



EDUCATION AND INNOVATION COMMITTEE

Members present:

Mrs RN Menkens MP (Chair)
Mr MA Boothman MP
Mr MR Latter MP
Mrs DC Scott MP
Mr NA Symes MP

Staff present:

Ms B Watson (Research Director)
Ms E Booth (Principal Research Officer)
Mr G Thomson (Principal Research Officer)

EXAMINATION OF THE TAFE QUEENSLAND BILL

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 2 MAY 2013

Brisbane

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Committee met at 8.30 am

CHAIR: Good morning and welcome to this public hearing to support the parliament's Education and Innovation Committee in its examination of the TAFE Queensland Bill. Before we start I ask that mobile phones be switched off or set to silent. I now declare the hearing open. Thank you all very much for your interest and your attendance today. I am Rosemary Menkens, member for Burdekin and the chair of this committee. I would like to introduce members of the Education and Innovation Committee. With me today are Mrs Desley Scott, the deputy chair and member for Woodridge; Neil Symes, the member for Lytton; Michael Latter, the member for Waterford; and Mark Boothman, the member for Albert. This hearing is being recorded and will be transcribed by Hansard for publication on our webpage. It is also being webcast live and the video will be available on our webpage until it is superseded by a subsequent webcast recording. It may also be used for training purposes.

On 16 April 2013 the Queensland parliament referred the TAFE Queensland Bill to the Education and Innovation Committee for examination. The committee is required to report back to the parliament by 16 May. A briefing on the bill from the Department of Education, Training and Employment was heard on 18 April, and you can read a transcript of that briefing on the committee's webpage. The task before us is to consider the bill in terms of the policy intent to be achieved as well as fundamental legislative principles and lawfulness and provide a report to the parliament before this bill is debated in the House. If passed, the TAFE Queensland Bill will establish TAFE Queensland as an independent body to be the public provider of vocational education and training operating in a contestable market. TAFE Queensland would be a not-for-profit entity with a commercial focus to enhance efficiency and contestability with for-profit service providers. Existing TAFE institutes would be abolished and the statutory TAFE institutes would be dissolved and transition to the Department of Education, Training and Employment and then, as TAFE Queensland becomes operational, transition from the department to TAFE Queensland. This would result in a single governance arrangement for all institutes. TAFE teachers would be employed by the new body rather than the department under a new enterprise agreement.

Although the committee is not swearing in witnesses, this hearing is a formal proceeding of the parliament. As such, any person intentionally misleading the committee is committing a serious offence. By the same token, parliamentary privilege applies to evidence presented here today.

Although this is a public hearing, you are able to request through me as chair that any material or information you provide be kept private and you can object to particular questions. You might also wish to take questions on notice if you do not have information at hand. The details about how witnesses are to be treated are contained in schedule 3 to the parliament's standing orders—instructions to committees regarding witnesses.

I now welcome our first witness, Mrs Thalia Edmond, the industrial advocate for the Queensland Teachers Union and Mr Mark Anghel from the Queensland Teachers Union as well.

EDMONDS, Ms Thalia, Industrial Advocate, Queensland Teachers Union

ANGHEL, Mr Mark, Assistant Secretary—Services, Queensland Teachers Union

CHAIR: Would you like to make a short statement before we ask some questions?

Ms Edmonds: Yes, thank you.

CHAIR: For the benefit of Hansard could I ask that the first time you speak you state your name?

Ms Edmonds: Certainly. My name is Thalia Edmonds, Industrial Advocate of the QTU. Firstly, we support the bill in principle. We understand the genesis of the bill and the very real need for reform. We rely on our submission. We would like to note that the QTU represents 44,000 members, including state schoolteachers and TAFE teachers with a 96 per cent density.

It is disappointing, however, that a major reform affecting not only students and teachers in cities but also students, teachers and communities in rural and remote areas would have such prohibitive time lines implemented to provide submissions. This falls short of genuine consultation. We rely on our submission and I am happy to answer any questions to help the committee.

CHAIR: Thank you. Committee members?

Mr SYMES: Could you elaborate on why a positive and specific definition of 'community service obligations' would be more useful than what is currently included in this bill as seen on page 3?

Ms Edmonds: Would you be so kind as to direct me to the particular—page 3 of the bill, sorry, or page 3 of our submission?

