

**UNITED VOICE QLD**

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The Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
**Brisbane QLD 4000**

**Penalties & Sentences &  
Other Legislation  
Submission 005**

Via email: [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

Dear Sir/Madam,

**Re: Penalties and Sentences and Other Legislation Amendment Bill 2012**

United Voice, Industrial Union of Employees, Queensland (United Voice) makes this submission to the Legal Affairs and Community Safety Committee in response to the letter from Mr Ray Hopper MP, Chair of the Committee, inviting submissions on the *Penalties and Sentences and Other Legislation Amendment Bill 2012* (the Bill).

United Voice is extremely disappointed at the short amount of notice given to consider the Bill. As the proposed changes may have some significant potential impacts, the short timeframe does not provide for wide consultation amongst our membership or the community.

United Voice contends that Part 6 and Part 7 (relating to amendment of *Industrial Relations Act 1999 and Regulations*) of the Bill should be removed.

We refer you to proposed Section 396A '*Recovery of Health Employment Overpayments*' which prescribes that...'*A health employer may subsequently recover the overpayment by deducting an amount, or amounts in instalments, from an amount or amounts payable to the health employee by the employer in relation to employment*' and ...'*A health employer may recover an overpayment by making a deduction under subsection (2) even if the overpayment was made by another health employer during the employee's employment with the other employer*'.

The apparent focus of the amendments towards health employees is, in our view, discrimination against a group of employees that have already endured significant hardship through the implementation of an ineffectual payroll system. It is important to note that these overpayment errors were made by that payroll system. However, just as many health employees were significantly underpaid or not paid at all, and are still attempting to recoup their correct wages and entitlements. These amendments do not provide a similar timeframe or mechanism to ensure those who have suffered detriment at the hands of the government are similarly recompensed.

Significant ambiguity appears to exist in terms of the frequency or amounts in which deductions of an alleged overpayment can occur. The Bill states that a ...'*deduction cannot be made in an amount that would reduce the amount that would otherwise be paid to a health employee on any single occasion to less than the amount prescribed under a regulation...*'

We refer you to proposed Section 12(A) of the Regulations...*'the amount prescribed for Section 396A (5) of the Act is ¾ of the amount that would otherwise be paid to the health employee on a single occasion'*. Again, it is unclear as to whether the Regulation prescribes that a 25% reduction per pay cycle is the maximum that the employer can withhold or whether an amount up to 25% can be negotiated with the employee.

It is important to note that that the *Financial Accountability Act 2009 (QLD)* sets out the guidelines in which the Treasurer can recoup overpayments from Departments which had been allocated for wages. This Act, for the most part, already allows the Government to recoup money that it has incorrectly allocated.

United Voice holds concerns that the addition of proposed Sections, 396A and 396B under Part 6, will give Health Employers an arbitrary right to recover wages and entitlements as they see fit *without consultation* with employees or their applicable trade unions.

United Voice strongly objects to any process that does not take into account individual circumstances of Health Employees. Any amended process should ensure employee engagement, and allow the opportunity to review, make comment and, if necessary, object to any claims of overpayment being made by an employer.

Commitment to consultation for employees, United Voice and Health Employers, such as Queensland Health, is fundamental to ensure that all claims are dealt with in a fair and reasonable manner.

### **Conclusion**

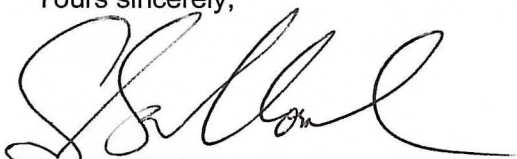
United Voice strongly implores the Government to ensure that employee's maintain the right to give consent before deductions can occur so as to ensure that the employer has taken into account individual circumstances of employees.

United Voice urges the Committee to have regard for these concerns, in order to limit the potential negative impact on employees.

United Voice seeks the opportunity to advance our views on the amendments in relation to this matter at any hearings to be set by the Parliament.

Please contact Kylie Badke on 07 3291 4619 or [Kylie.Badke@unitedvoice.org.au](mailto:Kylie.Badke@unitedvoice.org.au) should you wish to discuss any aspect of this submission further. All correspondence should be addressed to PO Box 3948, South Brisbane BC, Qld, 4101.

Yours sincerely,



Gary Bullock

**Branch Secretary**