

How the Victorian Legislative Council has voted

First Session of the 58th Parliament

August 2015

The Victorian Legislative Council, like all upper Houses in the Australian parliamentary system, has the power to review legislation and hold the Government of the day to account. Its support is required for new laws to come into effect.

As a result of the 2014 election, neither the Andrews Labor Government nor the Coalition Opposition have a majority in the Legislative Council. Accordingly, where the major parties do not agree, a diverse cross bench of minor parties hold the balance of power giving them influence over the Victorian Labor Government's ability to implement its legislative agenda over the life of the 58th Victorian Parliament.

This Occasional Paper details the outcomes of key divisions in the Legislative Council during the first session of the 58th Victorian Parliament as at 29 June 2015.

The Victorian Parliament will resume sitting on 4 August 2015.

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Composition of Victorian Legislative Council

There are 40 seats in the [Victorian Upper House](#), which is called the Legislative Council. Following the 2014 Victorian election, in the Legislative Council the Victorian Labor Party holds 14 seats, Victorian Liberal Party holds 14 seats and the Victorian Nationals hold 2 seats.

Minor parties hold the final 10 seats in the 58th Victorian Parliament. These include:

- The Victorian Greens, with five seats (gaining two seats);
- The Shooters and Fishers Party, with two seats (gaining two seats);
- The Australian Sex Party, with one seat (gaining one seat);
- The Democratic Labour Party, with one seat (gaining one seat); and
- The Vote 1 Local Jobs, with one seat (gaining one seat).

Powers of the Victorian Legislative Council

The Victorian Legislative Council serves as a House of Review to scrutinise legislation passed by the Legislative Assembly. To pass legislation in the Legislative Council, a majority - usually 21 votes - are needed.

The Victorian Legislative Council's actions as a House of Review includes:

- Rejecting or proposing amendments to legislation;
- Passing bills to receive Royal Assent;
- Delaying the passage of legislation to allow time for further review;
- Acting as a forum for debate
- Scrutinising Ministers who are Members of the Council; and
- Establishing Select and Standing Committees to conduct detailed investigations into specific issues.

Status of Bills as at 29 June 2015

During the first session of the 58th Parliament of Victoria, a total of 42 bills entered the Legislative Council. A majority of these bills were carried on the voices. The status of these 42 bills and their passage through the Legislative Council is as follows:

- Twenty-six bills passed the Legislative Council and went on to receive Royal Assent, meaning the bill became an Act of the Victorian Parliament;
- Thirteen bills were introduced and second reading moved; and
- Three bills were introduced and first reading passed.

The [Appropriation \(2015-16\) Bill 2015](#), which is the first Budget bill for the Andrews Labor Government, passed without any amendments and received Royal Assent on 29 June 2015.

The [Back to Work Bill 2014](#) was the only bill that passed with an agreed amendment, as moved by the Greens.

No bills were defeated in the first session of the 58th Parliament of Victoria in the Legislative Council.

Divisions

[Divisions](#) in the Legislative Council occur in most cases when one or more Members challenge the decision of the presiding officer - that has been made on the strength of voices - to the outcome of a question put to the Upper House. When a division is called, Members position themselves on one side of the Upper House and a formal vote is conducted of Members for (aye) or against (no) the question put forth.

Divisions on Other Business of the Legislative Council

As previously noted, the Legislative Council acts as a House of Review on bills. Other roles Members of the Legislative Council have, but not limited to, are:

- The opportunity to elect a President of the Upper House;
- The responsibility to appoint legislative and reference standing committees and;
- To move motions to order the tabling of documents.

The following five divisions relate to other business of the Legislative Council.

i. Election of the President of the Upper House

On 23 December 2014, pursuant to [Standing Order](#) 2.03 the Acting Clerk advised the Upper House that it was necessary to conduct an open vote to [elect a President of the Upper House](#).

Ms Gayle Tierney from the Victorian Labor Party and Mr Bruce Atkinson from the Victorian Liberal Party were both nominated for the position.

Parties supporting the election of Mr Atkinson included:

- The Victorian Liberal Party;
- The Nationals;
- The Greens; and
- The Australian Sex Party.

Parties supporting the election of Ms Tierney included:

- The Victorian Labor Party;
- The Democratic Labour Party;
- Vote 1 Local Jobs and;
- The Shooters and Fishers Party.

