative Assembly initiate a referendum to be held before 31 October 2007 so that a democratic decision on daylight saving can be reached (P. 244).

Falun Gong Practitioners in China - Mr R.C. Kucera presented a petition from 509 persons requesting that the Legislative Assembly recommends to the Federal and Western Australian Governments that they assist the Coalition to Investigate the Persecution of Falun Gong (CIPFG) with the research and investigation of the alleged harvesting of organs from, and the illegal detention of, Falun Gong Practitioners (P. 245).

6. Papers

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

By the Clerk -

Armadale Redevelopment Act 2001 - Ministerial approval in accordance with section 17(4) of the Act, to enter into a contract with DBM Constructions Pty Ltd for the construction of the Champion Lakes Regatta Centre administration, function room, change rooms, toilets and a boat storage shed for the tendered price of 1,856,700.00 (excluding GST), 24 August 2007 (3089).

Dog Act 1976 - Local Laws (Shire of Boddington Dogs Amendment Local Law 2007 G.G. 07/09/2007) (3090).

Fish Resources Management Act 1994 - Management Plans (West Coast Rock Lobster Fishery Management Plan Amendment 2007 [831] G.G. 04/09/2007) (3091).

Fish Resources Management Act 1994 - Orders (Prohibition on Fishing (Diving) Amendment Order 2007 [836] G.G. 04/09/2007) (3092).

Fish Resources Management Act 1994 - Orders (Prohibition on Fishing by Line from Fishing Boats (Pilbara Waters) Amendment Order 2007 [806] G.G. 04/09/2007) (3093).

Fish Resources Management Act 1994 - Regulations (Fish Resources Management Amendment Regulations (No. 7) 2007 G.G. 04/09/2007) (3094).

Health Act 1911 - Local Laws (Health Local Laws 2007 G.G. 07/09/2007) (3095).

Health Act 1911 - Local Laws (Shire of Koorda - Fees and Charges G.G. 11/09/2007) (3096).

Land Tax Assessment Act 2002 - Regulations (Land Tax Assessment Amendment Regulations (No. 2) 2007 G.G. 04/09/2007) (3097).

Local Government Act 1995 - Local Laws (City of Bayswater - Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2006 G.G. 14/09/2007) (3098).

Local Government Act 1995 - Local Laws (Shire of Bridgetown-Greenbushes - Activities on Thoroughfares and Trading in Thoroughfares and Public Places Amendment Local Law 2007 G.G. 11/09/2007) (3099).

Local Government Act 1995 - Local Laws (Shire of Cue Repeal Local Law 2007 G.G. 11/09/2007) (3100).

Local Government Act 1995 - Local Laws (Shire of Gnowangerup Repeal Local Law 2007 G.G. 07/09/2007) (3101).

Local Government Advisory Board - Annual Report 2006 - 2007 (3102).

Nurses and Midwives Act 2006 - Regulations (Nurses and Midwives Regulations 2007 G.G. 11/09/2007) (3103).

Occupational Safety and Health, Commission for - Code of Practice, Occupational Safety and Health in the Western Australian Public Sector 2007, Published in the *Government Gazette* 10 August 2007 (3104).

Occupational Safety and Health, Commission for - Code of Practice, Occupational Safety and Health in the Western Australian Public Sector 2007 (3105).

Occupational Therapists' Registration Board of Western Australia - Annual Report and Financial Statements 2006 (3106).

Water Corporation - Statement of Corporate Intent 2007-2008 (3107).

Weapons Act 1999 - Regulations (Weapons Amendment Regulations 2007 G.G. 11/09/2007) (3108).

7. Notices of Motion

8. Matter of Public Interest - Prostitution Control

The Acting Speaker informed the Assembly that he was in receipt of a notice from Mr P.D. Omodei that he intended to move a motion on a matter of public interest.

