

The Queensland Public Sector: Recent Developments in Employment Relations

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With the incumbent Labor government embracing a recentralisation of industrial relations, public sector agencies in Queensland are experiencing a dramatic shift in the framework of employment relations. This paper discusses the approach of the previous Coalition government to managing the public sector workforce and the emerging approach of the Labor government. The comparison of contrasting governmental approaches to public sector employment relations throughout the 1990s suggests that successive governments have balanced very differently the three main pressures they have faced: political, managerialist and industrial relations.

Public sector employment relations have not had much time to gather dust in Queensland in recent years. Changes of government have been followed swiftly by changing policy and legislative frameworks for industrial relations generally and the public sector in particular — and there have been several changes of government. The Labor government of the early–mid 1990s, under the premiership of Wayne Goss, gave way to the conservative Borbidge–Sheldon Coalition government, which held office from 1996 to 1998, only to be replaced by the Beattie Labor government, currently in power. The Beattie government's policy has been to restore many traditional elements of the centralised industrial relations system that the Goss government had begun dismantling and the Borbidge–Sheldon government slashed and burnt. This paper charts the key trends in the industrial relations framework pertaining to Queensland's public sector workforce, with a focus on the 'core' agencies and their employees, and the implications of recent past and contemporary policies for public sector management and employment relations.

Industrial Relations Frameworks

On assuming office in February 1996, the Borbidge–Sheldon government took on, with alacrity, the project of emulating the industrial relations policy agenda of the federal Coalition government. The Queensland Liberal Minister for Training and Industrial Relations, Santo Santoro, was keen to follow the example of his federal counterpart, Peter Reith, who in late 1996 was busily reshaping the institutions and processes of Australian industrial relations. At federal level, Reith's policy agenda was to strip awards, divest the Australian Industrial Relations Commission of much of its function, put a noose around trade unions and, at the same time, inspire workers and employers across the country to enter into individual workplace agreements on wages and working conditions. The Queensland government made a conscious decision to become the first state to enact complementary legislation to Reith's federal initiatives (Santoro 1997:18–25; Lee 1997:29–50).

The subsequent Workplace Relations Act 1997 (Qld) largely mirrored the Workplace

Relations Act 1996 (Cwlth) in the key areas of awards, agreement-making and trade union regulation. In particular, it provided for the stripping of awards back to a basic set of 20 minimum standards, the abolition of paid rates awards, a reduced role for third-party intervention and the introduction of non-union collective and individual workplace agreements. In contrast to the federal system, the Queensland Industrial Relations Commission (the commission) would still play a substantial role in administering individual and collective workplace agreements. The Enterprise Commissioner, who was to approve certified agreements, was a member of the commission, and the government appointed to the newly created position of Employment Advocate the Chief Inspector, whose statutory responsibility was to ensure compliance with awards. Furthermore, the Queensland legislation generally excluded public sector employees from individualised agreement provisions.

Like its federal counterpart, however, the Workplace Relations Act 1997 (Qld) and the accompanying Industrial Organisations Act 1997 (Qld) tightened the regulation of trade unions and limited their activities. In 1996, in a speech strangely at odds with his government's legislative initiatives, Premier Borbidge declared one 'could be pro business without being anti-union' and promised that 'my door is always open to the union movement' (PSV, May 1996:9). However, as Hall (1998:78) noted, relations between the Borbidge government and public sector unions steadily deteriorated. This is not surprising given that the government's legislative package deemed illegal employment provisions that gave preference to unionists and provided non-members with legal protection, through both the Employment Advocate and the courts. It also restricted union access to work sites and limited union participation in negotiations over collective agreements. Under the certified agreement provisions, unions could only be party to an agreement in situations where at least one of their members was employed in the organisation, and employers could opt to bypass the union unless members specifically asked for their union's representation. The legislation also facilitated the establishment of enterprise unions.

The Beattie Labor Party assumed govern-

ment in mid-1998 with a commitment to reasserting a more traditional industrial relations model that stressed the twin pillars of statute and award for determining wages and conditions. In Opposition, the Queensland Labor Party promised to rebuild relations with the union movement and reverse much of the Coalition's agenda. In particular, it undertook, 'as a sign of good faith', to reinstate preference to unionist provisions in the public service (ALP 1998b). The party also detailed a number of other commitments: to restoring the breadth and depth of the award system, job security, a more equal distribution of working hours, trade unionism, the commission and other issues. In addition the Labor Party promised to establish, within six months of gaining office, a tripartite forum to oversee the process of industrial relations change (ALP 1998a).

