

Australian Council of Trade Unions



Submission

Senate Employment, Workplace Relations and Education
Legislation Committee

Skilling Australia's Workforce Bill 2005
Skilling Australia's Workforce (Repeal and Transitional
Provisions) Bill 2005

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Submission – Skilling Australia’s Workforce Bill 2005

Introduction

1. The ACTU is opposed to the two Bills. We call on the Senate to reject the legislation.
2. We oppose the legislation for a number of critical reasons including its affect of abolishing the Australian National Training Authority (ANTA) and the removal of many of the principles underpinning the national training system.
3. The ACTU is opposed to the linking of funding in the VET sector to delivery of the government’s oppressive IR program.
4. We believe that the Bill does not provide a proper basis for the operation of the VET system as reflected through the objects of the Act, the definitions and roles of critical bodies necessary for the effective operation of the National training System and the effective denial of proper industry representation in the system.
5. In particular the Bill fails to enunciate a coherent role for the National Quality Council and recognise the contribution of Industry Skills Councils.
6. Should the Bill not be rejected by the Senate we call on the Senate to make a number of amendments to the Bill to overcome some of the most critical deficiencies identified in the Bill.
7. Whilst this submission deals specifically with the content of the *Skilling Australia’ Workforce Bill 2005* it follows that, by virtue of our

opposition to this Bill that we also oppose the *Skilling Australia's Workforce (Repeal and Transitional Provisions) Bill 2005*.

Industry Leadership and the abolition of ANTA

8. Part of the success of the national training system to date has been the strong tripartite support from industry, unions and government. In the early 1990s, this was evidenced through the establishment of the Australian National Training Authority (ANTA) to oversee the implementation of the national training reform agenda, supported by strong tripartite industry advisory structures established through the industry training advisory bodies (at national and state levels). The role of unions in the process has been (and remains) important as it has ensured that the development of the system is not driven by the short term needs of particular industries or training providers but occurs in a manner that meets the longer term needs of workers for career development and job security and industry development.
9. These structures helped shift what had been viewed as a state based supply driven training market toward a national industry led¹ training system that could respond quickly and effectively to meet the needs of Australian industry skill demands. Of critical importance was the tripartite support for the system which helped to drive changes to training institutions and structural reforms and provided industrial support for the new training products.
10. The vocational education and training framework was considered in the Senate and reported in *Bridging the Skills Divide*.² That report said of the development of the system:

¹ Industry led means not led by any particular player in industry – that is not employer led or union led or government led.

² Senate Employment Workplace Relations and Education References Committee, *Bridging the Skills Divide* November 2003 Canberra

A distinctive feature of the national system is that it is an 'industry-led system', through industry leadership of the ANTA board and the development of industry-recognised training packages by representative bodies. In the VET context, industry is taken to include both employers and employees, both of which have been represented on the ANTA Board and the industry training advisory bodies.

MINCO, which meets two or three times a year, as the peak decision-making body for VET, is responsible for setting strategic policy and directions and the national objectives and priorities for the training system. Vocational education policy issues may also be considered by the Commonwealth and state Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA).

ANTA's main responsibilities reflect its role in developing, fostering and managing the national system that is the offspring of the collective agreement by Commonwealth and states and territories. They include promoting the development of the national system, in accordance with the ANTA agreement; administering the National Training Framework; advising the MINCO on the broad policy, strategy and priorities for the national system and on VET annual plans developed by states and territories; and distributing the Commonwealth funds provided to support state and territory administered VET and managing national programs for vocational education and training.

The ANTA Agreement sets out the obligations and responsibilities of the Commonwealth and states and territories

in regard to funding and administration for a three year period. In November 2003, the Commonwealth and states and territories will negotiate the ANTA agreement for 2004–06.

