Speech By

Hon. Grace Grace

MEMBER FOR MCCONNEL

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PUBLIC SERVICE AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

Hon. G GRACE (McConnel—ALP) (Minister for Education and Minister for Industrial Relations) (2.26 pm): I move—

That the bill be now read a second time.

The Public Service and Other Legislation Amendment Bill 2020 builds on key measures taken by the Palaszczuk government since 2015 to restore fairness in public sector employment. Fairness remains central to the measures in this bill. This bill will ensure the Queensland public sector is a fair employer that is best positioned to be responsive to the community and meets the needs of government in a changing world. Without our Public Service employees, government would simply not exist.

During the COVID-19 pandemic, Queensland public servants have proven just how crucial they are to delivering the infrastructure and services that our state needs. From our teachers developing online materials to support learning from home, to contact tracers tirelessly following up contacts to reduce the spread of the virus, to our health workers standing on the front line against the disease, our government employees are serving the people of Queensland every day. As we continue to deliver Queensland's plan to unite and recover from the global health pandemic, I want to take the opportunity to thank public servants for their tireless efforts and the resilience, initiative and innovation they have shown.

The bill was introduced on 16 July 2020 and was referred to the Education, Employment and Small Business Committee. I note that the committee made two recommendations to parliament including that the bill be passed. I now table a copy of the government's response to the committee.

Tabled paper: Education, Employment and Small Business Committee: Report No. 34, 56th Parliament—Public Service and Other Legislation Amendment Bill 2020, government response [1587].

I thank the committee members and the committee secretariat for their careful consideration of the bill. I commend the member for Nudgee, as chair of the committee, for ensuring the proposed legislation was properly scrutinised and considered.

I also thank those who contributed to the committee process through submissions and at public hearings. I am pleased to report that the committee found broad support for the introduction of the bill, particularly for those provisions which maximise employment security and promote permanency as the default basis for employment in the public sector.

It was pleasing to see that the committee also noted supportive feedback for the inclusion of a positive performance management framework and that there were no submissions that recommended the bill should not pass. The committee made one additional recommendation: that the Department of the Premier and Cabinet investigate an appropriate mechanism to further enhance fairness and

transparency in decision-making for conversion reviews. I can advise that this recommendation will be addressed through amendments to relevant policy directives and by an amendment to the bill that I will move today.

Together, these amendments will improve fairness and transparency by promoting accountability in decision-making and encouraging chief executives to actively track and review the number of deemed decisions within their agencies and the effectiveness of workforce and resource planning for conversion reviews. I also note that the government intends to move amendments during consideration in detail of the bill to ensure successful implementation and application of the bill. Before turning to these amendments, I will briefly outline the substantive elements and purpose of the bill.

The bill represents a significant milestone in delivering on the government's commitment to restore fairness in the public sector employment framework. It progresses the priority stage 1 public sector management reforms arising from recommendations of the independent review of Queensland's public sector employment laws conducted by Mr Peter Bridgman. The bill recognises that government, in the Westminster tradition, is founded on ministerial responsibility discharged through departments and other state entities.

The bill builds on this system of government, which has ministers who are responsible to the parliament and their electorate, to help ensure that they are supported by a responsive and inclusive Public Service. It recognises from the outset that public servants matter. The bill is aimed at ensuring that public servants can do their work competently, responsibly, responsively and apolitically. It also supports these employees by uplifting the employment relationship through a new positive performance management framework.

Reform priorities are progressed in two main areas: one, giving full effect to the government's commitment to maximise employment security in public sector employment; and, two, providing for positive performance management of public sector employees. I add that we can maximise this because they are still under the jurisdiction of the state system. There was an issues paper in December 2012 issued by the former minister for industrial relations, the member for Kawana, in which there was talk that the majority of the state system remain in Queensland. There was a hostile takeover of the IR system where 85 to 90 per cent of the private sector transferred to the federal system. Only 10 to 15 per cent of the unincorporated area was further transferred to the federal system. I say that because by maintaining our control of the state system we can introduce legislation that helps our public sector.

Maximising employment security is critical to ensuring the Public Service can endure political change, technological development and external crises. As the economic backdrop created by the COVID-19 pandemic has highlighted, a permanent public sector workforce is critical to ensuring that Queensland is prepared to respond and recover from unprecedented external disasters.

