

WESTERN AUSTRALIA

# LEGISLATIVE ASSEMBLY

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## VOTES AND PROCEEDINGS

No. 224

FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT

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TUESDAY, 18 SEPTEMBER 2012

### 1. Meeting of Assembly

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

The Speaker took the Chair.

Prayers were read.

### 2. Distinguished Visitor

The Speaker and Mr M.P. Murray noted the presence in the Speaker's Gallery of paralympian Mr Brad Scott.

### 3. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Minister for Culture and the Arts on the death of Mr Edgar Metcalfe AM, a significant contributor to performing arts in Western Australia.

The Minister for Environment on additional funding for the Swan Canning Water Quality Improvement Plan.

The Minister for Police on the Government's planned legislation to give police the tools to tackle out-of-control gatherings.

### 4. Questions

Questions without Notice were taken.

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#### *Papers*

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

By the Minister for Transport –

Transport, Minister for – Transcript of a 6PR Perth interview in relation to an airport rail link (5238).

Transport, Minister for – Map of a proposed rail line from Forrestfield to Ellenbrook (5239).

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Questions on Notice Nos 8680 to 8686 were asked.

Questions on Notice Nos 8350, 8456, 8460, 8461, 8463, 8466, 8467, 8472, 8473, 8476, 8484, 8485, 8497 to 8499, 8507, 8509, 8511, 8519 and 8520 were answered.

## **5. Petitions**

Dog Breed Regulations – Petitions requesting that the Legislative Assembly removes all legal restrictions currently on certain breeds deeming them automatically dangerous, and replaces this with a system that considers all dog breeds to be not dangerous, unless an individual investigation of the dog and owner proves the dog is a true danger to society were presented by –

Mr J.N. Hyde from 114 persons (P. 636); and

Mr J.N. Hyde from 69 persons (P. 637).

First Click Second Click Program – Ms J.M. Freeman presented a petition from 45 persons requesting that the Legislative Assembly reinstates funding for the First Click Second Click Program that has provided learning resources and grants to deliver computer literacy lessons (P. 638).

Uranium Mining in Western Australia – Ms L.L. Baker presented a petition from 249 persons requesting that the Legislative Assembly reinstates the ban on uranium mining in Western Australia (P. 639).

Container Deposit Scheme – Mr C.J. Tallentire presented a petition from 220 persons requesting that the Legislative Assembly calls upon the Barnett Government to immediately introduce a Western Australian Container Deposit Scheme, similar to the system that operates in South Australia (P. 640).

## **6. Papers**

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

By the Speaker –

Corruption and Crime Commission of Western Australia – Report on the Investigation of Alleged Public Sector Misconduct by any Public Officer in Relation to the Conduct of the International English Language Testing System by Curtin University of Technology or any Other Public Authority (5221).

By the Clerk –

Albany Port Authority – Statement of Corporate Intent 2011–2012 (5222).

Broome Port Authority – Statement of Corporate Intent 2011–2012 (5223).

Bunbury Port Authority – Statement of Corporate Intent 2011–2012 (5224).

Burswood Park Board – Annual Report 2011–2012 (5225).

Dampier Port Authority – Statement of Corporate Intent 2011–2012 (5226).

Dangerous Goods Safety Act 2004 – Codes (Approved Codes of Practice in accordance with section 20 of the Dangerous Goods Safety Act 2004 (No. 2 of 2012) G.G. 14/09/2012) (5227).

Dog Act 1976 – Local Laws (City of Vincent Dogs Amendment Local Law No. 2, 2012 G.G. 14/09/2012) (5228).

Fish Resources Management Act 1994 – Regulations (Fish Resources Management Amendment Regulations (No. 4) 2012 G.G. 14/09/2012) (5229).

Geraldton Port Authority – Statement of Corporate Intent 2011–2012 (5230).

Perth Parking Management Act 1999 – Regulations (Perth Parking Management Amendment Regulations (No. 2) 2012 G.G. 11/09/2012) (5231).

Port Hedland Port Authority – Statement of Corporate Intent 2011–2012 (5232).

Settlement Agents Act 1981 – Regulations (Settlement Agents Amendment Regulations 2012 G.G. 11/09/2012) (5233).

State Training Board – Annual Report 2011–2012 (5234).

Terrorism (Preventative Detention) Act 2006 – Report of the Review of the Act, in accordance with section 59 of the Act (5235).

