

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



Volume 55/2

Sitting period
9 to 12 May 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 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.

New members' first speech

The Hon Jeremy Buckingham and the Hon Jan Barham gave their first speeches to the House on 11 May 2011.

Resignation of member

The Hon Edward Obeid tendered his resignation as a member of the House to His Excellency the Lieutenant-Governor on 10 May 2011.

Valedictory speech

The Hon John Hatzistergos gave his valedictory speech to the House on 11 May 2011.

Ministerial statement

Mr Pearce made a statement regarding the passing of Ms Anthea Kerr, Assistant Director General, Policy, Department of Finance and Services. Mr Kelly and the President also addressed the House.

Deputy Government Whip in the Council

Mr Gallacher informed the House that the Hon Rick Colless had been elected Deputy Government Whip in the Legislative Council.

Sitting schedule and precedence of business

The House adopted sessional orders relating to its meeting times each week and the scheduling of Question Time as follows:

- First sitting day: start 2.30 pm, Question Time 4.00 pm
- Second sitting day: start 11.00 am, Question Time 2.30 pm
- Third sitting day: start 11.00 am, Question Time 2.30 pm
- Fourth sitting day: start 9.30 am, Question Time 2.30 pm
- Fifth sitting day: start 9.30 am, Question Time 2.30 pm.

Currently the House is sitting for eight days a fortnight: Tuesday to Friday of the first week of the fortnight, Monday to Thursday of the second week of the fortnight.

The House also adopted a sessional order that Government business take precedence on the first, second, third and fifth sitting day each week, and that private members' business take precedence on the fourth sitting day each week prior to 3.30 pm. Debate on Committee reports is to take precedence on the first sitting day each week after questions and until 6.30 pm.

Government business

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

Constitution Amendment (Prorogation of Parliament) Bill 2011

Summary: Under section 24 of the *Constitution Act 1902*, the Legislative Assembly expires on the Friday before the first Saturday in March prior to a scheduled general election.

The bill amends the *Constitution Act 1902* to prevent the Government from advising the Governor to prorogue Parliament at any time after the fourth Saturday in September and before 26 January in the lead up to a general election. The amendment does not affect the reserve powers of the Governor to dissolve Parliament without the advice of the Government at any time.

Proceedings: The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Minister noted that prior to the last election, the former Government was heavily criticised for proroguing Parliament in what some saw as an attempt to stop the work of General Purpose Standing Committee No. 1 of the Legislative Council, which was inquiring into the former Government's electricity transactions. This bill will prevent prorogation from being used by a Government seeking to avoid parliamentary scrutiny before an election. The Opposition supported the bill, noting community support for reform of the prorogation provisions, and citing the right of the Legislative Council to perform its role as the House of Review. The Greens also supported the bill for preventing prorogation from being used as a tool by the Executive to shut down the Parliament. Several speakers paid tribute to the impartial manner in which the

former President, the Hon Amanda Fazio, discharged her responsibilities as President throughout the inquiry by General Purpose Standing Committee No. 1 and to the frank and fearless advice of the Clerk of the Parliaments, upon which the Committee relied during its inquiry. The second reading was agreed to.

The Greens subsequently sought the agreement of the House for consideration of an amendment outside the leave of the bill to enable a parliamentary committee to sit during the life of a Parliament despite any prorogation of the Legislative Council and Assembly. The motion was negatived (Division 17:21).

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

Lobbying of Government Officials Bill 2011

Summary: The bill prohibits the giving or receipt of success fees for the lobbying of Government officials. The bill defines a 'Government official' to include ministers and parliamentary secretaries and their staff, as well as public servants. Under the bill, any success fees could be forfeited to the Crown.

Proceedings: Debate on the second reading of the bill resumed from 5 May 2011 (see the previous edition of *House in Review* for earlier debate). On the resumption of the debate, the Greens supported the bill, describing lobbying as a key corruption risk, as well as having the potential to undermine public confidence in Government decision-making. However, the Greens expressed disappointment that the bill does not implement some of the recommendations made by the Independent Commission Against Corruption (ICAC) in its report 'Investigation into Corruption Risks Involved in Lobbying'. The second reading was agreed to.

