ELECTRICAL CONTRACTORS ASSOCIATION

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The Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
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Sent via email to: lacsc@parliament.qld.gov.au

Dear Sir/ Madam,

The Electrical Contractors Association is grateful for the opportunity to respond to the release of the *Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Bill 2013* (the Bill).

Established in 1937, the **Electrical Contractors Association** (ECA) has been representing electrical contractors for 76 years, making it one of the longest-standing industry associations of its kind. ECA is registered as an industrial organisation under Queensland legislation with its operation in Queensland. The association's website is: http://www.masterelectricians.com.au/page/ECA/.

Master Electricians Australia Ltd (MEA) is a not-for-profit organisation that provides a national accreditation program to electrical contractors seeking to differentiate themselves from other contractors. MEA is part of the ECA Group of Companies and operates nationally. The organisation's website is: http://www.masterelectricians.com.au.

References to the ECA and opinions expressed by the ECA, within this submission, should be read as both the Electrical Contractors Association and Master Electricians Australia.

The ECA has chosen to limit our response to the sections of the Bill that are relevant to employer groups, namely those that address the financial accountability and transparency of industrial organisations as well as the definition of worker under the *Workers Compensation and Rehabilitation Act 2003* (WCR Act).

ECA welcomes legislative measures that will address inappropriate conduct by the officials of registered organisations. However, we are concerned that this Bill will impose an unnecessary and disproportionate administrative burden on the vast majority of industrial organisations that are doing the right thing. Our concerns with the Bill are outlined below.

Disclosure registers

We believe there is an important distinction to be made between the paid and unpaid officials of industrial organisations that should be reflected in the reporting requirements under the *Industrial Relations (Transparency and Accountability of Industrial Organisations) Act*. We have no argument with the remuneration and material personal interests of highly paid officials being reported on to a certain degree. People in these positions have an expectation they will be accountable for the financial compensation they receive as well as any material personal interests. However, the same cannot be said for unpaid officials and family members whose personal interests and income would have little to no crossover with the activities of the organisation. It would be an unnecessary administrative burden for employer organisations to

obtain and report on this information and would achieve little in terms of accountability and transparency. It would also compromise the recruitment of potential Board/Council Members, acting as a disincentive to participate in these roles, particularly when such disclosures may affect commercial-in-confidence information of particular individuals.

The ECA would also propose an alternative reporting mechanism in relation to the remuneration paid to an organisation's highest paid employees. If accountability and transparency are the objectives, it would be more pertinent to institute a requirement that limits reporting to the salaries of those positions that report directly to the head of the organisation, be that the CEO, General Manager or State Secretary. Alternatively, another set of criteria for reporting may be selected, such as a minimum salary level above which reporting would be required. We suggest aligning this minimum salary level with the high income threshold that restricts unfair dismissal claims under Part 3-2 of the *Fair Work Act 2009*, currently indexed at $123,300. This will likely capture the vast majority of employees at the executive level who have decision making powers and who should be subject to a level of accountability for their actions. In setting the reporting requirements for high paid employees through this Bill, it may also be useful to consider that federally registered organisations are only required to report on their top five employees and two from sub branches. Clearly, this is less onerous than what is being proposed in the Bill under discussion.

In the event that these provisions are approved, it would be a useful compromise for the reporting to follow those detailed in the *Corporations Act 2001* whereby remuneration for the CEO and those reporting directly to the CEO are reported as a solitary figure across five data lines, namely, short-term employee benefits, other long term benefits, post-employment benefits, termination benefits and share-based payments. This form of reporting would provide for enough detail to achieve transparency and accountability, without breaching the confidentiality of the individual. Not specifying individual salary levels in publicly available reports would also alleviate the risk of other associations and employers poaching employees based on their known salary level.

The ECA would also like to see further detail on the extent of the proposed reporting measures. Many of the changes suggested in the Bill refer to regulation, however, detail as to the proposed form of the regulation has not been provided for comment. It is open for the Minister to make the changes in the regulations as to form content and determination of certain subsections that could broadly open these requirements.

In the interests of accountability and transparency, a reporting measure we agree with is the remuneration paid to officers of industrial organisations who take up positions on non-statutory boards as a result of their role within an industrial organisation. If an officer is receiving personal financial reward as a direct result of representing an organisation this information must be made available to the membership. This situation creates an obvious area where a conflict of interest may arise and that the members of an industrial organisation should be made aware of if an officer is representing their interests.

