

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 164

FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT

TUESDAY, 6 SEPTEMBER 2011

1. Meeting of Assembly

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

The Speaker took the Chair.

Prayers were read.

2. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Minister for Sport and Recreation on the Western Australian Amateur Football League's Integrated Football Program.

The Minister for Tourism on the recent bushfire at the El Questro Wilderness Park which injured competitors in the Kimberley Ultramarathon.

The Minister for Water on the new Southern Seawater Desalination Plant located near Binningup.

3. Questions

Questions without Notice were taken.

Papers

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

By the Minister for Emergency Services –

Minister for Emergency Services – FESA's Response to the Perth Hills Bushfire Special Inquiry (3826).

Minister for Emergency Services – Review of Perth Hills Bushfires Report (Keelty) 2011 (3827).

Questions on Notice Nos 6060 to 6069 were asked.

Questions on Notice Nos 5657, 5658, 5802, 5804, 5807 to 5810, 5814, 5855 to 5860, 5866, 5868, 5923, 5925 to 5928, 5935, 5942, 5965, 5984, 6017 and 6023 were answered.

Paper tabled by the Minister for Health –

Question on Notice No. 6023 – Projected income from car park fees for each State hospital until 2015–2016 (3824).

Paper tabled by the Minister representing the Minister for Mental Health –

Question on Notice No. 5657 – Tables of demographics and treatments of clients of the Joondalup and Murdoch Complex Attention and Hyperactivity Disorders Services (3825).

4. Additional Information

The Minister for Emergency Services provided additional information relating to Question without Notice No. 542 from Mr E.S. Ripper.

The Minister for Emergency Services provided additional information relating to Question without Notice No. 548 from Ms M.M. Quirk.

Paper

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

By the Minister for Emergency Services –

Minister for Emergency Services – Delegation of Ministerial Powers and Duties to the Fire and Emergency Services Authority, 6 December 2010 (3828).

5. Petition

Our Lady of Lourdes Primary School – Ms J.M. Freeman presented a petition from 1 person requesting that the Legislative Assembly maintain the crossing guard at Our Lady of Lourdes Primary School (P. 463).

6. Papers

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

By the Speaker –

Corruption and Crime Commission of Western Australia – Report on the Management of Misconduct by Western Australia Police (Received by the Clerk of the Legislative Assembly and deemed tabled on 2 September 2011) (3811).

By the Clerk –

Construction Industry Long Service Leave Payments Board – Annual Report 2010–2011 (3812).

East Perth Redevelopment Act 1991 – Regulations (East Perth Redevelopment Amendment Regulations 2011 G.G. 02/09/2011) (3813).

Fair Trading Act 2010 – Notices (Consumer Protection Notice No. 24 of 2011 – Permanent ban on Mini Bikes, Pocket Bikes or Monkey Bikes G.G. 02/09/2011) (3814).

Health Act 1911 – Local Laws (Shire of Derby/West Kimberley Health Amendment Local Law 2010 G.G. 30/08/2011) (3815).

Legal Profession Act 2008 – Regulations (Legal Profession Amendment Regulations (No. 4) 2011 G.G. 30/08/2011) (3816).

Local Government Act 1995 – Local Laws (Town of Kwinana Activities on Thoroughfares and Public Places and Trading Local Law 2011 G.G. 30/08/2011) (3817).

Road Traffic Act 1974 – Regulations (Road Traffic (Bicycles) Amendment Regulations 2011 G.G. 30/08/2011) (3818).

Road Traffic Act 1974 – Regulations (Road Traffic (Infringements) Amendment Regulations 2011 G.G. 30/08/2011) (3819).

Road Traffic Act 1974 – Regulations (Road Traffic (Miscellaneous) Amendment Regulations (No. 2) 2011 G.G. 30/08/2011) (3820).

Road Traffic Act 1974 – Regulations (Road Traffic Code Amendment Regulations (No. 2) 2011 G.G. 30/08/2011) (3821).

Strata Titles Act 1985 – Regulations (Strata Titles General Amendment Regulations (No. 2) 2011 G.G. 02/09/2011) (3822).

Veterinary Chemical Control and Animal Feeding Stuffs Act 1976 – Regulations (Veterinary Chemical Control and Animal Feeding Stuffs Amendment Regulations 2011 G.G. 30/08/2011) (3823).

7. Notice of Motion Lapsed

The Speaker advised that Private Members' Business Notice of Motion No. 2 had lapsed and, unless the member indicated otherwise, would be removed from the Notice Paper.

8. Notices of Motion

9. Matter of Public Interest – Roleystone-Kelmscott Bushfires

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

At least five members having risen in support,

Mr E.S. Ripper moved,

That this House condemns the Premier and the Minister for Emergency Services for the Government's gross mismanagement of the Roleystone-Kelmscott bushfires and subsequent inquiries.

Debate ensued.

Question put.

