Speech By

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MEMBER FOR CONDAMINE

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INDUSTRIAL RELATIONS (RESTORING FAIRNESS) AND OTHER LEGISLATION AMENDMENT BILL

Mr WEIR (Condamine—LNP) (5.30 pm): I rise to speak as a member of the Finance and Administration Committee on the Industrial Relations (Restoring Fairness) and Other Legislation Amendment Bill 2015. The first part of the bill I would like to address is clause 3 and the removal of section 3(p). This amendment removes the need for the Queensland Industrial Relations Commission to take into account the financial position of the state or the employer when determining wage and employment conditions. The Chamber of Commerce & Industry advised the committee that they strongly believe the financial position of the employer should be taken into consideration when determining wage negotiations.

The local government authorities, in particular, have voiced their concern to the committee at the removal of section 3(p). The Torres Strait Island Regional Council stated that the result will be '... a total inability for local government to budget in accordance with the Local Government Act 2009 (Qld) for unforeseen financial implications by introduction and/or variation of modern awards midway into financial years'. They also stated that 'a lack of commitment by government to support ... increased funding to local government to allow for increases in human resource costs' would 'inevitably result' in 'redundancies to meet rising costs' and 'lower service delivery due to less staff'.

The Mareeba Shire Council, the Tablelands Regional Council and the Mackay Regional Council stated that they require consideration of their financial position as their main source of income is rates from communities that at times have limited capacity to pay. In quite simple terms, if any employer is not financially sustainable, the ability to continue to employ generally is quite seriously challenged. The Local Government Association of Queensland stated—

Given that labour costs make up a very significant proportion of local governments' operational expenditure (as high as 60% in some cases), LGAQ finds it difficult to see how it would be fair to a local government ... to ... make such binding determination ... without being required to also consider the local government's financial position.

It was stated by the union representatives at the hearing that the QIRC do take into account the financial position of the employer. If this is the case then why remove section 3(p) of the act? Why not leave it there to ensure that this is so?

Due to natural disasters, be it floods, storm events, drought or the replacement of other expensive infrastructure at short notice, councils can find themselves having to review their budgets to see them through a difficult passage. An example of just such a situation is facing many of our western regional councils at this very moment due to severe drought conditions. This situation was highlighted by the member for Mount Isa in his address-in-reply speech on Tuesday night in this House where the member recalled a conversation with a mayor in his electorate who said that there were 10 to 12 people who have not paid their rates for a year. The member for Mount Isa went on to say that in the shire that he lives in there are 13 landowners that face foreclosure due to rate arrears. This situation is a prime example of why the financial position of the employer must be taken into account when wages agreements are being negotiated.

The LGAQ, the Chamber of Commerce & Industry and the regional councils that had an opportunity to submit given the short notice and time frame do not support this amendment. The union submissions, of which there were 16 in total, were unanimous in their support for the amendment.

The next part of the bill I would like to address is clause 25 and the removal of section 319. The removal of this section of the act has raised concerns with both the Queensland Bar Association and the Queensland Law Society regarding the availability of legal representation in the commission. They advised that it has been decades since the QIRC has operated in this way. The Bar Association also iterated its concern that, with union participation nationally in the order of 42 per cent as at August 2013, there is a significant body of employees not represented by union officers.

The QLS also did not support the restrictions imposed on legal representation by the proposed amendment. Their arguments were similar to those outlined by the Bar Association. They argued that employees who are union members may have the benefit of experienced union staff to represent them against employers who have the advantage of being represented by employees experienced in industrial relations. However, those employees who are not union members or who do not wish to engage their union for representation purposes are effectively denied the benefit of legal representation when those opposite are effectively provided with that benefit.

The QLS noted that, whilst there is provision for legal representation by consent in a number of instances, it is a common tactical step for an objection to be made to legal representation requests where the other party has the benefit of experienced industrial representatives. To consider that the principle that the QIRC is a layperson's jurisdiction does not reflect the practical reality of representation in Queensland, and the need for a hearing to determine whether legal representation should be allowed is in itself a deterrent to such applications given their time and cost and uncertainty of outcome. They do not consider that there is any evidence that the current provisions have resulted in any inequities in representation in the QIRC.

