

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 243

FIRST SESSION OF THE THIRTY-NINTH PARLIAMENT

THURSDAY, 17 NOVEMBER 2016

1. Meeting of Assembly

The Assembly met at 9.00 a.m. pursuant to adjournment.

The Deputy Speaker took the Chair.

Prayers were read.

2. Petitions

Scarborough coastal sand-dunes – Mr C.J. Tallentire presented a petition from 3,001 persons asking the Minister for Planning and the Minister for Environment to ensure the Scarborough coastal sand-dunes are protected and maintained for the future benefit of all Western Australians (P. 434).

Denny Avenue Traffic Congestion – Dr A.D. Buti presented a petition from 707 persons requesting the Barnett Government provide railway grade separation to address the high level of traffic accidents and congestion on the Denny Avenue intersections in Kelmscott (P. 435).

3. Papers

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

By the Clerk –

Administrator of the National Funding Pool – Annual Report 2015–2016 (4877).

Australian Health Practitioner Regulation Agency – Annual Report 2015–2016 (4878).

Community Development and Justice Committee – Committee Minutes for the period 12 August 2015 to 9 November 2016 (4879).

Economics and Industry Standing Committee – Committee Minutes 15 May 2013 to 9 November 2016 (4880).

Education and Health Standing Committee – Committee Minutes for the period 15 May 2013 to 12 October 2016 (4881).

Education and Health Standing Committee – Government Response to Committee Report No. 10: <System Error> Auditor General's Report on Health Department's Procurement and Management of its Centralised Computing Services Contract, November 2016 (4882).

Financial Management Act – Notice Given under Section 82 of the Act by the Minister for Water to Legislative Council Question on Notice 4396 Part (3) (4883).

Joint Standing Committee on the Commissioner for Children and Young People – Committee Minutes for the period 23 May 2013 to 19 October 2016 (4884).

LandCorp – Statement of Corporate Intent 2016–2017 (4885).

National Health Funding Body – Annual Report 2015–2016 (4886).

National Health Practitioner Ombudsman and Privacy Commissioner – Annual Report 2015–2016 (4887).

Public Accounts Committee – Committee Minutes for the period 15 May 2013 to 14 September 2016 (4888).

Public Sector Commission – State of the Sectors 2016 (4889).

4. Brief Ministerial Statement

A Brief Ministerial Statement was made by –

The Minister for Health on the 50th Anniversary of the *Fluoridation of Public Water Supplies Act 1966*.

5. Grievances

The Deputy Speaker called for grievances which were then made.

6. Public Accounts Committee

Dr K.D. Hames, as Chair, presented the following report which was ordered to lie upon the Table of the House –

Public Accounts Committee – Report No. 17: Review of Auditor General Report No. 5 Selected Reports 2013–2015 (4890).

Public Accounts Committee – Report No. 17: Review of Auditor General Report No. 5 Selected Reports 2013–2015 – Evidence (4891).

Mr B.S. Wyatt, Mrs G. Godfrey and Mr W.J. Johnston spoke on the report.

7. Education and Health Standing Committee

Dr G.G. Jacobs, as Chair, presented the following report which was ordered to lie upon the Table of the House –

Education and Health Standing Committee – Report No. 11: Learnings from the Message Stick – The Report of the Inquiry into Aboriginal Youth Suicide (4892).

Education and Health Standing Committee – Report No. 11: Learnings from the Message Stick – Submissions (4893).

Acting Speaker's Statement – Message Stick

The Committee Chairman presented a Message Stick received by the member for Kimberley from the community of Beagle Bay. The Acting Speaker advised members that records in any form may be laid upon the Table of the House by the Chair of a committee when presenting a report. Given the importance of the Message Stick as part of the Committee's inquiry it was appropriate for the Chair to table it in conjunction with other evidence received.

The Message Stick would be treated as a Tabled Paper and a photograph taken to make it available on the Parliament's website. Arrangements would also be made for its display in a public area of the Parliament.