The Assembly divided.

Ayes (25)

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

Noes (29)

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

Question thus negatived.

10. Message from the Governor

Message No. 31 from His Excellency the Governor was reported assenting to the Workers' Compensation and Injury Management Amendment Bill 2011, Act No. 31 of 2011.

11. Variation to the Order of Business

Ordered, That Government Business Order of the Day No. 3 be next considered.

12. Cat Bill 2011

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

Mr A.J. Simpson moved, That the debate be adjourned.

Question put and passed.

13. Residential Tenancies Amendment Bill 2011

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

CONSIDERATION IN DETAIL

Clauses 32 to 40 agreed to.

Clause 41.

The Minister for Transport moved,

Page 34, lines 32 and 33 – To delete “subsection (2)(f) or (g)” and substitute:

“ subsection (2) ”.

Page 35, line 6 – To delete “subsection (2)(f) or (g),” and substitute:

“ subsection (2) ”.

Amendments put and passed.

Clause, as amended, agreed to.

Clauses 42 to 55 agreed to.

Clause 56.

Dr A.D. Buti moved,

Page 46, after line 2 – To insert:

“

(5) A competent court may, on application from a person who –

- (a) is not a tenant but who is occupying residential premises to which a residential tenancy agreement applies; or
- (b) is a co-tenant occupying residential premises to which a residential tenancy agreement applies;

and that person is a successful applicant of a violence restraining order against a tenant or co-tenant, order that –

- (i) the applicant is recognised as a tenant under the residential tenancy agreement; or

- (ii) the applicant is removed, without liability, from the residential tenancy agreement.

”.

Amendment put.

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 J.M. Freeman	Mr P. Papalia	Mr A.J. Waddell
Mr J.N. Hyde	Mr J.R. Quigley	Mr P.B. Watson
Mr J.C. Kobelke	Ms M.M. Quirk	Mr M.P. Whitely
Mr F.M. Logan	Mr E.S. Ripper	Mr B.S. Wyatt
Mr M. McGowan	Mrs M.H. Roberts	Mr D.A. Templeman (<i>Teller</i>)
Mrs C.A. Martin	Mr T.G. Stephens	

Noes (28)

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

Amendment thus negatived.

Clause agreed to.

Clauses 57 to 60 agreed to.

New clause 60A.

Mr M. McGowan moved,

Page 49, after line 14 – To insert:

“

60A. Section 61A inserted

After section 60 insert:

61A. Termination of social housing or residential housing agreement decision affected by previous behaviour

In deciding whether to terminate a social housing or residential housing agreement, the court may have regard to the frequency and nature of any notices given to a tenant specifying a breach and requiring that it be remedied, as referred to in section 62(3) and (4).

”.

Amendment put.

The Assembly divided.

Ayes (23)

Ms L.L. Baker
 Dr A.D. Buti
 Ms J.M. Freeman
 Mr J.N. Hyde
 Mr J.C. Kobelke
 Mr F.M. Logan
 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 P.C. Tinley
 Mr A.J. Waddell
 Mr P.B. Watson
 Mr M.P. Whitely
 Mr B.S. Wyatt
 Mr D.A. Templeman (*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

Dr E. Constable
 Mr M.J. Cowper
 Mr J.H.D. Day
 Mr J.M. Francis
 Mr B.J. Grylls
 Dr K.D. Hames
 Mr A.P. Jacob
 Mr R.F. Johnson
 Mr A. Krsticevic

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

Amendment thus negatived.

Clauses 61 and 62 agreed to.

Clause 63.

Dr A.D. Buti moved,

Page 51, line 7 – To insert after “notice”:

“

unless the tenant or a person living with the tenant is, or has been immediately prior to the proposed notice of termination, the victim of domestic violence

”.

Amendment, by leave, withdrawn.

Clause agreed to.

Clauses 64 to 73 agreed to.

Clause 74.

Mr M. McGowan moved,

Page 58, after line 13 – To insert:

“

76BAA. Court to consider interests of children

A court shall not terminate a social housing or residential tenancy agreement under section 73, 74, 75A or 75 unless the court has taken into consideration:

- (1) the interests of any child in the property and surrounding properties; and
- (2) the effect that the termination may have on such children.

”.

Amendment put.

The Assembly divided.

Ayes (23)

Ms L.L. Baker
 Dr A.D. Buti
 Ms J.M. Freeman
 Mr J.N. Hyde
 Mr J.C. Kobelke
 Mr F.M. Logan
 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 P.C. Tinley
 Mr A.J. Waddell
 Mr P.B. Watson
 Mr M.P. Whitely
 Mr B.S. Wyatt
 Mr D.A. Templeman (*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

Dr E. Constable
 Mr M.J. Cowper
 Mr J.H.D. Day
 Mr J.M. Francis
 Mr B.J. Grylls
 Dr K.D. Hames
 Mr A.P. Jacob
 Mr R.F. Johnson
 Mr A. Krsticevic

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

Amendment thus negatived.

