

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



Volume 55/40

2012 Summary

The *House in Review* provides regular updates of the activities of the New South Wales Legislative Council. Clicking on a hyperlink will take you to the relevant webpage. For further information refer to the NSW Parliament website www.parliament.nsw.gov.au or contact the Procedure Office on (02) 9230 2431. To be placed on the email distribution list of the *House in Review*, please contact us on council@parliament.nsw.gov.au.

A message from the Clerk

This edition of *House in Review* summarises the work of the Legislative Council during 2012. Following the March 2011 election, this was the second year of the 55th Parliament.

The period covered by this summary extends from when the House first met in 2012 on Tuesday 14 February to its last sitting day on Thursday 22 November. As the statistics demonstrate, the year was an extremely busy one, with the House considering over 100 Government bills and over 500 amendments. A number of private members' bills also progressed through both Houses and into law. The House now stands adjourned until 19 February 2013, unless recalled earlier.

Recipients of *House in Review* will also have received a link to an online survey asking for your views on *House in Review*. *House in Review* was first published in 2009, since when it has evolved and changed somewhat in content and approach. While anecdotal feedback on the publication is generally positive, we would greatly appreciate your views by completing the following online survey. <https://www.surveymonkey.com/s/LG97VWP>

I would also like to take this opportunity to thank those involved in the preparation of *House in Review* throughout the year.

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

David Blunt
Clerk of the Parliaments

Procedural statistics for the 55th Parliament in 2012

The following statistics provide a useful summary of the work of the Council in the dual roles of reviewing legislation and holding the executive government to account in 2012.

Sitting days	63
Sitting hours	499 hrs, 11 mins
Average length of each sitting day	7 hrs, 55 mins

Bills

All bills passed by both Houses	104
- of which originated in the Council	21
Government bills passed in the Council	101
- of which were amended in the Council	15
Private members' bills passed by both Houses	3
Private members' bills introduced in the Council	14
- of which were passed by the Council	2

Amendments to bills

- circulated	515
- agreed to	69

Notices of motion given 697

Formal business

- agreed to	357
- objected to	133

Petitions

Petitions received – general	49
Petitions received – irregular	8
Number of signatures	23,837

Questions

- on notice	2,030
- without notice	1,287

Orders for papers 7

Tabled papers 1,157.

Legislation

Government legislation

One hundred and one Government bills passed both Houses and became law in 2012. Seven of these bills had been introduced into the Legislative Council in 2011, with the remaining 94 being introduced in and passed by the Council during 2012.

Compared to 2011, while the total number of Government bills rose from 71 to 101, the percentage of Government bills that originated in the Council remained constant at about 20 per cent.

Fifteen Government bills were amended in the Legislative Council:

- (1) Election Funding, Expenditure and Disclosures Amendment Bill 2011
- (2) Marine Pollution Bill 2011
- (3) Mental Health Commission Bill 2011
- (4) Local Government Amendment Bill 2011
- (5) Road Transport Legislation Amendment (Offender Nomination) Bill 2012
- (6) Industrial Relations Amendment (Industrial Organisations) Bill 2012
- (7) Workers Compensation Legislation Amendment Bill 2012
- (8) Graffiti Legislation Amendment Bill 2011
- (9) Crime Commission Bill 2012
- (10) Industrial Relations Amendment (Industrial Representation) Bill 2012
- (11) Forestry Bill 2012
- (12) Statute Law (Miscellaneous Provisions) Bill (No 2) 2012
- (13) Local Government Amendment (Conduct) Bill 2012
- (14) Environmental Planning and Assessment Amendment Bill 2012
- (15) Human Tissue Legislation Amendment Bill 2012.

A total of 63 amendments were agreed to.

Overall, 515 proposed amendments to bills were circulated this year. Notably, more than one-fifth (137), of those amendments related to the Workers Compensation Legislation Amendment Bill 2012 and cognate Return to Work and Support Board Bill 2012. Consideration of these two bills in committee of the whole, which occurred in June (reported in Vol 55/29 of *House in Review*), went for more than nine hours. Ultimately, thirteen amendments, all of which related to the Workers Compensation Legislation Amendment Bill, were agreed to.

Two Government bills sit on the Council *Notice Paper* for 2013. The Law Enforcement (Controlled Operations) Amendment Bill 2012 was introduced in the Council during the last sitting week with the intention (as it was not declared urgent) to sit on the *Notice Paper* (and

thereby be in the public domain) over the summer recess pending debate in the new year. The Industrial Relations Amendment (Dispute Orders) Bill 2012 has remained on the *Notice Paper* since the interruption of its second reading debate in May.

One Government bill, the Retail Trading Amendment Bill 2012, was discharged from the *Notice Paper*. The bill was received and read a first time in April this year. On 13 November, the House resolved that the order of the day for the second reading of the bill be discharged.

Private members' bills

Three bills that were introduced by private members of the Legislative Council were enacted in 2012.