Paper

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

By Dr G.G. Jacobs, Chair of the Education and Health Standing Committee –

Education and Health Standing Committee – Message Stick (4894).

Ms R. Saffioti, Mr M.J. Cowper, Ms J.M. Freeman, Mr R.F. Johnson, Ms J. Farrer and, by leave, Ms S. McGurk spoke on the report.

8. Joint Standing Committee on Delegated Legislation

Mr P. Abetz, as Chair, presented the following report which was ordered to lie upon the Table of the House –

Delegated Legislation, Joint Standing Committee on – Report No. 89: Annual Report 2016 (4895).

9. Joint Standing Committee on Delegated Legislation

Mr P. Abetz, as Chair, presented the following report which was ordered to lie upon the Table of the House –

Delegated Legislation, Joint Standing Committee on – Report No. 90: Energy Operators (Electricity Generation and Retail Corporation) (Charges) Amendment By-Laws 2016 (4896).

10. Joint Standing Committee on the Corruption and Crime Commission

Mr N.W. Morton, as a duly authorised Member of the Committee, presented the following report which was ordered to lie upon the Table of the House –

Corruption and Crime Commission, Joint Standing Committee on the – Report No. 33: The ability of the Corruption and Crime Commission to charge and prosecute (4897).

11. Education and Health Standing Committee

Dr G.G. Jacobs, as Chair, presented the following report which was ordered to lie upon the Table of the House –

Education and Health Standing Committee – Report No.12: Committee's Objection to the Government's Response to IPS Report Card: The Report of the Inquiry into the Independent Public School's initiative (4898).

Mr R.F. Johnson and, by leave, Dr A.D. Buti spoke on the report.

12. Restraining Orders and Related Legislation Amendment (Family Violence) Bill 2016

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 (Ms L.L. Baker speaking) and adjourned until a later stage of the sitting.

13. Members' Statements

The Acting Speaker called for members' statements which were then made.

14. Speaker's Statement – Media Presence

The Speaker advised members that he had approved the presence of a photographer in the Press and Public Galleries during Question Time today.

15. Questions

Questions without Notice were taken.

Questions on Notice Nos 5984 to 5986 were asked.

Questions on Notice Nos 5896, 5917, 5920, 5931, 5934, 5958, 5959, 5967, 5973, 5975 and 5981 were answered.

Paper tabled by the Minister for Health; Culture and the Arts –

Question on Notice No. 5920 – Details of gifts, benefits, hospitality, accommodation and travel received by officers under the Minister for Health's portfolio of responsibilities since 1 October 2015 (4900).

Paper tabled by the Minister representing the Attorney General; Minister for Commerce –

Question on Notice No. 5917 – Details of gifts, benefits, hospitality, accommodation and travel received by officers under the Attorney General's portfolio of responsibilities since 1 October 2015 (4899).

16. Executive Officer Remuneration (Government Entities) Legislation Amendment Bill 2015

Message No. 174 dated 17 November 2016 from the Legislative Council was reported agreeing to the bill without amendment.

17. Correction to Tabled Paper

The Speaker announced that he had authorised corrections to the following Tabled Paper which was tabled on 22 September 2016 –

School Curriculum and Standards Authority – Annual Report 2015–2016 (4686).

Paper

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

By the Speaker –

School Curriculum and Standards Authority – Annual Report 2015–2016 – Erratum (4905).

18. Papers

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

By the Clerk –

Court Security and Custodial Services – Contract Between the State of Western Australia and Broadspectrum (Australia) Pty Ltd (4901).

Court Security and Custodial Services Contract – Project Summary November 2016 (4902).

Electricity Corporations Act 2005 – Ministerial Direction – Modification of Synergy Generation Capacity Cap (4903).

By the Minister for Police –

Australian Crime Commission – Assumed Identities Annual Report 2015–2016 (4904).