On winning office in June 1998, the Beattie Labor government moved quickly to act on these commitments. First, it enacted the Workplace Relations Amendment Act 1998 (Qld) to halt award stripping, maintain the general conditions established in earlier legislation and abolish individual workplace agreements. Next, it appointed a high-profile, tripartite task force to review the state's industrial relations laws and explore options for legislative change. The resulting Industrial Relations Act 1999 (Qld) embodied the government's commitment to both pillars. The Act specified a range of statutory entitlements, most pertaining to various types of leave. It also sought to re-establish awards as the primary vehicle for setting wages and working conditions in Queensland. Reminiscent of the earlier 'managed decentralism', the 1999 Act provided an opportunity for parties to negotiate forms of flexibility through certified agreements. These were permitted if they passed a no-disadvantage test. The test, which required comparison of individual elements in agreements, was more stringent than under the previous legislation that had specified only a global test. In part reflecting the Labor Party's traditional commitment to trade unions, the 1999 Act also sought to reverse some of the previous statute's provisions that had imposed heavy restrictions on the role of trade unions. Not surprisingly, this attracted vehement criticism from Opposition parties. The Beattie government's approach to industrial relations was,

according to Opposition Leader Borbidge, a case of 'government of the unions, by the unions, for the unions' (Qld Parliament Debates 1998:1946). While stopping short of allowing union preference provisions, the legislation allowed agreements to include clauses that 'encouraged' union membership (s.110) and made it more complex for individuals to opt out of membership (ss.111–16). It also relaxed access provisions, making it easier for union representatives to meet with members (ss.372–3). More importantly, unions were given a much stronger role in enterprise bargaining.

The government was also keen to reassert the commission's centrality on the industrial relations stage. With its focus on alternative mechanisms for agreement making and dispute resolution, the 1997 Act had heavily pruned the role of the commission. Reasserting the importance of third-party intervention, the 1999 Act provided for the creation of several full-time positions including president, increased the commission's power to intervene in disputes, and streamlined and simplified appeals procedures. In line with its commitment to maintaining the relevance of awards, the government also charged the commission with a responsibility to review and update awards every three years.

Public Sector Experiences Under the Liberal–National Coalition, 1996–1998

The changes to Queensland's industrial relations framework were to have significant implications for state agencies. Though the Borbidge–Sheldon government did not enable state agencies to offer individual workplace agreements to employees, it sought to implement its decentralist agenda in the public sector through promoting agency-level bargaining in accordance with the 1997 Act.¹ Budget-dependent agencies, including health, education, main roads and police, engaged in enterprise bargaining subject to wide-ranging, strict guidelines. These were established by two agencies: the Department of Employment, Training and Industrial Relations (DETIR) and the central public sector agency, the Office of the Public Service (OPS, now the Office of the Public Service Commissioner). The Coalition government had established this latter office to

replace the Public Sector Management Commission (PSMC), a legacy of the previous Labor government.

By June 1998 almost all of Queensland's 188,000 public sector employees were covered by 104 agency- and workplace-level agreements that would be binding until late 1999. In this, the public sector, which accounted for the majority of employees covered by enterprise agreements in Queensland, had demonstrated more enthusiasm for the process than had the private sector, which employed the majority of workers in the state (Taskforce 1998a:20). The proliferation of so-called 'enterprise' agreements in the public sector owed a good deal to the changing character of awards. As awards increasingly stipulated minimums in pay and conditions, the difference between awards and paid rates grew to as much as 20 percent. This significantly strengthened the bargaining position of employers because they could simply threaten to withdraw their offer, a move that would force employees to return to the award.

The public sector also demonstrated more consistency in bargaining outcomes than the private sector, at least in terms of the quantum of wage increases and agreed productivity trade-offs. This was because enterprise bargaining for 'core' budget-dependent agencies was tied to a framework agreement — the Core Enterprise Bargaining Agreement — which the commission approved in April 1997. The framework agreement provided for a wage increase of up to 12 percent over three years. This increase was to be paid in at least three instalments. The first two instalments, of 2 percent each, were dependent on the implementation of service-wide productivity measures and, for many, the signing of agency- and sub-agency-level agreements. The magnitude and timing of subsequent increases was determined at agency level as were detailed strategies for achieving savings (Core 1997). The framework agreement essentially imposed a form of pattern bargaining across the sector, satisfying the government's need to exercise some broad control over outcomes and trade union needs to deliver near-uniformity to members across organisations with quite differing capacities to find cost offsets and to fund wage increases.