The Constitution Amendment (Restoration of Oaths of Allegiance) Bill 2012 was introduced in the Legislative Council by the Revd Mr Nile (Christian Democratic Party) in 2011. The bill was forwarded to the Legislative Assembly in November of that year, with the Assembly passing the bill in May 2012.

The Game and Feral Animal Control Amendment Bill 2012 was introduced in the Legislative Council by Mr Brown (Shooters and Fishers Party) in June. In the same month, the bill was amended in the Legislative Council and then forwarded to the Legislative Assembly, where it was agreed to.

The Game and Feral Animal Control Further Amendment Bill 2012 introduced into the Council in September was also under the carriage of Mr Brown. The bill was amended in the Council in November on the last sitting day of the year, before being passed by the Legislative Assembly later that day.

In November 2011, the Council passed the Truth in Labelling (Free-range Eggs) Bill 2011, which was introduced by Dr Kaye (The Greens). In November this year, the Legislative Assembly advised that 12 months having elapsed since receipt of the bill without it being called on, the order for its consideration had lapsed.

Overall 14 private members' bills were introduced in the Council this year. As mentioned above, the Council passed two of these bills. In addition, consideration of another bill (plus two further bills introduced in 2011) were finalised with the bills not proceeding past the second reading. Of the eleven private members' bills awaiting resumption of debate in 2013, the Opposition, the Greens and the Christian Democratic Party have carriage of three each, while the remaining two were introduced by the Shooters and Fishers Party.

Accountability

Questions to Ministers

Comparing this and the previous year, and taking into account the additional four sitting days in 2012, there was no discernible difference in the number of questions asked of Ministers in the House during Question Time.

However, there was a virtual doubling of written questions. This year 2030 questions on notice were lodged, compared with 1074 in 2011. Adding substantially to the overall total for 2012 was the 656 written questions lodged in the last sitting week of this year.

Orders for documents

There were seven orders for the production of state papers in 2012, a significant reduction on previous years. Orders were made for documents relating to the following:

- (1) Aboriginal Cultural Heritage Advisory Committee
- (2) Ministerial Audit of NSW Police Force (Parsons Review)
- (3) Workcover prosecutions
- (4) Booz & Company (Aust) Pty Ltd report (relating to Railcorp)
- (5) 2012-2013 Budget finances
- (6) 2012-2013 Budget
- (7) Nimmie-Caira System Enhanced Environmental Water Delivery Project.

Claims of privilege were made over documents relating to three of the above orders. The validity of the claim of privilege was disputed by members in two of these cases – the orders relating to the workcover prosecutions and to the Nimmie-Caira project. Each dispute was referred to an independent legal arbiter. In both cases the documents considered by the legal arbiter not to be privileged were subsequently published by resolution of the House.

Budget Estimates

The budget estimates process was discussed in detail in Vol. 55/35 of *House in Review*, and an update is provided below.

The other way in which the Legislative Council exercises its function of holding the executive government to account is through the work of its standing and select committees. An overview of committee activity for the year is provided below.

Committees

2012 has been another very busy year for Committees. The Committee Office tabled 18 reports and commenced or completed 26 inquiries. An example of just how intense the workload has been is demonstrated by the Joint Select Committee on the NSW Workers Compensation Scheme, which completed its inquiry within 42 days.

The three standing committees (Social Issues, State Development and Law and Justice) and five General Purpose Standing Committees have been supplemented by the establishment of four Select Committees.

A significant procedural issue arose at the General Purpose Standing Committee No. 4 Budget Estimates hearing into the Police portfolio on 11 October 2012, when the Deputy Commissioner declined to answer a question about *Taskforce Emblems* on the grounds that it might be in breach of statutory secrecy provisions. The Committee agreed to adjourn the hearing to provide an opportunity for the Committee and the witnesses to seek legal advice. The Committee's advice confirmed the view long held by the Clerks of the Legislative Council that statutory secrecy provisions do not have the effect of restricting the power of the committees of the Legislative

Council to ask and compel answers to questions that would require the disclosure of information that may otherwise be caught by statutory secrecy provisions.

Committees have implemented some interesting procedural innovations this year. For example, the Standing Committee on Social Issues coordinated a successful roundtable discussion involving nineteen government and non-government representatives to comment on possible recommendations, demonstrating the Committee's commitment to encouraging public participation in the inquiry process.

Another procedural innovation is members' electronic participation in committee meetings (other than meeting to deliberate on committee report). Since its implementation in mid 2011, members have elected to participate in meetings via teleconference on several occasions, allowing them to balance their heavy workloads and regional responsibilities with the efficient management of a committee inquiry.

Looking ahead, there is no doubt that 2013 will be another busy year for the Committee Office: we are currently managing nine inquiries and anticipating at least three new references, including a reference from the Premier into the constitutional issues concerning same-sex marriage.