19. Variation to the Order of Business

Ordered, That consideration of Government Business Order of the Day No. 1 be resumed.

20. Restraining Orders and Related Legislation Amendment (Family Violence) Bill 2016

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 103 agreed to.

New Part 3 Division 5A.

Ms S. McGurk moved,

Page 80, after line 6 – To insert:

“

Division 5A — *Evidence Act 1906* amended**103A. Act amended**

This Division amends the *Evidence Act 1906*.

103B. Section 106A amended

- (1) In section 106A delete the definition of *victim*.
- (2) In section 106A insert in alphabetical order:

FVRO has the meaning given in the *Restraining Orders Act 1997* section 3(2);

victim means —

- (a) in relation to a serious sexual offence or a criminal organisation offence — a person upon or in respect of whom it is alleged that the offence was committed, attempted or proposed; and
- (b) in relation to an FVRO — the person seeking to be protected by the FVRO;

103C. Section 106R amended

After section 106R(3B) insert:

- (3C) Despite subsection (3), in an application for an FVRO an order must be made under subsection (1) in respect of the person seeking to be protected by the FVRO unless the court is satisfied —
 - (a) that subsection (3) does not apply to the person; and
 - (b) that the person does not wish to be declared to be a special witness.

”.

New Division put.

The Assembly divided.

Ayes (20)

Ms L.L. Baker
 Dr A.D. Buti
 Mr R.H. Cook
 Ms J.M. Freeman
 Mr R.F. Johnson
 Mr W.J. Johnston
 Mr D.J. Kelly

Mr F.M. Logan
 Mr M. McGowan
 Ms S.F. McGurk
 Mr M.P. Murray
 Mr P. Papalia
 Mr J.R. Quigley
 Ms M.M. Quirk

Mrs M.H. Roberts
 Ms R. Saffioti
 Mr C.J. Tallentire
 Mr P.C. Tinley
 Mr B.S. Wyatt
 Mr D.A. Templeman (*Teller*)

Noes (31)

Mr F.A. Alban
 Mr C.J. Barnett
 Mr I.C. Blayney
 Mr V.A. Catania
 Mr M.J. Cowper
 Ms M.J. Davies
 Mr J.H.D. Day
 Ms W.M. Duncan
 Ms E. Evangel
 Mr J.M. Francis
 Mrs G.J. Godfrey

Dr K.D. Hames
 Mrs L.M. Harvey
 Mr C.D. Hatton
 Mr A.P. Jacob
 Dr G.G. Jacobs
 Mr A. Krsticevic
 Mr S.K. L'Estrange
 Mr R.S. Love
 Mr W.R. Marmion
 Mr J.E. McGrath
 Mr P.T. Miles

Ms A.R. Mitchell
 Mr N.W. Morton
 Dr M.D. Nahan
 Mr D.C. Nalder
 Mr J. Norberger
 Mr A.J. Simpson
 Mr M.H. Taylor
 Mr T.K. Waldron
 Ms L. Mettam (*Teller*)

New Division thus negatived.

Clauses 104 to 112 agreed to.

Title agreed to.

Consideration in detail concluded.

The Deputy Premier moved, That the bill be now read a third time.

Question put and passed.

Bill read a third time and passed.

21. Statutes (Repeals) Bill 2016

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

Question put and passed.

Bill read a third time and passed.

22. Pilbara Port Assets (Disposal) Bill 2015

The Order of the Day for the consideration in detail of Legislative Council Message No. 165 was read.

