



# ***FINANCE AND ADMINISTRATION COMMITTEE***

**Members present:**

Mr MJ Crandon MP (Chair)  
Mr R Gulley MP  
Mr IS Kaye MP  
Mr TS Mulherin MP  
Mrs FK Ostapovitch MP  
Mr CW Pitt MP  
Mr EJ Sorensen MP  
Mr MA Stewart MP

**Staff present:**

Ms D Jeffrey (Research Director)  
Dr M Lilith (Principal Research Officer)  
Ms M Freeman (Executive Assistant)

## **PUBLIC HEARING—INQUIRY INTO THE INDUSTRIAL RELATIONS (FAIR WORK ACT HARMONISATION) & OTHER LEGISLATION AMENDMENT BILL**

### **TRANSCRIPT OF PROCEEDINGS**

**WEDNESDAY, 30 MAY 2012**

**Brisbane**

## **WEDNESDAY, 30 MAY 2012**

---

**Committee met at 9.36 am**

**BADKE, Ms Kylie, Senior Industrial Officer, United Voice Queensland**

**BATTAMS, Mr John, President, Queensland Council of Unions**

**BEHRENS, Mr Nick, General Manager, Advocacy, Chamber of Commerce and Industry Queensland**

**BLANEY, Mr Shaun, Senior Advisor, Industrial Relations and Governance, Local Government Association of Queensland**

**CONNELL, Ms Leanne, Senior Policy Analyst, Chamber of Commerce and Industry Queensland**

**EDMONDS, Ms Thalia, Industrial Advocate, Queensland Teachers Union**

**GOODE, Mr Tony, Workforce Strategy Executive, Local Government Association of Queensland**

**MONAGHAN, Mr Ron, General Secretary, Queensland Council of Unions**

**OLIVER, Mr John, State Secretary, United Firefighters Union**

**POLLARD, Mr Craig, Senior Consultant, Jones Ross Pty Ltd representing Building Service Contractors' Association of Australia, Queensland Division, Industrial Organisation of Employers**

**REICHMAN, Mr Scott, Organiser, Electrical Trades Union of Employees**

**ROGERS, Ms Pat, Industrial Officer, Electrical Trades Union of Employees**

**SPRECKLEY, Mr John, Senior Industrial Officer, United Firefighters Union**

**SPRIGGS, Mr John, Senior Industrial Officer, Queensland Independent Education Union of Employees**

**CHAIR:** Good morning, ladies and gentlemen. First of all, apologies for us arriving a few minutes late. We were just tidying up a couple of matters in our private meeting in preparation for today. I declare the public hearing of the Finance and Administration Committee's inquiry into the Industrial Relations (Fair Work Act Harmonisation) and Other Legislation Amendment Bill 2012 open. I am Michael Crandon, the chair of the committee and the member for Coomera. The other members of the committee are Mr Curtis Pitt MP, deputy chair and member for Mulgrave; Mr Reg Gulley MP, member for Murrumba; Mr Ian Kaye MP, member for Greenslopes; Mr Tim Mulherin MP, member for Mackay; Mrs Freya Ostapovitch MP, member for Stretton; Mr Ted Sorensen MP, member for Hervey Bay; and Mr Mark Stewart MP, member for Sunnybank. The member for Inala, Ms Anastacia Palaszczuk MP, has been given leave by the committee to attend the hearing today and will be asking questions of witnesses.

The purpose of this meeting is to receive information from stakeholders about the bill, which was referred to the committee on 17 May 2012. The committee is interested in the practical implications of the policies being put into effect in the bill. The objective of the bill is to amend the Industrial Relations Act 1999 to modernise the law to reflect certain key aspects of the Commonwealth industrial relations regime and to require the Queensland Industrial Relations Commission, the QIRC, to give consideration to the prevailing economic conditions when determining wages and employment conditions. In addition, the bill amends the Public Service Act 2008 to allow members of the QIRC to hear Public Service appeals.

This hearing is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. The committee will not require evidence to be given under oath, but I remind witnesses that intentionally misleading the committee is a serious offence. You have previously been provided with a copy of the instructions for witnesses, so we will take those as read. Hansard will make a transcript of the proceedings and you will be provided with a copy of that transcript.

We are running this hearing as a round table forum to facilitate discussion. However, only members of the committee can put questions to witnesses. If you wish to raise issues for discussion, I ask you to direct your comments through me. I remind all of those attending the hearing today that these proceedings are similar to parliament to the extent that the public cannot participate in the proceedings. In this regard, I remind members of the public that under the standing orders the public may be admitted to or excluded from the hearing at the discretion of the committee. Could I also request that mobile phones be turned off or switched to silent mode and remind you that no calls are to be taken inside the hearing room. We have a relatively short time this morning to hear from all of the organisations represented here today, so can I ask that you keep your answers and comments as brief as possible and try not to repeat what others have already said. The committee will allow a maximum of three minutes for each organisation represented to make an opening statement, if you wish to avail yourself of that opportunity. In the first instance, Nick Behrens, would you like to make an opening statement?

**Mr Behrens:** Thank you. The Chamber of Commerce and Industry Queensland welcomes the opportunity to provide feedback to the Finance and Administration Committee on the Industrial Relations (Fair Work Act Harmonisation) and Other Legislation Amendment Bill. As a very brief aside, the Queensland government referred its private sector industrial relations powers to the federal government in 2010, leaving the Queensland Industrial Relations Act 1999 covering state Public Service and local government employees. CCIQ supports the continuation of this referral to the Commonwealth for our members. In relation to this bill, CCIQ is strongly supportive of the objective to require the QIRC to give consideration to the state's financial position and fiscal strategy when determining wage negotiations. The Queensland business community has a strong right to be heard on this issue, contributing at least \$6.7 billion to the state government through payroll tax, land tax, business stamp duties and motor vehicle registration, representing 65 per cent of total state taxation revenue. Approximately 45 per cent of the state's operating expenses are apportioned as employee or superannuation expenses. Accordingly, the nexus between business taxes and the state's employee expenditure is strong. Business wishes to see its taxes—its hard-earned money—used appropriately.

