

Holidays and Other Legislation Amendment Bill 2012

Report No. 9

Legal Affairs and Community Safety Committee

September 2012

Legal Affairs and Community Safety Committee

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Abbreviations

ASMC	Australian Sugar Milling Council
Attorney-General	The Honourable Jarrod Bleijie MP, Attorney-General and Minister for Justice
Bill	Holidays and Other Legislation Amendment Bill 2012
Committee	Legal Affairs and Community Safety Committee
Department	Department of Justice and Attorney-General
LGAQ	Local Government Association of Queensland
2011 Bill	Holidays and Other Legislation Amendment Bill 2011
2011 Review	The process undertaken by the former government in September 2011 as contained in the discussion paper – <i>“Getting the balance right: A proposal on holidays in Queensland”</i>

Chair's foreword

This Report presents a summary of the Legal Affairs and Community Safety Committee's (the Committee) examination of the Holidays and Other Legislation Amendment Bill 2012 (the Bill).

The Committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles – that is, to consider whether the Bill had sufficient regard to the rights and liberties of individuals, and to the institution of Parliament.

On behalf of the Committee, I thank those individuals and organisations who lodged written submissions on this Bill. I also thank the Committee's Secretariat, and the Department of Justice and Attorney-General.

I commend this Report to the House.



Mr Ray Hopper MP

Chair

September 2012

Recommendations

Recommendation 1 **14**

The Bill be passed.

Recommendation 2 **21**

The Bill be amended to delay the commencement of the Bill until 2014 to lessen the impact, both socially and financially, on those community groups and other organisations that have already committed to activities over the currently scheduled 2013 Labour Day long weekend.

Recommendation 3 **22**

The Attorney-General and Minister for Justice, in his response to the Committee's report, provide the details of any cost-benefit analysis carried out by his Department to the overall State of Queensland, and whether this has taken into account the impact on communities such as Charters Towers and Barcaldine that have long standing annual events scheduled over the Labour Day long weekend.

1 Introduction

1.1 Role of the Committee

The Legal Affairs and Community Safety Committee (the Committee) is a portfolio committee of the Legislative Assembly which commenced on 18 May 2012 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.¹

The Committee's primary areas of responsibility include:

- Department of Justice and Attorney-General;
- Queensland Police Service; and
- Department of Community Safety.

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each bill and item of subordinate legislation in its portfolio areas to consider:

- the policy to be given effect by the legislation;
- the application of fundamental legislative principles; and
- for subordinate legislation – its lawfulness.

The Holidays and Other Legislation Amendment Bill 2012 (the Bill) was introduced into the House and referred to the Committee on 21 August 2012. In accordance with the Standing Orders, the Committee of the Legislative Assembly required the Committee to report to the Legislative Assembly by 6 September 2012.

1.2 Inquiry process

On 22 August 2012, the Committee wrote to the Department of Justice and Attorney-General (the Department) seeking a written briefing on the matters contained in the Bill. On the same day, the Committee issued a media release announcing its inquiry and adopted a schedule for the inquiry which allowed for stakeholders and subscribers to provide written submissions on or before 29 August 2012. The Committee determined it would not hold a public hearing as part of its inquiry process.

The Committee received 20 submissions (see **Appendix A**) which are referred to where appropriate throughout this report.

1.3 Policy objectives of the Holidays and Other Legislation Amendment Bill 2012

The objectives of the Bill as set out in the Explanatory Notes are to relocate the Labour Day public holiday from May to the first Monday in October and to return the Queen's Birthday public holiday to its original date on the second Monday in June.²

The Bill proposes that these changes take effect from 2013.³

¹ *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

² As a consequence of the *Holidays and Other Legislation Act 2011*, the Queen's Birthday public holiday was moved from the second Monday in June to the first Monday in October to commence in 2013.

³ Holidays and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 1; *Transcript of Proceedings*, 21 August 2012, page 1531.

1.4 Consultation on the Holidays and Other Legislation Amendment Bill 2012

As set out in the Explanatory Notes, there has been no community consultation by the Government on the Bill. The Explanatory Notes state:

... it is clear from earlier consultation in the preparation of the 2011 amendments that there is community and business support for the movement of the Labour Day rather than the Queen's Birthday public holiday to the second half of the year.⁴

The consultation mentioned in the Explanatory Notes refers to a review of Queensland public holidays undertaken by the former government during September and October 2011.⁵ In November 2011, the Holidays and Other Legislation Amendment Bill 2011 (2011 Bill) was passed in the Queensland Legislative Assembly which, amongst other things, moved the date of observance of the Queen's Birthday from the second Monday in June to the first Monday in October.

Details on this earlier consultation and the 2011 Bill are discussed in part 1.5 below.

1.5 The 2011 review of Queensland public holidays

As noted above, the former government undertook a review of the spread and allocation of public holidays in Queensland. In September 2011 a discussion paper, *Getting the balance right: A proposal on holidays in Queensland* was released (2011 Review).⁶ The closing date for feedback was 31 October 2011.

The discussion paper identified two public holidays with the potential to be changed – Labour Day and Queen's Birthday. Ultimately, however, that paper proposed to 'move the Queen's Birthday public holiday in Queensland to the second half of the year from 2012, ideally to September or October.'⁷

It was identified in the paper⁸ that 'the Queen's Birthday holiday would be relocated with less disruption to current community events and celebrations than would be the case with the relocation of the Labour Day public holiday.'

The 2011 Review canvassed a range of issues in relation to holidays in Queensland however in relation to the shift of public holidays within the year, the paper sought feedback on the following two particular questions only:

1. Do you agree with moving the Queen's birthday public holiday from June to the second half of the year?
2. If yes, do you agree to move the Queen's birthday public holiday to a Monday in October each year?

Participants in the 2011 Review were able to make general comments on the whole range of issues being dealt with under the review in addition to answering the above specific questions. There was no specific requirement to provide comments in addition to answering the specific questions.

⁴ Holidays and Other Legislation Amendment Bill 2012, *Explanatory Notes*, pages 3 and 4.

⁵ Queensland Government, *Getting the balance right: A proposal on holidays in Queensland*. Submissions closed 31 October 2011.

⁶ Holidays and Other Legislation Amendment Bill 2011, *Transcript of Proceedings*, 15 November 2011, page 3627.

⁷ Queensland Government, *Getting the balance right: A proposal on holidays in Queensland*, page 5.

⁸ Queensland Government, *Getting the balance right: A proposal on holidays in Queensland*, page 5.

The results of the 2011 Review provided to the Committee by the Department show a total of 24,505 people responded to the survey. From those responses:

- 85.4% (19,393 of 22,705 respondents) supported moving the Queen's Birthday to the second half of the year; and
- 82% of respondents agreed to move it specifically to a Monday in October and the remaining 3.4% agreed to move it, but not to a Monday in October.⁹

The Committee notes that 1,038 out of the 24,505 respondents (4.24%) chose to provide additional comments on the proposals in the survey.

An examination of those additional comments¹⁰ showed that:

- 510 respondents (2.08% of total respondents) specifically commented in favour of moving Labour Day rather than the Queen's Birthday. It is not clear from the results provided, however the Committee considers these respondents are a sub-group of the 14.6% of total respondents who did not support moving the Queen's Birthday public holiday;
- 414 respondents (1.69% of total respondents) specifically commented in favour of moving the Queen's Birthday public holiday as proposed by the survey. Again, these respondents are considered to be a sub-group of the 85.4% of total respondents who did support moving the Queen's Birthday public holiday; and
- 114 respondents (0.47% of total respondents) specifically commented in favour of having a public holiday on Melbourne Cup day. These respondents may also be considered as a sub-group of total respondents who did not support moving the Queen's Birthday public holiday.

The Department also advised that 53 separate submissions were received from members of the public and interested organisations in relation to the rearrangement of public holidays. Of those submissions, 23 nominated Labour Day to be moved instead of the Queen's Birthday public holiday while 12 supported the movement of the Queen's Birthday.

In the Department's analysis of the feedback in the consultation process on the 2011 Bill which has also been provided to this Committee, the Department stated:

There was significant concern in relation to the immediacy of the changes to the public holidays. Consultation indicated the need for a transitional period if public holidays are to be changed to ensure that sporting, cultural events etc are given prior notice of the need to reschedule away from the June long weekend created by the current date of the Queen's Birthday public holiday.¹¹

With reference to the disruption to activities and events already scheduled in 2013, the Department stated:

To lessen the impact of these amendments the public is being given as much notice as possible prior to commencement of the proposed changes in 2013 so that arrangements for the current dates of those public holidays can be altered if necessary. As a public holiday will still be observed on the first Monday in October (albeit for Labour Day rather than the

⁹ Queensland Government, *Getting the balance right, Report on responses to a survey about holidays in Queensland*, 1 November 2011 – provided to the Committee under cover of the letter from the Department dated 29 August 2012.