Job security is also an integral feature of the Westminster system and allows public servants to perform their duties impartially and to provide frank and fearless advice. That is why this bill amends the Public Service Act 2008 to clearly state that permanent employment is the default basis for public sector employment and that other non-permanent forms of employment should only be used when ongoing employment is not viable or appropriate. This is in complete contrast to the casualisation that has happened under the federal system.

This bill also acknowledges that fairness in the Public Service is a lived experience. As submissions to the committee noted, there are examples of where a person has been engaged as a temporary employee over many years, rolling from project to project. Although workforce flexibility is an important component of ensuring service delivery, fairness in employment arrangements is critical. As submissions to the committee noted, it is critically important that our public servants feel that they have the certainty to be focused on the performance of their duties so that they can spend money, engage in the economy and have access to loans so they can plan their lives for themselves and their families and, of course, support the many businesses in the community.

That is why this bill further enshrines in legislation the rights of employees to have the status of their employment as fixed-term temporary employees and casual employees reviewed after two years of continuous service. It also introduces a right for public servants employed on a fixed-term temporary or casual basis to request a review of their employment status after 12 months. This new review right is designed to foster good workforce and resource planning practices by agencies and so that employees are provided with regular and systemic reviews of their employment status.

To assist departments in managing these obligations and to ensure flexibility and responsiveness to emerging demands, the bill also provides guidance and clear criteria for the employment of fixed-term temporary employees and casual employees. A consistent theme throughout the Bridgman review

is that public servants like and enjoy their jobs, respect their colleagues and want to do their best. The Bridgman review recognised that, in doing their best, public servants want to respond positively to the needs of their clients, the community and the government.

The review recommended that recognition of this should be the starting point for the management of public sector employees. That is why this bill introduces positive performance management principles. The principles will promote regular and constructive communication between managers and employees and ensure that they work together to support the government's productivity and quality of service delivery. This will ensure that good work is recognised and that public servants have feedback on how their efforts are contributing to Queensland and will help drive public sector capability development. These principles are supported by requirements to make a directive about how the principles will be applied. The bill ensures that chief executives need to ensure that this directive has been complied with before taking performance based disciplinary action.

Together, these amendments create a positive performance management framework to support managers and employees to work together to support optimal performance and to enable correction of performance and behavioural issues early through local action. In this way, we can ensure that Queensland has the most responsive, consistent and reliable Public Service possible to deliver services for Queenslanders.

Central to the key objectives of this bill to promote fairness in the employment relationship is accountability for decisions which affect employees. That is why this bill also transfers the jurisdiction for Public Service appeals, which are currently heard by the Queensland Industrial Relations Commission under the Public Service Act 2008, to be heard under the Industrial Relations Act 2016. This is a measure which is widely supported and will mean that decisions in Public Service appeals will now be published. This will ensure transparency and increase consistency in Public Service appeal decisions and, over time, enhance the quality of employment related decision-making in the Public Service.

The remaining amendments of the bill support the central concept of restoring fairness in public sector employment laws. They will ensure that the Queensland Public Service is well placed to deliver responsive, consistent and reliable community service and high-quality governance of public services and strengthen the sector as a whole. They include provisions to appoint a special commissioner to provide advice to government to drive improvements in areas of public administration including addressing gender pay equity, promoting a diverse workforce and promoting effective and efficient government.

They also include amendments to citizenship requirements to ensure consistency with the Human Rights Act 2019 and the Queensland multicultural charter by ensuring a person who has permission to lawfully work in Australia can be employed as a public servant for as long as they have that permission.

Previously, I flagged that amendments would be moved during consideration in detail to provide for effective implementation of the bill and to respond to the second recommendation of the committee report. The first of these amendments are of a minor and technical nature and are necessary to clarify the intention of transitional arrangements for conversion of casual employees and provide for a fair and manageable transition to new employee rights and employer obligations. A minor and technical amendment is also necessary to clarify the administrative inquiry powers introduced by the bill.

