

# NEW SOUTH WALES LEGISLATIVE COUNCIL

## HOUSE IN REVIEW



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18 to 21 October 2011

The *House in Review* provides a summary of the New South Wales Legislative Council's activities for each sitting week. 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

As reported below, the week commenced with the President reporting the sad news of the passing of the Hon Elaine Blanche Nile, a longstanding member of the House and wife of the Revd the Hon Fred Nile MLC, the longest serving current member of the House.

Subsequently, the week was marked by the passage of a large volume of legislation through the House: as detailed below, in total the House passed 13 bills, and four further bills were introduced. Reflecting the volume of legislation considered by the House, the House sat more traditional hours during the week, with late nights on Tuesday and Wednesday.

As previously reported, the House has this year imposed a cut-off date for the consideration of Government bills: by resolution of the House of 10 August 2011, bills introduced by a minister or received from the Legislative Assembly after 21 October 2011 are to be considered on the first sitting day in 2012, unless considered urgent.

With two sitting weeks remaining this year, both of which are in November, there are 13 Government bills still remaining on the Notice Paper. In addition, whilst the cut-off date for the introduction of Government bills has now passed, it is possible for new bills to be dealt with this year, but the House must first agree that they be considered 'urgent bills'.

### Death of former member – The Hon Elaine Nile

The President reported to the House the death of the Hon Elaine Blanche Nile, a member of the House from 1988 to 2002.

The President advised that he had, on behalf of the House, extended to the Revd the Hon Fred Nile MLC and family the deep sympathy of the Legislative Council in the loss sustained. The President further advised that in due course a condolence motion would be moved in the House.

Members and officers of the House stood as a mark of respect.

### Government business

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

#### National Parks and Wildlife Legislation Amendment (Reservations) Bill 2011

*Summary:* The bill amends the *National Parks and Wildlife Act 1974* to change the reservation of part of Wianamatta Regional Park to a nature reserve to be known as Wianamatta Nature Reserve, to add certain land to Hunter Wetlands National Park, and to revoke the reservation of certain other land that is currently reserved as part of the Hunter Wetlands National Park. The bill also amends the *National Park Estate (South-Western Cypress Reservations) Act 2010* to delay the commencement of the reservation of the Yathong and Wilbertroy State forests in the State's south-west.

*Proceedings:* The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Parliamentary Secretary (Mr Ajaka) argued that the bill continues the Government's commitment to sensible and strategic additions to the national park network. At the same time, the bill extends the time frame for logging in Wilbertroy and Yathong State forests before they are transferred to the national park estate. The extensions to logging are for two and three years respectively. The Parliamentary Secretary argued that this is a sensible move in the community interest given the recent rains in the area that has limited access to the forests. At the same time no additional logs will be taken, and the commitment to transfer these forests to the national parks estate will remain enshrined in legislation.

The Opposition did not support the bill. While the Opposition supported certain other measures in the bill concerning the Wianamatta Regional Park and the Hunter Wetlands National Park, the Opposition said it could not support the bill while it included a delay in the reservation of the Wilbertroy and Yathong cypress forests. The Opposition noted that the delay in the reservation of these two forests, which are in total more than 5,000 hectares, in part reverses the work of the previous Labor Government in protecting 46,000

hectares of south-western cypress forests under the *National Park Estate (South-Western Cypress Reservations) Act 2010*. The Opposition argued that this 2010 Act achieved an appropriate balance between environmental, industry and community needs following an exhaustive environmental assessment and consultation process, and that the Minister's assurance that no additional logs would be taken from the forests has not been substantiated.

The Greens also did not support the bill. As with the Opposition, while supporting some of the other measures in the bill, the Greens opposed the delay in the reservation of the Wilbertroy and Yathong State forests, suggesting that there may be an agenda to prevent their reservation indefinitely, given the opposition of the now Government to their reservation during consideration of the National Park Estate (South-Western Cypress Reservations) Bill in 2010.

The Shooters and Fishers Party supported the bill on the basis that it will support forestry workers' jobs. The Christian Democratic Party also supported the bill, citing the benefits of some of the other provisions of the bill in relation to other state forests, while noting the commitment that no additional logs will be taken from the Wilbertroy and Yathong State forests.