¹⁰ Letter from the Department dated 24 August 2012.

¹¹ Letter from the Department dated 24 August 2012.

*Queen's Birthday), events already arranged for that weekend should suffer minimal disruption.*¹²

The report by the former Industry, Education, Training and Industrial Relations Committee acknowledged that the 2011 Bill could disrupt events planned for 2013 but considered the creation of the one-off public holiday (June 2012) would 'go some way towards' ensuring that any events are not unduly disrupted (page 11).

1.6 The 2011 legislative amendments

In response to the 2011 Review, the *Holidays and Other Legislation Amendment Bill 2011* was introduced into the Legislative Assembly in November 2011. The 2011 Bill proposed to move the date of observance of the Queen's birthday from the second Monday in June to the first Monday in October.

The 2011 Bill was passed later that month without debate in the House.¹³ Various media statements however set out that the Bill had received bipartisan support.¹⁴

The changes proposed in the 2011 Bill came into effect from 2012, including a transitional arrangement to allow planned community and sporting events to continue without disruption in 2012 and to allow organisers to consider plans for 2013 and beyond with minimal interruption.¹⁵

This meant that in 2012, the second Monday in June remained a public holiday however it was a one-off public holiday for the Queen's Diamond Jubilee and the first annual Queen's Birthday public holiday would be observed on the new date in October.

The Committee notes that at the date of this report, a little over 9 months have passed since the previous changes to the schedule of public holidays in Queensland commenced. The Committee further notes that the transitional arrangements contained in the 2011 Bill were in place throughout 2012 and therefore the substantive effect of moving the Queen's Birthday public holiday to October is yet to be realised.

¹² Letter from the Department dated 24 August 2012.

¹³ *Holidays and Other Legislation Amendment Bill 2011, Transcript of Proceedings*, 29 November 2011, page 3854.

¹⁴ Hon J Seeney MP, *LNP supports public holiday change Bill*, 29 November 2011, attached to the submission by the Queensland Teachers' Union of Employees, Submission 6 (also on www.lnp.org.au); Hon C Newman MP, *Premier hits snooze button on holiday changes*, 4 November 2011, www.lnp.org.au.

¹⁵ *Holidays and Other Legislation Amendment Bill 2011, Transcript of Proceedings*, 15 November 2011, page 3627.

2 Examination of the Holidays and Other Legislation Amendment Bill 2012

2.1 The aim of the Bill

The Bill proposes to more evenly distribute public holidays throughout the year by:

- returning the Queen's Birthday public holiday to its original date of observance on the second Monday in June; and
- moving the Labour Day public holiday to the second half of the year.

This will be achieved by amending section 3A of the *Holidays Act 1983* and the Schedule to that Act.

Clause 4 of the Bill amends section 3A to clarify that a reference in an industrial instrument (award or agreement) under the *Industrial Relations Act 1999* to Labour Day, or to a public holiday for Labour Day, means the day observed as a public holiday for that day under the *Holidays Act 1983*. This clause will modify the definitions and dates of public holidays contained in those awards and agreements and activate the public holiday entitlements and obligations on Labour Day. (Similar arrangements already apply in relation to the Queen's Birthday public holiday).

Clause 5 of the Bill amends the Schedule to the *Holidays Act 1983* and provides for the date of observance for the birthday of the Sovereign to be the second Monday in June and the date of observance for Labour Day to be the first Monday in October.

As noted above, one of the objectives of the Bill is to return the Queen's Birthday public holiday to its original date on the second Monday in June. As a consequence of the 2011 Review, the date of observance of the Queen's birthday was moved from the second Monday in June to the first Monday in October. At that time, the following explanation was given:

Because other public holidays are strongly linked to significant religious festivals (e.g. Easter, Christmas) or commemoration of events of particular significance to Australia or Queensland (Australia Day, Anzac Day, Labour Day) on or around particular dates, the public holiday considered most appropriate to move is the Queen's Birthday. Additionally, the current date of the Queen's Birthday public holiday on the second Monday in June has no real connection to the birthday of Queen Elizabeth II on 21 April.¹⁶

The significance of these dates is discussed later in this report.

Similar to the reasons given at the time the 2011 Bill was tabled,¹⁷ the Government contends that this Bill will realise the following advantages:

- *uniformity with the majority of other states and territories, where a public holiday is observed in October or early November;*
- *diminished disruptions to production and services for business and industry that result from the concentration of public holidays falling in quick succession in the first half of the year; and*
- *additional respite and rest for workers during the second half of the year as a result of a more even spread of public holidays across the year.¹⁸*

¹⁶ Holidays and Other Legislation Amendment Bill 2011, *Explanatory Notes*, page 2.

¹⁷ Holidays and Other Legislation Amendment Bill 2011, *Explanatory Notes*, page 2. This Bill received Royal Assent 6 December 2011.

¹⁸ *Transcript of Proceedings*, 21 August 2012, page 1532.

The Department, in its written briefing to the Committee, also set out an additional benefit that:

- *reinstatement of the Queen’s Birthday long weekend in June will help tourism, because this is a traditionally quieter time of the year.*¹⁹

The Committee examines each of these stated advantages below.

2.2 Uniformity with other states

Before examining the issue of how uniformity with other states can be achieved by observing both the Queen’s Birthday and Labour Day holidays at the same time as the other states, the Committee considers that the rationale for public holidays themselves must also be examined.

History of the Labour Day public holiday

Labour Day is an annual public holiday celebrated in all states and territories. It is observed in New South Wales, South Australia and the Australian Capital Territory on the first Monday of October.²⁰ In Western Australia, it is celebrated on ‘Monday or on first Monday following the 1st of March’,²¹ while Tasmania and Victoria celebrate it on the second Monday in March.²²

The Northern Territory observes Labour Day on the first Monday in May.²³ While here in Queensland, Labour Day is celebrated on 1 May, or ‘If 1 May is a day other than a Monday – the following Monday’.²⁴

The origins and historical significance of Labour Day were included in 10 of the 20 submissions received by the Committee.²⁵ In its submission, the Queensland Nurses’ Union made the following remarks:

*This public holiday has its origins in the eight hour day movement which advocated eight hours for work, eight hours for recreation and eight hours for rest. It is a day that signifies and recognises the decades of struggle for basic advances in minimum wages, safety in the workplace and the right to bargain as a collective.*²⁶

In relation to the adoption in Australia of the eight-hour working day, the Committee examined a number of source documents and considers the following to be a helpful description as to how this came about:

During the mid to late 1800s the working day was long and arduous, where some employees would work up to 12 hours a day, six days a week. Many Australians saw the need for better working conditions and in the 1850s there was a strong push for this.

On 21 April 21 1856, stonemasons at the University of Melbourne marched to Parliament House to push for an eight-hour working day. An agreement with employers for a 48-hour week was eventually reached and Australian workers welcomed the new eight-hour day.

¹⁹ Letter from the Department dated 24 August 2012.

²⁰ *Public Holidays Act 2010* (NSW); *Holidays Act 1910* (SA); *Holidays Act 1958* (ACT).

²¹ *Public and Bank Holidays Act 1972* (WA), section 5 and Second Schedule.

²² *Statutory Holidays Act 2000* (Tas); *Public Holidays Act 1993* (Vic).

²³ *Public Holidays Act* (NT).

²⁴ *Holidays Act 1983*, section 2 and Schedule.

²⁵ Australian Rail, Tram and Bus Industry Union, Submission 2; Queensland Nurses’ Union, Submission 4; Australian Meat Industry Employees’ Union, Submission 5; Queensland Teachers’ Union of Employees, Submission 6; Queensland Council of Unions, Submission 7; Member for Gregory, Mr Vaughan Johnson MP, Submission 9; Australian Manufacturing Workers’ Union, Submission 12; Barcardine Regional Council, Submission 13; Barcardine Motosport Association, Submission 15; Electrical Trade Union of Employees, Submission 19.

²⁶ Queensland Nurses’ Union, Submission 4, page 3.

A victory march was held on 12 May 1856 that year and each year after that. In 1856 the new work regulations were recognized in New South Wales, followed by Queensland in 1858 and South Australia in 1873. In 1874, Tasmania joined the other states in adopting the shorter eight-hour working day.