Mr M. McGowan moved,

Page 58, after line 13 – To insert:

“

76BA. Termination of agreement affecting a child or person who has a mental illness

- (1) Where a court terminates a social housing or residential tenancy agreement under section 73, 74, 75A or 75, and a child resides at that property, the court may order the Department of Child Protection to determine if the child is in need of protection.
- (2) Where a court terminates a social housing or residential tenancy agreement under section 73, 74, 75A or 75, and a person who has a mental illness resides at that property, the court may order the Commissioner for Mental Health to arrange for an assessment for their care, treatment and protection needs.

”.

Amendment put.

The Assembly divided.

Ayes (22)

Ms L.L. Baker
 Dr A.D. Buti
 Ms J.M. Freeman
 Mr J.N. Hyde
 Mr J.C. Kobelke
 Mr F.M. Logan
 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 P.C. Tinley
 Mr A.J. Waddell
 Mr M.P. Whitely
 Mr B.S. Wyatt
 Mr D.A. Templeman (*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

Dr E. Constable
 Mr M.J. Cowper
 Mr J.H.D. Day
 Mr J.M. Francis
 Mr B.J. Grylls
 Dr K.D. Hames
 Mr A.P. Jacob
 Mr R.F. Johnson
 Mr A. Krsticevic

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

Amendment thus negatived.

Clause agreed to.

Clauses 75 to 88 agreed to.

Clause 89.

The Minister for Transport moved,

Page 95, in the Table the 1st row the 2nd column – To delete “s. 71(3)(a)(i),” and substitute:

“ s. 71(3)(a), ”.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 90 to 94 agreed to.

Clause 95.

Mr M. McGowan moved,

Page 108, lines 4 to 19 – To delete the lines and substitute:

“

75A. Termination of social housing and residential tenancy agreement due to illegal behaviour

- (1) A competent court may, upon application by the lessor under a social housing or residential tenancy agreement, terminate the agreement where there is evidence that the tenant has used the premises, or caused or permitted the premises to be used, for an illegal purpose.

”.

Amendment put.

The Assembly divided.

Ayes (21)

Ms L.L. Baker
 Dr A.D. Buti
 Ms J.M. Freeman
 Mr J.N. Hyde
 Mr J.C. Kobelke
 Mr F.M. Logan
 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
 Mrs M.H. Roberts

Mr T.G. Stephens
 Mr C.J. Tallentire
 Mr P.C. Tinley
 Mr A.J. Waddell
 Mr M.P. Whitely
 Mr B.S. Wyatt
 Mr D.A. Templeman (*Teller*)

Noes (25)

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

Dr E. Constable
 Mr M.J. Cowper
 Mr J.H.D. Day
 Mr J.M. Francis
 Mr B.J. Grylls
 Mr A.P. Jacob
 Mr R.F. Johnson
 Mr A. Krsticevic
 Mr W.R. Marmion

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

Amendment thus negatived.

Ms J.M. Freeman moved,

Page 108, line 19 – To insert after “agreement”:

“

and the court is satisfied that the tenant or a person living with the tenant is not, or has not been immediately prior to the application, the victim of domestic violence

”.

Amendment put.

The Assembly divided.

Ayes (20)

Ms L.L. Baker
 Dr A.D. Buti
 Ms J.M. Freeman
 Mr J.N. Hyde
 Mr J.C. Kobelke
 Mr F.M. Logan
 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
 Mrs M.H. Roberts

Mr C.J. Tallentire
 Mr P.C. Tinley
 Mr A.J. Waddell
 Mr M.P. Whitely
 Mr B.S. Wyatt
 Mr D.A. Templeman (*Teller*)

Noes (24)

Mr P. Abetz
 Mr F.A. Alban
 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

Dr E. Constable
 Mr M.J. Cowper
 Mr J.H.D. Day
 Mr J.M. Francis
 Mr B.J. Grylls
 Mr A.P. Jacob
 Mr R.F. Johnson
 Mr A. Krsticevic

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

Amendment thus negatived.

The Minister for Transport moved,

Page 108, lines 29 to 32 to page 109, line 1 — To delete the lines and substitute:

“

to whether the behaviour was recurrent and, if it was recurrent, the frequency of the recurrences.

”.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 96 to 108 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.

14. Speaker's Ruling – Division Procedure

In response to a point of order raised earlier in the day regarding divisions, the Speaker ruled that the Chair would make a decision as needed as to whether a member is too late to enter the chamber for a division.

15. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly at 11.07 p.m. until Wednesday, 7 September 2011 at 12.00 noon.

Members present during any part of the day's proceedings – All the members except Mrs L.M. Harvey.

PETER J. McHUGH

Clerk of the Legislative Assembly

HON. GRANT WOODHAMS

Speaker of the Legislative Assembly