The Parliamentary Secretary in reply rejected the criticisms of the Opposition and Greens, noting that the extension to logging of the Wilbertroy and Yathong State forests is for only two or three years and that the exact same tonnage will be harvested. At the same time it will allow greater time for industry adjustment to the reservations. The second reading was agreed to (Division 19:17).

In the committee stage, the Opposition and Greens voted unsuccessfully against the inclusion of schedule 2 in the bill, which incorporated the changes to the reservation of the Wilbertroy and Yathong State forests, (Division 19:17).

The bill was reported to the House without amendment, read a third time and returned to the Assembly without amendment.

### **Technical and Further Education Commission Amendment (Staff Employment) Bill 2011**

*Summary:* The bill amends the *Technical and Further Education Commission Act 1990* to enable TAFE NSW to employ its own staff under the *Federal Fair Work Act 2009*. Currently TAFE staff are employed under the *NSW Public Sector Employment and Management Act 2002*, an arrangement put in place by the former Labor Government in response to the former Federal Government's 'WorkChoices' legislation. The bill also transfers all existing TAFE employees – including teachers, institute managers, administrative staff and educational support staff – from their existing employment arrangements to TAFE NSW.

*Proceedings:* The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Minister (Mr Gay) noted that TAFE NSW had been the employer of its staff for more than fifteen years, between 1990, when the TAFE Commission was

established, and 2006, and that this bill restores that previous situation. The Minister argued that this will enable TAFE NSW to develop its own fair, equitable and sustainable industrial arrangements for its employees that reflect its unique position within the public sector.

The Opposition opposed the bill on the grounds that it is another case of the Government seeking to undermine the wages and entitlements of public sector workers at a time when TAFE is struggling to recruit and retain staff; and that there was no consultation with stakeholders prior to introduction of the bill. The Greens also opposed the bill, characterising it as part of a long-term move towards the eventual privatisation of TAFE. By contrast, the Christian Democratic Party supported the bill, commenting that TAFE NSW has long looked to the market place and has always been able to adapt and be innovative in response. The second reading was agreed to (Division 19:17).

In the committee stage, the Greens unsuccessfully moved amendments seeking to protect the current employment terms and conditions of staff transferred to or employed by TAFE (Division 17:19).

The third reading of the bill was agreed to and the bill was returned to the Assembly without amendment.

### **Universities Governing Bodies Bill 2011**

*Summary:* The bill alters the governance arrangements of NSW universities. It allows universities to adopt standard governing body provisions allowing greater flexibility in their size and composition; it establishes procedures to enable the governing bodies of universities that have lost confidence in their Chancellors or Deputy Chancellors to remove them from office; and it enables the governing bodies of universities to provide for the remuneration (if any) of their members.

*Proceedings:* The bill was received from the Legislative Assembly on 14 October 2011 and read a first time. Debate resumed on 18 October 2011. In his second reading speech, the Minister (Mr Gay) argued that the bill implements a strong contemporary regulatory framework for the State's ten public universities and reflects the Government's commitment to the sector. He also noted that the bill gives effect to key recommendations of the Legislative Council's General Purpose Standing Committee No. 2 in its 2009 report entitled *Governance of NSW Universities*.

The Opposition did not oppose the bill, but foreshadowed amendments in the committee stage to seek to ensure that there is no dilution of the voice of students and staff on university governing bodies. The Greens opposed the bill, arguing that the bill will allow Vice Chancellors and Chancellors to effectively control their governing bodies by reducing staff and student representation on them to a minimum of one each. In turn, the Greens suggested that this will lead to a further reduction of scholarship and sharing of knowledge at universities in favour of commercial considerations. A motion of Dr Kaye that debate on the bill be adjourned until the first sitting day in 2012 was negatived. In his reply, the Minister argued that the universities asked for the changes in the bill, but that it is up to individual universities whether they implement the revised standard

governing body provisions. The second reading was agreed to (Division 27:5).

The Greens subsequently moved a motion that standing and sessional orders be suspended to allow the moving of a motion for an instruction to the Committee of the Whole that it consider an amendment to the bill to delete all the clauses and schedules of the bill relating to the standard governing provisions. The motion was negated (Division 5:26).

