

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 150

FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT

WEDNESDAY, 15 JUNE 2011

1. Meeting of Assembly

The Assembly met at 12.00 noon pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

Petitions

Golden Bay Housing Development Proposal – Mr P. Papalia presented a petition from 88 persons requesting that some of the profit from the proposed housing development at Golden Bay be allocated to fund local community projects (P. 415).

Joondalup Line Overcrowding – Mr A.P. O’Gorman presented a petition from 66 persons requesting that at least 30 additional train carriages be ordered to address overcrowding on the Joondalup Train Line (P. 416).

Whitfords Train Station – Ms A.R. Mitchell presented a petition from 200 persons requesting an increase in the number of trees and the construction of a wall to help abate the increasing noise levels near Whitfords Train Station (P. 417).

Dyslexia within the Education system – Mr T.K. Waldron presented a petition from 1,385 persons requesting that dyslexia and other significant learning difficulties be recognised as a disability by the Department of Education (P. 418).

Boulder Police Station – Dr G.G. Jacobs presented a petition from 106 persons requesting that the Boulder Police Post be immediately re-opened (P. 419).

2. Paper

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

By the Speaker –

Auditor General, Office of the – Information Systems Audit Report, Report 4 – June 2011 (3480).

3. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Minister for Tourism on his recent visit to China with the Chief Executive Officer of Tourism Western Australia and the Chief Executive Officer of the Westralian Airport Corporation.

The Minister for Regional Development on his recent visit to the Collgar Wind Farm.

The Minister for Science and Innovation on the launch of the iVEC@Murdoch supercomputer at Murdoch University.

4. Commercial Arbitration Bill 2011

The Attorney General, pursuant to notice, moved,

That a bill for “An Act relating to the conduct of commercial arbitrations, to repeal the *Commercial Arbitration Act 1985* and for other purposes.” be introduced and read a first time.

Question put and passed.

The Attorney General presented an explanatory memorandum and bill read a first time.

The Attorney General moved, That the bill be now read a second time.

Mr M. McGowan moved, That the debate be adjourned.

Question put and passed.

5. State Superannuation Amendment Bill 2011

The Treasurer, pursuant to notice, moved,

That a bill for “An Act to amend the *State Superannuation Act 2000*.” be introduced and read a first time.

Question put and passed.

The Treasurer presented an explanatory memorandum and bill read a first time.

The Treasurer moved, That the bill be now read a second time.

Ms R. Saffioti moved, That the debate be adjourned.

Question put and passed.

6. Road Safety Council Amendment Bill 2011

The Minister for Road Safety, pursuant to notice, moved,

That a bill for “An Act to to amend the *Road Safety Council Act 2002*.” be introduced and read a first time.

Question put and passed.

The Minister for Road Safety presented an explanatory memorandum and bill read a first time.

The Minister for Road Safety moved, That the bill be now read a second time.

Ms R. Saffioti moved, That the debate be adjourned.

Question put and passed.

7. Cat Bill 2011

The Minister for Local Government, pursuant to notice, moved,

That a bill for “An Act to —

- provide for the control and management of cats; and
- promote and encourage the responsible ownership of cats,

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

Question put and passed.

The Minister for Local Government presented an explanatory memorandum and bill read a first time.

The Minister for Local Government moved, That the bill be now read a second time.

Mr M. McGowan moved, That the debate be adjourned.

Question put and passed.

8. Acts Amendment (Western Australia Day) Bill 2011

Mr J.N. Hyde, pursuant to notice, moved,

That a bill for “An Act to amend the *Public and Bank Holidays Act 1972* and the *Minimum Conditions of Employment Act 1993*.” be introduced and read a first time.

Question put and passed.

Mr J.N. Hyde presented an explanatory memorandum and bill read a first time.

Ordered, That the second reading of the bill be made an Order of the Day for a later stage of the day’s sitting.

