



**Public Service Association
of South Australia
Senate Submission
February 2013**

Standing Committee on Education, Employment and Workforce Relations

Inquiry into the conditions of state public sector employees and the adequacy of protection of their rights at work as compared with other employees

Background

The Public Service Association of South Australia (PSA) is the largest public sector union in South Australia and represents employees from South Australian government departments, statutory authorities, universities and some outsourced enterprises providing services on behalf of the State Government.

The PSA also has extensive knowledge of the Federal jurisdiction due to having the same membership and offices as the Community and Public Sector Union (CPSU), South Australian Branch of the State Public Services Federation Group.

The PSA has over 15,000 members, the majority coming under the State Industrial Relations jurisdiction and covered by the *Fair Work Act 1994 (SA)*.

As the PSA has members in both the State and Federal jurisdictions, this has provided the opportunity to compare both systems in terms of the adequacy of protection of workers' rights.

The PSA's submission contends that the State industrial jurisdiction and the *Fair Work Act 1994 (SA)* provide a framework which has afforded state public sector employees good protection. It has remained accessible and flexible to ensure the PSA is able to effectively represent its members.

Issues

The PSA of South Australia favours retaining the benefits of the South Australian state industrial relations jurisdiction, which has been both effective and timely in the resolution of issues.

PSA has found ease of access to the South Australian Industrial Relations Commission a major benefit in allowing for the resolution of disputes. Voluntary Conferences in particular play a very useful role and can be convened quickly and with the minimum of formality.

The PSA has recently negotiated an Enterprise Agreement covering over 35,000 public sector workers who overwhelmingly endorsed the agreement (in excess of 95% of employees voting in favour of the proposed agreement). Significantly one of the features of the agreement was no loss of conditions of employment and job security for the term of the agreement.

The only significant controversial issue that has arisen is that of the employer also being the Government of the state, and its ability to use legislation to benefit it as the employer.

Specific reference to this matter within Enterprise Agreements has dealt with concerns to a significant degree and provided a mechanism for resolution of issues. Specifically, the agreement contains an enforceability clause which allows parties to the Agreement to utilise the South Australian Industrial Relations Commission in the event that there is a dispute as to the provisions of the Agreement.

Both the PSA and the State Government were satisfied with the outcome of the agreement.

It is worthwhile examining some of the detail contained within the *Annual Report on the work of the Industrial Relations Court and Commission of South Australia*¹, particularly since the operation of the national industrial relations system introduced by Federal and State legislation effective from 1 January 2010.

The report states;

It remains the case that the changes then made to the scope of the State Commission have had a limited impact on the overall workload of members in terms of that jurisdiction. The level of activity in specific areas of jurisdiction exercised by the Commission has varied slightly but not in any significant respect.... In particular, the advent of the Local Government sector and the transition to the Commonwealth jurisdiction of small unincorporated businesses has not resulted in any significant change in the number of applications associated with

1 *Sixth Annual Report on the work of the Industrial Relations Court and the Industrial Relations Commission, 2011-2012.*

enterprise agreements or unfair dismissal claims compared with last year.²

This is consistent with the PSA's view that the transition to a national industrial relations system has not significantly, or detrimentally, affected state public sector workers, or indeed their access to the State Industrial Relations Commission.

Further, the *Annual Report* found;

Disputes concerning workload and related issues, especially for medical and nursing staff in Health SA, were a significant feature of State public sector disputes. The protracted enterprise bargaining disputes in the public sector which have been mentioned in recent annual reports have diminished, partly due to the bargaining cycle and partly due to the successful negotiation of enterprise agreements between the parties.

Consistent with comments in the previous annual report, most disputes were relatively confined in nature and there were negligible days lost due to industrial disputation. The overall level of disputes in the context of over 110,000 employees within the State jurisdiction tends to confirm predominantly harmonious employment relationships.³

Experience over many years has shown that both State and Federal jurisdictions can be positive or negative at various points in time, depending upon the composition of the Parliament and the contents of the relevant legislation.

State or Federal are not inherently better or worse than each other, but rather each can have benefits or disadvantages at particular points in time.

Any changes or transfer of jurisdiction will inevitably will take time and resources which could negate any perceived benefit. It would be more effective ensuring the existing systems working effectively and efficiently.

One area for potential examination by the Committee is to deal with situations where

2 Note 1, at p.12.

3 Note 1, at p.17.

employees move between jurisdictions. In situations where a public sector function moves to the Commonwealth Government or the private sector then jurisdiction moves from the State to the Federal jurisdiction, with the reverse occurring when functions move to the SA Public Sector.

A mechanism for dealing with employee entitlements during the transfer process when such transfers occur would be useful as currently each of the State or Commonwealth Commissions can only deal with matters that are within their jurisdiction, not on the basis that employees in future will come under their jurisdiction.

The South Australian State Public Sector has faced significant job cuts in recent years and there are mechanisms in place to ensure any issues relating to the impact on conditions of employment, Award or Enterprise Agreement provisions are able to be addressed within the State jurisdiction.

Conclusion

The PSA contends that the *Fair Work Act 1994 (SA)* provides state public sector workers with adequate protection and entitlements than workers under the *Fair Work Act 2009 (Cth)*.