

# ANNUAL REPORT 2007

14 December 2007

## Introduction

2007 has been an unusually difficult year for the union.

The year began with the shock revelation that in the process of being transferred to RBF the State Fire Commission Superannuation Scheme had been secretly gutted and member's benefits had been severely cut.

In addition the EBA process has proven to be slow and frustrating. Nonetheless the union reached record levels of membership and has been able to have wins in a number of important areas this year.

## Finances

2007 has been another year of modest financial growth and the union fund is in a healthy position. Members should be aware, however, that the next financial report (2007/08) may not show a surplus because of significant actuarial and legal expenses incurred since 1 July 2007.

## Superannuation

Members took to Parliament House on 4 July 2007 in a show of strength in opposition to what had been done to the State Fire Commission Superannuation Scheme. Subsequently, twenty days of industrial action followed because of the refusal of the Tasmanian Government to even acknowledge that there is a problem with the fund. In fact the public utterance of the Government at the time was that "the dispute was not of the Government's making."

The matter was referred by the employer to the Tasmanian Industrial Commission. This process led to the Government finally accepting that there is a problem in respect to what happened to the fund.

Previously the union had lodged a formal complaint with the Premier about this matter in April this year. The Premier referred this matter to the head of agency of the Department of Police and Emergency Management. The result of this decision was disappointing in the extreme. The report of the head of the Department of Police and Emergency Management found that the Chief Officer of the TFS had done nothing wrong but other than that his department did not have the expertise to deal with the technical superannuation matters raised in our complaint. Subsequent to the industrial action and the Government's acceptance that there is a problem with the fund a further report was sought by the Premier. This process was complicated by the fact that UFU members wanted the union office to seek professional expert advice on the circumstances we were in. This led to the commissioning of an

independent actuarial report and two legal opinions. The actuarial advice recommended that it would be in the best interests of the members of the SFCSS to permanently close the fund. The first legal opinion was frustrating and incorrect. The second opinion sought from the mainland was extremely slow in coming and has still not resulted in a final opinion.

The Premier has had the second report commissioned by him and the response of the union to it for several weeks.

### Enterprise bargaining

Progress on a new agreement has been particularly slow. In the first instance the TFS did not have authority to negotiate with the union. Rather, they had the task of listening to our arguments in relation to the claims and then sending a report to the government. As part of this process they also nominated a number of claims as being 'non EBA'. That is, that because these items don't directly relate to wages and conditions, they can't be contained in an agreement and will have to be dealt with in other forums.

Once this process had been completed and the TFS obtained authority to negotiate, the discussions ran into another stumbling block. The union office lodged a claim for a Work Value Case before the Tasmanian Industrial Commission. The case relates to five members of the union who work in Community Fire Safety but who do not come from a career firefighting background (see below). Because this case involved a lot of work, the employer argued that they could not deal with the EBA negotiations and the Work Value Case at the same time. A number of meetings were cancelled on this basis.

At the time of writing, the prospects for a new agreement do not look good. The parties are poles apart and the TFS appears to be insistent on attacking firefighters hard won conditions of employment.

### Return to State Jurisdiction

Because of the Federal Government's introduction of WorkChoices the union was faced with a dilemma. Our options were to have our award and agreement stay in the federal system and as a result have any new agreement made a WorkChoices agreement. This would have meant a host of important conditions being stripped out of the agreement. Crew sizes and numbers of crews around the state are the most obvious example of dozens of conditions and protections that would have been removed. The other option was to cancel our federal award and agreement and make a new state award and agreement in the Tasmanian Industrial Commission. The problem here was that fifteen years ago the union expended an enormous amount of money and effort to move from the state system to the federal system.

However, in the end it became clear that the decision to move back to the state industrial jurisdiction was the correct one.

The process was made complicated by the legislative need to demonstrate member consent and a number of other technical issues. The Tasmanian Industrial Commission made the new Award and Agreement on 30 May 2007.

### Community Fire Safety Five Work Value Case

On 21 September 2007 the union lodged an application for a work value review of three members employed in TasFire Training and two members employed in Building Safety. As stated above, these members do not come from a career firefighting background. Consequently, nine days of hearings and inspections took place in Hobart and Launceston with the final day of summation on 18 December 2007.

This case involved extensive witness and exhibit submissions with the employer vigorously contesting any pay rise for these five members. The case not only involved an extensive assessment of the work that these people do in comparison to others but also highly technical arguments about the wage fixing principles of the Tasmanian Industrial Commission.

The Commissioner reserved his decision on 18 December and with some considerable good humour he indicated that he would not be handing down a decision before Christmas.

### YR@W and the Federal Election

2007 saw a very significant workload not only with the members of the union, but also with other unions in respect to this campaign. Trades and Labor Council campaign meetings were held generally every Wednesday evening and a great many weekends were filled up with door knocking. The Branch Committee of Management decided to spend \$7,000 on newspaper advertising and a billboard in a very prominent position in Braddon during the election campaign.

