Submission No 24

INQUIRY INTO FIRE AND EMERGENCY SERVICES LEVY

Organisation: Fire Brigade Employees Union

Date received: 8 January 2018

8 January 2018

The Hon Robert Borsak
Committee Chair
Portfolio Committee No. 4 – Legal Affairs
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Chair,

Re: Inquiry into the fire and emergency services levy

I apologise for the lateness of this submission. Unfortunately the inquiry's deadline coincided with important (but unrelated) proceedings before the Industrial Relations Commission of NSW that required all of the Union's limited resources, and then the holiday season followed immediately thereafter.

The Union's opposition to the FESL is well documented in previous submissions to similar inquiries is not repeated here, save perhaps to note that the advocates for change continue to cite the alleged problem of so-called "free-riders" without acknowledging that the insurance companies are major beneficiaries of these services, and therefore the largest free-riders of all under the FESL.

It is now broadly accepted that there were many problems with the Government's FESL, which some sections of the media dubbed "the Sydney Tax". The Union's early warning (as reported in the SMH on 29 March 2017, attached) that many fully-insured households would pay more under the FESL was vindicated when the Government eventually released the final FESL rates.

On 29 March 2017 the Union also published a summary for FBEU members based on our modelling titled "Ten key problems with the FESL". The Government's failure to release all of the necessary data forced the Union to make several assumptions (for example, the number of pensioner households and the collection cost for local government) and while the Union's assumptions meant that its predicted ad valorem and FESL rates were not identical to final rates subsequently released by Treasury, they were more than close enough to support the Union's arguments. The Union's March 2017 ten point critique is attached as part of this submission.

It is relevant to note that despite repeated attempts to do so, the FBEU has never been able to make the available data (then and since) marry up with the Government's FESL rates and the Treasury's online calculator. The FESL was not overly complex and it should therefore have been a relatively simple process to calculate the actual FESL for any property provided that all of the necessary data was publicly available, but it never was. It remains entirely unclear how the actual FESL rates released in May 2017 were arrived at, and the Union recommends that the Committee ask the Government and Treasury to explain this.

For all of its (essentially theoretical) faults, the current insurance-based Emergency Services Levy continues to work well for the Government and people of NSW. Emergency Services funding reform is the quintessential political sleeping dog that nobody in the electorate considers

Fire Brigade Employees' Union of New South Wales
1-7 Belmore Street Surry Hills NSW 2010
Telephone 02 9218 3444 Facsimile 02 9218 3488 E-mail office@fbeu.net Website www.fbeu.net

a problem, so it was not all surprising when it turned around and bit the Government after it unwisely and unnecessarily decided to poke it.

In the absence of any viable alternative the FBEU advocates the abandonment of the FESL in favour of the status quo. However, if there is to be change then consistent with our “ten key problems” summary, the Union recommends that any future property-based funding arrangement must:

1. Ensure that most if not all residents pay less, not more;
2. Ensure that the NSW Government contributes more, not less;
3. Be easily understood and totally transparent;
4. Ensure that the contributions from different property sectors reflect their different risks and actual usage rates of the services;
5. Be set within the Act itself so that any adjustment to contributions are subject to review approval by the full Parliament rather than Ministerial adjustment by Regulation;
6. Exclude local government, which should have no role in and therefore neither collect nor contribute towards the cost of the emergency services;
7. Ensure a permanent and ongoing role for the Insurance Monitor.

The Union is of course available to appear before the inquiry if called upon to do so.

Yours sincerely,

Leighton Drury
State Secretary

Union claim Reform figures wrong

Homeowners face $471 annual fire service bill

Sean Nicholls
State political editor

Sydney homeowners face average annual bills as high as $471 under a new system for funding the state's fire and emergency services, an analysis suggests.

The figure, based on NSW fire fighters' union analysis, is 2½ times the $185 average touted by the state government when it unveiled the reform earlier this month. The analysis reveals homeowners in North Sydney, Mosman and the northern beaches face paying the higher average levy as they prepare to vote in the North Shore and Manly by-elections on April 8.

