



Hon Robert Brokenshire MLC  
FAMILY FIRST PARTY



PARLIAMENTARY SPEECH

**WORKERS REHABILITATION AND COMPENSATION  
(CHANGES TO SCHEME REVIEW PROVISIONS)  
AMENDMENT BILL**

**Legislative Council Hansard**

**18.02.2009**

The Hon. R.L. BROKENSHERE (20:47): Obtained leave and introduced a bill for an act to amend the Workers Rehabilitation and Compensation Act 1986. Read a first time.

The Hon. R.L. BROKENSHERE (20:48): I move:

That this bill be now read a second time.

I am moving this bill because one aspect of WorkCover that is debated a lot is that of redemption. I believe that it is paramount that we have a redeeming amendment for the legislation that was passed last year. I will keep my remarks as brief as possible, because I have already had great tolerance from my colleagues on a busy day. However, I do need to put the preliminary debate on the public record, and I will speak further as the debate continues.

I believe that the changes made in July 2008 to the Workers Rehabilitation and Compensation Act were mean-spirited, uncalled for and unnecessary. I am proud to move these amendments on behalf of Family First, hopefully with the support of colleagues in this chamber, as the amendments roll back the worst of those unnecessary changes which, frankly speaking, hurt families.

It is significant to note that none of the crossbench members supported the bill when it went through this parliament in July 2008. In other words, all the crossbench members opposed these draconian amendments to workers' and families' rights, and I think it is important that that is reinforced.

I regret that I was not in a privileged position to be here to be involved in that debate, because I was sworn in immediately after the debate and the legislation passed after the August parliamentary break last year. In my maiden speech, Mr President—and I am sure you will agree—I stated that the problems with WorkCover were never the legislation itself, but other areas: gross mismanagement of the WorkCover Corporation, a failure to focus on rehab and getting workers back into the workforce, failing to have proper case management, and failing to be prudent in the way that the whole corporation was managed from the minister through to the WorkCover Corporation almost in its entirety.

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There was a massive ballooning out of debt over about a six year period, and then we saw workers, frankly, kicked in the guts in an effort to fix the problems with an unfunded liability. However, there was little or no focus on the corporation, the management structures, case management, and so on. My colleague the Hon. Dennis Hood outlined these management failings at length in his contribution opposing the bill.

WorkCover management, in my opinion, walked scot-free from that mismanagement. Few people on the board were changed. Ads were placed by the then chairman, Mr Bruce Carter, appealing to people to support the government's bill. I found it amazing, frankly, that Mr Carter would go to that extreme and then walk away afterwards, leaving a mess for families and injured workers, but he obviously chose to work closely with the government. I would have thought that a man with his capacity would go through the whole corporation with a fine-toothed comb rather than place an expensive ad that worked against employees.

The bottom line is that it was the workers who got whacked for WorkCover's mismanagement. A considerable proportion of savings estimated by the actuarial report was attributable to the medical panels, whilst comparatively little was attributable to the cuts to the workers' weekly payments at 13 and 26 weeks. It is interesting now that many of those workers are unfortunately starting to see reductions in their salaries if they have not been able to resume work. Family First is seeking to rectify other measures with this bill.

Clearly, the greatest inroads into the unfunded liability were going to be achieved by establishing the medical panels, so we will not be disturbing the medical panels. We acknowledge that there were some good things in the bill and that the medical panels make sense, so I do not seek to amend the section regarding medical panels. The feedback I have received from consultation has been all positive about the panels, with only some criticism from the legal profession about whether they will be deciding questions that are not purely medical. We will have to monitor the precedents developing out of the panels to see whether or not that is actually the case.

However, a comparatively small amount was going to be gained by the mean-spirited cutbacks to weekly payments, so in this amendment Family First is reinstating the original 100 per cent weekly payments and getting rid of the step-downs. Our amendments also strengthen the requirements in considering decisions about weekly payments upon rehabilitation and return to work, as the government is saying so much about it in its current television and radio advertisements. In fact, I received some material only this week when I received my bill from WorkCover with more propaganda purporting to support how well the government has done in the previous legislation, which I hope partly to overturn this year.

Likewise, no good case was made for the self-insurance industry to be cut out of redemptions, which they were using judiciously and tellingly on the question of the proper management of worker injury. They had no unfunded liability blow-out like that of the WorkCover Corporation. I

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find it fascinating that the self-insurance industry has been so prudent in its management, and I have to say that over a number of years I cannot recall hearing many complaints at all about workers compensation from self-insured workers, as against the massive amount with the WorkCover Corporation.

In a similar vein, the self-insurers were aggrieved, and I think rightly so, about the way the exit fee situation was handled by the government. I believe it is anti-competitive and frankly just a desperate final grab by the government from anyone who wants to leave WorkCover and move to self-insurance. I would love to see some more work done on how inequitable and unfair it is. It is just a straight-out grab for cash: 'If you want to leave the WorkCover monopoly and go to self-insurance we'll flog you so hard financially that we'll make it difficult for you to leave.'

We also propose in this bill that there be better consultation with relevant industry sectors if levies are to be increased. That is something that I believe Business SA ought to support. At present there are smoke and mirrors as to why levies are increased. If the government is increasing levies for purely financial reasons then it should say so. If, on the other hand, levies are increasing because of poor workplace safety practices in a given industry, like the taxi industry for instance, the corporation has to be open and transparent about these increases. If there has been a spike in claims history for a particular industry, that needs to be on the table and open for consultation with the industry.

