

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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19 to 21 June 2012*

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

The sitting week was dominated by the intense debate and consideration of two items – the Workers Compensation Legislation Amendment Bill and the Game and Feral Animal Control Amendment Bill.

In order to finalise matters prior to the commencement of the winter break, government business took precedence over committee reports and private members' business on Tuesday and Thursday respectively. Even so the House twice sat late into the early hours of the next morning while it scrutinised the two bills, with the committee stage for the Workers Compensation bill lasting more than nine hours.

Attendance of Speaker of the National Parliament of Solomon Islands

On 19 June 2012, the President drew attention to the presence in his gallery of Sir Allan Kemakeza, KBE, Speaker of the National Parliament of Solomon Islands accompanied by his wife, Lady Kemakeza and the Solomon Islands Honorary Consul, Sir Trevor Garland.

On the invitation of the House, Sir Allan took a chair on the dais to the right of the President, upon which the President welcomed Sir Allan to the House.

Government business

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

Workers Compensation Legislation Amendment Bill 2012 and cognate Safety, Return to Work and Support Board Bill 2012

The bills originated in the Legislative Assembly.

Summary: The Workers Compensation Legislation Amendment Bill amends the *Workers Compensation Act 1987* and the *Injury Management and Workers Compensation Act 1998* to make a number of significant changes to the workers compensation scheme primarily relating to new limits on, and eligibility thresholds for, the amount and type of benefits, expenses and compensation paid to injured workers. The bill also includes incentives and obligations designed to improve return-to-work outcomes.

The cognate Safety, Return to Work and Support Board Bill establishes a single Board to oversee the functions of the WorkCover Authority, the Motor Accidents Authority, the Lifetime Care and Support Authority and the Sporting Injuries Committee.

Proceedings: The bills were received from the Legislative Assembly on 20 June 2012 and read a first time. Standing orders were suspended to allow the passing of the bills through all remaining stages in one sitting day (Division 20:18). Debate on the second reading of the bills commenced later that night. In his second reading speech, the Minister (Mr Pearce) noted that despite having similar workplace safety outcomes to Queensland and Victoria, New South Wales workers compensation premium costs are around 20 per cent to 60 per cent higher. The Workers Compensation Legislation Amendment Bill seeks to reform the workers compensation scheme and address its unsustainable deficit of over \$4 billion, while moving towards properly meeting the needs of the most seriously injured workers and providing strong return to work incentives for those workers who have the capacity to do so.

The Minister also argued that the Workers Compensation Legislation Amendment Bill responds to the recommendations of the Joint Select Committee on the NSW Workers Compensation Scheme, which tabled its report on 13 June 2012, and gives effect to the Government's commitment to introduce legislation during the 2012 budget session. The Minister noted that sworn police officers would be excluded from the reforms because their own death and disability scheme had recently been reformed and because of the 24-hour nature of their duties.

The Opposition and the Greens were strongly opposed to the bills, with both challenging the Government's argument that the scheme was in crisis and that businesses would face large premium increases without substantial, immediate reform. The bills were described as an appalling attack on the rights of workers, while failing to make any provision for making workplaces safer or reducing rates of injuries. Both parties argued that it was unfair that the entire burden of the scheme's reform was placed on injured workers while not addressing the continuing increase in claims management costs charged by insurers. Both parties were also critical

of the composition of the Joint Select Committee and the short 5 week timeframe it had to examine the scheme, which they argued led to the recommendations of the Committee simply reflecting the Government's chosen reform agenda.

The Christian Democratic Party, while accepting the Government's argument there is real need for urgent reform, held some concerns including the proposed exclusion of journey claims, legal costs and the lack of financial planning associated with lump sum compensation payments, for which they foreshadowed amendments. The Shooters and Fishers Party argued that the scheme was in crisis and that the reforms contained in the bills, while contentious, were necessary.

In reply, the Minister said the reforms, which were modelled on the Victorian compensation scheme, were essential and that the only alternative to reform was an increase in premiums which would result in job losses – a result that could be not contemplated in the current economic environment if NSW was to remain competitive. The Minister argued that the bill restructures compensation benefits in a way that is fair and reasonable while increasing benefits for seriously injured workers. However, the Minister indicated that the Government would support the amendments foreshadowed by the Christian Democratic Party. The second reading was agreed to (Division 19:16).