One of the key outcomes sought by Queensland businesses from the new state government is better economic and fiscal management. This is required to bring the state budget closer to a more sustainable position and restore the state's AAA credit rating. The overall trend in Queensland finances in recent years has been one of deterioration driven by growth in recurrent spending. Failure to reduce spending growth will threaten the sustainability of our public finances over the medium term and damage the economy's competitiveness through dependence on prevailing higher business taxes and charges. This is an outcome that must be avoided.

The challenge for this state government is to improve its fiscal management. This can only be done by dramatically reining in current government expenditure. Accordingly, CCIQ is supportive of strong efforts to ensure that departmental operating expenses do not rise unchecked, yet in each of the past five years public sector wages growth has significantly outpaced private sector wages growth in Queensland as measured by the Australian Bureau of Statistics labour price measure. Since the global financial crisis, wages for the private sector in Queensland have grown by 15.7 per cent while public sector wages in Queensland have grown by 19.4 per cent. This difference would account for approximately \$707 million in budget savings in the 2011-12 financial year—that is, applying private sector wage outcomes to the public sector would have wiped a quarter of the budget deficit off the books. In short, the QIRC has in our view had very little regard for the capacity of the state government to pay in determining wage outcomes for the public sector in recent years. Queensland businesses are required to look closely at their own expenditure to ensure that they remain profitable and viable and the Queensland government should not be any different.

**CHAIR:** Thank you, Nick. Your time has expired. I ask the next witness to give an opening statement.

**Mr Monaghan:** Firstly, the Queensland Council of Unions relies on its submissions and we highlighted six recommendations to the committee. However, I would like to first express our disappointment at the time frame for the hearings of this matter. We believe it is a very short time frame. We were given two days to put this together. Our recommendations were six in number. The first recommendation refers to section 3 relating to principal objects of the Act. In our recommendation all reference to 'fiscal strategies' should be removed from the amendment. The amendments to the Queensland Industrial Relations Act state that it supports a framework that supports economic prosperity and social justice. The QCU believes that the greater emphasis on the fiscal strategy will further distort the balance between the interests of economic prosperity and social justice. Already the position of capacity to pay is put before the commission in any wage case employers want to. This has been a longstanding practice of hearings.

The fiscal strategy of a state is put together as a forecast of what may happen. Often forecasts are not correct and may be way off the mark. For example, if the commission were to overly take into account gloomy economic forecasts of a state based on an incorrect financial strategy then the social justice aspects of the Act would be sublimated to this. The results would be that workers in this state would not be given wage justice, based on incorrect information and strategy. When this is coupled with an inability to cross-examine the Treasury officials who make these predictions and fiscal strategies, the problem is compounded.

Recommendation 2 refers to new section 147A, titled 'Employer may ask employees to approve proposed agreement being negotiated with employee organisation'. Our recommendation is that the amendment must include a provision that requires the employer to pursue any outstanding matters in the commission, where independent assistance can be provided, before directly balloting employees. The QCU believes that an important step has been left out here. Simply put, the Queensland Industrial Relations Commission is there for parties to help them find a solution to non-agreed items in the bargaining process. If an employer can bypass the commission in an attempt to get an agreement with employees without the support of the employee organisation, this can forfeit the opportunity to secure an agreement that is supported by all parties in the negotiations.

Recommendation 3 refers to section 144, (What is to be done when an agreement is proposed). Our recommendation is that the amendment must be altered to maintain the rights of employees to be represented by an employee organisation in the event that an employer directly ballots employees under the proposed amendments to section 147A that have been discussed.

Recommendation 4 refers to the proposed amendment to section 176, titled 'Requirements for other industrial action by an employee organisation or employees'. Our recommendation is that the amendment needs to include a provision that allows other balloting arrangements in addition to postal ballots. The amendment stipulates that protected-action ballots must be only in the form of postal ballots. The Fair Work Act 2009 stipulates other forms of ballots that are available, such as giving notice to an employer directly, sending the ballot paper to an employee's email address at work, the provision of an electronic link that takes the employee directly to a copy of the notice, by fax and other means.

Recommendation 5 refers to new section 181—

**CHAIR:** Thank you, Ron, your time has expired. If you would like to give us your written speech we would be happy to incorporate that.

**Mr Monaghan:** Yes. It has notes on it. That will be fine. I think they would be covered anyway.

**CHAIR:** Okay.

**Ms Badke:** United Voice represents 30,000 hardworking Queenslanders, and a large number work in the public sector. Our members deliver important services to the community and are highly regarded. More than 2,000 work in the health industry, 8,000 work as teacher aides in classrooms across Queensland, 3,000 keep our schools clean and 2,500 ambulance officers respond to emergencies and save lives. On behalf of those Queenslanders who will be most affected by these proposed changes, United Voice expresses concern that some of the proposed provisions may have possible unintended consequences on our membership.

United Voice has commenced bargaining with the state government for a new certified agreement for the Queensland Ambulance Service. Historically, negotiations for wage deals within the Ambulance Service have been protracted. Negotiations for the last agreement between the parties broke down and required the assistance of the commission to reach an arbitrated outcome. Today, Queensland ambulance officers are among the lowest paid in the country. It is in this context that we are concerned about how the proposed changes could affect their ability to address important concerns at the bargaining table.

