

**CONSTRUCTION INDUSTRY PORTABLE PAID LONG SERVICE  
LEAVE AMENDMENT (COVID-19 RESPONSE) BILL 2020**

*Second Reading*

Resumed from 15 October.

**MR P.A. KATSAMBANIS (Hillarys)** [4.05 pm]: I rise as the lead speaker for the opposition on the Construction Industry Portable Paid Long Service Leave Amendment (COVID-19 Response) Bill 2020. This bill has been brought in by the government in its overall response to the COVID-19 pandemic as a form of relief for a segment of the Western Australian workforce. As a result, the opposition will support the passage of this legislation—we do not intend to hold it up for too long—so that the benefits can flow. As many members would be aware, workers in the construction industry have access to a portable paid long service leave scheme that is centrally administered. It is a recognition that in many other industries someone can start with an employer and continue working with them for a long time and in that way can be entitled to long service leave, whereas many jobs in construction are project based, and construction workers move from project to project. They are continually gainfully employed within the industry, but their employers may change over time. Many years ago, I think as far back as 1985, this scheme was put into place as an additional benefit for workers in the construction industry so that they could enjoy the benefits of long service leave like long-term employees do in other industries, recognising the unique nature of employment in that industry. Some may argue that it also sets up a bit of a protection mechanism for employees against some of the more nefarious practices that have occurred in the construction industry over time, such as phoenixing and the like, and we touched on some of those issues in the debate on the bill that was third read just a moment ago. The bill's primary purpose, of course, is to provide these employees with access to a form of long service leave that is different from that of the rest of the workforce.

Ordinarily, employees who are involved in the scheme that trades as MyLeave in Western Australia and who are entitled to long service leave through the scheme would ordinarily qualify for long service leave on a pro rata basis after seven years of continuous service in that scheme. Long service itself is defined in the primary act by reference to ordinary hours worked. In bringing in this legislation, the government wants to provide a temporary period of 12 months during the COVID recovery phase in which pro rata access to this scheme can be expedited so that it does not have to commence at seven years, but after five years of service and membership of the MyLeave scheme. It does not change the pro rata entitlement of employees, so they would be getting the amount of long service leave that they would have been entitled to after seven years, which I think is currently around 6.1 weeks, but after five years they would be entitled to 4.3 weeks of leave, and that would ratchet up according to their period of service through to the 6.1 weeks after seven years. The government sees this as an opportunity to offer financial assistance to some workers who may not necessarily be able to access employment during the COVID recovery phase and probably also—I do not think this is spelt out in the second reading speech or the explanatory memorandum—as a bit of a stimulus package as the economy recovers and gets back to normal during and after the COVID pandemic. Hopefully, we get to that end stage sooner rather than later. There has been some encouraging news overnight about perhaps having a successful or viable vaccine, and we wish that all the very best.

The move by the government to introduce this bill to allow earlier access to long service leave entitlements for workers in the construction industry follows on from a decision it made very early on in the pandemic, which the opposition also supported, whereby the levy that is paid by employers so that their employees can have the benefit of this scheme was reduced. The usual levy is one per cent of ordinary rates of pay, and that was reduced quite markedly—it was a very large percentage reduction—to 0.01 per cent as a contribution between 1 July 2020 and 31 December 2020 to give employers a little bit of relief. I think it probably also indicates that the scheme itself is on a pretty good financial footing and it would not have suffered greatly with a temporary reduction in the entitlements.

We do not object to this move by the government. It will be temporary; it will be for only 12 months during the COVID recovery phase. Employees would have been entitled to these funds anyway; they would just be bringing them forward should they wish to do so. There is no compulsion on anyone to take up this measure. Workers will get a choice: for a 12-month period, they can fast-forward their long service leave from seven years pro rata to a pro rata amount after five years or any period between five years and seven years, or they can let it accumulate and get the benefit of it at a later date.

Interestingly, although this is couched as a financial assistance measure, there is no requirement for the employee who seeks this relief to prove any form of financial hardship. I extrapolate that the minister will respond to that by saying that that would be both onerous and administratively burdensome, and, really, we are talking about a 12-month temporary relief period. It should be noted that there is no requirement to prove financial hardship. It is a choice by the employee. They can choose to have earlier access to this long service leave on a pro rata basis whether or not they are suffering financial hardship. I see that the minister might want to make an interjection. I relate that to my

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earlier comment that apart from a financial assistance measure, there is an element of supposed stimulus to this. Again, I am just pointing it out. Did the minister want to make an interjection?

**Mr W.J. Johnston:** I just point out that they have to exit the industry to get the payment.

**Mr P.A. KATSAMBANIS:** People have to exit the industry. They can exit and re-enter.

**Mr W.J. Johnston:** Yes, of course, but this is significant. They can't just say that they want the money; they have to cease employment, because they can't get it if they're still accruing leave.

**Mr P.A. KATSAMBANIS:** I understand that. The minister says that people have to exit the industry, but it is the nature of the scheme in the industry that they can exit for a while and then come back, and they start again when they come back. If they take it, their long service leave is gone, but then they start again. It is a choice by the employee. They can make that choice based on all sorts of factors. Some people might simply decide that they need a welcome break. That will be up to them. That is why the government is setting up the scheme. There will be no need to prove financial hardship. That is fine. We do not object to that; we are simply pointing that out.

One issue that has been pointed out to the opposition by a whole range of stakeholders, such as people who run businesses in the construction sector, including subcontractors and the like, not just representative bodies, is that because of a whole range of other stimulus packages, including federal and state government stimulus packages in both the housing construction industry and the civil construction industry through bringing forward works, fast-tracking many road, rail and transport projects, the construction of apartment buildings and the boost to first home owner grants, significant constraints are already appearing in the labour market in the construction industry. Some trades in particular are in very high demand. Many people in the construction industry fear that in the next 12 months, the same bottlenecks will appear in the industry as appeared during the previous mining construction boom about a decade or so ago. There is a fear that if people choose to exit the industry at a time when demand for their types of services is going up, it will exacerbate that bottleneck and it will further exacerbate labour shortages in the construction industry at a time when we can least afford to have those labour shortages, when both state and federal governments are encouraging works to continue apace and also when labour mobility is at the lowest level it has ever been, certainly in my lifetime. It is essentially almost impossible to bring labour in from overseas, and, as we have seen, especially in the last six to nine months, mobility between states has been severely restricted. Unless we come up with a viable long-term plan to either deal with COVID as an ongoing scenario or eliminate it via a vaccine, a cure or some other matter, there is a real possibility of again having hard state borders. I think it is a fair concern within the construction industry that although well intentioned, this legislation to allow people to exit the industry, as the minister said, and take long service leave earlier than they otherwise would have may exacerbate those skilled labour shortages, and we do not want that to happen.

Of course, at the heart of this legislation is choice by the employees. I imagine that the vast majority of workers, unless they have other non-work-related concerns—it could be health or family concerns or they just need a break—would choose to continue to work at a time when their skills were in high demand, especially if that demand led to an escalation in remuneration, which is another issue that society will confront as this massive building and construction boom continues to escalate in response to the pandemic and its economic consequences. It is symptomatic. I am not criticising it in any way. It is simply what happens when there is high demand for anything, particularly labour. If there is high demand for labour, there is a labour shortage. The only real response is to find more labour or import people and train them up, which is always preferable, or to increase the pay rates and encourage people to stay in or enter the industry. That is what is likely to happen, but, as I said, at the heart of it is choice. We are not criticising it; we are just pointing out what industry has told us. That is self-evident at a time when there is increasing demand. We are told every day—the Treasurer and the Premier come in here and tell us all the time—how fantastic our building and construction industry is going. The Minister for Transport keeps announcing and re-announcing and re-announcing various transport projects that all require construction. It is almost paradoxical to be debating a bill that, at its heart, is about providing financial assistance to people who may have otherwise been very, very badly inconvenienced by a lack of available employment at a time when the sector and the government are telling us that that sector is booming. As the minister said—I am now saying it—at the heart of it is employee choice. Employees will make a decision that best suits them, and I have no doubt that employees will make the right decisions based on their own circumstances.