Non-core agencies, including Queensland Health, Education Queensland, the Department

of Main Roads, TAFE Queensland and the Queensland Police Service, concluded separate agreements in the following months. While bargaining typically involved the coordinating union body, the State Public Service Federation of Queensland (now the Queensland Public Sector Union) and specific unions, Hall (1998:79) reports that the Departments of Treasury, Mines and Energy, and Local Government and Planning, attempted to exclude unions by offering non-union agreements. However, a commission-ordered ballot found overwhelming employee support for union agreements. One maverick, the Department of Economic Development and Trade, succeeded in bypassing trade unions and dealt directly with its employees (DETIR 1998:71).

In relation to disputes, the Coalition government also sought to remove the management of its workforce from the oversight of the commission. Under s.463(a) of the Workplace Relations Act 1997 (Qld), the commission had no jurisdiction to deal with disputes between public sector employees and government departments relating to matters regulated by an OPS directive. Moreover, the Public Service Act 1996, prohibited appeals against a directive within the public service (Merrell 1999). Combined with the extensive delegation of powers to the OPS under s.33 of the Public Service Act 1996, these provisions gave the OPS broad unilateral powers over public sector employment (OPS 1997:8).

The Coalition government did not confine its decentralist zeal to industrial relations frameworks. It also targeted public sector management. From the outset, the OPS expressed disdain for a 'one size fits all' approach. Utilising familiar management rhetoric, the OPS promised to replace existing public sector management standards with 'non-prescriptive' directives that would leave management with considerable flexibility to tailor practices to suit their interpretation of the business needs of their agency (OPS 1997:6). The Public Service Act 1996 (Qld) gave departmental CEOs responsibility for a wide range of human resource management and employment matters, subject only to the overarching framework of directives that the newly created OPS established. Vividly symbolising the new power of agency CEOs was their newly delegated authority to determine the

number and classification levels of employees below SES within departments. However, such gains were offset by other provisions in the Act: for instance, it introduced contracts for all the Senior Executive Service (SES) positions under control of the Premier who also held ministerial responsibility for the OPS. Overall, though, the Coalition government's thrust was to devolve practical control over key aspects of public sector management to agencies.

Public Sector Experience Under Labor, 1998 to the Present

The Beattie Labor government's policy has been to reverse the trend toward decentralisation and bring public sector industrial relations back under centralised control within the mainstream industrial relations framework. As an interim measure, its 1997 Act halted the stripping of public sector awards until broad-based legislative changes could be implemented. It then established the Industrial Relations Taskforce, the recommendations of which were subsequently incorporated into the government's policies pertaining to public sector employment. In principle, the task force advocated that public sector industrial relations be handled within the industrial relation arena. Hence, while recognising the complex and unwieldy nature of centralised public service negotiations, the task force favoured centralised wage-setting mechanisms. Accordingly, it suggested that the commission, as an independent and expert third party, could play a useful role in clarifying and mediating discussions between parties (Taskforce 1998b:130).

As the Beattie government moved to implement its industrial relations policy, the fortunes of the OPS took a rapid downturn. In line with the task force's recommendations, the government shifted overall responsibility for managing public sector industrial relations from the OPS to the DETIR. It transferred responsibility for the remuneration of all but the most senior staff to the Minister for Industrial Relations, and gave to the DETIR, responsibility for issuing directives that the OPS had previously held (DETIR 1999:43).

With public sector enterprise agreements set to expire at the end of 1999, the government designated the department responsible for overseeing the new round. One of its first tasks

was to identify agencies for which enterprise bargaining should continue to be the 'preferred vehicle' for regulating employment with limited oversight from the department and the Cabinet Budget Review Committee. The department decided that government-owned corporations and government business units with untied clients would continue to pursue enterprise-level agreements with employees. In the case of government-owned corporations, which must fund their own wage increases, the department has limited its role to reviewing the negotiating framework prior to commencement of bargaining. The department intends to give more intense scrutiny to enterprise bargaining by government business units as their pay increases will be subject to approval from the relevant minister. The third category of organisation, budget-dependent agencies — which include government departments, trust-funded agencies, statutory bodies and service delivery agencies — will be more tightly supervised in enterprise bargaining, with the department, central agencies and the Cabinet Budget Review Committee closely involved throughout the process (Govt Agencies Bulletin 1999 20:10–11).