The Government, Opposition, Greens, Christian Democrats and the Shooters and Fishers all prepared amendments to the bill. A total of 137 amendments were circulated prior to the committee stage. Ultimately 13 amendments were agreed to.

The Opposition and the Greens through their proposed amendments to the Workers Compensation Legislation Amendment Bill consistently sought to retain existing benefits or conditions that the bill was seeking to change or remove. The Greens, with the support of the Christian Democrats and the Shooters and Fishers, were successful in having paramedics and firefighters join police in being excluded from the effects of the bill. Christian Democrats amendments to reinstate some journey to work claims, and to have the review of the amendments and the Act occur after two years were agreed to.

During consideration of the Safety, Return to Work and Support Board Bill, the Greens moved a number of amendments seeking to remove the Lifetime Care and Support Authority from the new board. The amendments drew the support of the Opposition only and were negated on division.

The Workers Compensation Legislation Amendment Bill was reported with amendments and the cognate Safety, Return to Work and Support Board Bill was reported without amendment. The third reading of the bills was agreed to (Division 19:16) and the bills were returned to the Assembly, where the amendments were immediately considered and agreed to.

Appropriation Bill 2012 and cognates Appropriation (Parliament) Bill 2012 and State Revenue and Other Legislation Amendment (Budget Measures) Bill 2012

The bills originated in the Legislative Assembly.

Summary: The Appropriation Bill is the annual budget bill which appropriates sums from the Consolidated Fund to provide for the expenditure of the Government in the financial year 2012-2013.

The cognate Appropriation (Parliament) Bill 2012 appropriates funding for the Parliament. The Appropriation (Parliament) Bill was introduced as a separate bill in 1991 in recognition of the separation of the Parliament from the Executive Government. It was discontinued in 2011, but has been re-instituted following representations to the Government by the Presiding Officers of the Parliament.

The cognate State Revenue and Other Legislation Amendment (Budget Measures) Bill 2012 makes miscellaneous amendments to certain State revenue and other legislation in connection with the Budget.

Proceedings: Debate on the second reading of the bills commenced on 19 June 2012. In his second reading speech, the Minister (Mr Pearce) spoke of the Budget initiatives to encourage first home buyers to enter the housing market, and to encourage housing starts in NSW. The Opposition argued that the Government has failed to deliver on various promises made prior to the 2011 election, including keeping the budget in surplus and fast-tracking investment in infrastructure. The Greens argued that the Budget incorporates significant cuts to public services and social programs, and will increase the cost of homes for first home buyers. The Christian Democratic Party supported the bills and the Government's Budget.

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

Appropriation (Budget Variations) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill sets out payments from the Treasurer's Advance for recurrent and capital services since the Appropriation Bill 2011, appropriates amounts from the Consolidated Fund for the exigencies of government, and appropriates additional funds to provide for payments to be made during this current financial year where no provision was made in the annual Appropriation Bill.

Proceedings: The bill was received from the Legislative Assembly on 20 June 2012 and read a first time. The second reading commenced the next day. In his second reading speech the Parliamentary Secretary (Mr Mason-Cox) noted the bill also appropriates from 2011/12, \$61.2 million for payments required to be made in response to natural disasters and an additional \$800 million to State Super before 30 June 2012 to reduce superannuation liabilities. The Opposition and the Greens supported the bill.

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

City of Sydney Amendment (Central Sydney Traffic and Transport Committee) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends the *City of Sydney Act 1988* in order to establish the Central Sydney Traffic and Transport Committee (CSTTC). The committee will consist of representatives of the State Government and the City of Sydney Council and will be responsible for the effective coordination of traffic and transport management in the Sydney CBD.

Proceedings: The bill was received from the Legislative Assembly on 19 June 2012 and read a first time. In his second reading speech, the Minister (Mr Gay) said that while the Council of the City of Sydney and Transport for NSW work cooperatively on many individual transport issues, there is no effective coordination mechanism to ensure decisions are made that support the broader interests of the State, and that such a mechanism is essential given the impact that the Sydney CBD has on the State's economic activity and international competitiveness.

Members of the Government, the Christian Democratic Party and the Shooters and Fishers supported the bill. The Opposition did not oppose the bill, but argued the CSTTC represented an unnecessary additional layer of bureaucracy that duplicated existing approval processes. The Greens did not oppose the bill but described the establishment of the CSTTC as 'mock reform' that would achieve nothing of substance while eroding local autonomy. Both the Opposition and the Greens argued the bill was an attempt to politicise the issue of traffic and transport in the city as part of the Government's on-going attack on the Lord Mayor of Sydney.

