

# NEW SOUTH WALES LEGISLATIVE COUNCIL

## *HOUSE IN REVIEW*



*Volume 55/33*

*Sitting period  
11 to 13 September 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](http://www.parliament.nsw.gov.au) or contact the Procedure Office on (02) 9230 2431. To be placed on the email distribution list of the *House in Review*, please contact us on [council@parliament.nsw.gov.au](mailto:council@parliament.nsw.gov.au).

### Overview

This sitting week saw the House conclude its consideration of the Industrial Relations Amendment (Industrial Representation) Bill, the second reading debate having been adjourned on 2 April. The House concluded its consideration and forwarded the bill in an amended form to the Assembly for concurrence.

The sitting week was also notable for the occurrence of some interesting, less frequently used procedural motions. On Wednesday the House discussed a matter of urgency in accordance with standing order 201. While Thursday saw the conduct of a ballot, in accordance with standing order 135, to elect a cross-bench member to the membership of the Select Committee on the closure or downsizing of Corrective Services NSW facilities.

### Government business

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

#### Industrial Relations Amendment (Industrial Representation) Bill 2012

The bill originated in the Legislative Council.

*Summary:* The bill amends the *Industrial Relations Act 1996* to enable industrial representation of the same classes or groups of employees by one or more industrial organisations or associations, subject to safeguards relating to demarcation disputes. The Government argued that this will enable employees to join industrial organisations of their choice.

*Proceedings:* On 12 September 2012, the Minister (Mr Pearce) concluded his speech in reply to the second reading debate (see Volumes 55/23 and 55/20 of *House in Review* for earlier debate).

The second reading was agreed to.

In the committee stage, the Greens moved amendments to limit the application of the bill to the Emergency Medical Service Protection Association and the Australian Salaried Medical Officers Federation, allowing paramedics and junior doctors to seek separate representation outside the Health Services Union, but prevent competitive unionism being applied to other unions more generally. The Opposition and Christian

Democratic Party spoke in support of the amendments, while the Government opposed them as too restrictive and contrary to the objectives of the bill. The amendments were agreed to (Division 21:16), the Shooters and Fishers Party also voting for the amendments. Opposition amendments designed to ensure that organisations seeking to register to represent employees are genuine employee organisations and have appropriate resources, and specifically removing from the bill provisions concerning the transport industry, were also agreed to.

Some interesting procedural matters arose during these proceedings in committee of the whole. The Government twice sought to adjourn proceedings. On the first occasion the Committee disagreed (Division 18:19). On the second occasion the Committee resolved that further consideration of the bill be set down for the next sitting day on which Government business takes precedence. However, this resolution was rescinded a short time after, allowing the committee of the whole to finalise consideration of the bill.

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

#### Crimes Amendment (Cheating at Gambling) Bill 2012

The bill originated in the Legislative Assembly.

*Summary:* The bill amends the *Crimes Act 1900* to prohibit certain conduct that can corrupt the betting outcomes of events on which it is lawful to bet. The bill creates a range of specific offences to prosecute those who seek to fix a betting outcome or profit from such a fix.

*Proceedings:* Debate on the second reading of the bill commenced on 11 September 2012. In his second reading speech, the Parliamentary Secretary (Mr Clarke) outlined the genesis of the bill, and noted that the offences contained within it are a culmination of the extensive work of the NSW Law Reform Commission and the national Standing Council on Law and Justice Working Group on Match Fixing, and have been the subject of consultation among legal and sporting stakeholders.

The Opposition did not oppose the bill, noting that it was based largely on the report of the Law Reform Commission on its review of the coverage of the criminal law in relation to cheating at gambling. The Greens supported the bill but expressed some reservation regarding the length of the sentences applying to some of the new offences. The Christian Democratic Party noted that it had for some time been unhappy with the growth in gambling, particularly the rise in on-line and exotic gambling, and that there was an evident need for this bill, which they supported. The Christian Democratic Party argued that some of the penalties provided for in the bill were too lenient.

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

### **Prevention of Cruelty to Animals Amendment Bill 2012**

The bill originated in the Legislative Assembly.

*Summary:* The bill seeks to improve the welfare of stock animals in regional communities by providing for the seizure and sale of certain stock animals that are in distress and by establishing stock welfare panels to assess and report on the appropriate care for such stock animals.

*Proceedings:* The bill was received from the Legislative Assembly on 12 September 2012 and read a first time. In his second reading speech, the Parliamentary Secretary (Mr Ajaka) said the bill will assist both animal welfare agencies and those in charge of stock animals to achieve better outcomes in cases where stock are not receiving adequate care. The bill provides for practical and cost-effective intervention so that stock are either restored to good health or sold, with the net proceeds of the sale going to the stock owner.