In the committee stage, the Opposition and Greens moved a range of amendments. The amendments sought to increase the support required on university boards when voting whether to adopt the standard governing body provisions, and to mandate in the bill requirements for the representation of students and academics on university boards. All the amendments were negated, some on division and some on the voices.

The bill was reported to the House without amendment, read a third time and returned to the Assembly without amendment.

### **Public Sector Employment and Management Amendment (Ethics and Public Service Commissioner) Bill 2011**

*Summary:* The bill amends the *Public Sector Employment and Management Act 2002* to establish an ethical framework for the public sector, to provide for the appointment of a Public Service Commissioner to lead the strategic development and management of the public sector workforce, and to establish the Public Service Commission Advisory Board.

*Proceedings:* Debate on the second reading of the bill resumed from 13 October 2011 (see the previous edition of *House in Review* for earlier debate). On the resumption of the debate, Government members spoke in support of the expanded mobility provisions included within the bill. In reply, the Minister said the bill would help shape the public sector to meet the contemporary and future needs of the State. The second reading of the bill was agreed to.

In the committee stage, the Greens moved two amendments. The first amendment sought to remove from the bill a new core value for the public sector concerning engaging with business sectors. The amendment was negated. The second amendment, which sought to insert an obligation to provide public sector employees with training in and access to advice on resolving ethical issues was also negated (Division 17:19).

The third reading of the bill was agreed to and the bill was returned to the Assembly without amendment. The Administrator of the State assented to the bill on 20 October 2011.

### **Clubs, Liquor and Gaming Machines Legislation Amendment Bill 2011**

*Summary:* The bill makes a number of miscellaneous amendments to certain clubs, liquor and gaming legislation. The reforms include an enhanced corporate governance and management framework for clubs and pubs, protection of the community-owned status of clubs

and the removal of barriers to clubs amalgamating or de-amalgamating.

*Proceedings:* The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Minister (Mr Gallacher) indicated that the provisions of the bill represent the second stage of reforms arising from the Government's Memorandum of Understanding with ClubsNSW, which was drawn up prior to the last election. The reforms are being implemented in consultation with the industry.

The Opposition supported most of the provisions of the bill, including those provisions that enable the de-amalgamation of clubs, new measures in relation to the governance and sustainability of clubs, and measures to enable hotels to decouple opening hours from bar opening hours. However, the Opposition did raise concerns that there is no protection of the entitlements of club staff where clubs de-amalgamate. The Opposition also raised some concerns about the transfer of gaming machines where clubs de-amalgamate. The Christian Democratic Party supported the bill while recognising the merits of the matters raised by the Opposition. The Greens opposed the bill. The Greens argued that clubs in NSW make 40 per cent of their revenue (approximately \$2.2 billion a year) from problem gamblers, but suggested that the policy intent of the Government's Memorandum of Understanding with ClubsNSW and the provisions of the bill will only make this problem worse. The second reading was agreed to (Division 27:5).

In the committee stage, the Opposition moved amendments to protect the entitlements of club staff where clubs de-amalgamate. The Government opposed the amendments on the basis that protection already exists under industrial legislation. The amendments were negated (Division 16:18). Greens amendments to delete the provisions of the bill that would allow amalgamation and de-amalgamation to happen without the loss of gaming machine licences were also negated. However, a similar Opposition amendment to restore the previous forfeiture of a percentage of gaming machines in certain circumstances when they are transferred from premises in one local government area to another local government area was agreed to (Division 20:16).

The bill was reported to the House with the amendment, read a third time and returned to the Assembly with the amendment.

### **Sporting Venues Authorities Amendment (Venues NSW) Bill 2011**

The bill originated in the Legislative Council.

*Summary:* The bill amends the *Sporting Venues Authorities Act 2008* and repeals the *Parramatta Trust Act 1988* to abolish existing regional sporting venue authorities in the Hunter and the Illawarra, together with the Parramatta Stadium Trust, and to constitute Venues NSW. The bill also transfers the assets and liabilities of the abolished authorities to Venues NSW.

