




Speech By  
**Julieanne Gilbert**

**MEMBER FOR MACKAY**

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Record of Proceedings, 16 September 2015

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

 **Mrs GILBERT** (Mackay—ALP) (12.00 am): I rise to support the government's Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015. I do so because it supports deemed disease provisions for firefighters.

On 3 June 2015 the member for Kawana introduced the Workers' Compensation and Rehabilitation (Protecting Firefighters) Amendment Bill 2015, a private member's bill. The objective of the private member's bill is the same as the government's bill and both bills propose deemed disease coverage for the same 12 specified cancers. However, the private member's bill fails in its policy intention to assist those who are currently having difficulty proving their latent onset cancers are related to their past work as firefighters.

There are significant concerns that the deemed provisions in the private member's bill will not provide certainty of coverage for firefighters exposed to smoke and other substances prior to the commencement of the amendments. Further, there are concerns that any firefighter who becomes incapacitated with a specific cancer prior to the commencement of the amendments but is diagnosed after the commencement of the bill will not be able to use the private member's bill deeming provisions.

The Workers' Compensation and Rehabilitation Act 2003 includes specific provisions for establishing the date of injury for latent onset diseases such as cancer. Section 36A of the act is designed to ensure that an injured worker gets compensation benefits for a latent onset injury where the calculation is based on the date the person is diagnosed with a disease. However, the question of whether a person is a worker and whether they have a work related injury must be decided under the act in force at the time the injury was actually sustained. This may, for example, be under the Workers' Compensation Act 1916.

Clause 17 of the government's Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015 amends the act to ensure that the deeming provisions apply to determining whether an eligible firefighter has sustained an injury, not the definition of injury that existed at the time the injury was actually sustained. Without this amendment an insurer will be forced to determine if the cancer was a work related injury at the time the worker actually attended the exposure incident. The firefighter will then be required to submit proof that their cancer was the result of their employment. As members can see, this amendment of section 36A is essential for ensuring the operation of the deeming disease provisions for current and former firefighters.

The private member's bill does not make any change to section 36A of the act. It is uncertain how these deeming provisions will interact with section 36A of the act. Under the private member's bill, where a firefighter is exposed to smoke and other substances prior to the commencement of the

amendments then section 36A could nullify the operation of the deeming provisions for that firefighter. This places considerable doubt on the number of firefighters who will benefit from the provisions.

In addition, under the private member's bill a person contracts a disease when they are first diagnosed, become totally or partially incapacitated or dies, depending on which occurs first. It is possible for a firefighter with a specified cancer to become partially incapacitated because of the disease prior to them being diagnosed. This means that it is possible for a firefighter with a specified cancer who has not yet been diagnosed to be excluded from accessing the deemed disease entitlement because they have become incapacitated prior to the commencement of the amendments.

As a consequence of rushing to get this bill before the parliament, the private member's bill has been poorly conceived and drafted. The bill, if passed, would not deliver the benefits that Queensland firefighters rightfully expect it to deliver and the member for Kawana claims it will deliver. This bill will see firefighters who have one of these insidious cancers denied swift access to workers compensation. The bill is flawed.

The Queensland Fire and Emergency Service is committed to protecting the health and safety of its full-time, auxiliary and volunteer firefighters. The Queensland Fire and Emergency Service provides protective equipment, including respiratory protective equipment, to their volunteer firefighters free of charge.

Rural firefighters mainly respond to vegetation fires and bushfires. They are not required to deal with more complex fires or disasters from chemical incidents or fight fires in buildings. Therefore these firefighters are issued with a type of face mask which protects them from inhaling particulates and smoke from the type of fires that they are required to fight. The P2 face mask is the standard for respiratory protection from bushfire smoke in Australia and New Zealand and is provided to all volunteer firefighters.

When I met with the Habana rural firefighters they told me that they do not just go to grass fires and bushfires and that these fires are not always what they expect. People dump all types of toxic rubbish in the bush and the fire becomes a dangerous smoke hazard.

**Mr Costigan** interjected.

**Mrs GILBERT:** They told me while I was there that they had not had a visit from the member for Whitsunday. The Habana rural firefighters are in his electorate. The member told us earlier today that he has had to travel 80,000 kilometres this year to get away from his electorate. It is a shame he did not spend more time in his electorate. He could have met with firefighters.

It is true that permanent and auxiliary firefighters are equipped with a P3 mask which provides extra protection. However, these masks are worn in situations where highly toxic or highly irritant particles are present, usually in house fires or chemical incidents which present very different environments to those encountered by volunteer firefighters.

**Mr Costigan** interjected.

**Mrs GILBERT:** Eighty thousand kilometres. He cannot wait to get away from his electorate.

**Madam DEPUTY SPEAKER** (Ms Farmer): Order! Member for Mackay, I ask that all conversations be directed through the chair.

**Mrs GILBERT:** Certainly. The P3 mask when fighting bushfires can induce heat stress since bushfires often take a long time to put out and usually occur in very hot weather and require working across large areas. Easy-to-use protective equipment and face masks will help volunteer firefighters to cope with the heat and discomfort over a possible 12-hour stretch of fighting a bushfire.

However, in order to ensure that every firefighter—permanent, auxiliary or volunteer—is given access to the highest level of protection, the Queensland Fire and Emergency Service is piloting a trial of P3 masks which commences at the end of this month. The trial will run for 12 months and will test the suitability of the P3 face mask as a standard respiratory protection for all firefighters, including volunteers. We may rely on the scientific and research section of the Queensland Fire and Emergency Services to deliver some of the accurate results at the end of the trial and to identify the best option to protect volunteer firefighters from the worst effects of doing their job. These trials will complement the new deemed disease provisions introduced in this bill and will assist to ensure that the risk to firefighters' health and safety is minimised as far as reasonably practicable. I commend the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015 to the House. I encourage those opposite to stand up for injured workers.