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Member for Hammond

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Return to Work Bill

Mr PEDERICK (Hammond) (15:53 :18): I rise to speak to the Return to Work Bill 2014 and note that we will be supporting it. I also note that on the day we walk in here (and I know that some of these amendments were put in front of some of our people on Friday and then Sunday) there are 14 pages of amendments already before we have even started the debate, and they are government amendments. After all the hue and cry and Deputy Premier actually admitting in the house that WorkCover is bugged—

Ms Redmond: 'Stuffed,' I think he said.

Mr PEDERICK: No, I think he said 'buggered'.

An honourable member interjecting:

Mr PEDERICK: Yes, I stand corrected if anyone wants to correct me. He knows, he has acknowledged, that it is stuffed, to be a bit more polite.

Mr Williams interjecting:

Mr PEDERICK: Yes. It is a real problem for employers in this state. It is not just the impost of WorkCover levies. It is the payroll tax, it is the land taxes, and now it is the ever burgeoning emergency services levy impacting on people wanting to stay in this state and employ people. We have had it outlined time and time again by our people on this side of the house about the many companies, including Arnott's and others, that are getting out of South Australia because it just does not pay to stay here and run a business.

Before I get into the core debate, I want to discuss some of the issues with people from my electorate in regard to WorkCover. It was last year when I wrote to minister Rau about a fellow with a window cleaning business in my electorate. These window cleaners get off the ground very rarely because they have long poles to clean windows; for example, it might be less than 1 per cent of their work where they get to a second floor window physically up a ladder. This company has had no claims in 30 years, yet their industry premium rate was 7.5 per cent. This 7.5 per cent is the same rate as if they were hanging on a rope off a 100-storey building, if we had one in South Australia. It is just ridiculous to think that someone who has their feet nearly all the time planted firmly on the ground pays the same rate as someone swinging in a harness hundreds of metres in the air.

It is not just the premium rate, it is also the industry claims cost which is 1.0020 per cent (that was the initial) and then the industry claims cost hindsight rate which was added on as well was 1.1841 per cent, so the total rate that this person paid with his company has been 9.6861 per cent.

Mr Whetstone: Outrageous!

Mr PEDERICK: It is absolutely outrageous, the member for Chaffey. This is a bloke whose company goes around to several places in the electorate washing windows, and 10 per cent just goes in WorkCover costs when they have not had a claim in 30 years. This person would be very pleased if we actually come up with some real reform. Even though I wrote to the minister about this, we did not get a very successful outcome.

However, I will take my hat off to Greg McCarthy, the chief executive officer at WorkCover, because very recently I had an issue with another labour hire company in my electorate. They went to WorkCover just to verify how they are doing their payments schedule and that sort of thing and, in doing their auditing process, WorkCover said, 'Now you have come to us, we will come out and audit your company.' That is fine, that is able to happen. They went out to audit the company and the next thing was that this bloke was a bit unhappy that he had actually contacted WorkCover because it was proposed that his rate, which was at 2.7 per cent, was going to be 7.5 per cent. Not only that, for the three years for the period of audit, it was going to be backdated.

This person came to me very stressed out, to say the least. He just said to me in black and white, 'This is probably going to be the end of my business,' supplying valuable labour hire in my electorate, doing it all legally and doing it all as he was instructed to do and as he had done for many years, paying his premiums as he thought they were paid, as he was billed, and as he thought was appropriate in the time that he has owned this company. The issue was that he could have been up for \$200,000 in back pay.

As I was saying before about Greg McCarthy at WorkCover, he met with this man, one of my staff and me and we got an outcome. I do not know what it is, and that is true and right that it was a confidential outcome between WorkCover and my constituent, but I understand he was a very happy man. I pass that on to WorkCover and it shows that sometimes sensibilities can exist, and I really thank them for getting an outcome for my constituent who quite frankly was at a stage in his life when it was going to be difficult to find other work. It was going to put him and many other people out of work.