*Proceedings:* Debate on the second reading of the bill resumed from 11 October 2011 (see the previous edition of *House in Review* for earlier debate). On the resumption of the debate, members of the Government and the

Christian Democratic Party indicated their support for the bill, arguing that the increased management efficiencies afforded by the bill would result in improved outcomes for local communities.

The Opposition opposed the bill, arguing that it added an unnecessary layer of bureaucracy to sporting administration. The Greens did not support the bill, citing concerns over the centralisation of management and the disempowerment of local communities.

The second reading (Division 17:15) and third reading of the bill were agreed to and the bill was forwarded to the Assembly for concurrence.

### **Payroll Tax Rebate Scheme (Disability Employment) Bill 2011**

*Summary:* The bill establishes a payroll tax rebate scheme to encourage the employment of people with disabilities. The scheme will provide a rebate (up to a maximum of \$4,000) for the employment of a disabled person on or after 1 January 2012 and before 1 July 2016.

*Proceedings:* The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Minister (Mr Pearce) indicated that the Government is committed to giving people with a disability the best chance of securing a job.

The Opposition supported the bill, welcoming measures to improve assistance to people with a disability to achieve mainstream employment, while noting that the bill may not necessarily bring the envisaged benefits in certain rural and regional areas. The Opposition also noted that the bill continues reforms under the 'Stronger Together' package, introduced under the previous Labor Government to improve disability services in NSW. The Shooters and Fishers Party also supported the bill, while raising similar issues as raised by the Opposition. The Greens and Christian Democratic Party also supported the bill, noting the universal support of the House for the excellent measures in the bill, and commending the work of both the current and former Governments. Various members commended the Minister for Ageing and Disability Services, the Hon Andrew Constance, and the Treasurer, the Hon Mike Baird, for bringing forward the bill.

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

### **Aboriginal Land Rights Amendment (Housing) Bill 2011**

The bill originated in the Legislative Council.

*Summary:* The bill amends the *Aboriginal Land Rights Act 1983* to facilitate Local Aboriginal Land Council boards entering into and managing residential tenancy agreements, both periodic and of less than three years.

*Proceedings:* Debate on the second reading of the bill resumed from 12 October 2011 (see the previous edition of *House in Review* for earlier debate). Members from all parties supported the bill as empowering elected Local Aboriginal Land Council boards to administer fair, consistent and financially viable housing policies.

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

### **Home Building Amendment Bill 2011**

*Summary:* Residential builders and tradespeople in NSW are regulated under the *Home Building Act 1989*. The bill amends the Act to make further provision in respect of home warranty insurance, statutory warranties, developers, building disputes and administrative arrangements. Of note, the bill introduces a written quote requirement (rather than a contract) for residential building work valued between \$1,001 and \$5,000. The bill also reduces the statutory warranty periods for home building work to a six-year period for structural defects and a two-year period for other defects.

*Proceedings:* The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Minister (Mr Pearce) argued that the bill removes unnecessary red tape and reduces barriers to investment in residential building work in NSW while at the same time maintaining adequate consumer protection. The bill also makes several urgent legislative amendments in response to recent court decisions.

The Opposition was broadly supportive of the bill, but expressed concerns about some aspects, notably the reduction in the statutory warranty periods. The Opposition argued that this does not maintain adequate consumer protection as claimed by the Minister. The Greens also broadly supported the bill, except in relation to the statutory warranty periods, while anticipating more substantial reforms to the Act in the future. The Christian Democratic Party supported the bill, while also noting that further reforms are anticipated. The second reading was agreed to.

In the committee stage, the Opposition moved amendments to retain the warranty period for home building work at seven years for both structural and other defects. The Government opposed the amendment, noting that up to seven years is a long time for a building warranty to be in force. The amendments were negated (Division 17:19).

The bill was reported to the House without amendment, read a third time and returned to the Assembly without amendment.

### **State Revenue Legislation Amendment Bill 2011**

*Summary:* The bill makes two amendments to the *Duties Act 1997* in relation to duty on superannuation transactions: it extends the duty concessions available to persons transferring between superannuation funds, and it extends the duty concession for special disability trusts to include trusts established under the *Commonwealth Veterans' Entitlements Act 1986*. The bill also amends the *First Home Owner Grant Act* to improve recovery of grants that are required to be repaid.