The national training system in its current form has evolved from a national training reform agenda begun in the 1980s as part of a broader micro-economic reform agenda, discussed in the preceding chapter. To recap, key features of the training reform agenda have been: a move to competency rather than time-based training; competencies defined in terms of national standards to underpin industry recognition and national portability; an increasing emphasis on flexible and workplace delivery; a focus on demand-driven, rather than supply-driven approaches; government separation of its role as a purchaser from that of a deliver; the development of a training market of providers underpinned by national registration standards; and significant expansion in the numbers and industry coverage of apprenticeships and traineeships.

11. This explanation, whilst appearing in the majority report of the inquiry, was not disputed in the minority report.
12. Further details on the history of the national training system can be found in the Senate report *Aspiring to Excellence*³.
13. The ACTU and unions played a critical role in the reform of the training system. They maintain a legitimate and on-going interest in the future of the system.

³ Senate Employment, Workplace Relations, Small Business and Education references Committee, *Aspiring to Excellence, Report on the Quality of Vocational educations and Training in Australia*, November 2000, Canberra

14. The national training system has been driven, in large part, by a need to ensure the development of skilled workforce where workers are developing nationally consistent, portable qualifications that meet the on-going and constantly evolving needs of business.
15. This has been possible through the national representative advisory structures including ANTA through the Board, the National Training Quality Council (NTQC) and the Industry Skills Councils (ISCs). The positive contribution made by these structures to the VET system will, in our submission, be placed in a precarious position by the legislation.
16. The proposals in the legislation have the potential to lead to a shift in emphasis from the industry partners as leaders to bureaucrats and employer bodies through a shift in emphasis in the legislation away from the industry partners. Such a diminution of the role of the industry partners, who have been critical to the success of the national system, has the potential to seriously undermine the on-going success of and future functioning of the national system.

National Industry Skills Committee

17. The National Industry Skills Committee (NISC) has the potential, as did the Board of ANTA to play a vital role in the evolving vocational education and training system in Australia. To do so however it must be given an appropriate role broader than that of an advisory body to the Ministerial Council (as currently set out in the Bill).
18. To perform its functions the NISC must have a fair representation of the industry partners, independent of government, who have the capacity to make a meaningful contribution to the future of the national training system.

19. To this end it is our submission that there needs to be a level of equity in representation on the NISC through increased representation of the interests of working people through the ACTU.

The National Quality Council

20. The National Quality Council – the effective replacement of the National Training Quality Council (the NTQC) – is defined in the Bill as being responsible for monitoring quality assurance and ensuring national consistency in auditing and registration of providers.
21. The NTQC has played a critical role in the national training system with three key functions:
 - a. Advising the ANTA Board on training packages, the Australian quality training framework (AQTF), the Australian qualifications framework (AQF) as it relates to VET and quality in the VET system;
 - b. Endorsing training packages and stand alone competencies;
 - c. Developing quality assurance policies and providing advice to state and territory bodies.
22. The work of the NTQC – in particular their endorsement of qualifications and training standards in training packages which are then recognised by the States – has been critical in the development and consistency in the training system and the avoidance of duplication by the States.
23. The NQC has had stripped from it the responsibility of determining national qualifications and approving training packages and stand

alone competencies – functions that are vital to the success of a truly national VET system.

24. These are critical functions that properly sit with the industry partners. They are functions related to the quality and integrity of the national training system.
25. The Bill needs to be amended to reflect the responsibility for this role with the NQC.

The Industry Skills Councils

26. The Bill should reflect the important role of the Industry Skills Councils (ISCs) through recognition of them in the Bill. A failure to do so is indicative of a lack of will on the part of the Minister to recognise the role and contribution of these bodies to the on-going development of the VET system.
27. The ISCs have responsibility in four major areas:
 - a. Providing accurate industry information about current and future skills needs and training requirements;
 - b. Supporting the development, implementation and continuous improvement of quality, nationally recognised training packages;
 - c. Analysing data and commissioning research to address skill shortage issues;
 - d. Providing innovative solutions to issues of skill development and need.