With regard to the bill, the government has admitted in the speech by the Deputy Premier that the current act in the current scheme does not best serve workers, employers, or the state. Workers experience worst return-to-work outcomes than in other jurisdictions which we have already heard about today from this side of the chamber. For many, the services provided to them do not support early and effective recovery and return to work.

It is also admitted by the government that we have the highest average premium rate at about double the rate of other jurisdictions of 2.75 per cent for the 2014-15 financial year compared to 1.47 per cent in New South Wales, 1.272 per cent in Victoria and 1.2 per cent

in Queensland. It is noted that, depending on which document you look at, the unfunded liability blew out to \$1.37 billion or \$1.39 billion (if you look at the WorkCover document) at the end of June 2013, but it has been pulled back to \$1.23 billion.

As noted in previous contributions to the house, when we on this side of the chamber were last in power the unfunded liability was only \$56 million. I note in the government's and the Deputy Premier's speech that this new scheme supposedly is designed, if everything is implemented, understood and decided as expected—I think there are enough riders in there—to have a break-even premium rate of less than 2 per cent. Let us hope that happens; we have had so many promises we have heard before. The former member for Port Adelaide, Kevin Foley, thought it was the proudest time in the house when he was trying to institute WorkCover reform, and it just went backwards from there.

I note that the emphasis of the new scheme is on capacity and not on incapacity, and medical certificates will need to explain what injured workers can or will be able to do rather than what they cannot do. I think that would be a proactive change into the future. It looks like the legislation wants to minimise the potential for disputes and, hopefully, there will be some improved evidence-based decision-making and active case management which will also minimise the potential for those disputes. It is currently acknowledged that in this state about 6 per cent of active claims are in dispute at any one time, and this is much more than what happens in New South Wales and Victoria.

From what we are told from the government's side modelling the potential impact of the changes for workers using the historical data indicates that about 94 per cent of people with a work injury will receive either improved or the same income-support benefits. My concern is: how do the other 6 per cent get on, and that might get fleshed out in committee.

I note that there will be an increased emphasis on early intervention, improved service delivery and support for retraining, and job seeking, where appropriate. Also, the new scheme will need an insurer that is expected and required to meet high-quality service standards focused on early intervention. It will need to be a scheme that is both a strong regulator and also service-focused. I understand that, if the bill becomes an act, the return to work corporation will take on these roles and will replace what is currently known as the WorkCover Corporation.

Obviously, there is much work to be done. One of the things that really has to be taken into consideration and is being taken into consideration with this legislation is the distinction between seriously injured workers and non-seriously injured workers, and workers assessed with a whole person impairment of 30 per cent or more will be treated as seriously injured. The scheme will provide income support for such workers until retirement age, lifetime care support and medical services. It is certainly people with less percentage rate of injury than that who will be on return-to-work schemes and have to work on getting back into the workplace.

It is noted that the ideal of this scheme is that redemptions will be used in exceptional circumstances only when all the recovery and return-to-work options have been fully exhausted. Careful control of redemptions will be essential and they will have to be

enshrined in the new scheme. One would hope that, after all this time and the acknowledgment by the minister that it has not worked in the past, these changes will make it work.

There is a framework included in the legislation for the spreading of the benefits available from the scheme performing financially well between workers and employers. This means that, if there is a funding level of at least 100 per cent and achieving a profit from its insurance operations in two consecutive years, an actuarial confirmation, a scheme bonus, would be declared, so there are some bonuses if the right outcomes are found through the legislation.

I would like to comment on some of the issues brought by WorkCover themselves to the briefing one of my staff attended for me the other day with regard to the Return To Work Bill. It is no secret that the current scheme is a very high cost for employers. Annual claim costs as of 30 June 2013 were over \$800 million and the collection at the moment is only around \$660 million, and this is with people paying very high rates as I indicated earlier with a couple of my examples. We are still \$140 million short for the annual claim costs, and so with the new scheme the target annual claim cost is no more than \$480 million.