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

Security Industry Amendment Bill 2012

The bill originated in the Legislative Council.

Summary: The bill amends the *Security Industry Act 1997* to make further provisions for the licensing and regulation of persons in the security industry by expanding the range of powers that can be exercised by police officers.

Proceedings: Debate on the second reading of the bill resumed on 19 June 2012 from 13 June 2012 (see the previous edition of *House in Review* for earlier debate).

The Opposition, the Christian Democratic Party and the Greens expressed broad support for the tighter regulation proposed in the bill as they were concerned by reports that outlaw motorcycle gangs have infiltrated the security industry – an industry which has access to firearms and to secure locations and plays an important role in providing elements of law and order to the public.

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

Child Protection (Working with Children) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill requires that people who work with children obtain a 'working with children check' clearance and prohibits the granting of clearances to persons who have been convicted or charged with certain offences. The bill also gives the power to the Commission for Children and Young People to grant and refuse applications for clearances as well as the establishment of a working with children register and databases.

Proceedings: The bill was received from the Legislative Assembly on 20 June 2012 and read a first time. The second reading commenced the next day. In his second reading speech, the Parliamentary Secretary (Mr Ajaka) said that the new Working With Children Check, introduced by the bill, will provide greater protection for children by extending its scope and making it consistent with those in other States. Mr Ajaka also stated that this bill is based on recommendations from the 2010 review of the *Commission for Children and Young People Act 1998* and implements recommendations from the Auditor General's performance audit of the check.

The Opposition and the Greens supported the bill with the acknowledgement that New South Wales was the first State to introduce a working with children check under the Labor Government. The check still maintains bipartisan support, however, it was acknowledged that the system is not working as well as it could and the changes introduced in this bill will ensure that the State has the strongest protection scheme possible for children. The second reading was agreed to.

In the committee stage the Greens moved an amendment that employers of public sector staff must pay the fee for their staff to receive the check. The amendment was not supported and was negated (Division 5:29).

The bill was reported to the House without amendment, read a third time and forwarded to the Assembly for concurrence. The Assembly agreed to the bill.

Inspector of Custodial Services Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill provides for the appointment of an Inspector of Custodial Services. The Inspector will perform an independent statutory role that will provide external scrutiny of the standards and operational practices of custodial centres and custodial services.

Proceedings: The bill was received from the Legislative Assembly on 20 June 2012 and read a first time. The second reading was set down for a later hour of the sitting.

Messages from the Assembly

The House received the following messages from the Legislative Assembly relating to bills forwarded to the Assembly by the Council in previous sitting weeks.

Motor Accidents and Lifetime Care and Support Schemes Legislation Amendment Bill 2012: On 20 June 2012 the Assembly advised it had agreed to the bill which it was returning without amendment.

Public Sector Employment and Management Amendment (Procurement of Goods and Services) Bill 2012: On 20 June 2012 the Assembly advised it had agreed to the bill which it was returning without amendment.

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.

Bill

Game and Feral Animal Control Amendment Bill 2012 (Mr Brown, Shooters and Fishers Party)

The bill originated in the Legislative Council.

Summary: The bill amends the *Game and Feral Animal Control Act 2002* to make specified national park estate land available for the hunting of game animals by persons who hold a game hunting licence, to add further animals to the list of game animals that may be hunted and to make it an offence to interfere with persons lawfully hunting game animals on public hunting land.

Proceedings: The Government and the Christian Democratic Party supported the Shooters and Fishers Party in progressing the passage of the bill. On 20 June 2012, standing orders were suspended (Division 19:18) to bring on resumption of the debate on the second reading of the bill (see the previous edition of *House in Review* for earlier debate). Members of the Government supported the bill, describing it as a logical extension of the State's current feral animal control program. Government members argued that public safety concerns over the bill were unfounded, pointing to the appropriate compliance controls to be implemented and to the success of volunteer hunting programs in other Australian jurisdictions. It was foreshadowed that the Government would seek to omit the provisions relating to the *Firearms Act 1996*, as the proposed amendments required further detailed consideration. The Christian Democratic Party supported the bill, noting the long period of negotiation over this and the previous Parliament leading to the bill's introduction.