9. Withdrawal of Notice of Motion

The Leader of the House withdrew Government Business – Notice of Motion No. 1.

10. Notice of Motion after the Time Prescribed

The Leader of the House was granted leave to give a late notice of motion.

11. Commercial Tenancy (Retail Shops) Agreements Amendment Bill 2011

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

CONSIDERATION IN DETAIL

Clauses 1 to 13 agreed to.

Clause 14.

The Minister for Transport moved,

Page 18, line 9 – To delete “in respect”.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 15 to 21 agreed to.

New clause 21A.

Mr A.P. O’Gorman moved,

Page 23, after line 31 – To insert:

“

21A. Part IIB inserted

After section 16 insert:

Part IIB – Registers of information relating to certain retail shop leases

17. Terms used

In this Part –

register means a register established and maintained in relation to a retail shopping centre under section 19;

retail shopping centre means a retail shopping centre for which there is a common head lessor, as stated in paragraph (b)(i) of the definition of **retail shopping centre** in section 3(1).

18. Application of Part

- (1) In addition to a retail shop lease to which or in relation to which this Part would otherwise apply, this Part also applies to or in relation to a retail shop lease that was entered into –
 - (a) before the relevant day; or
 - (b) pursuant to an option granted or agreement made before the relevant day,
 if this Act would have applied to the lease had it been entered into on or after that day.
- (2) In subsection (1) –
relevant day has the meaning given to that term by section 4(3).

19. Registers to be established and maintained

- (1) The common head lessor for a retail shopping centre must establish and maintain a register that contains, for each retail shop lease in respect of premises in the retail shopping centre, the following information –
 - (a) the address of the retail shop;
 - (b) the parties to the retail shop lease;
 - (c) the lettable area of the retail shop;
 - (d) the rental value of the retail shop on a cost per metre basis, or details of how the rental for the retail shop lease is determined;
 - (e) any rent free periods or any other form of incentive;
 - (f) the basis on which outgoings for the retail shop lease are determined;
 - (g) any other information prescribed by the regulations.
- (2) The register is to be established and maintained in accordance with the regulations.
- (3) The common head lessor may provide access to or information from the register only to –
 - (a) the tenant under a retail shop lease in respect of premises in the retail shopping centre or a person who the common head lessor is satisfied is a prospective tenant; or
 - (b) a valuer appointed by a tenant or prospective tenant referred to in paragraph (a).
- (4) In subsection (3) –
valuer means a person licensed under the *Land Valuers Licensing Act 1978*.

20. Confidentiality of information gained under section 19

- (1) A person who gains information under section 19 in relation to a retail shop lease must not disclose the information to any other person unless the disclosure is made –
 - (a) with the consent of both the tenant and the landlord of the relevant retail shop; or
 - (b) for the purposes of any legal proceedings arising out of this Act or any report of any such proceedings; or
 - (c) as required or permitted under this Act or any other law; or

- (d) with any other lawful excuse.
- (2) Subsection (1) does not prevent a person from disclosing information that is publicly available at the time the disclosure is made.
- (3) If a person discloses information in contravention of subsection (1) and the tenant or landlord of the relevant retail shop suffers loss or damage because of the disclosure, the tenant or landlord is entitled to be paid by the person who made the disclosure compensation for the loss or damage –
 - (a) of such reasonable amount as is agreed between the person and the tenant or landlord; or
 - (b) failing agreement, of such amount as may be determined by the Tribunal on the application of the tenant or landlord.

”.

Debate interrupted by the Chair and adjourned until a later stage of the sitting.

12. Questions

Questions without Notice were taken.

Paper

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

By the Minister for Police –

Police, Western Australia – Total Number of Selected Verified Offences (3481).

Questions on Notice Nos 5697 to 5732 were asked.

Questions on Notice Nos 5295, 5304, 5313, 5316, 5319, 5320, 5324 to 5330, 5332, 5336, 5339, 5340, 5350, 5352, 5355 and 5620 were answered.

