

PUBLIC SECTOR BILL

The Hon. A. BRESSINGTON (23:10): I rise to speak on the bill. First, I make the point that I have made to the minister's advisers. I am afraid that I do not speak, as does the Hon. Robert Brokenshire, in such glowing terms of the public sector but, then again, I have been not been in the position of once being a minister and working alongside the public sector. I acknowledge that there are many within the public sector who are dedicated and committed to their work but, unfortunately, we often miss out on the good news stories.

In relation to the problems that need to be dealt with, I believe we have two categories of workers. We have public servants who do not do their job. They simply do not meet the competency standards and do not have the passion and the fire in the belly to do their job well. They see it as a bit of a cushy job from which it is difficult to get sacked. By all means, I think it should be easier for departments to be able to get rid of the dead wood, for want of a better term, and replace them with public servants who do have the commitment, knowledge, expertise, training and qualifications to undertake their job in the best interests of the people of this state.

On the other hand, we have public servants who are committed and do want to see their department function well but notice that there is a level of dysfunction, not necessarily caused by incompetence but, rather, a level of nepotism—wink, wink, nudge, nudge, let a few policies and procedures slip by—and fairly soon the rot sets in. They try to approach their supervisors up the line—even the minister—in order to try to identify the practices that are not good for the government department.

Sometimes their supervisors and chief executives are included in their complaint and they are harangued, harassed and bullied to the point of making a WorkCover claim for stress; people are sent to the transit lounge and shifted around the Public Service from one department to another where they can make the least amount of noise until they are forced to take a package, resign or work in an environment that is absolutely intolerable and untenable for them. Along with other members in this place, a number of public servants who have spoken to me fall under the category of whistleblower. Their lives have been an absolute and utter misery as a result of doing nothing more than wanting to improve the performance of their department.

I will be supporting the amendments of the Hon. David Ridgway. I am familiar with those amendments and I indicate that I will be supporting them. I am not as familiar with other members' amendments but I assure members that I will be. I am also moving amendments, along the lines of protecting those public servants who would dare to blow the whistle on the incompetence upstream—call it corruption, if you like—or the plain bad culture that exists within some departments. For any person here to deny that there are some departments that have what I would refer to as a toxic culture I believe would be very politically risky given some of the issues that come before us in our offices that we try to deal with to get the best possible outcome.

It is even at the stage where some public servants will not come or are advised by their superiors to not give evidence to a select committee inquiry because it is seen as a breach of the Public Service act as it stands. I see nothing in the current bill that will make that

particular responsibility of a public servant any easier. In fact, it has been indicated to me that there are parts that may make that even more difficult. I believe that if we have a government that wants to continually talk about accountability and transparency it is essential that we have a Public Service sector that is able to identify problems that exist, and that people feel safe that their concerns will be taken seriously and dealt with in an appropriate way and that they will not be subject to certain behaviours that force them out of their particular department and the job that many of them love.

I also make the point that I believe this legislation is coming from the wrong angle altogether. I believe, as I said, that chief executives should be able to dispose of dead wood within their departments through due process, but I also believe that in some of these cases that may be becoming probably a little bit more prevalent—more of them have been brought to my attention, and more often—and there needs to be the protection of a safety net for employees who are being harassed and harangued for merely trying to do their job better. One of the amendments that I believe will be put forward is that the commissioner will be included in the due process at the end.

I also feel that the tone of this piece of legislation is almost making the role of the public sector commissioner defunct, and we have a time now when people are expecting better performance and a greater level of accountability because that is what they have been told they are going to get—and we then take the steps within this legislation to move that power away from the very commissioner who is there to make sure that that accountability and transparency is there.

So I will be, as I said, moving a number of amendments, and I know that I will get criticism from the minister for the amendments because some of them will try to transplant parts of the Whistleblowers Protection Act into this public sector bill so that there is a link. On a number of occasions public servants have come to me as whistleblowers and they have had no idea what the process was to lodge a public interest disclosure statement and to start that process, so they have just gone to their supervisors and lodged a grievance, whereas they should have been seeking protection under the Whistleblowers Protection Act. Then they find that when they do go through that process finally, there are policy changes within the department that relate specifically to the public interest disclosure statement that make the conduct appear to be lawful and a direction to not go and give evidence to an inquiry and to not go to the media when their public interest disclosure statement has not been dealt with. They are told by their supervisors that this is in breach of their Public Sector Management Act, which simply, lawfully, if the Whistleblowers Protection Act had any teeth, would not be the case at all.

I urge members to look at my amendments carefully and to consider the intent behind them, namely, to provide a higher level of protection to public servants who want to expose dysfunctions within government departments and have it enshrined in legislation, other than the Whistleblowers Protection Act, because until we bring that act before us for review, which is well overdue, it means nothing. As I have indicated on previous occasions, a number of legal minds in this place have said that the Whistleblowers Protection Act is not worth the paper it is written on. If that act is not enforceable and cannot provide protection to people who want to see government departments clean up their act, pieces of that legislation must be taken out and inserted in other legislation where it can be applied and enforced and protection given.

I will leave that with members to consider and look forward to the debate that will follow on this legislation. It will be interesting to see whether it is truly the government's intention to do the right thing by the public sector and make their life more manageable or whether this is, as I fear, a rather punitive measure to deal with what it sees as a bit of nuisance behaviour.

Debate adjourned on motion of Hon. C. Zollo.

At 23:23 the council adjourned until Wednesday 29 April 2009 at 14:15.