United Voice is particularly concerned about new section 149, which requires the Queensland Industrial Relations Commission to give consideration to the state's fiscal strategy when determining wage negotiations by arbitration. The government has already flagged a fiscal strategy of restraining increases in wage costs to three per cent, and the apparent intent of this new provision is to require the commission to give special consideration to one party's preferred wage outcome. The commission must continue to be allowed to take other relevant factors into account when deciding the remuneration levels to be paid.

If bargaining is unsuccessful, it is reasonable to expect that issues specific to an employment group are raised. For example ambulance officers who are justifiably angry about not having competitive wages will want interstate wage comparisons taken into account. The unfairness of this proposed change is reinforced by what appears to be a lack of capacity or provision to interrogate or cross-examine the information by either the commission or other bargaining representatives. The balance between the interests of economic prosperity and social justice principles should not be distorted in front of an independent umpire.

United Voice members provide essential services to the community, and any industrial action undertaken to have their legitimate concerns heard would not threaten public safety. The minister is both a senior government official and an employer of the Public Service. United Voice is concerned that new section 181, under the heading 'Termination of protected industrial action by Minister', has the potential to be misused as a tool to shut down industrial action. The provision should clearly set out the circumstances that would trigger the making of such a declaration to ensure that premature or unreasonable restrictions are not placed upon individuals protesting to have their views heard. United Voice urges the government to be circumspect in the exercise of these new powers.

**Mr Oliver:** The UFUQ represents approximately 2,500 firefighters, who respond to all emergency incidents and who have a proud community standing. They will all be affected by this bill. The United Firefighters Union of Queensland thanks the committee for the opportunity to provide a brief written submission to the industrial relations bill. We trust that the committee will consider our written submission in their deliberations about this bill. We also adopt and support the submissions made by the Queensland Council of Unions.

By way of general comment, the UFUQ believes that the bill is unnecessary, and we support the retention of the existing laws, which have worked well and balanced the interests of all parties—employees, employers and the state government particularly in the role of employer. In fact, our members have been completely taken by surprise by this bill, which has been introduced on the advent of the negotiations for a new collective bargaining agreement. We concur with those submissions that suggest that the bill is designed to tilt bargaining and industrial relations arrangements in the government's favour in circumstances where the government is the employer.

As set out in our written submission, our key concerns are that the bill is unnecessary and the current legislation works well. The restrictions on the taking of industrial action are inconsistent with ILO obligations. The incorporation of JJ Richards amendments are inappropriate because they have been based upon a different statutory context. The Federal Court made the correct decision in the first place, which the bill attempts to overturn by amending a completely different statute in a different jurisdiction. The plan to restrict our members from taking legal industrial action until the government decides that it is ready to bargain is wrong.

For a few weeks now we have been trying to get a meeting with the Queensland Fire and Rescue Service to discuss bargaining. What if the government keeps stalling? Our members' rights to motivate the government to get on with bargaining will have been taken away. The JJ Richards amendment runs the risk of encouraging tardy and inefficient industrial relations activity by the government or government agencies. Our members should be entitled to motivate them if needed.

There is no need to include provisions allowing for a termination of industrial action by the minister. The federal Act includes similar provisions to allow the minister to intervene in protracted disputes where the federal government is not the employer. In our state system, the state government is the major employer and already has sufficient power, influence and rights under the existing Act to stop or prevent industrial action. Further, the 21-day period following a ministerial declaration is too short a period to conclude an agreement. Currently, the independent tribunal can determine whether negotiations are exhausted in particular circumstance. That system would work better than a one-size-fits-all approach allowing just 21 days.

The provision allowing the government to abandon negotiations with the union and pull a ballot directly with employees seems a little confused. The amendments moved—

**CHAIR:** Sorry, John, your time has expired.

**Ms Edmonds:** We rely on our written submissions and we support the submissions put forward to this committee by the QCU. Although the amendments essentially mirror the Fair Work Act 2009, we have some concerns, as outlined in our written submissions. We also have concerns in relation to the speed of this process. We welcome the opportunity to participate in this forum and welcome any questions.

**CHAIR:** Thank you.

**Mr Spriggs:** We rely on our written submissions and we support the comments that have been made this morning by other speakers. We particularly note our concurrence with the submissions of the QCU and the Queensland Teachers Union regarding the short time frame.

We would seek to highlight three general areas out of our written submission. Those are that the combined effect of proposed sections 147A and schedule 4, section 8 would be that an employer can refuse to engage with its workforce and its workers and their legitimate representatives. That, we would submit, is counterproductive to good relationships.

Secondly, an employer should not be able to put a proposed certified agreement directly to its employees, at least until significant negotiations have occurred and an impasse has occurred. Thirdly, we would submit that the briefing which is identified—the possibility of Treasury personnel providing information to the Queensland Industrial Relations Commission—is of extremely questionable utility when the procedural fairness issues are taken into account, as identified in our paper. Thank you.

**CHAIR:** We now have the Electrical Trades Union.

**Ms Rogers:** We have members in both the state and the federal system. So we are conversant across both areas of legislation—both the Fair Work Act and the state system. We have provided written submissions to you in relation to the bill. We rely on those submissions and we also support the submissions of the QCU, in particular those comments in relation to reducing the role and power of the Queensland Industrial Relations Commission in managing and resolving disputes.

We question the government's commitment to consultation, given the extremely tight time frames for written submissions and also the limited time provided for the hearing here this morning. However, we welcome the opportunity to make submissions, even though they are necessarily brief. Because of the limited time we can only address some major issues in a very broad way rather than deal with the details of the bill.

The ETU believes that the title of the bill, the Industrial Relations (Fair Work Act Harmonisation) and Other Legislation Amendment Bill, is misleading. The amendments do not seek to harmonise the state and federal legislation. The bill is very selective in terms of the provisions that the amendments seek to include

and ignores some of the provisions in the Fair Work Act that would provide support to employees when they are trying to negotiate a wages outcome with their employer—provisions such as the majority support determination provisions, the capacity for employees to apply for scope orders and also good-faith bargaining requirements.