In 1879, the Victorian Government made one further step towards better conditions for employees by proclaiming a paid public holiday that year. However, while a change was made to the hours worked each day, the five day work week we enjoy today took almost a century longer to be adopted finally in 1948.²⁷

The movement was also followed internationally. On 1 May 1886, rallies were held throughout the United States in support of the eight-hour day. In Paris in 1889, a day of international demonstration for an eight-hour work day was declared for 1 May 1890.²⁸

The significance of Labour Day being celebrated in Queensland on 1 May was outlined by the Department in the 2011 Review as follows:

Labour Day has special significance for Queensland because of its link to events in the labour movement of the late nineteenth century. One of the first Labour Day processions in the world was in Barcaldine on 1 May 1891 and the public holiday has been celebrated in Queensland on the first Monday in May since 1901. Labour Day is celebrated by workers across the state and May 1 is deeply ingrained in Queensland's history as a day to recognise workers' rights.²⁹

The significance of this date was also discussed in length in the submissions received by the Committee.

In its submission, the Queensland Teachers' Union of Employees stated:

Queensland holds claim to the worlds first recorded May Day celebrations. The event was held over 121 years ago in Barcaldine in the mist of the great shearers' strike of 1891. It inspired Henry Lawson, undoubtable a national treasure and one of this nations foremost poets, to compose the iconic "Freedom on the Wallaby" to mark the occasion.

Brisbane soon followed and from 1893, all Labour Day celebrations throughout Queensland were conducted on May Day. After Australia federated in 1901, Queensland's Ministerial government of Robert Philip officially gazetted the first Monday in May as the Eight-Hour-Day holiday. In 1912 the day was renamed Labour Day by another Ministerial government.

...

Queensland's May Labour Day is our oldest surviving public holiday. Since Queensland became a state there has not been a single year where the first Monday in May has not been a gazetted public holiday celebrating our cultural and civic heritage. Every state government since our nations founding has taken on the responsibility to ensure our longest standing public holiday is maintained on its traditional May date.³⁰

²⁷ G Davies, *Labour Day: family, freedom and a fair-go*, 2 May 2011, downloaded 28 August 2012 from website at www.independentaustralia.net/2011/australian-identity/australian-history/labour-day-family-freedom-and-a-fair-go/

²⁸ www.wikipedia.org/wiki/International_Workers%27_Day, downloaded 24 August 2012; Queensland Nurses' Union, Submission 4, page 3.

²⁹ Queensland Government, *Getting the balance right: A proposal on holidays in Queensland*, page 5.

³⁰ Queensland Teachers' Union of Employees, Submission 6, page 5.

Similarly, the Australian Rail, Tram and Bus Industry Union stated:

Labour Day, also referred to as “May Day” is well known to be the celebration of the achievement of the 8 hour day as well as the recognition of the role of workers in the broader economy. The terms Labour Day and May Day are used interchangeably given the historical significance.

May Day has been celebrated in Queensland for over 100 years commemorating the first march of its kind in this state if not the country, occurring on the 1st of May 1891. Reference to the significance of this event is found in the works of many including Henry Lawson. His poem “Freedom’s on the Wallaby” was written as a comment on the march itself.

The movement of May Day to October would ignore the historical significance of the event.³¹

As part of its submission, the Queensland Council of Unions³² provided:

The Labour Day celebration in May each year is of special significance to workers and the labour movement as it recognises the first ever Labour Day procession held in Barcaldine on May 1, 1891.

Further, the Labour Day public holiday is an important annual event that commemorates the granting of the eight-hour day for Australian workers and remembers those who struggled and succeeded to ensure decent and fair working conditions for Queensland and Australian workers.

Whilst Labour Day is of special significance to workers it also forms part of Queensland’s history. The battles undertaken by workers in the late 1800’s and early 1900’s to achieve better working conditions are recorded as major events in the history of this state.

Moving the public holiday from May will take away the relevance of commemorating our industrial and general history on or around the anniversary of the first Labour Day procession. For this historical reason the Labour Day public holiday should occur in May each year.³³

It was also submitted that 1 May is important for other reasons. In his submission, the Member for Gregory, Mr Vaughan Johnson MP stated:

... the history of Labour Day goes back to 1891 with Barcaldine being the birth place of this event. This in itself is iconic, with the famous tree of knowledge loved and admired by many. This date in May is so much more than just a celebration of Labour Day to these dedicated people in the west. It is the weekend of much organised and well planned Labour Day Festival.³⁴

Although Mr Johnson’s submission is made with specific reference to the Barcaldine Regional Council and residents of those communities, his sentiment that the date change will be detrimental because of the disruption to community events is echoed in other submissions.³⁵ This and other tourism related aspects are discussed later in this report.

³¹ Australian Rail, Tram and Bus Industry Union, Submission 2, page 2.

³² This submission was supported and adopted by the Australian Manufacturing Workers’ Union, Submission 12.

³³ Queensland Council of Unions, Submission 7, page 1.

³⁴ Member for Gregory, Mr Vaughan Johnson MP, Submission 9, page 1.

³⁵ Queensland Council of Unions, Submission 7; Charters Towers Country Music Inc., Submission 11; Barcaldine Regional Council, Submission 13; Barcaldine Motosport Association, Submission 15.

History of the Queen's Birthday public holiday

The Queen's Birthday public holiday is also an annual public holiday celebrated in all states and territories. The origin of the Queen's Birthday holiday is quite simple. As set out by the former government in the 2011 Review:

... the Queen's birthday public holiday originated in 1912 to observe the birthday of King George V on 3 June. Over the years Queensland, along with most other states, has continued to observe the Queen's birthday in June even though the actual birthday of Queen Elizabeth II is 21 April. In Western Australia the Queen's birthday public holiday is held in either September or October. The Queen's birthday is observed as a mark of respect to the sovereign but is not widely celebrated in community events like other public holidays.³⁶

The observance of a holiday for the Queen's Birthday or Birthday of the Sovereign has not been tied to a specific date and was therefore deemed appropriate to move to October in the 2011 Bill.

Committee comment

The Committee notes the Queen's Birthday public holiday is the only public holiday not tied to a specific date or time of the year, as are all the other public holidays observed in Queensland:

- New Year's Day – 1 January;
- Australia Day – 26 January;
- Easter – varies but tied to a specific time of the year from March through April;
- Anzac Day – 25 April;
- Labour Day – 1 May;
- Christmas Day – 25 December;
- Boxing Day – 26 December.

The Committee notes however that it is only the Queen's Birthday and the Labour Day public holidays which are not observed on uniform dates throughout Australia.

Does the Bill achieve uniformity?

As stated in the Explanatory Notes:

Moving the Queen's Birthday public holiday back to its original date of observance in June will better align Queensland public holidays with those of other states. All states (except for Western Australia) observe the Queen's Birthday public holiday on the second Monday in June. In contrast, the Labour Day public holiday is observed across different months although New South Wales, South Australia and the Australian Capital Territory observe the Labour Day public holiday on the first Monday in October.³⁷

Five of the 20 submissions received by the Committee supported the Bill on the grounds of uniformity.³⁸

³⁶ Queensland Government, *Getting the balance right: A proposal on holidays in Queensland*, page 5.

³⁷ Holidays and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 2.

³⁸ Mr Chris Knight, Submission 1; Shopping Centre Council of Australia, Submission 3; National Retail Association, Submission 16; Ms Lorna May Humphreys, Submission 17; Local Government Association of Queensland, Submission 18.

In its submission, the National Retail Association stated:

*A better alignment of public holidays across Australia will generate cost reductions and efficiencies for business. Currently on holidays unique to Brisbane, my organisation needs to roster staff to work to enable us to service our interstate clients (where no holiday is being celebrated). Given the current level of public holiday penalties, significant additional labour costs are incurred. I am sure this position is representative of many businesses located across the south-east corner in particular.*³⁹

The Shopping Centre Council of Australia considered uniformity could have a smaller geographic advantage, suggesting that it was a 'sensible move' to 'align observance of the Queen's Birthday and Labour Day with ... NSW (with which Queensland shares a border).'⁴⁰

Consistent with the Department's position, Mr Chris Knight,⁴¹ the National Retail Association,⁴² and Ms Lorna May Humphreys supported the Bill on the basis of better alignment with the majority of other states:

I believe that Queen's Birthday should be retained in June to keep Queensland in line with other states in Australia. ...

*Moving Labour Day to October to bring Queensland in line with New South Wales, Australian Capital Territory and South Australia makes sense, and as Western Australia holds a public holiday for Queen's Birthday on this day, than the holiday spans several states. It would also break up the second half of the year which at the moment is barren of public holidays except for Show Days.*⁴³

Comparison with other jurisdictions

The Committee compared the current and proposed observance of the two public holidays under consideration against each Australian jurisdiction for 2012 and 2013. The results are set out in the following two tables.