At least five members having risen in support,

Mr P.D. Omodei moved,

That this House condemns the Labor Government's plans to encourage the proliferation of brothels in our suburbs.

Debate ensued.

Question put.

The Assembly divided.

Ayes (18)

Mr D.F. Barron-Sullivan
 Mr M.J. Birney
 Mr T.R. Buswell
 Mr G.M. Castrilli
 Dr E. Constable
 Mr J.H.D. Day

Dr K.D. Hames
 Dr G.G. Jacobs
 Mr R.F. Johnson
 Mr J.E. McGrath
 Mr P.D. Omodei
 Mr A.J. Simpson

Mr G. Snook
 Dr S.C. Thomas
 Mr M.W. Trenorden
 Ms S.E. Walker
 Dr J.M. Woollard
 Mr T.R. Sprigg (*Teller*)

Noes (24)

Mr A.J. Carpenter
 Dr J.M. Edwards
 Mrs D.J. Guise
 Mr J.N. Hyde
 Mr J.C. Kobelke
 Mr R.C. Kucera
 Mr F.M. Logan
 Mr J.A. McGinty

Mr M. McGowan
 Ms S.M. McHale
 Mr A.D. McRae
 Mr M.P. Murray
 Mr P. Papalia
 Mr J.R. Quigley
 Ms M.M. Quirk
 Ms J.A. Radisich

Mr E.S. Ripper
 Mrs M.H. Roberts
 Mr T.G. Stephens
 Mr D.A. Templeman
 Mr P.B. Watson
 Mr M.P. Whitely
 Mr B.S. Wyatt
 Mr S.R. Hill (*Teller*)

Question thus negatived.

9. Taxi Amendment Bill 2007

Message No. 168 dated 6 September 2007 from the Legislative Council was reported as follows -

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Taxi Amendment 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 Taxi Amendment Bill 2007

No. 1

Clause 5, page 3, line 12 — To delete “40%” and insert instead —

“ 35% ”.

No. 2

Clause 7, page 3, line 21 to page 4, line 11 — To delete the clause.

No. 3

Clause 8, page 4, lines 12 to 19 — To delete the clause.

No. 4

Clause 10, page 5, line 12 — To delete “in relation to” and insert instead —

“ restricting ”.

No. 5

Clause 10, page 5, line 13 — To insert after “plates” —

“

, except a condition restricting the transfer of those plates within 3 years after they were acquired ”.

No. 6

New Clause 7, page 3, after line 20 — To insert the following new clause —

“

7. Section 21 amended

After section 21(2) the following subsections are inserted —

“

- (3) Where the Director General decides that a plate holder has not, for a period of at least 60 days, used taxi plates owned or leased by him or her on a vehicle being operated as a taxi in accordance with this Act, the Director General may serve notice on that person —
 - (a) stating the reason the Director General made that decision; and
 - (b) requiring the plate holder —
 - (i) in the case of an owner of taxi plates — to divest himself or herself of any interest in the ownership of the taxi plates within 45 days after the day of service of the notice (the “**divestment period**”); or
 - (ii) in the case of a lessee of taxi plates — advising him or her of the effect of the relevant provisions of subsections (4) and (5).
- (4) Where a person fails to divest himself or herself of his or her interest in the ownership of taxi plates within the divestment period or a person is served with a notice under subsection (3)(b)(ii) in relation to the leasing of taxi plates —
 - (a) his or her right to the plates is forfeited to the Director General —
 - (i) if he or she has applied under subsection (5) for a review — on the making of a decision that confirms the Director General’s decision or that otherwise results in the forfeiture of that right; or
 - (ii) otherwise on the expiry of —
 - (I) in the case of an owner of taxi plates — the divestment period; or
 - (II) in the case of a lessee of taxi plates — the period specified in subsection (5);
 - and
 - (b) the plates may then be offered for sale or lease, as the case requires, in accordance with section 16.
- (5) Where the Director General serves notice on a person under subsection (3), the person may within 14 days after the day of service of that notice apply to the State Administrative Tribunal for a review of the Director General’s decision that he or she has not, for a period of at least 60 days, used taxi plates owned or leased by him or her on a vehicle being operated as a taxi in accordance with this Act.
- (6) In this section —

“**plate holder**”, in relation to a plate holder that is a partnership, means each member of the partnership.

