

VERIFIED TRANSCRIPT

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into budget estimates 2010–11

Melbourne — 12 May 2010

Members

Mr R. Dalla-Riva

Ms J. Graley

Ms J. Huppert

Mr W. Noonan

Ms S. Pennicuik

Mr G. Rich-Phillips

Mr R. Scott

Mr B. Stensholt

Dr W. Sykes

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Chair: Mr B. Stensholt

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Executive Officer: Ms V. Cheong

Witnesses

Mr M. Pakula, Minister for Industrial Relations,

Mr M. O'Connor, Deputy Secretary, and

Ms D. Jepson, Director, Strategic Planning and Ministerial Services, Department of Innovation, Industry and Regional Development.

The CHAIR — I now welcome Mr Matthew O'Connor, deputy secretary, Department of Innovation, Industry and Regional Development, and Ms Deborrah Jepson, director, strategic planning and ministerial services, Department of Innovation, Industry and Regional Development. I will be calling on the minister to give a brief presentation of no more than 5 minutes on the more complex financial and performance information relating to the budget estimates for the industrial relations portfolio.

Overheads shown.

Mr PAKULA — The media seems to have left. Thank you for allowing me to make a brief presentation on the IR portfolio, particularly on Workforce Victoria's role and functions. Workforce Victoria develops policy, provides advice and delivers programs that encourage high-performance workplaces and assist to attract new business investment for Victoria.

The private sector IR unit provides advice and guidance on private sector industrial relations matters and innovative work practices, both to departments and to the broader community. The unit promotes work and family balance initiatives, it promotes pay equity, but it also provides support to industry councils for the building industry, the transport industry and the forestry industry. The unit provides increased protection for working children through its administration of child employment legislation, and it oversees the state's long service leave laws, providing information and promoting compliance.

The public sector and legal unit works closely with other departments and agencies within government and with public sector unions to achieve budgetary sustainable employment arrangements to help attract and retain quality workforces. That unit assumes lead agency responsibility for providing government-wide expert advice on industrial relations and also maintains and develops the government's policy position in relation to national workplace relations laws.

The budget for 2010–11 has decreased by \$0.9 million to \$7.7 million from the 2009–10 budget of \$8.6 million, principally due to the completion of funding of the Office of the Workplace Rights Advocate.

Workforce Victoria has contributed significantly to the national IR referral process, playing a crucial leadership role amongst the states and territories. The referral means uniform fair work laws for the private sector. That helps to reduce legal complexity for business and helps to encourage compliance. It is also pleasing to be able to say that following the launch of the Fair and Flexible Employer Recognition Awards program of 2009 that recognition awards will be presented to a range of metropolitan and regional employers in June this year. It is also worth pointing out that as of April 2010, 32 public sector agreements have been given government approval in the last year, and the department, particularly Workforce Victoria, continues to provide industrial relations guidance to potential national and international investors.

We also, importantly, made a new referral of IR matters to the commonwealth, which was given effect on 1 July last year. Without that new referral, there would have been gaps in the application of the fair work laws to unincorporated businesses and the public sector in Victoria. But the public sector exclusions from the referral ensure that the state retains control over important public sector employment matters. Access Economics has done an analysis which has revealed that moving to a single national workplace relations system reduces compliance costs, particularly for small business and helps to increase productivity.

It is good to see that the workplace relations ministerial council now meets with a spirit of cooperation. Senior state and commonwealth officials meet regularly as well. They are making good progress to achieve positive national workplace relations outcomes, and they are including initiatives like work and family initiatives, paid parental leave, issues around young workers, issues around sham contracting, around procurement and around pay equity, and we are playing a very active leadership role in those matters.

I should just say that under the intergovernmental agreement the referring states and territories are entitled to early consultation on and input into any changes to the fair work laws. In addition, the IGA includes arrangements under which the referring states and territories subcommittee of the council can vote on proposed amendments to the fair work laws.

Workforce Victoria is going to continue to focus actively on the development of a national IR system that delivers benefits to employers and workers. I should make a brief comment about the Working Families Council. That was established back in 2007, and in 2010–11 through the Working Families Council and

Workforce Victoria we are going to focus on supporting groups like fathers and carers, mature-age workers, regional working families, small businesses and women in male-dominated industries, and we have been a vocal supporter of the commonwealth's paid parental leave scheme. I might just leave it there; I know we do not have too long.

