United Voice Ambulance Section Victoria (AEA-V)

Inquiry into the provisions of the Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016

Ambulance Employees Australia Victoria

Ambulance Employees Australia Victoria Submission

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Introduction

Ambulance Employees Australia Victoria, a section of United Voice Victoria, welcomes the opportunity to make a submission to the Senate Education and Employment Committees on behalf of our members regarding the *Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016* (Bill).

Ambulance Employees Australia Victoria represents members engaged in the ambulance industry in Victoria in both the emergency and the non-emergency patient transport (NEPT) sector.

While the public discussion has primarily been around volunteer fire-fighting bodies in Victoria the ambulance service in Victoria would be adversely impacted by the introduction of this legislation.

Ambulance Victoria engages individuals in a volunteer capacity to man Community Emergency Response Teams (CERTs) in predominantly rural locations and currently, Ambulance Victoria has engaged 404 CERTs who work in 27 locations across the State.

CERTs provide a preliminary ambulance response in locations where the low workload does not justify the presence of a permanent emergency paramedic. The AEAV acknowledges that CERTs provide an excellent service to their community but fundamentally believe that they should not be considered the equivalent of a bachelor degree qualified paramedic.

The AEAV strongly opposes the ability for individuals who are not covered by the provisions of the *2015 Ambulance Victoria Enterprise Agreement* (Agreement) to interfere with the collective will of Victoria's paramedics.

The AEAV believes that the working of lives of Victorian paramedics will not be enhanced by the Bill and the legislation should be abandoned.

Objections

Scope of Employers to Be Covered By The Bill

The scope of the Bill is ambiguous and creates an undisclosed list of employers that are "designated emergency management body".

The Bill provides no guidance, criteria or considerations as to which emergency service organisations will be covered by the legislation. The AEAV can only conclude that Ambulance Victoria will be considered a "designated emergency management body".

The AEAV, as the Ambulance Union within Victoria, objects in the strongest terms to having individuals not covered by our enterprise agreements intervening in the setting of terms and conditions of its members.

Emergency Service Workers

The origins of the legislation arise out of a state emergency service enterprise bargaining dispute which descended into a proxy battle between a Coalition Federal Government and a Labor State Government during a federal election campaign. Such disputes are not productive or conductive to providing a safe working environment for our emergency service workers. Professional emergency service employees deserve to be treated with more respect from the Federal Government.

Ambiguity of the Legislation

Should Ambulance Victoria be considered a "designated emergency service body" the legislation provides no guidance as to what "could" effect a volunteer and enable them to intervene in the bargaining process.

New Objectionable/Unlawful Terms

Only designated emergency management bodies are subject to new objectionable/unlawful/unenforceable terms which is discriminatory and restricts terms that can be otherwise bargained and contained in certified enterprise agreements covering all other employees and industries.

The definition is broad and includes restricting or limiting the emergency management body's ability to do any of the following:

- engage or deploy its volunteers;
- provide support or equipment to those volunteers;
- manage its relationship with, or work with, any recognised emergency management body in relation to those volunteers;
- otherwise manage its operations in relation to those volunteers.

Under the above definition any part of operations/decisions/consultation that is arguably likely to have an effect on volunteers directly or indirectly would be an objectionable term.

The Fair Work Act provides a default consultation clause which must be included in all enterprise agreements before they are eligible to be certified by the Fair Work Commission derived from the safety net standard established more than 30 years ago. Ambulance in Victoria through successive rounds of negotiations have successfully bargained terms of consultation which are tailored better to the ambulance industry. In the emergency setting of ambulance, consultation is required on matters more than "major change" having "significant effects" on paramedics working conditions. This legislation has the power to undermine such agreed and established consultation clauses.

Further improvements in pre hospital care, treatments and equipment in Victoria normally occur as part of a consultation and trial process between paramedics and Ambulance Victoria who have the expertise and experience. If the Bill is passed it would mean that volunteers could interrupt or delay that process and outcome and adversely impact the standard of care provided to the community by paramedics.

Individuals could utilise the above provisions and undermine the provision of emergency services to the Victorian community. It would make the phasing out of volunteers to be replaced by professionals due to increased workload incredibly difficult and would result in a lesser level of coverage being provided where necessary due to operational requirements.

The above provisions also conflicts with the Victorian's government's commitment to enable previously restricted matters such as staff numbers to be bargained into enterprise agreements and is a further restriction on the ability of emergency service workers to collectively bargain.

