

# CORRECTED TRANSCRIPT

## PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

### **Inquiry into budget estimates 2005–06**

Melbourne — 1 June 2005

#### Members

Mr W. R. Baxter

Ms C. M. Campbell

Mr R. W. Clark

Mr B. Forwood

Ms D. L. Green

Mr J. Merlino

Mr G. K. Rich-Phillips

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Chair: Ms C. M. Campbell

Deputy Chair: Mr B. Forwood

#### Staff

Executive Officer: Ms M. Cornwell

#### Witnesses

Mr R. Hulls, Minister for Industrial Relations;

Ms F. Thorn, secretary; and

Mr B. Corney, acting deputy secretary, Industrial Relations Victoria, Department of Innovation, Industry and Regional Development.

**The CHAIR** — I declare open the Public Accounts and Estimates Committee hearings on the 2005–06 budget estimates for the Attorney-General and for the portfolios of planning and industrial relations. I welcome Mr Rob Hulls, Attorney-General, Minister for Planning and Minister for Industrial Relations; Ms Fran Thorn and Mr Brian Corney, all from the Department of Innovation, Industry and Regional Development, departmental officers, members of the public and the media. In accordance with the guidelines for public hearings I remind members of the public that they cannot participate in the committee's proceedings. Only officers of the PAEC secretariat are to approach PAEC members. Departmental officers, as requested by the minister or his chief of staff, can approach the table during a hearing. Members of the media are also requested to observe the guidelines for filming or recording proceedings in the Legislative Council Committee Room. All evidence taken by this committee is taken under the provisions of the Parliamentary Committees Act and is protected from judicial review. However, any comments made outside the precincts of the hearing are not protected by parliamentary privilege. All evidence given today is being recorded. Witnesses will be provided with proof versions of the transcript early next week.

Minister, over to you for the industrial relations portfolio, which has been allotted half an hour. At 10 o'clock we will move to the portfolio of Attorney-General and at 11 o'clock the portfolio of planning.

**Mr HULLS** — Thank you very much. It is great to be here again. I cannot believe it has been a year. Some people have announced their retirement — —

**Mr FORWOOD** — Some people have got new portfolios.

**Mr HULLS** — Some people have got new portfolios. Because industrial relations only has half an hour I will quickly run through the slides so we can then open this up to questions.

#### **Overheads shown.**

**Mr HULLS** — The first slide deals with the two output groups of industrial relations policy and industrial relations services. They have been combined into a single output group, which is innovative and high-performance workplaces. This output group has the responsibility for policy development and compliance services in both the private and public sectors as well as responsibility for providing information to employers and employees on long service leave, child employment and to outworkers and those who engage them. The budget for 2005–06 has been reduced by \$3.9 million from \$14.6 million to \$10.7 million.

The next slides show the key achievements in 2004–05. They include implementing the new legislation to ensure fairer workplaces and the development and implementation of a new public sector wages policy. We represented the state in the AIRC. I might say that IRV continues to play a lead role in the development of joint state and territory submissions to the AIRC in respect of wage cases and the like — although that may well be coming to an end, and I am sure we will talk about that later — and the Building Industry Consultative Council has worked very effectively to develop new dispute resolution strategies for the building industry.

The next slide shows further key achievements including the grants program and the pay equity inquiry which are very successful. Commissioner Domenica Whelan from the AIRC has now provided me with her report, and I have asked IRV to develop strategies for implementing her recommendations in relation to pay equity. There is also the air warfare destroyer project bid. IRV played a strategic role in supporting our bid, in particular with the memorandum of understanding between the unions. We now know the outcome of that bid. The next slide deals with further key initiatives in 2005–06 including a better industrial relations frameworks. As you know, we support a unitary system of industrial relations but we are concerned that it be a fair system. The dot points include: 'pay equity' — ongoing consideration will be given to developing the recommendations of Domenica Whelan. 'Improved protection for outworkers' — the Ethical Clothing Trades Council of Victoria will continue to be supported by IRV, and also finalising the VPS awards.

