



Industrial Relations  
(Transparency & Accountability  
of Industrial Organisations)  
Submission 017

15 May 2013

The Chair  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
Brisbane QLD 4000

Dear Sir

Attached is a submission from the Local Government Association of Queensland (LGAQ) in relation to your inquiry into the Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Bill 2013 introduced into the Queensland Parliament on 30 April 2013, by the Honourable Jarrod Bleijie, Attorney-General and Minister for Justice.

We look forward to providing any clarification on our submission or responding to any queries your committee may have relating to the Bill and its implications for our organisation on Monday 20 May at your public hearing at which we are scheduled to appear as a witness.

In the meantime, if there are any queries you may have on our submission or if there is any other way in which we can assist the committee in its considerations, please contact myself on (07) [REDACTED] or Workforce Strategy Executive, Tony Goode, by emailing [REDACTED] or phone (07) [REDACTED].

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Greg Hoffman', is written over a white background.

Greg Hoffman PSM  
GENERAL MANAGER - ADVOCACY



**Industrial Relations (Transparency and  
Accountability of Industrial Organisations)  
and Other Acts Amendment Bill 2103**

**PARLIAMENTARY COMMITTEE SUBMISSION**

**Local Government Association of Queensland Ltd**

**14 May 2013**

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association setup solely to serve councils and their individual needs. LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. LGAQ does this by connecting councils to people and places that count; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and delivering them the means to achieve community, professional and political excellence.

The LGAQ is a registered corporation with Australian Securities and Investment Commission as well as a registered employer association with the Queensland Industrial Relations Commission.

## Executive Summary

The Association recognises and supports the Government's intentions to ensure that industrial organisations have an appropriate level of transparency and accountability that protects their individual members' interests in the same way that companies are required to demonstrably serve their share-holders interests. However, it also believes that responsible employer organisations and their members should not be considerably disadvantaged by over-regulation simply to respond to the nefarious actions of one or two individuals within employer organisations who would find ways to rot systems regardless of rigour and governance levels.

The Association, while it cannot speak on behalf of employee organisations and other employer organisations for that matter, believes that the detailed provisions of this Bill will add an unnecessary level of red-tape requiring significant allocation of resources which in turn will lead to a reduction of the Association's effectiveness in servicing the legitimate needs of its members.

The Association is already strongly committed to very transparent and robust governance arrangements that protect members' interests. It unreservedly supports the view that members of any employer Association must have complete confidence in the competent stewardship and financial management of the organisation and has structured itself to be able to demonstrate this to members at all times. Firstly, it is registered as a corporation with ASIC and is accordingly required to maintain the high level of accountability as do all registered companies (which is the comparable benchmark referred to by the Government when discussing raising the level of transparency and accountability of QIRC-registered industrial organisation).

Secondly, unlike other industrial organisations, the LGAQ is wholly owned by public bodies being the seventy-three (73) Queensland Local Governments. Its Board of Directors and Policy Executive members are all publicly-elected Local Government Mayors or Councillors who are drawn from the 73 Local Governments. As elected members, they are all subject to the very rigorous public disclosure requirements of the Local Government Act and are positioned strategically within the decision-making framework of the organisation to ensure the Association's policy positioning and policy expenditure is reflective of members' needs and priorities.

Finally, the Association as a result of its unique positioning with local government continues to be audited by the Queensland Audit Office which has complete and open access to every facet of the Association's financial records. Accordingly, the Association considers its governance requirements already exceed any necessary standard of accountability and transparency.

At a more specific level, the LGAQ considers that some of the proposed reporting requirements such as the reporting of items over \$5000 and the necessity to use Electoral Commission balloting are simply excessively onerous and resource-intensive and will detract from the Association's capacity to conduct its business efficiently and effectively.

Industrial relations and its concomitant activities are simply one facet (in fact, one of the lesser aspects of the business) of the varied services provided to, and functions/roles undertaken by the Association on behalf of, member councils. This Bill imposes a regulatory regime over the entire business of the organisation.

The Association vehemently opposes any retrospectivity in relation to any form of record keeping or reporting for the very obvious reasons of resourcing and impracticality and limited benefit.

The Association supports that members should have a direct say in relation to donations to political parties and expenditure on media and other activities during an election period at the state and federal level and which might influence the outcome of an election.

Accordingly, the LGAQ would recommend that (in order of preference):

- The passage of this Bill be deferred until a later date to allow for detailed consultation with affected stakeholders to ensure the full implications of the Bill are realised and redressed where appropriate; and
- The Bill be amended to allow for the LGAQ to be exempted due to its corporation status, unique ownership by public bodies, extensive existing local government accountability and governance requirements and direct audit and financial oversight by the Queensland Auditor-General; and/or
- All organisations that are ASIC compliant be exempted from the finance and office-bearers reporting requirements and the Electoral Act/Industrial Relations Act be amended to provide that all Industrial Organisations (employer or employee) be required to record/report annually any donations to political parties or political candidates and that ballots be conducted amongst members to gain approval to expend any money above a prescribed amount on political donations and other political purposes such as advertising during a declared state or federal election period.