The CHAIR — No, we do not.

Mr PAKULA — I am happy to take some questions.

The CHAIR — Thank you for that. If you can send us a copy of those overheads, we will be able to put them on the website. That would be good.

Minister, you have mentioned the budget for this portfolio and, of course, the budget allocates funds for next year and for the out years for the priorities and outcomes to be achieved. What strategy or strategies have you got underpinning the budget for this portfolio, and have there been any changes — you have already mentioned one — from last year?

Mr PAKULA — Thanks, Chair. All of the IR activities undertaken by Workforce Victoria are informed by medium and long-term strategies. Workforce Victoria's IR strategic objective is stated in the Workforce Victoria business plan 2009–10. Those objectives involve the development of policy; the administration of state-based workplace relations legislation, like the Long Service Leave Act and the Child Employment Act most particularly; the development and distribution of information on workplace relations regulations for Victorian workers and employers; and also managing programs which are aimed at establishing a fair, cooperative and dynamic IR environment in the state.

Stakeholders are able to access government through the ongoing work of those industry councils I referred to, but also the proactive work of groups like the public sector IR committee, which is coordinated by Workforce Victoria and which is attended by departmental representatives and union representatives. Those strategies are integral to the overall objective of DIIRD to build a skilled and productive workforce that supports investments, supports jobs and supports exports and regional growth.

In the public sector, to advance all of that, workplace relations policies and model clauses have been updated to accommodate the changed obligations under the fair work laws. That has been done in a consultative way through departments and agencies. We continue to provide advice and assistance on public sector enterprise bargaining. There is obviously a lot of work that needs doing in regard to the application of the fair work laws and, as I have indicated, we do that through the workplace relations ministerial council and state-commonwealth departmental working groups. That is because and illustrated by the fact that we took a leading role in the creation of the unitary national system. Chair, I could go on, but I think it is probably fairer if I do not.

The CHAIR — No, that is fine. We just want to know what strategies you have, and a copy of that particular workplace one would be quite useful for the committee, if you can give us a copy of that.

Mr DALLA-RIVA — Minister, just referring to BIP 1 page 15, it relates to the desalination plant. I am trying to get an understanding of the workplace agreement between Thiess, Degremont, the AMWU, AWU, CEPU and the CFMEU in relation to the desalination program.

The CHAIR — What was the reference again?

Mr PAKULA — Just read out the parties again, please, Mr Dalla-Riva.

Mr DALLA-RIVA — Thiess, I understand the AMWU, AWU, CEPU and the CFMEU. Just in relation to the desalination program, it has been widely acknowledged as having provided some pretty extraordinarily generous workplace benefits, that could be sort of put forward. What I am trying to work out, given that we have ministers here who are providing details about their respective projects, from an industrial relations perspective, I want to know if you can assure the committee that these generous benefits are not going to set a new benchmark for future government projects, a benchmark which would potentially substantially increase projected costs of future projects in Victoria?

The CHAIR — Minister, insofar as it relates to your portfolio and the estimates.

Mr NOONAN — The state does not employ those workers.

Mr PAKULA — Mr Noonan is right; the state does not employ the workers. Chair, I feel like I have wandered onto the set of *Hot Tub Time Machine*, because I think this was the first question last year as well. The fact is that last year, what was asserted by Mr Wells, I think, at the time was that there was about to be an outbreak of unholy war on that project as a result of the negotiation of this agreement. I disputed it at the time, and it did not occur. I asked Mr Dalla-Riva to reconfirm the parties to the agreement, because he has asserted on a number of occasions instead that there was some secret deal that included some of those organisations and excluded others. That was not true, either, because in fact all of the organisations he referred to ultimately became a party to the agreement.

I should indicate, Chair, that this is a project which, in its initial stages, was subject to the criticism that it would not be able to be funded and that the PPP would not work. It has now been awarded the title of Desalination Deal of the Year, in Paris, as the best desalination deal, voted on by senior industry executives.

