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Committee Secretary
Senate Education, Employment and Workplace Relations
Committees
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Committee Secretary

RE: PROTECTING LOCAL JOBS (REGULATING ENTERPRISE MIGRATION AGREEMENTS) BILL 2012

The Victorian Employers' Chamber of Commerce and Industry (VECCI) is Victoria's leading and most influential employer group. An independent, non-government body, VECCI services 15,000 businesses each year.

Our membership base is diverse, with involvement from all levels and sectors of industry including:

- Manufacturing;
- Health and Community;
- Business Services;
- Hospitality;
- Construction;
- Transport;
- Retail; and
- Tourism.

VECCI is a member of the Australian Chamber of Commerce and industry (ACCI), which develops and advocates policies that are in the best interests of Australian business, the economy and the wider community. VECCI endorses the submission made by ACCI to the Committee and makes the additional comments outlined below.

Enterprise Migration Agreements (EMAs) used in the resources sector have tended to apply to the construction phase of large-scale new projects. They facilitate the engagement of labour which cannot be sourced locally, in controlled numbers and pursuant to defined criteria. They are already subject to guidelines administered by the Department of Immigration & Citizenship which include requirements to contribute funds and other resources to the training of local workers.

The measures that would be imposed according to proposals contained in the Protecting Local Jobs (Regulating Enterprise Migration Agreements) Bill 2012 are simplistic, impractical and burdensome. They are reflective of views that are ill-informed when it comes to the current operation of EMAs and the guidelines and requirements that regulate their use.

If adopted, the measures could result in unnecessary and misguided political and bureaucratic interference in nationally important infrastructure projects. This would in turn lead to delays and additional costs. It is specifically because of these possible outcomes that VECCI opposes the amendments. Even if initially used in relation to projects used in the resources sector, the new requirements could well become the forerunner to additional regulation in other areas of the economy and other infrastructure projects at a time when business is already grappling with a range of challenges. Australia and Victoria needs more infrastructure projects of significance, not less and the sort of thinking behind these amendments is as potentially divisive as it is destructive to the prospect of projects of importance going ahead.

Turning to the specific amendments proposed by the Australian Greens:

1. **Requirement to consult local jobs board (proposed s.140 ZKC):** This would impose an additional administrative requirement of questionable value. It is a case of regulatory overkill for no productive benefit. Under current guidelines, employers are already required to illustrate their attempts to firstly employ local workers and why sufficient numbers cannot be sourced.

2. **Minister to be satisfied that the EMA participant has complied and will continue to comply with workplace laws (proposed s.563A):** This amendment is nonsensical. Firstly "workplace laws" covers a broad range of laws and secondly, how could a Minister possibly be satisfied that a business will continue to apply with every aspect of every workplace law indefinitely? The amendment has the character of a condition designed for political purposes to be impossible to comply with, so as to ensure that the regime it would purport to regulate, in this case EMAs, is never utilised.

3. **Additional conditions imposed on the making of EMAs by the Minister (proposed s.563B and s.140 ZKD):** Amongst the various proposals in the Bill is the conferring upon the Minister broad powers to impose additional costs on corporations by requiring them to fund training for Australian residents. This would represent yet another cost imposed upon business. The current guidelines already require a contribution from employers using EMAs to contribute to training of Australian workers. The introduction of further costs cannot be supported.

   Further, the Bill proposes granting the Minister the power to impose conditions that would regulate who could be employed on a project, such as a requirement to employ people from regions with high unemployment or even more narrowly, from culturally and linguistically diverse communities with high rates of unemployment. Such powers would be quite an extraordinary and unprecedented interference with managerial prerogative and cannot be supported. Businesses are in the best position to source labour and should have the right to select the most appropriate candidates for vacancies having regard to the requirements of the project.

Proposed s140ZKD would give the Minister power to impose any conditions he or she wants before making an EMA. Such unbridled power cannot be supported. It could be used by a Minister to push all manner of political objectives that have no regard to the normal operation of commerce and gives no certainty to business.

4. **Requirement to table EMAs in parliament (proposed s.140 ZKE)**: There is no justifiable reason for the tabling of EMAs in parliament. They are already adequately regulated and parties employing them ought be afforded privacy when it comes to commercially sensitive components of them.

The Amendments should not be supported. They reveal in yet another way just how hostile to business elements of the political philosophy of the Australian Greens are and indeed, how counterproductive they are to the continued prosperity of the nation.

Yours sincerely

Richard Clancy
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Industry Policy and Workplace Relations Services