

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



Volume 55/30

*Sitting period
14 to 16 August 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

This was the first sitting week of the spring sitting period, following the seven week winter recess. The main legislative activity related to the debate on the Tobacco Legislation Amendment Bill and consideration of proposed amendments in the committee of the whole House on Wednesday evening.

An interesting procedural occurrence took place just after the House adjourned on Thursday afternoon when a message was received from the Legislative Assembly, rejecting the Council's request (made on 13 September 2011) for a free conference to address the dispute between the two Houses on the Graffiti Legislation Amendment Bill 2011. This message will be reported on Tuesday 21 August. It will be fascinating to see what occurs when the Assembly's message is considered by the Council (presumably next week).

Death of former member

The President reported to the House the death of the Hon Robert Baron Rowland Smith, a member of the House from 1974 to 1999. The President further reported that on behalf of the House he had extended to the family the deep sympathy of the Legislative Council in the loss sustained.

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.

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. Debate on the second reading of the bill commenced on 14 August 2012. In his second reading speech, the

Parliamentary Secretary (Mr Clarke) stated that the bill implements a Government election commitment and follows the recommendations of the June 2009 report of the General Purpose Standing Committee No 3 inquiry into the privatisation of prisons and prison-related services. Mr Clarke said the Inspector will take a proactive role to improving custodial services and will regularly inspect and report on all correctional facilities.

Members of the Government and the Christian Democratic Party supported the bill. The Opposition did not oppose the bill. However, it said that the bill represented a broken election commitment by the Government, as the bill does not fully reinstate the position of Inspector-General of Prisons which had been dissolved in 2003. The Opposition foreshadowed that it would seek to amend the bill in the committee stage, including broadening the role of the Inspector to investigate individual complaints. While acknowledging it had some limitations, the Greens supported the bill as a step forward in terms of the oversight of prisons. The second reading was agreed to.

In the committee stage, both the Opposition and the Greens sought to amend the bill. As foreshadowed, the Opposition sought to broaden the role of the Inspector; while the Greens sought to ensure that the Inspector had 'free and unfettered' access to prisoners. However, as neither party could gain the support of the Government or the other cross-bench parties, both sets of amendments were negatived (Division 17:20).

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

Tobacco Legislation Amendment Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Smoke-free Environment Act 2000* to provide for the extension of the prohibition on smoking in certain outdoor public places and amends the *Health Services Act 1997* to allow local health districts and statutory health corporations to enact by-laws to ban smoking at public hospitals, health institutions and health services.

Proceedings: The bill was received from the Legislative Assembly on 13 June 2012 and read a first time. Debate on the second reading of the bill commenced on 15

August 2012. In her second reading speech, the Parliamentary Secretary (Mrs Pavey) noted that New South Wales has a proud history of leading the way in Australia in tobacco control initiatives, and that it was now time to undertake the next stage of tobacco control – the regulation of smoking in outdoor public places. Mrs Pavey said that the bill seeks to prohibit smoking in a range of outdoor public places in order to better protect public health and de-normalise smoking in the community.

Members of the Government supported the bill as did the Christian Democratic Party who referred to the World Health Organisation statistics on tobacco-related deaths. The Opposition supported the bill but foreshadowed that it would move amendments in the committee stage designed to protect workers in the Star Casino high roller room. The Greens supported the bill, noting that all the proposed bans provided for in the bill were sensible. The Greens also foreshadowed amendments, which they argued would tighten the wording of the bill and remove potential loopholes which could be used to thwart the bill's objectives. The second reading was agreed to.

In the committee stage, the Opposition moved two sets of amendments related to casino private gaming area exemptions. The first set sought to remove the exemption, while the second sought to set requirements for air quality management in casino private gaming areas. Despite the support of the Greens, both sets of amendments were negated on division. The Greens moved amendments seeking to remove the delay in implementation of the new bans, broaden the proposed bans to include more outdoor organised events; and to capture more situations under the definition of outdoor dining area. However, the Greens could not secure support from any of the other parties and the amendments were all negated, either on the voices or on division.

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

Fines Amendment Bill 2012

The bill originated in the Legislative Council.

Summary: The bill amends the *Fines Act 1996* to make further provisions with respect to fines and their enforcement.

