Speech by

Hon. Glen Elmes

MEMBER FOR NOOSA

Hansard Wednesday, 6 June 2012

INDUSTRIAL RELATIONS (FAIR WORK ACT HARMONISATION) AND OTHER LEGISLATION AMENDMENT BILL

Hon. GW ELMES (Noosa—LNP) (Minister for Aboriginal and Torres Strait Islander and Multicultural Affairs and Minister Assisting the Premier) (4.08 pm): I say to my colleagues in the House this afternoon: and now for the real news. Unfortunately, I have only 10 minutes to go through the real news, but for the benefit of the Leader of the Opposition I will go through some of the aspects of the bill that she has raised. I will leave it to the members in the House this afternoon to decide whether or not they are fair.

I rise to speak in support of the bill introduced by my colleague the Hon. Jarrod Bleijie. The Industrial Relations Act 1999 is the primary Queensland legislation that regulates industrial relations in this state. The act covers about 245,000 workers who are employed in the state Public Service and local government, including the Brisbane City Council, and local government owned corporations. I note that, since it was introduced in 1999, this particular piece of legislation has been amended about 50 times. So this is a real moveable feast in terms of the way that it has been amended. If we look at when it was introduced and the number of times it has been amended we see that the first 50 times it was amended by the then Labor government.

This bill introduces amendments to provide for contemporary legislation, including key aspects of the Commonwealth government's Fair Work Act. Most members present, of course, would realise that that is Julia Gillard's baby. Harmonisation with aspects of this Commonwealth act is a positive step which I believe will be welcomed by employers, trade unions and employees who use our state industrial relations laws.

A contemporary aspect of this bill is that it requires the Queensland Industrial Relations Commission to consider—and this was the big point that the opposition leader was making—the state's financial position when called on to arbitrate wages and/or other employment. One would think that it is only reasonable that the commission, when making a determination, would consider these matters before it decides on wages and other employment conditions. In providing this, the bill does not compel the Industrial Relations Commission to apply the government's position on wages for public servants. It is simply required to consider these factors and address them in its findings. This is a very important decision and it re-affirms our commitment to maintaining an independent industrial umpire.

The bill also introduces a specific amendment to allow the government, through the Under Treasurer, to brief the Industrial Relations Commission on the state's financial position. It is very hard to imagine that anyone on the QIRC could not understand the state's financial position. Every day when we come into this parliament we hear more about it. The health minister today talked about $1.235 billion or something similar. As every day goes by, it gets worse and worse. So why shouldn't the QIRC have a very good understanding, through the brief by the Under Treasurer, of the state's financial position? This briefing, though, is for information purposes only. I am confident that this information will mean that the commission will be better informed about the circumstances and challenges, which currently mean the extreme difficulties that this state faces after two decades of Labor's financial vandalism.

Section 431 of the Commonwealth's Fair Work Act allows the federal minister to make a declaration terminating industrial action if the minister is satisfied that the action—just to make sure that everyone understands—is threatening the life, safety or welfare of the community or is causing significant damage to the economy or an important part of it. It is a fairly tight set of criteria that the minister will have to determine if ever that action is taken. Currently, the Queensland legislation does not contain such a provision and the proposed amendments include one modelled on—guess what? Section 431 of the Fair Work Act!

There has been some criticism of this amendment from the Queensland Council of Unions and its affiliates. In response to this criticism, it would be instructive to quote my colleague the Attorney-General in one of the wonderful speeches he made in the House on 17 May 2012. He stated—

There may be times when our public services are so affected by industrial action that the public interest will be best protected by the Queensland government intervening to end the dispute. Having regard to the damaging effects protracted industrial action can have on Queensland businesses, workers and their families, as well as the risk it can pose to the safety and welfare of the community, the bill introduces a power for the Attorney-General to intervene and make a declaration requiring the industrial action to cease. Federal laws contain a similar provision, introduced under the previous federal legislative regime and preserved under the current regime and administration federally. The issue of uniformity with the federal jurisdiction aside, intervention by the Queensland government in industrial disputes will not be undertaken lightly and will only be utilised where there are strong public interest grounds warranting such action.

I think that quote was a very nice part of the speech from Mr Attorney-General. It is anticipated for the most part that the Industrial Relations Commission will be asked to exercise its powers, where appropriate, for the public interest to terminate industrial action and only where the commission fails to do so would a ministerial declaration be considered.

The Industrial Relations Act currently provides very little regulation for balloting employees about proposed industrial action. In contrast, the Fair Work Act sets out in some detail the process to be followed by parties who wish to take industrial action in support of their bargaining claims. In particular, the act requires that a ballot of employees should be conducted to determine whether there is genuine support for proposed industrial action. The bill proposes to adopt these federal arrangements. All we are doing is copying the Fair Work Act. This will ensure greater transparency and accountability before unions and employees are able to take protected industrial action.

The Leader of the Opposition made an issue about the 45,000 teachers in Queensland who are spread all over the countryside—it is a big state; I understand that. However, if 45,000 teachers wish to have a say as to whether or not they are going to take some industrial action, why should they not have a vote, rather than have a show of hands at Lang Park one afternoon?

The Industrial Relations Act will also be amended to indicate clearly that balloting should occur by post. This is to ensure that any ballot process is very fair. In addition, ballots are to be conducted by the Electoral Commission of Queensland. Surely, no-one will in any way suggest that they will not conduct the ballot fairly. The Electoral Commission will also meet the costs associated with the ballot.

A further amendment to the bill will allow an employer to put a bargaining offer directly to employees for their consideration. This provision will further harmonise our state IR legislation with federal law. There has been some criticism that this new provision will somehow reduce the ability of unions and employees to bargain over wages and employment conditions. The criticism is unfounded; in fact, the reverse is true. The bill gives more power to our employees, enabling greater democracy within unions—a good thing in my opinion and something which is long overdue. The bill provides that an employer may make an offer directly to employees after there have been negotiations with relevant trade unions. It is also clear that the offer can only be made after the expiration of the obligatory peace period specified in the act. Furthermore, employees can only be asked to vote on an offer put to them by their employer. They are perfectly at liberty to reject that offer.

Changes are also proposed to the way in which the public sector appeals are heard. The Public Service Act 2008 provides that a Public Service employee may appeal to the Public Service Commission against certain decisions concerning their employment. As the Industrial Relations Act now applies only to the Public Service and local government, there is little merit in retaining two distinct bodies to deal with public sector employment disputes. For this reason, the bill contains provisions to allow members of the Queensland Industrial Relations Commission to hear public sector appeals. This change will allow the Public Service Commission to refocus away from a regulatory function agenda to one of public sector efficiency. These changes will result in a more efficient use of the resources of both the Queensland Industrial Relations Commission and the Public Service Commission.