

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 179

WEDNESDAY, 5 DECEMBER 2007

1. Meeting of Council

The Council assembled at 2.00pm pursuant to order.

The President, Hon Nick Griffiths, took the Chair and read prayers.

2. Personal Explanation

Hon Anthony Fels, by leave, made a personal explanation, unreservedly apologising in accordance with the resolution of the House on 4 December 2007 [SO 85].

3. Petitions

Hon Giz Watson presented a petition, by delivery to the Clerk [SO 130], from 657 residents of Western Australia, requesting the Legislative Council oppose the establishment of Woodside LNG land based Pluto Development on Site A and B on the Burrup Peninsula. (Tabled paper 3588).

Hon Matt Benson-Lidholm presented a petition from 3 387 residents of Western Australia, requesting the Legislative Council support the necessary growth in the 2008 State Budget for increases in salaries, allowances and housing in remote areas for teachers. (Tabled paper 3589).

4. Ministerial Statement - Thank a Volunteer Day

The Minister for Seniors and Volunteering made a Ministerial Statement with respect to recognition of Thank a Volunteer Day.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

5. Papers

The following Papers were laid on the Table by -

Leader of the House

Regulations -

Energy Coordination Act 1994 (Energy Coordination (Inspectors and Infringement Notices)
Amendment Regulations 2007 G.G. 30/11/2007)..... 3580

Minister for Child Protection on behalf of the Minister for Local Government

By-laws -

Cemeteries Act 1986 (Kalgoorlie-Boulder Cemeteries By-law 2007 G.G. 26/11/2007)..... 3581

Local Laws -

Local Government Act 1995 (City of Joondalup Local Government and Public Property Amendment Local Law 2007 G.G. 30/11/2007 and City of Perth - Special Events Local Law 2007 G.G. 27/11/2007)	3582
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Minister for Child Protection*Regulations -*

Child Care Services Act 2007 (Child Care Services Amendment Regulations 2007 G.G. 30/11/2007).....	3583
Gas Standards Act 1972 (Gas Standards (Gasfitting and Consumer Gas Installations) Amendment Regulations (No. 2) 2007 G.G. 30/11/2007).....	3584

Parliamentary Secretary representing the Deputy Premier on behalf of the Parliamentary Secretary representing the Minister for Planning and Infrastructure*Regulations -*

Finance Brokers Control Act 1975 (Finance Brokers Control (General) Amendment Regulations (No. 6) 2007 G.G. 30/11/2007)	3585
Port Authorities Act 1999 (Port Authorities Amendment Regulations (No. 6) 2007 G.G.30/11/2007)..	3586
Western Australian Marine Act 1982 (Navigable Waters Amendment Regulations (No. 2) 2007 G.G. 30/11/2007).....	3587

6. Workcover WA Guides for the Evaluation of Permanent Impairment - Second Edition - Disallowance

Hon Ray Halligan: To move on the next day of sitting -

That the *Workcover WA Guides for the Evaluation of Permanent Impairment - Second Edition* published in the *Gazette* on 9 October 2007 and tabled in the Legislative Council on 18 October 2007 under the *Workers' Compensation and Injury Management Act 1981*, be and are hereby disallowed.

7. Health (Aquatic Facilities) Regulations 2007 - Disallowance

Hon Ray Halligan: To move on the next day of sitting -

That the *Health (Aquatic Facilities) Regulations 2007* published in the *Gazette* on 28 September 2007 and tabled in the Legislative Council on 18 October 2007 under the *Health Act 1911*, be and are hereby disallowed.

8. Occupational Safety and Health Amendment Regulations (No. 4) 2007 - Disallowance

Hon Ray Halligan: To move on the next day of sitting -

That the *Occupational Safety and Health Amendment Regulations (No. 4) 2007* published in the *Gazette* on 2 October 2007 and tabled in the Legislative Council on 18 October 2007 under the *Occupational Safety and Health Act 1984*, be and are hereby disallowed.

9. Poisons Amendment Regulations (No. 4) 2007 - Disallowance

Hon Ray Halligan: To move on the next day of sitting -

That the *Poisons Amendment Regulations (No. 4) 2007* published in the *Gazette* on 2 October 2007 and tabled in the Legislative Council on 18 October 2007 under the *Poisons Act 1964*, be and are hereby disallowed.