28. The funding of ISCs is precarious and to not reflect them in the legislation leaves them in a tenuous position to be dispensed with at the whim of government with no accountability for such action.
29. The ISCs, and before them Industry Training Advisory Boards (ITABs), have played a crucial role in both the development of training packages and the gathering of information on industry developments.
30. The ISCs provide an important foundation for the operation of the national training system. They have the capacity to provide industry advice and intelligence of industry developments as they effect skills needs and shortages. The role for ISCs must reflect this extended and important role. No other bodies exist that are as attuned to the needs of industry in this important area as the ISCs. Their role is not just one of training package development, but in any event training package development cannot occur in a vacuum without being attuned to industry developments and industry skill needs
31. This information has been a critical input to the ANTA Board and its associated bodies that has assisted them in determining matters relating to future demand, changing demand and forecasting.
32. It is critical to the health of the national training system that ISCs – who are closest to industry and work *with* industry – be able to continue to feed carefully gathered information into the relevant bodies.
33. This function should not be left to organisations, government departments or individual groups who may have a particular agenda that goes beyond the delivery to all industry parties of their requirements in the development of a skilled workforce.

The objects of the legislation

34. The objects of any legislation are important. While the intent of the legislation is to be taken from the legislation as a whole, the objects of the legislation can indicate the way the legislation is intended to operate.⁴ They are not merely window dressing.
35. The objects, as set out in the Bill, are narrowly focussed and fail to reflect the requirement that the national training system meet the needs of both employers and employees.
36. The objects in this Bill should be amended to reflect the central goal of enhancing the capacity of the Australian economy to support more secure and high paid jobs and to enhance the security and career prospects for Australian workers. Essential to this is the continued development and maintenance of a system of broad based, industry defined and nationally consistent qualifications with the aim of increasing the level of such qualifications and the proportion of the Australian workforce with such qualifications.
37. The object of the legislation should also be amended to reflect the need for equity in both access and delivery of vocational education and training.

The link between funding and individual contracts

38. The ACTU is opposed to the linking of funding this vital sector of and contributor to the economy to the Government's industrial relations agenda through the requirement to offer AWAs.

⁴ Pearce and Geddes, *Statutory Interpretation in Australia* 4th ed.

39. Such an approach is authoritarian, takes away the right of the States to determine their preferred form of industrial relations, and removes from the employers and employees the right to jointly determine their preference for collective bargaining.
40. Furthermore this agenda is driven not by a concern for workers but an ideological obsession to have individual contracts as the primary form of regulation of employment. That this is so can be drawn from the comments of the Treasurer who stated that *“we should be trying to move to an industrial relations systems where the predominant instrument is the individual contract.”*⁵
41. Australian workers have not taken up with vigour the Government’s preferred individual contracts so the Government instead will use this legislation to have such individual contracts forced on the workforce wherever it can.
42. AWAs do not lead to greater productivity, higher wages outcomes or better and improved conditions of employment for workers who sign those AWAs.
43. Claims by the Government that AWAs offer better pay and conditions⁶ and the BCA that they boost productivity⁷ are not based on any sound or rigorous analysis of AWAs and other forms of determining pay and conditions of employment.
44. In analysing AWAs and comparing outcomes to workers who are on collective agreements and awards it is necessary to ensure that the comparison made is valid. Many employees on individual contracts

⁵ Peter Costello, Federal Treasurer, *The Age*, 19 Feb 2005

⁶ Advertisements by Government in newspapers on 9-10 July 2005 – *The Weekend Australian* page 6

occupy professional and managerial positions on higher than average incomes.⁸ This is, of course, not the profile of workers on collective agreements. This profile of workers on AWAs therefore distorts any comparison between workers on AWAs and workers on collective agreements or awards.