As I wrap up my contribution, Mr President, I observe that you are in a different position from that of some of your colleagues, because unlike them you will not be in a position to vote on this bill. I know you will have considerable sympathy for the roll-back of the step-downs, and I know you have a lot of rapport with workers, but I respect your position. I will be looking to colleagues on both sides of the chamber as well as our cross bench colleagues for their support in assisting in the reinstating of workers' rights and, in particular, the main focus of this bill: the roll-back of the mean-spirited step-downs.

I want to flag to all colleagues, and particularly my cross bench colleagues, that I am open to amendments to this bill if they can be soundly argued as reinstating workers' rights without negatively affecting the unfunded liability. This bill is an opportunity for redemption, as I said at the start of my second reading contribution, not only for the major parties but also for this parliament, as a parliament for the people and not one that is dictated to by big business.

Whilst I have nothing but respect generally with what big business does, I believe that in this instance it had too big an ear with both the major parties, and I do not quite understand why it had such a big ear with both the major parties when this will not fix the problem for big business. In fact, I would suggest that the unfunded liability is still accelerating, even though this legislation has been in force. If I am wrong, I ask the minister to table as soon as possible what the

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unfunded liability is, but my advice is that it is still heading north at the moment, and that starts to say to me that there is a major problem with this legislation.

I also know for a fact—and I have had some documentation back on this—that redemptions have been accelerating like you would not believe, and for some injured workers it is unbelievable how quickly counter offers have occurred. Others are ostracised and they get nothing; they are blacklisted, but some at the moment are getting large amounts of money. I cannot remember in the 15 years that I have been in the parliament such an easy access to redemption, yet I understand that even with that they are still seeing an increase.

The core root of the problem is getting to the 1 per cent of the people who were rorters, which was available in the previous legislation; scrapping the board, because it failed; and starting again there, wiping it out and starting again. The bottom line is that the board failed, because in a six or seven year period it let an almost fully funded liability head into a \$1 billion-plus liability, so just changing the deckchairs was not appropriate there.

Getting into the solo case manager, particularly having a look at how that case manager was appointed in the first place and all the other things that should be done with some attention to detail to look after the injured workers, get them back to work as soon as possible and be proactive and preventive in the way they deal with workplace safety—they are the sorts of things that will make a real difference.

It may seem strange that I am moving these amendments, but I genuinely and sincerely have always been disappointed about what happened last year. I said in my maiden speech—and I put it on the record again—that, as an employer, I do not like the amount of money I am charged every month by way of an account from WorkCover. It has been going up, which I question. Having said that, I, like most employers in this state, hope and pray that your workers do not get injured, but you want them looked after if they are injured.

I refer to one classic example, as it can easily happen: the police officer going out to a domestic violence situation and being confronted with a knife coming at them—horrific circumstances, often trying to protect the wife and children. They receive lacerations and broken bones, and also some short-term mental injury. If that has happened in the past three to six-month period, and they have not been able to get back to work, their families are suffering with a loss of money and that is an outrage. The partners, spouses and children said, 'See you dad; see you mum; see you tonight', as we all hear. But they come back injured. It is not their fault and now the whole family is suffering, and this is a chance to turn this around.

The government may have hoped that it could do over the workers and that the electorate will have forgotten about it by March 2010 when the election comes around, but I do not believe the public, the core support base for the Labor Party, or the unions have forgotten about this, and I know they will not. The executive of the government, not the rank and file MPs, are to blame. I

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know that some of those MPs did not like this at all. They said, 'What are you doing here—this is not Labor Party stuff; we're about protecting workers' rights?' I am not condemning the rank and file Labor Party MPs—

The Hon. S.G. Wade interjecting:

The Hon. R.L. BROKENSHIRE: Because they don't have a choice. They get chucked out of the party if they cross the floor. It is not them I am on about but the senior executive people in the Labor government who have done the most fundamental basic disservice to the people who have voted for them year in, year out, election in, election out, and stood by them through everything.

The Hon. R.I. Lucas: Name them.

The Hon. R.L. BROKENSHIRE: There are plenty of them—look at the polls. Name the executive? It is the cabinet of three that we all know about, and a few others who drive the cabinet of three. The bottom line is that this is an opportunity for members of parliament, who want to be re-elected in 2010, to support these amendments. It will get the Labor government back in or it will give us a new Liberal government if either of the major parties support the cross benches on this. It will either get them into government or make them lose government. A lot of stories will come out. Once all the accelerated redemption is finished and lawyers start to get into this, they will have a field day. There are a couple of clauses the powerbrokers forgot to get right. I will not disclose them right now but will keep it in confidence. Watch six or nine months before the election, when clever lawyers get into this—they will expose the government for unfairly attacking the workers' rights.

This bill reopens the WorkCover debate and provides an opportunity for the major parties to support it for the best interests of the workers of South Australia. In closing, I thank those who have consulted with me on this bill. There have been a lot, and in the short time I have been back in parliament I cannot believe how much representation we have had—positive and proactive. It was not just that they acknowledged that some things should not happen with WorkCover, as they are responsible South Australians and some are industry sector representatives and have seen me a few times, but they are extremely disappointed and are saying to me—and I am sure to other MPs—'Please change these mistakes; this is not fair on far too many families'.

I also thank parliamentary counsel for the diligence and care taken with this important bill. I have further information for the benefit of the council but will put it on the record later, in the interests of allowing government business to proceed and members getting home at a reasonable time. I ask all members to look closely at these amendments and seek their support.

Debate adjourned on motion of Hon. R.P. Wortley.