10. Forest Products Commission - Performance

Hon Paul Llewellyn: To move on the next day of sitting -

That in light of the Forest Product Commission's poor financial performance in the native forest sector; the failure of regulation and compliance of native forest logging; the impact of logging on the habitat of vulnerable species; the compelling evidence of native forest ecosystems at risk of irreparable damage; and the compounding impact of climate change, this House calls on the Government to —

- (1) set in place a full transition to plantation and farm forestry for the production of commodity timber products currently derived from native forests;
- (2) develop an exit strategy for the native forest commodity timber industry in the course of the mid term review of the Forest Management Plan, to be implemented in the term of the current Forest Management Plan ending in 2013; and
- (3) put in place an independently refereed, scientifically based program to restore the ecological integrity of native forests which underpins the delivery of clean air, clean water, carbon sequestration, biodiversity and natural heritage values of the South West region.

11. Joint Select Committee into the Regulation of Lobbyists in Western Australia - Establishment

Hon Giz Watson: To move on the next day of sitting -

That a Joint Select Committee be appointed to -

- (1) Inquire into and report on regulation of lobbyists in Western Australia, and in particular to -
 - (a) review the State Government's Contact with Lobbyists Code and Register of Lobbyists;
 - (b) consider the application of a lobbyists code and register to apply to contact between lobbyists and all Members of Parliament; and
 - (c) consider whether legislation is required to further regulate the activities of lobbyists in Western Australia.
 - (2) Inquire into and report on the appropriateness of the powers and penalties provided for in the *Parliamentary Privileges Act 1891* and *The Criminal Code* in respect to breaches of parliamentary privilege and contempts of parliament; and
- requests the Legislative Assembly to agree to a similar resolution.

12. Deputy Chair of Committees - Appointment

The Leader of the House moved, without notice -

That Hon Sheila Mills be appointed as Deputy Chair of Committees.

Question - put and passed.

13. Standing Committee on Estimates and Financial Operations - Membership

Hon Norman Moore moved, without notice -

That Hon Brian Ellis be appointed to the Standing Committee on Estimates and Financial Operations.

Question - put and passed.

14. Order of Business

Ordered - That Orders of the Day be now taken. (Leader of the House).

Ordered - That Orders of the Day Nos 527, *Town of Claremont Standing Orders Local Law 2007 - Disallowance*, 528, *Local Government (Rules of Conduct) Regulations 2007 - Disallowance*, 529, *Non-Coronial Post-Mortem Examinations Code of Practice 2007 - Disallowance*, 542, *Shire of Cue Repeal Local Law 2007 - Disallowance*, 543, *Fish Resources Management Amendment Regulations (No. 7) 2007 - Disallowance*, 544, *West Coast Demersal Scalefish (Interim) Management Plan 2007 - Disallowance*, 547, *Prohibition on Commercial Fishing (Metropolitan Waters) Order 2007 - Disallowance* and 549, *Shire of Wiluna Health Local Laws 2007 - Disallowance*, be taken after Order of the Day No. 362, *Acts Amendment (Consent to Medical Treatment) Bill 2006*.

(Leader of the House).

15. Water Resources Legislation Amendment Bill 2006

The Order of the Day having been read for the further consideration in Committee of Message No. 262 from the Legislative Assembly.

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Debate resumed on the motion of the Leader of the House as follows -

That the Legislative Council does not insist on Amendment No. 31 and further, that the Legislative Assembly substitute Amendment No. 31 be agreed to.

in relation to Legislative Assembly Message No. 262 -

Mr President.

The Legislative Assembly acquaints the Legislative Council that it has considered the amendments made by the Legislative Council in the *Water Resources Legislation Amendment Bill 2006*, has agreed to Amendments Nos 1 to 30; and has disagreed to Amendment No. 31 and substituted a new amendment in its place, as set forth in the Schedule annexed, in which the Legislative Assembly desires the Legislative Council's concurrence.

Dianne Guise
Acting Speaker

Legislative Assembly Chamber
Perth, 25 October 2007

Schedule showing the amendment substituted by the Legislative Assembly for the amendment made by the Legislative Council in the Water Resources Legislation Amendment Bill 2006.

Amendment No. 31

That the amendment be disagreed to and the following amendment be substituted –

Clause 232.

Page 126, after line 26 – To insert –

“

- (5) Regulations may not be made under this section after the end of the 24 months after the day on which this Act receives the Royal Assent.

The Leader of the House tabled a letter from the Minister for Water Resources to Hon Norman Moore regarding Clause 232(1) of the *Water Resources Legislation Amendment Bill 2006*. (Tabled paper 3590).