The committee did not agree on this section of the bill. We on this side of the House remain concerned that those who are not union members have access to legal representation. We have concerns for an employee who does not have access to legal representation or legal advice but are up against a well-resourced party. We, the LNP, view that legal representation should be available to all parties in disputes before the QIRC.

The right-of-entry amendments in clauses 27, 28, 29, 30 and 31 would reverse changes to the act made in 2013 to allow union access to the workplace. The Mareeba and Mackay regional councils were of the view that prior notice and control of access is essential for reasons of security, privacy, and workplace health and safety. They argued that unfettered and uncontrolled access without due notice is not practical.

The LGAQ expressed concern that 'the proposed amendments removing the obligations noted above mean that there is no obligation on an authorised industrial officer to give advanced notice to the employer prior to seeking entry to the employer's workplace'. They also expressed concern that 'the power provided under current subsection 373(13) of the IR Act is one that allows local governments to protect employees and industrial officers from unsafe circumstances'. It is a great concern that removing subsection 373(13) may put industrial officers at risk of injury while on government property and expose councils to litigation if an injury occurs. It is the view of the councils represented and the LGAQ that 24 hours notice should be given to ensure the safety of the industrial officer and to minimise disruption to the work site. We on this side of the House support that position.

I would now like to speak to the proposed new section 847 that would bring certain certified agreements to an early end. The committee heard from the LGAQ and the regional councils that had an opportunity to lodge a submission due to the very short notice and time frame that many local governments are in the final stage of negotiations, with some agreements already in place.

The Torres Strait Island Regional Council stated that this will result in them having to return to the negotiating table with staff within three months of an agreement being announced by the commission. It is anticipated that to go through this whole process again would cost council in the vicinity of $200,000, and this would have an unforeseen impact on the budget. The Moreton Bay Regional Council also have an agreement in place which was finalised on 28 November 2014 with a 92.2 per cent vote in favour of the agreement. The Fraser Coast Regional Council stated that it would be damaging to both council and an overwhelming majority of staff if the agreements in place were not certified by the QIRC. The Mareeba Shire Council also recently entered into a certified agreement which 76 per cent of staff voted to adopt. The LGAQ stated—

> The capacity of a third party (who is not a party to the agreement) to, post-certification of an agreement, arbitrarily cut-short an agreement which has been freely entered into and struck in accordance with the prevailing Queensland laws is totally repugnant to the very construct of enterprise bargaining.

The committee did not agree on this amendment. The LNP firmly believes that any agreements in place should be honoured in their entirety. Councils across Queensland are in the process of bringing down their budgets now and this will create great uncertainty in their financial projections, considering that wages are around 60 per cent of their expenses.

I would like to address the privacy issues in this bill and changes to section 691. This section goes to the reintroduction of provisions for union encouragement in the workplace and access to the private personal details of employees. Privacy of our personal information is something that we all hold dear and any use of our details should not happen without our approval. These changes would allow unions unfettered access to any employee's workplace record of details—such as name, phone number, location, occupation, wages and time sheet. This applies to both existing workers and new employees. We on this side of the House believe that the employee should have the right to decide if they wish the union to have access to this information. The employee should have the right to opt in or opt out. The right to join a union is every employee's right—free from any influence or pressure. They should have the right and freedom to choose whether or not to associate with a union. The LNP believe that this amendment has the potential to place an employee in a position where they may feel unnecessary pressure to make that decision.

The LNP members of the committee were very concerned about the consultation process during the formation of this bill. Whilst it would appear that there was wide consultation with the various unions—some 17 in total in fact, and they are listed on page 7 of the report—the same cannot be said for the local government councils. The LGAQ were consulted with in March on only one aspect of the bill, which they thought at the time was the extent of the changes. This was done under strict confidentiality. They advised that it was only when they saw a media release from the minister approximately a week before the bill was to be introduced that they notified their members. This resulted in many regional councils not having sufficient time to lodge a submission. The Queensland Law Society and the Bar Association of Queensland both advised that they were only consulted on the bill the day before the bill was introduced into the parliament. It is the view of the LNP that the consultation on this bill was not wide ranging enough and there was not enough time allowed for proper scrutiny in the committee process.

I would like to express my thanks to the staff who worked long hours on an extremely short time frame to help in the presentation of this report. I would also like to thank the other committee members. There was some robust discussion from time to time on this report and I would like to thank them all for their input.