

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



Volume 55/17

2011 Summary

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 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.

Overview

This edition of *House in Review* summarises the work of the Legislative Council during 2011. Given that Parliament was prorogued from December 2010 in the lead up to the election on 26 March 2011, the period covered by this document starts from the first meeting of the new

Parliament on 3 May 2011. A range of procedural statistics are set out below. Following some observations about the sittings of the House, a summary of committee activity, including the status of current inquiries, is also included.

Procedural statistics for the 55th Parliament in 2011

Sitting days	59
Sitting hours	452 hrs, 32 mins
Average length of sitting	7 hrs, 30 mins
Bills	
All bills passed by both Houses	73
Of which originated in the Council	15
Government bills passed in the Council	71
Of which were amended in the Council	15
Private members' bills passed by both Houses	2
Private members' bills introduced in the Council	10
Of which were passed by the Council	3
Amendments	
Circulated	612
Agreed to	76
Notices of motions given	660
Petitions - general	64
Petitions - irregular	7
Questions	
On notice	1074
Without notice	1206
Formal business	
Agreed to	163
Objected to	93
Orders for papers	12
Papers tabled (to 25 Nov)	1267

The statistics set out above provide a useful summary of the work of the Council in its dual roles of making law and holding the executive government to account.

Legislation

Government legislation

Of the 73 bills which have passed both Houses and become law in 2011, all but two of these commenced as Government bills.

Fifteen bills, or just over 20 per cent, were amended in the Legislative Council:

- (1) Lobbying of Government Officials Bill
- (2) Real Property Amendment (Torrens Assurance Levy Repeal) Bill
- (3) Work Health and Safety Bill
- (4) Occupational Health and Safety Amendment Bill
- (5) Industrial Relations Amendment (Public Sector Conditions of Employment) Bill
- (6) Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill
- (7) Statute Law (Miscellaneous Provisions) Bill
- (8) Residential Parks Amendment (Register) Bill
- (9) Transport Legislation Amendment Bill
- (10) Plumbing and Drainage Bill
- (11) Protection of the Environment Legislation Amendment Bill
- (12) Work Health and Safety Legislation Amendment Bill
- (13) Heritage Amendment Bill
- (14) Clubs, Liquor and Gaming Machines Legislation Amendment Bill
- (15) Police Amendment (Death and Disability) Bill

A total 76 amendments were agreed to.

Apart from those bills introduced with the intention they would sit on the *Notice Paper* (and thereby be in the public domain) over the summer recess pending debate in the new year, two Government bills remain on the Council *Notice Paper*. The Local Government Amendment Bill has remained on the *Notice Paper* since the middle of October. The provisions of the Election Funding, Expenditure and Disclosures Amendment Bill are being examined by a Select Committee during the summer recess, as outlined below.

The other item of the Government's legislative program for 2011 which, having been considered by the Legislative Council, has not proceeded to enactment is the Graffiti Legislation Amendment Bill. The Legislative Assembly has yet to deal with the Council's message seeking a free

conference to consider the disputed amendments made by the Council.

The status of one other bill that was in dispute between the two Houses, the Clubs, Liquor and Gaming Machines Legislation Amendment Bill 2011, was resolved in late November when the Council chose not to insist on its amendment to the bill to which the Assembly disagreed. The bill has now passed Parliament and has received assent.

Private members' bills

Two bills that were introduced by private members have been enacted in 2011.

The Marine Parks Amendment (Moratorium) Bill was introduced in the Legislative Council by Mr Robert Brown (Shooters and Fishers Party) in May. The bill was amended in the Legislative Council in June before going to the Legislative Assembly where it was passed in September.

The Local Government Amendment (Roadside Vehicle Sales) Bill was introduced in the Legislative Assembly by Clover Moore MP in August. When it arrived in the Legislative Council the bill was picked up by the Government and passed the House in October.

Two further private members' bills passed the Legislative Council, but have not yet been considered by the Legislative Assembly. These are the Truth in Labelling (Free-range Eggs) Bill, introduced by Dr Kaye (The Greens), and the Constitution Amendment (Restoration of Oaths) Bill, introduced by Revd Mr Nile (Christian Democratic Party).

