

TRANSCRIPT

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Budget estimates 2019-20 (Industrial Relations)

Melbourne—Friday, 31 May 2019

MEMBERS

Mr Philip Dalidakis—Chair

Mr Richard Riordan—Deputy Chair

Mr Sam Hibbins

Mr Gary Maas

Mr Danny O'Brien

Ms Pauline Richards

Mr Tim Richardson

Ms Ingrid Stitt

Ms Bridget Vallenge

WITNESSES

Mr Tim Pallas, Minister for Industrial Relations,

Mr Matt O'Connor, Deputy Secretary, and

Ms Kath Fawcett, Director, Public Sector Industrial Relations, Industrial Relations Victoria, Department of Premier and Cabinet.

The CHAIR: I now declare the hearing of the Public Accounts and Estimates Committee open.

On behalf of the Parliament, the committee is conducting this inquiry into the 2019–20 budget estimates. Its aim is to scrutinise public administration and finance to improve outcomes for the Victorian community. The committee will now begin consideration of the industrial relations portfolio.

I welcome the Minister for Industrial Relations, the Honourable Tim Pallas, and officers from Industrial Relations Victoria. Thank you for appearing before the committee today.

All evidence given is protected by the Parliamentary Committees Act. This means that it attracts parliamentary privilege and is protected from judicial review. Witnesses found to be giving false or misleading evidence may be in contempt of Parliament and subject to watching many games of the Collingwood Football Club.

Minister, I now invite you to make a brief opening statement of 5 minutes. This will be followed by wonderful questions from the committee.

Visual presentation.

Mr PALLAS: Thanks very much, Chair. As Minister for Industrial Relations I have responsibility for nine acts and oversee the governance framework for bargaining across the public sector. This includes 150 enterprise agreements covering more than 311 000 employees. The *State of the Public Sector in Victoria* report 2018 verifies this. I participate in major workplace relations inquiries and my department monitors industrial relations issues.

This government is committed to a consultative and cooperative approach to public sector bargaining. In the current financial year 23 enterprise agreements have been approved, including one major agreement with Victorian TAFE teaching staff. During the previous term the government delivered significant improvements to working conditions. Achievements in bargaining included legislated nurse-to-patient ratios and workplace reform for Victorian TAFEs.

I thought this graphic would be a wonderful illustration of what is happening in industrial relations in the state of Victoria more generally. According to ABS statistics there is a significant peak in strike rate in Victoria under the opposition in 2011, 12 and 13. The Andrews government has a proud record of no industrial relations action being taken while negotiating major enterprise agreements, including those covering nurses, police, teachers and public servants.

We recognise the important role that the public sector workforce plays in delivering good government. According to the ABS figures, the industrial action rate in Victoria remains at historically low levels under the Andrews Labor government, with only three working days lost per 1000 employees during the December 2018 quarter. Now quite incredibly, in the previous quarter, that is, September 2018, industrial disputation in Victoria was so low the ABS did not publish any data for the state.

So this government has invested in education, health care and public transport. We have created more jobs for Victorians and we have made our community safer and fairer. We are committed to continuing this ambitious program of reform and we have revised our wages policy to support this investment. The government's revised wages policy will commence on 17 April. It will ensure public sector bargaining outcomes are fiscally sustainable in current economic conditions, whilst at the same time driving our public sector priorities and delivering value for money for the Victorian community.

Over the past year the labour hire licensing scheme formally commenced on 29 April 2019. This follows the appointment of the labour hire licensing commissioner, Mr Steve Dargavel, in October 2018. Legislation establishing the portable long service leave scheme for the contract cleaning and security industries and community services sector was passed in April 2019 and comes into effect on 1 July. Draft regulations have been released for public comment. These regulations bring children services and disability services within the scope of the scheme.

In addition, the government launched the Inquiry into the Victorian On-Demand Workforce on 29 October 2018, chaired by former Fair Work Ombudsman Natalie James. Over 90 written submissions have been received from unions, employer organisations, businesses, individual workers and academics. The chair of the inquiry will report to me towards the end of this year.