This bill does a few other things. It clarifies beyond doubt, because I think there is significant doubt, how days of service are to be calculated for the JobKeeper assistance scheme that the federal government introduced as one of the first measures in response to the pandemic. As I said, the construction industry seems to be booming. I consulted with the Civil Contractors Federation about the bill and was told that it does not think the bill will have much of an impact on it because the sector is booming. People have not lost their job. They are not on JobKeeper because there is a lot of work, although I accept that some people from segments of the construction industry either have been on JobKeeper or may still be on JobKeeper, and they need to be treated fairly. The bill adjusts how days of

service are calculated to ensure that for the purposes of qualifying for this portable paid long service leave scheme, those periods of being stood down will be treated as days of service when people are paid JobKeeper assistance or, more generally, they are stood down but their employment is not terminated, either with or without the JobKeeper payment. I believe that is a permanent change. The minister will correct me if I am wrong. That change will continue to apply to standdown periods after we eventually exit out of the JobKeeper period. I do not think there is anything wrong with that. I think it is pretty fair. As I said, the Civil Contractors Federation and various other groups, including the Master Builders Association, have told us that it is very unlikely many workers would have been stood down due to the pandemic here because of the fast-tracking of projects. However, at the very least, it is a safeguard that may be utilised in the future.

The opposition has consulted very widely on this bill. We have consult with the MBA, the Chamber of Commerce and Industry of Western Australia, the Property Council of Australia, the Civil Contractors Federation and the Western Australian branch of the CFMEU—or is it CFMMEU? I am not sure. Members on the other side will be able to correct me. I think in Western Australia it still has only one “M” in its name.

**Mr W.J. Johnston:** It depends whether it is the state or federal union.

**Mr P.A. KATSAMBANIS:** The state union has one “M” and the federal union has two.

Irrespective of that, we recognise that they are the key stakeholder organisations. None of them has raised any major objections but they have all mentioned the fear of a looming labour shortage. It is a real problem. I do not think this bill will impact on that, to be honest. I have great faith in employees and employers to work out that part of it. Whether an employee gets access to long service leave is their choice. We know of people who take it as soon as they accrue it and others who do not take it but keep it accruing. That is their choice, and I will not interfere with that choice. As I said, I have faith that people will work out what suits them best. Irrespective of this bill, there is a serious labour shortage coming, as construction ramps up across all sectors, including in civil and home construction and, hopefully in the future, in commercial construction. Maybe in the commercial construction sector office buildings in the CBD are not being built at a great rate of knots, but we have still seen announcements such as the buildings that are coming onstream at Elizabeth Quay and the like. They are adding to the demand for labour in the construction industry and we have to address that. We do not want to be in the same circumstance the state was in a decade ago, especially when mobility is very, very constrained. We want to train our own young people and reskill older people as well, but we know that takes time. There will be demand for experienced hands right now or very soon. Everyone in the industry I have spoken to has been very cognisant of that. They have pointed it out to me and they rightly think that policymakers need to be aware of it, particularly in the context of how we continue to utilise the mobility of human capital—people—in a COVID environment.

If COVID is to continue as a real, genuine issue in our society, we have to find a way to protect our community while at the same time keeping our economy going. Part of that will mean making sure that we can secure the labour force that is required here in Western Australia, be it in construction industry, the mining, oil and gas industry or the agricultural industry so that we can benefit from economic prosperity rather than be constrained by the fear that the positions will not be filled, as has happened in the past. Unfortunately, I hear that is happening in the agricultural sector as we speak. I am sure that my colleagues who are closer to that sector than me will tell us that. Although, from my days as a representative of the North Metropolitan Region, I have very good contacts throughout Carabooda, Wanneroo and the absolutely amazing food bowl that we have in what is otherwise essentially metropolitan Perth. I hear from those people all the time that they are crying out for workers but they cannot find them. They are worried that in the imminent future, they will have even bigger problems attracting a labour force and that that will lead to significant consequences for Western Australian and Australian consumers, because their products go to not only Western Australia, but also Australia and the world. They are world-class products and we do not want to see them going to waste either from a food security point of view or, obviously, from an economic point of view. We do not want to see the cost of living rise for ordinary Western Australian households. It is the same for construction and across all the industries. Hopefully, the government takes that into account, as it is doing today. I recognise that it will not be an easy fix and that our international borders will not be open slather tomorrow. I recognise that although the border position is softening, and rightly so, as a response to what is happening in the other states, there may be a need in the future to implement more constraints again based on what is happening here and in other places across the country and across the world. We are in a very unpredictable environment and we need to recognise that the situation is extremely fluid. At the heart of it, we need to do a balancing act between protecting our community from a virus that is dangerous, and in many cases catastrophic, and ensuring that our economic prosperity continues as much as possible.

This bill is a tiny part of that. As I said, it purports to offer financial assistance to workers in the construction industry who have suffered hardship and want early access to their long service leave entitlements. I think about 18 500 workers in Western Australia fall under this scheme. The minister may have an updated figure, but that is the latest figure that I have. The bill also clarifies the standdown provisions to ensure that if a person is on JobKeeper or is stood down outside of JobKeeper, their days of days of service will continue to accrue for the purpose of eligibility for the

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scheme. Eligible employees will be able to access their portable paid long service leave from five years onwards for a 12-month period, providing them with a slight benefit should they want to take it; and, if they choose not to do so, they can let their leave accrue. After that 12-month period, the opportunity to take their portable paid long service leave in that window of between five and seven years of service and membership of the scheme will evaporate and it will go back to seven years.

I have raised the issues that I believe are relevant to this bill. We support the bill. At the heart of it, employees will choose the pathway that best suits them and their families, and that is a great thing. However, we need to be cognisant of the fact that despite this bill being couched in terms of the financial hardship caused by lack of employment, the real issue that the construction industry is talking to us about is the lack of qualified people to deal with the pipeline of work that exists now and will come up in the foreseeable future. I hope the government will not turn a blind eye to that. It is a genuine issue that will impact on all Western Australians if it is not dealt with quickly.

**MR D.T. REDMAN (Warren–Blackwood)** [4.32 pm]: I want to make some comments on the Construction Industry Portable Paid Long Service Leave Amendment (COVID-19 Response) Bill 2020. I highlight that I am not the lead speaker for the Nationals WA on this bill; that is the member for North West Central. I want to cover off on this bill today in his absence.

The member for Hillarys made a number of very accurate comments about this bill. I understand the intent of the bill and the range of provisions in the bill. It will be interesting to hear from the Minister for Commerce about whether the issues that were raised in the genesis of this bill are still playing out. I suspect that the drafting of this bill would have taken some time and that it would have gone through the cabinet process a while ago. One of the main points raised by the member for Hillarys was the status of the workforce in Western Australia now as we are coming out of the COVID-19 restrictions compared with the situation some months ago. A number of stimulus packages have been provided by both the state and the federal government. Stimulus packages have also been provided for the resource and construction sectors. Another challenge is getting a workforce, as distinct from managing the financial stresses that people in the workforce are going through.

One of the goals in this bill is the provision of financial relief. I guess that is the point made by the member for Hillarys. It is interesting that the bill does not provide for a hardship test. The feedback that was given to the National Party was that a hardship test would be too difficult to apply. That is probably not dissimilar to the stimulus support that was provided by the federal government in enabling people to access up to \$20 000 of their superannuation. Although a hardship test was attached to that, that was a relatively low bar to jump over. The provisions in this bill are similar. The bill will enable employees to gain early access to a resource that belongs to them, as a strategy to provide financial support. I would be interested to hear from the Minister for Commerce whether the financial environment that existed at the genesis of this bill is the same as the one that exists today, and whether this financial relief is as necessary today as it was when this bill was first drafted.