Mr SYMES: The submission, sorry.

Ms Edmonds: It is my understanding from discussions with the department that this answer will likely be defined in the regulations and it has not yet been determined. This phrase has been directly lifted out of the current legislation. As such, the QTU is happy with the response from the department in relation to this bill and that clause.

Mr SYMES: Excellent. Thank you.

CHAIR: I note in your submission that you felt that the bill did not reflect the unique role of TAFE as a public VET provider or acknowledge that TAFE sets the benchmark for high-quality service delivery. Would you like to enlarge further on that and how you feel it is unique and different from private providers?

Ms Edmonds: Certainly. For a start, one of the key differences with TAFE is the quality of the teaching staff, including the mandatory requirements for certain qualifications. Whether or not that is at a certificate IV level or, indeed, considering it is a bridging course to university, a lot of the TAFE teachers who end up teaching bridging courses to university have mandatory degree requirements. The new bill sets out a very minimum and basic requirement, which is a certificate IV. Although it might be implied that teaching higher-quality courses or courses that lead into university requires higher qualifications, it is certainly not outlined. In addition, when we put this question to the department, they came back with the same response that the bill is definitely levelled at certificate IV. Research has established that increasing investment in education and training and lifting the qualification levels of the workforce is by the far single most effective method available to improve participation and productivity. So better educated trainers leads to a better educated workforce, which leads to higher productivity. That is a really crucial reason and distinction between TAFE and some of the private providers. It is the quality of the teaching.

CHAIR: That is a very relevant comment, too.

Mrs SCOTT: I wonder if you might just discuss the powers of the minister with regard to the transitional arrangements and also the industrial relations?

Ms Edmonds: Certainly. If I could take the committee to, for example, clause 50(3). I understand, again from speaking with the department and colleagues at the department, that the intention is clear that it was to have a specific restructure, let us say, for that section. This is just an example in relation to what you just discussed. I understand that it is interlinked with clause 29. However, the drafting provides enormous power with very little limitation. Potentially, it employs people on a whole range of reasons. I understand that, because of the Fair Work Act, the state government must wait to see if the federal government agrees to keeping TAFE within a QIRC context. However, this clause does not provide any limitation on the content. All it would simply take would be a very few short limiting words to perhaps limit the time frame or the context of it and it would completely change the scope. Another example of it is held at clause 56. The breadth of clause 56, in essence, is quite amazing. I am aware I am being a bit facetious here, but apparently it would allow the minister to murder all TAFE employees as long as this is provided for by this regulation. So although the intent of the drafting is clear to limit it within the act, it does not necessarily translate that way. Another example is clause 55 and clause 57(1) (c) (ii) and (iii). Although the intent is clear behind it, its actual application can be quite broad and, within that breadth, quite scary for want of a better word for TAFE employees and TAFE staff who are moved into this arrangement.

I might add that one of the key problems with some of the breadth of it is the potential for the minister to therefore overrule certified agreements and some of the industrial relations legislation. Considering that we are in negotiations right now for a TAFE certified agreement—and we all admit at the negotiating table that this has to be terrible timing for TAFE as a restructure and we

understand the need for the restructure—they then have to deal with a certified agreement. But, essentially, the fact that the clauses are not limiting can impact on the certified agreement in that that the minister can actually overrule potentially the EB process, the certified agreement and the Industrial Relations Act, even though I am aware that may not be the intent.

CHAIR: I notice that you have made comments about the community service obligations and the definitions of 'community service obligation'. I would be interested if you would be able to enlarge further on that.

Ms Edmonds: I will present a little bit of background. In the 2006 inquiry into TAFE, Kell found that TAFE enjoys good support in the community and that people are passionate about their local TAFE. But he also noted that uncertainty about the role and the future of TAFE was undermining public confidence at a local level. Through its state-wide network of institutes and campuses, TAFE Queensland should continue to contribute to community economic development by providing industry training and second chance or lifelong learning opportunities. TAFE is ideally placed to deliver to the thin training markets that characterise many rural and remote centres. Additionally, investment in infrastructure and services in regional communities has a flow-on effect for the community, providing a stable source of income and contributing to social cohesion. TAFE has facilities spread across the state, many in regional and remote locations. These facilities form a core within small communities only a part of which is the provision of vocational education and training. The local TAFE college is a sign of local prosperity and a sign of potential residing in the community. This is doubtless a very, very important community part of TAFE and a vital part in keeping regional and remote communities well educated, well staffed and well sustained.