The Opposition supported the bill and in particular the move to establish stock welfare panels, and noted that the RSPCA supported the measures in the bill as they would save that organisation from the practical difficulties it had faced with respect to some cases in the past. The Greens supported the bill, but foreshadowed that it would move some modest amendments in order to clarify some aspects of the bill including the appropriate membership of stock welfare panels.

Debate was adjourned until a later hour of the sitting.

### **Crimes Legislation Amendment Bill 2012**

The bill originated in the Legislative Assembly.

*Summary:* The bill makes miscellaneous amendments to a number of Acts with respect to criminal offences and procedure and also contains provision to repeal certain legislation.

*Proceedings:* The bill was received from the Legislative Assembly on 11 September 2012 and read a first time. The second reading was set down for the next sitting day.

## **Urgency motion – Education budget**

On 12 September, the House agreed on ‘division’ to discuss an ‘urgency motion’ proposed by Opposition member, the Hon Penny Sharpe relating to the Government’s decision to reduce the education budget by \$1.7 billion over four years. Following statements by Ms Sharpe and the Deputy Leader of the Government, the question of urgency was agreed to (Division 21:16), and the House proceeded to discuss the matter.

Members of the Opposition condemned the Government’s decision to reduce the education budget which will include the loss of 1800 jobs, and referred to the disquiet the decision had caused among the community, education stakeholders and many federal and State members from all sides of politics. The Christian Democratic Party expressed concern over the likelihood of an increase in school fees to compensate for the budget cuts and the impact on non-government schools in particular, and called on the Government to review its decision. The Greens argued that the public education system, particularly TAFE, could not withstand budget cuts of the magnitude proposed by the Government and maintain the same quality of service.

Members of the Government defended the decision, arguing that the savings measures were necessary given the financial situation inherited from the previous government. Members of the Government noted that the savings measures target all funding programs and grants across the education portfolio, with the exception of teaching positions, and that there will be an equal impact on government and non-government schools.

In reply, Ms Sharpe argued the decision to cut \$1.7 billion from the education budget indicated that education was not a priority of the Government, which was hard to reconcile with the many statements in support of public education made by members of the government over the years.

In accordance with standing order 201, the debate concluded with no question being put.

## **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.

### *Bills*

### **Workers Compensation Legislation Amendment (Costs) Bill 2012 (Mr Shoebridge, The Greens)**

The bill originated in the Legislative Council.

*Summary:* The bill seeks to repeal an uncommenced amendment to the *Workplace Injury Management and Workers Compensation Act 1998*, that if commenced would remove the power of the Workers Compensation Commission to make cost orders in compensation claims and would provide that each party is to bear its own costs. The bill further provides that costs are awarded to

the successful party and not awarded against a worker unless the worker's claim was without arguable merit.

*Proceedings:* Standing orders were suspended on 13 September 2012 to bring on the item of business. The bill was introduced, read a first time and printed. In his second reading speech, Mr Shoebridge said that the amendment the bill seeks to repeal was introduced late in proceedings during the committee stage of the Workers Compensation Legislation Amendment Bill in June this year, and that its impact, including the fact that injured workers who successfully contest a decision in court will not be entitled to recover their legal costs, has been widely criticised, including by bodies such as the Bar Association and the Law Society of NSW. Mr Shoebridge argued that if the change to the making of costs orders goes ahead it will effectively prohibit workers from seeking minor but necessary increases to compensation entitlements.

Debate was adjourned for five calendar days.

### **Alcoholic Beverages Advertising Prohibition Bill 2012 (Revd Mr Nile, Christian Democratic Party)**

The bill originated in the Legislative Council.

*Summary:* The bill prohibits advertising aimed at promoting the sale of alcoholic beverages, with a view to reducing the incentive for people to consume alcohol. An Alcohol Advertising Prohibition Committee will be established to prepare a timetable for the removal of advertisements promoting alcoholic beverages. The bill also provides for the declaration of local option areas within which the purchase, sale or consumption of alcoholic beverages in a public place is an offence.

*Proceedings:* Standing orders were suspended to bring on the item of business. Debate on the second reading of the bill resumed on 13 September 2012 from 6 September 2012 (see the previous edition of *House in Review* for earlier debate). Mr Green spoke in support of the bill brought on by his Christian Democratic Party colleague Revd Mr Nile, stating that the purpose of the bill is to encourage a healthier lifestyle by challenging the drinking culture that is prevalent in society. Mr Green argued that the bill accords with the view of many people who are fed up with alcoholism and alcohol related violence.