13. Additional Information

The Premier provided additional information relating to a Question without Notice from Mr P.T. Miles.

14. Message from the Governor

Message No. 16 from His Excellency the Deputy of the Lieutenant Governor and Administrator was reported recommending the purpose of the appropriation for the Commercial Arbitration Bill 2011.

15. Variation to the Order of Business

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

16. Commercial Tenancy (Retail Shops) Agreements Amendment Bill 2011

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

CONSIDERATION IN DETAIL

New clause 21A.

Mr A.P. O’Gorman had moved,

Page 23, after line 31 – To insert:

“

21A. Part IIB inserted

After section 16 insert:

Part IIB – Registers of information relating to certain retail shop leases**17. Terms used**

In this Part –

register means a register established and maintained in relation to a retail shopping centre under section 19;

retail shopping centre means a retail shopping centre for which there is a common head lessor, as stated in paragraph (b)(i) of the definition of **retail shopping centre** in section 3(1).

18. Application of Part

- (1) In addition to a retail shop lease to which or in relation to which this Part would otherwise apply, this Part also applies to or in relation to a retail shop lease that was entered into –
 - (a) before the relevant day; or
 - (b) pursuant to an option granted or agreement made before the relevant day,
 if this Act would have applied to the lease had it been entered into on or after that day.
- (2) In subsection (1) –
relevant day has the meaning given to that term by section 4(3).

19. Registers to be established and maintained

- (1) The common head lessor for a retail shopping centre must establish and maintain a register that contains, for each retail shop lease in respect of premises in the retail shopping centre, the following information –
 - (a) the address of the retail shop;
 - (b) the parties to the retail shop lease;
 - (c) the lettable area of the retail shop;
 - (d) the rental value of the retail shop on a cost per metre basis, or details of how the rental for the retail shop lease is determined;
 - (e) any rent free periods or any other form of incentive;
 - (f) the basis on which outgoings for the retail shop lease are determined;
 - (g) any other information prescribed by the regulations.
- (2) The register is to be established and maintained in accordance with the regulations.
- (3) The common head lessor may provide access to or information from the register only to –
 - (a) the tenant under a retail shop lease in respect of premises in the retail shopping centre or a person who the common head lessor is satisfied is a prospective tenant; or

- (b) a valuer appointed by a tenant or prospective tenant referred to in paragraph (a).
- (4) In subsection (3) –
valuer means a person licensed under the *Land Valuers Licensing Act 1978*.

20. Confidentiality of information gained under section 19

- (1) A person who gains information under section 19 in relation to a retail shop lease must not disclose the information to any other person unless the disclosure is made –
 - (a) with the consent of both the tenant and the landlord of the relevant retail shop; or
 - (b) for the purposes of any legal proceedings arising out of this Act or any report of any such proceedings; or
 - (c) as required or permitted under this Act or any other law; or
 - (d) with any other lawful excuse.
- (2) Subsection (1) does not prevent a person from disclosing information that is publicly available at the time the disclosure is made.
- (3) If a person discloses information in contravention of subsection (1) and the tenant or landlord of the relevant retail shop suffers loss or damage because of the disclosure, the tenant or landlord is entitled to be paid by the person who made the disclosure compensation for the loss or damage –
 - (a) of such reasonable amount as is agreed between the person and the tenant or landlord; or
 - (b) failing agreement, of such amount as may be determined by the Tribunal on the application of the tenant or landlord.

”.

Amendment put and negatived.

Clauses 22 to 25 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.

17. Building Services (Registration) Bill 2010

The Order of the Day for the consideration in detail of Legislative Council Message No. 153 was read.

The message was as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Building Services (Registration) Bill 2010* 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 Building Services (Registration) Bill 2010

No. 1

Page 25, lines 22 to 27 — To delete the lines and insert —

40. When owner-builder approval may be applied for

- (1) An owner may apply for approval under this Part (*owner-builder approval*) before obtaining a building permit to carry out owner-builder work on the owner's land if the owner proposes to be named as the builder on the building permit.