In the committee stage, the Opposition moved an amendment to increase ten-fold the penalties for breaching the legislation, arguing that such an increase would send a strong message that success fees would not be tolerated. The Greens supported the amendment. The Government opposed the amendment, arguing that the increased penalty would be excessive for the level of criminality involved in the offence, and would be inconsistent with the overall framework for criminal penalties in NSW. The Government also referred to other deterrents including the forfeit of success fees to the Crown, and the potential for the Director-General of the Department of Premier and Cabinet to remove a person from the Lobbyists Register if they are found to have accepted a success fee. There being an equality of votes (Division 19:19) the amendment was negatived on the casting vote of the Chair.

The Greens moved four amendments. Two amendments were designed to prohibit former ministers or parliamentary secretaries from lobbying Government officials for a period of 18 months after they left office on matters relating to their previous portfolio responsibilities. The Greens noted that the amendments would implement

a recommendation of the ICAC report on lobbying. The amendments were agreed to.

The Greens moved a further two amendments to prohibit a party office holder, such as a current member of a party's State governing body or an executive officer, from lobbying Government officials. The Greens argued that party office holders could exercise undue influence particularly on the members of their parliamentary party. The Opposition supported the amendments, and stated that it would be in the interest of party office holders to have legislation to prevent them from being approached by persons seeking to use their influence with Government officials. The Government opposed the amendments on the grounds that a person's day job is irrelevant to his or her job as a party official. Further, the Government took the view that the proposed prohibition was unnecessary because party officials would be regulated in the same way as other lobbyists. The amendments were negatived (Division 19:21).

The bill was reported to the House with the two amendments, read a third time and returned to the Assembly as amended. The Legislative Assembly agreed to the amendments.

Health Services Amendment (Local Health Districts and Boards) Bill 2011

Summary: The bill amends the *Health Services Act 1997* to constitute local health districts to replace existing local health networks. The bill also provides for the establishment of boards for each local health district instead of the existing system of local health network governing councils. The role of the boards will be focused on leading, directing and monitoring the provision of local health district services. They will comprise between 6 and 13 members, appointed by the Minister for Health.

Proceedings: The bill was received from the Legislative Assembly and read a first time. In her second reading speech, the Parliamentary Secretary indicated that the bill fulfils one of the Government's key election promises: devolution of responsibility and accountability in the health system and a return of decision-making to patients and local communities. She argued that while the previous Government made changes to the structure of NSW public health system at the end of 2010, including abolition of the area health services in favour of local health networks, those changes did not go far enough. The Opposition did not oppose the bill, while expressing concern that the members appointed to the former governing councils will not necessarily be retained on the new boards. The Opposition also questioned whether the new Government will commit to the National Healthcare Agreement agreed at COAG. The Greens opposed the bill, on the basis that it only changes the names of the former local health networks and governing councils, while spilling the membership of the governing councils when establishing the new boards.

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

Local Government (Shellharbour and Wollongong Elections) Bill 2011

Summary: Shellharbour City Council and Wollongong City Council were dismissed during 2008 and council elections were not due to be held until September 2012. The bill provides for Council elections to be held in September 2011. In relation to Shellharbour City Council, the bill also provides for wards to be abolished, the number of councillors to be reduced from 13 to seven, and the Mayor to be elected by Councillors rather than popularly elected. In relation to Wollongong City Council, the bill provides for the number of wards to be reduced from six to three.

Proceedings: The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Minister advised that the Government had introduced the bill as a matter of priority, due to community support for a quick return to local-level representation. The Minister noted that this would fulfil one of the Government's election commitments. The Opposition supported the bill for enabling the early holding of council elections, but raised concerns about aspects of the proposed model for Shellharbour City Council. The Greens supported the Government for its prompt introduction of the bill but criticised the proposed reduction in councillor numbers at Shellharbour City Council. The second reading was agreed to.