When the Attorney-General and the Minister for Justice introduced the bill to parliament he claimed that the new arrangements mirrored the provisions in the Fair Work Act. To put it bluntly, that is not true. For example, in addition to a glaring number of omissions, if you look at the provisions in relation to the granting of protected action ballots, it will be possible for an employer to frustrate the ability of employees to take industrial action simply by refusing to negotiate with them. This is contrary to the provisions of the Fair Work Act and it is also contrary to various decisions that have been made in relation to the provisions of the Fair Work Act. In addition to not including provisions from the Fair Work Act that support employees in negotiations, the proposed amendments also include some somewhat novel provisions that require the QIRC to take account of the employer's fiscal strategy. In relation to that proposal, I rely and support the submissions of United Voice.

When the Premier of Queensland was elected he said he would be governing for all Queenslanders. The ETU believes that this bill demonstrates that that is not the case. If these amendments are passed there will be two classes of employees employed in Queensland: those employed under the state Industrial Relations Act—that is, state and local government public sector workers, with all of the constraints and limitations imposed on them in relation to their ability to negotiate decent and reasonable outcomes—and those who are employed under the Fair Work Act with provisions that provide at least some support to employees in their effort to achieve reasonable wages outcomes. We would welcome any questions that you have in relation to any of the detail that we have not addressed.

**CHAIR:** The final opening statement is from the Local Government Association of Queensland.

**Mr Goode:** Can I say upfront that local government welcomes this particular bill for as much as what it signifies as in relation to its provisions. Since about 2006 there has been a level of uncertainty and speculation about the industrial coverage of local government in Queensland and we welcome the fact that this establishes firmly that local government will remain in the single jurisdiction and that will be the state jurisdiction. We also have made several submissions over recent times supporting harmonisation with the federal system. Local government as an employer competes for talent and most of that competition is with the private sector which is now in the federal system. So greater harmonisation between the state system and federal system is welcomed. I will not go into a lot of detail about our submissions and rely on them. I just want to emphasise that the real focus of our submissions is ensuring that local government receives full consideration in any action by the QIRC and is recognised in that rather than the current situation which we believe mainly focuses on the state.

We also welcome the objective requiring the QIRC to give greater consideration to the financial position and that that extends to local government. Since about 2008, since our amalgamations, the debt levels of local government have risen from around \$2 billion to \$8 billion. At the same time we have seen a number of caps imposed on our revenue raising capacity such as through caps on infrastructure charges, caps on water charges, significant reductions in the subsidies available. At the same time local government is required to invest a lot more money in essential infrastructure to manage population growth as well as increased environmental regulation. We therefore welcome this bill. We do not think it has gone far enough yet and we will be making further submissions in relation to that.

We also bring to the attention of the committee our view that to ensure that it does have its full implications across local government there will need to be some amendments to the local government subordinate legislation, details of which are contained in our submissions. Thank you.

**CHAIR:** Thank you for those opening statements. It has given committee members an opportunity to take notes and perhaps bring us to certain questions or lines of questioning. We will now move into the questions. I will ask the member for Inala if she would like to open the questioning.

**Ms PALASZCZUK:** Thank you, Chair. Can I start with the QCU. Thank you very much for your time today. I wanted to go back to some of the comments you made in your introductory remarks about the short time frame you were given. What would be a suitable time frame to comment in relation to this proposal?

**Mr Monaghan:** We originally did not get the letter. We had to scratch around and then finally got it. As I said, there were only a matter of days to put a submission before you and three minutes to put our position in relation to our recommendations. We would have thought that, at the very minimum, you would be looking at a month or more to look at industrial legislation that affects more than 300,000 people—all the state government employees, local government employees and others. So it was, in our mind, very hasty in terms of both our submissions and putting our opening remarks to you today. We believe it is a matter that required weeks of talking about how it will affect employees. The fiscal position of the state is a very big issue, whether it should have even been in the area, and what the other provisions meant to workers who this will affect and how it tips the balance in relation to one side of the industrial equation.

**Ms PALASZCZUK:** This Act is making changes to the Industrial Relations Commission. At any time prior to the state election were any changes to the Industrial Relation Commission canvassed with you by the Newman government?

**Mr Monaghan:** No, not to my knowledge.

**Ms PALASZCZUK:** In your experience, what role has the existing Queensland Industrial Relations Commission provided in delivering decent input from employees and employers in industrial relation matters?

**Mr Battams:** I think you could say that the majority of people involved have a high regard for the Queensland Industrial Relations Commission. Generally speaking, from the union's perspective, it is a pretty level playing field and people respect the outcomes of the commission's decisions, particularly in relation to wage outcomes. Our major argument with some of these provisions is that the balance is tipped in favour of the employer particularly in relation to the fiscal strategy. I think the employer in Queensland has always had the opportunity to argue capacity to pay—that is, fiscal position. The fiscal strategy is very much a political strategy and to impose the political fiscal strategy of a government in a direct fashion going forward is a great move away from the traditional way the commission operates, and it is of grave concern to us. For example, you could have a position whereby the fiscal strategy of the government is one which is very constraining—that is, they want to wind back the public sector in a time when perhaps inflation is rampant. The commission in Queensland has a great eye for cost-of-living issues. We believe this could be overcome by the fiscal strategy argument in that sort of circumstance. So we very much believe that the balance that we have always had high regard for in the commission's deliberations is being upset by that particular change.

**Ms PALASZCZUK:** How do the proposed changes nullify the powers of the QIRC to conciliate on matters that are disputed?

