




Speech By
Hon. Curtis Pitt

MEMBER FOR MULGRAVE

Record of Proceedings, 17 September 2015

**WORKERS' COMPENSATION AND REHABILITATION AND OTHER
LEGISLATION AMENDMENT BILL; WORKERS' COMPENSATION AND
REHABILITATION (PROTECTING FIREFIGHTERS) AMENDMENT BILL**

 **Hon. CW PITT** (Mulgrave—ALP) (Treasurer, Minister for Employment and Industrial Relations and Minister for Aboriginal and Torres Strait Islander Partnerships) (4.16 pm), in reply: Firstly, I thank my colleagues and all members of parliament for their contributions to what is a significant piece of legislation that will restore fairness and balance to the workers compensation scheme.

This bill meets the commitment that we took to the election to reinstate the rights of injured workers to sue negligent employers if they are injured at work. Before the former LNP government's unnecessary and unfair 2013 changes, Queensland's workers compensation scheme was both fair and sustainable. For over a decade it was the best performing scheme in the country, with good benefits and support for workers and low premiums for employers.

The changes made by the previous government were unjustified, unnecessary and certainly ideologically driven, as demonstrated by the fact that they ignored the findings of the Finance and Administration Committee's inquiry into the operation of the scheme. I was the deputy chair of that committee. They shamefully denied Queensland workers who were injured due to the negligence of their employer and unable to return to work because of the injury access to compensation on the basis of an arbitrary threshold.

Permanent impairment of less than five per cent can have serious and long-term effects. Impairment does not take into account the disability caused by the impairment, the impact on the injured person's earning capacity or the fact that in some cases that person may never return to their profession. Those opposite have lost sight of the purpose of the workers compensation scheme. This scheme is about ensuring injured workers get the support they need to get on with their lives. This bill restores those rights.

The member for Kawana has certainly been hypocritical in his criticism of our consultation and I think that is outrageous. The Palaszczuk government undertook an extensive consultation process, convening a stakeholder reference group that included employer organisations, insurers, trade unions and the legal fraternity to ensure we considered all aspects of removing the threshold including timing, the cost to the workers compensation scheme itself and the impact on business and advise government accordingly. Simply citing an email and the view of one organisation does not outweigh the importance of fairness for injured workers and the majority views of the stakeholder group.

The member for Kawana made many references to a mystery email from Nick Behrens from the CCIQ that apparently every member received. I have received plenty of information to say that not every member received that email, but I thank the member for tabling this email because otherwise possibly no-one would have seen it. I welcome the member for Kawana tabling his email, but perhaps he can

table emails that he has received from injured workers and their families who have been excluded from seeking common law damages where there was negligence by their employer.

Mr Bleijie: Nothing to table.

Mr PITT: The member for Kawana says that there is nothing to table. I am hoping that means he is a bit more in touch with his electorate, because there are always people who have been impacted in some way by this legislation. We certainly hear many stories as local members.

The member for Kawana talks about the importance of business confidence. It is maybe something we can agree on. Business confidence is absolutely critical, and it is very important to note that this government is overseeing very high levels of business confidence. For the second month in a row we are leading business confidence according to the NAB Monthly Business Survey. Falsely claiming that businesses will be paying 20 per cent more in premiums as a result of this bill does not help business confidence. In fact, it does the opposite. Unlike the LNP, business knows that the Labor Party will responsibly look after their interests as well as the interests of workers.

As I have said, Queensland has the lowest average premium rate of any state in Australia at \$1.20 per \$100 of wages paid for 2015-16. Modelling by WorkCover's actuary PricewaterhouseCoopers over the five years to 2019-20 demonstrates that based on current scheme trends the removal of the common law threshold can be achieved without impacting on the average premium rate of \$1.20, given WorkCover's substantial reserves that have accumulated since 2010. I do note that the member for Kawana insists he knows better than the resources available at PwC in stating that we cannot afford to continue the average premium rate of \$1.20. Again, I do not think he has been very straightforward with the facts.