Most pleasing of all was that sixty members of the union made a commitment to be actively involved in the campaign. Activities included doorknocking, letterboxing, handing out how to vote cards on Election Day and agreeing to have a Your Rights at Work poster on their property.

The Your Rights at Work campaign has clearly been the most successful non-party election campaign in Australian history. In fact, newspapers published today carry reports of the new leader of the federal coalition, Dr Brendan Nelson, declaring that 'WorkChoices is dead.'

Nevertheless, the campaign is not over and the task ahead for organised labour is to ensure that the incoming ALP government fully implements its election commitment to a fair industrial relations system.

### Extending response areas

Significant land marks have been achieved this year in respect to the HFB automatically responding to structure fires in Kingston and the LFB similarly responding to Longford, Perth and Evandale. Extremely serious problems remain on the North West Coast, however. Specifically, Devonport and Burnie brigades are not receiving retained brigade support to about 50% of calls.

Members of the Committee of Management attended meetings on a number of occasions on this issue with the Retained and Volunteer Associations and TFS representatives. During this process the union vigorously argued that the TFS has a clearly defined obligation to correct the back up problem on the North West Coast. TFS management has had meetings with both of the retained brigades in Burnie and Devonport but no tangible results have appeared from this process. This matter will be a priority for the union in 2008.

### Bullying and Harassment

The union undertook a large joint project on this issue in cooperation with the TFS in 2007. This involved planning a comprehensive survey with the assistance of UTAS, a poster campaign and extensive round of workplace meetings.

As was explained to members at these meetings, the TFS is required under the *State Service Act 2000* to tackle bullying and harassment. Similarly, there are clear legal precedents that show that the union can be prosecuted if its elected workplace representatives act in this manner.

The campaign was understandably met with some scepticism in some quarters. That is, many members felt that 'here we go again with the latest fad'. This is entirely understandable given the fact that meetings have been held about other issues and nothing has ever happened afterwards. However, bullying and harassment is becoming more and more prevalent in the courts as each year goes by, and those same courts are awarding compensation in the tens of millions of dollars in some cases. It is therefore something that all members need to be increasingly aware of. Having said that, there is no reason why anyone should feel that they can't continue to poke fun at their friends and crack good natured jokes.

### Road Accident Rescue

While there has been significantly less activity in this area compared to 2006, nonetheless 2007 has required close monitoring of decisions made by management. A number of items of correspondence were forwarded about response areas, procedures and protocols. At present there is a significant area of disagreement with TFS management about the type and configuration of vehicles to be used for this type of rescue.

This will also be an important issue in 2008.

## Draft New Uniform and Workwear Agreement

After significant trials a new draft agreement has been negotiated with TFS management. This involves a new issue of four sets of 'workwear' made from nomex – viscose. This draft agreement will be posted on the union website and members will be invited to provide comment on its contents over the next month.

## Interpretation before Tasmanian Industrial Commission – Lateral Entry by Experienced Firefighters

The union sought an interpretation by the President of the Tasmanian Industrial Commission regarding the 'Lateral Entry by Experienced Firefighters' clause contained in the Award.

This application came about because of the decision of the TFS to employ a person from interstate into an Officer's position notwithstanding the fact that a Tasmanian Leading Firefighter had applied.

The union stressed at the outset of the case that the application had nothing to do with the personalities of the two individuals involved. Rather, the case was about the principles contained in the Lateral Entry clause.

The TFS argued that they had a legal right to act in the way they had chosen and that the clause had no legal basis. The union argued that the clause reflected an agreement that had been made in good faith and that the actions of the employer in seeking to walk away from that agreement were dishonourable.

In the end the President did not make a decision on this interpretation but proposed that the clause could be re-drafted and moved to another section in the award to give it a lawful foundation. The President further proposed that the parties should honour their agreements and that she would be more than willing to assist the employer and the union to reach a situation where the agreement to not employ outsiders above Leading Firefighter could be given effect.

At this stage the TFS has said that its position is that they intend to employ the officer from outside the TFS regardless, but this has not yet happened.

## Other Matters

- Discrimination claim against a UFU member by a member of the public
- Workplace feedback system
- 1AM payments
- Sick leave records being accessible on rosters in fire stations – privacy issue
- New Personal Protective Clothing trials
  
- New union letterhead, flags and banners

- Salary sacrifice of employees compulsory superannuation contributions
- A host of other day to day activities

### Conclusion

I wish to thank Wayne Seabrook and the Branch Committee of Management for their hard work and strong support during the year. Particular commendation goes to those BCOM members who regularly travel from distant parts of the State to work for and support the union.

Last, but by no means least, I wish to thank UFU Office Manager Kae Jones who is, despite appearances, an absolute tower of strength. Kae is also great fun to work with.

Richard Warwick  
Secretary