**Mr Battams:** One of the major areas is the ability of the minister to terminate industrial action. Traditionally you would have to say that the employer, the state government, has had a reasonably strong influence over the commission's deliberations in relation to industrial action, but to have an amendment which allows the minister at any time to terminate legitimate legal industrial action without any reference to the commission whatsoever again tips the balance in the favour of the employer. We obviously do not support this particular amendment, but if the amendment is to stay and the minister has that power, we believe the amendment should include provision that the matter has to go to the commission for consideration before the minister can implement that directive to terminate industrial action. Again we believe it tips the balance too far in favour of the employer. The point has been made that this is a very unique situation where the employer is the government. In the private sector that is not the case. Even in the Qantas dispute the minister did not see fit to actually use that power. It has never been used in the federal jurisdiction. We are very, very concerned that that power be misused into the future.

**Ms PALASZCZUK:** I was wondering if you could elaborate on that a bit further because many committee members were saying today that this Act essentially mirrors the Commonwealth Act, but I am hearing from you today that the termination of industrial action by the minister actually differs from the federal Act. Mr Battams or Mr Monaghan, could you please elaborate on that? Is it a divergence from the federal Act?

**Mr Monaghan:** It is a divergence from the federal Act. It has already been stated that in the federal area the major employers are the private sector. In this area the major employers are the public sector. You are asking the minister, who is the employer, to intervene in disputes and are asking him not only to terminate the dispute but also then go on in further disputes and say the fiscal strategy of the state should be taken into account. This is a great divergence from the federal legislation; it is not harmonisation. We see that it should take into account the ability of the minister to intervene in disputes and the ability of the state to have their fiscal strategy in place—a fiscal strategy that is based on budgetary projections. They are budget projections, they are not reality until they become reality in the future. I do not know how many times budgets of the states or the federal budget have overstated or understated what the reality was when it finally came around to be counted in one, two, three or four years time. So it is a departure in that regard.

**Mr SORENSEN:** My question is to the representatives from the Chamber of Commerce and Industry Queensland. The committee notes that the Chamber of Commerce and Industry strongly supports the consideration of the state government's financial position during wage negotiations in order to ensure that departmental operational expenses do not rise unchecked. Would the CCIQ please elaborate on this issue?

**Mr Behrens:** The general observation on wage outcomes from the Queensland Industrial Relations Commission in recent years is that they have outstripped wage outcomes that have been occurring in the private sector. In our view that is a luxury that this state cannot afford. With debt mounting towards \$85 billion, we would like to see some of the private sector disciplines that have become readily apparent since the global financial crisis implemented for the state's public sector. It is not unreasonable to expect that the hardship that has been borne in the Queensland economy should be shared across the entire community and our view is that the Queensland public sector should not be exempt from taking the difficult steps that need to be made to ensure that we are living within our means.

**Mr Battams:** Am I allowed to comment on an issue or is it only a question and answer session?

**Mr SORENSEN:** I will follow up with a question. How would the other representatives respond to this?

**Mr Battams:** I would like to respond, because it is interesting, that when the public sector may on occasions lead the private sector in terms of wage outcomes—there are numerous periods in recent economic history where the opposite has occurred and, in fact, the public sector has lagged behind, particularly during periods of strong economic growth, the private sector—we never see the Chamber of Commerce demand equality in those sorts of situations. In terms of the provision of economic information for the state government, through its Treasury officials—not just about the fiscal position but the fiscal strategy—we obviously oppose that. What we are most concerned about is the inability of the parties to the particular hearing to actually cross-examine and analyse information.

We all know, as Mr Monaghan has said, that governments can produce figures based on economic advice. I am an economist. As we all know, you put six economists in the room and you get six different recommendations in terms of the outcomes. So to have a proposition, and this is where this particular bill varies significantly from the federal Act, where the employer, who is the government, can put information before the commission which purports to provide the commission with information without cross-examination or analysis is really a bastardisation of the process which we all call the independent umpire. If nothing else, I think you need to look very closely at that provision and knock it out, because unions particularly and their members will see the process very quickly as not being a fair one, where the government gets a rails run and we have to stand back and watch.

**Mr PITT:** I have some follow-up questions for the Queensland Council of Unions, directed to either Mr Battams or Mr Monaghan. Did the minister consult with the QCU prior to the introduction of a bill into the parliament?

**Mr Monaghan:** No, the Queensland Council of Unions was not consulted on this bill. We see that is an issue that, quite frankly, in representing unions in Queensland should have been done. Mr Battams just referred to the finances of the state. It is often said that there are debts of \$60 billion, \$80 billion; these huge figures roll off the tongue. But an examination of what part is a general government budget, what part of that debt is owned by government owned corporations that turn a profit is not often understood or put forward by the protagonists or understood by the general public. If you can roll off a strategy that has that in mind, without examination in the commission or elsewhere, it does tilt the balance. Government finances are very complicated and government strategies are very complicated. Just to go in there and say, 'This is happening and, therefore, you must have regard to it', without an examination, without any talk to the Queensland Council of Unions beforehand, we believe has severely limited our ability to bring to your attention and the general public's attention the issues that are related in this bill.

**Mr PITT:** Thank you very much for that. I wanted to ask a question of the Queensland Teachers' Union, regarding the particular challenges that would be imposed on the Teachers' Union by a mandatory postal ballot.

**Ms Edmonds:** Basically, the ballot provisions might work for some small discrete area, for example, a factory. They are not appropriate for statewide ballots involving well over 30,000 employees. In our case, we have a membership of 44,000 employees. Fifty per cent of those voting, without a minimum percentage, is sufficient for approval of an agreement and presumably also for a direct approach by employer to employees, which is also mooted in the legislation. There is no reason for a different provision to apply in protected action ballots. We have some anecdotal evidence from the Australian Education Union, specifically Victoria, where their protected action ballot ends on 30 May. There are widespread reports of teachers being incorrectly removed from the ballot roll after AEC comparison with the employer roll; teachers not receiving ballot papers on a number of occasions after contacting the AEC, including 20 in one school alone; teachers being unable to contact the AEC after not receiving ballot papers; the AEC subsequently blaming Australia Post when contacted. These problems are all impediments to achieving the 50 per cent return. If I may add to that the scope and distance of our state and where our teachers are situated—anywhere from right up in the cape, Injune and out west—is an incredible impediment on our members.