Question - put and passed.

The President resumed the Chair.

The Chairman reported, That the Committee had considered Message No. 262 from the Legislative Assembly, and had agreed to the amendment contained therein.

Report adopted.

Legislative Assembly acquainted accordingly.

16. Public Trustee and Trustee Companies Legislation Amendment Bill 2006

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 Deputy President left the Chair.

In Committee (Hon George Cash)

Clause 1 agreed to.

Clauses 2 to 23 agreed to.

Clause 24

Hon Paul Llewellyn moved -

Page 14, after line 24 — To insert —

“

- (5) The *Interpretation Act 1984* section 42 applies to and in relation to a scale of fees as if the scale of fees were regulations made under this Act.

”

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 25 to 36 agreed to.

Title agreed to.

The President resumed the Chair.

Bill reported with amendment.

Ordered - That consideration of the Committee's Report be made an Order of the Day for the next sitting.

17. Suspension of Standing Orders

The Leader of the House moved, without notice -

That so much of the Standing Orders be suspended for Wednesday, 5 December 2007, and Thursday, 6 December 2007, to enable bills to proceed through all stages in any sitting.

The motion requiring the concurrence of an absolute majority.

Question - put.

Want of Quorum

There not being a quorum present, the President gave instructions for the ringing of the Bells.

A quorum being formed.

The motion requiring the concurrence of an absolute majority.

Question - put.

The President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

18. Personal Explanation

Hon Shelley Archer, by leave, made a personal explanation, unreservedly apologising in accordance with the resolution of the House on 4 December 2007 [SO 85].

19. Fines Legislation Amendment Bill 2006

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 Deputy President left the Chair.

In Committee
(Hon George Cash)

Clause 1.

Debate ensued.

Clause agreed to.

Clause 2.

The Minister for Child Protection moved -

Page 2, line 5 — To insert after “operation” —

“

as follows:

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) section 12(3) — on the tenth working day (being a day other than a Saturday, Sunday or public holiday throughout the State) after that day;
- (c) the rest of the Act —

”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 3 to 11 agreed to.

Clause 12.

The Minister for Child Protection moved -

Page 9, line 17 — To insert after “repealed” —

“

and the following subsection is inserted instead —

“

- (4) If, when the *Fines Legislation Amendment Bill 2006* section 12(1) (the “**amending provision**”) comes into operation, a warrant of commitment is in force but the offender has not commenced to serve the period of imprisonment specified in it, the warrant has effect as if —
- (a) the amending provision; and
 - (b) the regulations made for the purposes of subsection (3)(a) as enacted by the amending provision,
- had come into operation before the warrant was issued.

”

”.

Debate ensued.

Amendment - put and passed.

The Minister for Child Protection moved -

Page 9, lines 23 to 26 — To delete the lines.

Page 9, after line 29 — To insert —

“

- (8a) If, immediately before the *Fines Legislation Amendment Bill 2006* section 12(3) (the “**amending provision**”) comes into operation, an offender who has served, is serving or has to serve a period of imprisonment under a warrant of commitment is in prison, the offender is entitled to be released from imprisonment on —
- (a) the day on which the offender would have been entitled to be released if the amending provision had come into operation before the warrant of commitment was issued; or
 - (b) the day on which the amending provision comes into operation,
- whichever is later.
- (8b) In the case of an offender who is serving or has to serve a parole term as defined in the *Sentencing Act 1995* section 85(1), a reference in subsection (8a) to the offender being entitled to be released is a reference to the offender being eligible to be released on parole.

”.

Debate ensued.

The Chairman of Committees left the Chair at 3.41pm
The Chairman of Committees resumed the Chair at 3.54pm

On the question, That Page 9, lines 23 to 26 be deleted - put.
The Committee divided.

Ayes (14)

Hon Shelley Archer
Hon Matt Benson-Lidholm
Hon Vincent Catania
Hon Kim Chance
Hon Kate Doust
Hon Sue Ellery
Hon Jon Ford

Hon Paul Llewellyn
Hon Sheila Mills
Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Ken Travers
Hon Giz Watson
Hon Ed Dermer (*Teller*)

Noes (13)

Hon George Cash
Hon Peter Collier
Hon Murray Criddle
Hon Brian Ellis
Hon Donna Faragher
Hon Nigel Hallett
Hon Ray Halligan

Hon Barry House
Hon Robyn McSweeney
Hon Norman Moore
Hon Simon O'Brien
Hon Barbara Scott
Hon Bruce Donaldson (*Teller*)

Amendment thus passed.

