

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 59

FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT

TUESDAY, 10 NOVEMBER 2009

1. Meeting of Assembly

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

The Speaker took the Chair.

Prayers were read.

2. Speaker's Statement - Death of Paul William Andrews

The Speaker advised members that it was his sad duty to formally advise the House of the passing on 22 October 2009 of Paul William Andrews, formerly the Member for Southern River. To accommodate the needs of Paul's family, the condolence motion had been postponed until Tuesday, 17 November 2009, immediately after Prayers.

3. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Minister for Health on the release of the St John Ambulance Inquiry Report, an independent inquiry into the safety and quality of St John Ambulance Service Western Australia's clinical practices.

The Minister for Emergency Services on the marking of 50 years of service by the State Emergency Service in Western Australia.

The Minister for Sport and Recreation on the successful applications in approval of the first round of small grants under the Community Sporting and Recreation Facilities Fund.

The Minister for Water on the future commencement of work on the Spearwood infill sewerage project.

4. Questions

Questions without Notice were taken.

Questions on Notice Nos 1823 to 1884 were asked.

Questions on Notice Nos 1532, 1535, 1541, 1552, 1553, 1558, 1575, 1586, 1597, 1610 to 1618, 1620 to 1624, 1626 to 1628, 1630, 1631, 1633, 1635, 1638, 1639, 1641 to 1644, 1649, 1651, 1653, 1655, 1695, 1699, 1811 and 1816 were answered.

Papers tabled by the Deputy Premier; Minister for Health; Indigenous Affairs –

Question on Notice No. 1553 - Global Budget Allocations for each Department of Health Website (1583).

Question on Notice No. 1624 - Four-Hour Rule Attendance Data for Selected Western Australian Hospitals and Hospital Groupings, by Quarter, April-June 2007 to April-June 2009 (1584).

Question on Notice No. 1627 - Details of Assaults on Nurses at Royal Perth Hospital, Sir Charles Gairdner Hospital, Fremantle Hospital, Osborne Park Hospital, Joondalup Health Campus and Graylands Hospital (1585).

Question on Notice No. 1630 - Nurses and Midwives Recruited Internationally from 1 July 2008 to 30 June 2009 (1586).

Question on Notice No. 1633 - Albany Regional Hospital - Details of FTE Staff Employed and Training Programs Offered to Staff (1587).

Paper tabled by the Minister for Lands –

Question on Notice No. 1610 - Map of Old Whim Creek Road Route and Access Points (1588).

Paper tabled by the Parliamentary Secretary representing the Minister for Transport –

Question on Notice No. 1653 - Number of Taxi Plates in Western Australia from 30 September 2007 to 30 September 2009 for Conventional, Peak Period, Area Restricted and MPT Taxis (1589).

5. Personal Explanation

Mr J.C. Kobelke made a personal explanation in relation to infill sewerage in Spearwood.

Speaker's Ruling - Personal Explanation

The Speaker ruled, That the members' comments did not constitute a personal explanation.

6. Petitions

School Support Staff - Mrs M.H. Roberts presented a petition from 545 persons requesting that issues facing Western Australian schools and their support staff be addressed by acting on the recommendations of the Twomey Taskforce. (P. 160).

Shack Site Communities - Petitions requesting that Shack Site communities be preserved so Western Australians have affordable coastal holiday destinations for future generations were presented by –

Mr A.J. Simpson from 304 persons (P. 161); and

Mrs L.M. Harvey from 242 persons (P. 164).

Marmion Avenue Parklands Anti Social Behaviour - Mr J.R. Quigley presented a petition from 88 persons requesting that the Government and the City of Wanneroo implement measures aimed at reducing vandalism and antisocial behaviour in parklands from Marmion Avenue to the coast (P. 162).

Esperance Anglican Community School - Dr G.G. Jacobs presented a petition from 56 persons requesting that the granting of registration for years 11 and 12 to the Esperance Anglican Community School be supported (P. 163).

Moore River Urban Development - Mr G.A. Woodhams presented a petition from 44 persons requesting that the development of 2,000 housing lots on the south side of Moore River be disallowed (P. 165).

Speaker's Statement - Petition Format

The Speaker advised members that the correct format for petitions needed to be followed at all times, and that the incorrect format may result in the petition being ruled out of order.