Under the Workers' Compensation and Rehabilitation Act 2003, WorkCover is required to remain fully funded—that is, total assets must be equal to its total liabilities. In addition, Queensland Treasury requires that WorkCover maintain a buffer of 20 per cent, resulting in a funding ratio of a minimum of 120 per cent. As at 30 June 2015, WorkCover's funding ratio was a strong 169 per cent, which is well above the 120 per cent required for WorkCover to be fully funded. WorkCover's total equity has increased from \$1.5 billion in 2013-14 to \$1.7 billion. As at 30 June this year it has approximately \$4 billion in funds under management.

It is clear that the Queensland workers compensation scheme has strong foundations and is well placed to absorb the cost of removing the threshold without impacting on the average premium or solvency targets. I make the point at this juncture that we would not have to be considering its ability to absorb anything if that threshold were not taken away in the first place.

I will now turn to the issue of WorkCover's break-even premium, which I am advised is estimated to be \$1.36 per \$100 of wages paid following the removal of the threshold. This is something that was touched on by the member for Kawana. The break-even premium rate is not fixed. It is a point-in-time amount. This estimate will be revised over time taking account of factors such as changes in the cost of claims and increases or reductions in the number of serious injuries. The break-even premium rate will go up or down over time depending on a range of factors including reductions in serious injury rates and medical.

In relation to small business, WorkCover is also committed to working with employers on an individual level and has also made significant improvements in the way it calculates individual employer premiums over recent years. In particular, it has introduced a new method of calculating individual premiums for small employers with payrolls of less than \$1.5 million in wages which discounts the claims costs incurred. This is aimed at easing the financial pressure and uncertainty on small businesses and enables them to feel the benefits of improving workplace safety sooner.

Our changes are fair for those workers who are injured because of employer negligence, and we have balanced the restoration of these rights against ensuring the ongoing viability of our strong scheme. I did in opposition, and I continue now as the industrial relations minister to credit the financial strength of WorkCover to the previous Labor government's 2010 workers compensation scheme reforms. The 2010 reforms addressed a sustained increase in the rate of common law claims by capping general damages to be consistent with the Civil Liability Act 2003, abolished strict liability for breach of statutory duty and increased the rigour in pre-proceedings processes. It is now clear that the 2010 reforms have been successful in containing the cost and number of common law claims.

As the Minister for Health advised, there has been a 15 per cent reduction in common law claims lodged for the period 2009 to 2014. Total annual common law claim payments and the average cost of a damages claim have also reduced by around 10 per cent over the same period. The strong performance of WorkCover today can, in part, be attributed to previous Labor government reforms which are now being realised.

This bill is about correcting the wrongs made by those opposite in the previous parliament. In his second reading speech, the member for Kawana said 'no-one is worse off' under the LNP's 2013 amendments. Tell that to the estimated 3,700 workers and their families who have been injured and are excluded from seeking damages from their negligent employer.

Members on this side care about who is left behind in the wake of the former LNP government. That is why we are removing the unfair common law threshold from the date of the 2015 state election. There are still an estimated 2,700 Queenslanders who were injured at work between 15 October 2013 and 30 January 2015 who will have an assessed degree of permanent impairment below six per cent and be excluded from accessing common law damages. The provisions in the bill will be supported by regulation, and I have previously tabled the draft regulation for the consideration of members to assist in the debate.

The draft regulation provides that this additional lump sum compensation is available to workers where they can demonstrate on the balance of probabilities that the worker's employer would have had a liability for common law damages but for the operation of the threshold. Where eligible, a worker will be entitled to an additional payment based on their degree of permanent impairment equivalent to twice their lump sum entitlement. For example, an eligible worker with a one per cent permanent impairment will be entitled to a lump sum compensation of \$3,149 plus additional lump sum compensation of \$6,298. If a lawyer has assisted the worker in determining their eligibility, they may also be entitled to an additional payment of up to \$4,700.

