

# NEW SOUTH WALES LEGISLATIVE COUNCIL

## *HOUSE IN REVIEW*



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26 to 28 May 2015



The *House in Review* provides regular updates of the activities of the New South Wales Legislative Council. Clicking on a hyperlink will take you to the relevant webpage. For further information refer to the NSW Parliament website [www.parliament.nsw.gov.au](http://www.parliament.nsw.gov.au) or contact the Procedure Office on (02) 9230 2431. To be placed on the email distribution list of the *House in Review*, please contact us on [council@parliament.nsw.gov.au](mailto:council@parliament.nsw.gov.au).

### Overview

The House debated three government bills this week. The Independent Pricing and Regulatory Tribunal Amendment (Accredited State Water Regulator) Bill was forwarded to the Assembly for concurrence, while the Payroll Tax Rebate Scheme (Jobs Action Plan) Amendment (Extension) Bill was returned to the Assembly without amendment. The House concluded the second reading debate on the Public Health (Tobacco) Amendment (E-cigarettes) Bill, with the House yet to consider proposed amendments to the bill. In addition a private member's bill, the Petroleum (Onshore) Amendment (Prohibit Coal Seam Gas) Bill, was introduced, with debate adjourned following the second reading speech of the member.

This week also saw five of the six General Purpose Standing Committees hold their first meeting, at which their respective Chairs and Deputy Chairs were elected. The House also referred an inquiry into local government to GPSC No. 6.

Looking forward, it is expected that next week the focus of the House will be on the Electricity Network Assets (Authorised Transactions) Bill 2015, which passed the Legislative Assembly in the early evening on Thursday 28 May. The Select Committee on the leasing of electricity infrastructure is also due to report on Tuesday 2 June.

### Government business

**Note:** Government business includes Government bills introduced or carried by ministers in the Council.

#### **Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015**

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *Public Health (Tobacco) Act 2008* to prohibit the sale, including from vending machines, of e-cigarettes and e-cigarette accessories to persons under the age of eighteen. The bill broadly defines e-cigarettes and their accessories so as to capture any device that releases or generates an aerosol or vapour by electronic means for inhalation in a manner similar to the inhalation of tobacco from a tobacco product. The

prohibition does not apply to legitimate stop-smoking aids that meet the definition of e-cigarette provided these are registered therapeutic goods or where there is an approval under the *Poisons and Therapeutic Goods Act*. The definition of e-cigarette includes devices and liquids that contain nicotine as well as those that do not contain nicotine.

*Proceedings:* The bill was received from the Legislative Assembly on 27 May 2015 and read a first time. In his second reading speech, the Minister (Mr Ajaka) said that the popularity and use of e-cigarettes were growing rapidly across the world and that regulators were faced with the challenge of responding in a balanced and proportionate way to the potential risks and possible benefits of these products. The Minister said that while there was still much that was unknown about e-cigarettes, it was beyond question that these were not products for minors. The Minister argued that the bill has been developed to protect the gains that have been made over many years in lowering smoking rates among schoolchildren.

While supporting the provisions in the bill, the Opposition argued that overall it did not go far enough in restricting the use of e-cigarette products. The Opposition argued that e-cigarette products should be regulated exactly as are tobacco products with respect to their sale, use and advertising. The Opposition foreshadowed that it would seek to amend the bill in order to bring it in line with the regulatory regime that exists in Queensland. The Greens supported the bill, and acknowledged the Minister for Health for undertaking cross-party consultation and amending the bill in the Legislative Assembly to address some of their concerns. However, the Greens also believed the scope of the bill needed to be broadened to ensure that there was no risk of the re-normalisation of the practice of smoking in the community.

The Christian Democratic Party supported the bill, noting that young people appeared to be the primary target of e-cigarette marketing campaigns. The CDP indicated that it would support the amendments foreshadowed by the Opposition and the Greens, stating that this was consistent with its long-held position of

seeking to minimise the harm caused to society by products such as alcohol and tobacco.

In reply, the Minister advised that the Ministry for Health will continue to monitor the evidence regarding potential benefits and harms associated with e-cigarettes and noted that further regulation may be required in the future.

The second reading was agreed to. Consideration of the bill in committee of the whole was set down for a later hour.

### **Independent Pricing and Regulatory Tribunal Amendment (Accredited State Water Regulator) Bill 2015**

The bill originated in the Legislative Council.