7. Papers

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

By the Speaker –

Inspector of Custodial Services, Office of - Annual Report 2008–2009 (Received by the Speaker on 29 September 2009 and held for a period of thirty days as directed by section 35(1) of the Act) (1560).

Inspector of Custodial Services, Office of - Report of an Announced Inspection of Wooroloo Prison Farm, Report No. 61, 2009 (Received by the Speaker on 5 October 2009 and held for thirty days as directed by section 35(1) of the Act) (1561).

By the Clerk –

Independent Market Operator - Annual Report 2008–2009 (Received by the Clerk of the Legislative Assembly and deemed tabled on 29 October 2009) (1560).

Architects Board of Western Australia - Annual Report 2008–2009 (1562).

Commissioner for Occupational Safety and Health - Annual Report 2008–2009 (1563).

Conservation and Land Management Act 1984 - Proposal for the Partial Revocation of State Forest Nos 4 and 65, dated 11 August 2009 (1564).

Conservation and Land Management Act 1984 - Proposal for the Partial Revocation of State Forest Nos 22, 23 and 25, dated 25 August 2009 (1565).

Conservation and Land Management Act 1984 - Proposal for the Partial Revocation of State Forest Nos 2, 12, 16, 38, 55 and 57, dated 9 October 2009 (1566).

Conservation and Land Management Act 1984 - Proposal for the Partial Revocation of State Forest Nos. 22 and 38, dated 9 October 2009 (1567).

Conservation and Land Management Act 1984 - Lease No. 2044/97 between the Department of Environment and Conservation and Mr Tony Delpaul' for Domestic Use Dam Site within Portion of State Forest No. 21, dated 11 September 2009 (1568).

Criminal Procedure Act 2004 - Rules (Criminal Procedure Amendment Rules 2009 G.G. 13/10/2009) (1569).

Fish Resources Management Act 1994 - Regulations (Fish Resources Management Amendment Regulations (No. 13) 2009 G.G. 13/10/2009) (1570).

Genetically Modified Crops Free Areas Act 2003 - Regulations (Genetically Modified Crops Free Areas Regulations 2009 G.G. 13/10/2009) (1571).

Local Government Act 1995 - Local Laws (City of Perth Standing Orders Local Law 2009 G.G. 13/10/2009) (1572).

Perry Lakes Redevelopment - Annual Report 2008–2009 (1573).

Port Authorities Act 1999 - Regulations (Port Authorities Amendment Regulations (No. 4) 2009 G.G. 16/10/2009) (1574).

Racing and Wagering Western Australia - Annual Report 2008–2009 (1575).

Registrar of Housing Societies - Annual Report 2008–2009 (1576).

Road Traffic Act 1974 - Regulations (Road Traffic (Infringements) Amendment Regulations (No. 2) 2009 G.G. 16/10/2009) (1577).

Terrorism (Preventative Detention) Act 2006 - Quarterly Report for the Period ended 30 September 2009 (1578).

Veterinary Surgeons Act 1960 - Regulations (Veterinary Surgeons Amendment Regulations 2009 G.G. 13/10/2009) (1579).

Western Australian Treasury Corporation - Quarterly Report for the Period ended 3 September 2009 (1580).

Western Australian Electoral Commission - Political Finance Annual Report 2007–2008 (1581).

Western Australian Greyhound Racing Association - Annual Report 2008–2009 (1582).

8. Corrections to Tabled Papers

The Speaker announced that he had authorised corrections under Standing Order No. 156 to the following Tabled Papers tabled on 24 September 2009 –

Education Services, Department of - Annual Report 2008–2009 (1418).

Tourism Western Australia - Annual Report 2008–2009 (1459).

9. Notices of Motion

10. Matter of Public Interest - Western Australia's Ambulance Service

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

At least five members having risen in support,

Mr R.H. Cook moved,

That this House condemns the Barnett Government for its pathetic response to the crisis in Western Australia's Ambulance Service, the extended closure of hospital services over Christmas and its lack of priority for the health budget.

Debate ensued.

Question put.

The Assembly divided.

