



QUEENSLAND
TEACHERS' UNION
OF EMPLOYEES

TAFEQld submission 3
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Education and Innovation Committee
Parliament House
BRISBANE QLD 4000

Dear Sirs/Madams

Re: TAFE Queensland Bill 2013

Attached is a submission from the Queensland Teachers' Union in relation to the TAFE Queensland Bill 2013. Relevant details relating to the submission are:

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Yours sincerely

Graham Moloney
General Secretary

enc.

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Submission to the Queensland Parliament Education and Innovation Committee Inquiry into the TAFE Queensland Bill 2013 from the Queensland Teachers' Union

Introduction

The Queensland Teachers' Union is a state-registered organisation of employees representing 44,000 teachers in the Queensland government schools and TAFE institutes. It is an associated body of the Australian Education Union and an affiliate of the Queensland Council of Unions. It is not affiliated with any political party at state or national level.

For the QTU and TAFE Queensland educational staff, the role of TAFE Queensland has never been in doubt. The focus of teachers has and will continue to be the provision of skills and knowledge to students enabling them to participate in society and the workforce wherever and whatever the need. The TAFE environment is repeatedly chosen by students and employers as a preferred provider because it provides quality education through a learning community, access to libraries and resources, learning support, career and personal counsellors and pathways to further study options.

The QTU notes that the Bill is meant to give effect to the establishment of TAFE Queensland as a statutory authority, which was a key recommendation of the Queensland Skills and Training Taskforce. While the QTU endorses the Bill's objective to 'ensure that TAFE Queensland operates in an effective and efficient way and is commercially successful' (Explanatory Notes, p. 1), it points out that a key weakness in the Taskforce report, on which this legislation is premised, was its failure to be informed by the views of TAFE practitioners. Neither TAFE teachers, their unions, nor TAFE Directors were represented on the Taskforce. It is the QTU's view that several significant errors, misconceptions and omissions in the Taskforce report are replicated in the rationale for the Bill. Key examples include:

- A failure to understand the unique role of TAFE as a public VET provider and to distinguish this role from that of private training providers;
- A failure to acknowledge that TAFE sets the benchmark for high quality VET delivery;
- A misplaced faith in the capacity of markets and competition to deliver high quality vocational education and to address skills shortages;
- A misrepresentation of TAFE and its workforce as inefficient.

The QTU would be pleased to elaborate on these points at the invitation of the Committee but will focus in this submission on the specific provisions in the Bill.

It should be noted that, due to the extremely short deadline provided for the provision of submissions, the QTU has not had the opportunity to study this important piece of proposed legislation in depth.

Key Issue: Broad Framing

A key concern of the QTU is the very broad and sweeping terms in which much of the Bill is framed. In particular, the QTU is concerned that some of the proposed transition arrangements give the Minister very broad powers, with insufficient protections against the inappropriate exercise of those powers. As many of the Bill's provisions are intended to deal with matters that arise in the course of the transition from existing TAFE arrangements to the establishment of TAFE Queensland as a statutory authority, these sections of the legislation (e.g. the power of the Minister to make a transfer regulation) should have clear expiry dates.

Clause 30 – It is unclear in what situations and circumstances a 'work performance arrangement' would be deemed to be appropriate or why such an arrangement would be necessary. At a briefing

about the Bill provided to the QTU by DETE, we were told that this clause was not intended to be used in the long term, but related to the transitional arrangements attending the creation of TAFE Queensland as a statutory authority. If this is the case, it would be appropriate to specify this in the legislation.

Clause 50 – This clause empowers the Minister to issue a ‘transfer regulation’ to effect the transfer of various matters to the newly created TAFE Queensland statutory authority. The QTU understands the necessity of such a provision. However, the range of matters about which such a regulation can deal appears extremely broad, subject to little or no restriction. The QTU believes that the scope of matters that can be addressed should be more tightly defined to prevent the regulations from being used inappropriately.

A transfer regulation (as its name implies) should relate specifically to the transfer or transition period. However, there is no provision in the legislation for a transfer regulation to have a date of expiry and it appears they can continue to apply after transfer/transition to TAFE Queensland has been effected. Further, it appears that transfer regulations can continue to be promulgated well after TAFE Queensland as a statutory authority is established and operational (and thus the rationale for such a provision has ceased).

The QTU has particular concerns about meaning and effect of sub-clauses (1)(j), (1)(k), and (1)(l) and their relation to sub-clause (3). It appears that the Government can, at its own discretion, unilaterally over-ride awards and agreements and alter working conditions by regulation. If transfer regulations can be promulgated after the transfer of employees has been effected and they give the Government the power to unilaterally set working conditions, what guarantees are there that it will bargain in good faith and accept and abide by any EB agreement or QIRC determination?

Clause 51 – This clause does not specify any limitations on the Minister's capacity to issue a "transfer directive", nor any matters about which such a directive can or cannot be issued.

Clause 55 – This clause provides some limitations on the power of the Minister by specifying some rights of transferred employees, but still allows wide scope for the unilateral alteration of working conditions. The protections in this section need to be considerably broadened.

Clause 56 – This is perhaps the most startling example of the broadness in which some sections of this Bill are framed. It specifies that, ‘a thing may be done under this part despite any other law or instrument’.

Clause 57 (2) & (3) – These are further examples of provisions that exempt the Minister from requirements enshrined in laws, regulations, policies or other instruments.

Other Issues

Clause 14 – The QTU believes the composition of the Board would be improved by specifying that:

- one member be a vocational educator employed by TAFE Queensland and nominated by the Queensland Teachers' Union;
- one member be a person with direct industry experience nominated by the Queensland Council of Unions.

These provisions would ensure a diversity of views (including a public provider view) on the Board.

Clause 34 - The QTU recommends that a new sub-clause (9) be added to Clause 34, viz., “Before making a decision under s34(3), TAFE Queensland must provide to the person in respect of whom

the decision is to be made a copy of all material received from the commissioner under this section, and a reasonable opportunity to the person to make a written submission to TAFE Queensland for consideration by TAFE Queensland before the decision is made”.

Clause 37 – The QTU notes that this clause defines community service obligations in terms of what they are not. It may be appropriate, perhaps by regulation, to develop a positive and specific definition of CSOs as these form an important dimension of the work undertaken by a public VET provider.

Clauses 58 & 59 – The QTU is pleased to note that the legislation includes provisions to protect the ‘TAFE brand’.