Table 1: 2012 public holidays

	Qld	NSW	SA	Tas	Vic	WA	ACT	NT
Labour Day	Mon 7 May*	Mon 1 Oct	Mon 1 Oct	Mon 12 Mar (Eight Hours Day)	Mon 12 Mar	Mon 5 Mar**	Mon 1 Oct	Mon 7 May (May Day)
Queen's Birthday	Mon 1 Oct	Mon 11 Jun	Mon 11 Jun	Mon 11 Jun	Mon 11 Jun	Different dates in various regions	Mon 11 Jun	Mon 11 Jun

* Celebrated on 7 May as 1 May did not fall on a Monday.

** Celebrated on 5 March as 1 March did not fall on a Monday.

³⁹ National Retail Association, Submission 16.

⁴⁰ Shopping Centre Council of Australia, Submission 3.

⁴¹ Mr Chris Knight, Submission 1.

⁴² National Retail Association, Submission 16.

⁴³ Ms Lorna May Humphreys, Submission 17.

Table 2: Proposed 2013 public holidays

	Qld***	NSW	SA	Tas	Vic	WA	ACT	NT
Labour Day	Mon 7 Oct [^]	Mon 7 Oct	Mon 7 Oct	Mon 11 Mar (Eight Hours Day)	Mon 11 Mar	Mon 4 Mar [#]	Mon 7 Oct	Mon 6 May (May Day)
Queen's Birthday	Mon 10 Jun [^]	Mon 10 Jun	Mon 10 Jun	Mon 10 Jun	Mon 10 Jun	Different dates in various regions	Mon 10 Jun	Mon 10 Jun

*** Queensland public holidays for 2013 under the *Holidays Act 1983* have yet to be gazetted in the Queensland Government Gazette.

[^] As proposed under the Bill.

[#] Celebrated on 4 March as 1 March will not fall on a Monday.

As is illustrated in Table 1, the Queen's Birthday holiday is currently held on the second Monday in June in all other states and territories except Queensland and Western Australia. The Bill will therefore re-align Queensland with the majority of jurisdictions and, like those jurisdictions, will continue to observe the Queen's Birthday by reference to that of the then Sovereign, King George V.

The Labour Day public holiday is currently observed across different months in other states and territories. However, New South Wales, South Australia, and the Australian Capital Territory observe Labour Day public holiday on the first Monday in October.

Committee comment

The Committee notes that the Bill will achieve a better uniformity than currently exists by aligning the observance of the Queen's Birthday public holiday with other states and territories and relocating Labour Day to October as shown in Table 2, above.

The Committee also notes that the number of public holidays observed in October in Australia will not change under this proposal as under the current arrangements, the date on which Queensland is to observe the Queen's Birthday holiday is the same day that NSW, ACT and SA observe their Labour Day Holiday. It could be considered that adequate uniformity currently exists in relation to actual days on which public holidays fall, when not considering the reason for the holiday.

The Committee also acknowledges that other states or territories may (like Queensland is doing now) choose to amend their own schedule of public holidays and this is beyond the control of the Queensland Government. The Committee considers that this would be unlikely as the other states and territories currently achieve a greater level of uniformity with each other.

The Committee acknowledges that there is a long and proud history associated with Labour Day being celebrated in May, however given that the proposal is to achieve uniformity with other jurisdictions, the proposal in this Bill (rather than the 2011 Bill) best achieves this goal – that is having a public holiday to observe the Birthday of the Sovereign in June and allowing Labour Day celebrations of the rights of workers to occur in October.

The Committee notes submissions such as the Electrical Trades Union of Employees where it was submitted:

ANZAC Day, another public holiday in the first half of the year, is also a day of great significance because of what it stands for. On ANZAC Day we commemorate the dedication and sacrifices of the men and women who have served in the armed forces. You can imagine the public outrage that would ensue, and justifiably so, if there was a change to the date for observance of ANZAC Day.

It would be unthinkable to consider moving the ANZAC Day public holiday, and for clarity, this is not what the ETU proposes. However for many working people, Labour Day assumes a similar significance, and to move the Labour Day holiday to October as proposed in the Bill would cause hurt and dismay to many people.⁴⁴

The Committee does not consider however that by relocating the Labour Day holiday to October as envisaged by this Bill, that it would cause wide scale disruption to celebrating Labour Day in itself. By celebrating Labour Day in October, it could be considered that it would allow greater national celebrations to occur and may even strengthen the significance of the day across the whole of Australia.

On balance, the Committee considers there will be long term benefits in achieving greater uniformity of public holidays with other states and territories.

2.3 The distribution of public holidays throughout the year - diminished disruptions to business and industry

As stated in the Explanatory Notes:

Moving the Labour Day public holiday from the first Monday in May will break up a concentration of public holidays that occur in the April-May period (Anzac Day, three Easter public holidays, Labour Day) and more evenly distribute public holidays throughout the year. The amendments to the Act in 2011 which relocated the Queen's birthday public holiday to October has done little to alleviate that concentration of public holidays or diminish disruptions to production of services for business and industry resulting from the concentration of public holidays/long weekends falling in quick succession in the first half of the year.⁴⁵

The Department provided in its briefing note to the Committee that the advantages of making the proposed changes include diminished disruptions to production and services for business and industry, and additional respite and rest for workers in the second half of the year.⁴⁶

Several submissions to the Committee referred to this matter as being of primary importance in achieving the objectives of the Bill.

An individual submitter, Mr Chris Knight considered the change to the public holidays "*is the right choice*" and that there were too many public holidays congesting the period around April/May and by moving the June (Queen's Birthday) holiday, it did not address the issue around April/May anyway.⁴⁷ The Shopping Centre Council of Australia had no objections to the Bill, but simply observed "*it was a sensible move*".⁴⁸

The Local Government Association of Queensland (LGAQ) observed in its submission that "*the net effect from a business perspective of these changes is the shifting of a public holiday from May to June which allows for a more even distribution of public holidays across the calendar year.*"⁴⁹

In response to the 2011 Review, the Australian Sugar Milling Council (ASMC) had opposed the relocation of any public holiday to the second half of the year because of the impact on the

⁴⁴ Electrical Trades Union of Employees, Submission 19.

⁴⁵ Holidays and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 2.

⁴⁶ Letter from the Department dated 24 August 2012.

⁴⁷ Mr Chris Knight, Submission 1.

⁴⁸ Shopping Centre Council of Australia, Submission 3.

⁴⁹ Local Government Association of Queensland, Submission 18.

operational requirements of sugar mills running continuous shifts during the crushing season from mid June until December.

However in providing a preference for either the Labour Day or the Queen's Birthday holiday to be moved, the ASMC preferred a shift of the Labour Day holiday stating:

The October date falls almost half way between the dates of the Brisbane RNA holiday and Christmas Day. Therefore, moving Labour Day to that October date would result in a very even spread of three Public Holidays between ANZAC Day and Christmas –

- *7 weeks to Queens Birthday,*
- *9 weeks to Brisbane RNA Show Holiday,*
- *6.5 weeks to Labour Day and*
- *11.5 weeks to Christmas.*⁵⁰

Committee Comment

In examining the proposed spread of public holidays throughout the calendar year and how this would affect business and industry, the Committee considers that the alignment of the Queen's Birthday and Labour Day public holidays with the other states, as proposed under the Bill, would cause the least disruption to businesses and industry.

The Committee notes the main disruption occurs when the Easter weekend takes place in April coupled with Anzac Day in the same month and followed quickly by Labour Day in the first week of May.

As stated above when considering the issues of uniformity, there are only two public holidays which are not nationally observed, which can readily be moved. It seems clear to the Committee that by moving Labour Day, which is the closer of the two holidays, it will reduce the impact of the 'cluster' of public holidays which is causing the disruption to business.

The Committee does not accept that the current position with the Queen's Birthday being observed in October satisfactorily alleviates the April-May concentration of public holidays.

2.4 The distribution of public holidays throughout the year - additional respite and rest to workers in the second half the year

No submissions were received addressing the specific benefit of "*additional respite and rest to workers in the second half the year*".

Committee Comment

As mentioned above when considering the issue of uniformity, the Committee notes that under the proposal contained in the Bill there will be no actual change to the existing number of, or dates on which, public holidays are observed in Queensland during the second half of the year.

The first Monday in October will be a public holiday in Queensland in 2013 and thereafter if the Bill is passed or not. The Committee therefore does not consider this to be a relevant consideration in the examination of this Bill.