On the question, That Page 9, after line 29 — To insert —

“

- (8a) If, immediately before the *Fines Legislation Amendment Bill 2006* section 12(3) (the “**amending provision**”) comes into operation, an offender who has served, is serving or has to serve a period of imprisonment under a warrant of commitment is in prison, the offender is entitled to be released from imprisonment on —
- (a) the day on which the offender would have been entitled to be released if the amending provision had come into operation before the warrant of commitment was issued; or
 - (b) the day on which the amending provision comes into operation,
- whichever is later.
- (8b) In the case of an offender who is serving or has to serve a parole term as defined in the *Sentencing Act 1995* section 85(1), a reference in subsection (8a) to the offender being entitled to be released is a reference to the offender being eligible to be released on parole.

”.

Debate ensued.

Amendment - put and passed.

The Minister for Child Protection moved -

Page 10, line 1 — To delete “After section 53(8)” and insert instead —

“ Before section 53(9) ”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 13 to 21 agreed to.

New Clause 22.

The Minister for Child Protection moved -

Page 13, after line 24 — To insert the following new clause —

“

22. Section 87 amended

Section 87(a) is amended by inserting after “reason” —

“

(other than a warrant of commitment issued under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*)

”
.
”
.

Debate ensued.

New Clause agreed to.

Title agreed to.

The President resumed the Chair.

Bill reported with amendments.

The Minister for Child Protection moved, That the report be adopted.

Question - put and passed.

The Minister for Child Protection moved, That the Bill be now read a third time.

The Deputy President having reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as agreed to in Committee, and reported.

Debate ensued.

Question - put and passed.

Bill read a third time and passed.

20. Petroleum Amendment Bill 2007

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

Debate resumed.

21. Questions Without Notice

Questions without notice were taken.

The Minister for Agriculture and Food tabled, and by leave incorporated into Hansard, documents in relation to details in relation to moves by the dairy industry to increase the State's milk supply, in response to a question without notice asked by Hon Brian Ellis. (Tabled paper 3591).

The Parliamentary Secretary representing the Deputy Premier on behalf of the Minister for Child Protection representing the Minister for Health tabled documents in relation to details of the percentage of nurses that had resigned from their positions between July 2006 and June 2007, in response to question on notice No. 5606 asked by Hon Anthony Fels. (Tabled paper 3592).

The Parliamentary Secretary representing the Deputy Premier on behalf of the Minister for Child Protection representing the Minister for Health tabled documents in relation to details of how many nurses resigned from their positions between July 2006 and June 2007, in response to question on notice No. 5607 asked by Hon Anthony Fels. (Tabled paper 3593).

The Parliamentary Secretary representing the Deputy Premier on behalf of the Minister for Child Protection representing the Minister for Health tabled documents in relation to details of nurses who took leave without pay from their positions between July 2006 to June 2007, in response to question on notice No.5608 asked by Hon Anthony Fels. (Tabled paper 3594).

The Parliamentary Secretary representing the Deputy Premier on behalf of the Minister for Child Protection representing the Minister for Health tabled documents in relation to details of funding to non-Government organisations in 2006-2007 and 2007-2008 for mental health programs, in response to question on notice No. 5616 asked by Hon Helen Morton. (Tabled paper 3595).

The Parliamentary Secretary representing the Minister for Planning and Infrastructure in accordance with Standing Order No 138(d), advised that an answer to question on notice No. 5601 asked by Hon Paul Llewellyn will be provided on 6 December 2007.

The Parliamentary Secretary representing the Minister for the Environment in accordance with Standing Order No 138(d), advised that an answer to question on notice No. 5600 asked by Hon Paul Llewellyn will be provided on 6 December 2007.

The Parliamentary Secretary representing the Minister for the Environment in accordance with Standing Order No 138(d), advised that an answer to question on notice No. 5605 asked by Hon Paul Llewellyn will be provided on 19 February 2008.

The Parliamentary Secretary representing the Minister for the Environment tabled documents in relation to the Penny West Gold Deposit, Youanmi, Western Australia, in response to question on notice No. 5609 asked by Hon Giz Watson. (Tabled paper 3596).

The Parliamentary Secretary representing the Minister for the Environment tabled documents in relation to "Advances in regolith research with respect to locating mineralization" by R.R. Anand, in response to question on notice No. 5610 asked by Hon Giz Watson. (Tabled paper 3597).