Accountability

In 2011, the number of questions without notice increased with the additional number of sitting days that the House sat. The number of questions on notice also increased as the year proceeded.

The number of orders for the production of state papers is down from previous years, although the use of this important accountability mechanism also increased as the year proceeded.

The budget estimates process was discussed in detail in Volume 55/14 of House in Review, and an update is provided below.

The other way in which the Legislative Council exercises its functions of holding the executive government to account is through the work of its committees, also discussed below.

In October the Legislative Council agreed to a resolution requiring the Government to provide responses to eight committee reports which had been tabled in the previous Parliament. Those responses have now been received.

Committees

The last *House in Review* for 2011 provides an opportunity to report upon the committee activity of the Legislative Council. An active committee system is a vital part of the role of an Upper House in the scrutiny of the executive, as well as enabling public participation in the parliamentary process by means of submissions, speaking at forums or at hearings or otherwise engaging with committee inquiries.

Since committees were established at the commencement of the 55th Parliament in May 2011, there has been a veritable explosion in committee activity. The five standing committees (Procedure, Privileges, Social Issues, State Development and Law and Justice) and five General Purpose Standing Committees have also been supplemented by the establishment of two Select Committees.

A good example of how busy committees of the Legislative Council are can be seen from last week, 5-9 December, which saw a committee hearing on each day. On Monday the Social Issues Committee was in Dubbo as part of its inquiry into transition programs in education. On Tuesday General Purpose Standing Committee No. 3 held a hearing into rail costings, while on Wednesday the Select Committee on the Koorangang Island Orica chemical leak held a public hearing with Orica representatives. On Thursday, General Purpose Standing Committee No. 5 held one of its many public hearings on Coal Seam Gas, and on Friday the same committee travelled to Mittagong for a public hearing then to a site visit at Camden.

Current inquiries are reported on below.

Standing Committee on Social Issues

Inquiry into transition support for students with additional or complex needs and their families

Summary: This inquiry concerns the adequacy and accessibility of appropriate programs and support services for children with additional or complex needs and their families during transitions between different stages of education. The Chair of the Committee is Mr Niall Blair (The Nationals). The inquiry was referred by the Minister for Education on 21 June 2011.

Proceedings: The Committee has received 67 submissions from a range of stakeholders, including Government and non-government organisations, disability advocacy groups, education bodies and parents. The Committee has held two public hearings at Parliament House and travelled to Dubbo on 5 December for a regional site visit and roundtable hearing. The Committee will hold its final hearing in Sydney on Tuesday 13 December, and expects to table its report around March 2012.

Inquiry into domestic violence trends and issues in NSW

Summary: This inquiry is examining strategies to reduce breaches and improve compliance with Apprehended Domestic Violence Orders, the adequacy of penalties, the

increase in women being proceeded against by police for domestic violence offences, and early intervention and prevention strategies. The Chair of the Committee is Mr Niall Blair (The Nationals). The inquiry was referred by the Minister for Family and Community Services and Minister for Women on 25 July 2011.

Proceedings: The Committee has received 71 submissions from a range of stakeholders, including Government and non-government/community organisations, legal organisations and individuals. The Committee has held two public hearings at Parliament House, and has agreed on an extensive public consultation schedule in 2012 including five hearings in Sydney, a site visit to Melbourne, a regional hearing in Forbes, a site visit to a Sydney court and a forum in South-Western Sydney. The Committee expects to table its report around August 2012.

Standing Committee on State Development

Inquiry into economic and social development in central western NSW

Summary: This inquiry concerns the factors restricting economic and social development in central western NSW, including the provision of health, education and cultural facilities, the adequacy of road and transport infrastructure, and reasons for population decline or growth. The Chair of the Committee is Mr Rick Colless (The Nationals). The inquiry was referred by the Minister for Western NSW on 7 July 2011.

Proceedings: The Committee has received 58 submissions to the inquiry from a range of stakeholders, including local councils, Regional Development Australia organisations and the Royal Flying Doctor Service. The Committee held one public hearing at Parliament House in September and travelled to Parkes and Broken Hill in November for three days of regional hearings. The Committee anticipates holding a further public hearing at Parliament House in early 2012, before tabling the final report towards the middle of the year.