”.

No. 7

New Clause 8, page 4, after line 11 — To insert the following new clause —

“

8. Section 24 amended

- (1) Section 24(2) is amended by inserting after “divest under section” —

“ 21(3) or ”.

- (2) After section 24(5) the following subsection is inserted —

“

- (6) Taxi plates issued under section 30I(2)(b) are not transferable for a period of one year after the day on which they are issued.

”. ”.

No. 8

New Clause 9, page 4, before line 20 — To insert the following new clause —

“

9. Section 25 amended

Section 25(1)(c) is amended by inserting after “forfeiture under” —

“ subsection (4) of section 21 or ”.

Ordered, That consideration in detail of Legislative Council message No. 168 be made an Order of the Day for the next sitting of the Assembly.

10. Petroleum Amendment Bill 2007

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

Debate resumed.

Papers

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

By the Minister for Resources -

Department of Industry and Resources - Map showing “Hot Spots” in Western Australia (3111).

Department of Industry and Resources - ‘So - geothermal energy is everywhere’ diagram (3112).

Department of Industry and Resources - Memorandum of Understanding between the Department of Industry and Resources and the Environmental Protection Authority in relation to the referral of onshore petroleum proposals, 17 December 2004 (3113).

Question put and passed.

CONSIDERATION IN DETAIL

Clauses 1 to 6 agreed to.

New clause.

Dr J.M. Woollard moved -

Page 7, after line 24 - to insert -

“

7. Section 6A inserted

After section 6 the following section is inserted -

“6A. Environmental Protection Act 1986 paramount

This Act shall be read and construed subject to the Environmental Protection Act 1986, to the intent that if a provision of this Act is inconsistent with a provision of that Act, the first-mentioned provision shall, to the extent of the inconsistency, be deemed to be inoperative. ”.”.

Question put.

The Assembly divided.

Ayes (2)

Dr G.G. Jacobs

Dr J.M. Woollard (*Teller*)

Noes (40)

Mr C.J. Barnett
Mr M.J. Birney
Mr T.R. Buswell
Mr G.M. Castrilli
Dr E. Constable
Mr J.H.D. Day
Dr J.M. Edwards
Mr B.J. Grylls
Mrs D.J. Guise
Dr K.D. Hames
Mrs J. Hughes
Mr J.N. Hyde
Mr J.C. Kobelke
Mr R.C. Kucera

Mr F.M. Logan
Mr J.A. McGinty
Mr M. McGowan
Mr J.E. McGrath
Ms S.M. McHale
Mr A.D. McRae
Mr M.P. Murray
Mr P.D. Omodei
Mr P. Papalia
Mr J.R. Quigley
Ms M.M. Quirk
Ms J.A. Radisich
Mr D.T. Redman
Mr E.S. Ripper

Mrs M.H. Roberts
Mr A.J. Simpson
Mr G. Snook
Mr T.R. Sprigg
Mr T.G. Stephens
Mr D.A. Templeman
Ms S.E. Walker
Mr P.B. Watson
Mr M.P. Whitely
Mr G.A. Woodhams
Mr B.S. Wyatt
Mr S.R. Hill (*Teller*)

Amendment thus negatived.

Clauses 7 to 14 agreed to.

Clause 15.

Clause put.

The Assembly divided.

