Speech by

Hon. P. BRADDY

MEMBER FOR KEDRON

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WORKCOVER QUEENSLAND AMENDMENT BILL

Hon. P. J. BRADDY (Kedron—ALP) (Minister for Employment, Training and Industrial Relations) (10.30 p.m.), in reply: This Bill will rebuild the foundations of fairness and equity in the Queensland workers compensation system. The Beattie Labor Government stood committed at the last election, and stands committed tonight, to restoring the balance to the Queensland workers compensation system. Unlike the Opposition, this Government governs for all Queenslanders, not just select groups. The Labor Government is about looking after workers and employers for the benefit of the whole of the community. The reforms balance the rights of injured workers against the need for competitive and affordable premiums for employers while maintaining a secure, viable and relevant workers compensation system. They are the product of comprehensive actuarial, statistical and policy analyses and consultation with stakeholders. I assure members of this House that the reforms are financially responsible.

The coalition is not only wrong but mischievous in suggesting that this Bill will send the workers compensation scheme into financial oblivion. I believe that it was fitting that the last speech that was made in that mode by an Opposition member was that made by the member for Maroochydore, who delivered one of the worst type of high school speeches I have heard for a long time. Opposition members have gone to great lengths to cast aspersions on the costing of the Labor Government reforms. This has, in fact, been, I suppose, the keynote—the touchstone—of their attack on this Bill. At the same time, while doing that, they have praised the actuarial costing and statistical basis that led to their reforms as a result of the Kennedy report.

As the honourable member for Clayfield and his supporters on the other side of the House would be aware, the same firm of actuaries and the same actuary working in that firm which did the work for Kennedy and the coalition Government provided advice to us and the WorkCover board on these reforms before the Parliament. So are those members saying that the same firm of actuaries, whom they believe are honest and sensible, rational and fair—have they suddenly turned around? Are they insulting PricewaterhouseCoopers and Mr Latham of that firm? It is an absolute disgrace that coalition members have come into this place and attacked the actuarial basis of these reforms when they know—or should know—that it is the same firm of actuaries and the same actuary. That firm has been involved with the WorkCover board now for some time.

I would like to put on the record that that particular actuary also briefed key stakeholders, including the member for Clayfield. At that briefing, the actuary advised that the reforms had been fully costed and would not impact negatively on the financial viability of the scheme. Why should that actuary have been believed in 1996 and not believed now in 1999? The answer, of course, is that the coalition is merely playing politics. I will quote some of the figures presented to the member for Clayfield and the other people who went to that actuarial briefing. The actuary informed them, including the member for Clayfield, that the definition of "injury" will increase claims costs by only 3.5% and that the change in the definition of "worker" would not adversely affect the scheme, provided that premium compliance issues are solved. That is a very important point, because that is something that we are addressing in this Bill and will address over the next 12 months— something that was run away from by the coalition when it was in Government, despite the references to it in the Kennedy report.

The actuary informed the Opposition and the business community that the other changes would have no material effect on the financial viability of the scheme. The overall effect of the changes, the actuary informed all those people who were briefed, is that it will extend the period for target solvency by no more than three to six months. I stress that this is purely the cost, and it does not, of course, take into consideration the cost offsets of the reforms. It was effectively a worst-case scenario if we had not taken positive measures on top of that. And, of course, we have, as was set out in the Bill and in this debate.

I also refute what Opposition members have said in relation to the financial turnaround of the fund. Let us look at the reality of that. Firstly, the improved financial position has been brought about primarily by high investment returns and, secondly, by an additional capital injection of $105m. In relation to that capital injection, I pay respect to the coalition Government, which started that capital injection.

Mr Littleproud: So you ought to.

Mr BRADDY: I am. Unlike the Opposition, I give credit where it is due.

Mr Littleproud: I gave credit to you before.

Mr BRADDY: I beg the member's pardon; so he did in his contribution. But in the broad terms of this debate, a fair analysis has been abandoned. The attack on the financial viability of what we are doing totally rejects the fact that the same actuary as the Opposition employed and who gave it advice says that our scheme is very financially sound and the board recommended—as we have done—the dropping of the solvency rate from 30% to 20% and the dropping of a surcharge. So we have an actuarial advice from the same source, yet right through this debate speaker after speaker from the coalition attacked the financial viability and reasonableness of what we are doing.

