Speech By

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MEMBER FOR CONDAMINE

Record of Proceedings, 13 October 2015

WORK HEALTH AND SAFETY AND OTHER LEGISLATION AMENDMENT BILL

Mr WEIR (Condamine—LNP) (9.03 pm): I rise tonight to make a contribution to the Work Health and Safety and Other Legislation Amendment Bill 2015 as a member of the Finance and Administration Committee. The first section of this bill amends the Electrical Safety Act 2002 and the Work Health and Safety Act 2011 and will re-establish the role of Commissioner for Electrical Safety. The commissioner would advise the minister on electrical safety matters and manage the activities of the Electrical Safety Board and its committees. The Department of Justice and Attorney-General advised that the previous commissioner played an important role in representing the department, was well respected in the electrical industry and was seen as an independent advocate for electrical safety. Further to this, they stated that the improvement in electrical safety would not have been achieved through compliance and enforcement alone and could be attributed to the work of the commissioner and the committee. Whilst most submitters supported the reinstatement of the commissioner, the Civil Contractors Federation and the Australian Sugar Milling Council were concerned that the amendments could create some unnecessary bureaucracy. They also stated they were not convinced that the amendments would provide direct and immediate improvement in workplace safety and could add cost and complexity to the working environment. Representatives of the Electrical Trades Union stated that the removal of the commissioner had resulted in the government's response to safety becoming more reactive than proactive. The ETU believed that the active involvement of the Electrical Safety Board had led to a decrease in the number of electrical incidents and the number of fatalities within the industry. The Australian Lawyers Alliance and Master Electricians Australia supported the re-establishment of an electrical safety commissioner, Electrical Safety Education Committee and Electrical Equipment Committee. The committee noted that the majority of submitters were in favour of the proposed amendments and actually supported those changes.

Amendments to the Work Health and Safety Act 2011, clause 16 and new section 36, include a requirement to notify the regulator of an injury or illness that caused an employee to be absent from work for a period of four days. In 2012 the Australian Strategy was formally endorsed by all workplace ministers with one of the aims being to reduce the incidence rate of claims for musculoskeletal disorders resulting in one or more weeks off work by 30 per cent. Several of the submitters expressed concern regarding the amendment and the shortened reporting time frame, with the Australian Industry Group stating that it would create an unnecessary regulatory burden and establish duplication of reporting without any definitive benefits.

The Chamber of Commerce & Industry Queensland noted that the amendment was directly at odds with the former Labor government's policy. Section 36D was previously removed by the former minister for industrial relations, the Hon Cameron Dick MP, due to the red-tape ramifications of reporting information that had already been collected by WorkCover and the requirement had no benefit to the improved safety performance within business. The Queensland Tourism Industry Council highlighted that this amendment will result in Queensland being different to other harmonised jurisdictions and felt

there should be an allowance for an extended reporting period for small business and those not deemed at a high risk.

The QTIC expressed concern about the difficulties they face in keeping their numbers abreast of legislative changes, stating that they have 22 sector associations and 3,000 direct individual businesses that they are the peak body for. In their submission they stated that there is becoming an increasing reliance on third-party bodies like the QTIC to take up a far greater percentage of education awareness on behalf of government to ensure that all operators understood. There are concerns that the department needs to recognise and needs to implement some strategies to assist with the communication and education difficulties that are being experienced.

The Civil Contractors Federation considered that the inclusion of the four-day absence would place an unnecessary burden on an employer where normally such an absence would not have been regarded as a serious injury or illness. For example, an employee may be absent due to an influenza infection for more than four days. The department acknowledged that while influenza was not a reportable illness, a case of Q fever contracted by an employee working in an abattoir or in the livestock industry would be. The Queensland Nurses' Union supported the amendments as the continual work demands placed on their members, for example nurses and midwifes, places them at a high risk of musculoskeletal disorders and diseases.

The department acknowledged that the amendments will result in an increased number of notifications, estimating an extra 1,800 to 2,000 claims per year. This will mean that the department will need to streamline the reporting process to eliminate dual reporting, including accessing data from WorkCover which, due to privacy concerns, cannot be shared. The department stated that the one-stop shop gives employers the option of lodging a claim and notifying of an incident at the same time. However, it needs to be made much more user-friendly.

Clause 17, amendment of section 6, grants a health and safety representative the authority to cease work in certain circumstances and removes the 24-hour notice period to enter a site with an assistant. Whilst this amendment was supported by the union submitters, industry did not support the change. One of the contentious parts of this amendment is that an HSR is allowed to bring an assistant onto the work site.

The Master Plumbers Association of Queensland queried the qualifications of the assistant being called in and considered that any union official could come onto the site to investigate a safety issue despite having no qualifications to investigate and then use the situation to facilitate industrial action. The Master Builders Association and the Australian Mines and Metals Association expressed concern that allowing an HSR to bring an assistant would result in union officials entering work sites to hold talks with workers under the guise of assisting the HSR. Further, they stated that there are no measures in the proposed provisions requiring the assistant to limit their focus whilst on site to the matter that they have been requested to attend. The department advised that the assistant is usually someone with specialist knowledge, such as a chemist or engineer, and the person conducting the business can refuse entry to the assistant on reasonable grounds. The non-government members remain concerned that there are not enough safeguards in place in regard to the potential misuse of an assistant.