*Summary:* The bill enables the Independent Pricing and Regulatory Tribunal (IPART) to apply provisions of the Commonwealth Water Charge (Infrastructure) Rules 2010 for the accreditation of arrangements between the Tribunal and the Australian Competition and Consumer Commission (ACCC). During the period of accreditation, the Tribunal is conferred all the functions of a regulator under those provisions which include the power to approve or determine charges for the provision of water infrastructure relating to part of the Murray-Darling Basin water resources.

*Proceedings:* Debate on the second reading of the bill resumed on 26 May 2015 from 12 May 2015 (see the previous edition of *House in Review* for earlier debate). The Opposition did not oppose the bill on the grounds that the bill would enable Water NSW to engage with only one regulatory body in relation to water pricing. The Greens supported the bill on the principle that a single regulatory body administering water pricing rules across the State would provide consistency. The Greens also noted that under the bill, IPART would have to apply the *Commonwealth Water Charge (Infrastructure) Rules 2010* to the pricing of water in the Murray-Darling Basin which the ACCC was also obliged to apply in regulating water pricing.

The second and third readings of the bill were agreed to and the bill was forwarded to the Assembly for concurrence.

### **Payroll Tax Rebate Scheme (Jobs Action Plan) Amendment (Extension) Bill 2015**

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *Payroll Tax Rebate Scheme (Jobs Action Plan) Act 2011* to extend the operation of the Jobs Action Plan by four years from 30 June 2015 to 30 June 2019, unless the Minister orders the closure of the plan earlier. The plan establishes a payroll tax rebate scheme which entitles eligible employers who employ people in new full time jobs to a rebate for the first two years of employment.

*Proceedings:* The bill was received from the Legislative Assembly on 27 May 2015 and read a first time. In his second reading speech, the Parliamentary Secretary (Mr MacDonald) indicated that the bill was brought in to extend the closure date of the plan by four years due to its success in creating new jobs.

The Opposition and the Greens did not support the bill arguing that the Jobs Action Plan had not reached its objective or targets due to the narrow scope of eligibility. In particular, both parties noted that most small businesses in the state would be ineligible to receive assistance under the scheme. The Christian Democratic Party supported the bill on the grounds that the bill will promote good economic growth and reduce unemployment.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

*Bills introduced and read a first time*

The following bill from the Assembly was introduced, read a first time, and its second reading set down for a later hour:

- (1) Crimes Legislation Amendment (Child Sex Offences) Bill 2015.

### **Private members' business**

**Note:** Private members' business is business introduced by members of the House other than Government ministers. There are two types of private members' business: private members' bills and private members' motions.

*Bills*

### **Petroleum (Onshore) Amendment (Prohibit Coal Seam Gas) Bill 2015 (Mr Buckingham, The Greens)**

The bill originated in the Legislative Council.

*Summary:* The bill seeks to amend the *Petroleum (Onshore) Act 1991* to prohibit the future prospecting or mining for coal seam gas in New South Wales. The bill provides for only the continued operation of existing production leases and cancels, without compensation liability, any other petroleum titles to the extent they allow prospecting or mining for coal seam gas.

*Proceedings:* The bill was introduced, read a first time and printed on 28 May 2015. In his second reading speech, Mr Buckingham said that the bill responds to the community's concern to ban coal seam gas and its desire to encourage the use of renewable energy resources; and cited international and domestic examples of environmental and economic consequences suffered by communities in areas which have had extensive coal seam gas mining activity. Mr Buckingham emphasised that the bill would ensure that mining of coal seam gas in Camden and Narrabri would not increase and that it would re-introduce the public interest consideration as a ground for certain decisions relating to petroleum titles such as suspension or cancellation of mining operations and refusal to grant or renew petroleum titles. The public interest consideration was first introduced in 2013 but was replaced by a fit and proper person ground in the following year.

Debate was adjourned for five calendar days.

## Motions

### State election results on the North Coast (Mr Colless, The Nationals)

*Summary:* The motion called on the House to note the campaign by the Australian Labor Party in the electorates of Ballina, Lismore and Tweed; and to note the respective primary votes secured in the three seats by the Nationals, the Australian Labor Party, and the Greens. The motion further called on the House to commiserate with the Labor Party over its failure to win any seats on the North Coast.