Ayes (24)

Ms L.L. Baker
 Ms A.S. Carles
 Mr R.H. Cook
 Ms J.M. Freeman
 Mr J.N. Hyde
 Mr W.J. Johnston
 Mr J.C. Kobelke
 Mr F.M. Logan

Ms A.J.G. MacTiernan
 Mr M. McGowan
 Mrs C.A. Martin
 Mr M.P. Murray
 Mr A.P. O’Gorman
 Mr P. Papalia
 Mr J.R. Quigley
 Ms M.M. Quirk

Mr E.S. Ripper
 Mrs M.H. Roberts
 Mr T.G. Stephens
 Mr C.J. Tallentire
 Mr A.J. Waddell
 Mr P.B. Watson
 Mr M.P. Whitely
 Ms R. Saffioti (*Teller*)

Noes (29)

Mr P. Abetz
 Mr F.A. Alban
 Mr C.J. Barnett
 Mr I.C. Blayney
 Mr J.J.M. Bowler
 Mr I.M. Britza
 Mr T.R. Buswell
 Mr G.M. Castrilli
 Mr V.A. Catania
 Mr M.J. Cowper

Mr J.H.D. Day
 Mr J.M. Francis
 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 P.T. Miles

Ms A.R. Mitchell
 Dr M.D. Nahan
 Mr C.C. Porter
 Mr D.T. Redman
 Mr A.J. Simpson
 Mr M.W. Sutherland
 Mr T.K. Waldron
 Dr J.M. Woollard
 Mr J.E. McGrath (*Teller*)

Question thus negatived.

11. Message from the Governor

Message No. 69 from His Excellency the Governor was reported assenting to the Co-operatives Bill 2009, Act No. 24 of 2009.

12. Messages from the Governor

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

Aboriginal Housing Legislation Amendment Bill 2009 (Message No. 70).

Rail Safety Bill 2009 (Message No. 71).

Cannabis Law Reform Bill 2009 (Message No. 72).

Appropriation (Consolidated Account) Capital 2007-08 and 2008-09 (Supplementary) Bill 2009 (Message No. 73).

Appropriation (Consolidated Account) Recurrent 2007-08 and 2008-09 (Supplementary) Bill 2009 (Message No. 74).

13. Statutes (Repeals and Minor Amendments) Bill 2009

Message No. 43 dated 15 October 2009 from the Legislative Council was reported forwarding for concurrence a bill entitled a bill for “An Act to amend the statute law by –

- repealing various written laws; and
- making minor amendments to various other written laws,
and for related purposes.”

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

14. Arson Legislation Amendment Bill 2009

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 9 agreed to.

New Clause.

Mr J.R. Quigley moved,

Page 5, after line 6 – To insert:

“

10. Section 442A inserted

After section 441 insert:

442A. Recklessness

- (1) A person is reckless with respect to a circumstance if:
 - (a) he or she is aware of a substantial risk that the circumstance exists or will exist; and
 - (b) having regard to the circumstances known to him or her, it is unjustifiable to take the risk.
- (2) A person is reckless with respect to a result if:
 - (a) he or she is aware of a substantial risk that the result will occur; and
 - (b) having regard to the circumstances known to him or her, it is unjustifiable to take the risk.
- (3) The question whether taking a risk is unjustifiable is one of fact.
- (4) If recklessness is a fault element for a physical element of an offence, proof of intention, knowledge or recklessness will satisfy that fault element.

”.

Amendment put.

The Assembly divided.

Ayes (24)

Ms L.L. Baker
Ms A.S. Carles
Mr R.H. Cook
Ms J.M. Freeman
Mr W.J. Johnston
Mr J.C. Kobelke
Mr F.M. Logan
Ms A.J.G. MacTiernan

Mr M. McGowan
Mrs C.A. Martin
Mr M.P. Murray
Mr A.P. O’Gorman
Mr P. Papalia
Mr J.R. Quigley
Ms M.M. Quirk
Mr E.S. Ripper

Mrs M.H. Roberts
Mr T.G. Stephens
Mr C.J. Tallentire
Mr A.J. Waddell
Mr P.B. Watson
Mr M.P. Whitely
Dr J.M. Woollard
Ms R. Saffioti (*Teller*)

Noes (26)

Mr P. Abetz
 Mr F.A. Alban
 Mr C.J. Barnett
 Mr I.C. Blayney
 Mr J.J.M. Bowler
 Mr I.M. Britza
 Mr T.R. Buswell
 Mr G.M. Castrilli
 Mr V.A. Catania

Mr M.J. Cowper
 Mr J.M. Francis
 Mr B.J. Grylls
 Mrs L.M. Harvey
 Mr A.P. Jacob
 Dr G.G. Jacobs
 Mr R.F. Johnson
 Mr A. Krsticevic
 Mr P.T. Miles

Ms A.R. Mitchell
 Dr M.D. Nahan
 Mr C.C. Porter
 Mr D.T. Redman
 Mr A.J. Simpson
 Mr M.W. Sutherland
 Mr T.K. Waldron
 Mr J.E. McGrath (*Teller*)

Amendment thus negatived.