CHAIR: We are certainly aware of the importance of TAFEs in regional centres. Do you have anything further, Ms Edmonds, that you wish to add?

Ms Edmonds: No. Thank you for hearing our submission.

CHAIR: We certainly do appreciate the very informative submission that you have put in. The submissions will all be taken into account when we are preparing the report.

Ms Edmonds: Thank you.

CHAIR: We thank you most sincerely for attending this morning. What you have provided us will certainly help us in our examination of the bill.

MARTIN, Mr John, Research and Policy Officer, Queensland Council of Unions

CHAIR: I welcome Mr John Martin. Would you like to make an opening statement?

Mr Martin: Firstly, thank you for the opportunity this morning. The Queensland Council of Unions, as you are probably aware, is the peak union council in Queensland. We have in the order of 34 affiliates, one of which is the Queensland Teachers Union, and we would endorse the written submission that has been provided to you by the Queensland Teachers Union. In particular, I want to make a number of comments in support of that particular submission. Firstly, it would appear that there is qualified support for the creation of a single statutory authority for TAFE, and I say 'qualified' because you will see what I mean given the following comments. We believe that there is a role for private providers, but there needs to be cognisance of the fact that private providers will undertake or provide that training which is profitable for them to do. For that reason, they will be attracted to certain courses and will shy away from other courses. That is a market response that will not necessarily provide the outcome to the community that a public provider would do.

As a corollary to that, TAFE will continue to provide that training that is not necessarily profitable and the combination of those two points that I have just made is that it is not fair to draw a comparison purely on the basis of operating costs et cetera, the reason being that TAFE will be left to do those courses that the private sector either cannot or will not provide the resources to provide. In the overall analysis, we would urge this committee and, in turn, government that any comparison of public and private providers needs to take that into consideration. A related point goes to the conditions of employment. We would urge this committee to resist blaming current conditions of employment for TAFE employees for any perceived problems that exist. That would be, in our submission, an overly simplistic view of the circumstances that you find yourself in. We say that attacking conditions of employment could have the counterproductive effect of driving employees in general away from the TAFE sector which would, as I say, be counterproductive.

On the issue of conditions of employment, it has been a practice of the Newman government to override existing conditions of employment. Those are conditions of employment that have been developed over years of negotiation and decisions of arbitral tribunals. It has been a practice of this government to simply override those existing conditions either with legislation and/or regulation. I do not suspect that any submission that I am going to make here is going to change that policy position, but I would ask you to consider it in terms of the impact that that has upon your existing workforce. With the stroke of a pen you remove conditions that have been fought for and agreed to by employers in the past and we would consider such a practice to be unfair and, quite frankly, undemocratic. So that is a matter that we would ask you to take into consideration.

The drafting of the bill—and the Teachers Union has alluded to this fact—would tend to indicate that there is a fair amount of power being vested with the minister to determine conditions of employment as opposed to what the rest of the community has to do, and that is to negotiate an agreement. Employers, whether they be public sector or private sector, have traditionally had to either accept the decisions of arbitral tribunals or negotiate an outcome. As has been seen, it has been a practice to unilaterally introduce conditions of employment and we would urge you not to do that. We have previously voiced in correspondence—and I thank the chair for the response—our concern with respect to the time lines associated with this particular process. But, again, I thank the chair for giving us the opportunity to give this oral submission. Finally, the other issue that needs to be raised is that of funding. We are not going to be able to address skill shortages if funding to TAFE is cut. That is our verbal submission and I am happy to answer any questions if I am able.

CHAIR: Thank you, Mr Martin. We do appreciate that. I did note your comment about private providers and courses that they might offer as compared to TAFE continuing to deliver courses that may not be so profitable, and there is the community service obligation. Would you be able to enlarge on what courses you would believe those to be?