The Message was as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Pilbara Port Assets (Disposal) Bill 2015* subject to the amendment contained in the Schedule annexed; in which amendment the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendment made by the Legislative Council in the Pilbara Port Assets (Disposal) Bill 2015

No. 1

New Clause 46A, page 35, after line 16 — To insert —

46A. Preservation of rights to future access

- (1) In this section —

access means access to a service;

access capacity means the capacity to provide services of the person who owns, controls or operates a port facility;

eligible request for access means a request for access that would not, if granted, result in the proportion of the access capacity taken up by protected users exceeding 50%;

prescribed period for a request for access means 180 days, or such other period as is specified in regulations, after the day on which the request is made;

prescribed user means a person specified in regulations as a user or potential user of a service;

protected user means a user or potential user of a service other than a prescribed user;

service has the meaning given in section 46(1).

- (2) It is a condition of the operation of a port facility that, subject to subsection (3), 50% of the access capacity must be reserved for protected users.
- (3) Despite subsection (2) if a request for access made by a prescribed user would, if granted, result in the proportion of the access capacity taken up by prescribed users exceeding 50%, the request may be granted as long as it is granted on terms that would not prevent a protected user who subsequently makes an eligible request for access from being provided with access within the prescribed period or at a later time agreed to by the protected user.

CONSIDERATION IN DETAIL

The Treasurer moved, That amendment No. 1 be agreed to.

Debate ensued.

Paper

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

By the Treasurer —

Pilbara Port Assets (Disposal) Bill 2015 – Draft Regulation 3 (4906).

Question put and passed.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

23. Aquatic Resources Management Bill 2015

The Order of the Day for the consideration in detail of Legislative Council Message No. 166 was read.
The Message was as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Aquatic Resources Management Bill 2015* 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 Aquatic Resources Management Bill 2015

No. 1

New Part 19 Division 1, page 210, after line 1 — To insert —

Division 1 — Biodiversity Conservation Act 2016 amended**288A Act amended**

This Division amends the *Biodiversity Conservation Act 2016*.

288B Section 5 amended

- (1) In section 5(1) delete the definitions of:

fish

pearl oyster

- (2) In section 5(1) insert in alphabetical order:

aquatic organism has the meaning given in the *Aquatic Resources Management Act 2016* section 3(1);

- (3) In section 5(1) in the definition of *biodiversity conservation measures* delete paragraph (g)(v) and insert:

- (v) aquatic resource use plans and management plans under the *Aquatic Resources Management Act 2016* and measures under Part 6 of that Act relating to the control of declared organisms or biological threats;

- (4) In section 5(1) in the definition of *fauna processing establishment* delete “fish or pearl oyster,” and insert:

aquatic organisms,

288C Section 7 amended

In section 7(1) in the definition of *relevant authorisation* delete paragraphs (d) and (e) and insert:

- (d) the *Aquatic Resources Management Act 2016*; or

288D Section 12 amended

Delete section 12(1) and insert:

- (1) This Act, other than Part 9, does not apply to or in relation to any aquatic organism that is the subject of —
 - (a) aquaculture, as defined in the *Aquatic Resources Management Act 2016* section 3(1); or
 - (b) commercial fishing, as defined in the *Aquatic Resources Management Act 2016* section 3(1); or
 - (c) recreational fishing, as defined in the *Aquatic Resources Management Act 2016* section 3(1).

288E Section 54 amended

In section 54(2)(b) delete “*Fish Resources Management Act 1994*.” and insert:

Aquatic Resources Management Act 2016.

288F Section 132 amended

Delete section 132(3)(a)(ii) and (iii) and insert:

- (ii) if the species to which the order relates is a species of aquatic organism — the Minister responsible for the administration of the *Aquatic Resources Management Act 2016*;

288G Section 145 amended

In section 145 in the definition of *fauna* delete “fish or pearl oyster.” and insert:

aquatic organisms.

288H Section 151 amended

- (1) In section 151(1)(a) delete “fish or pearl oyster); and” and insert:

aquatic organisms); and

- (2) In section 151(2)(a)(i) delete “fish or pearl oyster); and” and insert:
- aquatic organisms); and

288I Section 153 amended

- (1) In section 153(3)(a) delete “fish or pearl oyster); and” and insert:
- aquatic organisms); and
- (2) In section 153(4)(a)(i) delete “fish or pearl oyster); and” and insert:
- aquatic organisms); and

288J Section 158 amended

In section 158(1) in the definition of *fauna* delete “fish or pearl oyster.” and insert:

aquatic organisms.