I return to what I was saying about the improved financial position. First of all, the high investment returns are continuing. Secondly, there was the capital injection, which came from two Budgets under the coalition and one Budget under the Beattie Labor Government. That capital injection is now no longer required. The second major reason for the financial turnaround has been the stabilisation in the number of common law claims which have occurred solely because of the Labor Government's reforms coming into effect on 1 January 1996. It is now evident that the 1996 Goss amendments are proving to address the common law problems evident at that time.

The impact on common law claims from the coalition's legislation introduced from 1 February 1997 is not even evident yet, because it could take some three years from the date of the injury for a common law claim to arise. The move in relation to that particular matter by the coalition's legislation has been to date entirely irrelevant. So let us look at the realities there which I have summarised.

It is unfortunate that the coalition did not wait for 1996 Goss amendments to take effect before embarking upon major legislative changes. However, we have now had time to have those established, have them looked at and have them actuarially assessed. That is one of the reasons why, again, the coalition in this debate is trying to seriously mislead the people of Queensland.

The coalition's other major attack has been that these reforms have already led to premium increases and will lead to premium increases in the future. The first claim is false. Before this legislation was introduced the WorkCover board announced that premiums for employers would rise by some 27% over the next 12 months. It has nothing to do with this legislation. It was a result of the system that we inherited.

What has this Government done? At the suggestion of the board and with the support of the actuary we dropped the surcharge a year to 18 months in advance. This has the effect of giving a 10% premium rate decrease. So the first impact of the Government's reforms is accompanied by a decrease in premiums. This has been supported by actuarial advice and by the WorkCover board. There have been no increases as a result of these reforms and it is confidently predicted by actuarial advice that there will be no increases in premiums. What we saw was a dishonest attack on the financial basis of what the Government is doing.

As I previously stated, I am committed to reviewing the common law provisions introduced by the former coalition Government. That will be done when the Government has had an opportunity to see the strong financial outcome as a result of the operations of the WorkCover board over the last couple of years and which will continue when these reforms come into play.

I turn now to the issue of the so-called compo culture and the suggestion by the coalition that this Government is not working in the interests of business and investment. Nothing in the comments made by members of the coalition explains how these reforms will result in the growth of such a culture. This equally applies to the statements by the member for Clayfield about the Government's anti-business policies. Nothing could be further from the truth.

It is the Beattie Labor Government that is creating an investment climate in this State that will build Queensland industry and create more jobs. The reforms introduced by this legislation will not hinder business. As I said, employer premium rates will not only not increase as a result of these reforms but are accompanied by a decrease. The coalition is well aware that the premium increases that individual employers will face this year are the result of the transition to the experience based rating system introduced by the coalition. The WorkCover board in Queensland has recommended the proposals that we are adopting in this regard. The Government and the board are very confident that we can proceed on this basis.

The next issue I must address is the Opposition's concerns about clarity and certainty. Those opposite specifically referred to the changes to the definitions of "injury" and "worker". What the Labor Government is doing is changing these definitions, and in changing them we are creating a fair and more equitable system without compromising certainty for employers. No system should provide certainty and clarity at the expense of fairness and equity for workers and employers in this State. The first requirement is fairness and equity. The second requirement is certainty and clarity. These reforms will address certainty for the training of decision makers and the development of administrative guidelines in relation to the definitions of "injury" and "worker" for use by all stakeholders—in particular claims officers.

The coalition's definition in relation to "worker" was unfair. It was also redundant in contemporary workplaces as it has the potential to exclude more and more workers from the workers compensation system. Those opposite refuse to face the reality that their system only operated if they excluded many people who were genuinely workers from the system. How can those opposite say that they have a fair system when they exclude the very person they are supposed to be legislating in favour of? The definition currently in place is the harshest in Australia. It excludes many workers from protection, leaving them injured and without recourse to financial assistance.

