




Speech By
Michael Crandon

MEMBER FOR COOMERA

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

 **Mr CRANDON** (Coomera—LNP) (10.08 pm): I rise to make a contribution to the debate on the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015 and the Workers' Compensation and Rehabilitation (Protecting Firefighters) Amendment Bill 2015. At the outset, I thank the secretariat for their efforts in pulling together all of the evidence, thoughts and ideas that the committee received from a wide range of participants. This was made more complex because we were considering two bills, some similar elements within those two bills and ultimately, of course, two separate reports.

My thanks also goes to my parliamentary colleagues from both sides of the House for their thoughtful consideration of the many issues. I think that, although we could not agree on many aspects, we were mindful of the seriousness of the issues—issues that affect many lives and many families right across Queensland. Ultimately, we were able to agree on one very, very important aspect of the bills—that is, that rural fireys deserve the same protection afforded to full-time and auxiliary firefighters. That was the position of the non-government members going into this report. I note that the government members accepted the evidence and supported us. In my view, there needs to be nothing more said on that aspect of the bill because I note the minister has accepted recommendation No. 2 of the committee's report on the government bill. Therefore, that is a great win for our hardworking and dedicated volunteer firefighters.

On the subject of that win, we put questions to the department in relation to the costs associated with that aspect of the legislation. We asked what would happen if we moved the 150 exposure incidents out. They came back with an estimate of \$15.2 million a year. We queried them further: 'Where on earth did you get the numbers from? What were the figures used?' The discussion went backwards and forwards.

I did a bit of a back-of-the-envelope calculation and said, 'What we are really talking about with this figure of \$15.2 million out of a very big WorkCover fund is turning our back on something like 42 firefighters each and every year.' If there were that many claims surely \$15.2 million is not a big expense. They said that it would be more complex than that and it would not be just a matter of taking the \$365,000 figure, I think it was, and dividing it into the \$15.2 million figure to come up with a number. They said it would be more complex than that and that there are more aspects to it. We asked them if they would bring that all back to us.

They came back with the very complex formula that they had used. They obviously did not give us all the detail of the complex formula. They came back and said it was more like 44 firefighters whom we would be turning our backs on for the sake of \$15.2 million. We have the back-of-the-envelope calculation of 42 versus their calculation of 44. Two more lives is very important. The point is that it is simply a calculation.

They made the point that they might be way out on the downside and they might be way out on the upside in the information that they provided to us. That means to me that we should turn the \$15.2 million into lives. That means to me that we should turn the \$15.2 million into people and say, 'Hang on a second, is it not worth \$15.2 million—or if it is double—to protect and provide compensation to the families, more often than not, of those firefighters who will perhaps ultimately lose their lives sadly to a horrendous disease?'

The committee made several other recommendations—a total of six, in fact. In particular, I refer to recommendation 1 of the report. I thank the minister for accepting this particular recommendation in part. Recommendation 1 states—

The Committee recommends that amendments be made to allow for the inclusion of additional diseases that maybe identified in the future.

Recommendation 5 states—

The Committee recommends that as a matter of priority, Queensland Emergency Services, implement a system of record keeping for firefighters, including volunteer rural firefighters, that tracks individual firefighter's exposure to incidents.

This was a very important recommendation. It may seem on the surface that recommendation 5 contradicts recommendation 2 where we recommend throwing out the 150 exposures to fires. We are saying in that recommendation that we should implement a system of record keeping that moves us forward. It is not the case. It is not contradictory at all. In fact, it is a prudent measure. It augments recommendation 2.

I thank the minister for accepting the recommendation. It puts the onus on the department to make the department responsible for implementing and maintaining a system of record keeping for all firefighters, not just the paid firefighters and auxiliary firefighters.