**Mr PITT:** I have a comment on that. I am from regional Queensland and I know that the scope of trying to get things done into the cape and the Torres is very difficult. I think that in itself presents challenges, let alone the things that the bill might bring forward.

**Mr STEWART:** Could the Local Government Association of Queensland please explain their recommendation under amendment 3 in their submission?

**Mr Goode:** Are we referring to the one about signage? For clarification, we are talking about amendment 3. Under the bill, we have a slight concern that if for any reason it does go to an employer/employee certified agreement, that the way the bill may be read is that it still will require, once we go to certification, the parties—in this case the employees—to have a signatory to the agreement. While technically under the current legislation there is a provision that basically says if the commission is satisfied that all employees have been given the opportunity to vote that requirement can be waived, we are concerned with the way this particular bill is written that that particular exemption from signatory may be excluded. We have had cases over recent times where good intentions do not always translate with the wording of the bill and, as a result, we have ended up either in tribunals or court rooms having to fight over technical interpretations of legislation. All we are seeking in that particular element or aspect is absolute assurance or absolute certainty in the way the bill is actually written that, should we move to an employer/  
Brisbane



employee agreement, and if a proper ballot is conducted and the majority of employees do agree and sufficient evidence is provided to the Industrial Commission that that has occurred, there is no requirement for a signatory on behalf of employees to the agreement.

**Mrs OSTAPOVITCH:** My question is to United Voice Queensland. In its submission, United Voice suggested that a wider and more flexible range of options for protected action ballots other than postal ballots was required. Could United Voice please explain why they consider this necessary?

**Ms Badke:** I agree with the comments made by the Teachers' Union and also the QCU regarding the breadth of the state and that that might cause complications for our members regarding time frames in responding to a postal ballot and ensuring consistency, I suppose, with the Fair Work Act and regulations that provides for the greater range of options—email, links. It just allows that increased flexibility for our members to actually vote.

**CHAIR:** Could you give us an indication of what you would suggest in terms of time frames?

**Ms Badke:** I think that would depend, obviously, if it was limited to a postal ballot and depending on the size of the membership to which the ballot was going to. But obviously you could potentially maintain those existing time frames if there was a greater scope of options for the membership to vote.

**Mr Monaghan:** Obviously there is great diversity in sections of the government. If you look at teachers, you have to cover all the state and the Torres Strait islands, and you are looking at a pretty comprehensive balloting process there. In the federal Act, there are ranges of options other than postal ballots. You could also have a discrete small section in a department or a department that does not go the length and breadth of Queensland. It depends, but I think in any process you have to look at all those factors—geographical, distinct locations—and then determine what is a reasonable amount of time to have people express their opinions in relation to wages and conditions outcomes that they obviously have a right to have input into. It may differ from area to area.

**Ms PALASZCZUK:** I address my questions to Mr Oliver. Welcome and thank you for your attendance today. In your opening address, you stated that the existing laws in Queensland are adequate. You also raised concerns about the time frame given to respond. What do you believe would have been the adequate time frame?

**Mr Oliver:** Are you referring to after negotiations break down there is a 21-day period?

**Ms PALASZCZUK:** No, about responding to the changes to the bill, to the Act?

**Mr Oliver:** We would at least have liked to have had a month. Obviously with the scope of these changes there is a lot to consider. It is evident today that with some of the decisions that were made in putting this bill together, a lot of these considerations were not put forward.

**Ms PALASZCZUK:** Did anyone from the LNP consult with you before the election about any proposed changes to the Queensland industrial relations system?

**Mr Oliver:** Not at all. If you look at the explanatory notes, it actually has who they consulted with. I think it is in there.

**Ms PALASZCZUK:** Prior to the election, there was no consultation. Before the bill was introduced into the parliament, did the minister or anyone from his office seek to contact you about your views before the bill was introduced into the Queensland parliament?

**Mr Oliver:** No. I have not had the pleasure of meeting the minister or anyone from his office as yet.

**Ms PALASZCZUK:** How does this bill risk the government legislating unfair advantage to themselves? This is about the fiscal strategy requirements that have been raised by many members here today.

**Mr Oliver:** Basically, what you have is an employer being able to legislate to give an advantage to themselves by, I guess, being the person we are negotiating with. If a person has a higher ability with legislative rights over the employees by way of the union, obviously that will cause a disadvantage to the union or the employees under that matter. We would be looking for a more level playing field or to keep the existing rights, I guess, of the QIRC, which has proven to be fair, efficient and effective.

**Mr GULLEY:** My question is to the representative of the Building Service Contractors Association. Could you please explain the reasons for your suggestion that the legislation be extended to the consideration of the QIRC to contractors who are obliged to comply with the arbitrated outcome?

**Mr Pollard:** That suggestion is born from a long history of contract workers who do work for the public sector. The biggest example would be the health department with contract cleaners in hospitals, et cetera. The contract companies are required to pay their employees what used to be the district health award rates. It altered into the certified agreement rates that were handed down to various operational level employees. The situation there is that the QIRC is able, and has been able for a long time now, to make decisions that directly affect our members and their relationships with their employees and they are absolutely powerless to interact with the body that does it. We are not saying that the contracting companies could go broke and that they will not be funded or anything like that. That is not the argument. The argument is that the QIRC, in handing down decisions that will impact on the employment relationship, should at least be able to hear the views of the parties to that employment relationship.