Standing Committee on Law and Justice

Eleventh Review of the exercise of the functions of the Motor Accidents Authority and the Motor Accidents Council

Summary: A committee of the Legislative Council is required under section 210 of the *Motor Accidents Compensation Act 1999* to supervise the exercise of the functions of the Motor Accidents Authority (MAA) and the Motor Accidents Council (MAC). Since 1999, a resolution of the Legislative Council has designated the Standing Committee on Law and Justice to undertake this role, and has set out the terms of reference for the Committee's reviews. The Committee was reappointed to this role for the 55th Parliament by resolution of the House on 14 June 2011.

Proceedings: During the Eleventh Review, the Committee received 16 submissions, and held two days of hearings in

conjunction with the Review of the Lifetime Care and Support Authority. Sixteen witnesses provided evidence to the MAA Review. As part of its review process, the Committee sent 37 pre-hearing questions on notice to the MAA. The Committee is due to table its report on 16 December 2011.

Fourth Review of the exercise of the functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council

Summary: A committee of the Legislative Council is required under section 68 of the *Motor Accidents (Lifetime Care and Support) Act 2006* to supervise the exercise of the functions of the Lifetime Care and Support Authority (LTCSA) and the Lifetime Care and Support Advisory Council (LTCSAC). Since 2008, a resolution of the Legislative Council has designated the Standing Committee on Law and Justice to undertake this role, and has set out the terms of reference for the Committee's reviews. The Committee was reappointed to this role for the 55th Parliament by resolution of the House on 14 June 2011.

Proceedings: During the current review, the Committee has received 19 submissions, and held two days of hearings in conjunction with the MAA. Fifteen witnesses provided evidence. As part of its review process, the Committee sent 41 pre-hearing questions on notice to the LTCSA. The Committee is due to table its report on 16 December 2011.

Inquiry into opportunities to consolidate tribunals in NSW

Summary: There are numerous separate tribunals in NSW which exercise decision-making, arbitral or similar functions in relation to employment, workplace, occupational and professional disputes or matters. The Committee is considering what opportunities are available to rationalise these various tribunals, in order to increase overall efficiency and effectiveness. In particular, the Committee is examining the jurisdiction and workload of the Industrial Relations Commission, the Consumer Trader and Tenancy Tribunal, the Administrative Decisions Tribunal and various health disciplinary tribunals, to determine whether any (or all) of these tribunals should be merged. The inquiry was referred to the Committee by the NSW Attorney General, the Minister for Finance and Services and the Minister for Fair Trading on 20 October 2011.

Proceedings: The Committee has received 80 submissions and will conduct three public hearings in December 2011 and January 2012. The Committee will also undertake a visit to the Victorian Civil and Administrative Tribunal to meet with senior officers and to observe tribunal proceedings. The Committee is due to report by 29 February 2012.

General Purpose Standing Committees

Coal seam gas inquiry

Summary: This inquiry by General Purpose Standing Committee No. 5 concerns the environmental, economic and social impacts of coal seam gas activities in NSW. Coal

seam gas is a new industry in NSW and there is significant public concern about the rapid expansion of coal seam gas exploration across many areas of the State. The Chair of the Committee is Mr Robert Brown (Shooters and Fishers Party).

Proceedings: The inquiry was self referred in August 2011 and has received over 1,000 submissions and form letters. The Committee was the first General Purpose Standing Committee to be authorised by a resolution of the House to conduct an interstate site visit, travelling to Chinchilla, Queensland. The coal seam gas industry is more advanced in Queensland than in NSW, and the Committee was keen to learn the lessons from the Queensland experience. The Committee has held seven public hearings and heard from 122 witnesses. Three of the hearings were in Sydney and four in regional NSW, namely Lismore, Taree, Narrabri and Mittagong. The Committee has also conducted site visits in the Northern Rivers and Liverpool Plains where there are heightened concerns about coal seam gas exploration activities underway at present. The Committee also visited Camden which is the site of the only NSW facility currently producing coal seam gas for commercial purposes.

Rail infrastructure project costing

Summary: This inquiry by General Purpose Standing Committee No. 3 is concerned with the methods used to cost rail projects in NSW and in particular, whether cost estimates for projects in NSW are greater than for similar projects in other states. The inquiry was referred to the Committee by the House in August 2011. The Chair of the Committee is Mrs Natasha Maclaren-Jones (Liberal Party).