45. The capacity to analyse the effect of AWAs is compromised by the secret nature of those AWAs. Unlike collective agreements they are not open to public scrutiny and therefore public analysis.
46. The patterns of experiences of managerial and professional employees on AWAs compared to 'ordinary' workers are explored by Peetz.⁹ Whilst he does not compare the Professional/managerial group to the 'ordinary' group of workers but rather examines the issues for the 'ordinary' workers on AWAs compared to a control group, the separation of the AWA employees into two distinct categories does provide some insight and support for the conclusion that managerial and professional workers have a different view and experience with AWAs to 'ordinary' workers. This difference is driven in part by the earning capacity and bargaining power held by managerial and professional workers compared to 'ordinary' workers.
47. This differing profile helps explain why the earnings of workers on individual contracts may appear to be higher than those on collective agreements – in fact up to 35 per cent higher¹⁰ in some cases. If just the private sector is considered the earnings of workers on AWAs is actually around two per cent less than those on collective agreements

⁷ Business Council of Australia (BCA) (2005), *Workplace Relations Action Plan: For Future Prosperity*, BCA Melbourne

⁸ Peetz, D., (2004) *How well off are employees under AWAs? Reanalysing the OEA's employee survey* Association of Industrial Relations Academics of Australia and New Zealand Conference Papers, Volume 1

⁹ *ibid*

¹⁰ ABS Employment, Earnings and Hours survey as reported in Peetz (2004), see note 4.

and, for female workers are 10 per cent less than for those on collective agreements.¹¹

48. Recent ABS data confirms that, when non-managerial workers are considered, AWAs provide a lower average hourly rate of pay than collective agreements.¹²
49. While the Minister may assert that workers are leaving the TAFE system because they cannot get access to “more flexible working arrangements”¹³ (ie individual contracts) there is no direct or indirect evidence to support such a proposition. When the statistics are considered there is no reason why they should leave their jobs for such a reason.
50. The sole purpose of linking funding to the offer of AWAs to workers in TAFE is to ‘de-collectivise’ the workplace. There is no basis on which it can be argued that TAFEs would become more efficient, or deliver more training by the offering of AWAs. In addition there is no evidence to suggest that the absence of AWAs in the sector is the cause of the skill shortage or that the skill shortage will be overcome by requiring AWAs be offered.
51. Peetz, in a further study, shows that productivity was in fact higher during the highly regulated pre-accord period¹⁴. In examining the mining industry – who claim a high individual contract density – productivity has been very low since 1996. Peetz does not say that

¹¹ Peetz, D. 2004 *How well off are employees under AWAs? Reanalysing the OEA's employee survey* Association of Industrial Relations Academics of Australia and New Zealand Conference Papers, Volume 1

¹² ABS, *Employee Earnings and Hours* Cat. No. 6306.0

¹³ Hardgrave, G., Minister for Vocational and Technical Education, *Quality Teachers Deserve More Pay* Press Release, 27 June 2005

¹⁴ Peetz, D., (2005) *Is individual contracting more productive?* University of Sydney, <http://www.econ.usyd.edu.au/wos/IRchangesreportcard/>, June 2005

AWAs cause high or low productivity, what he does show is that there is no link between deregulation of the labour market and productivity.

52. Workers forced on to AWAs through this legislation will be further disadvantaged should the government's proposed workplace reforms be implemented. The proposed legislation will allow for a real reduction in terms and conditions of employment for workers on AWAs compared to their terms and conditions today. Under the regime set out in the Workplace Relations Act 1996 as at July 2005 AWAs must pass a no disadvantage test as measured against the relevant award. The relevant award currently contains 20 allowable matters including skilled based career paths, redundancy pay, holiday loading, public holidays, additional payment for work on weekends, public holidays etc¹⁵. An AWA cannot disadvantage a person – on an overall basis – as compared to the award.
53. Under the government's new proposals the AWA cannot disadvantage a person compared only to four specified minima and the minimum rate of pay. Even without detailed analysis it is obvious that an AWA under the new proposals can reduce a raft of conditions of employment and pass the proposed new no disadvantage test as compared to the current test.
54. In addition, the proposed industrial relations legislation will enable an employer to require a future employees to sign an AWA as a condition of employment. Pronouncements of the 'voluntary' nature of AWAs and the right of employees to choose their preferred form of employment regulation without discrimination are meaningless to these workers.