Mr Martin: This is anecdotally, but with not too much effort it would not be too difficult to get the statistics. Sport and recreation is one. This was following the injection of federal money that happened in the early part of last decade. There was an explosion in a couple of areas. One was sport and rec and the other was in business administration, and I see the member for Lytton nodding and I am aware of your background. This has had the impact of degrading vocational education and training. We have seen where employers will be able to employ a trainee on a lesser wage or a trainee rate and it is alleged that they undertake training towards a cert III certificate. That

involves taking a folder out of the bottom drawer every once in a while and ticking the boxes that these are the skills that have been attained. It is quite frankly a means of generating low-paid employment, particularly if you have a churn in that you do your 12-month traineeship and then get another trainee on. That was not the intention of traineeships. It was meant to be subsidising the employer whilst that employee was gaining the skills to be employed at a substantive level.

What then occurs is that you have a churn of the lower paid, but also you are degrading that qualification. With the greatest of respect to the people who undertook those qualifications, that cannot be compared to a four-year apprenticeship where there is significant on-the-job and off-the-job training and there are standards to be met. They are the sorts of things that we refer to. If you are to do a statistical analysis at a macro level and you are going to include these courses that are very easy to provide, there is little or no investigation of the actual outcome and you can churn hundreds, if not thousands, of students through that particular process without any observation of the outcomes. If you are going to compare that in a financial sense with what the public sector has to do and the standards that the public sector will provide, then that is an unfair comparison.

So when you go to contestability—which appears to be a new word that is gaining currency at the moment—and you are comparing, on the one hand, the private sector with the churn that I have described versus the public sector which has significantly higher standards and requirements, that is an unfair comparison to make. So if future funding decisions were made on the basis of saying, ‘Look how efficient the private sector is,’—because this is the notion that seems to permeate thinking almost everywhere, and that is that the private sector equals efficiency and the public sector equals inefficiency—if you look at that statistically you could say, ‘Yes, I can prove that because look how many the private sector’s doing for such little money.’ There is a very good reason for that—because the quality is not the same and it is the churn as I described.

CHAIR: Thank you for that.

Mr SYMES: What unions will be affected by this bill? Is it only potentially the QTU, or are there others?

Mr Martin: A range of unions. All of the trade based unions as well would have concern for their trades. As you could imagine, I would not say that they jealously guard but they have a very healthy concern for the ongoing standard of the trade and that those standards be continued. Those are unions such as the CFMEU, metal workers, ETU, plumbers and gasfitters et cetera that would all have concern as to the outcomes of training and would be vehemently opposed to anything that would see a reduction in the standards. Particularly when it comes to matters of safety, and as you could understand, the ETU in particular have a very special interest in ensuring that apprentices are not electrocuted in their first year. From what I understand—and I should say I do not have much of a construction industry background—most of the injuries that will occur in the building and construction industry are early on. If it gets to the stage of where we can do this by the ‘manila folder in the bottom drawer’ style training and that occurs in the trades, there is a real danger for reducing health and safety standards. So that is one particular example.

But there are a range of unions that you may not expect—United Voice with respect to child care and the Nurses Union particularly in the aged-care area. Child care has mandatory qualifications that will be at the cert III or cert IV level and it is our estimation that it is only a matter of time until aged care has similar mandatory qualifications. Most employees in aged care are obtaining vocational education cert III or cert IV level training. From the user point of view, there is a range of unions and I have only touched on a couple. There would be others, but primarily it is the Together union and the Queensland Teachers Union that are the employees of TAFE, and much of what I have said today has centred around urging this committee and government not to take the axe to existing conditions of employment as a means by which you think you might be able to fix all the ills of vocational education and training.

Mrs SCOTT: The Logan City area TAFE college has a large disability sector and refugees and migrants with their English language learning and so on and much of the VET training has gone to SkillsTech. I guess I would love to see a strengthening of much of the TAFE sector where they are focusing in on the needs—as you have said, nursing, aged care and so on.

There has been a discussion over a number of years of maybe co-location with the university—they both do nursing, business and a whole heap of things—to share resources and so on. I am just a firm believer that the TAFE sector is a very important sector in an area such as Logan, so a lot of what you have been saying I think resonates with me. I do not know if you have anything further to add to that, but I just think that the public sector is a really important sector in being able to look at those sectors that have growth and where the needs are.

Mr Martin: I can only agree with you. With the greatest of respect to the government members on the committee, I would have to say that our feeling would be that we are more likely to convince government members with arguments with respect to skill formation and the reduction of skill shortages in critical industry. But having regard to what you have said, a fundamental aspect of the TAFE system is that learning for learning's sake is as important as anything else and it is only the public sector that is going to provide that sort of level of education.