It is unclear what level of stimulus will be provided by this bill. It will depend upon how many employees choose to take up the option of accessing their long service leave entitlements after five years of service, with special provisions over the course of a 12-month period. It will also depend upon how many employers will allow their employees to take early access to their long service leave. Another issue is that some employees may choose to cash out their long service leave entitlement and put that cash into the economy, recognising, of course, that some of that money will go straight to Canberra because that income will be taxable.

Another goal of the bill is to fix up some anomalies in the treatment of the standdown provisions in the context of long service leave entitlements. That seems fair and reasonable.

The total provision in this bill is \$160 million if the 18 500 employees who are entitled to this provision were to take it up. That is a fairly significant amount of money. My colleague the member for North West Central has done a fair amount of consultation on this bill. I note that the Master Builders Association of Western Australia supports this bill, as do the Nationals of course. It noted that it is now some months after the initial COVID restrictions, which had a significant impact on the building and construction workforce in Western Australia. The MBA is satisfied that employers will make the call about whether staff members will be allowed to use these provisions. I am sure employers will not allow their staff to use these long service leave provisions if that will put their business at risk. As I have said, workers may also choose to cash out their benefit and put it into their bank account for a range of reasons. The second point that was raised by the MBA was whether this bill would impact on the contributions of employers. My understanding is that it will not. The minister might like to clarify that. We want to ensure that in putting up what is a reasonable bill for these times, given the special issues we have to face in Western Australia this year, this bill will not have a flow-on impact on employers and the special arrangements that apply to the workforce under the Construction Industry Portable Paid Long Service Leave Act 1985. I would like the minister to confirm that.

A number of questions have been raised by my colleagues. I think the Minister for Industrial Relations will be more than capable of responding to these in his reply to the second reading debate. How many workers does the government think

will take up the new changes? It will be interesting to hear whether any modelling has been done on that and the flowthrough impact on the construction sector in Western Australia. Who has the government consulted with? What key industry groups have been consulted with to garner support for this bill? Are all those sectors supportive of the changes? I am sure that the minister will be able to respond to that. The point that the member for Hillarys and I have made is that, given that Western Australia has a worker shortage, will these changes mean that workers will take the pay and not the work? What decision does the minister believe workers will make if they have access to this leave entitlement that they would not otherwise have had? Will they take the leave or will they take the cash and put it in the bank? That being said, the minister's response to these questions will not change the view of the Nationals WA; we will be supportive of this bill. We are certainly in a very unique environment and need to back the government on initiatives that we think will add value to our capacity to respond to the COVID issue here in Western Australia. The changes that this bill will put forward seem to be a smart response that will get sensible outcomes. For that reason and because of the consultation that we have had with the sectors that will be impacted by this legislation, the National Party will be supporting this bill. I look forward to hearing the minister's response to the second reading debate.

**MS C.M. ROWE (Belmont)** [4.41 pm]: I rise today to speak on the Construction Industry Portable Paid Long Service Leave Amendment (COVID-19 Response) Bill 2020. I would like to take this opportunity to congratulate the Minister for Industrial Relations for yet again bringing something to this house that highlights his commitment to workers. I think he should be really proud of this.

If this bill is passed, it will provide financial relief to workers in the construction industry. I listened to the previous two contributions and I am very pleased to hear that the Nationals WA will be supporting this bill. If it turns out that workers do not need to access their entitlements, they will be able to continue to work; it is, of course, not compulsory at all.

This bill has three main elements. Firstly, it will allow early access to long service leave benefits for workers in the construction industry, after five years rather than after seven years as it is at the moment. It will be for a temporary 12-month period and is part of the government's COVID recovery plan. Secondly, as a consequence of the first element, this bill will stimulate the economy by releasing these funds to workers. Thirdly, this bill will allow construction workers to accrue service during periods of standdown. People in the industry have been calling for that for many years now, as has the Construction, Forestry, Maritime, Mining and Energy Union.

The financial effects of COVID-19 have been devastating for many people right across Western Australia. During the pandemic, many workers in a number of industries have been stood down, most especially in the construction industry. I note that the member for Hillarys mentioned that a lot of workers in the construction industry have been kept in jobs for the time being, likely thanks to a lot of our programs to stimulate the economy. That is really good, but in a pandemic there is uncertainty. Many people, maybe for the first time in their lives, are facing financial hardship the likes of which they probably have not seen before. Those in the construction industry have certainly had to weather the financial storm of COVID and may have to continue to do so for the foreseeable future as we move into the pandemic recovery period.

As I mentioned, workers in the construction industry have been requesting access to their accrued long service leave entitlements. They have been in contact with the minister, and the Construction, Forestry, Maritime, Mining and Energy Union has been a very vocal stakeholder in advocating for these benefits to members of Parliament. This legislation will allow workers to access these benefits, should they find themselves in financial hardship and need to, and will ease the burden of making ends meet. They will be accessing their own entitlements. We wanted to strike a balance between showing compassion for workers—which, as I mentioned, has been a real priority for this minister, and I am really proud of his work—and stimulating the economy. That has been a really key function of what the Premier and his team in cabinet have been doing from the moment that COVID-19 arrived on our doorstep.

This legislation aims to ensure relief for some 18 500 workers in the construction industry who are experiencing financial hardship. A significant number of people could benefit from this legislation. By enabling access to their pro rata long service leave entitlements after five years of service as opposed to the current seven years of service, we will be able to deliver this assistance very effectively and in a timely fashion. The bill stipulates that early access to long service leave entitlements will be restricted to a 12-month period as we move through the recovery phase from the COVID-19 pandemic.

Western Australian employees in the construction industry are provided with portable long service leave under the Construction Industry Portable Paid Long Service Leave Act 1985, which enables employees to retain their long service leave when they move between employers, which is very common in the construction industry. The scheme is funded through employer contributions, which are paid to the Construction Industry Long Service Leave Payments Board, which trades as MyLeave. MyLeave holds these entitlement funds on behalf of construction workers, almost like a trust. The scheme provides eight and two-thirds of a week of long service leave after 10 years of service. Employees can currently access pro rata entitlements after seven years. When the pandemic started to wreak havoc, workers in the construction industry started to request access, especially during this challenging time, to their accrued

entitlements prior to the seven-year vesting. We wanted to make sure we responded to that. The MyLeave board has considered in detail the proposal to bring it forward to five years and has looked at the actuarial research provided by PricewaterhouseCoopers. The actuarial review found that MyLeave would be able to accommodate these payments without affecting the scheme's long-term sustainability. As I mentioned, it will provide assistance to some 18 500 workers out of the 106 000 workers who are registered with the scheme. The benefits will vary depending on workers' wages and length of service. For employees in the scheme at an average weekly wage of \$1 610, the benefit could range from \$6 100 for 4.3 weeks of long service leave after five years to \$9 600 for 6.1 weeks of long service leave after seven years of service. It can vary a lot. Those payments will form part of a worker's taxable income.

Access will also be made available to those who had at least four years of service on 1 April 2020, which is when the pandemic really started to affect employment in these industries. Those employees may be able to accumulate more service days during the access period to get to five years. The financial effect of all workers accessing these entitlements would be \$160 million. If half of those workers were to take up the benefit, it would be \$80 million. It is estimated that it is unlikely that all workers will access those entitlements. As other members have noted, a number of workers have found themselves with plenty of opportunities for work in the construction industry because of our stimulus package, which is fantastic. However, it is critical that we ensure that those who have been stood down and cannot find work can get access to those entitlements and can do so urgently.