In the committee stage, the Opposition moved five amendments. Three amendments were designed to provide for a popularly elected mayor in Shellharbour, but did not oppose the Government's proposal to reduce the number of councillors to seven. The Government opposed the amendments on the grounds that the extra expense of a mayoral election could not be justified. The Greens opposed the amendments because of the proposed reduction in councillor numbers. The amendments were negated either on division (Division 13:25) or the voices.

The two other Opposition amendments aimed to reverse the abolition of wards in Shellharbour, and instead reduce the number of wards from six to three. The Government however argued that the Public Inquiry into Shellharbour City Council had recommended changes to the Council's structure, and that the abolition of wards represented an important structural change. The Greens did not support the amendments. The amendments were negated on the voices.

The Greens moved one amendment to increase the proposed number of councillors on Shellharbour City Council from seven to nine. The Greens argued that the increase was necessary as there would be an insufficient number of councillors to share the workload. The Government opposed the amendment and noted that a number of other councils had seven councillors or less. The Opposition did not support the amendment. The amendment was negated (Division 5:28).

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

Real Property Amendment (Torrens Assurance Levy Repeal) Bill 2011

Summary: The Torrens Assurance Fund underpins the security of the Torrens system of land registration in NSW by compensating landowners and others who suffer loss or damage in a property transfer as a result of fraud or error. Prior to 1 July 2010, the Fund was financed by a \$4 flat fee on all Torrens dealings. However, in 2010, the previous Government introduced an additional levy on purchases of land valued at over \$500,000, with the amount paid calculated on a percentage of the purchase price.

The bill abolishes the additional levy and reintroduces the provisions of the legislation as they were before the 2010 changes.

Proceedings: The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Minister argued that the levy imposed an unnecessary burden on homebuyers and the construction industry, and advised that the repeal of the levy fulfilled a pre-election commitment by the Government. The Opposition opposed the bill and indicated that the 2010 changes resulted in a fairer system, whereby no fees were charged for cheaper properties that were less susceptible to fraud, but fees increased as the risk of criminal activity grew. The Greens did not support the bill on the grounds that the existing arrangements are more equitable and efficient. In addition, the Greens argued that the existing tax provides an important source of revenue and should continue to be imposed to maintain the quality of public services. The second reading was agreed to (Division 21:17).

In the committee stage, the Government moved an amendment to correct a drafting omission. The amendment was agreed to.

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

Duties Amendment (Senior's Principal Place of Residence Duty Exemption) Bill 2011

Summary: The bill extends the senior's principal place of residence duty exemption under the NSW Home Builders Bonus to persons between 55 and 65 years of age. Under the bill, individuals aged 55 years or over will pay zero transfer duty if they are selling an existing property and buying a newly constructed home costing up to \$600,000. This is a saving of up to \$22,490. To be eligible the person must sell his or her existing home and reside in the new home for a continuous 12-month period.

Proceedings: The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Minister indicated that the bill fulfils one of the Government's election commitments to extend the empty-nester transfer duty concession to individuals aged 55 years or over. The Minister argued that doing so will enable seniors to move from their current home into a new home that better meets their changes in lifestyle, in the process

freeing-up family homes for those looking to get into the housing market or needing to move to a larger home. The Opposition did not oppose the bill, describing it as an extension of previous Labor policy for the over 65s, while raising some concerns that there has been no costing of the impact of the proposal on the budget. The Greens did not oppose the legislation, but raised concerns that those aged 55 to 65 are, in general, one of the wealthiest generations ever, while those aged 25 to 45 are genuinely struggling to enter the housing market, calling into question the need for further assistance to the over 55s.