In regard to the enterprise agreement — —

Mr RICH-PHILLIPS — Best deal for whom, though?

The CHAIR — Without assistance.

Mr PAKULA — International recognition as the desalination deal of the year.

Mr RICH-PHILLIPS — But best deal for whom?

The CHAIR — Without assistance. Continue, please, Minister.

Mr PAKULA — The best PPP, Mr Rich-Phillips.

Mr RICH-PHILLIPS — For which party, though?

Mr PAKULA — Let me say that this was the biggest PPP in the world last year, and it was, as the Liberal Party said at the time, never going to happen, and there have been all sorts of false assertions now about the deal, about the enterprise agreement, that there was going to be industrial chaos, which there was not, that some organisations were going to be excluded, which they were not, and now the suggestion that somehow the terms of the agreement are going to have an impact on water charges.

The reality is that there is a fixed price agreement entered into between the government and the successful tenderer, and that is the price to government, and the cost of the enterprise agreement is borne entirely by the contractor. It is a deal between the contractor and those organisations that you referred to. So in terms of any consequential flow-on, there is no prospect of that because it is not an agreement between government and organisations; it is an agreement between a private company or companies, contracted by government to provide a project, and their workforce.

The CHAIR — Thank you for that.

Mr SCOTT — Minister, I refer you to outputs on page 129 in budget paper 3 in regard to Victoria being represented in major inquiries in accordance with government policy. Can you inform the committee what major industrial relations inquiries the Victorian government is intending to contribute to during the estimates period?

The CHAIR — Minister, have you got a crystal ball?

Mr PAKULA — I can say that we have made a submission to the annual wage review that is being carried out, and that submission is one which advocates for an economically sustainable increase to minimum wages, but without specifying a quantum. That is similar to what we did in 2009. We supported an unspecified, sustainable wage increase, which we saw as being consistent with the then state of the Victorian, the national and the global economy. It is worth pointing out that the last increase of \$21.66 per week for minimum wage workers came into effect on 1 October 2008, so more than 18 months ago, and although average ordinary wages increased by 3 per cent in 2009, the Australian Fair Pay Commission did not award any increase to

1.4 million low-income workers in its 2009 wage review. That was a decision which was based on economic projections of a deep recession in 2010 and projected unemployment figures that were in excess of 8 per cent.

Our submission to the 2010 annual wage review notes that there has been a recent improvement in both economic conditions and in the forecasts for growth, and that they are above the projections on which the fair pay commission justified the 2009 wage freeze. It is also a submission which is consistent with the current public sector wages policy of 2.5 per cent. The submission included a CPI forecast of 2.25 per cent for 2010-11, which was based on the published DTF budget estimates, but we did not advocate that the increase be based on CPI forecasts. So we do support what the ACTU says when it says that it would be unfair for those workers on minimum wages to be left further behind as the economy improves, and we do believe that a fair and sustainable increase can be granted without damaging the employment prospects of the low-paid or the unemployed.

The CHAIR — Thank you very much.

Mr RICH-PHILLIPS — Minister, in your presentation you referred to one of the objectives of your unit being promoting a cooperative IR environment in Victoria.

Mr PAKULA — Yes.

Mr RICH-PHILLIPS — You also referred to one of the functions being to provide advice on public sector enterprise bargaining activities. What I would like to ask you about is the role of the agency, and indeed you as minister, in IR dispute resolution where the state of Victoria is one of the parties. It was the example — probably not the best example given you are also the portfolio minister — of the issue of train drivers not wanting to drive the new trains. There was the issue — as I say it is probably not a great example, given your other hat — of a dispute on the West Gate Bridge, a demarcation dispute. What role do the agency and the minister play in dispute resolution?

Mr PAKULA — That is a good question, Gordon, I have to say. Any dialogue that I had, just taking your first example in regard to Metro, the issue with the train drivers, you would have seen at the time that I made public statements about that. I am trying to farm my memory for what I said, but I think the comment that I made at the time was that if the drivers were not undertaking the introduction of the X'trapolis train, I think was the issue at the time, in accordance with the directions of Metro and particularly following the advice of Public Transport Safety Victoria about their fitness for purpose, that it was my expectation that Metro would leave no stone unturned in that regard. As you would recall, there was more than one matter taken to Fair Work Australia. Can I say in that regard, my interventions were solely in my role as Minister for Public Transport, and that was how that matter was being dealt with by me. The dialogue that I engaged in was in that role.