No. 2

Page 28, lines 13 to 16 — To delete the lines and insert —

- (e) the applicant has complied with each other requirement prescribed by the regulations for the grant of an owner-builder approval.

No. 3

Page 84, lines 5 and 6 — To delete “with a value of \$20 000 or more”.

No. 4

Page 84, after line 16 — To insert —

- (2A) Subsection (1) does not apply in respect of a building licence for building work —
- (a) with a value of less than \$20 000; or
 - (b) that is to be carried out in an area of the State prescribed by the regulations for the purposes of this section.

CONSIDERATION IN DETAIL

The Minister for Transport moved, That amendment No. 1 be agreed to.

Question put and passed.

The Minister for Transport moved, That amendment No 2. be agreed to.

Question put and passed.

The Minister for Transport moved, That amendment No 3. be agreed to.

Question put and passed.

The Minister for Transport moved, That amendment No 4. be agreed to.

Question put and passed.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

18. Variation to the Order of Business

Ordered, That Private Members' Business Orders of the Day Nos 17, 13 and 12 be next considered.

19. Economics and Industry Standing Committee – Referral

The Order of the Day having been read for the resumption of debate on the motion moved by Mr M.P. Murray,

That this House refers the Dalyellup Housing Estate undertaken by Ironbridge Holdings and Mr Ian Wallace to the Economics and Industry Standing Committee for investigation into the following matters:

- (a) the lack of completion of purchasers' houses, fencing, landscaping and other

matters;

- (b) the reasons why contractual obligations have not been complied with; and what steps can now be taken to ensure that all contractual obligations are met.

Debate resumed.

Dr M.D. Nahan moved, That the motion be amended by deleting all words after 'House' and substitute:

requests the Economics and Industry Standing Committee to determine terms of reference for an inquiry by that committee into the problems in the Dalyellup Housing Estate and the wider impact of these types of problems in Western Australia and to report to the House in August 2011, those terms of reference and the date on which the Committee will report.

Amendment put and passed.

Motion, as amended, agreed to.

20. Entry of Year Seven Students to Secondary Schools

The Order of the Day having been read for the resumption of debate on the motion moved by Mr B.S. Wyatt,

That this House condemns the Minister for Education for the uncertainty she is causing parents with her continued delay in making a decision on the entry of Year Seven students to secondary schools and calls on the Minister for Education to immediately make and announce a decision on whether Year Seven students in Government schools will be required to attend secondary school.

Debate resumed.

Question put.

The Assembly divided.

Ayes (23)

Ms L.L. Baker	Mr M.P. Murray	Mr C.J. Tallentire
Dr A.D. Buti	Mr A.P. O'Gorman	Mr P.C. Tinley
Ms A.S. Carles	Mr P. Papalia	Mr A.J. Waddell
Mr R.H. Cook	Mr J.R. Quigley	Mr P.B. Watson
Ms J.M. Freeman	Ms M.M. Quirk	Mr M.P. Whitely
Mr J.C. Kobelke	Mr E.S. Ripper	Mr B.S. Wyatt
Mr F.M. Logan	Mrs M.H. Roberts	Ms R. Saffioti (<i>Teller</i>)
Mr M. McGowan	Mr T.G. Stephens	

Noes (26)

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

Question thus negatived.

21. Road Safety Council Amendment (Functions) Bill 2010

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 R.H. Cook speaking) and adjourned until a later stage of the sitting.

22. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly at 7.00 p.m. until Thursday, 16 June at 9.00 a.m.

Members present during any part of the day's proceedings – All the members except Mr J.M. Francis, Mrs C.A. Martin, Mr D.A. Templeman and Dr J.M. Woollard.

PETER J. McHUGH
Clerk of the Legislative Assembly

HON. GRANT WOODHAMS
Speaker of the Legislative Assembly