It is also well known that this is a high cost for employers and the current scheme contributes to poor health outcomes for workers. This year there was a national return-to-work survey which gave a national return-to-work rate of 87 per cent, yet this state only recorded a return-to-work rate of 82 per cent, and that is the second lowest amongst all jurisdictions. It is well known that a long-term work absence has a negative impact on health and wellbeing.

WorkCover have made some improvements. They have pulled the liability back a little bit and some of this has been through:

- active management of claims agents;
- an early intervention program with mobile return to work consultants;
- its approach to psychological claims;
- a return-to-work services strategy; and
- work capacity assessments.

But it does mean that far more work needs to be done with regard to WorkCover. I mentioned before that the government have been pretty keen to say that the average rate will be down below 2 per cent, but now they are using words like, 'that is our hope', 'that is our aim', 'that is our aspiration'. WorkCover is saying that the return-to-work scheme offers an average premium rate that is no more than 2 per cent by focusing on intensive and customised early intervention support for injured workers and their employers, including strict time limits on the financial and medical support to workers who are not seriously injured.

Quite frankly, I think if people can go back to work—and it may be in a modified capacity or in another role with some extra training—that is a very good item to have in there as far as

time limits for people to be on support so that they do get motivated to get back to work. It is not just better for them, but it is better for the state and better for the whole economy.

Also one of the points is that the aim of the bill is to provide comprehensive support for seriously injured workers, including common law for economic loss, and improving the focus on service and regulation and strengthening the compensability definitions. What WorkCover told us the new scheme will do is strengthen the return to work obligations for employers and workers, introduce a lump sum to recognise loss of future earning capacity for non-seriously injured workers, introduce a federal minimum wage safety net, update the retirement age to match the pension age (which is very sensible) and improve dispute resolution through the South Australian Employment Tribunal. This is a big claim, and I will see it to believe it. There have been a lot of claims made over many years about WorkCover.

Mr Goldsworthy interjecting:

Mr PEDERICK: If I see it; thank you, member for Kavel. The new return-to-work scheme virtually—that is an interesting word to have in here—eliminates the \$1.39 billion unfunded liability (30 June 2013) through the transitional provisions for existing claims, which limits income support for up to two years for non-seriously injured workers, provides a maximum of a further 12 months of medical support for non-seriously injured workers, excludes access to economic loss lump sums for non-seriously injured workers and excludes access to common law for seriously injured workers, and ensuring non-existing claims become a new claim in the return-to-work scheme.

What WorkCover itself is saying about what it is basing the success of the new return to work scheme on is that it is dependent on the strong connection to employment, strong early intervention and return to work approach, clear time bands for income and medical support, consistent and objective thresholds, clear obligations for employers and workers and transitional arrangements for existing claims, which, as I said, claims there will be a virtual elimination of unfunded liability—that is a great aim to have but aims and reality are two different things—and annual claim costs at no more than 2 per cent average premium rate.

What we really need to see is action, if this legislation gets through the two houses of parliament and gets the Governor's assent. As I said, for many years WorkCover has been debated. I am sure it has been debated in the whole 12½ years the Labor government has been in power. We have seen the former member for Port Adelaide, Kevin Foley, stake his claim on it. He said that things were really going to change and it was the best day that he had had in the house. That has not happened, so the proof will be in the pudding. I know that employers in my electorate are screaming out for reform. They are screaming out—

The SPEAKER: The proof will be in the eating of the pudding.

Mr PEDERICK: The eating of the pudding. They are screaming for reform. They just want outcomes, they want real outcomes. They do not want to talk of what it will do, they want to see what it will actually do so that their businesses can thrive in this state, and so long as we can continue to have some businesses in this state that do thrive because at the current

moment there are plenty of businesses leaving the state. We need to make sure that people stay so that this state can thrive.