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

Work Health and Safety Bill 2011 and Occupational Health and Safety Amendment Bill 2011 (cognate)

Summary: These bills harmonise occupational health and safety laws in NSW with the nationally agreed laws developed by COAG. The Work Health and Safety Bill 2011 enacts the nationally agreed Model Work Health and Safety Act in NSW, while the cognate bill, the Occupational Health and Safety Amendment Bill, amends the *Occupational Health and Safety Act 2000* to adopt certain national work health and safety reforms pending the enactment of the proposed Work Health and Safety Act 2011.

Proceedings: The bills were received from the Legislative Assembly and read a first time. In his second reading speech, the Minister indicated that the bills illustrate the commitment of the Government to participate fully in a nationally consistent system of occupational health and safety, and noted that the previous Government reversed its promise to pass harmonised laws before the last election. The Minister argued that the new system will reduce complexity and red tape and provide greater certainty to employers and employees.

Debate was adjourned until a future day.

Law Enforcement (Powers and Responsibilities) Amendment (Move on Directions) Bill 2011

The bill originated in the Legislative Council.

Summary: The bill amends the *Law Enforcement (Powers and Responsibilities) Act 2002* to enable police to give directions to intoxicated individuals to move on regardless of whether they are by themselves or part of a group. Currently, the move-on powers in the Act restrict police from giving move-on directions to intoxicated people where they are in groups of three or more.

Proceedings: The bill was introduced and read a first time. In his second reading speech, the Minister indicated that the bill is part of the Government's election commitment to making the streets of NSW safe again.

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.

Motions

Parliamentary Budget Office (Ms Fazio, Opposition)

Summary: Legislation was passed in the last Parliament establishing the Parliamentary Budget Office to provide costings of election policies and policy proposals.

The motion expressed support for the continuation of the Parliamentary Budget Office, and called on the Government to give a commitment to the Office and to continue its current level of funding.

Proceedings: Standing orders were suspended to bring on the item of business. Ms Fazio argued that the creation of the Office was an important innovation in NSW providing an independent costings body, and noted that prior to the last election, the then Leader of the Opposition and now Premier made a commitment to increased government accountability and scrutiny. The Greens supported the motion on similar grounds, noting also that the Office is a work in progress and that it is yet to reach its full potential. The Government indicated that it would give proper consideration to the issue in due course.

The motion was negatived (Division 17:20).

Lionel Edward Rose MBE (Mr Veitch, Opposition)

Summary: The motion noted the passing on 8 May 2011 of Lionel Edward Rose MBE, in 1968 the first Aboriginal Australian to win a world boxing title and the first Aboriginal to be announced Australian of the year, and one of the first sportspersons anywhere to make a personal stand against apartheid.

Proceedings: Standing orders were suspended to bring on the item of business. The motion was debated and agreed to, members noting the humility, professional skill and public esteem of Mr Rose.

NSW Parliament Plein Air Painting Prize (Ms Westwood, Opposition)

Summary: The motion noted the exhibition of selected works from the NSW Parliament Plein Air Painting Prize on display in the Fountain Court of Parliament House.

Proceedings: The motion was debated and agreed to, members noting the plein air painting tradition in Australia, the variety of the artworks in the exhibition, and the success of the exhibition.

National Volunteer Week (Mr Donnelly, Opposition)

Summary: The motion noted that 9 to 15 May is National Volunteer Week, and called on the Government to continue the support and initiatives of the previous Labor Government with respect to volunteering in NSW.

Proceedings: Members noted the significant contribution that volunteers make to the NSW community with 1.67 million people in NSW involved in volunteering on a formal basis. The Minister for Emergency services referred in particular to the work of the emergency services, introducing recipients of the Rural Fire Service and State Emergency Service Cadet of the Year awards who were present in the gallery. Debate was interrupted by the adjournment of the House.

Petitions received

- (1) Newcastle rail lines – 338 signatures (irregular, presented Ms Voltz)
- (2) Closure of the Newcastle rail line – 20 signatures (presented Ms Voltz)
- (3) Coal seam gas operations – 541 signatures (presented Mr Buckingham)
- (4) Part 3A of the Environmental Planning and Assessment Act 1979 – 151 signatures (presented Mr Shoebridge).