### **LGAQ and its Members**

As the State's peak body for local government, the LGAQ has access to, at its maximum, 73 members, being the 73 legislated Local Governments across Queensland. Membership of the Association is voluntary (all Councils are currently members of the Association) with the Council (the corporate entity) being the member of the Association.

At any time, LGAQ might liaise with the Mayor or Chief Executive Officer or a senior officer of the Council on specific matters. Only the Council operating as a whole may by resolution formally adopt a position on a matter with that position normally being conveyed on behalf of the Council by the Mayor or Chief Executive Officer. Members of the Association are by their very nature complex and diverse organisations which operate across a number of dimensions in their interactions with LGAQ as their representative organisation.

Further, our members represent together a sphere of government which in itself brings a significant level and layers of accountability – to the electors, to the community, to the State Government across different departments as well as the federal government on some matters.

This is significantly different to the situation with a union where an individual is the member. LGAQ members are large and robust public organisations with the inherent skills and capacity to self-determine whether the Council is getting fair return for their investment in membership, are excessively aware of the need for openness and accountability due to their unique government role and have the in-house skills to assess and understand the Association's financial records and reports.

At a broad level, any regulatory scheme which imposes the same accountability requirements on an organisation servicing individuals on employment-related issues with organisations established to service other organisations across a number of business fronts will naturally be flawed and inconsistent in its application. In the case of LGAQ, that difference is further exacerbated by the fact of our members themselves being a sphere of government and hence accountable to additional regulatory regimes that focus on openness and transparency.

It is for these reasons that the Association believes that more detailed examination of the differences between the affected organisations and the consequences of the proposed Bill is needed and suggest the Bill be delayed until that examination can be conducted through appropriate level of consultation with stake-holders.

## **Objects of the Association**

Part 2 of the Association's ASIC and QIRS registered constitution is titled *Objects of Incorporation* and states:

### *2.1 Principal Object*

*The organisation is incorporated principally to represent local government in its dealings with other governments, unions, business and the community.*

### *2.2 Additional Objects*

*The Organisation is incorporated also for pursuing whichever of the follow objects it considers appropriate:*

- 1) Facilitating consultation by and between Members as to their common interests;*
- 2) Acting as:
  - a) a body representing the interests of the local government industry generally;*
  - b) as employer organisation under the Industrial Relations Act 1999; and*
  - c) a representative body for Members and/or groups of Members, for the purpose of providing effective and professional representation in dealings between local government and other levels of government, industry, the media and the public generally;**
- 3) Providing professional advice to assist Members in matters of doubt and difficulty;*
- 4) Providing and facilitating the provision of goods and services to Members;*
- 5) Promoting the efficient carrying out of local government throughout Queensland*
- 6) Generally, undertaking and promoting any activity which the Board determines to be for the benefit and/or interest of local government in Queensland.*

### *2.3 Acting in Industrial Matter*

- 1) Without limiting Rules 2.1 or 2.2, the organisation has power to act in industrial matters as agent on behalf of all Members including (without limitation) the power to:
  - a) Make new awards by consent with Unions of Employees;*
  - b) Implement any decision of a General Meeting on any industrial matter; and*
  - c) Arrange for application to be made and appearances entered before any Industrial Court or Tribunal for and on behalf of all Members**

In 2012, LGAQ made well in excess of 100 written submissions to the State Government on various wide-ranging policy issues – only two of these were related to employment or industrial issues. To formalise the LGAQ position on these various policy matters, LGAQ maintains a watching brief across various industry functional areas and general media as well as responding to matters raised by other spheres of government or by members themselves. LGAQ regularly surveys members, conducts focus groups, convenes reference groups, forms working parties and gathers and collates and analyses data and statistics in order to develop appropriate responses/submissions. The intelligence from these activities is in turn relayed to the Association's policy Executive (comprising 16 elected representatives representing 15 "districts" which comprise the 73 Councils across the state) who are responsible for finalising the LGAQ's official policy agenda. In addition, Councils have an opportunity to present motions on various matters at the Association's annual conference which are then voted on by all attending councils. Resolutions which receive majority support are adopted as official policy positions by the Association.

In relation to LGAQ activities, it reports back to members regularly through daily circulars, weekly newsletters, bi-monthly Local Government magazines, regular Executive member reports, blogs, SMS alerts, attendance at regional meetings and Regional Organisation of Councils meetings, special seminars and events, an annual conference as well as emails and Council visits.