Treasurer Dominic Perrottet has introduced legislation to Parliament that shifts the bulk of the funding of the $950 million annual fire and emergency services budget from a tax on insurance contracts to a levy on all NSW land from July 1.

Homeowners will be able to calculate the exact size of the levy from May 1 after the fire and emergency services budget is set.

But announcing the reform, Mr Perrottet said the average bill for residential property owners would be $185. The government says for fully-insured homeowners the fire services levy contribution should drop from an annual average $233, for a saving of $47 a year.

However, the Fire Brigade Employees Union analysis shows the highest residential payments will on average be $471.

It says homeowners in areas including Parramatta, Canterbury, Ku-ring-gai, Bankstown, Burwood, Canada Bay, Hornsby, Ryde and Strathfield face annual bills of $361.

For homeowners in Sydney's west, including Liverpool, Penrith, The Hills, Campbelltown, Fairfield, Hawkesbury, Blacktown, Blue Mountains and Camden, the bill is estimated at $224.

A spokesman for Mr Perrottet said the union figures "do not appear to accurately reflect the amount of FESL that property owners will pay" but did not release government estimates.

The union also argues the burden of funding will shift towards residential land owners and away from business under the reforms.

A 2011 Insurance Council report said residential property owners contributed 45 per cent to the three-quarters of the fire and emergency services budget raised through insurance contracts under the existing system. Commercial property owners contributed 49 per cent.

> '[It's] a new billion-dollar tax on property owners.'
> Leighton Drury, FBEU

Under the changes, the residential component is 58 per cent and for commercial land 26.6 per cent.

Mr Perrottet's spokesman said the government figures were based on "far more rigorous and comprehensive data" than the "estimates" in the Insurance Council report.

FBEU state secretary Leighton Drury said the levy was "a new billion-dollar tax on property owners that will cost many NSW households hundreds of dollars more". He said a government promise that land owners can calculate the exact amount of their levy from May 1 was too late as "the Berejiklian government is trying to ram this through the Parliament now".

Ten key problems with the FESL

---

1. Many home owners will pay more

FBEU modelling shows that owners of residential land with an unimproved value of approx. $500,000 or greater will pay more FESL than they are now under the insurance-based FSL.

To put that in context, the average unimproved land value for the greater Sydney area is $902,000.

---

2. The Government will pay less

The current funding arrangements require contributions from insurers, local government and the NSW Government as follows:

NSW Government -	14.6%
Local Government -	11.7%
Insurers -	73.7%

The FESL Bill maintains local government contributions at 11.7%, but replaces the insurers' 73.7% with a combined 81% contribution from the property sectors and no mention whatsoever of a NSW Government contribution, which is left to cover whatever variable funding gap might remain:

NSW Government -	7.3%
Local Government -	11.7%
FESL -	81%

The NSW Government contribution falls from 14.6% to a nominal 7.3% - a saving of over $70 million pa, with the difference being shifted onto the FESL (the majority of which will be paid by residents).

---

3. The Government is hiding the truth

The Government's FESL website (www.emergencyservicespropertylevy.nsw.gov.au) states *"The exact levy rates are still being determined and will not be published until 30 April 2017 when property values for July 2016 and the budget for the emergency services agencies for 2017-18 are known."* This is disingenuous. While the "exact" levy rates might not yet be available, the release of already-known data would allow every property owner to make a very close estimate of the impact of the Bill on them.

The property values for July 2016 are already available and the combined FRNSW/RFS/SES 2017/18 budget can reasonably be expected to be in the area of $1.05 to $1.1 billion. The only data needed (but not publicly available) in order to accurately calculate the FESL paid by every single property owner is:

- the number of vacant properties within each property sector;
- the number of properties within each property sector that are subject to a pensioner discount; and
- the number of properties within each property sector that are considered to be government land.

The Government has all of this data. If it really was confident about the scale and scope of the FESL's beneficiaries then it would release this information now.