Another key element of this bill is that it addresses the anomaly of construction workers not being able to accumulate service if they are stood down. The COVID-19 pandemic has caused a rise in the number of employees, particularly in construction, who have been stood down. It is important to note that this anomaly is inconsistent with the state's Long Service Leave Act that allows workers in other industries to enjoy continuous services when they have been stood down. This means that employees in other industries are eligible for continuous services when stood down, but construction workers are not. Clearly, that is not fair for those working in the construction industry and it really needs to be rectified.

There is a need for us to treat this Construction Industry Portable Paid Long Service Leave Amendment (COVID-19 Response) Bill 2020 urgently so that the anticipated effects will benefit those experiencing financial hardship as a result of COVID-19, and to stimulate the economy through the COVID-19 period. The proposals in this bill have been advocated for by the union movement, especially the Construction, Forestry, Maritime, Mining and Energy Union, as I mentioned. I would like to take this opportunity to congratulate that union for continuing to fight for workers' rights at every opportunity.

I now take this opportunity to share a few emails that were sent to the Minister for Industrial Relations. I will keep them anonymous because it is important to highlight the human element of this because —

**Dr D.J. Honey:** You hacked his mail.

**Ms C.M. ROWE:** I assure the member that I did not hack his mail. I will read these emails out because it is important to highlight why we need to pass this bill quickly and why we need to consider this bill from a point of compassion. According to my notes, the first email to the minister states —

I am writing to ask for your consideration to allow for MyLeave which is the construction industry long service fund permission for early payment of my pro rata due to hardship as I am 94 days short of the required service days.

In 2015 I sustained a Workplace injury and am no longer able to do my trade, I have accessed all my super through C-BUS because of the injury sustained to make ends meet also trying to avoid going on the Government assistance as my wife and I have a Mortgage. I understand the Legislation does not allow for hardship; however with the COVID-19 the hardship becomes that little harder and although I receive Government assistance now since April 2020 I have exhausted all avenues to prevent that from happening.

Minister Johnston I am really pleading with you to please allow exemption at least in My case to have an early release of my pro rata through MyLeave which is 94 service days short of the required days under the Legislation due to hardship and being unable to work by cause of a Workplace Injury.

I will read another email in my notes that comes from a worker in the construction industry. It states —

I am a mining construction electrician whom like hundreds of thousands of other working people has been laid off due to the Covid-19 crises. I am writing to you upon recommendation from 'My Leave' WA to ask for an early pro rata payment approval via 'My Leave' of my long service leave to enable me to take care of my family in the imminent financial storm approaching (or that some say is already upon us) ...

I, like so many people whom have lost my job through no fault of my own ask for your help to access this payment of six weeks pay entitlement via 'My Leave' as no person there has the authority to action my request. I look forward to compassionate consideration of my request with the understanding that it will ease my family's financial burden.

**Extract from *Hansard***

[ASSEMBLY — Tuesday, 10 November 2020]

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I will read one final email from my notes. It states —

I am sending this email with regard to pushing forward legislation to provide instant access to our Long Service Leave entitlements for Construction Workers ... The legislation has been pushed through immediately in New South Wales to help workers and I as a West Australian Tax Payer expect the same. My personal issue is described briefly as desperate, I have been laid off from work, I have isolated with border lockdowns outside of Perth as of Tuesday. I have no access to any money until April 27 when these 'potential' benefits come into force. I have a family to support and I need access to money NOW. Can you please get the ball rolling immediately.

The emails really highlight that despite the construction programs going on all over the state, some people in this industry have been very much affected by COVID-19. We should keep their stories and their circumstances at the forefront of our mind as we deliberate over this bill. I hope that this bill will move swiftly through both houses of Parliament so that compassion can be provided to those workers experiencing extreme hardship. I commend the bill to the house.

**MR S.J. PRICE (Forrestfield)** [4.54 pm]: It gives me pleasure to rise and contribute to the debate on the Construction Industry Portable Paid Long Service Leave Amendment (COVID-19 Response) Bill 2020. I start by acknowledging the great work of the minister and his office to get this bill to us as quickly as possible to help alleviate some of the financial pressure on people who work within the building and construction industry and have been impacted by the COVID-19 pandemic.

I will talk a little bit about the history of this legislation that goes to show that the Labor Party is the party for workers. We listen and act to protect the best interests of workers within Western Australia. Workers have been crying out for assistance with this legislation due to the impacts of COVID-19. It is another bill in a line of bills that we have put through this place recently, including the modernisation of the Occupational Safety and Health Act with the introduction of an industrial manslaughter offence for the first time ever, reforms to the state industrial relations system, increases in occupational health and safety penalties for breaches of the act, and the list goes on.

The Construction Industry Portable Paid Long Service Leave Amendment (COVID-19 Response) Bill 2020 is a unique piece of legislation in Western Australia. It is quite interesting to go back and read *Hansard* when the original bill was first introduced by Mr Bob Pearce, the member for Armadale at the time, on behalf of the Minister for Minerals and Energy. On 17 September 1985, that bill was second read. It is interesting to read some of the comments made at the time. *Hansard* states —

This Government believes that harmonious and good industrial relations are essential to the development of Western Australia and to a rising standard of living for all citizens.

This government still has the same philosophy. It continues —

This Government recognises that business, both big and small, and unions and individuals are equally important in the process of achieving a balance in the social and industrial process. Progressive and stable government requires that they be treated as such.

Interestingly, in December 1983, a tripartite consultative council was established that was consistent with the recognition of, and central to, the government's industrial relations policy at the time. It states in *Hansard* —

Positive examples of how tripartite consultation through the council has led to legislation being presented to this Parliament are —

occupational health, safety and welfare; workers' compensation; and the Industrial Relations Act.

It goes on to state —

The Bill now before Parliament, The Construction Industry Portable Paid Long Service Leave Bill 1985 has also proceeded through the tripartite consultation process.

Interestingly enough, when it came to the introduction of that bill, it continues —

It should be noted at this stage that the broad agreement reached throughout the entire process of producing this Bill is in relation to the operation and implementation of the scheme only.

At the time, there were some divisions amongst opposition members who did not support the bill. It goes on to state —

The attitude of the parties to the areas where no consensus exists be recorded and conveyed to Government, those attitudes being —

Inclusion of contractors —

employers—oppose inclusion

unions—support inclusion

Retrospective application on introduction of the scheme—two years' bonus credits —

employers—oppose

unions—support

On the level of penalties to be levied for breaches, the employers opposed the level and, according to the union, the level proposed was appropriate.

At the time, a lot of consultation was taken into consideration in the development of the Construction Industry Portable Paid Long Service Leave Bill 1985. When it went through the house the one thing that was acknowledged by all parties was, and I quote from *Hansard* once again —

This industry is characterised by the short-term nature of employment contracts. This is an industry in which the mobility of labour is such that most employees are unlikely to become eligible for long service leave. Employers in the industry are able to receive service from their employees as do employers in other industries yet without in most cases having to pay long service leave.

In the absence of any portable arrangements current long service leave provisions in the construction industry are clearly inconsistent with the principles of justice and equity central to this Government's philosophy. This anomalous situation has been recognised and corrected in all of the other States and the ACT—with the exception of Queensland.

To establish the scheme, it was prescribed that a board would be set up to oversee and manage portable long service leave. The make-up of that board has changed over time so, essentially, it now comprises two people from employer representatives, whether they be from Master Builders WA or the Chamber of Commerce and Industry of Western Australia; and two people from employee representatives, whether they be from a union or multiple unions. Additionally, one person represents the minister's interests and there is one other person who, in the minister's opinion, represents the interests of employers in the construction industry. That board has worked pretty harmoniously ever since its introduction, and is testament to the fact, as we heard earlier, that something like 108 000 people have accumulated entitlements being managed by it.