The next slide shows the further key initiative of long service leave. IRV will continue to be the primary point of information and advice on long service leave. In relation to the child employment code for the entertainment industry, there has been enormous consultation with all stakeholders in a code for children working in that industry. We expect that it will be implemented on 1 November. This will certainly be a major achievement. The next dot point is 'owner-driver legislation' — IRV will be working with all relevant parties to implement that legislation. 'Quality part-time work' — a quality part-time job is one that has the same conditions and entitlements as a

full-time job except for the hours worked. In partnership with employer organisations and unions IRV is working to improve the quality of part-time work.

Finally in summary, IRV is all about advocating for a better industrial relations framework; working to protect the current federal award minimum conditions; providing advice in relation to the Commonwealth Games; promoting innovative workplace practices, and promoting cooperative public sector industrial relations.

**The CHAIR** — Thanks, Minister, and thank you for keeping to your 5 minutes. The first question I want to take you to is in relation to budget paper 3, page 133, where innovative and high performance workplaces total output cost has dropped, and you mentioned that briefly in your comments. Could you explain in more detail why it has dropped from \$14.6 million to \$10.7 million?

**Mr HULLS** — There has been a reduction of \$3.9 million. The change in budget is made up as follows: there has been a reduction of \$1.5 million which was a grant made in 2004–05 which will not be made in 2005–06. That was the trade union education fund. There was \$1.1 million in funding from previous budgets. There was \$400 000 paid to DIIRD for departmental and corporate costs and \$900 000 in savings.

I just want to touch on those savings in particular. Our fundamental policy has been to promote a unitary system of industrial relations. We developed practical responses in relation to the federal agenda. A couple of examples are the Federal Awards (Uniform System) Act which provides all Victorian workers with a fair set of minimum award standards. We did not legislate for a state system because we did not believe that that was relevant. Instead the commonwealth agreed to take over those schedule 1A workers. Other examples of our approach include legislation for outworkers, child employment, owner–drivers and long service leave. This process of reform has in the main been completed, and appropriate legislative responses have been developed. Now that the legislation has been introduced into the Parliament, the focus of IRV will be to ensure that in the year ahead we move from the development of the legislation to implementation and promotion of that legislation. That is not to say that the budget changes have been limited to legislative reform or that legislative reform is complete. IRV is also going to look at better targeting its grants programs to improve the industrial relations business climate at individual businesses. There will be savings as a result of better focus in relation to our grants. That will not impact on IRV's work to continue to maintain a pretty impressive investment record. That task has been made easier by a dramatic improvement in the IR climate under this government.

**Mr FORWOOD** — Minister, I also refer to page 133 of budget paper 3. Did the \$900 000 in savings come from particular programs or did it come from a reduction in staff? What was the staff component of IR? If you look at the department's return, it shows gross figures for the department overall, but what was staff in IRV last year and what is it this year? And of those staff, how many are involved in compliance activities?

**Mr HULLS** — I can get you that actual breakdown, but in relation to IRV staff, the estimated staff numbers during 2005–06 are 47 effective full time. This includes 5 executive officer positions. As at May this year, IRV had 42.5, as I understand it, effective full-time staff, which included 3 at executive officer level, and 2.5 temporary or fixed-term staff. In addition to these positions, IRV has some eight vacancies, including two executive level positions. That is the current arrangement. You asked whether as a result of these savings there will be further staff reductions.

**Mr FORWOOD** — There have not been. The staff has gone up.

**Mr HULLS** — I am advised, obviously, that in relation to exactly how the savings will be implemented, that is currently being worked through by the department.

**Mr FORWOOD** — Will there be loss of jobs?

**Mr HULLS** — That is a matter that is still under discussion.

**Mr FORWOOD** — And compliance officers in the 47?

**Mr HULLS** — I think so.

**Mr MERLINO** — Minister, I refer you again to page 133 of budget paper 3, which identifies programs designed to facilitate high performance and innovative workplaces. Can you explain to the committee how these

programs will be affected by the changes to the federal system which were announced by the Prime Minister last week?