This was the first division conducted in the Upper House of the 58th Victorian Parliament and resulted in a defeat to the Government, 17 to Tierney to 21 to Atkinson.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Tierney (Labor)	Atkinson (Liberal)
Tierney	Atkinson	Tierney	Atkinson	Atkinson	Atkinson	Tierney	Tierney	17	21

ii. Motion: Production of Documents — East West Link Contracts

On 11 February 2015, debate resumed on the [motion](#) moved by Mr Gordon Rich-Phillips from the Liberal Party:

“That this House —

(1) notes —

(a) the Premier’s broken promise to release the East West Link contracts in the first week of a Labor Government;

(b) that Labor has breached Partnerships Victoria guidelines by failing to release the East West Link contracts within 90 days of financial close; and

(2) requires the Leader of the Government to table in the Legislative Council by 12 noon on Thursday, 12 February 2015, all contract documents entered into by or on behalf of the State of Victoria with the East West Connect consortium, in accordance with Partnerships Victoria guidelines.”

The division resulted in a defeat to the Government, 14 noes to 24 ayes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
Aye	Aye	No	Aye	Aye	No	Aye	Aye	24	14

iii. Legislative Council Committee References

On 27 May 2015, debate resumed on the motion [moved](#) by Ms Mary Wooldridge from the Liberal Party:

“That pursuant to Sessional Order 6 this House requires the following matters to be referred to the Council Standing Committee specified —

*(1) to the **Economy and Infrastructure Committee** to inquire into, consider and report, at least once every six months, on public sector infrastructure and public works projects, including current and past infrastructure projects and proposals and, in particular —*

(a) projects relating to the removal of railway level crossings;

(b) the Western Distributor;

(c) the Melbourne Metro Rail Project;

(d) the sale/lease of Port of Melbourne; and

(e) Melbourne Airport Rail Link; and any other public sector infrastructure or public works projects the Committee determines appropriate;

*(2) to the **Environment and Planning Committee** as part of its oversight of Local Government Victoria, to inquire into and report every six months on the outcome of the State Government policy of local government rate capping on councils’ viability, service impacts on local communities and impacts on the provision of local infrastructure; and*

*(3) to the **Legal and Social Issues Committee**, to inquire into, consider and provide an interim report no later than 30 November 2015 and a final report no later than 1 May*

2016, on the process, cost and effectiveness of the Victorian Government Departmental restructure (Machinery of Government changes) following the November 2014 election.”

The division for the matters to be referred to the relevant Committee resulted in defeat of the Government, 21 ayes to 16 noes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
No	Aye	No	Aye	Aye	No	No	Aye	21	16

iv. Sessional Orders

On 12 February 2015, debate resumed on the question that the [Council Sessional Orders](#), proposed by Mr Jennings, to come into operation with immediate effect. Divisions were called two times on six amendments moved:

- Ms Wooldridge from the Liberal Party moved, four amendments to the Sessional orders. Of these four amendments, two divisions were called on amendment (1) and amendments (2).
- Mr Barber from the Greens moved amendments to Ms Pennicuik from the Greens amendments. This motion was agreed to without a division.
- Ms Pennicuik from the Greens one amendment. This amendment was agreed to without a division.

Division on amendment (1), as moved by Ms Wooldridge. The division resulted in a defeat to the Government, 16 noes to 24 ayes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
Aye	Aye	No	Aye	Aye	No	Aye	Aye	24	16

Division on amendment (2), as moved by Ms Wooldridge. The division resulted in a defeat to the Government, 16 noes to 24 ayes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
Aye	Aye	No	Aye	Aye	No	Aye	Aye	24	16

v. Legal and Social Issues Committee Reference

On 7 May, Mr Jennings from the Government [moved](#) that pursuant to Sessional Order 6 the Legislative Council requires the Legal and Social Issues Committee to inquire into, consider and report, no later than 31 May 2016, on the need for laws in Victoria to allow citizens to make informed decisions regarding their own end of life.

Mr Finn from the Liberal Party moved an amendment to refer the inquiry to the Families and Community Development Committee. This amendment was negatived.

A conscience vote was allowed on this [division](#).

The amendment moved by Mr Finn from the Liberal Party, available [here](#).