*Proceedings:* The bill was received from the Legislative Assembly on 13 October 2011 and read a first time. Debate resumed on 18 October 2011. In his second reading speech, the Minister (Mr Pearce) argued that the bill will ensure that the *Duties Act 1997* is current and consistent with best practice tax administration. The

Minister also noted that the changes to the *First Home Owner Grant Act 2000* would make it consistent with the grant legislation of every other state and territory.

The Opposition and the Christian Democratic Party supported the bill, noting the importance of the Australian superannuation system and the necessity to keep reforming its operation to ensure that funds placed in the system are most effectively allocated at minimum cost. The Greens did not oppose the bill, acknowledging that it contained sensible administrative reforms, particularly with respect to special disability trusts.

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

### **Heritage Amendment Bill 2011**

*Summary:* The bill amends the *Heritage Act 1977* to reduce the number of members of the Heritage Council from 11 to 9 and to streamline the process of listing items on the State Heritage Register.

*Proceedings:* The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Minister (Mr Pearce) indicated that the Government was committed to removing delays and increasing transparency associated with the process of listing items on the State Heritage Register. Mr Pearce also noted that it had been more than twenty years since a Government had appointed a Minister for Heritage.

The Opposition and the Christian Democratic Party supported the bill. The Greens also supported the bill, but expressed concerns that it retains the Planning Minister's capacity to refer recommendations for heritage listing to the Planning Assessment Commission (PAC).

In the committee stage, the Greens successfully moved an amendment to prescribe that one of the appointed members of the Heritage Council must possess qualifications and skills in Aboriginal heritage (Division 19:17). A Greens amendment to require the PAC to conduct a review of a heritage listing within a certain timeframe to be specified in the regulations was also agreed to (Division 19:17). However, the foreshadowed amendment to remove the capacity of the Minister to refer recommendations for listing to the PAC was negated.

The bill was reported to the House with the amendments, read a third time and returned to the Assembly with the amendments.

### **Plumbing and Drainage Bill 2011**

*Summary:* The bill regulates the carrying out of on-site plumbing and drainage work, including by prescribing the standards and requirements that must be complied with in carrying out such work. The bill also provides for a single plumbing regulator to oversee the regulation of plumbing and drainage work.

*Proceedings:* The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Parliamentary Secretary (Mr Mason-Cox) argued that the bill will simplify the current complex and fragmented system for regulating on-site plumbing and drainage work. Mr Mason-Cox also referred to the

extensive consultation surrounding the development of the bill.

The Opposition and Christian Democratic Party supported the bill's intent and endorsed the consultative approach taken in the development of the bill. The Greens supported the bill while raising a number of concerns, including the need to ensure that compliance inspectors hold appropriate qualifications, and the need to ensure that there is educative support and advice to the plumbing profession when making the transition to the new regulatory regime. The second reading was agreed to.

In the committee stage, a minor Opposition amendment clarifying and defining the type of plumbing and drainage work to which the bill applies was agreed to.

The bill was reported to the House with the amendment, read a third time and returned to the Assembly with the amendment.

### **Local Government Amendment (Roadside Vehicle Sales) Bill 2011**

The bill originated in the Legislative Assembly as a private members' bill sponsored by the Member for Sydney, Ms Clover More. On receipt of the bill in the Legislative Council, the bill was picked up by the Government and progressed through the House by the Minister for Finance and Services, Mr Pearce.

*Summary:* The bill amends the *Local Government Act 1993* to enable local councils to prohibit roadside vehicle sales and to erect notices to that effect. A person who does not comply with such a notice will be guilty of an offence with a maximum penalty of 10 penalty units (currently \$1,100).

*Proceedings:* The bill was received from the Legislative Assembly on 14 October 2011 and read a first time. Debate resumed on 18 October 2011. In his second reading speech, the Minister (Mr Pearce) indicated that the bill is aimed at preventing overseas visitors using Victoria Street in Potts Point and Brougham Street in Woolloomooloo as car yards to sell their vehicles at the end of their holidays, to the detriment of local shop owners and residents.