*Proceedings:* Debate on the motion commenced according to precedence. In speaking to the motion, Mr Colless argued that the failure of Labor to win any seats on the North Coast was because its professional campaign team was not grass-roots based and had no real connection with the local communities or knowledge of their issues.

Members from the Opposition, Government, the Greens and the Christian Democratic Party spoke to the motion. The Opposition criticised the motion for its failure to note the significant reductions in primary votes for the Nationals in Ballina, Lismore and Tweed. The Opposition moved an amendment to have the motion instead note the overall swing against the Government at the State election and the subsequent loss of 15 seats and to attribute this to financial cuts and poor performance in key service areas.

The Greens noted that while the Nationals had traditionally enjoyed strong electoral support on the North Coast, there had over many years been a steady growth in support for the Greens, and moved an amendment to have the motion congratulate the Greens for their victory in Ballina and strong showing in Lismore.

Members from all sides noted the fact that coal seam gas was a major issue during the election on the North Coast. Additionally, several members reaffirmed the importance of local members being able to advocate on behalf of their electorates.

The Opposition amendment was negatived (Division 10:25). The Greens amendment was agreed to, and the motion, as amended, was agreed to (Division 20:15).

### Age discrimination (Ms Cotsis, ALP)

*Summary:* The motion calls on the House to note the work conducted by the Human Rights and Equal Opportunity Commission (HREOC), Age and Disability Discrimination Commissioner; and that the loss of aged workers in the workforce will cost approximately \$10 billion annually. The motion also sought the House to call on the Government and Minister for Ageing to act on the HREOC recommendations and to report back on steps being taken to reduce discrimination faced by older workers in New South Wales.

*Proceedings:* Debate on the motion commenced according to precedence. In speaking to the motion, Ms Cotsis highlighted the need to reduce discrimination against older workers, given the high proportion of the population that will be over the age of 65 by 2055 as forecast in Australian Census reports. Ms Cotsis

acknowledged the work conducted by the HREOC into employment discrimination against older Australians with disabilities and called on the Government to develop effective strategies to retain older workers. Ms Cotsis drew attention to a number of strategies, which the Government could emulate, that recognised the value of mature aged workers such as the regular employment of older workers for their skills and experience by private companies like Bunnings; incentives relating to pension bonuses; and training and mentoring programs that match older workers with young employees.

Debate was interrupted for Question Time.

### Motions taken as formal business

The following items of private members' business were agreed to as formal business without amendment or debate:

- (1) ANZAC Day commemorations (Mr Moselmane)
- (2) Wheelchairs for Kids (Mr Moselmane)
- (3) St George Migrant Resource Centre (Mr Moselmane)
- (4) Gosford Regional Show 2015 (Mr Donnelly)
- (5) National Palliative Care Week 2015 (Mr Donnelly)
- (6) Professor Peter Stutchbury (Ms Barham)
- (7) Library and Information Week 2015 (Ms Barham)
- (8) National Sorry Day and National Reconciliation Week (Ms Barham)
- (9) Australian Indigenous Education Foundation (Mr Donnelly)
- (10) City of Newcastle RSL ANZAC Day ceremonies (Mr MacDonald)
- (11) Public Education Day (Dr Kaye)
- (12) Human rights in North Korea (Dr Kaye)
- (13) Paws and Recover (Dr Phelps on behalf of Mr Pearson)
- (14) Outgoing and new members of the Legislative Council (Mr Wong)
- (15) Earthquake in Nepal (Mr Wong)
- (16) Australian Chinese Soccer Association (Mr Wong)
- (17) National Reconciliation Week 2015 (Mr Moselmane)
- (18) Anglicare Sydney's Rental Affordability Snapshot (Mr Moselmane)
- (19) University of South Australia forum on indigenous affairs (Mr Moselmane)
- (20) Citizen's jury evaluation of the National Disability Insurance Scheme (Ms Barham)
- (21) Saturday School of Community Languages (Dr Kaye).

## Petition

### *Petition received*

- (1) Public libraries – 28 signatures (presented Ms Barham).

## Reports tabled

**Auditor-General:** Financial Audit, Volume Two 2015, focusing on universities, May 2015.

## Committee activities

**Note:** Committee activities include committee references, reports tabled, debate on committee reports, government responses received and any other significant committee activity in the House. Committee activity as part of a current inquiry is summarised in the section entitled 'Inquiry activities'.