Clause 10.

Dr J.M. Woollard moved,

Page 5, line 31 – To delete “vegetation” and substitute:

“ bush and fauna ”.

Amendment, by leave, withdrawn.

Dr J.M. Woollard moved,

Page 5, line 31 – To insert after “vegetation”:

“ and fauna ”.

Amendment put.

The Assembly divided.

Ayes (24)

Ms L.L. Baker
 Ms A.S. Carles
 Mr R.H. Cook
 Ms J.M. Freeman
 Mr W.J. Johnston
 Mr J.C. Kobelke
 Mr F.M. Logan
 Ms A.J.G. MacTiernan

Mr M. McGowan
 Mrs C.A. Martin
 Mr M.P. Murray
 Mr A.P. O’Gorman
 Mr P. Papalia
 Mr J.R. Quigley
 Ms M.M. Quirk
 Mr E.S. Ripper

Mrs M.H. Roberts
 Mr T.G. Stephens
 Mr C.J. Tallentire
 Mr A.J. Waddell
 Mr P.B. Watson
 Mr M.P. Whitely
 Dr J.M. Woollard
 Ms R. Saffioti (*Teller*)

Noes (27)

Mr P. Abetz
 Mr F.A. Alban
 Mr C.J. Barnett
 Mr I.C. Blayney
 Mr J.J.M. Bowler
 Mr I.M. Britza
 Mr T.R. Buswell
 Mr G.M. Castrilli
 Mr V.A. Catania

Mr M.J. Cowper
 Mr J.H.D. Day
 Mr J.M. Francis
 Mr B.J. Grylls
 Mrs L.M. Harvey
 Mr A.P. Jacob
 Dr G.G. Jacobs
 Mr R.F. Johnson
 Mr A. Krsticevic

Mr P.T. Miles
 Ms A.R. Mitchell
 Dr M.D. Nahan
 Mr C.C. Porter
 Mr D.T. Redman
 Mr A.J. Simpson
 Mr M.W. Sutherland
 Mr T.K. Waldron
 Mr J.E. McGrath (*Teller*)

Amendment thus negatived.

Clause 10 put and passed.

Clause 11.

Ms A.S. Carles moved,

Page 6, lines 7 to 12 – To delete the lines.

Speaker's Ruling - Test Vote

The Speaker advised members that as there was also a proposed amendment from the member for Mindarie, part of which coincided with the amendment moved by the member for Fremantle he would put this to the House as a tests amendment. As a test vote the words down to and including “insert” be deleted. If that was successful, he would put the second part to the House – that is, the words after “insert”. That is to cover the proposed amendment by the Member for Mindarie. If that was not successful, the member for Mindarie will be free to put his amendment as a proposed amendment after that. As a test vote, the Speaker put the question, That all words in lines 7 to 11 be deleted.

Ms A.S. Carles, by leave withdrew her amendment.

Mr J.R. Quigley moved,

Page 6, line 12 – To delete “life imprisonment” and substitute:

“ 25 years ”.

On the question, That the words be deleted,

Amendment put and negatived.

On the question, That Clause 11 be agreed to,

Clause put.

The Assembly divided.

Ayes (26)

Mr P. Abetz
Mr C.J. Barnett
Mr I.C. Blayney
Mr J.J.M. Bowler
Mr I.M. Britza
Mr T.R. Buswell
Mr G.M. Castrilli
Mr V.A. Catania
Mr M.J. Cowper

Mr J.H.D. Day
Mr J.M. Francis
Mr B.J. Grylls
Mrs L.M. Harvey
Mr A.P. Jacob
Dr G.G. Jacobs
Mr R.F. Johnson
Mr A. Krsticevic
Mr P.T. Miles

Ms A.R. Mitchell
Dr M.D. Nahan
Mr C.C. Porter
Mr D.T. Redman
Mr A.J. Simpson
Mr M.W. Sutherland
Mr T.K. Waldron
Mr J.E. McGrath (*Teller*)

Noes (23)

Ms L.L. Baker
Ms A.S. Carles
Mr R.H. Cook
Ms J.M. Freeman
Mr W.J. Johnston
Mr J.C. Kobelke
Mr F.M. Logan
Ms A.J.G. MacTiernan

Mr M. McGowan
Mrs C.A. Martin
Mr M.P. Murray
Mr P. Papalia
Mr J.R. Quigley
Ms M.M. Quirk
Mr E.S. Ripper
Mrs M.H. Roberts

Mr T.G. Stephens
Mr C.J. Tallentire
Mr A.J. Waddell
Mr P.B. Watson
Mr M.P. Whitely
Dr J.M. Woollard
Mr A.P. O’Gorman (*Teller*)

Clause thus passed.

