

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 213

TUESDAY, 24 JUNE 2008

1. Meeting of Council

The Council assembled at 3.00pm pursuant to Temporary Order.

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

2. Message from the Lieutenant Governor and deputy of the Governor - Assent to Bills

The President reported the receipt of a Message from the Lieutenant Governor and deputy of the Governor assenting to the following Bills -

19 June 2008 - Message No. 23

Act No.

Acts Amendment (Consent to Medical Treatment) Bill 2006

25 of 2008

Children and Community Services Amendment
(Reporting Sexual Abuse of Children) Bill 2008

26 of 2008

3. Petition

Hon Giz Watson presented a petition, by delivery to the Clerk, [SO 130], from 1 100 petitioners requesting the Legislative Council maintain Western Australia as a Genetically Modified (GM) Free Zone. (Tabled paper 4109).

4. Paper

The following Paper was laid on the Table by -

President

Joint Standing Committee on Treaties (Commonwealth of Australia) -

Report No. 92 - Treaty tabled on 4 June 2008 - Convention on the Rights of Persons
with Disabilities.....

4108

5. Select Committee into the Iron Ore Industry of Western Australia - Establishment

Hon Anthony Fels: To move on the next day of sitting -

That -

- (1) A select committee of three members is appointed, any two of whom constitute a quorum.

- (2) The committee is to inquire into and report on -
- (a) the content and terms of the iron ore policy including and in relation to -
 - (i) the allocation and grant of iron ore tenure;
 - (ii) the grant of certificates of exemption under section 102A of the *Mining Act 1978 (WA)*;
 - (iii) the grant of extensions of term under section 61(2) of the *Mining Act 1978 (WA)* in respect of exploration licences which are authorised for iron ore under section 111 of the *Mining Act 1978 (WA)*; and
 - (iv) the basis upon which exploration licences authorised for iron ore under section 111 of the *Mining Act 1978 (WA)* have been permitted to be utilised as holding titles;
 - (b) the relationship between the iron ore policy and the use of state agreements to facilitate the development of iron ore projects;
 - (c) the extent to which the iron ore policy has been the subject of review and variation including by the Department of Industry and Resources;
 - (d) whether the existence and terms of the iron ore policy have been adequately disclosed, including to new entrants and potential new entrants into the iron ore industry;
 - (e) the current operation of the iron ore policy including -
 - (i) the impact of the iron ore policy upon -
 - (A) investment in iron ore exploration in the State; and
 - (B) iron ore royalties and other revenues received by the State (in relation to both quantum and time of receipt);
 - (ii) whether the iron ore policy is anti-competitive in the current market in that it prevents the turn-over of ground and thereby -
 - (A) preserves the market power of existing members of the iron ore industry; and
 - (B) operates as a barrier to entry to new entrants into the market;
 - (f) whether the original rationale for the iron ore policy remains applicable today;
 - (g) whether there is still any need to treat iron ore differently to other mineral commodities under the *Mining Act 1978 (WA)*; and
 - (h) whether it is still necessary and appropriate to use government agreements to facilitate the development of iron ore resources or whether the *Mining Act 1978 (WA)* provides an adequate and appropriate vehicle.
- (3) The committee is to report to the House no later than Thursday, 20 November 2008.

6. Ministerial Statement - Recreational Fishing - Management Package for Demersal Scalefish

The Minister for Fisheries made a Ministerial Statement with respect to managing the recreational catch of demersal scalefish in the west coast bioregion.

The Minister for Fisheries tabled Fisheries Management Paper No. 231: A Strategy for Managing the Recreational Catch of Demersal Scalefish in the West Coast Bioregion, June 2008. (Tabled paper 4110).

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

7. Order of Business

Ordered - That Order of the Day No. 631, *Prisons Amendment Regulations 2008 - Disallowance*, be taken after Order of the Day No. 644, *Public Transport Authority Amendment Bill 2008*. (Leader of the House).

8. Estimates of Revenue and Expenditure - Consolidated Fund Estimates 2008-2009

The Order of the Day having been read for the adjourned debate on the motion of the Parliamentary Secretary representing the Treasurer, That the Consolidated Fund Estimates 2008-2009 be noted.

Question - put and passed.