Clause 23, replacement of section 119, notice of entry: this amendment gives work health and safety permit holders immediate access to a work site. There were several submissions opposing this amendment and they stated that it would result in misuse by union officials to gain access to construction sites for industrial purposes. The National Electrical and Communications Association said the disruptions that occurred in 2012 resulted in businesses having to capitulate or face bankruptcy in the face of project delay and contractual penalties and delayed milestone payments. The Master Plumbers Association of Queensland said their members routinely face unlawful right of entry to building sites by permit holders who simply refuse to follow the rule of law and believe the amendments will result in outcomes other than what was intended. The Crane Industry Council of Australia strongly opposed the proposal to restore the right of entry powers allowing union representatives holding work health and safety entry permits to gain immediate access to a workplace, believing that health and safety have simply become a bargaining tool by some unions. The department explained that where an entry permit holder has misused their entry powers, the act provides the regulator, an employer or other person affected by the misuse with the capacity to apply to the Queensland Industrial Relations Commission to revoke or suspend the work health and safety entry holder's permit. Whilst there have been reports, the department could not provide a case where the permit had been revoked.

The CFMEU was very strong in their support of the amendments and provided a lengthy submission—114 pages, in fact—listing alleged breaches of safety, most of them contested. One factor that was very apparent throughout the committee process was the unhealthy relationship between those in the construction industry and the CFMEU. By its very nature, the building industry is where work

health and safety will be one of the primary concerns and differences of opinion are sure to arise. Over 90 per cent of the 120 individual cases or disputes on right of entry reported to the Office of Fair and Safe Work Queensland over the past 12 months were in the construction sector. It would be in the interests of both parties to act in good faith and to find some common ground to work through these issues.

The Master Builders Association put forward a compromise position. The proposal was that the government should maintain the 24-hours-notice requirement for work health and safety entry purposes, but can provide an exception for immediate entry for work health and safety permit holders in the event of a notifiable incident, as defined under section 35 of the Work Health and Safety Act. If somebody has been seriously injured or a potential exposure has occurred, the work health and safety permit holder can have immediate access to represent their members and ensure everything is being managed effectively. This would remove any perception that the employer is trying to keep the unions away from a work site and from becoming involved in genuine health and safety issues. All other concerns regarding safety can be managed by giving the appropriate and current 24 hours notice. This was rejected by both the CFMEU and the government members. The committee did not reach agreement and the LNP does not support this amendment.

Clause 24 amends section 123. This amendment would reduce the maximum penalty rate for any breaches of work health and safety entry permits from 200 points to 100 points. There were very different views on this amendment. There was strong support from the unions and equally strong opposition from the business sector. The Master Plumbers Association, the Building Service Contractors Association, the Australian Chamber of Commerce & Industry, the Housing Industry Association and the Master Builders Association all objected to this amendment in their submissions. They affirmed that the penalty is a necessary mechanism for redress and discouragement of any abuse of right of entry provisions. The Master Builders Association stated that right of entry breaches have become the standard way to access projects, rather than giving the appropriate notice, adding that any incentive that encourages that behaviour verges on the irresponsible.

The LNP members of the committee believe that if the current penalties are not deterring breaches of right of entry permits, then reducing the penalty is certainly no way to correct the problem. The Master Builders Association suggested that there be a sliding scale of penalties, starting with fines and the complete revocation of the permit for the most serious cases of abuse of the entry permit. The department did not believe this was necessary, as an employer has the option of having a breach of entry heard by the Industrial Relations Commission. This seems to be a very slow and cumbersome process, with no clear time frames for the process. This is compounded by the fact that the permit is not suspended while the process is under investigation, allowing the permit holder to continue to potentially disrupt the site.

The government members, in their support for this amendment, state that the amendment is consistent with the national work health and safety laws. If it is considered so important by those opposite to align with the national laws, then one would have to question the other amendments in this bill that do exactly the opposite. We do not support the amendment and no government that is serious about jobs in the construction industry could support this amendment.

New section 4(2)(a) relates to rights and liberties. This new section would enable the work and safety representative to direct a worker to cease work immediately if there is an imminent risk to the worker's safety and health. The health and safety representative would then consult with the employer as soon as possible after the direction has been issued. The committee agreed that, in an instance such as this, the safety of the worker must take priority and supported the amendment.

Whilst the committee was able to reach agreement on some areas of this bill, there are other sections that we as a party could not support. This is another bill that is brought into this parliament with the sole purpose of repaying the debt owed to the union bosses. There is not one aspect in this bill that in any way, shape or form would inspire business to grow or encourage the employment of additional staff. It is quite the opposite, in fact. This is another setback for employers and WorkCover premiums. The Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill will increase the cost of premiums. It is estimated to cost an additional $90 million, which will flow on to business. Almost all the legislation coming into this House from this Labor government will upset business and add to the cost of doing business in this state, the most destructive of which are always supported by the union movement. This government and the government members on this committee have continuously ignored all of the concerns raised by the business community to appease their union masters, regardless of the cost to the state's economy. Business opposed the removal of the 24-hour notice period for access to a work site by an industrial officer. That was still passed. Business opposed union access to the private details of employees for purely recruitment purposes. It still passed. Business opposed the removal of the five per cent common law threshold. It still passed. And the list goes on.

This government is at the complete behest of their union masters and the funds that flow from their coffers. It is unions and particularly the star of the show, the CFMEU, that are currently running the agenda in this state. This is another in a growing list of impediments to business, economic growth and employment in the state and it needs to stop. Whilst there are some parts of this bill that the committee did agree on, the amendments to clauses 23 and 24 are not in the interests of anyone except the union movement. I urge everyone in this House who has the best interests of the state and its economy at heart to vote against these amendments.