¹⁵ Allowable award matters are set out in s. 89A of the *Workplace Relations Act 1996*

55. The obsession of the legislation with AWAs is misplaced. There is no evidence to suggest that AWAs will deliver greater or better outcomes in the delivery of vocational education and training.
56. The linking of AWAs to funding of the TAFE system is no more than an ideological obsession by the Government. There is no benefit to the development of a highly skilled workforce to be derived from such a measure.
57. The legislation as it is currently structured attempts to ride roughshod over the wishes of workers. In fact it fails to take into account the wishes of worker who have entered into collective agreements with their employer. At no stage in their ideological drive to have workers on individual contracts (under the guise of 'choice') do the government mandate that every AWA must specify that the employee has the right to chose to move to a collective agreement at any time
58. The legislation provides no rights for workers who chose to enter into a collective agreement and have their union negotiate that agreement on their behalf. Nor does it require, should the employees so choose, that the employer respect these wishes of the employees to bargain collectively or to be represented by their union in that bargaining.
59. The linking of the government's industrial relations agenda to the VET system undermines the credibility, value and quality of the VET system and the underpinning funding for that system.
60. The requirement that AWAs be offered to TAFE employees as a condition of funding is a blatant attempt by the Commonwealth to establish controls over employment arrangements through the funding of critical functions. Such control does not *enable employers and employees to choose the most appropriate form of agreement making*

*in their particular circumstances.*¹⁶ Instead, this legislation attempts to enforce a form of agreement making in the TAFE sector that is not sought by employees.

61. The condition that AWAs be offered to TAFE employees as a condition of funding to the States must be deleted from the Bill.

The AWA provisions breach ILO conventions

62. A provision that requires that AWAs be offered to employees in TAFE is in breach of the ILO conventions to which Australia is a signatory.
63. Article 4 of ILO Convention 98¹⁷ requires that Australia take appropriate measures to encourage and promote collective bargaining. The requirement that AWAs be offered to staff undermines the right to collective bargaining as it fails to encourage collective bargaining.
64. In 2000 the Committee of Experts on the Applications of Conventions and Recommendations, having heard from the Australian Government called on the Government to take measures to ensure that workers in Australia are adequately protected against discrimination based on negotiating a collective agreement and that the Government take steps to amend the WRA to ensure that collective bargaining not only be allowed but be encouraged at a level determined by the bargaining parties.¹⁸ These views were re-iterated in the 2005 Country Observations of the Committee.

¹⁶ WR Act s3(c)

¹⁷ ILO Convention on the Right To Organize And Collective Bargaining

¹⁸ ILO, Report of the Committee of Experts on the Application of Standards and Recommendations, ILC 88th Session 2000, Report III (Part 1A), pp 222-5

65. In no sense can this legislation be seen to effectively address the concerns expressed by the Committee of Experts. In fact the legislation does the opposite of that sought by the Committee of Experts. It does not encourage collective bargaining nor does it protect workers from discrimination if they participate in collective bargaining. This legislation in fact penalises workers who participate in collective bargaining by removing funding from their State TAFE system.
66. As recently as June 2005 the Australian Government has been asked by the Committee of the Application of Standards and Recommendations to provide a detailed report to the Committee of Experts *on all elements relating to the application of the Convention, in both law and practice, including the discussion held in the present Committee, taking into account all matters relating to the impact of the legislation on the effective recognition of the right to collective bargaining.*¹⁹
67. Whilst this requirement may be seen to be directed at the *Workplace Relations Act 1996* in particular, the inclusion in funding legislation of the requirement to offer AWAs is an example where the practice in Australia is contrary to the Convention requirements.

Competency based training

68. The legislation seeks to impose on States a requirement to undertake certain action within their state award system to remove any time based approach to VET and replace it with a competency based approach.