Division on amendment moved by Mr Finn from the Liberal Party. The division resulted in favour of the Government, 23 noes to 14 ayes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	President (LIB)	Ayes	Noes
Aye	No	No	Aye	Aye	No	No	No	No	14	23

Division, according to a conscience vote, on whether the Inquiry be referred to the Legal and Social Issues Committee resulted in favour of the Government, 29 ayes to 9 noes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Total	Ayes	Noes
Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye			
1	5	14	3	2	2	2	0		29	
No	No	No	No	No	No	No	No			9
			9				0			
									29	9

Divisions on Substantive Legislation to Pass the Legislative Council and Receive Royal Assent

Bills that incurred a division on the final vote for the bill to receive Royal Assent are as follows:

i. National Parks Amendment (Prohibiting Cattle Grazing) Bill 2015

A Bill to limit the introduction and use of cattle in the Alpine and River Red Gum national parks.

Although the Coalition, Shooters and Fishers Party and Vote 1 Local Votes voted against the Bill to pass, no amendments were moved and the bill passed without amendment.

The Bill passed without amendments and received Royal Assent on 12 May 2015.

The division for the Bill to pass and receive Royal Assent resulted in favour of the Government, 32 ayes and 6 noes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
Aye	Aye	Aye	No	No	Aye	No	No	21	19

ii. Summary Offences Amendment (Move-On Laws) Bill 2015

A Bill to repeal certain amendments made to the Summary Offences Act 1966 by the Summary Offences and Sentencing Amendment Act 2014, restricting the circumstances in which police officers and protective services officers can give move-on directions. Furthermore, that police officers and protective services officers will not have a specific power to give a move-on direction to a person picketing a place of employment, demonstrating or protesting about a particular issue, or publicising their view about a particular issue.

Despite amendments proposed to be moved by the Shooters and Fishers Party, the Bill was reported without amendment and passed without amendment.

The amendments that were to be proposed moved by Mr Bourman from the Shooters and Fishers Party, available [here](#).

The Bill passed without amendments and received Royal Assent on 25 March 2015.

The division for the Bill to pass and receive Royal Assent resulted in favour of the Government, 21 ayes and 17 noes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
Aye	Aye	Aye	No	No	Aye	No	Aye	21	17

iii. **Wrongs Amendment (Prisoner Related Compensation) Bill 2015**

A bill to insert a new part into the Wrongs Act 1958 which requires the jury or the court as put forward by (as the case requires) to reduce the award of damages for non-economic loss in respect of mental harm caused by the death or injury of a prisoner where the claimant has criminal convictions.

Ms Pennicuik from the Greens proposed to move amendments in Committee of Whole Council, however the Bill was reported without amendment and passed.

The amendments that were to be proposed by Ms Pennicuik from the Greens in Committee of Whole Council, available [here](#).

The Bill passed without amendments and received Royal Assent on 16 June 2015.

The division for the Bill to pass and receive Royal Assent resulted in favour of the Government, 33 ayes to 6 noes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
Aye	No	Aye	Aye	Aye	No	Aye	Aye	33	6

Divisions on Individual Clauses within Bills

i. [Back to Work Bill 2014](#)

A Bill to establish a Back to Work Scheme to provide relief to employers in respect of the costs associated with hiring certain unemployed or retrenched workers.

The introduction of the [Back to Work Bill 2014](#) delivered on Labor’s election commitment to be the first piece of legislation introduced to the 58th Parliament of Victoria.

Mr Barber from the Greens moved one amendment to the Bill and also moved a New Clause to be inserted. The motion to amend Clause 3 of the Bill and include a New Clause incurred a division.

The amendments and New Clause moved by Mr Barber from the Greens, available [here](#).

The Bill passed with an amendment and received [Royal Assent](#) on 25 March 2015.

The division on the amendment as moved by Mr Barber from the Greens resulted in favour of the Government, 32 noes to 5 ayes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
No	Aye	No	No	No	No	No	No	5	32

The division to insert a New Clause moved by Mr Barber from the Greens resulted in defeat of the Government, 15 noes to 21 ayes

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
No	Aye	No	Aye	Aye	Aye	No	Aye	21	15

ii. [Limitation Of Actions Amendment \(Child Abuse\) Bill 2015](#)

A Bill to implement recommendation 26.3 of the Family and Community Development Committee's November 2013 *Betrayal of Trust* report to amend the Limitation of Actions Act 1958 to exclude child abuse from the operation of the limitation period under that Act.

A Committee of Whole Council was required to vote on an amendment moved by Ms Springle from the Greens. This amendment was negated and the Bill passed without amendment.

