

Agreement in Principle

Mr PAUL LYNCH (Liverpool—Minister for Industrial Relations, Minister for Commerce, Minister for Energy, Minister for Public Sector Reform, and Minister for Aboriginal Affairs) [12.58 p.m.]: I move:

That this bill be now agreed to in principle.

The Public Sector Employment and Management Amendment Bill 2010 provides for two amendments to the main employment legislation for the New South Wales public service. These amendments provide greater flexibility in public sector employment, promoting public sector workforce mobility and fairness, and will benefit both employer agencies and their staff. I begin with the first amendment, to section 19. Presently when a position in a public service department is advertised internally, only staff who are either already permanent officers or departmental temporary employees of two years standing can apply for the position. A greater pool of applicants will enhance the operation of the merit principle and ensure the best person available in the agency is appointed to the position.

The bill expands the pool of applicants available for internally advertised positions within a department to include staff in the special employment division associated with that department who are employed as either ongoing or permanent employees, and also temporary employees who have been employed continuously for at least two years. For instance, the proposal will allow trades and field staff of the Forestry Commission to apply for jobs advertised internally in the Department of Industry and Investment. This change will benefit the agency and the new group of staff that is able to apply for these jobs.

The second amendment is to section 22 of the Public Sector Employment and Management Act 2002. This amendment removes the statutory bar prohibiting a public servant from challenging matters relating to either an appointment or indeed a failure to appoint to a public service position on discrimination or victimisation grounds. The amendment will apply only to future appointments. Grounds for discrimination in the Anti-Discrimination Act 1977 include age, carers' responsibilities, disability, race, sex, transgender, marital or domestic status, and homosexuality. Victimisation is where an employee who has suffered detrimental action for being a member or official of an industrial organisation may bring proceedings under section 213 of the Industrial Relations Act 1996. Departments should be required to defend discrimination or victimisation claims based on the merits of the matter and not rely on a statutory bar to prevent a case being heard.

Section 22 will still remain to protect the appointment of persons from outside the public service. Talented people who, in committing to work in the New South Wales public service, resign from their current private sector position will not lose their new public service job based on a challenge brought by a public servant. Allowing challenges to outside appointments would effectively discourage outside recruitment to the public service and lead to a view that the public service is a closed shop. This was the reason that section 22, and its predecessors, was originally introduced. Individuals in the public service should have the right to challenge decisions concerning their employment on discrimination or victimisation grounds. I commend the bill to the House.