The Palaszczuk Labor government also made a commitment before the election to provide greater certainty of coverage for Queensland firefighters by introducing deemed disease provisions for certain latent onset diseases. Under our changes, if a firefighter develops one of 12 specified cancers and meets the qualifying period of active firefighting service, the cancer will be deemed to be work related. This includes volunteer firefighters. There will be no 10-year limit on making a claim and they will not have to attend 150 fire events to be eligible for compensation. Volunteer firefighters told us that proving they had attended 150 fire events was difficult because of poor historical record keeping. They requested an alternative evidence threshold and, as a consultative government, we have taken this feedback on board. Listening and making common-sense changes based on feedback is the key to being a consultative government. That is what this government is. It is something that those opposite do not seem to understand.

I am proud to stand behind this legislation which will deliver Queensland firefighters the best access to workers compensation in Australia. The provisions in the bill will apply equally to all firefighters whether they are permanent, auxiliary or volunteer firefighters. Those opposite have thrown around terms like 'discriminatory' to describe the government's bill, but they are keeping very quiet about how their bill discriminates against volunteers—against those same rural firefighters whose cause they allegedly champion.

The LNP's bill discriminates on benefits between full-time and volunteer firefighters. The LNP would deny rural firefighters access to lump sum payments to support themselves and their families during their most vulnerable time. As we know, weekly statutory benefits are not very valuable to a volunteer firefighter with a significantly reduced life expectancy because of a cancer they have contracted in the course of active firefighting. The member for Kawana seems to take pleasure in denying common law access to injured workers including those with permanent impairments and rural firefighters.

Under our bill for the first time in history volunteers will be covered for exactly the same benefits as full-time firefighters. It is fair and reasonable for all firefighters to have access to medical expenses, weekly benefits and statutory lump sum or common law damages. All firefighters with a claim accepted under the deemed disease provisions will be entitled to seek common law damages for their disease.

The member for Kawana suggests that this House should adopt his bill despite the Finance and Administration Committee's report not making any recommendations to indicate whether the bill should be passed. That is not uncommon because even when the Finance and Administration Committee makes a recommendation it did not seem to matter in the last parliament. The government members on the committee recognised the significance of presumptive legislation for firefighters. They consider that firefighters risk their lives protecting the public and their property, and when faced with a life-threatening illness which is caused by their firefighting activities there is a moral obligation to reduce the stress and hardship that diagnosis of a specified cancer will have on that firefighter, their family and community.

The government members found that the amendments proposed in the private member's bill were so poorly drafted that (1) they did not provide that volunteer firefighters have access for common law damages; (2) they did not ensure that the proposed amendments interact adequately with section

36A, the date of injury; and (3) they did not draft the provisions to ensure that, should the insurer be unable to meet its obligations, the fund has access to make payments from the Consolidated Fund.

The private member's bill is so poorly drafted that even non-government members of the committee were unable to recommend the bill be passed without significant amendment. The LNP sat on their hands for three long years and did nothing to introduce these protections for firefighters. Finding themselves in opposition, they were in such a rush to introduce this bill so they could grandstand with hollow empathy for firefighters.

The LNP has introduced a fundamentally flawed bill that discriminates between rural and full-time firefighters in the benefits they could receive. Even members of its own party could not support this bill as it was introduced. The member for Kawana should do the right thing for firefighters and admit that his bill will not support firefighters, withdraw his flawed bill and support the government's bill. We will just see how the vote goes.

Overall, the provisions in the government's bill meet the election commitments made by us to restore a fair, sustainable and efficient workers compensation scheme that balances low premium rates for employers with fair and reasonable benefits for injured workers while promoting durable return-to-work programs. The government's bill also introduces nation-leading presumptive deemed disease legislation for all firefighters. I again thank all members of the House for their contributions. I again thank the Finance and Administration Committee for its examination of the bill. I am very proud to stand here as the Minister for Industrial Relations in a Labor government winding back the clock on the difficult changes that have caused so many Queenslanders pain. I commend the bill to the House.