The amendment moved by Ms Springle from the Greens, available [here](#).

The Bill passed without amendment, and received Royal Assent on 21 April 2015.

The division resulted in favour of the Government, five ayes all from the Greens and 34 noes for the amendment not to be included in the Bill.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
No	Aye	No	No	No	No	No	No	5	34

iii. [Jury Directions Bill 2015](#)

A Bill to simplify and clarify the law on jury directions in criminal trials.

Ms Pennicuik from the Greens proposed to move two amendments in Committee of Whole Council, however the bill was reported without amendment and passed.

The amendments that were to be proposed by Ms Pennicuik from the Greens, available [here](#).

Both votes resulted in favour of the Government, five ayes all from the Greens and 34 noes for the amendment not to be included in the Bill.

The Bill passed without amendment, and received Royal Assent on 12 May 2015.

The division on Clause 7, as moved by Ms Pennicuik from the Greens resulted in favour of the Government 34 noes to 6 ayes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
No	Aye	No	No	No	Aye	No	No	6	34

The division on Clause 58 as moved by Ms Pennicuik from the Greens resulted in favour of the Government 34 noes to 6 ayes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
No	Aye	No	No	No	Aye	No	No	6	34

iv. [Mental Health Amendment Bill 2015](#)

A Bill for an Act to make miscellaneous amendments to the Mental Health Act 2014 and the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997.

A division was called on Clause 25 and 29 of the Bill.

The Bill passed without amendment, and received Royal Assent on 12 May 2015.

The division on Clause 25 of the Bill resulted in favour of the Government, 32 ayes to 5 noes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
Aye	No	Aye	Aye	Aye	Aye	Aye	Aye	32	5

The division on Clause 29 of the Bill resulted in favour of the Government, 33 ayes to 5 noes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
Aye	No	Aye	Aye	Aye	Aye	Aye	Aye	33	5

Division on Individual Clauses within a Bill and final vote to receive Royal Assent

i. Education And Training Reform Amendment (Funding Of Non-Government Schools) Bill 2014

A Bill providing a transparent approach to funding across the education system, with the main goal of meeting student needs. The Bill secures recurrent funding for non-Government schools.

Ms Pennicuik from the Greens moved three amendments incurring a division on the Bill however, all were negived and the Bill passed the Upper House without amendment.

Amendments moved by Ms Pennicuik from the Greens, available [here](#).

The Bill passed without amendment and received Royal Assent on 10 March 2015.

Division on amendment to Clause 4 (1), as moved by Ms Pennicuik from the Greens. The division resulted in favour of the Government, 32 noes to 6 ayes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
No	Aye	No	No	No	Aye	No	No	6	32

Division on amendment to Clause 4, (3), as moved by Ms Pennicuik from the Greens. The division resulted in favour of the Government, 32 noes to 6 ayes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
No	Aye	No	No	No	Aye	No	No	6	32

Division on amendment to Clause 4, (5), as moved by Ms Pennicuik from the Greens. The division resulted in favour of the Government, 32 noes to 6 ayes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
No	Aye	No	No	No	Aye	No	No	6	32

Division for the Bill to pass and receive Royal Assent resulted in favour of the Government, 29 ayes and 6 noes.

DLP	GRN	ALP	LIB	NAT	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs	Ayes	Noes
Aye	No	Aye	Aye	Aye	No	Aye	Aye	29	6

Divisions - The Opposition and Cross Bench Votes

For the purpose of the following graphs, the below data is a representation of votes on party lines.

The conscience vote on requiring the Legal and Social Issues Committee to [inquire and report](#) on, the need for laws in Victoria to allow citizens to make informed decisions regarding their own end of life, have been excluded.

Labor Party votes have also been excluded.