¹⁹ International Labour Conference, Provisional Record, Ninety-third Session, Geneva, 2005

69. This matter does not lend its resolution to a simple section in legislation. It is an important but multi-faceted issue that requires a multi-faceted approach.
70. The ACTU supports the principle of competency based training and that apprentices who are competent should receive both the appropriate qualification and trade recognition. The ACTU supports more flexible arrangements for the delivery of training to allow for the competency based approach. It should be noted that this often requires additional resources as it sometimes affects the economies of scale in TAFE classes.
71. The ACTU is concerned that the current system for quality assurance and audit of training providers focuses on inputs such as qualified teachers, proper record keeping, appropriate facilities and the like but there is no audit of the outputs - that is whether competency assessment is actually valid and accurate. The system surrounding user choice and the funding system based on student places and nominal hours means that there are financial incentives for providers to minimise contact time, standardise delivery methods in larger classes and minimise genuine partnerships with the workplace. There is no adequate system for determining the extent to which on the job experience and practice is actually assessed and integrated into the assessments by the training provider. This is neither audited nor subject to quality assurance.
72. In this environment the ACTU does not have confidence that registered training organisations are able to certify that apprentices are in fact competent - that is have met both the off the job and the on the job experience requirements to be a competent tradesperson. There are many good examples where this does in fact occur and the

training provider has good links with the employer of the apprentice, however this is not assured at a system level.

73. The ACTU supports the move to further entrench competency based rather than time based approaches however this should be done on an industry by industry approach involving the industry parties, the training providers and the STAs. It is premature to decree this at a system wide level in legislation in advance of this process and when proper audit and quality assurance processes are not in place.
74. The Bill should be amended to remove this provision.

The proposed funding is inadequate

75. The funding for the national training system proposed in the Bill is woefully inadequate. It indicates a lack of commitment by the Federal Government to the requirements of adequate funding for the national training system
76. The funding proposed over a three year period makes no allowance for any growth in training. That is, the funding structure is based generally on current training levels and does not allow for any growth in the sector. It demonstrates a disregard for the need to address skills shortages by providing for additional training places within TAFEs and the demand of business for more skilled workers.
77. This funding allocation further reflects the lack of vision by the government in investing in the future.
78. At a time when skill shortages are recognised as a serious impediment to some infrastructure projects and continued economic

growth, to deny additional growth funding to the vocational education and training sector through TAFEs appears petty.

79. Unmet demand for TAFE places has been steadily growing for a number of years. This legislation seeks to make vocational education and training a preferred option for students making career choices (see the objects of the Bill). Yet the Government offers no growth funding for the sector. It appears that the Government is more intent on scoring points by forcing particularly employment regimes on the States than providing a properly funded sector that will meet the needs of employers and employee. In these respects the Bill is a mass of internal contradictions.

80. The ACTU believes that urgent additional funding is required:

- For 20,000 additional TAFE places specifically targeted to traditional trades areas where the current skill shortage is being felt;
- For pre-vocational training, and school based apprenticeships recognising that time spent in these programs is regarded as part of apprenticeship training requirements;
- To implement a pro-active program designed to match those seeking apprenticeship with employers who are looking for apprentices;
- To improve pathways, career advice in schools, promotion of trades and school based apprenticeships and other VET options;
- To implement programs, with appropriate funding, for the recognition of current competencies (RCC) and gap training for existing workers. This should include removal of barriers for skill enhancement for existing workers and the creation of appropriate incentives for employers;

- To help meet the additional costs of more intensive and sometimes higher capital costs of training in skill shortage areas;
 - To assist workers with traditionally poor access to training on equity grounds.
81. Such additional funding would, in our submission, start to address the areas of critical skill shortage.
82. The Bill fails to recognise that there is a need for additional funding to vocational education and training sector now.
83. The Bill needs to be amended to provide for additional Commonwealth funding to allow for additional training places and that the funding should not be subject to undue interference by the Commonwealth in the States (ie by the requirement to offer AWAs).