In regard to other public sector enterprise bargaining, it has been a clear policy of this government that the responsibility for that bargaining lies with the relevant agency and, by extension, with the relevant minister. Having said that, there are occasions where the relevant minister will seek advice or assistance from me and the relevant agency will seek the advice and/or the assistance of Workforce Victoria. It is very much a horses for courses situation. Sometimes some agencies are very keen to undertake all negotiations and dialogue on their own. They do not feel they need assistance from Workforce Victoria in that regard. Other times I think it is fair to say various agencies would request some assistance, either formal or informal, from Workforce Victoria. I think it is reasonable to say that when that support or assistance is requested it is provided.

Mr RICH-PHILLIPS — But what about outside the framework of EBA matters and other dispute resolutions?

Mr PAKULA — Again, it is not too different. If Workforce Victoria received a request for instance from VicRoads to assist it or provide it with advice with regard to issues that occurred on the West Gate Bridge, then Workforce Victoria would raise the matter with me, but it would provide that assistance and advice. But it is not Workforce Victoria's own initiative. Workforce Victoria does not go about offering its services to each agency in the event of there being any disputation. Agencies well know that Workforce Victoria is there. Ministers well understand that I as the Minister for Industrial Relations might be in a position to either provide assistance or for the officers of Workforce Victoria to provide assistance. If that assistance is requested, we would generally provide it.

Mr NOONAN — Minister, I refer you to budget paper 3, page 129, under the heading ‘Industrial relations’, which specifies that this particular budget should assist in advocating and delivering programs aimed at establishing fair, cooperative and dynamic work environments in Victoria in both private and public organisations. I wondered whether you could inform the committee how the Victorian government will achieve this, particularly in line with the harmonisation of workplace relations under the commonwealth government fair work laws. I note with interest the federal opposition leader’s willingness to breathe potential new life into WorkChoices if in fact they were elected again at some point.

Mr RICH-PHILLIPS — This is in the budget is it, Wade?

Mr NOONAN — Certainly it relates to page 129 of budget paper 3.

Mr RICH-PHILLIPS — The federal opposition leader is in the Victorian budget?

Mr NOONAN — It relates to harmonisation at the national level.

Mr RICH-PHILLIPS — The federal opposition leader is in the Victorian budget, is he?

Mr NOONAN — It relates to the harmonisation of workplace laws at the national level.

Mr DALLA-RIVA — I think that should be ruled out of order.

Mr RICH-PHILLIPS — Tell me how it fits within the Victorian budget.

Mr DALLA-RIVA — That should be ruled out of order, Chair.

The CHAIR — I am sorry, I was distracted.

Mr NOONAN — I am happy to repeat the question.

Mr DALLA-RIVA — Reword it so it makes sense.

The CHAIR — My apologies. I was talking to one of the other members regarding a question on notice.

Mr NOONAN — I think the minister heard it, but I will truncate the question.

The CHAIR — Okay, but refer it to the estimates.

Mr NOONAN — I refer to budget paper 3 page 129 headed ‘Industrial relations’. I draw the minister’s attention to the fact that this budget should assist in advocating for the delivery of programs aimed at establishing fair, cooperative and dynamic work environments in Victoria in private and public organisations. I just wondered whether the minister can inform the committee how the Victorian government will achieve this in light of the harmonisation of workplace relations under the commonwealth’s fair work laws.

Mr DALLA-RIVA — An excellent question.

Mr PAKULA — Can I say it has been asked how we achieve our objectives in light of the fact that we have fundamentally a nationally harmonised system. We went to the last election with a policy with regard to IR and WorkCover portfolios. It was about committing the government to help working families preserve their workplace rights, helping parents to be and remain part of the workforce, protecting workplace safety and the like. We have worked to implement those commitments. It is more complex since the passage of the Rudd government’s fair work laws, but we have moved to ensure that the national system applies to all Victoria’s employers and employees through that revised comprehensive referral of powers. We were comfortable in doing that because the fair work laws are based on cooperation, fairness and a uniform set of minimum standards to underpin the employee’s rights and entitlements, unlike WorkChoices.