**Mr HULLS** — Thanks for that question. As we all know sitting around this table, Victoria is the biggest user, the biggest customer, if you like, of the federal industrial relations system, and one of the key functions of IRV has been to monitor how the federal system is indeed tracking and to advocate changes that will deliver greater workplaces. You have all heard me talk about the 10-point plan on many, many occasions. We do want the best industrial relations system in the world, in effect. We want one that promotes rather than hinders investment in Victoria. Time and again the business community is telling me and telling the government that we have an ageing population that is resulting in a loss of a skilled work force and indeed is a real brake on the delivery of innovative workplaces and is hindering productivity improvements.

We need an IR system that provides incentives for employees to stay at work longer and also to work smarter. We want a system that is about getting the best from employees by providing incentives such as career paths, opportunities to improve skills and also better pay equity and better work family balance, so that really is the sort of system we are looking for. It is in that context that we are very concerned about the changes that have been announced by the federal government. In fact, I wrote to Kevin Andrews in April of this year. I can give you a copy of the letter, if you like, but basically it says that Victoria supports a unitary system, subject to it being fair. We said that we want to encourage workers to work better. We do not want workers to be punished by cutting their wages. I said that working collaboratively with the states and territories was the best way to achieve a uniform system of industrial relations, and it was important that the Workplace Relations Ministers Council be convened as soon as possible.

I have to say that at the very time the commonwealth was obviously contemplating radical changes to the IR system Kevin Andrews cancelled for the third time the IR ministers council. It is now three times that that has been cancelled, where he had the opportunity to sit down with the states to try and work through some of these changes and see if the states were prepared to hand over their industrial relations. So without any consultation Prime Minister Howard announced key reforms last week. We believe the reforms that he has announced are draconian. We believe workers under these reforms will be required to work longer hours. We believe workers will not be entitled to get paid overtime, weekend penalties, shift penalties, leave loading or penalties for public holidays. Workers will not be entitled to adequate work breaks, and we believe that is grossly unfair.

We are also of the view that loss of overtime and penalties and long hours allowed under the Prime Minister's proposal will mean that workers will see less of their families, and it means that families will be struggling to pay ordinary household bills, and that is unfair. Let me also say that the use of the corporations power that is being envisaged by the Prime Minister to take over state IR systems in a hostile way was never intended. The corporations power was never intended as a vehicle for a hostile takeover of state systems. The outcome will be legally complex. It cannot cover the field, in any event. There will be something like 15 per cent of businesses that will not be corporations, that will not be covered at all, so there is still going to be a two-tiered system, so I guess I am again urging the federal government to sit down with the states. Already there has been some talk by some states that we are prepared to look at harmonisation at least of our IR systems. You are not going to get that if the federal government embarks upon this hostile takeover. What will happen is that there will be, I suspect, a High Court challenge. I suspect all states have received some legal advice in relation to a High Court challenge, and if that were to occur, even if the High Court challenge were unsuccessful, it means that the plan to introduce a unitary system of industrial relations in this country would be delayed by years. We know how the system works, and I think it is foolhardy for the feds to be going in and simply saying, 'We are not prepared to talk to the states. This is the system we want to implement'. We say it is unfair, and we will be doing everything we can in Victoria to ensure that employees in this state are not left on an industrial relations scrap heap as a result of these reforms.

**Mr CLARK** — You referred in your slide presentation to the public sector wages funding policy. Can you provide the committee with a copy of that policy, and can you tell us, either now or on notice, since the policy has been adopted what public sector industrial agreements have been negotiated under it to date, what have their outcomes been and what agreements do you expect will come up for negotiation under the policy in 2005–06?