Ayes (40)

Mr C.J. Barnett
 Mr T.R. Buswell
 Mr G.M. Castrilli
 Dr E. Constable
 Mr J.H.D. Day
 Dr J.M. Edwards
 Mr B.J. Grylls
 Mrs D.J. Guise
 Dr K.D. Hames
 Mr S.R. Hill
 Mrs J. Hughes
 Mr J.N. Hyde
 Dr G.G. Jacobs
 Mr J.C. Kobelke

Mr R.C. Kucera
 Mr F.M. Logan
 Mr J.A. McGinty
 Mr M. McGowan
 Mr J.E. McGrath
 Ms S.M. McHale
 Mr A.D. McRae
 Mr M.P. Murray
 Mr P.D. Omodei
 Mr P. Papalia
 Mr J.R. Quigley
 Ms M.M. Quirk
 Ms J.A. Radisich
 Mr D.T. Redman

Mr E.S. Ripper
 Mrs M.H. Roberts
 Mr A.J. Simpson
 Mr G. Snook
 Mr T.G. Stephens
 Mr D.A. Templeman
 Dr S.C. Thomas
 Ms S.E. Walker
 Mr P.B. Watson
 Mr M.P. Whitely
 Mr B.S. Wyatt
 Mr T.R. Sprigg (*Teller*)

Noes (1)

Dr J.M. Woollard (*Teller*)

Clause thus agreed to.

Clauses 16 to 108 agreed to.

Title agreed to.

Consideration in detail concluded.

Ordered, That the third reading of the bill be made an Order of the Day for the next sitting of the Assembly.

11. Judges' Salaries and Pensions Amendment Bill 2007

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

Debate resumed.

Question put and passed.

Bill read a second time.

Ordered, That the consideration in detail of the bill be made an Order of the Day for the next sitting of the Assembly.

12. Notice of Motion after the Time Prescribed

Dr G.G. Jacobs was granted leave to present a late notice of motion.

13. Variation to the Order of Business

Ordered, That Government Business Order of the Day No. 5 be next considered.

14. Criminal Code Amendment (Drink and Food Spiking) Bill 2007

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

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 Attorney General moved, That the bill be now read a third time.

Question put and passed.

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

15. Variation to the Order of Business

Ordered, That Government Business Order of the Day Nos 3 and 4 be next considered.

Biosecurity and Agriculture Management Bill 2006

The Order of the Day for the further consideration in detail of Legislative Council message No. 164 was read.

The message was as follows –

Message No. 164

Schedule indicating ‘remaining amendments made by the Legislative Council to be considered in detail’.

CONSIDERATION IN DETAIL

No. 94

Clause 151, page 107, lines 14 to 24 — To delete the clause and substitute the following clause —

“

151. Purpose of Western Australian Agriculture Authority

The Authority is established —

- (a) to further and promote the best interests of biosecurity and agriculture management; and
- (b) to perform such other functions as are conferred on it under this or any other Act. ”.

No. 95

Clause 152, page 108, line 4 — To insert after “arrangement” —

“ but does not include a research body ”.

No. 96

Clause 152, page 108, after line 14 — To insert —

“

“**research body**” means a body, whether incorporated or not, which —

- (a) has its principal office within the Commonwealth; and
- (b) has among its principal objects the carrying out of research, investigation, inquiries or studies into biosecurity, agricultural activities or management or related matters within the Commonwealth. ”.

No. 97

Clause 152, page 108, before line 15 — To insert —

“

- (2) The Authority has all the powers it needs to perform its functions. ”.

No. 98

Clause 152, page 108, lines 15 and 16 — To delete “Minister may, for the purpose of furthering the best interests of biosecurity or agriculture management” and insert instead —

“ Authority may ”.

No. 99

Clause 152, page 108, line 20 — To insert after “concern” —

“ or research body ”.

No. 100

Clause 152, page 108, line 21 — To insert after “concern” —

“ or research body ”.

No. 101

Clause 152, page 108, lines 24 and 25 — To delete “that relates to that purpose” and insert instead —

“ and, for that purpose, apply for, hold, receive, exploit and dispose of any intellectual property ”.