2.5 Should the Bill be passed?

The Committee considers that the Government's primary policy objectives of achieving:

⁵⁰ Australian Sugar Milling Council, Submission 8.

- uniformity with the majority of other states in the scheduling of public holidays; and
- diminished disruptions to production and services for business and industry throughout the first half of the year,

are sound objectives and are not currently achieved as a result of the 2011 amendments.

The Department stated, in its response to submissions:

It is clear from earlier consultation in the preparation of the 2011 amendments that there is community and business support for the movement of the Labour Day rather than the Queen's Birthday public holiday to the second half of the year. Details of the free text feedback and submissions received by the Department of Justice and Attorney General from the 2011 consultation program which supported the movement of Labour Day rather than the Queen's Birthday have already been provided to the Committee.⁵¹

The Committee does not entirely agree with the Department's response. The Committee does not consider that the free text feedback received from the 2011 review, is indicative of support for a movement of Labour Day over the Queen's Birthday.

The 2011 Review asked specific questions in relation to an already settled proposal to move the Queen's Birthday public holiday to the second half of the year. As set out earlier in this report, there was clear public support for that proposal. While the facts show that the majority of the free text responses received showed support for the movement of Labour Day instead, this was still a very small proportion of the total responses which supported the movement of the Queen's Birthday holiday.

The Committee considers that to suggest the responses to the 2011 Review support one proposition over the other, would be problematic because the simple question of "which of the two public holidays should be moved" has never been asked directly to the people of Queensland.

The issue for the Committee is therefore, does this Bill better achieve the outcomes that are trying to be achieved? In response to that question, the Committee considers that the Bill does better achieve its intended policy objectives and the proposals in the Bill will be more beneficial to Queensland over the longer term.

The Committee is satisfied that the Bill will more evenly distribute public holidays throughout the year and will achieve a greater uniformity with other states and territories which will assist business and industry by reducing the disruptions that occur in the April-May period. It is for these reasons that the Committee makes the following recommendation.

Recommendation 1

The Bill be passed.

However, the Committee is not satisfied that the Government has satisfactorily taken into account the impact on the community from amending the schedule of public holidays again, so close to the passage of the 2011 amendments.

2.6 Impacts on the Tourism Industry and Community

The Department submits that by reinstating the Queen's Birthday public holiday to June, it will help the Queensland tourism industry because this is a traditionally quieter time of the year.⁵²

⁵¹ Department response to submissions dated 30 August 2012.

⁵² Letter from the Department dated 24 August 2012.

The Honourable Jarrod Bleijie MP, Attorney-General and Minister for Justice (Attorney-General), in his explanatory speech to the House on the Bill, stated the Government's views on how the amendments may impact the community as follows:

... the bill amends the Holidays Act 1983 to provide that from 2013 the Queen's Birthday public holiday will be observed on the second Monday in June and the Labour Day public holiday will be observed on the first Monday in October.

*We are proposing these changes to the Queen's Birthday and Labour Day public holidays now so that the new arrangements can be implemented and communicated to the public as soon as possible. A public holiday long weekend will still be observed in October [2012] although the Queen's Birthday public holiday will be moved back to June. But it is important to ensure businesses, community and sporting groups and other organisations that are already planning events for the Labour Day long weekend in May are given ample time to alter their arrangements for the new October location of that public holiday.*⁵³

Of the eight⁵⁴ submissions received that refer to impacts on community events, only two organisations supported the Bill.⁵⁵

In support of the return of the Queen's Birthday public holiday to its original date on the second Monday in June, North Burnett Regional Council stated:

*Due to major festivals being held across the June long weekend, Council believes that it would be most beneficial to the region if the date of observance of the Birthday of the Sovereign (Queen's Birthday) public holiday was moved from the first Monday in October to its original date in June.*⁵⁶

The LGAQ, while stating it had 'no objections to the changes and generally supports the concept of a more balanced redistribution of public holidays across the calendar year'⁵⁷ raised concerns regarding the timing the changes are to take effect:

*It has been brought to our attention (though the time permitted has prevented our seeking more detailed evidence of the expressed concerns) that a number of community organisations (and other organisations) may well have in fact booked venues and planned events based on the current gazetted public holidays for 2013. This level of forward planning is often necessary in order to secure venues and begin the event organising processes. It has been suggested that a 2014 implementation date for the changes might well have minimised any business disruptions caused as a result of this Bill.*⁵⁸

While no other submissions were provided to the Committee in relation to activities which previously occurred on the former Queen's Birthday long weekend in June, the Committee notes the objections to moving the Queen's Birthday public holiday set out in the report examining the 2011 Bill by the former Industry, Education, Training and Industrial Relation Committee.

⁵³ *Transcript of Proceedings*, 21 August 2012, page 1532.

⁵⁴ Queensland Council of Unions, Submission 7; Member for Gregory, Mr Vaughan Johnson MP, Submission 9; Charters Towers Country Music Inc., Submission 11; North Burnett Regional Council, Submission 10; Barcaldine Regional Council, Submission 13; Barcaldine Motosport Association, Submission 15; Local Government Association of Queensland, Submission 18; and Queensland Catholic Education Commission, Submission 20.

⁵⁵ North Burnett Regional Council, Submission 10; and Local Government Association of Queensland, Submission 18.

⁵⁶ North Burnett Regional Council, Submission 10.

⁵⁷ Local Government Association of Queensland, Submission 18, page 2.

⁵⁸ Local Government Association of Queensland, Submission 18, page 2.

Organisations including the Willowbank Raceway Managing Committee and the Cooktown Chamber of Commerce and Tourism all lodged some objection to the 2011 Bill.⁵⁹

Of the remaining six submissions to this Committee, three of those refer to the events held at Barcaldine as part of the festival held over the Labour Day long weekend.⁶⁰ The remaining three submissions set out objections to other events which are planned over the Labour Day weekend which will be directly affected by this Bill.⁶¹

Speaking of the importance of observing the Labour Day public holiday in May to the Barcaldine Regional Council and its residents, the Member for Gregory, Mr Vaughan Johnson MP stated:

This date in May is so much more than just a celebration of Labour Day to these dedicated people in the west. It is the weekend of a much organised and well planned Labour Day Festival.

This festival in Barcaldine is a much bigger event than the local agricultural show and showcases many things. There are many forms of racing held over this weekend. With country horse races and drag racing. Not to mention the very much anticipated goat races. There are many additional activities held over these few days concluding with the Labour Day parade on the Monday. In the small western communities of my electorate, these parades are supported by many organisations. The local kindergarten, schools, senior citizens, football and sporting groups to name a few. They are very much a carnival like event. Residents of close surrounding communities converge on Barcaldine to partake and be witnesses to this spectacular.

May and June are the peak tourism months for the west and many events right across western Queensland are scheduled for this time as we rely on the tourists to ensure they are successful. The Barcaldine Labour Day Festival is one such event. These events coupled with our spectacular tourist attractions help to promote our history. Moving the Labour Day date to October would be very detrimental to this small but vibrant community.

Lastly the weather, namely the heat and often floods and fires make October too late in the year for holding such an event.⁶²

The Barcaldine Regional Council also made a submission, arguing that the Labour Day holiday must stay on the Monday of the May Day weekend. The Council set out:

- *This is a historic day in Australia's history.*
- *...*
- *Barcaldine hosts a highly successful weekend of events known as the Tree of Knowledge Festival which includes horse, drag and goat racing; markets; parades; Sportsman's Dinner; free kids day on the Monday, richest goat races in Australia; and iconic horse racing.*
- *3 years of Queensland events funding has been received to get the weekend to this iconic stage.*
- *The event is scheduled around other Outback events.*

⁵⁹ Report 6, *Holidays and Other Legislation Amendment Bill 2011*, Industry, Education, Training and Industrial Relations Committee, November 2011, page 9.

⁶⁰ Member for Gregory, Mr Vaughan Johnson MP, Submission 9; Barcaldine Regional Council, Submission 13; Barcaldine Motosport Association, Submission 15.

⁶¹ Queensland Council of Unions, Submission 7; Charters Towers Country Music Inc., Submission 11; Queensland Catholic Education Commission, Submission 20.

⁶² Member for Gregory, Mr Vaughan Johnson MP, Submission 9, page 2.