Why do we need a reliable system of record keeping? It has been alluded to on a couple of occasions already. This legislation is what is termed presumptive legislation. Presumptive legislation means if a firefighter contracts a cancer of a prescribed kind—primary site brain cancer, primary site bladder cancer, primary site kidney cancer, primary site non-Hodgkin lymphoma, primary leukaemia, primary site breast cancer, primary site testicular cancer, multiple myeloma, primary site prostate cancer, primary site ureter, primary site colorectal cancer or primary site oesophageal cancer—has been a firefighter for the relevant qualifying period for that cancer and during their employment has been exposed to the hazards of a fire scene, the firefighter's employment is taken to have contributed to the contraction of the disease for purposes of the workers compensation application.

That is the reason it is so important moving forward that we start to keep accurate records. The presumptive legislation is rebuttable where it can be proven that the cancer was not work related. Where would that lead us? First of all, it should be said that current record keeping leaves a lot to be desired. That is the case for all firefighters, but certainly the 36,000 rural firefighters. It is worst of all for rural firefighters.

We have some uncertainty going forward in terms of what has occurred in the past. With properly kept records, as time goes on the potential for rebuttal will lessen. If we implement—and remember it is the responsibility of the department to keep records—a proper system then it will reduce the potential for claims to be rebutted. It will give more certainty to all firefighters, including rural firefighters. Why put the onus on the department? The reason is simply this: if the department falls short in its responsibilities as the employer then it will lessen their capacity to rebut a claim.

I commend the rural firefighters for their superb effort in rallying their members to ensure that their voice was heard on this matter. Clearly, their evidence went a long way towards convincing the government members to support the proposal put forward by the LNP.

In concluding on this aspect of the bill, the other recommendations are worth reading into the record. Those recommendations have been supported either in part or fully by the minister. Recommendation 1 states—

The Committee recommends that amendments be made to allow for the inclusion of additional diseases that may be identified in the future.

Recommendation 3 states—

The Committee recommends that the legislation be amended to include the appointment of an independent committee or panel to be established to consider exposures and assist in determining whether rebuttal of claims are warranted.

That is incredibly important for the time being. That is incredibly important until we have that evidence from that record keeping process that we are talking about. It is incredibly important that we have that committee in place. That has been accepted in part by the minister.

Recommendation 4 states—

The Committee recommends that the department seek and incorporate additional scientific studies of exposures by firefighters, including volunteer rural firefighters.

Once again, it is incredibly important that we start to build on the knowledge base in relation to this.

I now turn to the matter of the changes proposed in the government bill to reinstate common law claims relating to impairment of zero to five per cent. I make the point that those claimants can still receive statutory claims. When the original legislation was put in place back in 2013, it did not mean that people with an impairment of zero to five per cent walked away with nothing. They still had the opportunity to make a statutory claim. That statutory claim is still in place, and I think the figure is something like up to \$365,000 so they were still able to make a statutory claim.

I was the chair of the committee that conducted the inquiry into the operation of Queensland's workers compensation scheme—the inquiry that has been alluded to more than once in this House today—and we produced report No. 28. That was in May 2013 after I think it was indicated 11 months of consideration. It was a long, hard slog. By the time you add all the annexures and what have you, it is about a 280-page document, but there is a lot of detail in those 280 pages as well. This was a five-yearly review which means that the next review is due in 2018. So in just a few years time we would be coming back to do a review of that particular legislation anyway. Every five years workers compensation has to be reviewed, so we are going to see it again in 2018. It will come back to haunt us again in some ways. It will possibly haunt the government because we will be able to measure the impact of this legislation on those reserves.

In that review the FAC did not support the changes that were subsequently put in place in a wideranging reform of the workers compensation scheme. It is important for us to remember that this was not just about one aspect of workers compensation; this was about the whole workers compensation scheme. We travelled far and wide, we spoke to all manner of people and we got a lot of information that we were able to input into the report.

There were 32 recommendations made. I need to correct the record. The chair of the committee indicated a short while ago that only a few of the recommendations were accepted by the attorney-general at the time. That is not correct. In fact, 20 of the 32 recommendations were supported by the attorney-general. That is a very important point. In fact, some of those recommendations related to the issue of the no-win, no-fee arrangements and the fifty-fifty rule. Those recommendations were accepted by the attorney-general, and those recommendations are worth reading into the record. Recommendation 28 stated—

The Committee recommends that the Attorney-General and Minister for Justice investigate the issues of 'no-win-no-fee' arrangements and the '50/50 rule' with a view to curtailing the speculative nature of some claims.