You even see that at secondary level. You mentioned disabilities. It is only the public school system that is geared towards teaching children with disability. We know that from experience. So in terms of providing outcomes to the less advantaged in our community, the market is not going to provide for that. That is why there is a necessity for a strong, publicly owned TAFE system.

Having regard to co-location, I do not think I would be qualified to provide an answer. I did spend some time in Darwin, where the university and TAFE college do the same thing, but I think pretty much economies of scale drive that, because the population is so small that there is no option but to combine the two. There is not the critical mass to have a university and a TAFE college. I think it is driven more by that than any reason of providing a better educational outcome.

Mr LATTER: Mr Martin, I am going to take a little step back here. I guess I am trying to understand. You seem to have quite a contention that the private sector delivers a lesser standard in terms of training outcomes. Your focus at the time was specifically on trades outcomes. Is there anything in the legislation, or is there a lack of regulation presently, that supports your contention that there are lesser outcomes in the private sector?

Mr Martin: Perhaps I should qualify what I was saying. I would not like it to be thought that my submission was that all private sector is bad. If that was the impression that I gave then I apologise, because that was certainly not the intention. What I am saying is that some private sector is bad.

You have asked two questions, I guess. In answer to the first one, no, I would not say that private sector provision of technical and further education necessarily provides for bad outcomes. Anecdotally I was able to point to examples where that has occurred. In terms of the enforceability, I would have to say yes, if the sorts of things that I am saying happened do happen. And I am not sure to what extent we know about it, but there was a proliferation of these sorts of traineeships and the quality simply was not there. I would not universally say that the provision of training by the private sector is a bad thing. There are reputable organisations who do this and provide good outcomes. There is no doubt with respect to that. In terms of enforceability, I do not know what the short answer is. How do you enforce something of that nature? If someone is saying they are going to provide training and they do not, how do you prove that that occurs?

Mr LATTER: Thank you. I will move on from there. I was interested with regard to your comments about less profitable but necessary courses being the focus of the sector. I do not necessarily disagree with you, I have to say. Your example was of some interest as well in terms of there being sport and rec. courses being offered—again, perhaps necessary but not profitable. I would think more so that courses that bring students who have disengaged from mainstream education to an appropriate level of achievement are probably more important in this space. Would you agree that that is the case? If so, are courses like that at risk? I am referring to your year 10 certificate or your final certificate from school. Are students who have disengaged from mainstream education and who are going to TAFE to get those qualifications at risk because of this proposed bill?

Mr Martin: I could not answer that question. I do not know. I do not know that that endangers what currently exists. I am not aware. I cannot point to anything in the bill that says that that is at risk. I am not sure if anyone else has said anything to that. Nor can I say that the bill will guarantee that, either. I do not have the evidence to provide, but one would think that what you are suggesting is a great thing, if it can get an educational outcome from a student who may not necessarily enjoy secondary education in the mainstream.

Mr BOOTHMAN: Correct me if I am wrong, but earlier you stated that TAFE certainly does need reforming. Can you give some example why?

Mr Martin: No, I think you are thinking of the Teachers Union that made that submission.

Mr BOOTHMAN: What is your opinion, though, when it comes to reforming TAFE? Are there areas that you feel definitely need to be looked into? What types of approaches do you believe should be taken to correct any issues that you feel could be areas that need to be looked into to be reformed?

Mr Martin: My opinion is limited to my experience, but I would have to say maintenance of the standards for what you describe as a cert III. The alternative is: do the trades get pushed up a level? I am not in a position to give an opinion with respect to that. But my major concern with vocational education and training, going broader than the TAFE system, has been a degradation of that standard that has continued to exist.

I go back to the four-year apprenticeship, whether that be for a fitter, a hairdresser or whatever. Those people are spending four years in training—training on the job and off the job. The idea that that can be replaced with a tick-and-flick and a reduced wage for 12 months I find abhorrent.

CHAIR: We certainly note those comments, Mr Martin. We do take on board those comments you have made. In particular, we certainly support the last statement you made. To think that training is being reduced is wrong. I sincerely thank you for your time here this morning. We certainly do appreciate it.

Committee adjourned at 9.10 am