The Construction Industry Portable Paid Long Service Leave Act itself is quite an interesting document. At the beginning, it has a very extensive definition of the construction industry. It states —

***construction industry*** means the industry —

- (a) of carrying out on a site the construction, erection, installation, reconstruction, re-erection, renovation, alteration, demolition or maintenance of or repairs to any of the following —

It refers to buildings; swimming pools; breakwaters; roads; works for the storage of water; works for the conveyance of sewerage and treatment; bridges; cooling towers; drill rigs; pipelines; generation, supply or transmission of electric power; pile driving structures; and works for preparation of sites for any building of works. The list is very broad and extensive and, as we can see, covers a lot of areas of construction within Western Australia. It also goes on to name a couple of exclusions that, until recently, had not been applied, which created a few issues at the time. It uses an interesting choice of words such as —

but does not include —

- (d) the carrying out of any work on ships;

That is because the maritime industry's own scheme sat alongside this. Unfortunately, in the last few years it was interpreted to mean that it excluded people working on offshore construction because they were working off the back of ships. Until that stage, offshore construction industries were quite happy to pay into this scheme, until it was challenged. Unfortunately, the wording did not support the union's interpretation of it. One day in the future that should be something that we look at.

The Construction Industry Portable Paid Long Service Leave Amendment (COVID-19 Response) Bill provides for early access to employees' entitlement under the act, and the act states that they have eight-and-two-third weeks after 10 years of service and a further four-and-a-third weeks after five years, allowing 13 weeks after 15 years of service, which is the standard entitlement. It refers to how it is calculated, whereby 220 days of service is regarded as one year of service, so after five years, an employee will get 1 100 days' worth of service, then access long service leave pro rata. It has taken the entitlement of every employee of a company to which the Long Service Act applies, and under our state Industrial Relations Act, has put it into a formula that can be applied to very sporadic work arrangements, which now and then has given workers within those industries access to an entitlement that everyone else had.

It is wonderful legislation. We now need to turn our minds to other industries that could benefit from a similar scheme. Over the years, work practices have changed for a lot of industries that, essentially, were long-term employment



opportunities that are not any more. Portable long service leave schemes apply to a couple of other industries such as the commercial cleaning industry in Victoria or New South Wales. The mining and resources industry in Western Australia could benefit from such an approach with the change in dynamics of fly in, fly out work that occurs now. Given the short-term nature of work in the mining industry, it is very unusual to hear of anyone spending 30 or 40 years working for one company anymore, especially in the mining industry, as there are many opportunities out there and people can move around to further their careers. When I was doing some study a number of years ago they spoke of careers without boundaries, as opposed to a fenced career when people worked for the one employer for their whole working life. These days, people change jobs and work for multiple companies. As a result, the chance of accruing their entitlement and being able to take their long service leave is not there, so they are, essentially, missing out on their entitlement. The mining industry is one that would benefit from adopting something like this, as would catering and cleaning within the mining and resources sector, as would commercial cleaning, generally. We have a system that works. It is exactly like the Building and Construction Industry Training Fund into which two per cent of the cost of a building project goes, and that has been expanded to cover the resources sector. A system that worked was expanded to include the resources industry without having to reinvent the wheel. We could take a similar approach to portable paid long service leave. It is a system that works; we just need to expand its application. It is probably a conversation for another day but there is certainly opportunity to look at that into the future.

I quickly turn to the bill. As we have heard, the bill aims to achieve three outcomes. There is early access to long service leave benefits at five rather than seven years for a temporary period of 12 months. What is important is, firstly, it is ring-fencing, people will have limited opportunities for 12 months to get early access to their entitlement due to financial hardship. As we have heard, this bill will give people access to entitlements they already have. We heard that there are 108 000-odd people in this scheme. The scheme has approximately \$160 million in it, so we know that a lot of people's financial entitlements are being managed in this scheme. If people need to access their own entitlement, these changes will allow them to do that. The bill will provide pro rata access after five years, retrospectively applied to April this year, which, from memory, is when the JobKeeper payments were introduced. From what we have been told, early access to long service leave could benefit up to 18 500 workers in the scheme. This will all be managed through the board. As we have heard, the scheme will give people the opportunity to access finances that would not otherwise be available to them.

The second part of the bill is the COVID-related part, under which the money that will be accessed will then be used as an economic stimulus within communities. People who need financial assistance will have the opportunity to access additional funds, which they can then go and use as they wish. We know that the money that is to be accessed will be taxable. It is very important that people understand that it is not free money; it has been accrued as an entitlement. People will receive it as pay and it will therefore be taxable.

The possibility of such a significant amount of money coming out of the fund is something that people would normally be a little concerned about. Fortunately, the MyLeave board was already looking at a five-year pro rata scheme, which some employers have, so it had done some actuarial work on whether such a scheme should be introduced. The outcome of that was that the fund would be quite financially sustainable should the scheme be introduced.

Another anomaly that was identified and is being addressed is, of course, the issue of not accumulating long service leave whilst on standdown. As we have already heard, the construction industry was deemed essential, and a lot of people working within the industry carried on throughout the pandemic, which is great, but not everyone did. Some parts of the industry and people with certain skill sets were not able to carry on working.

[Member's time extended.]

**Mr S.J. PRICE:** Some people who traditionally work within the industry were impacted by the COVID restrictions, and it is those people we are trying to assist. However, rectifying the non-recognition of long service leave accrued during standdown is, once again, just bringing the legislation in line with every other worker who is covered by the industrial relations system. That should have been fixed anyway. It was highlighted by the COVID pandemic and we are now able to fix it.

This bill will bring further relief through a reduction of the levy for companies that pay into the scheme. Financial relief has already been provided to employers with a levy reduction from one per cent to 0.01 per cent for six months from July 2020, which is a significant saving for companies that pay into the portable long service leave scheme.

As we have heard, we have a fabulous scheme in Western Australia. Many constituents within the seat of Forrestfield are working within the construction industry. Fortunately, many of them have been able to carry on uninterrupted thanks to the great work of Western Australians and the fact that our economy has been able to remain strong and carry on as much as possible. Other people have been quite severely impacted financially because of COVID, and this bill will go a long way to helping those people who are in financial hardship and need assistance.

It is pleasing to hear that this bill has the support of the opposition and the Nationals WA. It will be fabulous to see this legislation move through the other place as quickly as possible to enable people who need financial assistance to

Mr Peter Katsambanis; Mr Terry Redman; Ms Cassandra Rowe; Mr Stephen Price; Dr Tony Buti; Mr Bill Johnston

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access the scheme. Once again, I thank the minister for his expedient work in bringing this legislation to the house and I commend the bill to the house. Thank you.

**DR A.D. BUTI (Armadale)** [5.15 pm]: I rise to contribute to the debate on the Construction Industry Portable Paid Long Service Leave Amendment (COVID-19 Response) Bill 2020. The member for Forrestfield has given a good explanation of the rationale and some of the provisions in the bill, as has the member for Hillarys and the Nationals WA, so I do not intend to spend time going over the content to any great degree, but I will reiterate the objectives or things that are sought to be achieved by this bill. Obviously, the prime objective of the legislation is to ensure early access to long service leave benefits after five years rather than seven years for a temporary period of 12 months over the COVID recovery period. Also, as mentioned by the member for Forrestfield, up to 18 500 construction workers will most likely access the benefits of the release of this money, and that will of course provide a stimulus to the economy. The legislation will also allow construction workers to accrue long service leave during periods of standdown, which is very, very important.

Last week, I think during the historic passing of the industrial manslaughter legislation, the minister mentioned that he was at a function at which a member of the Labor Party said, “It’s for these reasons that I am a member of the Labor Party.” I think the work that Labor governments have done in improving benefits to workers in the construction industry is also a reason that many members are in the Labor Party. The member for Forrestfield is a former union official state secretary; he knows the worth of unions. The minister, as a long-term industrial advocate for a union, knows the benefits of unions. I want to bring this back to a more personal level, because my father worked in the construction industry for nearly all his life in Western Australia.