- ...
- *Sponsors have done their money cold – Road Surfaces (\$25,000), Ripcord (\$20,000), John Walton (\$10,000), Council (\$100,000) and John De Groot (\$15,000).*
 - *The event is scheduled around the peak Tourist season. Motels and airfares are booked from year to year. All neighbouring communities benefit from the accommodation demand.*
- ...
- *It is recognised on Queensland Tourism’s “100 Things to Do” list.*
 - *The event relies on the tourism numbers to guarantee success. This submission has the support of Tourism Queensland, Outback Queensland and Central Western Outback tourism.*
- ...
- *The October date is not suitable. The risk of fire and flood is very real. Visitors have left by October because of the heat.⁶³*

The impact on the Barcaldine community was further expressed in a submission received from the Barcaldine Motosport Association:

The Barcaldine community celebrate our history with a three day festival. Included in that festival is a day of motor racing in Barcaldine. We receive support of 1000 spectators which is an enormous financial boost to our town of 1500 residents. People travel from all over the state to attend and be a part of the racing and festivities. Altering this date will have a detrimental financial impact on our small community.

In my opinion the holidays should stay where they are (ie. Labour Day in May and Queens Birthday in October), which was changed by the former State Government following a state wide survey.

When the community was asked which holiday should be moved to the later half of the year, the majority of responses was for the Queen’s Birthday to be moved to October. Which was done. Now the State Government wishes to reverse that and move the historically correct Labour Day holiday.

This holiday has been held in May since the Shearer’s strike in Barcaldine in 1891. It really is, as I see it, Barcy’s holiday. It is part of Barcaldine’s history and the reason we hold the Tree of Knowledge festival.⁶⁴

The Charters Towers County Music Inc. set out the impact the Bill would have on the Charters Towers Country Music Festival in its submission:

This festival of 35 years is the largest amateur music competition in Australia. It has established itself as an iconic event on the Friday, Saturday and Sunday of the Labour Day weekend. It is also the final and by far the largest event in 10 Days in the Towers which brings together a diverse range of activities for visitors and locals to enjoy. Both the Charters Towers Country Music Festival and 10 Days in the Towers are reliant on the public holiday or holidays, and the autumn timing for several reasons.

April-May was chosen as that period offers milder weather. The main stage is outdoors, and the other venues are large, non-airconditioned sheds. October would be too hot, with an

⁶³ Barcaldine Regional Council, Submission 13.

⁶⁴ Barcaldine Motosport Association, Submission 15.

average maximum daily temperature of 32.4 degrees C, compared with 27.2 degrees C in May.

The start of milder weather heralds the arrival of the travelling public on which the Festival relies. Numbers of visitors to the Charters Towers Visitor Information Centre from outside the local area peak during the autumn and winter, and are down by 42% by October. e.g. October 2011: 2053 visitors, May 2012: 2912 visitors. The visitor numbers also reflect the importance of the festival, but the same positive impact on the festival and local business cannot be expected in October.

Judges, guest artists, technicians and stall operators are drawn from all over Australia. Time to travel is important, and for competitors in particular, who also come from all over Australia, the decision whether or not to attend often comes down to how much time off work is involved. The present arrangement by which the Grand Final occurs on Sunday night and people can travel on Monday has proven to be very popular.

The premise of the festival is for competitors to progress through the heats on Saturday and Sunday to the Grand Final on Sunday night. Saturday night is set aside for a cabaret with well-known guest artists, and is the main money-earner, aided by the fact additional Townsville people attend the cabaret and return home on the Sunday. The festival cannot withstand the financial impact if it is shortened to two days.

The Festival is run by volunteers. Setting up and pulling down the venues at the Charters Towers Showground are time-consuming tasks, and public holidays greatly help with the availability of volunteers and community groups. In fact, the Monday holiday is crucial to the capacity of volunteers to disassemble everything, clean -up and put things into storage for another year. Some local community groups are paid to assist, and for them this is one of their main fund-raising opportunities made possible because of the public holiday.

The next public holiday in the autumn-winter period is the Queen's Birthday weekend. The Charters Towers Showgrounds are unavailable at this time because the Charters Towers Motor Show and Swap Meet occurs there on that weekend - another iconic and long-standing event. In fact, Phil Jones, from that Committee was quoted in the local newspaper The Northern Miner as stating, "News that the Queen's Birthday would remain in June was good news to the club. It makes it a lot easier for people to travel."⁶⁵

Finally, the Queensland Catholic Education Commission submitted in relation to the impact of moving Labour Day:

... there is no widespread negative effect as a result of the changes to the Labour Day and Queen's Birthday holidays.

However, where there is a negative impact it is very serious for the schools concerned. This is particularly so for some schools who have already set their 2013 calendars and planned large scale events for the originally scheduled long weekend of 4 - 6 May which already involve significant outlays of finance and resources. In one instance, it also involves inconveniencing visitors who have planned some time ago to travel long distances to the event.

It should also be noted that they change in public holidays will have a serious effect on the operation of boarding schools. These schools develop their "home weekends" around weekends which have an adjacent public holiday.⁶⁶

⁶⁵ Charters Towers Country Music Inc., Submission 11, pages 1-2.

⁶⁶ Queensland Catholic Education Commission, Submission 20.

The Department, in its response to the submissions stated:

*The Explanatory Notes to the Bill acknowledges that moving the Labour Day public holiday may impact on the rights and liberties of individuals by causing disruption to activities and events already scheduled for the current date of observance for that public holiday. These concerns should be alleviated if the recommended amendments are made as soon as possible so as to provide to the community the maximum prior notice of the changed arrangements. It is also considered that the advantages to the community and business as a whole from the movement of the Labour Day public holiday outweigh any disadvantage suffered by individual events.*⁶⁷

Committee comment

In relation to the impact on organisations that are “already planning” events for the Labour Day long weekend in May 2013, the Committee considers, from the submissions received, there are many organisations that “have already planned” their events.

While the Committee understands the intention of the Government is to give the community as much notice as possible, it is apparent from the submissions that it is not unusual for community groups and organisations to be planning events 12 months (or more) in advance. The Committee accepts there will be many events that have been scheduled throughout the state which have been “locked in” for the Labour Day weekend prior to the Bill being introduced, let alone at the time when it is passed and becomes law.

Further, the Committee considers that it would not be unreasonable to expect members of the public and other sporting and community groups to feel confident that there would be no further changes to the schedule of public holidays in Queensland after the lengthy consultation that occurred in 2011 and the changes that were given effect by the *Holidays and Other Legislation Amendment Act 2011* to shift the Queen’s Birthday to October and leave Labour Day in May.

The Committee notes in particular the effect on organisations such as Netball Queensland. In its examination of the 2011 Bill, the former Industry, Education, Training and Industrial Relations Committee set out:

*Netball Queensland advised that it holds its largest netball event, Queensland’s State level competition - State Age Carnival - which attracts around 1,600 players plus about 1,000 supporters and officials to Brisbane every Queen’s Birthday weekend. While it was concerned that the Queen’s Birthday holiday not be moved in June 2012, to avoid disruptions for their 2012 event, they supported moving the Queen’s Birthday holiday in 2013, on the basis that the change would ultimately benefit Queensland.*⁶⁸

Relying on the change to the public holidays and preparing for its 2013 season, Netball Queensland’s website now shows:

State Events 2013 Structure

After a thorough consultative process involving two separate surveys of Associations across the state, Netball Queensland has determined that there is not overwhelming support to make significant changes to the structure of State Events. As a result, the State Events structure with the three current events will remain in place with minor alterations to each

⁶⁷ Department response to submissions dated 30 August 2012.

⁶⁸ Report 6, *Holidays and Other Legislation Amendment Bill 2011*, Industry, Education, Training and Industrial Relations Committee, November 2011, page 9.

event to be made in order to bring them closer into line with the feedback received during the consultative process.

This will mean that the 2013 State Events schedule will be as follows:

State Age Championship - Saturday 4 – Monday 6 May 2013

Challenge Carnival - Saturday 22 – Monday 24 June 2013

Sunshine Carnival (formerly called Country Carnival) - Saturday 27 – Sunday 28 July 2013

The main changes to the above schedule are that the State Age Championship will revert to its original dates on the Labour Day long weekend in May. In addition to taking on board the feedback of members regarding this issue, this change has been made to ensure that the biggest State Event in Queensland will be held on the most prominent and suitable dates in the Netball calendar which will be the one remaining three day long weekend in the second quarter of the year (the Queen's Birthday long weekend will going be moved to October in Queensland from 2013).

The Challenge Carnival will move to the first weekend of the June school holidays in the absence of the June Queen's Birthday long weekend and the Country Carnival will now be known as the Sunshine Carnival to better reflect the fact that it is an event that is inclusive of all Associations in Queensland. Other rule amendments where necessary will be considered in line with reviews of our events that are conducted each year, and any such changes to rules would be communicated to Associations, however the overall structure of these events has been confirmed as remaining in line with the existing structure.