Committee activities

Committees established

The House appointed the following standing committees for the 55th Parliament:

- (1) The Law and Justice Committee,
- (2) The Social Issues Committee,
- (3) The State Development Committee,
- (4) General Purpose Standing Committee No. 1,
- (5) General Purpose Standing Committee No. 2,
- (6) General Purpose Standing Committee No. 3,
- (7) General Purpose Standing Committee No. 4,
- (8) General Purpose Standing Committee No. 5,
- (9) The Procedure Committee,
- (10) The Privileges Committee.

Committee references

Procedure Committee: The House referred to the Procedure Committee an inquiry into

- the merits of the Legislative Council trialling a Selection or Business Committee,
- the merits of various options for reforming the current system of managing private members'

business, including the option of a Selection or Business Committee,

- the merits of further reforms to the operation of Question Time, including to the relevance of answers,
- mechanisms to enable the provision of a right of reply to ministerial statements to be extended to a representative of the cross bench,
- procedures for the more regular referral of bills to the Legislative Council's standing committees, including the potential impact of any such change,
- the merits of the Legislative Council trialling new arrangements for debate on committee reports, including the option of trialling a Selection or Business Committee to allocate debate times,
- the merits of the Legislative Council passing a resolution concerning the meaning of appropriations bills 'for the ordinary annual services of the Government.

Budget Estimates: The House referred to the General Purpose Standing Committees the budget estimates and related papers for the financial year 2011-12.

Reports tabled

Auditor General: Performance Audit report entitled: 'Transport of Dangerous Goods: Office of Environment & Heritage, WorkCover NSW', May 2011.

Department of Environment and Climate Change: 'Waste Avoidance and Resource Recovery Progress Report 2010 – volumes 1 and 2'.

Independent Commission Against Corruption: 'Investigation into the solicitation of a corrupt payment by a Strathfield Municipal Council officer', May 2011.

Independent Pricing and Regulatory Tribunal: 'Review of prices for the Water Administration Ministerial Corporation for the NSW Office of Water from 1 July 2011: Water – Determination and Final Report', February 2011.

Inspector of Independent Commission Against Corruption: 'Report of an audit of applications for and execution of Surveillance Device Warrants and Retrieval Warrants by the Independent Commission Against Corruption', April 2011.

Local Government Remuneration Tribunal: 'Report and determination of the Local Government Remuneration Tribunal', April 2011.

Adjournment debate

Monday 9 May 2011

Nambucca Marine Rescue Headquarters (Ms Pavey); Tribute to Terry Diamantis and Patrick Brassil AM (Ms Fazio); State election (Mr Brown); Tribute to Tom Hannan

(Mr Foley); Hospital projects (Ms Gardiner); RSPCA funding (Mr Borsak).

Tuesday 10 May 2011

Tribute to Beverley Deo OAM (Ms Ficarra); Retail competition (Ms Voltz); Body image (Ms Faehrmann); Tamworth Hospital redevelopment (Mr Khan); Katoomba Neighbourhood Centre (Ms Westwood); Tribute to Peter Gay (Mr Shoebridge).

Wednesday 11 May 2011

Crime rates (Mr Donnelly); Tribute to Mr Joseph Rokoqo (Mr Lynn); Kangaroo hunting (Mr Borsak); The Hon John Hatzistergos' valedictory speech and workforce casualisation (Ms Cotsis); Election result (Ms Pavay); Teacher bonus scheme (Dr Kaye); Election result (Mr Mason-Cox).

Thursday 12 May 2011

Game Council (Mr Brown); Election result (Mr Colless); International Day Against Homophobia (Ms Sharpe); Abortion (Ms Faehrmann); South Asia Muslim Association of Australia (Mr Moselmane); International Nurses Day (Ms Pavay).

Feedback on *House in Review*

We welcome any comments you might have on this publication.

We're 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.



Lynn Lovelock
Clerk of the Parliaments