The coalition suggested that it had introduced an internal dispute resolution process as a "safeguard" for workers if they felt they were being harshly treated. How can this be a safeguard when this review process must still use the definition as set down in the legislation? Under the present definition many workers do not even get to make a claim.

The Government believes that retention of some of the provisions in relation to journey claims is fair. The honourable member for Clayfield commented on that in his speech. However, this Bill will continue to allow for small deviations, interruptions and delays which are necessary in today's social situation. This is something the member for Gladstone commented on. However, we will not allow a person to go to the pub and still make a claim. Small deviations to drop off a child or collect a child or to pick up a loaf of bread or a carton of milk on the way home will be okay under our definition. But someone trundling down to the pub, and staying there, will not be allowed. We mean what we say in relation to small deviations which take into account fair and reasonable social and family life in our time.

A further issue raised by the Opposition that I will address relates to concerns about compliance and fraud. There is a real problem about non-compliance and fraud in this State. It has developed into a major rort. The major problem with compliance and fraud does not relate to individual workers. Of course there are some individual workers who are involved in such things. The major problem in relation to compliance and fraud related to those employers—particularly in the building industry—who were not paying premiums.

This was pointed out by Mr Kennedy in his report. What did the coalition Government do about it? Absolutely nothing! Those opposite come in here kicking individual workers, but even Kennedy said that there was an estimated $28.8m unpaid premium loss occurring and that figure did not include any estimation of lost premiums from employers who escaped the net altogether. The coalition did nothing about it. Those opposite did not speak about it here tonight, either. The coalition ignored this major problem.

If employers in this State had been paying their proper premiums over the whole period the fund would not have suffered the problems it did suffer. This Government is doing something about it. We are starting out with new procedures in relation to compliance. In relation to how the WorkCover operation—

Opposition members interjected.

Mr SPEAKER: Order! The member for Western Downs!

Mr BRADDY: The board will attempt to bring in about $10m a year. It will ensure that such compliance takes place. As I have indicated, the Government is already moving to ensure that we have a system for the payment of premiums that will work. We have the support of the building and construction industry in this regard.

The charge was made by Opposition speakers that the Government has not involved industry in this matter. This particular method of bringing in a levy has the support of the Queensland Master

Builders Association. The member for Albert made some remarks concerning this matter and I would like to bring that to his attention. It is not something that we in the Labor Party have designed on our own. We are working with the industry and the industry is very supportive. Levies have already been paid. There is high compliance when there is a system of levies.

Something has to be done when we are losing something like $60m a year in unpaid premiums. If it works in this industry the Government will look to see how it will work in other industries such as hospitality and travel. It is something that was totally ignored by the coalition. It was unfairly ignored even though those opposite had their noses pushed into it by the Kennedy report. There has been a drop in common law claims. We are going to receive more money from premiums and levies. That is the substantial reason why we are able to drop the surcharge and adopt these reforms. We have been actuarially advised. We will not have to raise premiums for people who are fairly paying their premiums. The money we are receiving will more than meet the extra cost involved in relation to the reforms we are introducing.

That is the gist of the policy behind what we are doing—making sure that people who are genuinely workers and who are genuinely injured at work are compensated. That is the fair way to go. The so-called reforms that were introduced by the previous Government were financially sound but they did not compensate many people who were workers and, although some people were deemed to be workers, they could not recover compensation because it was held that they were not injured within the meaning of the Act.

The definition of "injury" that this Government is adopting is the same definition that is contained in legislation of the Victorian Government under Jeff Kennett. He is hardly considered to be a bleeding heart. This Government's definition of "injury" is not opening the floodgates for claims to come rushing in.