All Divisions	Democratic Labour Party	Greens	Coalition	Australian Sex Party	Shooters and Fishers	Vote 1 Local Jobs
Voted with the Government	17	4	12	12	16	15
Voted against the Government	4	17	9	9	5	6

Divisions on Other Business of the Legislative Council	Democratic Labour Party	Greens	Coalition	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs
Voted with the Government	3	5	6	6	4	3
Voted against the Government	4	2	1	1	3	4

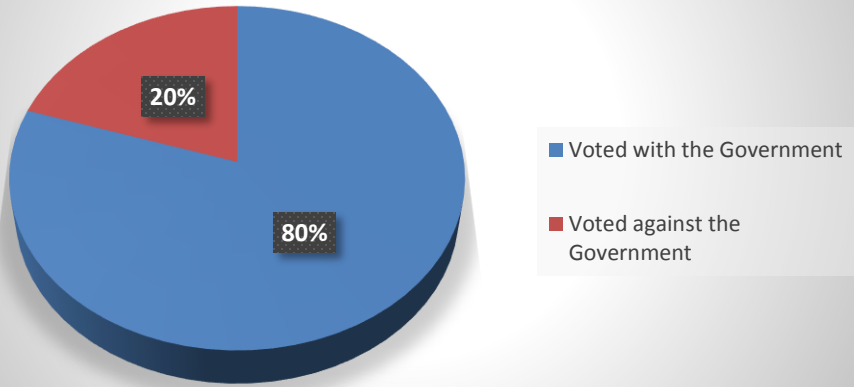
Divisions on the Government's Legislative Agenda	Democratic Labour Party	Greens	Coalition	Australian Sex Party	Shooters and Fishers Party	Vote 1 Local Jobs
Voted with the Government	14	2	3	6	12	12
Voted against the Government	0	12	11	8	2	2