9. Cognate Debate - Appropriation (Consolidated Account) Bill (No. 1) 2008 and Appropriation (Consolidated Account) Bill (No. 2) 2008

The Parliamentary Secretary representing the Treasurer sought leave of the House to debate Order of the Day No. 639, *Appropriation (Consolidated Account) Bill (No. 1) 2008* and Order of the Day No. 640, *Appropriation (Consolidated Account) Bill (No. 2) 2008* cognately [SO 228].

Leave granted.

10. Appropriation (Consolidated Account) Bill (No. 1) 2008 and Appropriation (Consolidated Account) Bill (No. 2) 2008

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

11. Questions Without Notice

Questions without notice were taken.

Hon Ken Travers asked a question without notice under Standing Order 136(b) of Hon Anthony Fels in relation to his notice of motion given today.

President's Ruling

The President ruled as follows -

The question is out of order because Hon Anthony Fels gave notice of the motion today; therefore, there is nothing before the House along the lines Hon Ken Travers suggests at this time.

The Parliamentary Secretary representing the Minister for the Environment tabled, and by leave incorporated into Hansard, an answer in relation to penalties that apply for sewerage spills into the Swan-Canning river system, in response to a question without notice asked by Hon Barbara Scott. (Tabled paper 4111).

The Minister for Local Government representing Minister for Education and Training tabled an answer in tabular format in relation to the Western Australian Literacy and Numeracy Assessment results for 2006 and 2007 in Western Australian government schools, in response to question on notice No. 6346 asked by Hon Shelley Archer. (Tabled paper 4112).

The Minister for Employment Protection tabled a document in relation to WorkCover WA - Actuarial Assessment of Cost Impact of amending references to age, November 2002 and revised in September 2005, in response to question on notice No. 6319 asked by Hon Giz Watson. (Tabled paper 4113).

The Minister for Child Protection representing the Minister for Health tabled an answer in tabular format in relation to total amounts paid in the 2006-2007 financial year for the Board of Management and Advisory Boards within the Minister for Health's portfolio, in response to question on notice No. 6394 asked by Hon Helen Morton. (Tabled paper 4114).

12. Appropriation (Consolidated Account) Bill (No. 1) 2008 and Appropriation (Consolidated Account) Bill (No. 2) 2008

Debate resumed on the second reading of these Bills (cf item 10 above).

Question - put and passed.

Bills read a second time.

Question - put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading of the Bills.

The Parliamentary Secretary representing the Treasurer moved, That the Bills be now read a third time.

Question - put and passed.

Bills read a third time and passed.

13. Appropriation (Consolidated Account) Bill (No. 5) 2007 and Appropriation (Consolidated Account) Bill (No. 6) 2007

The Orders of the Day having been read for the third reading of these Bills.

The Parliamentary Secretary representing the Treasurer moved, That the Bills be now read a third time.

Question - put and passed.

Bills read a third time and passed.

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

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.

Leave was granted to proceed forthwith to the third reading of the Bill.

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

Question - put and passed.

Bill read a third time and passed.

15. Statutes (Repeals and Minor Amendments) Bill 2006

The Order of the Day having been read for the third reading of this Bill.

The Leader of the House 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.

Question - put and passed.

Bill read a third time and passed.

16. Order of Business

Ordered - That Order of the Day No. 478, *Surrogacy Bill 2007*, be taken before Order of the Day No. 525, *Industrial and Related Legislation Amendment Bill 2007*. (Leader of the House).

17. Surrogacy Bill 2007

The Order of the Day for the further consideration of this Bill, in Committee, having been read.
The Acting President left the Chair.

In Committee

(Hon Ray Halligan in the Chair)

New Division 2.

Debate resumed on New Division 2 moved by the Minister for Child Protection as follows -

Page 6, after line 11 — To insert the following new Division —

“

Division 2A — Parentage order excluded for certain arrangements

15A. Meaning of “Council”

In this Division —

“**Council**” means the Western Australian Reproductive Technology Council established under the *Human Reproductive Technology Act 1991* section 8.

15B. Approval of surrogacy arrangement

- (1) A parentage order cannot be made in respect of a child unless the surrogacy arrangement has been approved in writing under section 15C by the Council.
- (2) Subsection (1) does not apply if the child was born as a result of a pregnancy that commenced before the day fixed under section 2 of this Act.