Since January Victorian workers have had the benefit of a decent safety net based on the national employment standards — that is, the regulation of maximum weekly hours, requests for flexible working arrangements, parental leave, annual leave, personal leave, carers leave, long service leave, community leave and the like. The officials from Workforce Victoria have played and will continue to play an instrumental role. They played an instrumental role in the drafting and development of the laws and the NES. They will continue to play an

instrumental role as we go forward through the Workplace Relations Ministers Council and the high level officers group.

Our commitments and the commitments outlined in those budget papers are preserved and protected by that referral and by the work the department and I continue to do as part of that national process. We will continue to advocate for those sorts of fair and balanced workplace laws in those national forums set up under the fair work legislation, particularly as they relate to work-life balance and information and rights for workers. I should also briefly mention those industry councils that I referred to — the Transport Industry Council, the Forestry Industry Council and the Building Industry Consultative Council that again help to deliver on those commitments you referred to in the budget papers.

Dr SYKES — Minister, I wish to go back to the desal plant and your answer to the question put to you by Mr Dalla-Riva. My understanding is that the guts of your answer was that there was a deal negotiated between Thiess and the unions, and that, as the government had a fixed price contract, whatever wages deal they worked out had no impact on the cost to the government and therefore would not set a benchmark for future government projects. Is that a reasonable summary?

Mr PAKULA — Yes.

Dr SYKES — I am intrigued by that answer because, as I understand it, labour constitutes a significant part of a lot of these contracts. Therefore when an organisation is quoting or preparing project costs either they are factoring in high labour costs or a massive profit margin for themselves. When you have wages of \$150 000 to \$200 000 for tradies, it is just so high it blows my mind. I also note that we have had recent exposure of the federal government's failure to manage the BER where the costs — —

Mr PAKULA — Is that in the budget papers, Chair?

Mr DALLA-RIVA — It is. Thank you for asking, it is! Tony Abbott is not, but the BER is!

Dr SYKES — The costs of projects undertaken are up to four times the going rate. Would you care to comment on your answer and my comments on your answer?

The CHAIR — All right; a little speech.

Mr PAKULA — I will not comment on my own answer. In regard to your comments, Dr Sykes, I suppose they are your comments. But let me just say this about it: there are a whole range of government projects around the state: there is Peninsula Link; there is the West Gate Bridge, which we have already talked about; there is the desalination plant; there is regional rail link; there is the Royal Children's Hospital; there is the Box Hill Hospital. There is a whole range of projects, any one of which, according to your logic, Dr Sykes, could create a precedent for the enterprise agreements that might follow in other projects around the state. Why you would assume that the wages outcome or the content of the enterprise agreement for that particular project would be the enterprise agreement that would form the basis of tenders by private companies for any future project across a diverse range of industries and portfolios escapes me. The fact is that if your logic is right, then it could just as easily be the enterprise agreement that will be used to deliver the Box Hill Hospital that can form the benchmark. Let me repeat: it is an agreement — —

Dr SYKES — Is it not possibly the case that — —

The CHAIR — We would like to finalise this hearing. I think statements have been made by people.

Mr PAKULA — The point is an agreement between certain unions and certain companies. It is a matter for them, and it is no more or less than that.

The CHAIR — Minister, I just want you to take on notice a question from Ms Pennicuik regarding Job Watch, which has replaced the workplace rights advocate, I understand. The issue is whether the current level of funding is sufficient. Has any needs analysis been done on the basis of an understanding by Ms Pennicuik that there seems to be an excess demand, or it is overwhelmed by demand, and there is an inability of some people to access that? I will give you a copy of the question.

That concludes consideration of the budget estimates for the portfolios of public transport and industrial relations. I thank the minister and departmental officers for their attendance today. For questions taken on notice the committee will follow up with you in writing at a later date. The committee requests that written responses to those matters be provided within 30 days. Thank you, Minister.

Committee adjourned.