**Mr PITT:** My question is to the United Firefighters Union, back to Mr Oliver. What confusion could occur if bargaining between the government and the union has commenced but there are outstanding issues—the government wants to proceed with the agreement directly with the employers. What issues do you see coming out of that?

**Mr Oliver:** What I see is, when negotiations have commenced with the union and it gets to a position where there is a stalemate, you may have the employer directly bargaining with the employees or even taking it to ballot. From that point of view, the person receiving the ballot may have concluded that the union has agreed to the ballot coming forward. Secondly, the union may not have even seen the ballot that was going forward to the employees. It may be a completely different ballot. That has been done by unscrupulous employers in the past. We believe that the union should be notified, in any event, to be able to have negotiations around issues when dealing with these industrial instruments.

**Mr PITT:** With the way the bill has been drafted and the powers that will come along with the legislation if it is passed, what issues of power could occur when the minister who is the employer has the unilateral power to terminate protected action?

**Mr Oliver:** Obviously it would unsettle the workforce, especially firefighters. They believe that the world should be just and fair. They believe that the minister is their employer, and if he has the ability to make that determination over the employees when they are doing something that they believe is legitimate and legal then I believe that they would really take a backward step in their opinion of the government. I also believe that firefighters are a fair and credible part of the workforce. We are not particularly irrational in our behaviour or decisions. We see this as being irrational. This decision is certainly not in the best interests of firefighters and other union members and certainly not in the best interests of the community of Queensland.

**Mr Battams:** I think it is important to emphasise that workers only have the right to take industrial action for certain periods during the bargaining period. They are not allowed under the Act to take legal industrial action outside that period. If you look at the bargaining dynamic, one of the few powers that workers have in that dynamic with a difficult employer is to either withdraw their labour or threaten to withdraw their labour. If your employer is the government and the government has the power to terminate any industrial action, that is in fact reversing that bargaining power. The minister can, and I suggest may, use that power in the bargaining process to ensure they have an unfair advantage. All of the international covenants indicate, through the ILO, that workers do have and should have a right to take industrial action in support of their legitimate claims. We believe that this impinges very strongly on that.

**Mr PITT:** Obviously there are potential risks in imposing civil penalties on the failure to comply with the direction of a politician as opposed to a judicial body. Could you let us know what your understanding of those risks might be?

**Mr Battams:** They are quite incredible fines. When you consider that the term 'industrial action' is very broad, it may not involve a threat of a strike or a stop-work meeting. It could involve during the legitimate bargaining process workers wanting to withhold work in relation to particular matters as a legitimate weapon. These fines can be imposed on workers for taking any form of industrial action—strike or otherwise. Again, I emphasise the fact that internationally the right to freedom of association and the right to take industrial action in pursuit of legitimate claims should not be impaired. And that is why we are suggesting that, if the government is intent on keeping this provision, there should at least, at a minimum, be a referral to the commission for the commission to consider the matter before the minister can actually take that action.

**Mr PITT:** Thank you.

**Mr KAYE:** I would like to thank all of the representatives for attending today. My question is to the Queensland Independent Education Union of Employees. Their submission states that the changes do not allow for any conditions that must be fulfilled by an employer and will facilitate a 'take it or leave it' approach by employers. Would the QIEUE care to elaborate on the concerns?

**Mr Spriggs:** The ability of an employer to put a ballot directly to its employees without the requirement to negotiate with them is a substantial change from what currently applies in the Queensland Act and is different from what applies in the federal Act. There have been a number of decisions in the federal jurisdiction where employers have been prevented from simply saying, 'Here is the proposed agreement. We're not going to negotiate in relation to the content of it.' To do that and to remove, as the bill specifically does, the requirement to negotiate with the workers' representatives during the period of time between when the document is first put to them and when the vote occurs, disenfranchises employees and removes their ability to not only have some influence over but also engage with their employer in relation to what is fundamental—that is, their employment conditions. So that is why we said that we believed that it is contrary to positive relationships for that to occur and, being a little bit technical, it is contrary to the concept of good faith, both as it exists in Australia and as it exists elsewhere.

**CHAIR:** I am sure the member for Inala has another question or two. I remind everyone that we will be winding things up at 10.45 am and I will be giving all an opportunity to give a closing comment. I will be starting with the LGAQ and then moving along this way and finishing with you, Nick. We will give five minutes for that, so we have about three minutes up our sleeve.

**Ms PALASZCZUK:** I have some questions to the QTU. Ms Edmonds, how many teachers do you represent in Queensland?

**Ms Edmonds:** Currently we have 44,000 members.

**Ms PALASZCZUK:** And your negotiations are about to commence?

**Ms Edmonds:** Our negotiations have commenced. In fact, we sent a letter on 23 November 2011 indicating that we were ready to bargain, and we have sent regular letters ever since. Our latest position is that we appeared in the commission yesterday because we still have not received a log of claims from the government.

**Ms PALASZCZUK:** How will the changes proposed in this bill impact upon your organisation and upon your workforce?

**Ms Edmonds:** Initially, if you take, for example, a direct employee ballot, it removes an obligation to bargain in good faith under section 146 of the current Act. Our position is, as just stated, that we are four weeks out from the expiry date of our agreement with no log of claims, no interests, no positions being canvassed by the government. If a government at this time decides to ballot employees directly, it effectively removes the right of an employee to have it considered in a reasonable time and negotiate around conditions. In essence, that is our concern.

**Ms PALASZCZUK:** So, essentially, if this bill is passed by the Queensland parliament next week, as I understand it is due to come back, that is going to have a huge impact on the teachers and their bargaining position, especially if they have not heard anything back from the government.