Divisions on Other Business of the Legislative Council



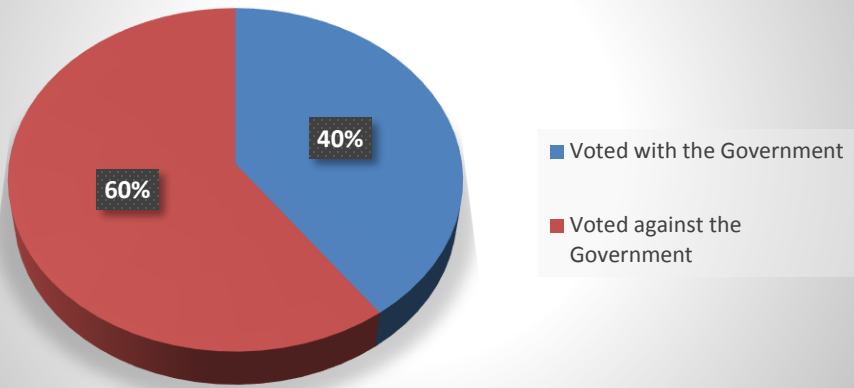
Australian Sex Party

Divisions on Other Business of the Legislative Council



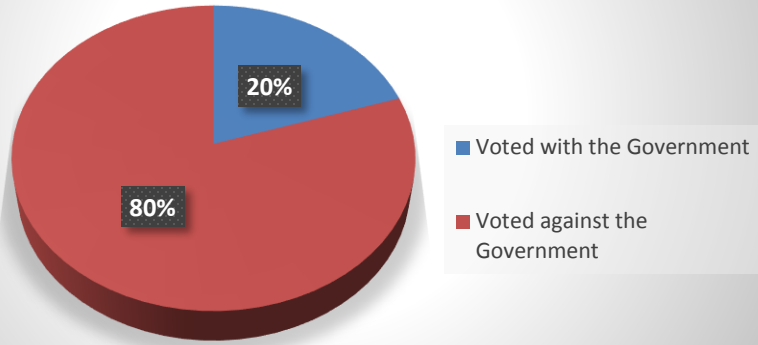
Shooters and Fishers Party

Divisions on Other Business of the Legislative Council



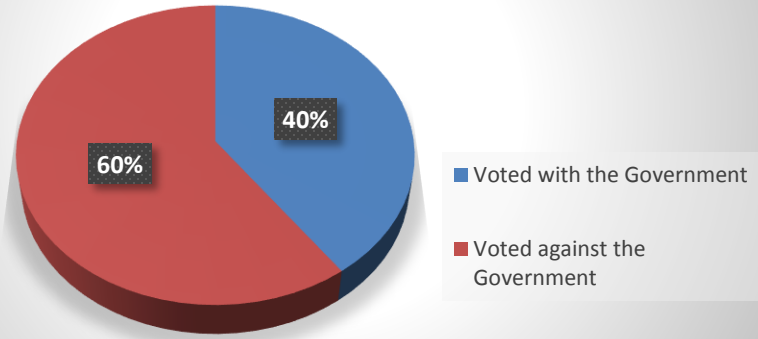
Vote 1 Local Jobs

Divisions on Other Business of the Legislative Council

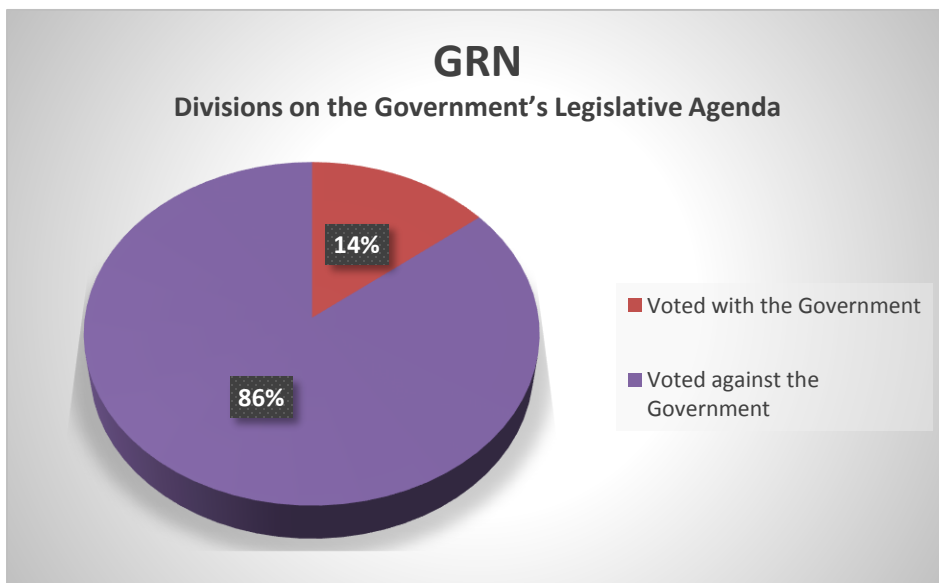
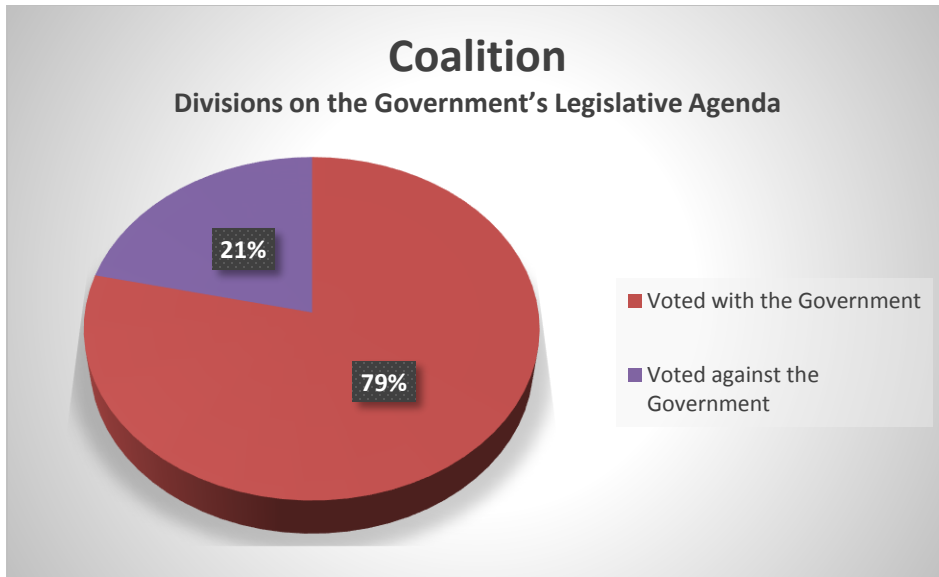


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Divisions on Other Business of the Legislative Council