Collective Bargaining

The proposed Bill undermines the principle of collective bargaining has been a feature of the federal industrial system for the last two decades and is required under Australia's international obligations.

Collective bargaining provides a framework for employers, employees and their bargaining representatives to negotiate terms and conditions of employment for a particular worksite or organisation. The current legislative scheme facilitates the involvement of the independent umpire, through a proper and procedurally fair process, to intervene and assist the parties about reaching agreement on the content of their bargain. The framework assists the industrial parties in reaching their own agreement with the support and supervision of an impartial tribunal.

This approach is consistent with section 171 of the Fair Work Act which outlines the objects of the Part of the Act which deals with collective bargaining as follows:

"The objects of this Part are:

(a) to provide a simple, flexible and fair framework that enables collective bargaining in good faith, particularly at the enterprise level, for enterprise agreements that deliver productivity benefits; and

(b) to enable the FWC to facilitate good faith bargaining and the making of enterprise agreements, including through:

(i) making bargaining orders; and

(ii) dealing with disputes where the bargaining representatives request assistance; and

(iii) ensuring that applications to the FWC for approval of enterprise agreements are dealt with without delay."

It is outrageous that the Federal Government would seek to utilise its legislative power to undermine the independent tribunal through the introduction of the Bill. The proposed legislation erodes the impartiality and independence of the collective bargaining framework and undermines the authority and efficacy of the Fair Work Commission.

Third Party Interference

The definition of a volunteer under the Bill is very broad and includes individuals who receive payment for volunteering and engaging in "activities" with the designated emergency management body and do not even need to be a member of the body.

Equally expansive is the definition of "volunteer bodies" which only requires that the organisation is a body corporate, has a "history" of representing volunteers of the designated emergency service management body or is any other body as prescribed by the yet unknown or unreleased Regulations.

The Bill provides that any volunteer body which meets the above loose criteria with rights to make a submission for the consideration by the Fair Work Commission (regardless of whether there is a hearing) for any matter regarding an enterprise agreement (that comes within Part 2-4 of the Fair Work Act) if the matter affects or "could affect" the volunteers of the designated emergency service management.

The ability to intervene by a party who is not covered by the agreement, does not represent those covered by the Agreement and is not an employee or employer provides an opportunity for external interests and aggrieved individuals to highjack the bargaining process and prosecute personal agendas whilst employees covered by allegedly "objectionable" enterprise

agreements are denied wage increases which their employer has agreed to. This is grossly unfair.

Retrospectivity

The Bill seeks to apply the Amendments to the Fair Work Act retrospectively to the enterprise agreements of any designated emergency management body. This is impracticable and creates immediate uncertainty and interference in the industrial relations of the emergency management sector as all currently certified Agreements would revert to the status of "pending".

Variations to the current *2015 Ambulance Victoria Enterprise Agreement* are currently before the Fair Work Commission for approval and the Bill, in its current form, would provide a mechanism for third parties to undermine the industrial security of Victorian Paramedics. This is unacceptable considering that 98.76% of Victorian paramedics endorsed the varied agreement.

The Bill will result in wide-ranging uncertainty; interference in the terms and conditions of employment for emergency service workers; impose restrictions on the right of the State to enter into agreements with its employees and generate costly and lengthy litigation in the vital emergency management sector.

Recommendations

1. The Senate reject the *Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016*.

2. The Senate commit to preserving the collective bargaining provisions provided for in Part-4 of the Fair Work Act.

Conclusion

The 2015 Ambulance Victoria Enterprise Agreement (Agreement) is over a 100 pages long and contains no reference to the existence of Community Emergency Response Teams (CERTs), the volunteers engaged by Ambulance Victoria to assist in the provision of pre-hospital emergency care in Victoria.

The Bill, in its current form, would allow a minority of individuals whose terms of engagement are not even regulated by the Agreement to undermine the industrial wishes of the 3, 500 operational paramedics within the State of Victoria and this is not something the AEAV could ever support.

The AEAV believes that the federal government would be better looking at legislative reform which would enhance the working experience of paramedics and not seek to undermine their hard fought for terms and conditions of employment. Industrial reform that the federal government should instead prioritise is presumptive legislation for Post Traumatic Stress Disorder Workcover claims and restrictions on the use of "operational requirements" to reject flexible working arrangements.

The introduction of the Bill would create unnecessary industrial uncertainty for Victorian paramedics and have the potential to undermine the harmonious relationships between paramedics and CERTs.

The AEAV strongly urges the federal government to abandon the introduction of *Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016*.