




Speech By
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MEMBER FOR TOOHEY

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WORK HEALTH SAFETY AND OTHER LEGISLATION AMENDMENT BILL

 **Mr RUSSO** (Toohey—ALP) (4.06 pm): I rise to speak to the Work Health and Safety and Other Legislation Amendment Bill 2023. The Education, Employment, Training and Skills Committee in its report No. 2 to the 57th Parliament, tabled in this Assembly on 23 February 2024, has recommended to the Assembly that this bill be passed. The primary objective of the bill is to give effect to the Queensland government's response to recommendations in the *Review of the Work Health and Safety Act 2011: final report* in 2022. The bill also implements particular recommendations from the 2018 review of the model work health and safety laws, the Boland review.

Key reforms proposed by the bill include: strengthening the role of health and safety representatives; enabling HSRs to choose the provider of their required training; clarifying the rights of work health and safety entry permit holders; clarifying entities that may assist workers and act as their representatives in relation to work health and safety issues; moving certain proceedings from the Magistrates Court to the Queensland Industrial Relations Commission; amending category 1 offences to include negligence as a fault element in relation to reckless conduct; prohibiting a person from providing, entering into or benefiting from the insurance to cover liability for monetary penalties under the Work Health and Safety Act 2011; and clarifying information-sharing arrangements with other regulators in relation to work health and safety breaches.

The Work Health and Safety Act 2011 sets out requirements and standards for securing the health and safety of workers and workplaces. Not only does it outline what must be done to protect the health, safety and welfare of workers and visitors in a place of work; it also includes the legal obligations and duties of both employers and workers.

In the 19th century, perceptions of what constituted workplace health and safety were completely different from today. It was not uncommon for large numbers of workers to labour in factories with poor ventilation, excessive heat and machines that had no safety guards. Initially, there were very few regulations and legislative structures governing workplace health and safety. In Australia, provisions were largely based on the British health and safety legislation of the time.

From the 1880s, work health and safety started to be taken up as a major issue. Legislation that included provisions for matters like cleanliness, sanitation and adequate working space and safeguards for dangerous machinery was passed in Queensland in the 1890s. By the 1980s, changes in how work health and safety was viewed resulted in comprehensive industrial agreements being negotiated.

The majority of measures contained in the proposed bill before us seek to implement or address recommendations for legislative change from the Work Health and Safety Act review and the Boland review. These reviews and reports had separate consultation processes. Further targeted consultation was undertaken by the Office of Industrial Relations during the drafting of the proposed bill with key stakeholders from registered unions and employer organisations, industry and government bodies. Feedback received was incorporated into the final draft of the bill where appropriate.

Following their examination of the proposed bill, the committee made four recommendations designed to support the implementation of the provisions of the bill. Three of these recommendations are in relation to the training of work health and safety representatives. The third recommendation is that the Office of Industrial Relations undertake a campaign of awareness so relevant organisations and workers are fully informed of the changes as to who can lawfully represent workers under the new definitions contained in the proposed bill.

A number of stakeholders in the inquiry were concerned that the bill proposes to expand the role and function of the health and safety representatives. Work Health and Safety Queensland describes the primary role of the health and safety representatives as representing the health and safety interests of a work group and to raise any issues with their employer. There can be as many health and safety representatives and deputy health and safety representatives as needed after consultation, negotiation and agreement between workers and the employer or the person conducting a business or undertaking.

The *Review of the Work Health and Safety Act 2011: final report* found that for health and safety representatives to be able to perform the role envisaged by the Work Health and Safety Act it was necessary for them to be completely integrated into the identification and resolution of safety issues at the workplace. The evidence-based academic literature and research reveals that safety performance is improved where there is worker representation in work health and safety. This makes sense. Workers have a vested interest in ensuring good outcomes for not only themselves but also their workmates.

However, the final report also found effective worker representation and participation needs to be supported by: inspectorate support of the worker representation provisions; management commitment to better health and safety performance and to participative arrangements, coupled with the centrality of the provision for preventive work health and safety in strategies for ensuring the quality and efficiency of production; worker organisation at the workplace that prioritises work health and safety and integrates it in other aspects of representation on industrial relations; and support for workers' representation from trade unions outside workplaces, especially in the provision of information and training.

To address these issues, the bill proposes that persons conducting a business or undertaking: inform a health and safety representative when an inspector or work health and safety entry permit holder is on site, and permit the health and safety representative to accompany them, where the visit is relevant to the work group; and provide the health and safety representative with copies of the enforcement notices issued by the inspector, copies of entry notices provided by the work health and safety entry permit holders, and mandatory incident notification made to the regulator by the persons conducting a business or undertaking.

Clause 32 seeks to amend the Work Health and Safety Act to provide for the health and safety representative to issue a written notice, a cease work notice, to the person conducting a business or undertaking requiring them to direct one or more workers to cease unsafe work if consultation has failed to resolve the issue. The person conducting a business or undertaking would then be obliged to direct the relevant workers to cease, or not start, work to the extent that it relates to the matters referred to in the notice. The cease work direction would remain in effect until resolved or an inspector issued a prohibition notice or the Queensland Industrial Relations Commission decides or deals with the dispute.

These measures raised concerns with a number of stakeholders in the inquiry as they believed that the bill proposes to expand the role and functions of the health and safety representative. The proposed amendments would not alter the existing power for a health and safety representative to direct workers in the work group they represent to cease work without first consulting with the person conducting a business or undertaking or attempting to resolve the issue if the risk to workers is so serious and immediate or imminent that it is not reasonable to consult before giving the direction. The Office of Industrial Relations highlighted that any potential misuse of this power could be immediately referred to the Queensland Industrial Relations Commission.

In its response to submitters' concerns, the Office of Industrial Relations confirmed the amendments relating to ceasing unsafe work will be incorporated into health and safety representative training. It is the department's intention to update the training that health and safety representatives receive and to produce templates and guidance in this area.

At the public briefing on 30 January 2024, Andrea Fox, the Executive Director of the Work Health and Safety Engagement and Policy Services of the Office of Industrial Relations, told the committee—

I would note that there is a review currently happening at the moment around HSR training in the department around the delivery method and ways of improving that training. I did note lots of interest today from various parties in industry-specific training. The department has long had a view that there would be potential merit in that. That is something that has been discussed and explored in the department.

I commend the bill to the House.