**Ms Edmonds:** That is correct, and also in terms of protected balloted action. For example, in my submission on page 2 I state—

Protected action ballots for the QTU conducted by the Electoral Commission of Queensland (“ECQ”) by postal ballot would involve—  
44,000 members—

across the state. The delays inherent in such a major logistical exercise, assuming the ECQ is funded to conduct them, are no more and no less than a disability to the unions in their representation of members. The limitation of protected action to 30 days after declaration (or 60 days if extended by the Commission) leads to a “use it or lose it” situation that the QTU believes is not conducive to bargaining.

**CHAIR:** Thank you. Are there any other burning questions from any members?

**Mr PITT:** My question is to Mr Behrens from the Chamber of Commerce and Industry. Did the now Newman government consult with the chamber prior to the election regarding these particular changes?

**Mr Behrens:** The answer is no to that question.

**Mr PITT:** I also have a question for the ETU. I am following a dispute that is happening in Far North Queensland at the moment. It is principally related to safety. In your understanding of the provisions of the bill, is there any difference between wage negotiations and other industrial action that may relate to safety that could advantage the government over the union?

**Ms Rogers:** Sorry, Mr Pitt, you have caught me on the hop. We have been focusing mainly on the issues around bargaining. To be honest with you—and I might defer to another of my colleagues if they can assist—to the best of my knowledge most of the changes relate to industrial action around bargaining. As I said before, our main concern is that if the employer chooses to block, as appears to be the situation for the teachers, the Teachers Union then has no capacity to bargain. I do not believe there is a change to the definition of industrial action proposed which takes out action that is taken because of an imminent risk to health and safety, but I stand to be corrected.

**Mr Reichman:** I am an organiser for the Electrical Trades Union with responsibility for our members in government agencies. I am sure everybody here might remember the implementation of the payroll system in Queensland Health about 2½ years ago now. Part of that meant that a number of the blue-collar workers did not get paid or did not get paid substantial amounts of their weekly pay if they did overtime and other things. The only way that we were able to get a result or assistance in ensuring that our members actually got paid was for them to take—it was fairly limited—some industrial action. I realise that it was technically illegal, however; it was bans. We ensured public safety and our members were on site at all times and everything else. Under the changes proposed, those members who were already not getting paid could now be fined \$2,700 for participating in that kind of action. The only outcome that we were after was to get a payroll person to come and sit down with them on the day after payday and go through their pay slip. Once they got that they went back to work and we resolved the issue. That is the kind of impact that these changes will have on our ability to effect results with the government.

**CHAIR:** Thank you. We are coming to the end of proceedings. Do any of the representatives have anything further to add that has not been covered already this morning, starting with the LGAQ?

**Mr Goode:** No. We have nothing further to add other than to say that we welcome the bill, albeit with our amendments.

**CHAIR:** Coming back to this side of the room, does anyone have anything further to add?

**Ms Rogers:** I am responding to a question that was asked by Ms Palaszczuk of some people here today. We were not consulted by the government either prior to the election or prior to the introduction of the bill. In answer to the question about what would have been a reasonable time frame for consultation, I cast my mind back to last year and perhaps the year before when the then state government was  
Brisbane

introducing some harmonised legislation on workplace health and safety. My memory is that our consultation period in relation to that was a number of months to enable us to fully get our heads around what the issues were, to enable unions to get together and talk, to talk to the Queensland Council of Unions as our collective representative and then provide the relevant feedback to, as I said, the then government. We believe that that would be a much more appropriate time frame in terms of this legislation. We believe that there needs to be a far greater capacity for us to review the legislation and to discuss the impact among ourselves and then provide much better feedback to the government which presumably then provides a much better piece of legislation.

**CHAIR:** Moving right along the line?

**Ms Edmonds:** I have no further comments.

**Mr Oliver:** The 21 days post ministerial declaration is also too short. We find that it would be very difficult to come to a conclusion in any negotiations in that time period. In conclusion, the UFU believes the bill is unnecessary and, to an extent, misconceived. I refer the committee to our written submission for further detail.

I am grateful for the opportunity to speak with you about the bill this morning on behalf of the 2½ thousand firefighters. But it is not just on behalf of firefighters; it is all front-line employees: Queensland police, ambulance officers, paramedics—hardworking citizens working to protect Queensland.

**Ms Badke:** I again reiterate our concerns about the lack of time given to consult on this bill. We want to ensure that the principles around good-faith bargaining are maintained; that the commission's position as an independent umpire is maintained; and that we do not alter the balance between employers and employees to ensure that all relevant factors are considered for an employment group. Also, any action which might restrict our members' ability to protest or to be heard with respect to their interests is un-Australian.

**Mr Monaghan:** Thank you for the hearing today. Obviously the Queensland Council of Unions reiterates its submissions but adds that workers get to bargain one year in three. Three years is a usual agreement length. Any attempt to have that stymied or put out of balance by the employer being able to intervene in proceedings and stop certain actions is very much of concern, along with every other recommendation we have there. All workers want is a fair go. I think this has overstepped the mark and we ask you to look at our submissions.

**Mr Pollard:** I have nothing further.

**Mr Behrens:** I would like to clarify an answer that I gave earlier. The chamber was not consulted with respect to specific provisions of this bill. However, the chamber did have detailed conversations with the LNP on the need to protect the state's finances and support to the state government, if it were to be elected, in wage negotiations with the unions.

In respect of ministerial intervention in industrial disputes, the chamber would like to make the point that many of the professions covered under the Act are in a monopoly position. Accordingly, there is significant exposure to the economy and, indeed, society from industrial disputes. Accordingly, I think the taxpayer supports the notion of ministerial intervention in industrial disputes.

**CHAIR:** The time allocated for this public hearing has expired. If members require any further information, we will contact you. Thank you for your attendance today. The committee appreciates your assistance.

**Committee adjourned at 10.48 am**