

WORKFORCE REFORM BILL 2013

Second Reading

Resumed from an earlier stage of the sitting.

HON SALLY TALBOT (South West) [5.06 pm]: Before question time, I was making the point that it is far from clear from the text of the bill whether its provisions are supposed to apply in a narrow sense or in a broad sense. I also gave some illustrations about evidence that the committee received and views that the committee formed, which are clearly expressed in the report, about the fact that there is a way of reading the text of the bill so that it appears to apply only in a narrow sense. There are a small number of employees who have been on the redeployment list for what is clearly more than an acceptable amount of time. Of the 76 people who are on that list at the current time, 31 have been there for between one and four years, and nine have been there for more than four years. I made the point that the Public Sector Management Act already contains provisions to allow for the compulsory termination of employees on that list. I draw the attention of honourable members to the evidence that was received in the public hearing on 5 February, when a question was asked directly of Mr Wilding from the Public Sector Commission about the use of those powers. Hon Donna Faragher asked the following —

So, what you are saying is that even if you were to move them to another agency, I understand under the current act that if they were to refuse, that is grounds for dismissal; is that correct?

The response from Mr Wilding to that question was, “Yes”. So there is no doubt that those provisions already exist.

We now have three possible interpretations of the measures contained in this bill. The first is that these provisions are intended to apply in the narrow sense to only the very small number of employees who have been on the redeployment list for longer than is acceptable. That raises the question of why we need this bill, because provisions already exist in the Public Sector Management Act to enable the contracts of these employees to be terminated.

I should make the point that there are other ways in which public sector employees can be terminated. Most of those relate to the commission of an offence or some form of misbehaviour, or some kind of disciplinary action. A person may also be terminated for breach of contract. For example, a person may be employed as a driver, and one of their terms and conditions of employment is that they have a current driver’s licence, so if they were to lose their licence, they would be in breach of their contract. There are many ways in which those types of people can be dealt with. That is the second scenario.

We now get to the sinister implications of this bill. That is that these provisions are intended to be used in a broader sense; or, to put it another way, in a structural sense. Rather than remediating a current unacceptable situation, perhaps what we are talking about here is the broad structural reform to which the government on occasions likes to refer. Nowhere was this more starkly evidenced than from the Treasury witnesses. Mr Barnes said right at the very beginning of the hearing that the measures contained in this bill are essentially cost-saving measures. He was very specific about this. He was asked —

Can you give us an idea of which sections of the bill the estimated savings of \$2.7 billion come from or what is going to provide the most savings?

He answered in these terms —

Where that is coming from is the revised wages policy, with the CPI cap on the wages policy. Related to that, the government introduced a new policy decision that general government agencies need to abide by a CPI cap on growth in their salaries expenditure. Those two measures are the source of that \$2.7 billion in estimated savings.

He goes on and makes several other references in that evidence. The evidence at this hearing on 12 February indicates that we are talking about broad structural reform. The Public Sector Commissioner himself refers to measures to re-set the relationship between employer and employee. I put it to honourable members that those terms clearly apply to wide-ranging structural measures.

Perhaps the most sinister thing of all is that at the end of the Treasury hearing, the acting Under Treasurer gave his view of the sign that the current system is failing. Remembering that he started his evidence by saying that the current business model in the Western Australian public sector is in need of significant reform, he concluded his evidence in answer to a question about what might be the most significant measures of that reform by saying that there were simply not enough people on that redeployment list. In other words, Treasury was saying that a redeployment list of 76 people out of a total workforce of 139 000 is simply too small. It is fair and reasonable to say, given the nature of that evidence, that the members of the committee and the members of this chamber could

form the view that they are looking at measures here that are supposed to have very broad structural implications. I ask honourable members again to ask themselves: is it acceptable to sit in this place and allow legislation to pass us by when the intent of the bill is so unclear that the text of the bill can be interpreted in two highly divergent ways? My answer to that question is that it is clearly not acceptable.

I have a couple more comments to make, which I might leave until we get to the Committee of the Whole stage. As Hon Kate Doust said, with a bill that is as problematic as this one is, we are all looking forward to the committee stage when we will be able to drill down to some of the technical aspects of these clauses in more detail and get more of an idea about how the government is responding to the challenges thrown at it by the committee's report.

