



Adrian Pederick MP
Member for Hammond

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South Australian Employment Tribunal Bill

Mr PEDERICK (Hammond) (16:47 :27): Don't panic, Attorney. I rise to speak to the South Australian Employment Tribunal Bill 2014. I note in the Attorney's opening comments of his second reading speech that the South Australian Employment Tribunal will have similar functions, powers and operating approaches as the newly established civil and administrative tribunal and how efficient and cost-cutting it will be. If it is that good, as the members for Hartley and MacKillop have reiterated, why not roll it into the SACAT? I am sure the Attorney will address that issue either in his address at the end of this or in committee.

Obviously at the minute under the WorkCover Corporation, the Workers Compensation Tribunal deals with disputes under the Workers Rehabilitation and Compensation Act 1986 and, with the Return to Work Bill that we were debating yesterday, the government is saying it needs a fresh approach to the resolution of disputes. I just hope that with the passing of all this legislation that has been put to us—and put to us in quite a hurry in the last few days to get it through—that we get real change. As I indicated in my Return to Work Bill contribution, we have had some grand statements made in this place before by former members of parliament who said it was the best day of their life that we were moving on schemes in regard to WorkCover, and none of that came to fruition.

I note that this bill proposes that the tribunal will be led by a president, supported by a range of deputy presidents, magistrates and conciliators, and then there will be at least one deputy president of the tribunal being a judge other than the senior judge of the Industrial Relations Court.

Obviously if this bill is enacted there will be the employment of conciliation officers who may be legally qualified but who may also be experts from different fields. The legally qualified officers must have at least five years standing as legal practitioners. With regard to the other conciliation officers, it will be up to the minister to decide how much knowledge they have, how extensive that is, and what their expertise or experience is in relating to a class of matter which may be discussed within the tribunal. The bill also clarifies members of the tribunal, which in particular circumstances will be considered the presiding member. This can be flexible throughout the tribunal in the hearing of matters and there is an order of precedence amongst members of the tribunal.

The matters that will come before the tribunal will be dealt with as a review of the original decision. The tribunal will obviously examine the decision of the original decision-maker by way of a rehearing, but the original decision-maker can reconsider their decision working with the tribunal to get to the end result. They will be invited to do that by the tribunal and the original decision-maker may affirm, vary or set aside the decision and substitute a new decision.

The bill sets out the principles of how the tribunal will act, rules of evidence, formality and inquisitorial approach, and acting according to equity and good conscience are just part of those principles. Then a range of evidentiary powers were brought into place about how evidence can be obtained, how processes are used, control parties, and how certain powers are proposed for inclusion, but they will be discussed throughout the committee stage of the bill.

With regard to the tribunal, the practice and procedures of the tribunal will be set out, and the bill sets out the conduct of proceedings and interaction of parties to proceedings. In relation to mediation or conferences regarding settlement of claims, parties can be required to attend a compulsory conference or it can go to mediation with a mediator as specified by the tribunal. I think also what happens in the process is that there will be the right of appeals. The bill outlines how staff can be hired. There will be at least one principal registrar and they will be supported by one or more other registrars to be known as deputy registrars.

When I began my short address, I did ask why there could not be some more streamlining done. We have seen the government in recent days wanting to streamline boards and committees, and I think this could have been managed under the SACAT. My one great hope with this legislation, in line with the Return to Work Bill, is that we get some real outcomes for the employers and the employees of South Australia, because when you have a system that has blown out to close to \$1.4 billion in deficit, it is just totally untenable.

One thing I will say is that at least the Attorney-General has recognised that and he has the courage of his convictions to bring this legislation into this place but, as I said in my contribution to the Return to Work Bill, the proof will be in the pudding; that is, when we do not have people complaining about 7.5 per cent WorkCover rates for work that, quite frankly, I do not think justifies that level of rate and when workers get decent outcomes. Let's not live in Fairyland because not everyone is going to be happy with these outcomes, but we must have far better outcomes so that we can promote employment in this state, and so that we can promote the idea of people running businesses in this state instead of the opposite. I commend the bill.