The Parliamentary Secretary representing the Minister for the Environment tabled documents in relation to a report on Dewatering Operating Strategy Forrestania Nickel Project, in response to question on notice No. 5611 asked by Hon Giz Watson. (Tabled paper 3598).

22. Petroleum Amendment Bill 2007

Debate resumed on the second reading of this Bill (cf item 20 above).

Question - put and passed.

Bill read a second time.

The Acting President left the Chair.

In Committee

(Hon Graham Giffard in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 5 agreed to.

Clause 6.

Debate ensued.

Clause agreed to.

Clause 7.

Debate ensued.

Clause agreed to.

Clauses 8 to 11 agreed.

Clause 12.

Debate ensued.

Clause agreed to.

Clauses 13 to 18 agreed to.

Clause 19.

Debate ensued.

Clause agreed to.

Clauses 20 to 29 agreed to.

Clause 30.

Debate ensued.

Clause agreed to.

Clauses 31 to 57 agreed to.

Clause 58.

Debate ensued.

Clause agreed to.

Clauses 59 to 74 agreed to.

Clause 75.

Hon Paul Llewellyn moved -

Page 56, lines 21 to 22 — To delete the lines and insert instead —

“

(1) Section 142(1) is amended as follows:

(a) before “The” by inserting —

“ Subject to section (1a), ”;

(b) after “petroleum” by inserting —

“ or all geothermal energy, as the case requires, ”.

(2) After section 142(1) the following subsection is inserted —

“

(1a) In respect of geothermal energy, no royalty is payable in respect of the period up to and inclusive of 30 June 2020.

”
.”
”
.”

Debate ensued.

Amendment - put and negatived.

On the question, That the Clause stand as printed - put and passed.

Clause 76 agreed to.

Clause 77.

Debate ensued.

Clause agreed to.

Clauses 78 to 108 agreed to.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Leader of the House moved, That the Bill be now read a third time.

The Deputy President having reported that the Deputy Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as agreed to in Committee, and reported.

Bill read a third time and passed.

23. Police Amendment Bill 2006

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 Deputy President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 1 agreed to.

Clauses 2 to 9 agreed to.

Clause 10.

Debate ensued.

The Minister for Regional Development moved -

Page 6, lines 27 to 31 — To delete the lines and insert instead —

“

(2) An APLO's appointment is —

- (a) for such period as the Commissioner decides; and
- (b) on such terms and conditions of service, including remuneration, as the Commissioner decides from time to time; but they must not be less favourable than is provided for in —
 - (i) any applicable award, order or agreement under the *Industrial Relations Act 1979*; or
 - (ii) the *Minimum Conditions of Employment Act 1993*.

(3) The Commissioner may at any time amend those terms of an APLO's appointment referred to in section 38C(3).

”.

Amendment - put and passed.

The Minister for Regional Development moved -

Page 7, lines 6 and 7 — To delete the lines.

Amendment - put and passed.

The Minister for Regional Development moved -

Page 8, line 1 — To delete “section 38B(2)” and insert —

“ section 38B(3) ”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 11 to 23 agreed to.

Title.

Debate ensued.

Title agreed to.

The Acting President resumed the Chair.

Bill reported with amendments.

Report adopted.

The Minister for Regional Development moved, That the Bill be now read a third time.

The Acting President having reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as agreed to in Committee, and reported.

Bill read a third time and passed.

24. Cognate Debate - Waste Avoidance and Resource Recovery Bill 2007 and Waste Avoidance and Resource Recovery Levy Bill 2007

The Leader of the House sought leave of the House to debate Order of the Day No. 535, *Waste Avoidance and Resource Recovery Bill 2007* and Order of the Day No. 536, *Waste Avoidance and Resource Recovery Levy Bill 2007* cognately [SO 228].

Leave granted.

25. Waste Avoidance and Resource Recovery Bill 2007 and Waste Avoidance and Resource Recovery Levy Bill 2007

The Orders of the Day having been read for the adjourned debate on the second reading of these Bills.

Debate resumed.

Interruption of Debate [SO 61(b)].

26. Special Adjournment

The Leader of the House moved, without notice -

That the House at its rising adjourn until Thursday, 6 December 2007 at 10.00am.

Question - put and passed.

27. Adjournment

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

Debate ensued.

Question - put and passed.

The House adjourned at 10.41pm until 6 December 2007 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Batong Pham.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON NICK GRIFFITHS
President of the Legislative Council