LGAQ currently employs approximately 48 full-time staff of which three full-time equivalents (FTEs) are dedicated to industrial or workforce matters. One of these three is almost full-time representing specific members in disputes and other matters before the QIRC. In fact, it is worth noting that LGAQ

only became a Registered Employer Association in 2009 after the former Bligh Government chose to remove it from the Local Government Act in 2009. The Association chose to become a corporation registered with ASIC but obtain registration with the QIRC so as to ensure the continuance of its capacity to represent its members and the local government sector on industrial relation matters.

As these evidences, LGAQ is about so much more than industrial relation matters; yet this Bill will impact upon the entire organisation requiring records and reports being kept and produced, the vast majority of which will include information completely extraneous to the role of the Association as an employer organisation.

### **LGAQ Directors and Policy Executive**

The Bill requires a register of interests be developed and maintained for the Association's office holders. In the case of LGAQ, these positions are all held by elected representatives of local government (Mayors or Councillors). As such, these officers are subject to the Register of Interest disclosure provisions of the Local Government Act which are similar /same as the proposed provisions of this Bill. This will require these officers to duplicate their disclosure of interests (and those of their relatives) and amend both versions whenever the interests vary.

Apart from the doubling of workloads in making suitable disclosures, any person in public life can attest to how easy it is to make an error in reporting changes in personal interests of self or a relative and how severe the criticism and suspicion can follow such an error. Doubling the reporting requirements of officers duplicates this level of risk and may work to actively undermine local government leaders nominating for LGAQ office-holder positions.

### **Financial Reporting**

The financial recording and reporting requirements imposed by the Bill in themselves raise no concerns for the Association as its audit reports by the Queensland Audit Office clearly show no instances of misuse of funds, no glossing over or cover-up of financial errors or mismanagement – put simply, the Association has always managed its finances in a transparent and responsible manner.

Its compliance requirements as an ASIC registered corporation impose a substantial governance standard upon the Association which is in turn complemented and expanded upon through its auditing by the Queensland Audit Office. The Association sees no tangible benefit for its members in now imposing additional financial management responsibilities upon it and contends that the additional resources required to fulfil any additional responsibilities will only distract resources from working on member issues and direct them towards more internal activities. This additional red-tape flies in the face of all the statements from the Government and inconsistent with its positive actions to date to reduce the onerous red tape reporting requirements on business.

*Given the existing level of financial governance and the existing disclosure requirements for its officers, it is recommended the current exemption provisions of the Industrial relations Act be amended to allow for the LGAQ to be exempted from these elements of the Act.*

### **Retrospectivity**

It is noted that some of the provisions require organisations to develop registers and reports back-dated to July 2012. This is strongly opposed simply due to the level of resources required to go back and seek information that was recorded in a manner that was suitable for reporting as intended at that time. The data may be difficult to locate in a format that would be useful for the contents of the new reporting regime and there would be a genuine question mark over its accuracy. LGAQ simply would find it difficult to justify the allocation of the necessary level of resources to be confident its reports were accurate for a period of time that is now passed when there is so much demand for activity on current issues.

Given this Government's strong commitment to assisting businesses/companies to being efficient and improving productivity, LGAQ respectfully suggests that requiring a company to invest resources in preparing reports for periods of time that have passed is completely at odds with this commitment.

### **Specific Provisions of the Bill**

#### *Section 553 D – Particular spending must be authorised by ballot*

While on face value this matter might seem reasonable, in a practical sense it becomes more problematic. For a start, some issues arise quite suddenly and the opportunities to respond are limited by time and circumstance. At the moment, the Association has the opportunity to canvas its Policy Executive or even members by phone for views. However as our members are in fact councils which require any formal council position to be determined by resolution at a council meeting (which in itself is governed by rules of notice etc), there are occasions where the Association has to decide based on its current formally-adopted policy statements, its position or course of action and act accordingly. Simply put, by the time a ballot could be conducted, the time for a political response might be lost, thus denying the members their democratic right to respond as they feel appropriate.

Moreover, the Bill would allow the Association to proceed to conduct a campaign for a political purpose if it felt that the cost of the campaign was going to be less than \$10,000. However, it would seem the Association could find itself subsequently subject to prosecution if later on more money was spent which meant the cumulative total had exceeded the \$10,000 and prior approval had not been sought.

The Association supports the benefits of disclosures of and ballots for financial donations to political parties and individual candidates and for member support for the expenditure on political advertising so as to influence outcomes of elections. Arguably, this could be realised by amending the Bill to require ballots for any political donation exceeding \$10,000, ballots for any monies spent on political advertising through the course of a declared state and federal elections as well as a requirement under the Electoral Act for all monetary donations to a political party or candidate to be declared to the Electoral Commission annually.

