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Anti-Discrimination Amendment (Equal Opportunity in Public Employment) Bill 2007

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ANTI-DISCRIMINATION AMENDMENT (EQUAL OPPORTUNITY IN PUBLIC EMPLOYMENT) BILL 2007

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Second Reading

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [11.41 a.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

Part 9A of the Anti-Discrimination Act 1977 has two objects. The first is to eliminate and ensure the absence of discrimination in public sector employment on the grounds of race, sex, marital status and—as stated in the current Act—"physical impairment". The second is to promote equal employment opportunity in public sector agencies for women, members of racial minorities and—as stated in the current Act—"physically handicapped persons". Section 122J of part 9A requires each public sector agency to prepare and implement an equal employment opportunity management plan to achieve the objects of part 9A. Section 122L of the Act also requires each agency to report annually to the Director of Equal Opportunity in Public Employment on the programs undertaken to eliminate discrimination and promote equal employment opportunity, the results achieved and the proposed activities for the following year. Public sector agencies are also required under the annual reporting legislation to report on equal employment opportunity strategies, outcomes and statistics in their annual report.

The internal government red tape review, stage 1, recommended that agencies be required to report on equal employment opportunity outcomes only once in their annual reports, instead of being required to report in both their annual report and separately to the Director of Equal Opportunity in Public Employment. The bill implements this recommendation. It merely removes the duplicative requirement to report on equal employment opportunity outcomes to the Director of Equal Opportunity in Public Employment. This will lead to administrative savings for agencies without affecting their substantive obligations to prepare and implement management plans under the Act. The bill does not affect the functions of the Director of Equal Opportunity in Public Employment. The director will continue to evaluate the effectiveness of management plans and can refer a matter to the Anti-Discrimination Board of New South Wales if he has any concerns.

The bill also makes minor changes to make terms used in part 9A consistent with the rest of the Act. The term "physically handicapped persons" is replaced by "persons who have a disability". The reference to discrimination on the ground of "physical impairment" in part 9A is also replaced with a reference to discrimination on the ground of "disability". This corrects an oversight from when discrimination on the ground of physical impairment was previously changed to discrimination on the ground of disability. I commend the bill to the House.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [11.41 a.m.]: I lead for the Opposition in debate on the Anti-Discrimination Amendment (Equal Opportunity in Public Employment) Bill 2007. I indicate at the outset that the Opposition does not oppose the bill. The legislation is simple in its context in that it provides a change in terminology. It also indicates a growing trend and acceptance within the community that some of the language that is used in legislation, and therefore is in common usage within the community, is no longer consistent with people's views and their growing understanding of issues such as equal employment opportunity and antidiscrimination in the workplace.

The object of the bill is to amend the Anti-Discrimination Act to remove the requirement for agencies to report directly to the Director of Equal Opportunity in Public Employment on equal employment opportunity matters, and to replace references in the Act to physically handicapped or physically impaired persons with references to

persons who have a disability. The latter amendment is an important part of the bill in terms of the evolution of our language. Members may recall that a couple of years ago the Hon. John Della Bosca, in his continuing industrial relations role, introduced an education campaign in relation to disability. The campaign's title, Don't DIS my ABILITY, links the commonly used word "dis" with the word "ability", consistent with the evolution of community understanding that people who have a physical handicap should be regarded first as people who have abilities. The legislation recognises that people who have a disability should be recognised as people first. In that context, the legislation endeavours to enlighten our understanding of the difficulties faced by people who are unfortunately stricken with a disability.

The reform set out in the legislation is the result of an internal government review. Stage 1 of that review recommended that agencies be required to report on equal employment opportunity outcomes only once in their annual reports. I believe that requirement recognises significant improvements in equal employment opportunity across the public sector. That is not to say, however, there is not room for further improvement. The Minister for Industrial Relations would be well aware that the Public Service Association conducted a survey of WorkCover employees—an area within his portfolio—and that 80 per cent of the employees surveyed indicated they had been subjected to harassment in the workplace. That is an absolutely frightening statistic.

In other words, at WorkCover, which is the workplace policeman of the public and private sectors, harassment is rife. It is therefore hypocritical of the Government to speak about the advances it has achieved in the workplace, particularly focusing on unacceptable work practices in the private sector. Recently we have heard of harassment in the workplace in relation to security personnel at Governor Macquarie Tower. Under this Government nurses have been harassed, and we continue to hear about the harassment of nurses from those who speak out. The Government has one rule for itself and a different rule for others. It is quite happy for private sector workers to speak out about unfair and unacceptable work practices and discrimination, but God help people in the public sector who speak out about similar unacceptable work practices.