I will also be tabling the reasons for the amendments that I will introduce during the Committee stage, which are coming about substantially because of improvements to the process of self-insurance and other matters after discussions with people from bodies such as the Local Government Association and the Queensland Self-Insurers Association. The key amendments are, firstly, that the WorkCover board is required to consider a report on an employer's occupational health and safety performance when considering the issue or renewal of a self-insurance licence. This replaces the proposal under the Bill where the employer is required to produce a certificate. Secondly, a self-insurer will now have until either 3 March 2002 or the next renewal, whichever is the later, to meet the occupational health and safety criteria. Thirdly, we provide further clarity for self-insurers as to who is the liable insurer, and we allow the WorkCover board to make an ex gratia lump sum payment to a person who sustains an injury resulting in death or which could result in a work-related impairment of 20% or more between 1 July 1999 and 30 June 2000. That will cover the 12-month period before the new definition of "worker" comes into place. However, it will cover only those people who are seriously injured or whose injury results in death. We think that is fair. That means that the board will have the capacity to make an ex gratia payment effectively for those more serious cases that can go to common law on the same basis as everybody will be able to be paid after the new definition comes into place.

We are also allowing a self-rater or applicant before 3 March 1999, who subsequently becomes a self-insurer, to engage WorkCover to manage their claims. We are removing the surcharge for self-insurers from 1 July 1999 and we are allowing extra time in relation to self-raters lodging applications for self-insurance.

It can be said that, in drafting the framework for this new workers compensation system, we take this State into the new millennium in that we are guided by the same principles as our forebears in 1916, the principles of fairness and equity—principles which were substantially damaged by the legislation that we are amending.

I will comment on some of the matters raised by the member for Gladstone. I suggest that, in relation to those matters that I will not have time to address in my reply, we can offer her a briefing on them. In relation to how we will ensure compliance, the board has engaged the services of an independent consultant to prepare a plan for premium compliance. This plan will be considered in the next week. It will be rolled out over successive months and is expected to be implemented by 1 July this year. WorkCover has been restructured and a dedicated premium compliance area has been established. I will ask the board to specifically address compliance in its quarterly report.

I have referred already to the journey claims. The member for Gladstone also asked how we can avoid abuse of the system with the return to the definition of "work" as "a significant contributing factor". The Bill has introduced specific provisions in relation to aggravation which have been supported by the member for Gladstone and by such other members as the member for Western Downs. Comprehensive guidelines for the interpretation of "a significant contributing factor" will be developed not just by WorkCover but also by my department and the Queensland Self-Insurers Association.

In relation to the rationale for increasing the requirement from 500 to 2,000 workers for self-insurance, the current provision of 500 workers means that a medium-sized employer may have few claims to manage at any given time. Therefore, it would be difficult to guarantee the quality of claims management. We believe that this can be done only by a certain-sized firm of reasonable numbers, and we think that the figure of 2,000 is the appropriate number.

The member for Gladstone also asked how the actuaries will ensure that no party is disadvantaged when calculating outstanding claims liability for self-insurers. As we have indicated, this process will be developed in consultation with the Queensland Self-Insurers Association. The appointment of an independent arbiter will also ensure that consistent standards are applied. As I indicated, I will be moving an amendment during the Committee stage to remove the surcharge for all employers, including self-insurers, so that there will be no transitional surcharge problem.

The member for Gladstone also asked why the Bill changes the time for WorkCover or a self-insurer to decide a claim from six months to three months. We know that the average decision-making time for WorkCover and self-insurers is only 14 days. The percentage of claims decided in four weeks is 79.6% for self-insurers and 86.2% for WorkCover. Therefore, the reduction in time to make a decision does not present a problem for WorkCover or for self-insurers.

The member for Gladstone asked about the cost of the review council. The operation of the additional review processes, including face-to-face contact, has been estimated at $550,000. We will put out a planned information campaign and guidelines that will tell people who is in and out in regard to the definition of "worker".

In conclusion, I say that these reforms will ensure that Queensland has the fairest and most equitable workers compensation system in Australia—one that is actuarially approved and financially sound. It will be the best system in the country because it will offer reasonable common law rights as well as statutory rights. It will build on the Government's commitment to jobs growth and investment in Queensland.

I am very grateful indeed for the work and the contribution by the WorkCover board and its staff and the staff of my department, particularly the officers from the Workers Compensation Policy Unit. I believe that this legislation will restore balance and equity to the important Queensland workers compensation system.