#### *Section 553 – Expenditure Ballot*

The requirement to use the Electoral Commission to conduct any required expenditure ballot seems to be an unnecessary waste of resources. Apart from the probability that timelines would be extended tenfold at a minimum, the sheer cost of the Commission conducting a ballot would far exceed that of alternative ballot options. There is also the need to consider the capacity of the Commission to conduct ballots at times when its resources are already committed e.g. during State, Federal or local government elections. A preferred alternative would be a requirement for an organisation to conduct a ballot that complied with certain predetermined criteria and be responsible for being able to demonstrate compliance if required by the QIRC and/or Electoral Commission.

#### *Clause 30 section 557A – Register of gifts, hospitality and other benefits*

This needs stronger definitions to avoid organisations having to record every occasion when an employee or person travels and uses accommodation paid for by the employer. With members across the entire area of Queensland, employees are constantly travelling around the state to visit and interact with members. As well, the Association conducts a regular series of events and seminars and training opportunities in venues across Queensland and regularly travel intra or interstate to attend business meetings. While the Association religiously records benefits to employees for FBT purposes, work-related activities as those stated above would require the allocation of additional resources to record and report this data.

#### *Section 557C – Registers of Loans, grants and donations*

This should be worded to avoid confusion so that organisations do not have to record any disbursements of any grants or monies from the state and federal governments where the Association

might act as broker for the disbursement. On these occasions, it is considered the reports and acquittals to the other spheres of governments required in such arrangements would suffice.

#### *Section 557I – Highly Paid Officials*

The requirement to maintain a register of the top 10 highly paid official of any organisation and of certain particulars concerning their remuneration is opposed. Apart from the fact that many of these employees might have nothing to do with the Association's role as an Industrial Organisation, these arrangements do not pay sufficient regard to the differing size and structures of organisations.

Also, organisations such as the LGAQ engage highly-dedicated professionals who are committed to their profession and less interested in the industrial politics of the organisations. Exposing these non-political professionals to comprehensive disclosure of their remuneration undermines an organisation's capacity to recruit talent without delivering any real benefit to the organisation or its members. Moreover, many officers engaged at senior professional levels are remunerated via personal contracts with neither the employer nor employee wishing to share the details of such with colleagues which is consistent with reasonable workforce management practices.

An alternative, if the Government is intent on having the salary of "highly paid" officers made available to organisation members, might be to have this requirement apply only to the Executive Managers of the organisation as well as any other individual officer who is paid more than a member of the Executive management group.

This alternative ensures the top echelon of the company is captured by the regulation and also recognises the different sizes of the various organisations covered by the legislation, e.g. large organisations might need to record several officers whilst smaller organisations might record the details of only one or two officers.

#### *Section 557N – Procurement spending*

At an initial estimate, the LGAQ believes that it would in any one year exceed the \$5000 limit for purchases from any one company on more than 3000 occasions with about two-thirds of these being as a result of cumulative payments over the course of a year. Having to accurately capture the information and record it in a way that would meet the reporting requirements pursuant to this section would require significant resources over the course of a year.

Moreover, as stated previously, the Queensland Audit Office has complete access to every element of the Association's financial records and this recording would simply impose further workloads on the Association with no perceived benefit for its members.

### **Conclusions**

The LGAQ recognises the many challenges faced by the State Government as it implements its mandate. It has recognised the need to cut funding, even at the expense of the LGAQ, and been openly supportive of many of the various initiatives to improve the economy and performance of Queensland businesses. However on this occasion, while it genuinely applauds and supports the initiative of Government to ensure the rights of members of industrial organisations are protected, it contends that the measures proposed across this Bill need refinement so as not to unreasonably disadvantage all organisations, particularly those which have an outstanding record of performance in demonstrably serving and protecting the interests of their members.

The Association notes the Attorney-General's comments that the additional red-tape imposed by the Bill is reasonable for the extra transparency and accountability that it facilitates. However, the LGAQ believes that the level of red-tape and resource demands this Bill will impose upon organisations such as the LGAQ has been seriously underestimated and overlooks the level of good governance already adopted by and required of organisations such as LGAQ. The Association further points out that while it might be considered that this additional level of red-tape is capable of being absorbed into the operations of organisations, it fails to recognise that it is the cumulative effect of red-tape (from this



portfolio on top of existing regulatory requirements of the state or federal government) that cripples the capacity of business to operate to its maximum.

Accordingly, LGAQ proposes that the financial management requirements of the Bill be amended to reflect those of the Australian Securities and Investment Commission and that any Industrial Organisation registered with ASIC be eligible for exemption from the requirements to report to the QIRC on such matters. Similarly, any person who already is required to publicly disclose interests such as those prescribed in the Bill should be automatically exempted from having to duplicate those disclosures.

The Association stands ready to work with Government to amend the current Bill to ensure the State's intentions to rightfully protect the interest of members of Industrial Organisations are achieved while the capacity of these organisations to efficiently and effectively service the needs and interests of their members are not detrimentally compromised.