The Opposition did not oppose the bill, noting that previous efforts by local councils to address the problem through other means had proved ineffective. The Greens supported the bill, noting alternative places established by the City of Sydney Council to sell vehicles. The Christian Democratic Party did not oppose the bill, while suggesting it should also extend to public reserves. The second reading was agreed to.

In the committee stage, the Opposition moved amendments to prevent Councils from issuing a fine to local residents (as opposed to tourists) seeking to sell a vehicle in streets where the sale of vehicles is prohibited, and to require Councils to notify residents directly of an area to be designated as prohibited for the sale of vehicles. The amendments were negated on the basis that they would be unworkable (Division 10:22).

The third reading of the bill was agreed to and the bill was returned to the Assembly without amendment.

*Bills introduced in the Council during the sitting week and adjourned for five calendar days*

### **Water Industry Competition Amendment Bill 2011**

The bill originated in the Legislative Council.

*Summary:* The *Water Industry Competition Act* was enacted in 2006 to enable new market entrants to access existing water industry infrastructure, with the objective of involving private sector providers in the delivery of water. Since the Act commenced in 2008, seven schemes have been licensed: five recycled water schemes, one drinking water scheme in Sydney (the Sydney desalination plant) and one sewerage scheme in northern NSW.

This bill introduces three new licensing principles to be considered by the Minister when deciding whether to grant a water licence: first, the Minister is to have regard to relevant government policies, such as the Metropolitan Water Plan; second, the Minister is to have regard to the potential for adverse financial implications for small retail customers; third, the Minister is to ensure the equitable sharing of the cost of water industry infrastructure.

*Proceedings:* The bill was introduced and read a first time. In his second reading speech, the Minister (Mr Pearce) indicated that the bill is designed to ensure a level playing field as the drinking water market evolves. With the proposed refinancing of the Sydney desalination plant, the potential for new drinking water market entrants is expected to increase. Debate was adjourned for five calendar days.

### **Children (Education and Care Services) Supplementary Provisions Bill 2011**

The bill originated in the Legislative Council.

*Summary:* A national system for the regulation of early childhood education and care services, known as the National Quality Framework, is due to start on 1 January 2012. This national system will regulate long day care, preschools, family day care and out of school hours care, which also includes vacation care.

This bill removes those types of care now to be regulated under the National Quality Framework from the NSW *Children and Young Persons (Care and Protection) Act 1998*. In addition, the bill regulates other types of early childhood care which remain under the State system: occasional care, home based care and mobile services.

*Proceedings:* The bill was introduced and read a first time. In his second reading speech, the Minister (Mr Gay) indicated that the bill, to the extent possible, aligns childcare services available under the National Quality Framework with State-regulated services, while making sure services are not regulated under both schemes. Debate was adjourned for five calendar days.

### **Crimes (Sentencing Procedure) Amendment (Children in Vehicles) Bill 2011**

The bill originated in the Legislative Council.

*Summary:* The bill amends the *Crimes (Sentencing Procedure) Act 1999* to make it an aggravating factor to be taken into account in sentencing an offender for certain traffic

offences if the offence was committed while a child under 16 years of age was a passenger in the offender's vehicle (or if the offence was connected with the driving of a vehicle with such a passenger). The traffic offences concerned include drink driving, drug driving, driving in a police pursuit, dangerous driving under the influence of alcohol or drugs and failing to undergo a test for alcohol or drugs.

*Proceedings:* The bill was introduced and read a first time. In his second reading speech, the Minister (Mr Gay) cited considerable community concern about people who commit serious traffic offences with a child in their vehicle, and indicated that the Government is introducing these reforms to provide a strong deterrent to the small number of drivers who risk a child in this manner. Debate was adjourned for five calendar days.

### **Work Health and Safety Legislation Amendment Bill 2011**

The bill originated in the Legislative Council

*Summary:* On 3 July 2008, NSW and other States and Territories entered into an Intergovernmental Agreement for Regulatory Reform on Occupational Health and Safety. This subsequently led to the finalisation of a national model Work Health and Safety Act. Earlier this year, the NSW Government sponsored the *Work Health and Safety Act 2011* through the Parliament, implementing the national model law, which is expected to commence on 1 January 2012 in most Australian jurisdictions.