The remaining amendments primarily relate to the committee's recommendation that an appropriate mechanism should be investigated to further enhance fairness and transparency in decision-making for conversion reviews where a chief executive does not make a conversion decision within 28 days and the request is taken to have been denied. The committee also noted that the Bridgman review noted that the deemed refusal is sensible and practical but that it could also operate as a perverse incentive for a decision not to be made and that the perversity of the incentive should be removed. In response to these concerns, policy changes will be made to the temporary, casual and higher duties directives which will enable the Public Service Commissioner to request agencies to report on the number of conversion requests which are deemed to be refusals because the required time frame was not met. These changes will improve fairness and transparency by promoting accountability in decision-making and encouraging chief executives to actively track and review the number of deemed decisions in their agency and the effectiveness of workplace and resource planning in respect of conversion reviews.

This will be supported by an amendment to the bill to require that in making a decision in a conversion review a chief executive must have regard to previous conversion review decisions made about the employee and the reasons for those decisions. This will include having regard to where a decision was not made in the required time frame and was taken to be a decision not to convert. The

outcome of this consideration will be included in the notice required to be provided to an employee where a decision not to convert to permanency is made. In effect, this gives a bit of historical context for the worker—that is, if they are not being converted, why they were denied. It gives a bit of historical context in terms of transparency. Amendments are also proposed to be made to address issues identified in submissions to the committee to clarify the intent and application of provisions.

For the benefit of the House, I now outline amendments that I will be moving during consideration in detail. First, I turn to amendments to the right-of-entry provisions in the Work Health and Safety Act 2011. These amendments aim to ensure the act is clear and continues to function effectively. The amendments improve the clarity of the provisions on the relationship between the Work Health and Safety Act 2011 and the separate Electrical Safety Act 2002. The Work Health and Safety Act 2011 provides a framework to secure the health and safety of workers and workplaces. Part 7 of the Work Health and Safety Act 2011 covers the topic of workplace entry by workplace health and safety entry permit holders. By empowering worker representatives to enter workplaces to inquire into suspected contraventions of the health and safety laws, the Work Health and Safety Act 2011 establishes a means by which to quickly and effectively identify and rectify risks to workers and workplaces. This framework is not changing.

The amendment aims to make clear that parliament intends for the scope of health and safety laws for the purpose of right of entry to include electrical safety. This was always the intention. This is considered prudent to avoid any possible confusion given electrical safety matters are covered by a separate act. This is a technical amendment which reflects what was always the intention of the act. It has also been the intention of the health and safety laws to be whole and not to exclude from the concept of work health and safety a particular class of risks to workers, whether it be electrical risks, which are very high risk, or other kinds of risks. It was already a matter of practice that work health and safety entry permit holders exercise a right of entry on the basis of electrical safety matters, and this will remain. The amendments will ensure that the intent of workplace health and safety laws is clear, thereby ensuring there is no real or perceived gap in the scope and application of right-of-entry laws to electrical safety matters. A transitional provision will ensure that this applies to all relevant times since the Work Health and Safety Act 2011 commenced.

The second amendment I will be moving amends the Public Service Act 2008 to clarify and formalise the status of the Office of the Work Health and Safety Prosecutor and the Work Health and Safety Prosecutor. In particular, the amendments provide the Work Health and Safety Prosecutor with chief executive powers under the Public Service Act 2008 consistent with other similarly established offices. Given that we have mining health and safety prosecutions now being combined, formalising these functions and powers ensures the status of the office and the role of the Work Health and Safety Prosecutor are clear without the need for constantly maintaining alternative administrative measures such as a delegation of powers. I will also move amendments to the Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2020 to clarify drafting of provisions which facilitate the introduction of a proposed new fire protection licensing framework and to clarify a key fire protection definition. This will uphold the integrity of the fire protection licensing framework and protect public safety.

As the Premier said when she introduced this bill, we want the Queensland Public Service to be an employer of choice and a leader in public administration. We want to ensure that we are making the right investments in public services to keep delivering for Queenslanders with a highly skilled Public Service. We want the Queensland Public Service to be empowered to be responsive, consistent and reliable and to visibly demonstrate a culture that values high ethical standards and behaviour. This is why this bill will be supported by a stage 2, which will further implement fairness and integrity in public sector employment through the development of a new act and new code of conduct for the Public Service. Together, these reforms will ensure a fair and responsive Public Service for all. I am honoured to be addressing this bill on behalf of the Premier. I commend the bill to the House.