Netball Queensland would like to thank all members who took part in the consultative survey process as the feedback provided has significantly helped with the considerations that needed to be made with regards to the State Events structure going forward into the future.⁶⁹

This is only one example, but it can be seen how the multiple changes to the schedule of public holidays have affected organisations across the state and how they may now need to reschedule events again for a second time in two years.

Should the Parliament pass the Bill and determine that a public holiday should be observed in June for the Queen's Birthday and in October for Labour Day, the Committee considers that at a minimum, the Bill must include a transitional arrangement to lessen the impact on the people of Queensland that have already arranged activities for the 2013 Labour Day weekend in May.

The Committee considered two options as a transitional arrangement. Firstly, the Committee considered a similar arrangement to that contained in the 2011 Bill with an additional public holiday included to reduce the impact of the amendments. This would see the current Bill:

- (a) allowing one last Labour Day public holiday to remain on its scheduled date of 1 May or the following Monday in 2013;
- (b) reinstating the observance of the Queen's Birthday holiday to the second Monday in June; and
- (c) observing the first new Labour Day holiday on the first Monday in October 2013.

This would allow activities planned for the Labour Day long weekend in May 2013 to proceed unaffected and also allow the many organisations who march on this day, a final day of celebration before observance of the Labour Day holiday moves to its new date in October.

⁶⁹ <http://www.netballq.org.au>

The Committee considered, however, that should this type of transitional arrangement proceed, similar issues to those that were raised in consultation by the former Government on the 2011 Bill would arise, in relation to the added impost on business by observing an additional public holiday throughout the year and the potential loss of wages for people employed on a casual basis.

The Committee notes the observation by the former Industry, Education, Training and Industrial Relations Committee in this regard, that:

... the creation of an additional public holiday may result in a loss of wages for people employed on a casual basis because they will not be entitled to payment if they do not work on the [additional] public holiday; and because employers may choose to reduce staffing costs or close, and not employ casuals on that day.⁷⁰

The second option considered by the Committee was that of a delayed commencement to the changes in the schedule of public holidays to lessen the immediate impact of the removal of the long weekend in May in 2013. This option was raised by the LGAQ in its submission as set out earlier in this report and is the one which the Committee considers has most merit.

As suggested by the LGAQ (set out above), the Committee considers that a 2014 commencement date will minimise losses to individuals, community groups and other organisations which have already planned activities over the 2013 May long weekend, yet still achieve the longer term objectives of the Bill commencing from the following year.

The Committee notes that department addressed this suggestion in its response to submissions:

The government does not intend to delay implementation of the public holiday arrangements proposed in the Bill as to do so contributes to the continuation of problems under the current arrangements.⁷¹

The Committee considers that the Parliament should strongly consider a delayed start and notes that in 2013, the Easter weekend will commence in late March and that by retaining the May long weekend for an additional year there will be less of a disruption. In 2014, however, the Easter weekend is due to fall in late April and this is where the exact benefits of changes being made by the Bill will be seen in minimising the disruptions to business in the immediate period after the Easter/ANZAC Day period.

Recommendation 2

The Bill be amended to delay the commencement of the Bill until 2014 to lessen the impact, both socially and financially, on those community groups and other organisations that have already committed to activities over the currently scheduled 2013 Labour Day long weekend.

In relation to the assistance to the tourism industry, the Committee considers that the Department has not provided any substantive details supporting the proposition that the June long weekend will be more beneficial to the Queensland tourism industry than the May long weekend (as October will have a long weekend whether the Bill passes or not). Nor has the Department provided any figures or costings setting out the impact or otherwise on the Tourism industry in Queensland associated with these changes.

What is evidenced from the submissions received is that there will be many businesses, community and sporting groups, schools and other organisations that will be adversely affected by the changes in this Bill - in 2013 certainly, and in the years thereafter, potentially.

⁷⁰ Report 6, *Holidays and Other Legislation Amendment Bill 2011*, Industry, Education, Training and Industrial Relations Committee, November 2011.

⁷¹ Department response to submissions dated 30 August 2012.

The Committee accepts that this will depend on how individual organisations can readily reschedule their events (if at all) and what resources (including financial resources) will be lost or wasted because of these amendments.

The Committee considers that many sectors of the Queensland community may consider this Bill does much more than simply re-align the schedule of public holidays, but that for some communities who rely greatly on the annual events that currently take place over the Labour Day long weekend, it may go so far as changing their way of life.

In order to satisfy the Parliament that the advantages to the community and business as a whole from the movement of the Labour Day public holiday outweigh any disadvantage suffered by individual events, the Committee also makes the following recommendation.

Recommendation 3

The Attorney-General and Minister for Justice, in his response to the Committee's report, provide the details of any cost-benefit analysis carried out by his Department to the overall State of Queensland, and whether this has taken into account the impact on communities such as Charters Towers and Barcaldine that have long standing annual events scheduled over the Labour Day long weekend.

2.7 Industrial Relations Act 1999

Part 3 of the Bill proposes consequential amendments to the *Industrial Relations Act 1999* to support the changes proposed to the *Holidays Act 1983*.

As explained by the Attorney-General, these consequential changes will:

*... ensure the entitlements and obligations in relation to public holidays will apply on the proposed new dates of observance for the Queen's Birthday and Labour Day public holidays.*⁷²

The *Industrial Relations Act 1999* contains provisions entitling workers to either a paid day off or, if they work, penalty rates as set out under awards and agreements.⁷³

Committee comment

These changes will not affect the current entitlements of individuals. Workers will continue to have access to these public holidays and the public holiday penalty rates.

⁷² *Transcript of Proceedings*, 21 August 2012, page 1532.

⁷³ *Industrial Relations Act 1999*, section 15.

3 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of Parliament.

The Committee has examined the application of the fundamental legislative principles to the Bill. The Committee brings the following to the attention of the House.

3.1 Rights and liberties of individuals

Section 4(2)(a) of the *Legislative Standards Act 1992* requires that legislation has sufficient regard to the rights and liberties of individuals.

As set out in the Explanatory Notes:

Moving the Labour Day public holiday may impact on the rights and liberties of individuals by causing disruption to activities and events already scheduled for the current date of observance for that public holiday. These concerns should be alleviated if the recommended amendments are made as soon as possible so as to provide to the community the maximum prior notice of the changed arrangements.⁷⁴

The Department responded:

With respect to any potential breach of a Fundamental Legislative Principle (FLP), moving the Queen’s Birthday and the Labour Day public holidays may be a breach of an FLP in that it could impact on the rights and liberties of individuals by causing disruption to activities and events scheduled for these days. To lessen the impact of these amendments the public is being given as much notice as possible prior to commencement of the proposed changes in 2013 so that arrangements for the current dates of those public holidays can be altered if necessary. As a public holiday will still be observed on the first Monday in October (albeit for Labour Day rather than the Queen’s Birthday), events already arranged for that weekend should suffer minimal disruption.⁷⁵

Committee comment

The Committee has considered the impact of the Bill in part 2.5 of this Report.

The Committee considers **Recommendation 2** above, if adopted by the Government may mitigate the impact on affected persons and organisations within Queensland.

⁷⁴ Holidays and Other Legislation Amendment Bill 2012, *Explanatory Notes*, page 3.

⁷⁵ Letter from the Department dated 24 August 2012.

Appendix A – List of Submissions

Sub #	Submitter
001	Mr Chris Knight
002	Australian Rail, Tram and Bus Industry Union
003	Shopping Centre Council of Australia
004	Queensland Nurses' Union
005	The Australasian Meat Industry Employees' Union
006	Queensland Teachers' Union of Employees
007	Queensland Council of Unions
008	Australian Sugar Milling Council
009	Member for Gregory, Mr Vaughan Johnson MP
010	North Burnett Regional Council
011	Charters Towers Country Music Inc.
012	Australian Manufacturing Workers' Union
013	Barcaldine Regional Council
014	Banana Shire Council
015	Barcaldine Motosport Association
016	National Retail Association
017	Ms Lorna May Humphreys
018	Local Government Association of Queensland
019	Electrical Trades Union of Employees
020	Queensland Catholic Education Commission

Appendix B – Department summary of issues in Submissions

INTRODUCTION / SUMMARY

In 2011, the previous Queensland Government conducted a review of the *Holidays Act 1983* (the Act) which showed there was support to move a public holiday to the second half of the year. The Act was amended in 2011 to move the date of the Birthday of the Sovereign (Queen's Birthday) public holiday from the second Monday in June to the first Monday in October.

As a consequence of a review of public holiday arrangements by the current government, to more evenly distribute public holidays throughout the year, it is considered that the Queen's Birthday public holiday should be returned to its original date and the Labour Day public holiday should be moved to the second half of the year.