This bill amends the *Work Health and Safety Act 2011* to make further provision for the commencement, administration and operation of that Act, and makes minor and consequential amendments to certain other Acts. Of note, it amends the *Work Health and Safety Act 2011* to specify that NSW has two occupational health and safety regulators: WorkCover in respect of workplaces generally and the Department of Trade and Investment in respect of mining workplaces.

*Proceedings:* The bill was introduced and read a first time. In his second reading speech, the Minister (Mr Pearce) noted that the bill is part of the NSW Government's commitment to fully participate in the nationally harmonised occupational health and safety system. Debate was adjourned for five calendar days.

### **Private members' business**

**Note:** Private members' business is business moved 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*

### **Truth in Labelling (Free-range Eggs) Bill 2011 (Dr Kaye, The Greens)**

*Summary:* The bill seeks to further regulate the labelling of eggs by prohibiting the sale of eggs as free-range eggs or barn eggs unless certain requirements have been complied with. In addition, the bill requires eggs that are not free-range eggs or barn eggs to be labelled as cage eggs and prohibits the use of any words or images in

advertising or packaging of the eggs that suggests the laying fowls are not kept in cages.

*Proceedings:* Debate on the second reading of the bill resumed from 14 October 2011 (see previous edition of *House in Review* for earlier debate). In that previous debate, the Opposition, as something of a compromise, foreshadowed amendments to the bill to require eggs to be labelled in compliance with existing national standards for the production of eggs, as outlined in the national *Model Code of Practice for the Welfare of Animals: Domestic Poultry*, 4<sup>th</sup> edition.

On the resumption of debate, members of the Government continued to express concern that the bill, even with the Opposition amendment, would place NSW producers at an unfair disadvantage within the national egg market. The Government also expressed reservations whether the amendments foreshadowed by the Opposition were workable because the *Model Code of Practice for the Welfare of Animals: Domestic Poultry* was never meant to be used as the basis for setting standards for food labelling. In this regard, the Government noted that the issue of egg labelling had been placed on the agenda of the Food Regulation Ministerial Liaison Committee. The Christian Democratic Party also expressed strong reservations about the bill. Nevertheless, the second reading was agreed to.

In the committee stage, the Opposition moved its amendments to adopt reference to the *Model Code of Practice for the Welfare of Animals: Domestic Poultry*. The Greens, while preferring the bill as drafted and introduced and expressing concerns that the model code was a standard that could potentially decline over time, nevertheless supported the amendments as an improvement on the current arrangements. The amendments were agreed to. A Greens amendment to take account of a matter of legal fairness in the bill raised by the Legislation Review Committee was also agreed to.

The bill was reported to the House with the amendments, and the third reading of the bill set down for the next sitting day.

### **Local Government Amendment (Local Democracy – Ward Representation Reform) Bill 2011 (Mr Shoebridge, The Greens)**

*Summary:* The bill amends the *Local Government Act 1993* to provide that each council that is divided into wards must have at least three councillors for each ward. These arrangements must be in place at least six months before the next ordinary council elections.

*Proceedings:* Debate on the second reading of the bill resumed from 5 August 2011 (see *House in Review* 55/7 for earlier debate). The Government opposed the bill, on the basis that it would permanently entrench councillor numbers on wards in certain councils. The Government argued that this would be an unreasonable interference in the right of councils to determine for themselves the appropriate number of councillors to represent a ward. The Opposition also opposed the bill, arguing that councillor numbers representing wards should be decided by the residents of individual councils, not the State Parliament. The Christian Democratic Party also did not support the bill, for similar reasons.

The Greens in reply argued that two-councillor wards are used by the major parties to lock out minor parties and independents from gaining representation on councils, citing the examples of Botany and Ku-ring-gai Councils. Currently in two member wards, the two seats are often shared between the major political parties, although once a party gets 50 per cent of the vote plus one, that party gets both councillors in the ward. The Greens also argued that the bill does not impose a one-size fits all model on councils: they can adopt wards with three, four or any number of councillors per ward as they wish.

The second reading of the bill was negatived.