Proceedings: The bill was introduced on 15 August 2012, read a first time and printed. In his second reading speech, the Minister (Mr Pearce) indicated that the bill contains important provisions to ensure that fines imposed for breaches of the law are enforced and that debts due to the State are recovered. The Minister stated that the bill will improve the ability of the State Debt Recovery Office (SDRO) to successfully take fine enforcement action by extending its authority to obtain information identifying fine defaulters.

Debate was adjourned for five calendar days.

Crime Commission Bill 2012

The bill originated in the Legislative Council.

Summary: The bill re-enacts, in a modernised form, the *New South Wales Crime Commission Act 1985* to implement certain recommendations of the report of the Special Commission of Inquiry into the Crime Commission (the Patten Report).

Proceedings: The bill was introduced on 15 August 2012, read a first time and printed. In his second reading speech, the Minister (Mr Gallacher) stated that the bill implements the vast majority of the recommendations made in the Patten Report and brings the legislation underpinning the Crime Commission into modern times. The Minister argued the bill strengthens the accountability of the Crime Commission to limit corruption, including increased oversight and management, a stronger independent management committee, oversight by a parliamentary joint committee, scrutiny of an independent inspector and improved procedures relating to employment, management and human resource handling.

Debate was adjourned for five calendar days.

Community Housing Providers (Adoption of National Law) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill applies as a law of the State the Community Housing Providers National Law. The national law provides a national system of registration, monitoring and regulation of community housing providers. New South Wales is a signatory to an intergovernmental agreement which refers to the national law.

Proceedings: The bill was received from the Legislative Assembly on 15 August 2012 and read a first time. The second reading was set down for a later hour of the sitting.

Message from the Assembly

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

Workers Compensation Legislation Amendment Bill 2012: On 22 June 2012 the Assembly advised it had agreed to the Council's amendments.

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

State Senate Bill 2012 (Revd Mr Nile, Christian Democratic Party)

The bill originated in the Legislative Council.

Summary: The bill authorises the use of the terms State Senate as a reference to the Legislative Council and State

Senator as a reference to a Member of the Legislative Council.

Proceedings: Standing orders were suspended to bring on the item of business. The bill was presented, read a first time and printed on 16 August 2012. In his second reading speech, Revd Mr Nile said that the terms 'senate' and 'senator' enjoyed wide knowledge and acceptance among the general public both in Australia and overseas, and that allowing the Legislative Council also to be referred to as the State Senate would increase public recognition and understanding of its role. Revd Mr Nile noted the bill would not infringe restrictions in the Constitution.

Debate was adjourned for five calendar days.

Motions

110th anniversary of the right of women to vote and stand as candidates (Mrs Maclaren-Jones, Liberal Party)

Summary: The motion called on the House to note the 110th anniversary of the right of women to vote and to stand as candidates in elections for the Australian Federal Parliament and the electoral milestones achieved under Coalition Governments and by Coalition women. The motion further called on the Australian Labor Party to introduce preselection equality to ensure women are selected on merit alone.

Proceedings: Debate on the motion resumed on 16 August 2012 (see Vol 55/28 of *House in Review* for earlier debate). The item was called on according to precedence.

Members from all sides supported the recognition of the 110th anniversary and referred to specific achievements of women who had and continue to serve with distinction in Australian parliaments. During debate, Ms Faehrmann moved that the motion be amended by omitting the section on electoral milestones achieved under Coalition Governments and by Coalition women to include a section on the electoral milestones achieved by women from all sides of politics.

The amendments of Ms Faehrmann and Ms Cotsis (moved during the earlier debate) were negatived on the voices and the motion was agreed to without amendment (Division 21:2).

Australian Olympic Team (Ms Voltz, Australian Labor Party)

Summary: The motion called on the House to congratulate the achievements of the Australian Olympic Team during the 2012 London Olympics, particularly the achievements of the New South Wales competitors.

Proceedings: Standing orders were suspended to bring on the item of business. Members from all sides supported the motion and joined in congratulating the Australian Olympic Team. Members spoke of the individual achievements of the athletes and the inspiration their performances would give to young Australians.

The motion was agreed to.

DonateLife Week (Mrs Pavey, The Nationals)

Summary: The motion called on the House to note that Australia has one of the highest transplant success rates in the world, yet New South Wales has one of the lowest organ donation rates in Australia; that the Minister for Health released a discussion paper in December 2011 seeking comment on a range of proposals to boost donation rates; and that NSW Police and NSW Health have initiated a time saving system for coordination of urgent organ transportation.