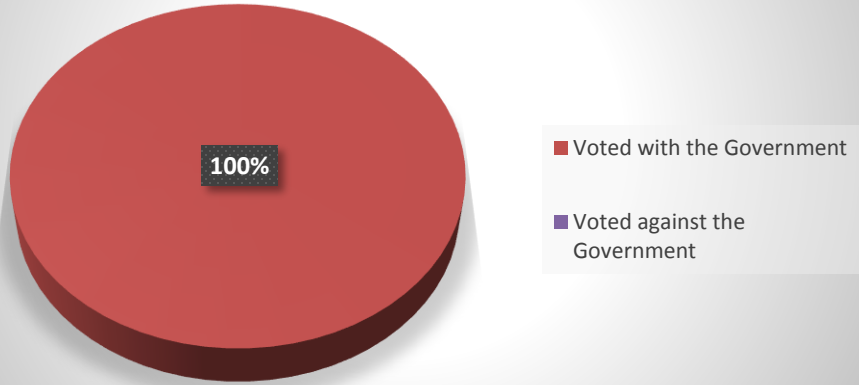


Divisions on the Government's Legislative Agenda



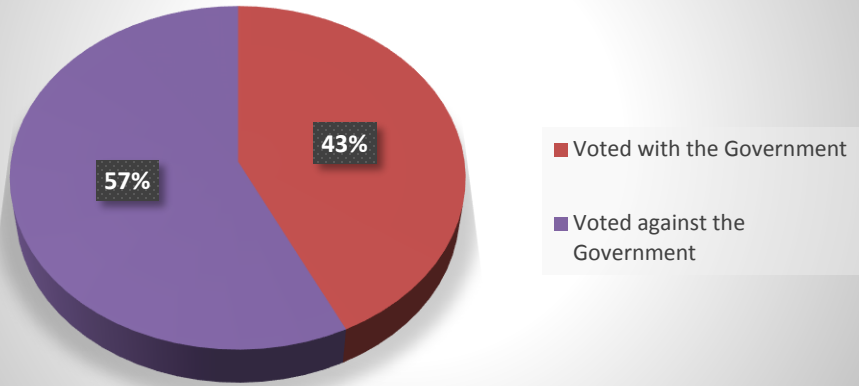
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Divisions on the Government's Legislative Agenda



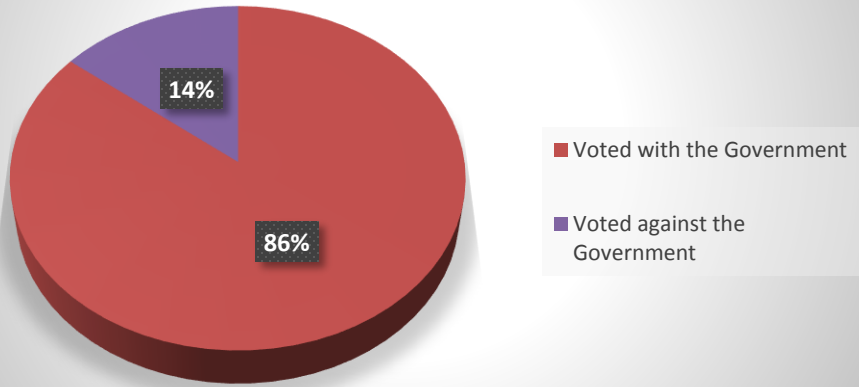
Australian Sex Party

Divisions on the Government's Legislative Agenda



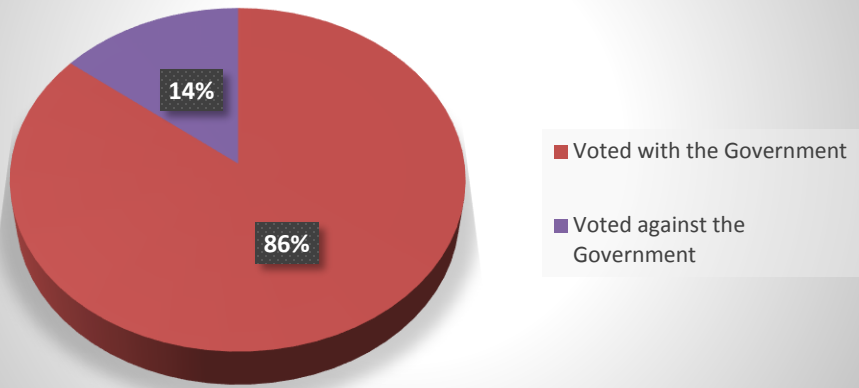
Shooters and Fishers Party

Divisions on the Government's Legislative Agenda



Vote 1 Local Jobs

Divisions on the Government's Legislative Agenda





Further information

The 58th Parliament of Victoria 1st Session Bills Status List is available [here](#).

The 58th Parliament of Victoria 1st Session Legislative Council Minutes of Proceedings are available [here](#).

Hawker Britton's Occasional Paper on the Victorian State Election Results is available [here](#).