Debate was adjourned.

### **Small Business Commissioner and Small Business Protection Bill 2012 (Mr Searle, Australian Labor Party)**

The bill originated in the Legislative Council.

*Summary:* The bill seeks to establish the office of Small Business Commissioner; to ensure that small businesses are treated fairly in their commercial dealings with other businesses and their dealings with government agencies through enforceable codes of practice, and to enable small businesses to obtain relief under the Contracts Review Act 1980 in respect of unjust contracts.

*Proceedings:* Debate on the second reading of the bill resumed on 13 September 2012 from 23 August 2012 (see Vol 55/31 of *House in Review* for earlier debate).

The Government did not support the bill, indicating that it is preparing to introduce its own bill concerning the role and functions of the Small Business Commissioner. With this in mind, the current Small Business Commissioner, Ms Yasmin King, has been engaging in extensive consultation concerning the issues facing small business today. Other members of the Opposition spoke in support of the bill, criticising the Government for a perceived lack of action on support for small business since the appointment of Ms King in May 2011.

Debate was interrupted.

### **Save Gosford Public School Bill 2012 (Dr Kaye, The Greens)**

The bill originated in the Legislative Council.

*Summary:* The bill sought to prevent the relocation of Gosford Public School to the grounds of Henry Kendall High School and to ensure that parents, staff and the community are consulted before any alternative site is chosen for Gosford Public School. The bill also sought to prevent the possible sale of the Gosford Public School site.

*Proceedings:* Standing orders were suspended on 13 September 2012 to bring on the item of business. The second reading debate on the bill resumed from 23 February 2012 (see Vol 55/19 of *House in Review* for earlier debate). The Government was opposed to the bill, stating that the decision to relocate had been carefully reviewed by the Minister, and that the design enhancements to Henry Kendall High will provide an excellent learning environment. The Opposition was also opposed to the bill on the grounds that significant work to accommodate the co-location had already been undertaken that could not be undone. However, the Opposition did note that the communities involved held some legitimate concerns about the relocation and were also not satisfied with the conduct and substance of the review conducted by the Government.

Members of the Greens argued that the relocation of Gosford Public School would set a precedent for further forced mergers of public schools and the sale of school lands, and that the bill should be supported in order to take a stand against such actions. The Greens further argued that the relocation and building design results in a loss of amenity for students and does not adequately address particular problems associated with co-locating a primary and secondary school on a shared site.

The second reading was not agreed to (Division 5:31).

## Motions

### Deaths of Australian soldiers serving in Afghanistan (Mr Lynn, Liberal Party)

*Summary:* The motion called on the House to note the tragic death of five Australian soldiers who were recently killed in two separate incidents in Afghanistan, and to place on record its deep regret and tender its profound sympathy to the families of the soldiers in their bereavement.

*Proceedings:* Standing orders were suspended on 13 September 2012 to bring on the item of business. Mr Lynn noted that the deaths of Lance Corporal Stjepan Milosevic, Sapper James Martin, Private Robert Poate, Lance Corporal Mervyn McDonald and Private Nathaniel Galagher represented the worst loss of life in a 24-hour period for the Australian armed services since the Vietnam War.. Mr Lynn acknowledged the number of Australian service personnel killed and wounded in Afghanistan.

Members from all sides supported the motion, taking the opportunity to acknowledge the soldiers' service to country and to offer their condolences to the families concerned.

The motion was agreed to.

#### *Motions taken as formal business*

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

- (1) Dr Andrew Penman (Ms Ficarra)
- (2) Mr Dean Young (Mr Ajaka)
- (3) The London Paralympics 2012 (Ms Ficarra)
- (4) Lebanese Muslim Association's Sharing Humanity Project (Mr Moselmane)
- (5) India's Independence Day celebrations in Blacktown (Mr Clarke)
- (6) AgQuip (Mrs Mitchell)
- (7) India Australia Friendship Fair (Mr Clarke)
- (8) Jacqueline Freney (Ms Ficarra)
- (9) India's Independence Day celebrations in Parramatta (Mr Clarke)
- (10) Firefighter Ian Parrow (Mr Blair)
- (11) Duke of Edinburgh Gold Awards (Ms Ficarra)
- (12) Councillor Tony Hall (Ms Ficarra).

### Petitions received

- (1) Religious discrimination – 40 signatures (presented Mr Moselmane).

### Debate on budget estimates

The House continued the take-note debate on the Budget Estimates and related papers for the financial year 2012-2013.