**Mr W.J. Johnston:** Was he a granite worker?

**Dr A.D. BUTI:** No; actually he was not a granite worker. Many people from Italy were, but he was not. He worked mainly in the construction industry up north and in Perth. He was involved in the construction of the three-tier stand at Subiaco Oval, the Hyatt Regency Perth hotel, Burswood Entertainment Complex and the District Court.

**Mr W.J. Johnston:** The Merlin!

**Dr A.D. BUTI:** The Merlin—that is right. He has been involved with a lot of buildings in Perth. As a child, watching and talking to my father, I became aware of the benefits of unions generally and what they in association with Labor governments have done to try to improve the lives of a lot of people in the construction industry. For instance, this bill obviously relates to the Construction Industry Portable Paid Long Service Leave Act 1985. That was incredibly important legislation because it provided a portable long service leave scheme for employees in the construction industry that was based on service to the industry rather than service to any one employer. As far as I am aware, prior to 1985, my father never got long service leave or superannuation. It was always interesting as a young child to know that some people who worked in the white-collar industry, in public service and certain corporate enterprises received superannuation but my father did not. I think that the stress put on the bodies of people who work in the construction industry should demand that there be super in the industry. Of course, there is super in the industry now, and we know the great key reforms that expanded superannuation to the whole workforce. We had a situation in which construction workers were not entitled to super. Before 1985, unless someone had worked with the same employer, they did not receive an accrual of long service leave.

There are other factors. I remember that my father would work six days a week. In the morning, he would get on the first train from Armadale, which would be at 5.30 or six o’clock. He would come into the city and work an eight or nine-hour day. He would have a 10 or 15-minute smoko around 10 o’clock and then a half-hour lunch, and that was it. He would do that day in, day out. The pay was okay, but it was not fantastic. At the end of the week, he would come home with his pay in cash in a little envelope. My father came out from Italy in 1951, and I think he started working in the construction industry in one form or another in the early 1960s. He would also work up north. It is interesting listening to the stresses, strains and hardship of people being separated through hard borders et cetera. It can be very stressful and it can be a hardship not to see family members, but I remember periods of time when I did not see my father for a year. There were no fly in, fly out workers. Dad would go up north and work for a year and then come home. If he went away up north, it was normal for him to work at least six or seven months before he would come home, and the living conditions were not that great. My dad was a member of the Builders Labourers Federation, which then became the Construction, Forestry, Maritime, Mining and Energy Union.

**Mr P.A. Katsambanis:** The Building Workers’ Industrial Union?

**Dr A.D. BUTI:** Yes, maybe.

**Mr P.A. Katsambanis:** It became the BWIU and then the CFMEU.

**Dr A.D. BUTI:** Yes.

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He was a member of the various iterations. He said that when he started working in the early 1960s, workers did not receive any benefits or protections. They worked in incredibly dangerous situations. He was lucky. His worst injury was that he lost half a finger. He lost half a finger working on the Hyatt Hotel, but there were a couple of other pretty close scares and he could have been one of those statistics that the minister addressed during debate on the industrial manslaughter legislation that passed this Parliament last week.

The construction industry is a tough industry. It has been only the cooperation of unions and generally—not always but nearly all the time—Labor governments that has created significant improvements in the working conditions of people in the construction industry. I must say that I get really annoyed when I hear people, generally on the other side, having this mantra that unions are bad and unions are terrible. If it were not for unions, the working conditions of people in the construction and other industries would be a lot worse than they are today. I know there is always a political dimension because of the connection between unions and the Labor Party. I understand that people can make those political arguments, but when it comes to the industrial relations conditions and the influence and role that unions play, they really should be mindful and careful of the criticisms they make. I can assure them that, from personal experience, the work that unions have done in cooperation with the Labor Party in improving the conditions of workers has been significant, and no more so than in the construction industry. The 1985 act was incredibly significant, because there was no security of employment for my father. He would have a job, it would finish and then he would have to walk up and down the Terrace hoping to get another job. There was no ability for an employee to take long service leave with them until 1985. I remember the early 1980s when we were in a recession and the early 1990s when we were in a recession. Work was very hard to be found. That is why it annoys me when people say that there is always work out there. There is not always work out there. Of course, this is son–father loyalty here, but mention my father’s name—he has passed away now—to builders or construction companies in Australia and they would say that he was one of the hardest workers in construction. He was still working in construction in Bunbury in his late 60s and early 70s. He wanted to work, but there were certain times when there was just no work. It is important that we have the ability of Parliament, through governments, to bring legislation that improves the conditions of people in the construction history, and that is what we have with this bill.

When the minister gave his second reading speech on this bill after he had introduced it, he said —

The bill that I am introducing today achieves three things.

They were the three things I mentioned at the beginning of my contribution. He went on to say —

The COVID-19 global pandemic has had far-reaching economic impacts, resulting in financial hardship for many Western Australian families. Workers in the construction industry have felt these effects and moving forward may do so over the next 12 months during the recovery period. Some of these workers have sought assistance from the government and requested access to their accrued entitlements. The government believes that this is a fair and compassionate response that will also stimulate the economy.

That is true. The member for Forrestfield mentioned that through the good work of Western Australia and this government, we have not had to deal with the severe economic downturns that occurred in some jurisdictions around the world and in other states. We have done quite well. But that may change at some stage for many people in the construction industry. It is not easy for someone who has worked for most of their life in the construction history and who does not necessarily have any formal trade qualifications to find other work, because it just may not be there. The ability to access funds pursuant to this bill is very, very important. As the member for Forrestfield said, many people in his electorate who work in the construction industry will be happy with the benefits that will come out of this bill. They may not have to utilise them because they continue working, but some may have to utilise them. It is important just for their peace of mind to have the ability to access funds pro rata after five years rather than seven years.

Many workers have contacted the government seeking this sort of change. I was not here for the member for Belmont’s contribution, so I am not sure whether she went through any of these workers’ correspondence. Did she? I had better not go through them again, had I?

**Ms C.M. Rowe** interjected.

**Dr A.D. BUTI:** Then again, I was not here, so I will do so for my own gratification. I have an email sent on 30 March 2020 from Justice Gunning. He said that he was sending the email with regard to pushing forward legislation to provide instant access to long service leave entitlements for construction workers. He said that the legislation had been pushed through immediately in New South Wales to help workers and that, as a Western Australian taxpayer, he expected the same. He briefly described his personal issue as being desperate. He had been laid off from work, and as of the Tuesday before he wrote the email, he had been isolated in border lockdowns outside of Perth. He had no access to any money until 27 April when potential benefits would come into force. He had a family to support and needed to access money now. He asked us to please get the ball rolling immediately. There were emails from other people, all hoping for something along the lines of the bill before us. It is good that the Liberal and

National opposition supports this because it is commonsense. It is compassionate, it makes economic sense, and workers in the industry are asking for it to be acted on by this government. That is what I said.

It is great to have a minister who understands what it is like for a worker. We are all workers, but there are workers who are not in the privileged position that we may be in. They are workers who have worked in an area in which the benefits are nowhere near as great as they are for the professional classes—there is not security of employment and there can be potentially severe injuries. The debate we have about lifting the age of retirement is interesting. I think it is 67 years of age now. That is fine. I do not see myself retiring at the age of 67, but I am not working in a labouring position day in and day out. My personal view is that it might be difficult. I have no problem with lifting the retirement age for people in certain professions, but I think some leeway must be given for people who work in construction and other heavy labouring areas. My brother works in the construction area; he works for himself as a labourer. He has severe injuries; he wears a knee brace, but he continues to work. He is in his early 60s and has no other option but to continue to work. When we talk about increasing the retirement age, we have to understand that it is not possible for people in certain industries. Can members imagine any of us labouring for a day? We might get to lunchtime before we flake out, or we might do one day or maybe a week. The Whip might be able to go for a week; he is a young, strong man, but some of us might battle —

**Mr D.T. Redman:** We might flag a bit.

**Dr A.D. BUTI:** Yes, I reckon a lot of us would flag after a couple of days. That is why the bill before the house is really important. During this COVID-19 period, when we have had many, many challenges, it is incredibly important.