---

4. The cost is being shifted from business to residents

The FESL's proportions for each property sector do not reflect the contributions being made under the current Emergency Services Levy on insurers. A June 2011 Insurance Council of Australia report showed FSL contributions were being drawn from the sectors as follows:

Residential - 45%
Business - 49%
Rural - 6%

The Bill's section 30(1) transfers a significant proportion of the business sector's current contribution rate to the residential sector:

(1) The relevant proportion for each property sector is as follows:
- *(a) for public benefit land—0.33%,*
- *(b) for farmland—4.56%,*
- *(c) for residential land—58.07%,*
- *(d) for industrial land—10.38%,*
- *(e) for commercial land—26.66%.*

This essentially translates to:

Residential - 58% (13% more)
Business - 37% (12% less)
Rural - 5% (1% less)

---

5. The cost proportions do not reflect the users of the services

The FESL's proportions for each property sector do not reflect the risks faced by each sector, or the cost of the emergency services used by each sector. A July 2012 NSW Government discussion paper reported FRNSW response to incidents by property sector to be as follows:

Residential - 34% (24% less than the FESL)
Business - 55% (18% more than the FESL)
Rural - 7% (2% more than the FESL)

Note that the remaining 4% of calls were not attributed to any property type. While these figures concern only FRNSW, they are considered representative of the RFS and SES residential response rate (their rural rates are likely to be somewhat higher and their business rates lower).

---

6. The FESL severs the current link between contributions and risk / property value

The current insurance-based Emergency Services Levy (ESL) recognises both risk and improved property value by way of higher insurance premiums (and consequently ESL contributions) being charged for both. For example, residential properties in bushfire prone areas will incur higher insurance costs (and ESL contributions) than houses in non-bushfire areas.

Because the FESL is based only on unimproved land value, it does not recognise the different risks (and service costs) between high and low risk properties in the way the ESL does and it has no relationship whatsoever to the property's improved (ie actual) value.

---

7. Multiple base rates are unjustified and unfair

The FESL sets separate ($100 and $200) base rates for different property sectors:

> *(2) The base rate is as follows:*
> *(a) $100 for public benefit land,*
> *(b) $100 for residential land,*
> *(c) $200 for farmland,*
> *(d) $200 for industrial land,*
> *(e) $200 for commercial land.*

Setting a lower base rate for residential and public benefit land seems reasonable and progressive. It is only when this is modelled that the opposite becomes clear.

The FESL works so that the higher the base rate is set for a property sector, the lower the ad valorem rate on each property's value will be. The $200 base rate reduces the ad valorem rate (and final FESL) for most business properties, and causes the farmland property sector to avoid paying the ad valorem component altogether. For example, all farmland properties will pay the flat $200, regardless of their land value, so a farm with an unimproved land value of $4 miliion will pay less FESL than a nearby house with an unimproved land value of $400,000.

There should be a single base rate for all properties, regardless of property type.

8. The costs can be changed year to year

The FESL base rates and the proportions payable by each property sector can both be varied by regulation from one year to the next.

There is no justification for this, save that the Government is uncertain about the rates and proportions it has set and intends to adjust them later. These base rates and proportions are critical to the FESL amounts payable. The base rate should be subject to automatic indexation like the pensioner discount so it remains relevant, but any other change to the base rate or the proportions payable by each property sector should require amendment by Parliament to prevent the Government from increasing the cost on residents even further.

9. Local government is still involved

The involvement of local government in the organisation and funding of fire and emergency services is a historical anachronism that effectively causes property owners to pay twice. The Government has failed to take the opportunity to correct this. The FBEU shares the Local Government and Shires Association's view that local government should be removed entirely from the funding of the state's fire and emergency services, with the deficit being made up by higher contributions from the property sectors and the NSW Government.

10. The Monitor must remain

The Government has appointed a Monitor to ensure that insurers (who will no longer pay the ESL) pass on their savings to their policy holders, but only until 31 December 2018. The FBEU shares the Monitor's scepticism about the market's ability to stop the insurers from simply jacking up their premiums to pre-FESL levels, and therefore advocates a permanent and ongoing role for the monitor.