The previous Coalition government had sought to encourage the proliferation of agency-level agreements, a strategy that the Queensland Public Sector Union (QPSU) opposed. The union had continued to seek uniform wages and conditions across all agencies not exposed to external competition. In the most recent bargaining round, the Labor government began with an offer to extend standardisation by broadening the existing 'core'. In December 1999 the government announced that it had reached a deal, or Memorandum of Agreement, with the QPSU to bring public servants employed in TAFE, Education Queensland and the Queensland Police Service into the existing public sector 'core' (Braddy 1999b). Hence, a single agreement was to cover the bulk of Queensland public servants employed in budget-dependent agencies, apart from Queensland Health. This is some distance from the union's ultimate goal of award-based bargaining, but was enough to generate Opposition claims that the government had become the servant of the union movement. The agreement, to operate from 1 January to 30 April 2000, provided a 'catch up' wage increase of 1 percent to 'core'

public servants from 1 January 2000 and a further 3 percent increase from 1 July 2000. At that time, members of other organisations to be included in the 'core' moved into the same remuneration system and become entitled to the same increase.

The Memorandum of Agreement also established principles that would form the basis of the certified agreement to be negotiated for public servants to cover the period May 2000 to April 2003 inclusive. The resultant draft, State Government Departments' Certified Agreement 2000, is subject to vote at the time of writing. The draft agreement provides for three wage increases, each of 3 percent, to be paid from 1 July 2000, 2001 and 2002. The agreement is completely bereft of specific cost offsets. Rather, it contains a host of commitments in relation to training, employment security, effective industrial relations (including support for union membership and dispute prevention and settlement), and the amendment of existing awards to incorporate wage increases. While encouraging centralisation, the agreement allows parties to make agency and sub-agency certified agreements in order to implement flexibilities at local level. Further, it promotes collaborative relations between the government and public sector unions. On a practical level, it makes provision for union representation at the first stage of the disputes procedure, support for union delegates in the workplace, information on union(s) to be included at the point of engagement and in induction materials, and payroll deductions of union dues.

The commitments contained in the agreement reflect the government's industrial relations policy, as stated prior to the June 1998 election, and the QPSU's Bargaining 2000 Campaign. Moreover, the Beattie government has also committed itself to more extensive consultation with public sector unions at both central and agency levels. A central peak consultative committee is to oversee the implementation of the certified agreement with particular responsibilities for training and employment security and a role in the proposed review of outsourcing. Agency consultative committees are to assume similar functions (Braddy 1999a; DETIR 1999b; Core 1997). It is yet to be seen if these arrangements will be replicated in non-core agreements with teachers, health professionals and others.

Bargaining 2000

The 1999–2000 round of negotiations was marked by a massive swing away from negative cost-cutting as the basis of productivity bargaining. Under the Coalition, agencies were encouraged to negotiate agreements that ‘linked pay increases to the achievement of quantifiable performance targets [and] improved work practices’ (DETIR 1998:71). In fact, for many agencies, this was a necessity because they had to cover any pay increases out of existing budgets. In submissions to the task force, employees and unions had criticised this aspect, arguing that it was difficult, if not impossible, to measure accurately improvements in productivity in many service areas (Taskforce 1998:130). The QPSU argued that it was unrealistic to expect wage increases to be paid for out of savings at agency level and demanded full supplementation from Queensland Treasury (PSV 7(2) 1999:7). This position became a central plank of Bargaining 2000, the strategy that the union brought to negotiations. The government ultimately concurred; in November 1999 Minister Braddy announced the new core agreement had been reached without ‘trade-offs ... cuts to services and jobs’ (Braddy 1999a). Wage increases contained in the draft agreement were lower than the average 4 percent wage per annum rises reported for the previous round (DETIR 1998:71). Nonetheless, commercialised units, which have the capacity to generate additional income, may still realise higher outcomes although their room to manoeuvre may be limited by competition.

However, Bargaining 2000 involved much more than a demand for salary supplementation and wage gains. In its emphasis on employment security, the strategy reflects the elevated concern for job security in the contemporary public sector, and the playing out of a traditional tension within the union movement over the relative weight to be placed on job security and wage levels. If employees vote in its favour, the draft agreement has the potential to arrest the casualisation of work in the sector and strengthen its internal labour market. Training provisions in it are directed particularly, but not exclusively, at employees in lower classifications as a way of recognising and building their opportunities within the public sector’s internal labour markets. Bargaining 2000 also sought

to re-entrench the award system as the benchmark for employment conditions in the sector. A priority which the draft agreement includes is that agreed wage rates be rolled into relevant awards.