Proceedings: Debate on the motion commenced according to precedence. In speaking to the motion, Mrs Pavey said the need for organ donors has become more urgent in recent years with waiting lists for organ transplants growing globally. Mrs Pavey noted that this year the DonateLife Week theme focused solely on the issue of normalising the discussion about organ and tissue donation and knowing the donation wishes of those closest to you.

Debate was interrupted for Questions.

Motions taken as formal business

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

- (1) Chinese language teachers (Mr Moselmane)
- (2) Red Nose Day (Mrs Mitchell)
- (3) Mr Thomas Kelly (Mr Blair)
- (4) Australian Institute of Credit Management Young Credit Professional of the Year (Ms Ficarra)
- (5) Resources for students with disabilities (Ms Ficarra)
- (6) Sydney Full Gospel Church Korean Language School (Ms Ficarra)
- (7) Chinese Australian Forum (Ms Ficarra).

Orders for papers

Note: The Council has a common law power to order the Government to produce State papers.

Returns to order

- (1) **2012-2013 Budget Finances:** received 27 June 2012, six boxes public, one box privileged.
- (2) **2012-2013 Budget:** received 27 June 2012 eight boxes public.

Petitions received

- (1) Religious discrimination – 110 signatures (presented Mr Moselmane); 25 signatures (presented Mr Moselmane).
- (2) Game Council of New South Wales – 20 signatures (presented Mr Shoebridge).
- (3) Police services in Tweed Heads – 28 signatures (Mr Secord).
- (4) Unsupervised hunting – 100 signatures (presented Mr Shoebridge).

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 membership

The following committee membership was reported to the House:

Select Committee on the closure of the Cronulla Fisheries Research Centre of Excellence

The Government nominated three members to serve on the Committee: Mr Ajaka, Mr Blair and Ms Ficarra. Mr Clarke was later nominated in place of Mr Ajaka.

The Opposition nominated two members to serve on the Committee: Mr Veitch and Mr Whan.

Ms Ficarra was elected Deputy Chair of the Committee.

General Purpose Standing Committee No. 1

Change of membership: Mr Mason-Cox in place of Miss Gardiner.

General Purpose Standing Committee No. 2

Change of membership: Miss Gardiner in place of Mrs Mitchell.

General Purpose Standing Committee No. 4

Change of membership: Mrs Mitchell in place of Mr Mason-Cox.

Committee report tabled

Legislation Review Committee: 'Legislation Review Digest No. 21 of 2012', 14 August 2012.

Committee reports debated

Standing Committee on Social Issues: The House continued the take-note debate on Report No. 45 entitled 'Transition support for students with additional or complex needs and their families', March 2012. Members emphasised the importance of transition support to students with additional or complex needs, including students in regional areas, at a time of particular vulnerability in their lives. Debate was adjourned until the next sitting day.

General Purpose Standing Committee No. 3: The House concluded the take-note debate on Report No. 26 entitled 'Rail infrastructure project costing in NSW', March 2012. The Chair (Mrs Maclaren-Jones) said that the Committee's recommendations, if implemented, would assist in ensuring the delivery of cost-effective rail infrastructure projects.

Standing Committee on Law and Justice: The House continued the take-note debate on Report No. 49 entitled 'Opportunities to consolidate tribunals in NSW', March 2012. Mr MacDonald noted the value of the Committee's first-hand examination of tribunals in Victoria. Debate was adjourned until the next sitting day.

General Purpose Standing Committee No. 5: The House commenced the take-note debate on Report No. 35 entitled 'Coal seam gas', May 2012. The Chair (Mr Brown) acknowledged Mr Buckingham's role in initiating the Inquiry, and thanked members for their thorough and constructive approach to a controversial and complex inquiry. Mr Brown urged the Government to adopt the report's recommendations in order to improve the regulation of coal seam gas activities in New South Wales. Mr Buckingham and other members highlighted the extent of community participation in the Inquiry, with over a thousand organisations and individuals giving evidence. Members noted the role of the Inquiry in putting information on the public record, with Mr Buckingham describing the Inquiry as the largest inquiry into this issue in Australia to date. Mr MacDonald said that the Inquiry was timely and had assisted the Government in its preparation of law and regulation in this area. Debate was interrupted.