Travel Agents Act 1985 – Regulations (Travel Agents Amendment Regulations (No. 3) 2012 G.G. 11/09/2012) (5236).

## 7. Notices of Motion

### 8. Matter of Public Interest – Out-of-Control Parties

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

At least five members having risen in support,

Mrs M.H. Roberts, on behalf of Mr M. McGowan moved,

That this House condemns the Barnett Government for its failure to deal with out-of-control parties and violence in the suburbs.

Debate ensued.

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#### *Suspension of Member*

The Acting Speaker, having called Mrs M.H. Roberts to order more than three times, suspended the member from the service of the Assembly for the remainder of the sitting.

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Debate resumed.

Question put.

The Assembly divided.

#### Ayes (23)

Ms L.L. Baker	Mr F.M. Logan	Mr T.G. Stephens
Dr A.D. Buti	Mrs C.A. Martin	Mr C.J. Tallentire
Ms A.S. Carles	Mr M. McGowan	Mr P.C. Tinley
Mr R.H. Cook	Mr M.P. Murray	Mr A.J. Waddell
Ms J.M. Freeman	Mr P. Papalia	Mr P.B. Watson
Mr J.N. Hyde	Mr J.R. Quigley	Mr B.S. Wyatt
Mr W.J. Johnston	Ms M.M. Quirk	Mr D.A. Templeman ( <i>Teller</i> )
Mr J.C. Kobelke	Ms R. Saffioti	

#### Noes (27)

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

Question thus negated.

### 9. Evidence and Public Interest Disclosure Legislation Amendment 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 and passed.

Bill read a second time.

*CONSIDERATION IN DETAIL*

Clauses 1 to 4 agreed to.

Clause 5.

Mr J.R. Quigley moved,

Page 4, lines 26 to 28 – To delete the lines.

Page 11, lines 2 to 4 – To delete the lines.

Amendments put.

The Assembly divided.

## Ayes (24)

Ms L.L. Baker

Dr A.D. Buti

Ms A.S. Carles

Mr R.H. Cook

Mr J.N. Hyde

Mr W.J. Johnston

Mr J.C. Kobelke

Mr F.M. Logan

Mrs C.A. Martin

Mr M. McGowan

Mr M.P. Murray

Mr A.P. O’Gorman

Mr P. Papalia

Mr J.R. Quigley

Mr E.S. Ripper

Ms R. Saffioti

Mr T.G. Stephens

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 (28)

Mr P. Abetz

Mr F.A. Alban

Mr C.J. Barnett

Mr I.C. Blayney

Mr I.M. Britza

Mr T.R. Buswell

Mr G.M. Castrilli

Mr V.A. Catania

Dr E. Constable

Mr J.H.D. Day

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 W.R. Marmion

Mr J.E. McGrath

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*)

Amendments thus negatived.

Clause agreed to.

Clauses 6 to 17 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 Planning moved, That the bill be now read a third time.

Debate ensued.

Question put and passed.

Bill read a third time and passed.

**10. Western Australian Future Fund Bill 2012**

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

Debate resumed.

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

**11. Integrity (Lobbyists) Bill 2011**

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

## CONSIDERATION IN DETAIL

Clause 18, as amended, agreed to.

Clauses 19 to 22 agreed to.

New Part 4A.

Dr E. Constable moved,

Page 18, before line 1 – To insert:

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## **Part 4A — Investigation and Offences**

### **Division 1 — Investigations by Commissioner**

#### **22A. Commissioner may investigate lobbying activity**

- (1) The Commissioner may investigate any matter relating to any lobbying activity carried out by an advocate to government.
- (2) In particular, without limiting subsection (1), the Commissioner may investigate whether an advocate to government has in the course of any lobbying activity —
  - (a) adequately disclosed to the relevant government representative, the person on whose behalf the lobbying activity was being conducted;
  - (b) provide accurate and factual information to the relevant government representative;
  - (c) been accorded any unfairly preferential or discriminatory treatment by the relevant government representative;
  - (d) attempted to apply any improper influence on the relevant government representative; or
  - (e) represented competing or conflicting interests without the consent of those whose interests are involved.
- (3) In this section, *the relevant government representative* means the government representative to whom the lobbying activity was directed.
- (4) The provisions of section 24 of the *Public Sector Management Act 1994* shall apply, with all necessary modifications, to an investigation by the Commissioner pursuant to this section.
- (5) If, during the course of an investigation under this section, the Commissioner suspects that a person has committed an offence, a breach of discipline or otherwise engaged in conduct which may be the subject of further action, the Commissioner may refer that conduct to an appropriate authority for further action.