Expenditure on political objects

A key area of concern for the ECA surrounds the changes that will require the balloting of members to approve expenditure on political objects of $10,000 or more in a financial year. Firstly, the term, "political objects", in the context of the Bill needs to be more clearly defined to aid understanding and prevent any unintentional breaches by industrial organisations. The ECA is further concerned about the negative impact that this measure will have on industrial organisations and their respective members should the term "political objects" be interpreted in

a broad manner. A key strength of employer associations, such as the ECA, is our capacity to advocate on behalf of members to government for changes to policies. With a 76 year history representing electrical contractors we know that members rely on the ECA to communicate their views on important industry, training and safety topics which can often become political issues. The reality is that the majority of business owners do not have the time or resources to be making effective approaches to government on these issues and our role is to advocate on their behalf. Joining an employer organisation is, in effect, an act of delegation by an employer, endorsing that group to take action on their behalf. If the financial delegations as set out in the Bill are complied with and endorsed, then we see that it is the Board/Council's decision to approve such expenditure as the nominated representatives of the membership.

The changes outlined in the Bill have the potential to severely hinder the capacity of employer groups to act on this delegation and lobby for changes to government policy. ECA and MEA would use as an example our intense advocacy lobbying and expenditure to lead the country in making changes to the Federal Government's now defunct Home Insulation Program. This was a program that, as a consequence of bad policy, resulted in house fires and deaths in the community. ECA and MEA would strongly object to a process that delays or inhibits the ability of our organisation to respond quickly, appropriately and proportionately to such serious risks caused by a government policy. With ECA's growing membership, there will be significant costs involved in encouraging time and resource poor business owners to participate in formal polling to approve expenditure on political objects. Achieving the 50% participation level from a widely dispersed membership presents a substantial challenge. By the time the requisite number of members have cast their vote, the political object in question could no longer be of any relevance, with the opportunity for lobbying well and truly lost. The inevitable result is that there will be far fewer campaigns in Queensland from employer groups, leading to disgruntled industry members and far less informed policy making.

An example of the kind of campaign that may suffer as a result of the Bill is ECA's long running Switch Thinking Campaign. This campaign, which includes a report commissioned by MEA, *Switch Thinking – Preventing Electrical Deaths in Australian Homes*, commenced in response to the deaths of three young insulation workers in 2009 and 2010 as a means to lobby government to introduce more comprehensive safety switch laws in order to save lives and prevent further injuries. An amount well in excess of $10,000 has been invested in this important campaign since its introduction in 2010. If ECA was required to conduct a membership ballot to approve spending on this critical safety issue, the campaign itself would likely come to a standstill and any momentum lost. The cost of conducting the ballot would be significant and potentially prohibitive. More problematic would be encouraging 50% of ECA's growing membership to participate in a ballot and then obtaining the required 50% + 1 approval in order to continue with the relevant lobbying efforts. It is challenging enough for not-for-profit organisations to make effective approaches to government, without the added obstacle of a formal balloting process needing to take place.

We would also question the value of the proposed balloting system when accountability appears to be addressed via the reporting and filing obligations contained in the Bill. Industrial organisations will be required to report on expenditure directed to political objects as well as all procurement and contract related expenditures greater than $5000. It must be noted that this level of $5000 is manifestly inadequate. Upon looking at our own expenditure we estimate that 75% of our own suppliers including Telstra, Energex and Australia Post, to name a few, would necessitate being reported on. This expenditure is well within normal operating expenditure for any organisation or business and is already subject to financial auditing as required by the existing legislation. The additional reporting of expenditure as proposed in the Bill is onerous and achieves nothing that properly financial audits duly noted by the Council and tendered as

part of the Annual General Meeting do not already achieve. This information is also made available to members via the organisation's Annual Report. We believe that releasing these figures achieves nothing in the transparency and accountability objectives of the Bill which is not already being done. Imposing excessive balloting and reporting requirements is an unnecessary burden that will significantly hinder the lobbying capacity of industrial organisations.

Definition of 'worker'

We agree with the change to the definition of worker as proposed in the Bill. However, a personal services determination is an exercise that many small employers would need assistance in achieving. Engaging the services of a professional to perform this service and obtain a ruling from the Australian Taxation Office in our estimate would cost approximately $3000 - $5000 . To prevent a further burden to small business, we suggest that the definition be altered so that the words "and/or" are added to the definition with the result that either requirement will result in the Contractor being a Contractor and not inadvertently an Employee.

Conclusion

Overall, we believe that the Bill represents a clear obstacle to industrial organisations being able to effectively to communicate the views of industry on political issues to government and the public. There are certainly alternative mechanisms available to government to deter fraudulent activities within industrial organisations that would not impose such a significant burden on lobbying efforts. We would urge government to reconsider the changes outlines in the Bill and allow the voice of industry to continue to be heard.

Yours sincerely,

Jason O'Dwyer
General Manager – Workplace Policy