Discussion

The approaches of successive Queensland governments to public sector employment over the past decade have been driven by three distinct, and not necessarily consistent, agendas. The first, a tendency of governments of all persuasions, has been to use the public sector workforce to model their broader industrial relations agendas (Gardner and Palmer 1997:521–43). The federal government’s current enthusiasm for individual contracts or Australian workplace agreements is a good example of this. The second agenda, typically labelled managerialism,² is much more concerned with overhauling the internal organisation of the public sector, especially in the way in which resources are deployed. Economy, efficiency and effectiveness are key words in the lexicon of this agenda and it is characterised by corporate management systems, performance monitoring, devolution of managerial responsibilities, flexibility and customer service. The final agenda is concerned with the political relationship between government, public servants and their unions. Despite considerable downsizing in some jurisdictions, state governments remain sizeable employers and the interactions with their employees can impact on their standing with the electorate. Voters’ assessments of governments are shaped by their performance and their ability to deliver services. Protracted industrial disputes with public sector employees, especially with teachers, nurses, public transport workers and the like, can adversely affect this assessment. Moreover, as Hall (1998) points out, public servants are voters. For Labor governments, the historically close relations between party and unions present critical challenges when the party is in office.

During the 1990s, in Queensland successive governments have balanced these agendas differently. The Goss Labor government, which preceded the Borbidge–Sheldon coalition, prioritised the managerialist agenda. Prior to the 1989 election, Goss committed a future Labor government to an ‘overhaul [of] the whole

machinery of Government', promising 'a more accountable, responsive and efficient public service' (ALP 1989:1). It was a concerted attempt to push through what, in the conservative Queensland environment, appeared to be a radical program of modernisation involving a major renovation of human resource management practices, organisational restructuring and a degree of corporatisation. This was entirely consistent with the managed decentralist industrial relations strategy adapted from the federal sphere, and, indeed, the first wave of agency bargaining, subject to a detailed framework agreement, dates from this period.

However, the Goss government neglected the political agenda. By 1991 a senior union official argued that the managerialist agenda was causing serious demoralisation and destabilisation among public servants. The discontent culminated in a bitter industrial dispute in early 1991 over the conflicting agendas of unions and government. Unions considered that award restructuring could lead to a skills-based reformation of the public sector, whereas the PSMC planned to implant a performance-based merit system through comprehensive changes to the public sector's traditional recruitment, selection and performance management systems (Brown 1997:573–80; Gillespie 1993:283). Relations further deteriorated during the Goss government's second term with groups of police and emergency service workers effectively campaigning against the government in the 1995 state election.

Far less interested in pursuing a managerialist agenda, the Borbidge–Sheldon Coalition government focused its energies on the industrial relations and political fronts. Premier and National Party leader, Borbidge, sought to distance his government from its predecessor's initiatives by disbanding the Goss government's agency of change, the Public Sector Management Commission. However, this was accompanied by a commitment to increasing flexibility and managerial autonomy, which Hall described as a less disciplined version of managerialism. The Coalition's 'reform' impetus can be found in its more radical industrial relations policy which promised more discretion and prerogative to managers, although stopping short of allowing individual contracts for employees below SES level. The Borbidge government, mindful of political dynamics in the public

sector, also stressed the need to build good relationships with public sector unions and sought to rebuild trust through its abolition of the PSMC and promises of employment security. However, according to Hall (1998:76–8), efforts in this direction were undermined by the Coalition's industrial relations and managerialist agendas, particularly when coupled with wholesale personnel changes at senior levels. This was particularly evident in the education sector where Liberal ministers pursued a range of contentious initiatives including outsourcing and school-based management.

The Beattie government has taken a third approach to the three agendas. In contrast to preceding governments, it has sought to bring the industrial relations and politics agendas together through a concerted reshaping of the industrial relations landscape. Where has this recentralisation left 'managerialism'? While many goals remain broadly similar, with the now familiar managerial emphasis on flexibility and performance, the OPSC has lost much of the authority necessary to drive and prescribe these changes, and, for the moment at least, 'managerialism' has dropped backstage.

Conclusions

The Beattie government's gamble is that, in accommodating industrial relations and political pressures in its approach to public sector employment relations, fervent managerialists will lack the support to derail its policies. If the draft agreement is approved, as it appears it will be, agency-level bargaining will provide an avenue for advocates of managerialism to keep the flame burning. For the most part, however, the draft agreement, combined with the Beattie government's industrial relations legislation, signals a strong shift for public sector employment relations away from the 'economic rationalist' model of the 1990s. However, this shift is, in practice, only in its infancy, given that the draft agreement is, at this stage, still to be voted on by relevant public sector employees, and it is unknown how managers and unions in non-core agencies will respond to developments in the core sector.

Postscript

Since this paper was completed, the OPSC has

been abolished with its remaining responsibilities being divided between the Premiers Department, the Department of Employment, Training and Industrial Relations and a new Office of Merit and Equity.

Notes

1. This exemption did not apply to public sector agencies incorporated under the corporations power.
2. See AJPA 53(3) for early discussions on the 'new managerialism'.

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