The government has also introduced legislation to improve the position of owner-drivers and forestry contractors. The Fair Work (Commonwealth Powers) Amendment Act 2019 was passed on 30 April and comes into effect, actually, today. The new Long Service Leave Act 2018 commenced in November 2018 and, in the current financial year, Wage Inspectorate Victoria has issued 8477 child employment permits under the Child Employment Act, and responded to over 10 000 telephone long service leave inquiries. The industrial relations budget for 19–20 is \$16 million, and \$1.3 million will be provided to enable IR Victoria to continue the centralised, efficient and comprehensive approach to negotiating public-sector enterprise agreements. The 2018–19 revised budget is higher due to the establishment of Wage Inspectorate Victoria and the labour hire licensing scheme. Thanks, Chair.

Ms STITT: Minister, I wanted to ask you a little bit about the labour hire licensing scheme that you mentioned in your presentation, which is detailed at BP3, page 303. I understand that significant penalties will apply to any labour hire providers who do not get a licence under this scheme and for any businesses that operate unlicensed from October this year. Can you explain why the Andrews Labor government has gone down this path to establish this scheme and what you want to achieve out of the scheme?

Mr PALLAS: Yes. Thanks very much for the question. I am also thrilled to be part of a government that is taking the appropriate recognition of labour hire licensing, and the scheme and attaching to it, seriously. This is Victoria's first ever scheme of such a nature. It commenced on 29 April. The scheme is in response to the independent Victorian Inquiry into the Labour Hire Industry and Insecure Work. It is a key election commitment which uncovered widespread abuse and exploitation of workers right across Victoria, so the scheme is going to bring a new level of integrity and scrutiny to the labour hire sector and ensure that vulnerable workers are kept safe from exploitation and from being underpaid. So the scheme prohibits labour hire providers operating without a licence and host employers engaging unlicensed providers from 30 October.

To obtain a licence providers will be required to pass a fit-and-proper-person test and show compliance with the workplace laws, labour hire laws and minimum accommodation standards, as well as report annually on their activities. Unlicensed labour hire providers and hosts that use unlicensed providers—so it applies both to the provider and to the receiver of the services—can face fines of up to half a million dollars. There is a precedent among other Australian states—for schemes of this nature—so we know that Victoria's scheme is similar to ones in South Australia and Queensland, and it strengthens the call for a national scheme.

It was disappointing, really, to see that coalition members of the Parliament voted against this scheme, showing, really, that ultimately we do need to put in place systems that provide for protection of our most vulnerable workers, which is exactly what this scheme aspires to do and, I am sure, will achieve. While the Andrews government has taken strong action to clean up on the labour hire industry, these reforms are aimed to achieve safer workplaces and also to ensure that there is less exploitation.

I am glad that the act was passed by the Parliament in June 2018 and I am also pleased to see that the Labour Hire Authority has been established. The CEO of the organisation commenced his appointment on 1 October of last year, the authority is responsible for the rollout of the labour hire licensing scheme and it will support its implementation with education, enforcement and also compliance activities. It is operating from Bendigo and it commenced receiving and assessing licence applications on 29 April.

Ms STITT: And why did the government decide to set up the authority in Bendigo?

Mr PALLAS: It is our continuing commitment to make sure that we can, in fact, provide employment opportunities right across the state. Also it is a recognition that there are industries where labour hire has a high prevalence, and the agriculture industry is an important one.

It is important to us that we make sure that we provide effective arrangements for a fair day's pay for a fair day's work. We see that as a fundamental right. We see the location in Bendigo being an opportunity to grow jobs in that regional centre but also to make the operations of the authority close to those areas where there is, at least so far as the agricultural and food and fibre industries are concerned, the opportunity to have some engagements.

Ms STITT: Chair, I am going to cede the rest of my time to my colleague Mr Maas.

Mr MAAS: Thank you, Minister. I would like to turn your attention to the inquiry into the on-demand workforce, specifically your slide number 6, I think it was, where you said that some 90 submissions have been received by that inquiry. Can you comment as to the theme of the submissions that have already been received?