[Member's time extended.]

**Dr A.D. BUTI:** This bill will allow access to pro rata long service leave after five years rather than seven years. It will vary depending on the length of the worker's services and wages. On an average weekly wage of \$1 610 for employees in the scheme, the benefit will range from \$6 900 for 4.3 weeks' leave after five years of service to \$9 800 for 6.1 weeks' leave after seven years of service. These payments will form part of wages and will therefore be subject to normal income tax requirements.

I go back to the Construction Industry Portable Paid Long Service Leave Act 1985. It is a 1985 act, but it did not come into operation until 1987. Think about that. People in a lot of areas of work were able to take their long service leave entitlements with them from one employer to another, but the construction industry did not have that portable scheme until 1987. If any industry required it, it was the construction industry. Sometimes people worked for the same employer from project to project, but that employer had to have another project to go to and that often was not the case. If there was any industry in which workers should have had portable long service leave way before 1987, it was the construction industry. That was an incredibly significant piece of legislation by a Labor government, and this is an important development in long service leave benefits and the ability to access funds early in times of hardship.

As the son of a construction worker father, I do not think I have ever said this in this place, but I commend the work that Labor governments and the union movement have done to improve not only the economic benefits, but also the safety benefits for construction workers. As my father would say, safety was not an issue when he started. There was no protective gear and they would work in rain, hail or shine—whatever. It was only due to slowly advocating through industrial actions and political actions that improvements took place. Of course, people argue that the Construction, Forestry, Maritime, Mining and Energy Union is a very militant union, but the history of the Builders Labourers Federation and the Construction, Forestry, Mining and Energy Union in Western Australia shows that it is a pretty good union, particularly in relation to benefits for employees. When I started working as a lawyer in the 1990s with a law firm called Dwyer Durack, it was considered at that time to be the premier labour law firm in WA. It was the Slater and Gordon Lawyers of the 1990s. Many of the unions were represented by Dwyer Durack. It was amazing that the union paid for employees' legal representation to help with workers' compensation, unfair dismissal and other areas. I have always told people to join a union just because it will cover their legal costs.

**Mr W.J. Johnston:** Workers' comp.

**Dr A.D. BUTI:** Yes, workers' comp. It was amazing what unions provided to their members. I am not trying to be partisan or make a massive political statement, but I say to my friends on the other side of the aisle that before they too readily attack the unions, they should think about the benefits that they have provided for their members.

**MR W.J. JOHNSTON (Cannington — Minister for Industrial Relations)** [5.36 pm] — in reply: I am pleased to rise to close the debate on the Construction Industry Portable Paid Long Service Leave Amendment (COVID-19 Response) Bill 2020. Firstly, I make the comment that it is NAIDOC Week. I welcome the Minister for Aboriginal Affairs today noting NAIDOC Week on behalf of the government and I join with him in making that observation. It is always pleasing. It is unusual to be participating in NAIDOC Week in November instead of July, but it has been a crazy year because of COVID and that is what we have had to do.

Turning to the bill, I thank the Liberal Party and the National Party for their support of this legislation. This is important legislation. It is relatively minor in the great scheme of things, but it is important for the people it will touch. Quite a number of members, including the members for Forrestfield and Armadale, pointed out some of the history of the portable paid long service leave arrangements in the construction industry. There is no question that the construction industry requires a portable paid long service leave scheme because, as the members quite rightly pointed out, workers move from one employer to another on a more frequent basis as it is usually project-based employment and therefore a worker does not necessarily retain employment with one employer for long enough to qualify for long service leave. On the other hand, they stay in, and contribute their skills and capacity to, the industry, so it is unfair that they miss out on the opportunity that is afforded to other people who stay with an employer for a long time through other employment arrangements. Long service leave arrangements are certainly appropriate and, as the member for Armadale in particular outlined, very well established. The construction industry portable paid long service leave scheme has now effectively been in operation for 35 years. It is well established, well understood and well supported by industry. When I say “industry”, I mean the social partners—both employers and their representatives.

I also join with the member for Armadale in making the observation about belonging to a union. If there was no other reason to join a union, handling workers’ compensation would be enough. A number of people who have written to me about workers’ compensation got a long way through the process and then had an adverse outcome. As a former union workers’ compensation officer—something the Acting Speaker (Ms J.M. Freeman) did in a past life—I believe those cases would have been resolved easily with the assistance of a union, but those people missed out. This long service scheme is not the only benefit that unions have delivered for working people. As I said, even if for no other reason, just the risk of having to make a workers’ compensation claim is enough to lead people to join a union. All the international and Australian research shows that union workplaces are safe workplaces and higher-paid workplaces than non-union workplaces. That is another benefit of maintaining a union presence.

Questions were asked about the consultation that led to this bill. I make it clear that the Construction Industry Long Service Leave Payments Board, or MyLeave, is a bipartisan organisation. It has an independent chair but is made up of employer and employee representatives. Although it is a government agency, it operates with a great deal of independence. The consultation involved the board itself, representing its various interests, asking the government to bring this legislation forward. The member for Warren–Blackwood in particular asked what the genesis of the legislation was. Basically, when COVID hit, we feared that there would be six months of great disruption to the economy. That is when the federal government introduced the JobKeeper policy, which all the state government ministers applauded. Basically, we asked all the government agencies to tell us what they thought they could do to mitigate the risks arising from COVID, and the MyLeave board suggested two things. The first was the reduction in the levy from one per cent to 0.01 per cent. Originally, it was intended to be zero per cent but we found that under the act we had to set a fee, which is why it is 0.01 per cent. The second suggestion was to provide more flexibility for workers to access their entitlements. There was an expectation that there would be disruption in the industry and we wanted to take account of that by giving people the option of having early access to their long service leave benefits. That is the genesis of it.

In my portfolio as Minister for Mines and Petroleum, there were technical issues that involved two principal pieces of legislation relating to the Department of Mines, Industry Regulation and Safety—this one and the WorkCover legislation that we dealt with recently to allow people in the health industry to have presumptive workers’ compensation protection for COVID-19. It took a little while for the bills to go through the processes of government. Obviously, other bills were given much higher priority, and rightly so, by Parliamentary Counsel’s Office, and so it has taken a while for this bill get to the house. That is why we have not tried to rush it too much through here. We are using the regular standing orders rather than the COVID-specific standing orders. We urge the upper house to consider this bill but because it has gone so slowly up until now, there are many other bills in the upper house. Consultation was done through the MyLeave board and it unanimously recommended to government that this legislation be brought forward. As the member for Warren–Blackwood probably knows, the Chamber of Commerce and Industry of Western Australia and the Master Builders Association are represented on the MyLeave board, as are a range of union representatives. That is the genesis of the legislation.

The question about the number of employees is like asking how long a piece of string is. About 18 000 employees are covered by the scheme, but it is not clear how many will be able to access the early access arrangement. We had actuaries look at all these issues. The MyLeave investments are managed by the board, but with strong advice from its actuaries. The actuaries reviewed the balance in the fund and determined that the levy could effectively go to zero for six months and that would still provide sufficient reserves for the fund to continue to operate. The actuaries ran a series of scenarios about the number of withdrawals that might occur and examined that information to make sure that a reduction in the levy did not have an adverse impact on the balance of the funds and that the board could continue to provide the benefits that it is obliged to provide. Obviously, after the MyLeave board got its own actuarial advice and made its recommendations to me, I asked the board to have another look at it and run through it again

with the actuary because I was also afraid that perhaps the changes in the stock market might be a risk and impact on the investments. The actuary had a second look but came back with the same answer, which was that it is entirely secure, so we have reduced the levy to provide relief to employers. This bill is intended to provide relief to adversely affected employees.