15C. Requirements for surrogacy arrangement to be approved

The Council may approve a surrogacy arrangement only if —

- (a) the birth mother —
 - (i) has reached 21 years of age; and
 - (ii) unless the Council is satisfied that there are exceptional circumstances because of which it should dispense with this requirement, has given birth to a live child;

and
- (b) the arrangement is set out in a written agreement signed by —
 - (i) each of the arranged parents; and
 - (ii) the birth mother and her husband or de facto partner, if any; and
 - (iii) any other person (a “**donor**”) whose egg or sperm is to be used for the conception of the child or who is the spouse or de facto partner of a donor;

and

- (c) the Council is satisfied that, at least 3 months before the approval is given, each of the persons required by paragraph (b) to sign the agreement (the “parties”) has —
 - (i) undertaken any counselling about the implications of the surrogacy arrangement that regulations under this Act require; and
 - (ii) been assessed by a clinical psychologist and confirmed, in a written report provided to the Council, to be psychologically suitable to be involved in the surrogacy arrangement; and
 - (iii) received independent legal advice about the effect of the surrogacy arrangement;
 and
- (d) the Council is satisfied that, at least 3 months before the approval is given, each of the arranged parents, the birth mother and any donor has been assessed by a medical practitioner and confirmed, in a written report provided to the Council, to be medically suitable to be involved in the surrogacy arrangement; and
- (e) the intended birth mother has not yet become pregnant under the arrangement.

15D. Application of *Human Reproductive Technology Act 1991*

- (1) For the purposes of the performance by the Council of a function under this Act, the provisions of the *Human Reproductive Technology Act 1991* referred to in the Table to this subsection apply as if the function were a function under that Act.

Table

s. 10(1), (3) and (4)	Sch. cl. 4
Sch. cl. 6	Sch. cl. 7
Sch. cl. 8	Sch. cl. 9
Sch. cl. 10	

- (2) The Council may, by resolution, delegate a function it is given by this Act to a committee appointed in accordance with subsection (1).
- (3) For the purpose of the *Human Reproductive Technology Act 1991* Schedule clause 10(1)(d) a delegation made under subsection (2) is taken to be a delegation made under section 11 of that Act.
- (4) To enable it to perform its functions under this Act, the Council may make use of staff, services or facilities available to it under the *Human Reproductive Technology Act 1991*.

”.

Hon Helen Morton moved -

Proposed New Section 15C(a)(i) — To amend the amendment by deleting “21” and inserting instead -

“ 25 ”.

Debate ensued.

Amendment - put and passed.

New Division, as amended, agreed to.

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.

18. Revenue Laws Amendment Bill (No. 2) 2008

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 343

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Revenue Laws Amendment Bill (No. 2) 2008*.

Mr G.A. Woodhams

Acting Speaker

Legislative Assembly Chamber

Perth, 19 June 2008

19. Electoral Amendment Bill (No. 2) 2008

The Deputy President reported the receipt of Message No. 339 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Child Protection representing the Minister for Electoral Affairs moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Child Protection representing the Minister for Electoral Affairs moved, That the Bill be now read a second time.

Debate stands adjourned.

20. Electoral Amendment Bill 2008

The Deputy President reported the receipt of Message No. 340 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Child Protection representing the Minister for Electoral Affairs moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Child Protection representing the Minister for Electoral Affairs moved, That the Bill be now read a second time.

Debate stands adjourned.

21. Industrial and Related Legislation Amendment Bill 2007

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.

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.

Clause 8.

Debate ensued.

Clause agreed to.

Clause 9.

The Minister for Employment Protection moved -

Page 6, lines 16 and 17 — To delete “, with the consent of the President”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 10.

Debate ensued.

Clause agreed to.

Clauses 11 to 13 agreed to.

Clause 14.

Debate ensued.

Clause agreed to.

Clauses 15 to 17 agreed to.

Clause 18.

Debate ensued.

Clause agreed to.

Clauses 19 to 32 agreed to.

Clause 33.

Debate ensued.

Clause agreed to.

Clauses 34 to 37 agreed to.

Clause 38.

The Minister for Employment Protection moved -

Page 32, lines 28 to 31 — To delete the lines.

Page 33, line 7 — To delete the line.

Amendments - put and passed.

Debate ensued.

Interruption pursuant to Temporary Order.

The Deputy President resumed the Chair.

The Deputy Chairman of Committees reported that the Committee had considered the Bill, made progress, and asked leave to sit again.

Ordered - That the Committee have leave to sit again.

22. Members' Statements

Members' statements were taken.

23. Adjournment

The House adjourned at 9.53pm until Wednesday, 4 June 2008 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Ken Baston and Hon Adele Farina.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON NICK GRIFFITHS
President of the Legislative Council