I conclude my initial remarks by saying that the way this house has handled the bill to this point is a clear indication that we end up with a better bill when we refer it early to a committee. That is quite clearly the case, particularly when the minister with direct carriage of the bill is in the other place. There is absolutely no question that the hours and hours of scrutiny the committee was able to put into the clauses of this bill—if the government accepts the unanimous amendments of the committee, and indeed I hope is prepared to consider the minority amendments as well—will result in this Parliament having a better bill before it. With those remarks, I look forward to moving into the committee stage of the bill in the not-too-distant future.

HON AMBER-JADE SANDERSON (East Metropolitan) [5.14 pm]: I rise this afternoon to speak to the Workforce Reform Bill 2013. Like Hon Sally Talbot, I acknowledge the members of the Standing Committee on Legislation, which I was fortunate to be co-opted onto for the period of this inquiry. In particular I thank Hon Lynn MacLaren for allowing me to be co-opted in her place and I thank the other members for their often interesting and robust debate. My experience on that committee has been really informative. I cannot understate how much I learned from that process, in particular the way a committee can manage a contentious bill on a quite divisive issue—which remains one of the defining issues between the two major parties—and still produce essentially a single report in a really respectful and open manner. It caused me to reflect on how committees operate and how I operate on committees. There was a lot of leadership, particularly from the Chair on managing a very difficult process, and I acknowledge Hon Robyn McSweeney for that. I particularly acknowledge the committee staff about whom I am in absolute agreement with Hon Sally Talbot. We had extremely tight deadlines and the staff worked for very long hours producing in parts a very complex report. I therefore acknowledge the staff in that process.

The bill in itself seeks to amend three acts: the Industrial Relations Act, the Public Sector Management Act and the Salaries and Allowances Act. It is relatively straightforward, as Hon Sally Talbot said. It is not a long bill but it does have a long history and I want to provide some context to where we are today with it. After the 2008 election, the government announced that there would be an economic audit review. A committee was set up to provide advice to government on how to introduce more savings in the public sector and a more efficient and streamlined public sector that would be of more value to taxpayers.

In its report, the Economic Audit Committee made a number of findings. One of those findings espoused more flexible arrangements for the employment of public sector workers. The second reading speech of the minister also backs up that as one of the aims of the public sector reforms. Overall the government has not implemented that many of the recommendations of the Economic Audit Committee. Prior to the last election there was a reasonably heated industrial relations environment when the government was bargaining with some large public sector groups. There was a lot of anxiety around structural reform in the public sector and potential redundancies for public sector workers. The Premier made some very clear and unequivocal statements, which I remember hearing myself on ABC radio, such as, "Let me be clear, there will be no forced redundancies in the public sector." People, again, took the Premier at his word on that.

Hon Alanna Clohesy: They were wrong!

Hon AMBER-JADE SANDERSON: They were wrong, because there have been a number of things that the Premier has been dishonest about. He said that there would be no forced redundancies in the public sector. There was a collective sigh of relief among public sector unions—I was in one at the time—because people's job security matters, and it matters particularly to low-paid public sector workers. There is an element of trade-off for a lot of those workers. Yes, they have a low income but they have a permanent job so that they can pay their bills at the end of every fortnight, because that is the way most of them live: from fortnight to fortnight and from pay to pay.

We therefore thought that forced redundancies were off the table. But here we are with legislation that, on my reading of it and in the weeks of scrutiny that we have done on this legislation, actually gives the government very broad powers to make people redundant. In my view it is not a bill about remedying a few difficult cases that the government is unable to deal with under current legislation. This goes much further and is much more about structural reform than it is about remedies. We have heard through the second reading speech, through the

explanatory memorandum and through days of evidence in committee hearings that this bill is really an option of last resort and that it is really only for a very small number of people. I will lay out my arguments for why I do not think that is the case with this bill.

The other aspect of this bill that has taken some people by surprise as there was no announcement of it prior to the election and certainly not prior to the bill being tabled was the enshrining of the government's wages policy in the legislation. I will talk about that policy in a little more depth. The bill, in introducing new statutory considerations for the Industrial Relations Commission, has given the sector the view that the government is trying to fix the game in its favour. In my view, the game essentially is pretty rigged against low-paid workers as it is. This aspect of the bill, while granted through some scrutiny, examination and a range of legal advice, does not realise the full extent of some aspects of equivalent bills in New South Wales and Queensland, and is still not an appropriate way for governments to deal with unions in terms of trying to fix how the commission makes considerations.

Debate adjourned, pursuant to standing orders.

House adjourned at 5.20 pm