No. 102

Clause 152, page 108, line 29 — To delete “Minister” and insert instead —

“ Authority ”.

No. 103

Clause 152, page 109, lines 3 and 4 — To delete the lines.

No. 104

Clause 153, page 109, line 6 — To delete “Minister” and insert instead —

“ Authority ”.

No. 105

Clause 153, page 109, line 7 — To delete “the Minister” and insert instead —

“ in relation to a business concern, the Authority ”.

No. 106

Clause 153, page 109, line 11 — To delete “or is of a kind referred to in section 155”.

No. 107

Clause 153, page 109, line 13 — To delete “Minister” and insert instead —

“ Authority ”.

No. 108

Clause 153, page 109, line 16 — To delete “Minister” and insert instead —

“ Authority ”.

No. 109

Clause 154, page 109, lines 19 to 26 — To delete the lines and insert instead —

“

- (1) Any intellectual property, or right to apply for, hold, receive, exploit or dispose of intellectual property, that the State acquires on or after the day on which this section comes into operation is, by operation of this section, assigned to the Authority.
- (2) In subsection (1) —
“intellectual property” means intellectual property —
 - (a) created in the course of the performance of functions under this Act; or
 - (b) otherwise created in the course of the performance of functions by a person in that person’s capacity as a person employed or engaged in the department. ”.

No. 110

Clause 155, page 109, line 27 to page 110, line 18 — To delete the clause.

No. 111

Clause 156, page 110, line 20 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

No. 112

Clause 156, page 110, line 21 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

No. 113

Clause 156, page 110, line 22 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

No. 114

Clause 156, page 110, line 24 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

No. 115

Clause 156, page 110, line 26 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

No. 116

Clause 156, page 110, line 29 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

No. 117

Clause 156, page 110, line 30 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

No. 118

Clause 156, page 111, line 1 — To delete “Ministerial Body” and insert instead —

“ Authority ”.

No. 119

Clause 156, page 111, line 4 — To delete “Ministerial Body” and insert instead —
 “ Authority ”.

No. 120

Clause 156, page 111, line 6 — To delete “Ministerial Body” and insert instead —
 “ Authority ”.

No. 121

Clause 156, page 111, lines 12 and 13 — To delete “Ministerial Body” and insert instead —
 “ Authority ”.

No. 122

Clause 156, page 111, line 16 — To delete “Ministerial Body” and insert instead —
 “ Authority ”.

No. 123

Clause 156, page 111, line 17 — To delete “Ministerial Body” and insert instead —
 “ Authority ”.

No. 124

Clause 156, page 111, line 20 — To delete “Ministerial Body’s” and insert instead —
 “ Authority’s ”.

No. 125

Clause 157, page 111, lines 31 and 32 — To delete “*Financial Administration and Audit Act 1985*”
 and insert instead —
 “ *Financial Management Act 2006* ”.

No. 126

Clause 157, page 112, lines 1 and 2 — To delete “Part II Division 14” and insert instead —
 “ Part 5 ”.

No. 127

Clause 158, page 112, line 13 — To delete “may” and insert instead —
 “ must ”.

CONSIDERATION IN DETAIL

The Parliamentary Secretary to the Minister for Agriculture moved, That amendments Nos 94 to 127
 be agreed to.

Question put and passed.

The Parliamentary Secretary to the Minister for Agriculture moved, That the debate be adjourned.

Question put and passed.

17. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly, at 11.09 pm until Wednesday, 19 September 2007 at 12 noon.

Members present during any part of the day's proceedings - All the members except Mr J.J.M. Bowler, Mr M.J. Cowper, Ms K. Hodson-Thomas, Ms A.J.G. MacTiernan, Mrs C.A. Martin, Mr A.P. O’Gorman and Mr F. Riebeling.

PETER J. McHUGH

Clerk of the Legislative Assembly

DIANNE GUISE

Deputy Speaker of the Legislative Assembly