Government response

Select Committee on the provisions of the Election Funding, Expenditure and Disclosures Amendment Bill 2011: The House received a response to Report No. 1 entitled 'Inquiry into the provisions of the Election Funding, Expenditure and Disclosures Amendment Bill 2011', 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.

Standing Committee on Social Issues

The Committee will consider its draft final report on domestic violence trends and issues in NSW on 20 August 2012, and will table the report by the end of the month. The report has been informed by six public hearings, 80 submissions, and site visits to several local courts and to Forbes and Victoria. The report also draws on a round table discussion with key stakeholders, who worked through a briefing paper and possible recommendations prepared by the Committee.

General Purpose Standing Committee No. 5

The Committee has extended the closing date for submissions to its inquiry into the management of public land in NSW to Friday 31 August 2012. The Committee held two public hearings at Deniliquin on Wednesday 1 and Thursday 2 August 2012, as part of a site visit to inspect River Red Gum Forests near Deniliquin and Yanga National Park, which is near Balranald. The first Sydney hearing will be held on Friday 7 September 2012 at Parliament House.

Standing Committee on State Development

The Committee is currently accepting submissions to its inquiry into the adequacy of water storages in NSW, having extended the closing date for submissions until Friday 31 August 2012. The Committee will hold its first public hearing at Parliament House on Monday 20 August 2012, with representatives from organisations

such as the Department of Primary Industries, NSW Office of Water and State Water Corporation scheduled to appear. The Committee will conduct its first site visit on Wednesday 29 and Thursday 30 August 2012 to the Shoalhaven region and Goulburn.

Select Committee on the closure of the Cronulla Fisheries

The Committee on the closure of the Cronulla Fisheries Centre was established by resolution of the House on 21 June 2012. The Committee has received 103 submissions to date. The Committee visited the Cronulla Fisheries site on Monday 6 August 2012, followed by a public hearing with representatives from the Department of Primary Industries. Further public hearings are scheduled for Monday 3 and Monday 10 September 2012. A public forum is also scheduled for the evening of Monday 3 September to allow persons affected by the closure to speak to the Committee. The Committee is required to table its final report by Tuesday 23 October 2012.

Select Committee on the Partial Defence of Provocation

The Committee is currently accepting submissions to its inquiry into the partial defence of provocation and related issues, having extended the closing date for submissions until Friday 24 August 2012. The Committee has received 28 submissions to date. The Committee will hold two days of public hearings at Parliament House on Tuesday 28 and Wednesday 29 August 2012, with a potential third hearing day to be scheduled in September.

Reports tabled

Ombudsman: Special report entitled: 'Safe as houses? Management of asbestos in Police buildings', July 2012.

Ombudsman: Special report entitled: 'Managing use of force in prisons: the need for better policy and practice', July 2012.

Parliamentary Ethics Adviser: Annual Report, June 2012.

Auditor General: Performance Audit Report, entitled: 'Improving the literacy of Aboriginal students in NSW public schools: Department of Education and Communities', August 2012.

Adjournment debate

Tuesday 14 August 2012

Gallipoli landing centenary (Miss Gardiner); Restoration of Maria Jalowiec grave (Mr Secord); Super trawler FV Margiris (Ms Faehrmann); Elite sports development (Mr Whan); Fullerton Cove coal seam gas (Mr Buckingham); Aberdeen highland games (Mr Blair).

Wednesday 15 August 2012

Koala protection (Mr Secord); Hunting in national parks (Mr Borsak); Legal fees (Mr Khan); Workers compensation legislation (Mr Donnelly); High school target shooting program (Mr Brown); Northern Tablelands ministerial visits (Mrs Mitchell); Asylum seeker policy (Mr MacDonald).

Thursday 16 August 2012

Native vegetation regulations (Mr MacDonald); Australia-China relationship (Mr Moselmane); Australian film industry (Ms Voltz); Coal seam gas mining (Mr Buckingham); Planning reforms (Mr Shoebridge); RSL Anzac art awards (Mr Lynn); Tribute to Peter John Truelove (Mrs Maclaren-Jones); Tribute to Peter John Truelove (Dr Phelps).

Feedback on *House in Review*

We welcome any comments you might have on this publication.

We are particularly keen to know which parts of the *House in Review* you find most useful and whether you have any suggestions for improvement. Please email your comments to stephen.frappell@parliament.nsw.gov.au.

All responses will be kept strictly confidential.



David Blunt
Clerk of the Parliaments