### *Committee reference*

#### **General Purpose Standing Committee No. 6**

The House referred to the committee an inquiry into local government in New South Wales.

#### **Joint standing and statutory committees**

The House received messages from the Legislative Assembly regarding the appointment of joint standing and statutory committees. The messages will be considered on 2 June 2015.

### *Committee membership, Chairs and Deputy Chairs*

The following membership and appointments of Chairs and Deputy Chairs of committees were reported to the House.

#### **Procedure Committee:**

Government: Mr Franklin

Crossbench: Dr Kaye, Mr Borsak.

#### **Privileges Committee:**

Government: Mr Khan, Mrs Maclaren-Jones, Mr Mason-Cox (*Chair*), Dr Phelps.

Opposition: Mr Donnelly, Mr Primrose (*Deputy Chair*).

Crossbench: Dr Faruqi, Revd Mr Nile (*both elected by ballot in the House*).

#### **General Purpose Standing Committee No. 1:**

Chairman: Revd Mr Nile

Deputy Chair: Mr Franklin.

#### **General Purpose Standing Committee No. 2:**

Chair: Mr Donnelly

Deputy Chair: Mr Green.

#### **General Purpose Standing Committee No. 4:**

Chair: Mr Borsak

Deputy Chair: Mr Shoebridge.

#### **General Purpose Standing Committee No. 5:**

Chair: Mr Brown

Deputy Chair: Mr Veitch.

#### **General Purpose Standing Committee No. 6:**

Chair: Mr Green

Deputy Chair: Mr Amato.

### *Committee reports debated*

**Select Committee on Home Schooling:** The House concluded the take-note debate on the report entitled 'Home Schooling in NSW', dated December 2014.

**General Purpose Standing Committee No. 1:** The House concluded the take-note debate on Report No. 41 entitled 'Review of the inquiry into allegations of bullying in WorkCover NSW', dated December 2014.

**Joint Select Committee on Loose-Fill Asbestos Insulation:** The House continued the take-note debate on the report entitled 'Loose-fill asbestos insulation', dated December 2014.

### *Correspondence relating to a Government response*

**Select Committee on Social, Public and Affordable Housing:** Correspondence was received advising that the response to the report entitled 'Social, Public and Affordable Housing', which was due on 9 March 2015, will be delayed until after the holding of a public forum on social housing and the release of a new social housing policy framework.

## Inquiry activities

#### **Select Committee on the Leasing of Electricity Infrastructure**

The committee has received 37 submissions to the inquiry and conducted three public hearings on 11, 15 and 18 May 2015. The committee is to report by 2 June 2015.

#### **General Purpose Standing Committee No. 6**

*Inquiry into local government in New South Wales.* The closing date for submissions is 5 July 2015, after which the committee will hold hearings in Sydney and conduct regional site visits.

## Adjournment debate

### **Tuesday 26 May 2015**

Public education (Mr Franklin); Palliative care (Mr Donnelly); Animal welfare (Mr Pearson); Shinyway Education Group (Dr Phelps); Young Hospital renal dialysis service (Mr Veitch); Local government (Mr Shoebridge); Asian Australian Alliance (Mr Moselmane).

### **Wednesday 27 May 2015**

Federal government health cuts (Mr Secord); Ireland marriage equality referendum (Mr Khan); Sand mining (Mr Buckingham); Riverina Eastern Regional Organisation of Councils (Mr Primrose); RSPCA (Mr Borsak); National Simultaneous Storytime (Mrs Taylor).

### **Thursday 28 May 2015**

Biodiversity (Mr Brown); Social, public and affordable housing (Mr Pearce); Immigrant Women's Health Service (Ms Cotsis); Housing affordability (Ms Barham); Badgerys Creek airport (Mr Mallard); Rohingya refugees (Mr Moselmane); Member for Wollongong (Dr Phelps).

## Feedback on *House in Review*

We welcome any comments you might have on this publication.

We are particularly keen to know which parts of the *House in Review* you find most useful and whether you have any suggestions for improvement. Please email your comments to [susan.want@parliament.nsw.gov.au](mailto:susan.want@parliament.nsw.gov.au).

All responses will be kept strictly confidential.

A handwritten signature in black ink, appearing to read 'DB', with a large, sweeping flourish extending from the bottom right.

David Blunt  
Clerk of the Parliaments