Mr PALLAS: We launched the inquiry into the on-demand services on 20 October 2018. The Victorian inquiry really is an Australian-first, and its aim is to compile the most comprehensive body of evidence on the operation of the gig economy, which covers businesses such as ridesharing and food delivery services. A key focus of the inquiry of course is to explore the arrangements working in the on-demand workforce. It is also about looking at the provision of services and the legal status of people working in online companies or platforms across Victoria. It is about making sure that we are reviewing the application and effective enforcement of workplace laws in these occupations or activities, including workers compensation, making sure the superannuation is adequately applied and the health and safety laws for these workers. We know also there is a grey area of activity. We also know that as a state we do not want to be seen to be giving the wrong message to the online and on-demand services, but we do recognise that a key part of participating in the on-demand workforce is not to seek an unfair advantage against your competitors, such as those who are doing the right thing or alternatively those who are effectively not providing on-demand services but more legitimate services.

The inquiry into the on-demand services received 91 submissions. Businesses who lodged submissions include both on-demand services and their competitors, so we are getting an appreciation of how the industry sees its role and we are also getting an appreciation of how the more traditional providers of those services see the competition that they are facing. The major themes of the submissions are the exploitation of staff and unfair business advantage. There have been concerns raised in the community about the conditions of the on-demand workforce and the adverse impacts on workers. Issues identified include a lack of income security, minimum wage, insurance protection, superannuation benefits and of course other leave entitlements that workers in more traditional occupations as employees could expect or, might I say, more conventional forms of engagement.

So one of the main themes really emerging from the submissions is that without access to minimum employment standards or collective bargaining workers and the gig economy are vulnerable to exploitation. One assessment is that—this is one submission—three out of four surveyed workers are being paid under the minimum rates of casuals. On the flip side, more traditional businesses have also explained that their on-demand competitors are not required to comply with the same employment and workplace conditions, so they feel that they are being subjected to an uneven playing field, as it were. Several submissions, including from the gig economy businesses, highlighted the benefit of the on-demand economy, and there is no doubt that Victorians have embraced the range of services that are available to them through the on-demand and online gig economy. They acknowledge that there can be significant benefits when traditional businesses partner with on-demand platforms, so the merger of these two undertakings I think is certainly emerging as a live issue.

There may also be several benefits for the Victorian economy, basically generated by on-demand businesses. It has been suggested by one on-demand platform that it provides opportunities for people who struggle to find work or access the labour market. So it can be as well a liberating opportunity in terms of better connecting people to employment opportunities. This includes students. It includes carers and people with disabilities, and it has also been suggested that on-demand platforms can expand markets by helping customers find businesses and access services.

Mr D O'BRIEN: Chair, point of order, I just would like to place on the record that that entire answer and large chunks of the minister's presentation related to previous years and previous achievements of the government, and I just want to make sure that that is noted. I hope the same flexibility and courtesy will be extended to future opposition questions.

Mr PALLAS: I am not sure that is actually accurate, by the way.

Mr D O'BRIEN: 2018–19 industrial relations.

The CHAIR: Treasurer, if I may, I am happy for you to take this up in your time but not in Mr Maas's time. I am happy for you to leave it on the record. Mr Maas, back to you.

Mr MAAS: Thank you, Minister. I will take you to portable long service leave in the time that I have remaining, and I refer you to budget paper 3, chapter 2, page 303. Can you tell me why the government introduced a portable long service benefit scheme for these industries and what benefits you expect it to produce for these industries?

Mr PALLAS: I will. Historically long service leave has been provided for the purposes of providing a respite for employees who have completed longstanding service with a particular employer—effectively a reward for long service and long and faithful service. It is important that long service leave schemes operate effectively to meet the emerging and current needs of both Victorian employers and employees and they also reflect the needs of a modern workplace and changing employment frameworks. Workers in community services, security and contract cleaning now have access to portable long service leave for the first time thanks to legislation introduced by the Andrews Labor government. Last year the Parliament passed the portability act to ensure that workers in contract cleaning, security and the community services sector have access to long service leave.

Under the new laws workers will be entitled to long service leave after working for seven years in their industry, irrespective of the number of employers that they worked for over time, largely due to the highly variable nature of employment that they undertake and therefore the lack of opportunity that they would otherwise have to accumulate long service leave. So there are new laws in response to a Victorian parliamentary committee that recommended a portable long service leave scheme and which found that workers in the contract cleaning, security and community services sector often perform the same job for well over the seven years legally required to accrue long service leave, but they do not get it—

The CHAIR: Sorry to interrupt you, Treasurer. I now pass over to Ms Vallenge, and of course, Mr O'Brien, if you want to take up this time to argue that with the Treasurer, you are welcome to do so.