User choice

84. The ACTU is opposed to that section of the Bill that sets a requirement to increase user choice by a specified amount per annum and links this to funding.
85. The ACTU is concerned at any expansion of user choice for the sake of a competitive market and where such expansion is at the detriment of the viability of the public providers.
86. The issue of user choice is not simple and has been the subject of robust debate for a number of years. The matter was broadly

canvassed in the Senate report *Bridging the Skills Divide*.²⁰ In that report the Senate Committee recommended that the consequences of the user choice policy should be subject to an independent evaluation of the consequences of the policy including a risk assessment of the impact of the policy on the public provider.

87. This recommendation of the committee has not been followed through. Instead, the Government proposes a mandated increase in user choice as a condition of funding to the States.

The Bill fails to recognise the cause of skill shortages

88. By its obsessive emphasis on AWAs the Bill ignores the critical issues facing industry today with respect to training.
89. The requirement to offer AWAs is no alternative to sound economic management exemplified by investment in research and development, infrastructure and training and development.
90. The government has sadly neglected skill shortages in Australia. This is a serious issue for business and a serious capacity constraint on GDP.
91. A recent study of two and a half thousand US firms reported that for firms experiencing skills shortages, 63 per cent said it reduced productivity and output, 53 per cent said it reduced quality and 36 per cent said it stopped investment in expansion.²¹

²⁰ The senate Employment, Workplace Relations and Education References Committee *Bridging the skills divide*, Parliament House Canberra, November 2003

92. The situation in Australia is no different. A business survey conducted in April 2005 identified the availability of skilled employees as the number one constraint on business investment.²²
93. This legislation does nothing to address this critical issue in the Australian economy nor will it assist in addressing this current problem.

Micro-management of the TAFE sector

94. A number of aspects of the Bill suggest that it is the intent of the federal government to micro-manage TAFE institutes. Such an approach, in our submission, is a wasteful use of government resources and repeats the errors of the past by not concentrating on outcomes but being more interested in inputs. For the Government to be so interested in minutia of the operations of TAFE institutes is not indicative of a robust or healthy democracy.
95. The intent to micro-manage the TAFE sector is evidenced through subsections 12(1)(g), 12(3) and 12(4) of the Bill. The Government can only remain aware of these provisions and the status of TAFE policies and procedures if it has a swarm of bureaucrats pouring over the detail of TAFE materials.
96. The legislation requires that agreements, policies and practices and procedures must be consistent with the freedom of association principles contained in the WRA.

²¹ Brian Wilson, *Workforce Training: Employees Needs and Program Results*, <http://www.learningconnections.org/sbctc/assets/Bryan%20Wilson%2010-29%20Presentation2.ppt>

²² ACCI Survey of Investor Confidence April 2005

97. The requirement that policies and procedures are consistent with principles of Freedom of Association is meaningless and should be deleted from the Bill. A requirement to be consistent with a set of principles that are not enunciated or set out in legislation makes a mockery of compliance. It is not possible to comply with something that does not exist, let alone something that may change at the whim of the government.
98. Under such a regime it would be possible for an institute to be complying with what they understand such principles to mean but then have the government reinterpret the principles so that suddenly the institute is non-compliant.
99. The current structure of the legislation would imply that one non-complying institute will effect the funding to an entire State. Such a formulation places an obligation on a State Government with respect to matters they do not control.
100. The practical implementation of this proposition creates ludicrous outcomes. At its worst it will require that all policies and procedures of a TAFE be scrutinised by some bureaucrat to determine if they meet the requirements of the legislation. The literal effect of the Bill is that one institute in one state breaching this provision may result in the entire state funding being put at risk.
101. The measure of success of the national training framework must be in the outcomes (while ensuring quality of course in the processes). It was just this obsession with inputs – albeit at the State level – that caused the need to develop the national training system. The obsessions of this government risk the undoing of the national training system.

102. This level of micro-management is an unwarranted interference in the operation of the TAFE sector within the States.