Therefore, the objective of the *Holidays and Other Legislation Amendment Bill 2012* (the Bill) is from 2013 to return the Queen's Birthday public holiday to its original date on the second Monday in June and relocate the Labour Day public holiday from May to the first Monday in October.

It is noted that submissions have been received from Chris Knight, the Shopping Centre Council of Australia, the Australian Sugar Milling Council, the North Burnett Regional Council, the National Retail Association Ltd and Lorna May Humphreys all of which support the amendments made by the Bill. The submissions by the Shopping Centre Council of Australia and the Australian Sugar Milling Council raise two matters relating to other legislation on which comments are outlined under the Issues below. The Local Government Association of Queensland has stated it has no objections to the changes but has raised an issue of whether those changes should be delayed until 2014.

CLAUSE NUMBER AND TITLE, OR ISSUE AND RELATED CLAUSES

Explanation of the clause or overall issue

The submissions do not refer to specific clauses in the Bill. The substantive clauses of the Bill make the following amendments to the Act:

- clarification that a reference to Labour Day in an industrial instrument (award or agreement) under the *Industrial Relations Act 1999* means the day observed as the public holiday for that day [clause 4],
- movement of the date of the Queen's Birthday public holiday to the second Monday in June [clause 5(2)],
- movement of the date of the Labour Day public holiday to the first Monday in October [clause 5(3)], and
- consequential amendment of the definition of "public holiday" in the *Industrial Relations Act 1999* to reflect the amended dates of the Labour Day and Queen's Birthday public holidays [clause 7].

SUMMARY OF ISSUES IN SUBMISSIONS

Issue 1

The significance of the current May date of the Labour Day public holiday to the labour movement in Queensland means that the date should not be changed. The relative significance of Labour Day being observed in May is also contrasted with the significance of the Queen’s Birthday public holiday being observed in June.

Raised in submissions from 002 Rail Tram and Bus Union, 004 Queensland Nurses Union, 005 Australasian Meat Industry Employees’ Union, 006 Queensland Teachers’ Union of Employees, 007 Queensland Council of Unions, 012 Australian Manufacturing Workers’ Union, 013 Barcaldine Regional Council, 015 Barcaldine Motor Sport Association

Comments

Movement of a public holiday to the second half of the year spreads public holidays more evenly across the year. Because other public holidays are strongly linked to significant religious festivals (e.g. Christmas and Easter) or commemoration of events of particular significance to Australia (e.g. Australia Day, Anzac Day) on or around particular dates, the public holidays considered most appropriate to move are either Labour Day or the Queen’s Birthday.

Although the former government chose to move the Queen’s Birthday public holiday to the second half of the year, the policy of the current government in proposing the movement of Labour Day is justified by the increased advantages of the movement of that public holiday to industry and the community. Those advantages are as follows:

- uniformity with the majority of other states and territories. In all other states and territories, except Western Australia, the Queen’s Birthday public holiday is observed on the second Monday in June. The Labour Day public holiday is observed across different months but New South Wales, South Australia and the Australian Capital Territory observe the Labour Day public holiday on the first Monday in October;
- diminished disruptions to production and services for business and industry that result from the concentration of public holidays falling in quick succession in the first half of the year. Moving the Labour Day public holiday from the first Monday in May will break up the concentration of public holidays that occur in the April-May period (Anzac Day, three Easter public holidays and Labour Day); and
- additional respite and rest to workers during the second half of the year as a result of a more even spread of public holidays across the year.
- reinstatement of the Queen’s Birthday public holiday long weekend in June will help the Queensland tourism industry because this is a traditionally quieter time of the year.

The Government notes the submission by the National Retail Association to the Committee which states:

“A better alignment of public holidays across Australia will generate cost reductions and efficiencies for business. Currently on holidays unique to Brisbane, my organisation needs to roster staff to work to enable us to service our interstate clients (where no holiday is being celebrated). Given the current level of public holiday penalties, significant additional labour costs are incurred. I am sure this position is representative of many businesses located across the south-east corner in particular.

Consequently the improved alignment of public holidays that will result from the Holidays and Other Legislation Amendment Bill will deliver reduced costs for many Queensland businesses and is supported by NRA.”

Recommendations

We recommend no change.

Issue 2**Inconvenience that will be experienced for events already planned for the current Labour Day public holiday in May and/or the long weekend it creates at that time (particularly in western districts).**

Raised in submissions from 002 Rail Tram and Bus Union, 007 Queensland Council of Unions, 009 Vaughan Johnson, 011 Charters Towers Country Music Inc., 012 Australian Manufacturing Workers' Union, 013 Barcaldine Regional Council, 015 Barcaldine Motor Sport Association

Comments

The Explanatory Notes to the Bill acknowledges that moving the Labour Day public holiday may impact on the rights and liberties of individuals by causing disruption to activities and events already scheduled for the current date of observance for that public holiday. These concerns should be alleviated if the recommended amendments are made as soon as possible so as to provide to the community the maximum prior notice of the changed arrangements. It is also considered that the advantages to the community and business as a whole from the movement of the Labour Day public holiday outweigh any disadvantage suffered by individual events.

Recommendations

We recommend no change.

Issue 3**Consultation and questioning of support for the movement of Labour Day.**

Raised in submissions from 002 Rail Tram and Bus Union, 004 Queensland Nurses Union, 007 Queensland Council of Unions, 012 Australian Manufacturing Workers' Union

Comments

The Explanatory Notes to the Bill acknowledges that there has been no community consultation on the Bill.

It is clear from earlier consultation in the preparation of the 2011 amendments that there is community and business support for the movement of the Labour Day rather than the Queen's Birthday public holiday to the second half of the year. Details of the free text feedback and submissions received by the Department of Justice and Attorney General from the 2011 consultation program which supported the movement of Labour Day rather than the Queen's Birthday have already been provided to the Committee.

Recommendations

We recommend no change.

Issue 4**Timing of changes to public holiday arrangements relating to frequency of change and consideration of delaying current proposals until 2014.**

Raised in submissions from 006 Queensland Teachers Union and Local Government Association of Queensland

Comments

It is acknowledged that changes to public holiday arrangements were only recently made by the former government changing public holidays for 2012 and beyond. However it is the policy position of the government that the result of those changes in relation to the Labour Day and Queen's Birthday public holidays and the distribution of public holidays throughout the year do not adequately resolve a number of continuing problems for industry and the community. The advantages of the proposed changes in the Bill which are intended to affect public holiday dates in 2013 have already been outlined in our comments under Issue 1 of this report. The Government does not intend to delay implementation of the public holiday arrangements proposed in the Bill as to do so contributes to the continuation of problems under the current arrangements.

Recommendations

We recommend no change.

Issue 5**Removal of the status of the Labour Day public holiday as a closed day for large retail shops in South East Queensland.**

Raised in submission from 003 Shopping Centre Council of Australia

Comments

The Shopping Centre Council of Australia has otherwise supported the proposed amendments in the Bill but has advocated that Labour Day should no longer be a closed day. Labour Day is a closed day for large retail shops throughout the state under both the *Trading (Allowable Hours) Act 1990* and the various trading hours orders. There is no intention that this Bill should alter those trading hours arrangements.

Recommendations

We recommend no change.

Issue 6**If a holiday such as Labour Day or Queens Birthday is to be moved to a later date, then the relevant legislation should make it clear that the holiday may be observed on any other date, in an enterprise, in circumstance where that is appropriate for the operational requirements of an affected business.**

Raised in submission from 008 Australian Sugar Milling Council

Comments

Given that employers and employees in the private sector are subject to the Commonwealth industrial relations jurisdiction this is a matter that is more appropriately addressed in the negotiation of a federal modern award or enterprise bargaining agreement.

Recommendations

We recommend no change.

Dissenting Report

I wish to notify the Parliament of my dissent to the Legal Affairs and Community Safety Committee's Report No. 9 and in particular to the recommendation in the report to pass the Bill.

The Government has provided no convincing justification for introducing this Bill and amending the schedule of public holidays contained the *Holidays Act 1983* which was only amended in November 2011, a little over 9 months ago. I note that at that time, no member of the then Opposition voted against those amendments.

Further, the Government has failed to adequately address the impact of the proposed changes on communities and associated community events.

The Committee's Report outlines a number of issues with this Bill and I will outline additional objections to the Bill in further detail during the debate in the House, however I cannot in good conscience support this Bill and recommend to the House that it not be passed.

A handwritten signature in black ink, appearing to be 'Bill Byrne', with a long horizontal line extending to the right.

Mr Bill Byrne MP

Member for Rockhampton