The Opposition was opposed to the bill, citing a number of concerns including what it viewed as a lack of appropriate safeguards, the potential for the significant expansion of the number of parks in which hunting is allowed, and the questionable rationale behind the proposal for the Game Council to have a role in the declaration of pest species. The Greens were strongly opposed to the bill, describing it as deeply dangerous to other national park users and workers. The Greens argued that the experience in State Forests had proven volunteer hunting to be ineffective in addressing the issue of feral animals.

Both the Opposition and the Greens criticised the Government for reversing its previous stated position on hunting in national parks in order to gain the support of the Shooters and Fishers for its own legislative program.

In reply to the debate, Mr Brown argued that the types of parks and reserves to be considered for volunteer hunting are those that are: contiguous to State Forests, have a known feral animal problem, and not widely patronised by the public. Mr Brown argued that bill was primarily concerned with protecting native animals and that the low cost and continual nature of volunteer hunting would ensure that it would be effective in achieving that aim. The second reading was agreed to (Division 21:18).

In the committee stage, 20 amendments were moved by the Greens and 4 by the Opposition. All but one of the amendments were negatived, including similar attempts by both the Opposition and the Greens to limit Ministerial authority to increase the number of national park estate lands in which hunting could be allowed.

The Greens amendment to omit the section of the bill relating to amendments to the *Firearms Act 1996*, was supported by all parties including the Government which had also circulated the same amendment.

The bill was reported to the House with an amendment. On 21 June 2012, the third reading of the bill was agreed to (Division 20:17), and the bill was forwarded to the Assembly for concurrence. The Assembly agreed to the bill.

Motion

Select Committee on the Closure of the Cronulla Fisheries Research Centre of Excellence (Mr Whan, ALP)

Summary: The motion called for the establishment of a Select Committee to examine the basis of the Government's decision to close the Cronulla Fisheries Research Centre of Excellence and relocate its functions to other locations. The motion called for various issues to be examined including the basis of the decision, the consultation undertaken prior to making the decision, and the costs and benefits of closing the Centre.

Proceedings: Standing orders were suspended to bring on the motion. Mr Whan, by leave, amended the motion to extend the Committee's reporting date to 23 October 2012. In speaking to the motion, Mr Whan said that the Inquiry would provide an avenue for the Cronulla Fisheries employees to have their voices heard and to explore implications for sustainable fisheries management. The motion, as amended, was agreed to. Further information on the Inquiry is available on the Parliament's website www.parliament.nsw.gov.au.

Motions taken as formal business

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

- (1) Cotton gin at Whitton (Mr Blair)
- (2) Lieutenant Colonel Harry Smith (Mr Lynn)

- (3) Vietnamese Community in Australia (Mr Lynn)
- (4) Dr John Brown (Dr Kaye)
- (5) Tutti in Piazza (Ms Ficarra)
- (6) Penrith Women in League (Ms Ficarra)
- (7) Mr Moslem Qannadian (Mr Moselmane)
- (8) Mr Bawa Singh (Mr Moselmane)
- (9) Mr Peter John Turnbull (Mr Moselmane)
- (10) Public School Upgrade Program (Ms Ficarra)
- (11) Walk Safely to School Day (Mrs Maclaren-Jones)
- (12) Case of Loving v Virginia (Dr Phelps on behalf of Mr Khan)
- (13) Joseph Benedict Chifley (Dr Phelps on behalf of Mr Khan)
- (14) Paramedic Mr Mick Wilson (Mr Donnelly)
- (15) Fairfax media operational changes (Dr Kaye)
- (16) NSW Federation of Community Language Schools (Ms Ficarra)
- (17) Gunnedah Eisteddfod (Mrs Mitchell)
- (18) Association of Bhanin El-Minich (Mr Moselmane)
- (19) Captain Graham Parks (Mr Blair)
- (20) St Mark Coptic Orthodox Cathedral, Arncliffe (Mr Moselmane)
- (21) Women in League (Mrs Mitchell)
- (22) Prostate cancer surgery (Ms Ficarra)
- (23) Professor Beng Hock Chong (Mr Moselmane)
- (24) Mr Haj Adib Marabani (Mr Moselmane).