#### *Motion*

### **Death of Mr Horace Young (Mr Green, Christian Democratic Party)**

*Summary:* The motion noted the death of Mr Horace Young, aged 90, a telegraphist for Operation Jaywick in World War II. On 26 September 1943, members of Operation Jaywick were responsible for sinking or seriously damaging seven Japanese ships in Singapore Harbour of a cumulative 40,000 tonnes. As such, Operation Jaywick is regarded as the most successful Australian commando raid of World War II.

*Proceedings:* Standing orders were suspended to bring on the item of business. After a short statement by Mr Green, the motion was agreed to.

#### *Motions taken as formal business*

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

- (1) Moree Vibe Alive Festival (Ms Fazio)
- (2) Solarium use (Ms Fazio)
- (3) Margaret Olley (Ms Barham)
- (4) Life education (Mrs Maclaren-Jones)
- (5) National Week of Deaf People (Ms Westwood)
- (6) Snowy Scheme Museum, Adaminaby (Mr Mason-Cox)
- (7) Carers Week (Ms Fazio)
- (8) CanTeen (Mr Blair)
- (9) Oman Cultural Week (Ms Ficarra)
- (10) NSW Carers Week (Ms Ficarra)
- (11) Science House (Mr Shoebridge)
- (12) Porchetta Day (Mrs Mitchell).

### **Committee activities**

#### *Committee references*

**Standing Committee on Law and Justice:** The Chair (Mr Clarke) informed the House that on 20 October 2011, the Standing Committee on Law and Justice resolved to inquire into 'Opportunities to consolidate tribunals in NSW'.

**Budget Estimates:** The House adopted an amendment to the schedule of hearings on Wednesday, 26 October 2011 for the Budget Estimates Inquiry.

*Committee report tabled*

**Legislation Review Committee:** 'Legislation Review Digest No. 6/55', 18 October 2011.

### Reports tabled

**Register of Disclosures by Members:** The President tabled the 'Register of Disclosures by Members of the Legislative Council for the period 1 July 2010 to 30 June 2011'.

**Auditor General:** Performance Audit report entitled: 'Improving road safety: Young drivers – Roads and Traffic Authority of NSW', October 2011.

**Commission for Children and Young People:** Annual Report of the Commission for Children and Young People for year ended 30 June 2011.

**Inspector of the Police Integrity Commission:** 'Special Report of the Inspector of the Police Integrity Commission dealing with certain matters affecting the Police Integrity Commission', 14 October 2011.

**Law Reform Commission:** Report of the Law Reform Commission for year ended 30 June 2011.

### Adjournment debate

#### Tuesday 18 October 2011

Balmain branch of the Australian Labor Party (Ms Sharpe); St John Ambulance Australia (Mrs Maclaren-Jones); Drug use (Ms Fachrmann); Death of Ms Abby Berro Hammoud (Mr Moselmane); Carbon farming (Mr Buckingham); The Nationals' Clarence by-election candidate (Mr Colless); Tribute to Keith 'Yappy' Holman (Ms Voltz).

#### Wednesday 19 October 2011

Carbon tax (Mr Brown); Synthetic cannabis (Ms Fazio); Ashford community organisations and facilities (Mrs Mitchell); State economy (Mr Roozendaal); Animal rights and wildlife conservation (Mr Borsak); Snowy Mountains Scheme Museum (Mr Mason-Cox); Baseball World Cup 2011 (Dr Phelps); Levine abortion ruling fortieth anniversary (Ms Westwood).

#### Thursday 20 October 2011

Sea Change Taskforce (Ms Barham); Office of the Governor (Mr Clarke); Australians murdered overseas (Mr Secord); Forest Science Centre (Mr Shoebridge); Infrastructure NSW Chairman (Mr Foley); Vietnamese refugee Dai Le (Mr Lynn); Tribute to Dr John Begg (Mr Pearce).

#### Friday 21 October 2011

Decentralisation (Mr Blair); NSW Manufacturing Council (Mr Primrose); Food security (Mr MacDonald); Snowy Scheme Museum, Office of the Governor (Mr Whan); Education funding (Dr Kaye); NSW Parliament Spring Ball (Mrs Pavey); NSW Parliament Spring Ball (Ms Fazio).

### 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 [stephen.frappell@parliament.nsw.gov.au](mailto:stephen.frappell@parliament.nsw.gov.au).

All responses will be kept strictly confidential.



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