Mr PALLAS: And I would be more than welcome to too.

Ms VALLENCE: Minister, the output for industrial relations set out in budget paper 3, page 295, includes \$500 000 for a women in construction strategy. My question is: what is the status of this spend and who or what body has responsibility for developing it?

Mr PALLAS: I will pass to Mr O'Connor to have a look at that—all yours, Matt. Page 205, is it?

Ms VALLENCE: 295, budget paper 3.

Mr O'CONNOR: Thanks for the question, Ms Vallenge. The strategy is being developed by my department in consultation with the Building Industry Consultative Council, which is a council made up of various stakeholders within the construction industry—unions, employers and government representatives. We engaged a consultant, Ms Lisa Heap, to develop some material to deal with various strategies in relation to increasing the participation of women in the industry. That is currently being considered by the BICC, and the BICC is coming back to government with proposals around how to implement some of those strategies.

Ms VALLENCE: So with the BICC, can you confirm that the CFMEU boss, John Setka, is on the BICC?

Mr O'CONNOR: He is a member; yes.

Ms VALLENCE: How much is he paid for this job?

Mr O'CONNOR: I am not sure; I would have to take that on notice. It is a consultative committee, and I do not think that it is a body where fees are paid for attendance by the members, but I can take that on notice and come back to you.

Ms VALLENCE: Thank you. Since the CFMEU state secretary, John Setka, is about to plead guilty for charges of harassment against a woman and the breaching of court orders, do you think that he should still sit on this council?

The CHAIR: This is the Public Accounts and Estimates Committee. Calling for a judgement call in that relation is something that I rule out of order.

Ms VALLENCE: Given that Mr Setka is actually on the board of the BICC, which informs this strategy and is part of this spend of \$500 000 in budget paper 3, page 295, I think—

The CHAIR: You will note, Ms Vallence, that I did not rule out of order your question about his salary, but whether or not the public servant at the table thinks he is fit to sit in that position is something very different.

Ms VALLENCE: I will ask the minister that question. Do you think that it is appropriate for Mr Setka to continue to sit on that board?

The CHAIR: And I will still rule that out of order.

Ms VALLENCE: Minister, do you think it is appropriate that persons who plead guilty to offences of harassing women should sit on government boards?

The CHAIR: I will still rule that out of order.

Mr D O'BRIEN: Chair, on what basis are you ruling it out of order?

The CHAIR: Because it has nothing to do with public accounts and estimates, Mr O'Brien.

Mr D O'BRIEN: Absolutely it does, Chair—

The CHAIR: No, it does not.

Mr D O'BRIEN: because we have just established that it related to \$500 000 of taxpayer spending.

The CHAIR: Mr O'Brien, in fact—and I think I have been pretty consistent in the last few rulings—I allowed the question in relation to the salary, but a question as to whether somebody is a fit and proper person to maintain a role is well outside of the scope of what is a public accounts and estimates inquiry. You have other opportunities through the Parliament—whether you wish to raise it in question time or otherwise—in relation to these matters, but in relation to this committee, I think my view has been well made.

Ms VALLENCE: Given that it is \$500 000 of taxpayer dollars on women in construction, which is not necessarily a bad thing, and the council is responsible for the strategy relating to this spend, Minister, can you confirm that of the 17 people who sit on the council, only three are women?

Mr PALLAS: Well, can I say that this is exactly the issue that we are attempting to deal with. If this was a workforce that was reflective of the demographics of the population, we would have more women in construction. The government is making very clear and deliberate efforts to try and ensure that we continue to employ, and encourage the employment of, women in this industry. So yes, the BICC may well have a disproportionately high number of men on it, but that is broadly reflective of the problem we are attempting to rectify here.

Ms VALLENCE: So will you ask Mr Setka to stand down at the conclusion of this hearing to allow for more women?

The CHAIR: Again, I am going to rule the question out of scope.

Mr D O'BRIEN: Chair, you cannot just knock out questions that you do not like the sound of. You have to give us a reason under the standing orders as to why we cannot ask this question, and you have so far failed to do so.