#### **22B. Report on completion of investigation or generally**

- (1) Where the Commissioner conducts an investigation under section 22A, the Commissioner shall prepare a report of his or her conclusions, and the reasons for those conclusions, in relation to the matter the subject of the investigation.

- (2) The Commissioner may, if he or she thinks fit, prepare a report in relation to any matter arising out of the administration of this Act generally.
- (3) Notwithstanding the *Financial Management Act 2006*, the Commissioner shall, as soon as practicable, lay before each House of Parliament any report prepared by the Commissioner under subsections (1) or (2).
- (4) If neither House of Parliament is sitting at the time when the Commissioner completes his or her report in accordance with subsections (1) or (2), the Commissioner shall —
  - (a) send copies of the report to the Clerks of both Houses of Parliament; and
  - (b) make the report available to the public.

## **Division 2 — Offences and Legal Proceedings**

### **22C. Persons who may engage in lobbying activity**

A person must not engage in lobbying activity unless that person is a registered person.

Penalty: \$10,000.

### **22D. Persons who may be engaged to engage in lobbying activity**

A person must not engage a person to engage in lobbying activity unless the person engaged is a registered person.

Penalty: \$10,000.

### **22E. Improper advantage of former public office**

A person who formerly was a government representative must not engage in lobbying activity in such a manner as to take improper advantage of his or her former position.

Penalty: \$10,000.

### **22F. Prohibition on lobbying activities by former government representatives**

A person who formerly was a government representative must not engage in any lobbying activity concerning a matter in respect of which the person had, or would have had, a duty by reason of holding his or her former position.

Penalty: \$10,000.

### **22G. Improper disclosure**

A person who formerly was a government representative must not disclose to any person in the course of engaging in any lobbying activity any information that was obtained in his or her capacity as a former government representative and is not available to a member of the public.

Penalty: \$10,000.

**22H. Privileged access to Houses of Parliament**

An advocate to government who has been a member of either House of Parliament must not exercise any privilege with respect to access to —

- (a) the Houses of Parliament; or
  - (b) facilities available to members of Parliament,
- that is a privilege not available to a member of the public.

Penalty: \$10,000.

**22I. False or misleading information**

A person who —

- (a) includes any information in a return lodged under this Act that the person knows is false or misleading in a material particular;
- (b) omits any information in a return lodged under this Act without which the return is, to the person's knowledge, false or misleading in a material particular;
- (c) includes any information in a response to a notice served under section 15G(1) that the person knows is false or misleading in a material particular; or
- (d) omits any information in a response to a notice served under section 15G(1) without which the response is, to the person's knowledge, false or misleading in a material particular,

is guilty of an offence.

Penalty: \$10,000.

**22J. Proof of returns and information**

In any prosecution for an offence against this Act a copy of —

- (a) a return lodged under this Act; or
- (b) a response to a notice purporting to be certified under the Commissioner's signature as a true copy is, without proof of the Commissioner's signature, admissible in evidence.

**22K. Proof of intention**

In any proceedings for an offence against this Act, an averment in the complaint that any oral or written communication (including electronic communication) was made with a particular intent, must, on proof of the communication having occurred, be taken to be proved, unless the contrary is proved.

**22L. Proof that a person is a government representative**

In any proceedings for an offence against this Act, an averment in the complaint that a person was a government representative within the meaning of this Act must be taken to be proved, unless the contrary is proved.

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Amendment put and negatived.

Clauses 23 to 28 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.

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

Ordered, That consideration of Government Business Order of the Day No. 2 be resumed.

**13. Western Australian Future Fund Bill 2012**

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

Debate resumed.

The Leader of the House moved, That the debate be adjourned.

Question put and passed.

**14. Adjournment**

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

Question put and passed.

The Assembly adjourned accordingly at 10.16 p.m. until Wednesday, 19 September 2012 at 12.00 noon.

*Members present during any part of the day's proceedings* – All the members except Mr J.J.M. Bowler, Mr M.J. Cowper and Mr J.M. Francis.

**PETER J. McHUGH**

Clerk of the Legislative Assembly

**HON. GRANT WOODHAMS**

Speaker of the Legislative Assembly