288K Section 166 amended

In section 166 in the definition of *flora* delete “fish.” and insert:

aquatic organisms.

288L Section 190 amended

In section 190 in the definition of *aquatic-eco tourism delete* “Fish Resources Management Act 1994 section 4(1);” and insert:

Aquatic Resources Management Act 2016 section 3(1);

288M Section 194 amended

In section 194(3) delete “Fish Resources Management Act 1994” and insert:

Aquatic Resources Management Act 2016

288N Section 274 amended

In section 274(1) in the definition of *information sharing agency* —

(a) after paragraph (a) insert:

(aa) the department of the Public Service principally assisting in the administration of the *Aquatic Resources Management Act 2016*;

(b) delete paragraphs (e) and (h).

288O Schedule 1 amended

In Schedule 1 item 2 delete “fish or pearl oyster,” and insert:

aquatic organisms),

No. 2

Clause 312, page 220, line 22 to page 221, line 8 — To delete the lines and insert:

(2) Delete section 101B(3)(a) and (b) and insert:

(a) the *Aquatic Resources Management Act 2016*,

CONSIDERATION IN DETAIL

The Minister for Emergency Services moved, That amendment Nos 1 and 2 be agreed to. Amendments put and passed.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

24. Variation to the Order of Business

Ordered, That Government Business Order of the Day No. 8 be next considered.

25. Limited Partnerships Bill 2016

The Parliamentary Secretary to the Minister for Commerce, pursuant to notice, moved,

That a bill for “An Act to —

- provide for the formation and registration of limited partnerships and incorporated limited partnerships; and
- repeal the *Limited Partnerships Act 1909*; and
- make consequential amendments to the *Partnership Act 1895*,

and for related purposes.” be introduced and read a first time.

Question put and passed.

The Parliamentary Secretary to the Minister for Commerce presented an explanatory memorandum and bill read a first time.

The Parliamentary Secretary to the Minister for Commerce moved, That the bill be now read a second time.

Debate ensued.

Question put and passed.

Bill read a second time.

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

The Parliamentary Secretary to the Minister for Commerce moved, That the bill be now read a third time.

Question put and passed.

Bill read a third time and passed.

26. Message from the Governor

Message No. 32 from Her Excellency the Governor was reported assenting to the following bills –

Retail Trading Hours Amendment Act 2016, Act No. 35 of 2016.

Classification (Publications, Films and Computer Games) Enforcement Amendment Act 2016, Act No. 36 of 2016.

Royal Perth Hospital Protection Act 2016, Act No. 37 of 2016.

27. Misuse of Drugs Amendment (Search Powers) Bill 2016

Message No. 175 dated 17 November 2016 from the Legislative Council was reported agreeing to the bill without amendment.

28. Oil Refinery (Kwinana) Agreement Amendment Bill 2016

Message No. 176 dated 17 November 2016 from the Legislative Council was reported agreeing to the bill without amendment.

29. Road Traffic Amendment (Impounding and Confiscation of Vehicles) Bill 2016

Message No. 177 dated 17 November 2016 from the Legislative Council was reported agreeing to the bill without amendment.

30. Special Adjournment

The Leader of the House moved, That the House at its rising adjourn until a date and time to be fixed by the Speaker.

Debate ensued.

Question put and passed.

31. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly at 6.48 p.m. until a date and time to be fixed by the Speaker.

Members present during any part of the day's proceedings – All the members except Mr I.M. Britza, Mr B.J. Grylls and Mr P.B. Watson.

KIRSTEN M. ROBINSON
Clerk of the Legislative Assembly

HON. MICHAEL SUTHERLAND
Speaker of the Legislative Assembly