Interestingly, I am advised that between the March and June quarter there was a four per cent reduction in the number of payments from employers based on the number of employees. That was a four per cent reduction in payroll in the sector covered by the scheme between those two quarters. That is probably not a large number when we think back to March and what we all thought might occur before July. A four per cent reduction is much less of a reduction than we all feared would occur. Members can see that not many people will withdraw from the industry and need to take up the early access to their long service leave benefit, which is good. The member for Hillarys pointed out that the government's good work managing the state's economy has meant that we now have the opposite problem in that the industry is saying that it is challenging to find labour rather than industry putting labour off. That is great news and a testament to the strong and stable leadership of the Premier of this state. I am pleased that the member for Hillarys has even recognised it himself. I also note that the Leader of the Opposition has endorsed the Premier's recovery plan. When the Premier announced the recovery plan, the Leader of the Opposition stated in public that she endorsed every element of it, which was interesting because it was before we had detailed all the elements.

**Dr A.D. Buti:** She has confidence.

**Mr W.J. JOHNSTON:** She has confidence in the strong and stable leadership that has kept Western Australia safe and strong. I welcome her endorsement of the Premier's plan and, again, I welcome the member for Hillarys' support for the government's efforts in keeping the construction industry going at full chat in Western Australia. Whether it is our careful management of the resources sector to ensure that it remains on a positive trajectory or whether it is our unprecedented public infrastructure investment, our leading, unprecedented level of investment in the housing construction sector or the building bonus that is providing a huge incentive for people to —

**Mr P.A. Katsambanis:** Are you going to give the feds any credit?

**Mr W.J. JOHNSTON:** I have. I think the JobKeeper scheme is a brilliant idea and has been absolutely critical to Western Australia. A few months ago in a debate during private members' business, I paid credit to that and pointed out to the opposition, and particularly that day to the Nationals WA, that here in Western Australia, as a government, we looked at what the commonwealth was doing and worked out how we could fit in with that work to get the best result. We did not go over the ground the commonwealth had already gone over; we did other work to make sure that the state was kept safe and strong. Indeed, I recall the debate here in June when the Liberal Party called for us to bring the border down. If that had occurred, it would have been a complete disaster, because we would not have been able to keep Western Australia safe and strong.

**Mr P.A. Katsambanis** interjected.

**Mr W.J. JOHNSTON:** If the member wants, I am happy to get the *Hansard*. The member for Darling Range read into *Hansard* and endorsed the content of a letter demanding that we bring down the border immediately. She criticised the Premier and the Labor government for not listening to what she was saying. I am very happy to get the *Hansard* and read that in. Perhaps I will come back to that after the dinner break.

It is the good leadership of this government that has kept Western Australia safe and strong. We listened to industry. We allowed industry to suggest a way forward for us in Western Australia. The social partners on the MyLeave board made two parallel suggestions. The first was the one that led to this bill, that being to allow workers to have early access to their long service leave. The second was to reduce the levy paid by building and construction industry employers by a significant amount—99 per cent—for six months to provide financial support to that industry.

Potentially, 18 000 people will benefit from this early access scheme. We ran through a range of scenarios with the actuaries, that being 20 per cent and 30 per cent early access, because we wanted to ensure that the scheme could cope with that. The September figures are not yet in, but for the period March to June, there was only a four per cent reduction. That is significantly less than we had feared. Therefore, members can see that the careful management of this government has kept MyLeave in a secure position. It is not in the interests of the government to undermine the scheme, because it is critical to workers in the building and construction industry.

Comments have been made that this arrangement can be compared with the arrangements for superannuation. It is true that there is no process for employees to gain early access to superannuation. The reason is that the cost of administration would be higher than the potential benefit. We do not ask people to show the need to take long service leave after it falls due. The reduction in the time frame to access the pro rata benefit is in the same category. It is an entitlement. People do not need to prove hardship to gain access to an entitlement. Indeed, had we taken that approach, the administration costs would have been too great. That contrasts with superannuation. Long service leave is intended to be taken while the worker is working. It is intended to allow a worker, having

Mr Peter Katsambanis; Mr Terry Redman; Ms Cassandra Rowe; Mr Stephen Price; Dr Tony Buti; Mr Bill Johnston

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completed a long period of employment, to take a break away from work. That is completely different from superannuation. Superannuation is about saving for retirement.

People say that superannuation is the worker's money. Of course it is the worker's money, but it is the worker's money for retirement. I make the point that in 1965, Singapore was expelled from the Federation of Malaysia. Singapore now has a standard of living that exceeds that of Australia. One of the principal reasons was the creation of the Singapore Central Provident Fund, which is the Singaporean superannuation scheme. That superannuation scheme requires not a 12 per cent or 15 per cent payment from the employer, but a 25 per cent payment.

Superannuation is about saving for retirement. Every dollar that is taken out of superannuation today in advance of a worker's retirement is money that the taxpayers will have to pay when that worker retires. It is not a zero-sum game. I have seen actuarial estimates that a \$10 000 withdrawal by a person under the age of 25 years is worth \$140 000 at retirement. That is an extraordinary negative outcome for working people in this country. It totally defeats the purpose of superannuation. Interestingly, some people say that if we did not have superannuation increases, we would have more wage increases. During the 50 or 60 years in which superannuation did not increase, wage increases were very low. Low superannuation increases equals low wage increases. It is not the other way around. During the period in which superannuation increased, wages also increased.

Further, an analysis that I had my department do shows that there is no evidence that workers in award-free occupations have had more wage increases than workers in award occupations. I make that point. The argument that has been put by the Chamber of Commerce and Industry and others is that if people are on a minimum wage outside the award system, their wages will increase faster than the regulated wage of people in the award system. However, that is not the case. We know that several million workers are not being paid superannuation because their employers are failing to comply with the law and there has been no effective enforcement. It is also a fact that no research can be found anywhere that shows that the wages of those workers have increased faster than the wages of those who are being paid their superannuation entitlements in accordance with the law. Imagine two people in the same occupation, one of whom is being paid superannuation and the other is not. The Chamber of Commerce and Industry says that the person who is not being paid superannuation will get a higher wage than the person who is being paid superannuation. However, according to the evidence, the reverse is true.

Therefore, this is not the same as the commonwealth government scheme. It is interesting that under the commonwealth government scheme, a person can withdraw \$10 000 from their super and put it back into their superannuation fund and get a \$3 000 tax offset. That is extraordinary. That is how badly designed it is. My son pointed that out to me. When he went from full-time to part-time employment, he was eligible to withdraw \$10 000 and put it straight back into his superannuation fund and get a \$3 000 tax offset. The evidence shows that most of the money that was withdrawn was saved. I have heard commentary from right-wing types that it is the worker's choice. They have taken money out of a long-term savings scheme that benefits the nation and benefits the person in retirement, and put it into short-term savings. That is neither a sensible outcome nor a sensible policy objective.

This is not a major reform. However, it is a welcome reform. It is supported by the industrial parties—the social partners. The expectation is that it will benefit 18 000 out of the 106 000 workers registered with the scheme. The bill picks up a couple of anomalies, such as workers who are stood down. Although a worker who is stood down does not accrue leave on their standdown days, they will not break their entitlement to leave. That small anomaly needed to be fixed, and this bill will do that. This is commonsense legislation and it should be supported.

Question put and passed.

Bill read a second time.

*Third Reading*

Bill read a third time, on motion by **Mr W.J. Johnston (Minister for Industrial Relations)**, and transmitted to the Council.

*Sitting suspended from 6.00 to 7.00 pm*