The government response stated—

Supported.

This recommendation has implications for personal injury proceedings generally and the Department will investigate this recommendation on the understanding that it may have implications beyond the workers' compensation scheme.

I just make the point that those recommendations were being considered by the previous government. This was because it was the committee's view that many of the speculative claims that were occurring would fall away. Why did we believe that? It was because of the evidence that we received. This, in the view of the committee, would have had a similar effect to the claims in the zero to five per cent range that were of a questionable nature and perhaps driven by the legal fraternity—the ones that were alluded to before that were out there with their placards supporting the workers because they had a little or maybe a big stake in the whole thing.

We had a number of legal practitioners who, for obvious reasons, were only prepared to speak off the record because they did not want to be targeted by their friends telling us that the no-win, no-fee arrangements and fifty-fifty rule were a major driver in speculative claims. The Attorney-General accepted those recommendations but indicated that a wider consideration regarding such things as motor vehicle claims et cetera, as I just said before, should be included. So it was on that basis that the committee chose not to recommend the zero to five per cent exclusion.

Let me fast forward to 2015 and this move by the industrial relations minister to undo the law. In light of the fact that nothing is being done by the minister regarding the no-win, no-fee arrangements and the fifty-fifty rule, it is something that he supported as a member of that committee. In fact, if I recall correctly—and I should remember this clearly—he was the deputy chair. So he supported back in 2013 to do something with this fifty-fifty rule and the no-win, no-fee arrangements, but he did not do anything about that this time around.

I am not able to support the wind back of the zero to five per cent claims based on the evidence that we have received and based on the fact that other aspects of the report back in 2013 are not being brought in to the current bill. I simply am not able to support it. The committee heard much evidence about the cost to unwind this legislation. Although some of the figures talk about \$90 million here and \$90 million there—this is for the previous claims—and then \$184 million a year, it does not make sense that, if you have \$184 million a year going forward, it would be \$180 million for 1.7 years going backwards. It does not work. So my immediate desire was to do a few calculations of my own, and they are included in the report.

That immediate cost amounts to something like \$500 million—half a billion dollars—of a reserve of around \$1.7 billion. That is \$500 million that has not been part of the premium calculation. Remember, when the premiums were recalculated there was no suggestion that all of these changes were going to be made, so there was absolutely no way that this \$500 million could be incorporated in the calculation, so the \$1.20 premium is a furphy. It is not \$1.20 anymore—not if you take that \$500 million into consideration that it is going to cost the fund, based on my calculations, based on the information that has been provided by the department. That alone represents something like a 30 per cent reduction in the current reserves of the fund. So that means that the fund of \$1.7 billion goes down to \$1.2 billion—whack—straightaway this current financial year. Just to give you a bit more detail, on page 26 the committee comments—

The non-government Members are concerned that the \$90 million estimated cost for claims for injuries between 15 October 2013 and 31 January 2015, combined with the estimated cost of a further \$90 million for claims for the period 31 January 2015 to 30 June 2015 could be a significant underestimate of the actual cost. This concern is based on the department's advice that annual costs going forward will be in the order of \$184 million.

And so I go on. Those figures are on page 26. Go and have a look at them yourself and you will see where I have come up with that \$500 million figure. The department advised that, based on the five per cent return and certain other things, the fund would run out of excess reserves by 2019-20. So what does it mean? Simply put—I have a few pages to go but it does not look I am going to get there with 50 seconds to go.

Government members interjected.

Mr CRANDON: You could move a motion for me to speak further. In summary, we are looking down the barrel of a significant increase in premiums for the short term. We are looking at the potential to see claims grow significantly—well beyond those assumed in the government's calculations. In the end that means more pressure on business. More costs associated with employment means one of two things—fewer employees or increased costs of goods and services or a combination of both. Finally, I congratulate the minister on his adoption of the LNP proposal where he abandoned the 150 activities for rural fireys and I condemn him for not adopting the 2013 recommendations that he supported in opposition.