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	Member: Hon. J. P. Langbroek
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EDUCATION AND INNOVATION COMMITTEE

REPORT No.23 ON THE

VOCATIONAL EDUCATION, TRAINING AND EMPLOYMENT (SKILLS QUEENSLAND) AND ANOTHER ACT AMENDMENT BILL 2013

QUEENSLAND GOVERNMENT RESPONSE

On 4 October 2013, the Education and Innovation Committee tabled Report No.23 in relation to the Vocational Education, Training and Employment (Skills Queensland) and Another Act Amendment Bill 2013 (the Bill).

The Queensland Government response to recommendations made by the Committee and points of clarification sought by the Committee are provided below.

RESPONSE TO RECOMMENDATIONS

Recommendation 1

The Committee recommends that the Bill be passed.

Government Response

The Government noted this recommendation and thanks the Committee for its support.

Recommendation 2

The Committee recommends that the Government ensure the Ministerial Industry Commission is required to establish strong and effective mechanisms to ensure consultation and communication with relevant stakeholders, including specific industry groups and training providers.

Government response

The Ministerial Industry Commission will be an advisory body chaired by the Assistant Minister for Technical and Further Education and answering to the Minister for Education, Training and Employment.

Membership will include industry leaders who will draw on their leadership and expertise in labour market economics, human resource management, and marketing and communications in informing the work of the Commission and its advice to the Minister.

The Government's expectation is that the Commission will create a genuine partnership between industry, employers and Government through a strategic engagement framework that will give industry and employers direct input into how public training investments are made. As outlined in Government's *Great skills. Real opportunities—The Queensland Government reform action plan for further education and training*. small, medium and large enterprises will be able to provide advice

through regional information forums which will feed into an annual skills priority report to the Minister.

Once established, the Commission will determine other mechanisms for streamlined industry engagement, including consultation with specific industry groups and training providers, to inform the Minister on the state's skilling priorities.

The Commission will be directed by terms of reference and the Minister will issue a charter of expectations about its role. This will confirm the Government's expectations that the Commission will engage in appropriate consultation with industry stakeholders.

Recommendation 3

The Committee recommends that the Minister for Education, Training and Employment amend the Explanatory Notes of the Vocational Education, Training and Employment (Skills Queensland) and Another Act Amendment Bill 2013 to correct the omission of the words 'restrictive callings' from the list of functions in the last paragraph of page 2. The omitted words are included in the list of Training and Employment Recognition Council functions transferred to Skills Queensland in 2012 (in the second paragraph under the heading 'Skills Queensland' on page 1) and the Bill indeed transfers 'restrictive calling' functions to the Director-General of the Department of Education, Training and Employment.

Government response

The Government accepts this recommendation. The Minister will table an Erratum to correct this minor omission in the Explanatory Notes, clarifying the chief executive's functions around 'restricted callings'.

POINTS FOR CLARIFICATION

Point for clarification 1

The Committee seeks clarification from the Minister for Education, Training and Employment on why employment of temporary staff was not specifically addressed in the original drafting of the TAFE Queensland Act 2013; why the Bill lacks the level of detail about temporary employment that exists in the Public Service Act 2008; and whether provisions similar to that in the Public Service Act 2008, for example, around the ability of the chief executive to make permanent appointments after two years, will apply (and, if not, should apply) to TAFE Queensland temporary staff.

Government advice

As noted in the Explanatory Notes, TAFE employees are currently employed under the *Public Service Act 2008* (PSA), which specifically provides for employment of temporary staff. The need for the new statutory body to continue to employ staff on a temporary basis was identified during the establishment of TAFE Queensland, planning for the future work force of TAFE and commencement of negotiations

around the future Enterprise Bargaining (EB) arrangements for staff of TAFE Queensland. After reviewing case law, custom and practice associated with the nature of temporary employment it was decided appropriate to for the *TAFE Queensland Act 2013* (TQ Act) to contain a specific provision clarifying that the new body can employ staff on a temporary basis. However, the preference for the specific provision was not confirmed until after the TAFE Queensland Bill 2013 was passed.

A key objective for TAFE Queensland under the TQ Act is to be efficient, effective and commercially successful in its operations. Establishment of an independent statutory body with a commercially focused Board supports TAFE Queensland to operate autonomously and with agility. The Board will be able to consider its future industrial arrangements to take advantage of opportunities to increase productivity and ensure that public provision of vocational education and training is sustainable.

Accordingly, it was not considered appropriate to adopt the level of prescription around temporary staff contained in the PSA, as such decisions are best considered by the newly-appointed TAFE Queensland Board. Should the TAFE Queensland Board determine that it is appropriate to provide capacity for the chief executive officer of TAFE Queensland to deal with temporary employees in the way anticipated under the PSA, those arrangements can be captured in TAFE Queensland policy or in an industrial instrument.

Point for clarification 2

The Committee seeks clarification from the Minister for Education, Training and Employment on the department's reliance on apparent 'common practice' as a justification for or explanation of policy and proposed law. In the committee's view, common practice is a general and vague notion in circumstances where it constitutes an explanation or justification, without accompanying evidence or supporting material. The committee enquires how common practice is determined and at what stage a course of conduct may be identified as such.

Government advice

The issue of compensation for members going out of office has been substantially considered by the former Scrutiny of Legislation Committee, demonstrating how common this type of provision is. While the removal of a right to compensation may impact on an individual's rights, the accepted position is that officers appointed to statutory bodies do not have a right to expect to remain in office. That said, decisions about whether to remove a right to compensation for going out of office are taken on a case by case basis.

The Executive has the right to set policy and introduce legislation to give effect to that policy for the consideration of Parliament. In its decision to abolish Skills Queensland, the Government made the policy decision that neither the members, nor the Skills Queensland chief executive officer – Mr Rod Camm, should receive compensation for going out of office, over and above any payments to which they would otherwise be entitled under the specific terms and conditions of their appointments.

The Government did not consider that such compensation was necessary in the circumstances. Both Mr Camm and members of the Skills Queensland Board were given ample notice (in May 2013) of the Government's intention to abolish the statutory body and the rationale for the proposal.

It is not anticipated that the members or the chief executive officer would suffer from severe financial hardship as a result of the policy proposal. Apart from the chair, who receives an annual allowance, members only receive meeting fees and necessary and reasonable expenses for attending to business of the Skills Queensland Board. The chair, Mr Greg Kempton, was the Managing Director of Watpac for about 10 years (until May 2012) and has significant industry experience. As previously advised to the Committee in the letter from Dr Jim Watterston dated 17 September 2013, Mr Rod Camm has already ceased employment with Skills Queensland. In June 2013, Mr Camm accepted an appointment as managing director of the National Centre for Vocational Education Research.

For these reasons, removing any right to compensation over and above entitlements under the terms and conditions of appointment was considered to be justified in this case and not out of step with previous practice. It is a matter for Parliament to decide whether to support this policy position.