The Government's approach to these problems shows glaring hypocrisy. These legislative changes, which affect the entire workforce and community, are part of an educative program to ensure that those who have a disability are recognised as people first. It is a shame that the Government introduces legislation to assist people in the workplace who have a disability, but says and does nothing about people who speak out about discrimination and harassment in workplaces, particularly the Government's workplaces. Regrettably, we do not hear a word from the Government about that.

Dr JOHN KAYE [11.47 a.m.]: The Greens support the Anti-Discrimination Amendment (Equal Opportunity in Public Employment) Bill 2007. Over the last couple of decades the public sector has set the pace in creating standards of equality of opportunity in the workplace, and has played an important role in making discrimination unacceptable and its cures acceptable and to be expected. Equal opportunity is extremely important within any employment environment. It is the only way we can hope to overcome the barriers associated with disability and create an inclusive society. It is a basic human right that every person, regardless of ability or disability, should be included within our society and be able to experience a workplace in which barriers are not created to their advancement or full participation. Equal opportunity is an excellent mechanism by which to overcome those barriers.

The bill contains two major provisions. First, it is claimed that the measure will remove double reporting on equal employment opportunity strategies and outcomes. It has been put that double reporting occurs in the annual report of the public sector agency to the Director of Equal Opportunity in Public Employment and also in the agency's annual report. The Minister said in the other House that the same information was reported in both documents.

The Greens are concerned that there may be some loss of information that is available to the public on equal employment opportunity strategies and outcomes within public sector agencies. We seek from the Minister in his reply an assurance that the information that will be available in the annual reports of each and every agency that is covered by this legislation will be absolutely identical to that which is currently included in their reports to the Director of Equal Opportunity in Public Employment. The Greens want an assurance that there will be no loss of information about activities in equal opportunity in the public sector as a result of the passage of this bill.

Too often the term "red tape" is used to conceal agendas aimed at reducing regulation and public reporting. I am not saying that that necessarily pertains in this particular case but over the past two decades the term "red tape", when used in public debate, often disguised an agenda to deregulate and allow public and private-sector agencies to pursue activities contrary to the public interest. We hope that is not the case in this instance.

The legislation also replaces references to "physically handicapped persons" with the expression "people with a disability". That provision widens the net to include people with psychological and intellectual disabilities more appropriately dealt with by equal opportunity measures. The Minister in the other House made clear that the bill corrected an oversight in the drafting of the Act that restricted the grounds of discrimination to physical impairment, thus covering people who have other kinds of impairments and disabilities. The Greens support the bill.

Reverend the Hon. FRED NILE [11.52 p.m.]: The Christian Democratic Party supports the Anti-Discrimination Amendment (Equal Opportunity in Public Employment) Bill 2007. The bill is mainly an administrative measure but one very important provision replaces all references to the term "physically handicapped persons" in part 9A of the Act with the description "persons who have a disability". The Christian Democratic Party is very much in favour of that improvement because the term "physically handicapped persons" is undefined and outdated.

Part 9A of the Act has two objects. The first is to eliminate and ensure the absence of discrimination in employment on certain grounds in public sector agencies. The second is to promote equal employment opportunity for certain target groups in public sector agencies. Section 122L of the Act requires each public sector agency to report annually to the Director of Equal Opportunity in Public Employment on the programs undertaken to eliminate discrimination and promote equal employment opportunity, the results achieved and the proposed activities for the following year. The bill merely removes the duplication required to report on equal employment outcomes to the Director of Equal Opportunity in Public Employment. This will lead to administrative savings for agencies.

I also commend the Hon. Kristina Keneally, Minister for Ageing, and Minister for Disability Services, for the large packet of material dealing with Disability Day to be held on Monday 3 December 2007. Disability Day will focus on providing opportunities for people with disabilities to have access to work. I commend the Minister for the excellent educational and promotional kit that all members have received.

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [11.55 p.m.], in reply: I thank honourable members for their contributions to the debate. The Government supports the recommendations of the internal government red tape review. The review stated that the public sector agencies should only be required to report on equal opportunity outcomes once in their annual report, removing the requirement for agencies to also report on equal employment opportunity matters to the Director of Equal Opportunity in Public Employment. This will lead to administrative savings in agencies. Importantly the bill does not affect agencies' obligations to prepare and implement equal employment opportunity management plans. The bill does not change the role of the Director of Equal Opportunity in Public Employment but makes minor changes to render the terms used in part 9A consistent with the rest of the Act. I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Leave granted to proceed to the third reading of the bill forthwith.

Third Reading

Motion by the Hon. Tony Kelly agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly without amendment.

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