Clause 12 agreed to.

Title agreed to.

Consideration in detail concluded.

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. Gas Supply (Gas Quality Specifications) Bill 2009

Message No. 44 dated 22 October 2009 from the Legislative Council was reported as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Gas Supply (Gas Quality Specifications) Bill 2009* 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 Gas Supply (Gas Quality Specifications) Bill 2009.

No. 1

Page 3, lines 1 and 2 — To delete the lines and insert —

Gas Access Law means —

- (a) the National Gas Access (Western Australia) Law, the Rules made under that Law and the regulations made under the *National Gas Access (WA) Act 2009*; or
- (b) the Gas Pipelines Access (Western Australia) Law, and the regulations, in force under the *Gas Pipelines Access (Western Australia) Act 1998* before the commencement of the *National Gas Access (WA) Act 2009* section 30;

No. 2

Page 4, lines 25 to 28 — To delete the lines and insert —

pipeline service has the meaning given in the National Gas Access (Western Australia) Law section 2;

No. 3

Page 5, lines 16 and 17 — To delete the lines.

No. 4

Page 6, line 17 — To insert after “gas transmission pipeline” —

or a part of a gas transmission pipeline

No. 5

Page 6, after line 21 — To insert —

- (3) In this Act, a reference to a gas transmission pipeline includes a reference to a part of a gas transmission pipeline when the context requires.

No. 6

Page 13, lines 4 to 9 — To delete the lines and insert —

- (b) provide for disputes about —
 - (i) the relevant effects on the capacity of a PIA pipeline; or
 - (ii) the effects on users' rights (under pipeline services agreements) resulting from the way in which the relevant effects on the capacity of the pipeline were or were not dealt with in the pipeline impact agreement,
 to be resolved by the determination of an expert chosen in accordance with the regulations and for such determinations to be final and binding on the parties to the dispute;

No. 7

Page 24, line 8 — To delete "Part 1A;" and insert —

Part 2;

No. 8

Page 24, after line 8 — To insert —

Director means the Director of Energy Safety referred to in the *Energy Coordination Act 1994* section 5;

No. 9

Page 24, line 21 — To delete "by the Minister".

No. 10

Page 25, line 12 — To delete "Coordinator" and insert —

Director

No. 11

Page 25, line 20 — To delete "Coordinator" and insert —

Director

No. 12

Page 25, line 21 — To delete "Coordinator," and insert —

Director,

No. 13

Page 26, line 7 — To delete “Coordinator” and insert —

Director

No. 14

Page 26, line 18 — To delete “Coordinator” and insert —

Director

No. 15

Page 26, line 20 — To delete “Coordinator” and insert —

Director

No. 16

Page 34, lines 9 to 11 — To delete the clause.

No. 17

Page 34, after line 8 — To insert —

37. Act amended

This Division amends —

- (a) if this section comes into operation before the day on which the *National Gas Access (WA) Act 2009* section 26 comes into operation — the *Gas Pipelines Access (Western Australia) Act 1998*; or
- (b) otherwise — the *Gas Pipelines Access (Western Australia) Act 1998* (as amended by the *National Gas Access (WA) Act 2009* and cited as the *Energy Arbitration and Review Act 1998*).

Ordered, That consideration in detail of Legislative Council message No. 44 be made an Order of the Day for the next sitting of the Assembly.

16. Criminal Investigation Amendment Bill 2009

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

Debate resumed.

The Premier 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 12.18 a.m. on Wednesday, 11 November 2009 until 12.00 noon on the same day.

Members present during any part of the day's proceedings - All the members except Dr E. Constable, Mr D.A. Templeman and Mr B.S. Wyatt.

PETER J. McHUGH

Clerk of the Legislative Assembly

HON. GRANT WOODHAMS

Speaker of the Legislative Assembly