Mr RICHARDSON: Danny can scream and rant, but on a point of order, Chair, the Public Accounts and Estimates Committee is quite clearly on public accounts and estimates and not value judgements of the government. If we want to get into that that is probably another—

Mr RIORDAN: This government allegedly lives by its values. It is \$500 000 being spent—

Mr RICHARDSON: You can have your chance to direct a point of order rather than screaming and ranting. Can we have a bit of a decorum maybe.

The CHAIR: Can I just put people on guard to be somewhat careful in relation to individuals where there are matters that are still before the courts and—

Mr D O'BRIEN: It is entirely up to the minister to answer that, Chair.

The CHAIR: No, I have ruled that it is not, Mr O'Brien. You can disagree with my ruling, and I respect that, but you should be respectful of the ruling as well.

Ms VALLENCE: So on the basis that that is before the courts, I think the question still stands as appropriate, that persons who plead guilty to offences for harassing women should sit on government boards, Treasurer.

The CHAIR: Again, I will rule that question out of order. You are asking for judgement calls that are outside of the scope of what the estimates committee is. There is no relationship with the funding source or the notion of that monetary value whatsoever. If you would like to put that question in—

Mr D O'BRIEN: So we are still running a protection racket for John Setka here?

The CHAIR: I find that highly offensive.

Mr D O'BRIEN: Well, let us ask a question.

The CHAIR: Irrespective of that, I now pass over to you, Mr Hibbins.

Mr HIBBINS: Thank you for appearing. I just want to go back to public sector jobs and wages and the efficiency dividend—

Mr RIORDAN: On a point of order, Chair, I think you have robbed us of a minute there.

The CHAIR: I think you robbed yourselves of that. Over to you, Mr Hibbins.

Mr HIBBINS: Just the justification for the efficiency dividend. You have pointed to the need to be efficient and you have pointed to the loss in stamp duty revenue, but I am just wondering how you square off \$1.8 billion in cuts to the public sector when you have got an \$1.3 billion surplus over the forward estimates?

Mr PALLAS: Well, I do not accept the way that you represent the idea of an efficiency dividend. It is not cuts; it is a redirection of effort. As I have previously indicated, Mr Hibbins, when as a government we redirected effort to the tune of \$1.3 billion in our domestic violence effort—\$1.9 billion worth of effort but \$1.3 billion worth of redirected effort—it does not necessarily mean, and overwhelmingly did not mean in that case, that people lost their jobs. But if you are suggesting the government should just keep layering additional expense on the taxpayer's back simply because they are not prepared to go out and have a look at whether or not services can be more efficiently delivered and workers can be more gainfully directed towards the priority of the government of the day, I disagree with you.

Mr HIBBINS: I would like to just touch on the provision of superannuation payments for employees on maternity leave. Will this be a standard feature of EBAs moving forward?

Mr PALLAS: Of?

Mr HIBBINS: EBAs—bargaining agreements.

Mr O'CONNOR: That is under consideration at the moment.

Mr HIBBINS: It is under consideration as part of government policy or as a part of EBA negotiations?

Mr O'CONNOR: The government is gearing up for a round of enterprise bargaining this year. We have a range of major agreements that are on the table, starting with Ambulance Victoria, the VPS and Victoria Police. The bargaining strategies for those agreements are being worked through at the moment, and that matter will be under consideration along with a range of others.

Mr HIBBINS: So they may have to trade away other benefits. It will be on the negotiating table, not a standard feature of the agreements?

Mr O'CONNOR: As I said, that is under consideration at the moment and the government has not made a final decision about those matters.

Mr PALLAS: And, to be clear, it is not the government's intention to seek to wind back entitlements in any material respect around superannuation. We see this as a commitment of the government to our workforce that they can feel assured that arrangements in place—

The CHAIR: Forgive me for interrupting you now for probably the third time today. Can I say thank you to you, Mr Hibbins, and to all of the members of PAEC. Unfortunately your time has now officially come to a close. Thank you very much for appearing before the committee today. The committee will follow up on questions taken on notice in writing, and responses will be required within 10 working days of the committee's request.

Witnesses withdrew.