Proceedings: The Committee has received 22 submissions and has conducted two hearings at which 20 witnesses appeared, including academics, industry consultants and representatives of government agencies and community groups. At its second hearing, the Committee took evidence via teleconference from the Design Manager of a major rail project in Perth. The Committee has concluded its hearings and is expected to report in early 2012.

Inquiry into the Education Amendment (Ethics Classes Repeal) Bill 2011

Summary: This inquiry was referred to General Purpose Standing Committee No. 2 by the House on 11 November 2011. The Bill, which was introduced in the Council by Revd Mr Nile, seeks to repeal the *Education Amendment (Ethics Classes) Act 2010*, which allows ethics classes to be taught as an alternative to special religious education in NSW Primary Schools. The Chair of the Committee is Ms Marie Ficarra (Liberal Party).

Proceedings: The Committee will hold three hearings: 24 and 27 February and 12 March 2012, and is due to report in June 2012.

Budget Estimates 2011-2012

Summary: The Budget Estimates and related papers were referred to each of the five General Purpose Standing Committees on 12 May 2011.

Proceedings: The initial round of 25 Estimates hearings held from 24-28 October were reported on in detail in Volume 55/14 of *House in Review*. Since that time 2,152 questions on notice have been lodged and answers received to the vast majority of those questions. This year two committees elected to hold supplementary estimates hearings: GPSC 1 held a supplementary hearing for the Treasury portfolio and GPSC 5 held an additional hearing for the Environment portfolio. A third supplementary hearing into the Police portfolio by GPSC 4 was initially agreed to by the Committee, however two days before the hearing the Committee met and the original decision was rescinded and the hearing cancelled. In total, 27 hearing have been held to date with 142 witnesses, including 22 ministers.

GPSC 3 is the first committee to report on Estimates, with the Chair tabling the report with the Clerk on Friday 9 December 2011. The report contained the first dissenting report in the 16 year history of Legislative Council Estimates inquiries, with Ms Penny Sharpe and Mr Mick Veitch dissenting on the basis that the Opposition members believed the decision by the majority not to hold supplementary hearings curtailed the role of the Estimates process.

Select Committees

Select Committee on the provisions of the Electoral Funding, Expenditure and Disclosures Amendment Bill 2011

Summary: This committee was established by resolution of the House 23 November 2011 to inquire into the provisions of the Electoral Funding, Expenditure and Disclosures Amendment Bill 2011. In particular, the Committee will examine the constraints imposed by the bill on community and not-for-profit-organisations, including unions, community group and social justice organisations. The Committee is comprised of nine members, with Dr John Kaye (The Greens) appointed as Chair by the resolution establishing the Committee.

Proceedings: The closing date for submissions to the inquiry is 11 January 2012. The Select Committee will hold three public hearings at Parliament House on 17, 18 and 20 January 2012. It is anticipated that witnesses at these hearings will include representatives from each of the main political parties, peak organisations likely to be affected by the proposed reforms, and constitutional academics. The final reporting date for the Committee is 15 February 2012.

Select Committee on Kooragang Island Orica chemical leak

Summary: This Committee was established by resolution of the House on 25 August 2011 to inquire into the responses of Orica and the NSW Government to the chemical leak from Orica's Kooragang Island site on 8 August 2011. The Committee comprises three Government members, two Opposition members and two Cross Bench members. The Chair of the Committee is Mr Robert Brown (Shooters and Fishers Party).

Proceedings: The inquiry has received 27 submissions and three supplementary submissions. The Committee conducted a tour of inspection of the Kooragang Island site and held a public forum in Stockton on 14 November 2011. There were approximately 50 people in attendance and 14 people spoke. The Committee held public hearings in Stockton on 15 November 2011 and at Parliament House on 17 and 21 November and 7 December 2011. During the hearings the Committee received evidence from 20 witnesses, including the Premier, three Ministers, Orica employees and Stockton residents. The Committee is due to report by the last sitting day of the second week of 2012.

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.

All responses will be kept strictly confidential.

Finally, may I take this opportunity to wish all readers of *House in Review* a very merry Christmas, a safe holiday season and a happy new year.



David Blunt
Clerk of the Parliaments