Petitions received

- (1) Swansea Police Station – 1274 signatures (irregular, presented Ms Voltz)
- (2) Public transport to the University of Wollongong – 21 signatures (presented Mr Secord)
- (3) Funding for Foodbank NSW – 87 signatures (presented Mr Ajaka).

Reports tabled

Inspector of the 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’, May 2012.

Auditor General: Performance Audit report entitled: ‘Managing overtime: Rail Corporation NSW (Rail Corp), Roads and Maritime Services’, June 2012.

Committee activities

Note: Committee activities includes 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 following section entitled ‘Inquiry activities’.

Committee reference

Select Committee on the Closure of the Cronulla Fisheries Research Centre of Excellence: The House established a Select Committee to conduct an inquiry into the closure of the Cronulla Fisheries Research Centre of Excellence (see earlier discussion under ‘Private Members’ Business’).

Committee membership

The following committee membership was reported to the House:

Select Committee on the Partial Defence of Provocation

The Government nominated three members to serve on the Committee: Mr Clarke, Mr Khan and Mr MacDonald.

Joint Standing Committee on Electoral Matters

The membership was expanded to ten members, five from the Legislative Assembly and five from the Council.

Committee reports tabled

Legislation Review Committee: ‘Legislation Review Digest No. 20 of 2012’, 19 June 2012.

Procedure Committee: Report No. 7 entitled ‘Notices of motions’, June 2012.

Privileges Committee: Report No. 61 entitled ‘The right of reply process’, June 2012.

Government responses

Standing Committee on Law and Justice: The House received a response to Report No. 47 entitled ‘Fourth review of the exercise of the functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council’, tabled 14 February 2012.

Standing Committee on Law and Justice: The House received a response to Report No. 48 entitled ‘Eleventh review of the exercise of the functions of the Motor Accidents Authority and the Motor Accidents Council’, tabled 14 February 2012.

Inquiry activities

Note: Inquiry activities include committee activities as part of an active inquiry. It includes hearings, site visits and other meetings. This section also notes which committees are receiving submissions and upcoming committee inquiry activity.

Select Committee on the Partial Defence of Provocation

The Committee has been tasked to inquire into and report on the partial defence of provocation and will consider whether it should be retained, or whether the elements of the partial defence should be amended in light of reforms in other jurisdictions. It will also consider the adequacy of the defence of self defence for victims of prolonged sexual and domestic violence.

Standing Committee on Social Issues

The Committee is in the process of drafting its final report on domestic violence trends and issues in NSW. The report will be informed by an innovative and highly successful round table discussion with key stakeholders, who worked through a briefing paper and possible recommendations prepared by the Committee. The report is expected to be delivered in August 2012.

General Purpose Standing Committee No 5

The Committee is currently accepting submissions to its inquiry into the management of public land in NSW, with a submission closing date of Friday 3 August 2012. The Committee will hold its first public hearing at Deniliquin on Wednesday 1 August 2012. The hearing is taking place as part of a site visit to inspect River Red Gum Forests near Deniliquin and Yanga National Park, near Balranald.

Standing Committee on State Development

The Committee is currently accepting submissions to its inquiry into the adequacy of water storages in NSW, with a submission closing date of Friday 3 August 2012. The Committee will hold its first public hearing at Parliament House on Monday 20 August 2012. The Committee will conduct its first site visit on 29 and 30 August 2012 to the Shoalhaven region and Goulburn.

Adjournment debate

Tuesday 19 June 2012

Member for Northern Tablelands (Mr Khan); Coogee electorate not-for-profit organisations (Mr Veitch); Same-sex marriage (Revd Mr Nile); Tribute to the Hon Frank Walker, QC (Mr Foley); Housing (Ms Barhan); Carbon tax (Mr Mason-Cox).

Wednesday 20 June 2012

Local government infrastructure backlog (Ms Cotsis); Household power bills (Dr Kaye); Manufacturing (Mr Primrose); GreenMoney recycling rewards (Ms Cusack); American Independence Day (Mr Clarke).

Thursday 21 June 2012

Wealth inequality (Ms Faehrmann); Avalon Tattoo/Women in League (Mrs Maclaren-Jones); Multicultural media awards (Mr Moselmane); Campbelltown-Wollongong university bus services (Mr Secord); Regional media (Mr MacDonald); Christian Democratic Party annual dinner (Revd Mr Nile); Partial defence of provocation (Mr Shoebridge).

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.



David Blunt
Clerk of the Parliaments