### Reports tabled

**Inspector of Independent Commission Against Corruption:** Annual Report for year ended 30 June 2012.

### Committee activities

**Note:** Committee activities include committee references, reports tabled, debate on committee reports, government responses received and any other significant matter.

#### *Committee membership*

#### **Select Committee on the Closure or Downsizing of Corrective Services NSW Facilities**

The Government nominated Mr Clarke, Mr MacDonald and Mrs Pavey to serve on the Committee.

The Opposition nominated Ms Fazio and Mr Veitch to serve on the Committee.

The resolution establishing the Committee provided for two members of the cross bench to be members of the Committee, with Mr Green appointed to the Committee and to the position of Chair. It was reported to the House that the cross bench members had not reached agreement regarding the second cross bench position and that the Clerk had received nominations from Mr Borsak and Mr Shoebridge. Under standing order 135, the House conducted a ballot and Mr Borsak was elected to the Committee.

The Deputy Chair will be elected at the Committee's first meeting to be held next week.

#### *Committee report tabled*

**Legislation Review Committee:** 'Legislation Review Digest No. 24/55 of 2012, 11 September 2012.

**Committee on Children and Young People:** Report No. 1/55, 'Review of the 2009-2010 Annual Report and the 2010-2011 Annual Report of the Commission for Children and Young People and the 2009 Reports of the Child Death Review Team', 13 September 2012.

#### *Committee reports debated*

**General Purpose Standing Committee No. 3:** The House concluded the take-note debate on Report No. 38 entitled 'Education Amendment (Ethics Classes Repeal) Bill 2011', May 2012.

**Standing Committee on State Development:** The House concluded the take-note debate on Report No. 36 entitled 'Economic and social development in central western New South Wales', May 2012.

**Joint Select Committee on the New South Wales Workers Compensation Scheme:** The House commenced the take-note debate on Report No. 1 entitled 'NSW Workers Compensation Scheme', June 2012.

#### *Government response*

**General Purpose Standing Committee No. 3:** The House received a response to Report No. 26 entitled 'Rail infrastructure project costing in New South Wales', tabled 8 March 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 State Development**

The Committee has received over 100 submissions to its Inquiry into the adequacy of water storages in NSW. The Committee will conduct its second site visit to Orange and the Murrumbidgee Valley in late October and hold its second public hearing at Parliament House on Friday 16 November 2012.

### **General Purpose Standing Committee No. 5**

The Committee held its second public hearing in Sydney for its Inquiry into public land management on Friday 14 September 2012 at Parliament House. The Committee will conduct further site visits in late September and early October. The Committee has now published 371 submissions to the Inquiry.

### **Select Committee on the Closure of the Cronulla Fisheries Centre**

The Committee held its final public hearing on 10 September 2012. Witnesses included the Hon Katrina Hodgkinson MP, Minister for Primary Industries and Mr Mark Paterson AO, Director General of the Department of Trade and Investment, Regional Infrastructure and Services. A final site visit is scheduled for Friday 28 September 2012, to the Port Stephens Fisheries Institute. The Committee has received 106 submissions to date and is required to table its final report by 23 October 2012.

### **Select Committee on the Partial Defence of Provocation**

The Committee is preparing for its third and final day of public hearings, which will be held on Friday 21 September 2012 at Parliament House. The Committee has also developed a paper for the purposes of consulting with stakeholders about the options for the reform of the partial defence of provocation.

## **Adjournment debate**

### **Tuesday 11 September 2012**

Tribute to Lisa-Maree Bailey (Mr MacDonald); Double-decker bus manufacturing contract (Mr Primrose); Hunting in national parks (Ms Faehrmann); Australia 21 (Ms Fazio); The Greens NSW (Dr Phelps); Tribute to Lisa-Maree Bailey (Mr Mason-Cox).

### **Wednesday 12 September 2012**

International Union for Conservation of Nature World Conservation Congress (Mr Brown); Council elections (Mr Colless); Education funding (Mr Whan); Tribute to Dudley Nichol (Mr Borsak); Council elections (Ms Cotsis); Sovereign Hospitaller Order of St John of Jerusalem Knights of Malta (Ms Ficarra).

### **Thursday 13 September 2012**

Visitor Economy Taskforce Report (Ms Cusack); Gallipoli Mosque Open Day (Mr Secord); Coal seam gas exploration (Mr Buckingham); Education funding (Ms Fazio); Police complaints handling (Mr Shoebridge); Religious freedom (Mr Clarke).

## **Feedback on *House in Review***

We welcome any comments you might have on this publication.

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

All responses will be kept strictly confidential.



David Blunt  
Clerk of the Parliaments