**Mr HULLS** — In relation to the policy, first of all — and any information I do not address now, I am happy to get to you — our funding policy does not prescribe a particular wage outcome, although an annualised 3 per cent is considered acceptable. It reflects the government's commitment, as you would know, to fiscal responsibility and encourages service delivery improvements and also real productivity gains to ensure that we

have sustainable budgetary outcomes. It is based on the following principles: firstly, that departments and agencies have the responsibility of managing wage costs as part of their overall budgets. Departmental budgets have been indexed appropriately to ensure that the maintenance of real wages is actually possible. Currently I think it is 2.25 per cent, but I understand that will increase to 2.5 per cent on 1 July of this year. Outcomes above maintenance of real wages will be sourced from real and sustainable productivity improvements, and that will be derived from labour inputs and/or the implementation of good management practice. In exceptional circumstances where a department or agency expects that it will not be able to sustainably fund an EBA, the relevant minister may request a review of funding allocated to the department. Public sector wage outcomes certainly do compare favourably with public sector wage outcomes in other states and territories. I guess that is a broad outline of the policy. In relation to any matters that I have not addressed, or any question, I am happy to get back to you.

**Ms ROMANES** — To go to the output ‘innovative and high performing workplaces’ once more, could you tell the committee whether the government has delivered innovative workplaces for contractors and how this will be affected by the Prime Minister’s commitment to protect the status of independent contractors and support the right of people to make choices about their working arrangements?

**Mr HULLS** — First of all I think I should say that we have a pretty proud record of supporting businesses, particularly small businesses, and that includes contractors. We understand and respect the choice people may want to make to set themselves up as a small business, but we also understand that small business is a pretty hard grind. It does involve dealing with the big end of town often. Small businesses can be exploited by big businesses. We want to ensure, I guess, that the rules of engagement are fair and that they are understood by everyone. Where we find, as we do in some cases, that there is a power imbalance between a contractor and big business and that causes the contractor unacceptable damage and disadvantage, then we will act.

There are two examples I can give you in relation to that. The first is outworkers. We undertook research that showed that contract outworkers in the clothing industry were earning as little as 50 cents an hour and had average earnings of \$3.50 per hour. These are third-world conditions, and they represent a dismal failure, in my view, of the market, so we legislated to fill the gap. We introduced outworker legislation which provides that contract outworkers are entitled at a minimum to the relevant award standards. I might say that the legislation was supported by industry groups, unions and employers including VECCI and the AIG and also the ethical clothing council, which consists of those groups. Another example is owner-drivers. Research with owner-drivers showed us that some of these drivers were being lured into contracts offering manna from heaven — a thousand dollars a week. The grim reality is that drivers averaged only about \$20 500 per year, and this is return for capital, that is their vehicle, and wages. When they used relief drivers they actually had an annual loss over \$11 000, so you can understand why there is such a high insolvency rate when it comes to owner-drivers. We currently have legislation before the house to ensure that that situation changes, that owner-drivers get the information they require before they make decisions on entering into contracts.

We are urging the commonwealth to support our stand in relation to contractors, and if it does that I will be the first to stand up and congratulate the commonwealth government. I am more than happy to do that. But I have got to say in relation to the noises coming out of the feds to date, I am not convinced that they will support us. In Victoria for instance we have the example of a company called Kemelex, which is a plastics manufacturer in the automotive industry. It has about 60 employees. At Kemelex the employer is requiring all new employees to become incorporated businesses. These newly incorporated businesses then have to enter into arrangements with a third company, which has an arrangement with Kemelex. So basically employees one day become contractors the next. They work next to and perform exactly the same work as Kemelex employees. This is in my view a sham arrangement. The difference, of course, is that employees who become contractors do so in exchange for things like sick leave, annual leave, public holiday pay and also other entitlements.

I wrote to Kevin Andrews — I am writing to him regularly these days — on 20 May expressing my concern about what I believe was a blatant attempt by the employer to get out of its obligations to its employees. I have yet to receive a response, but I am concerned that the commonwealth will not follow our lead of supporting and encouraging and fostering small businesses. I set out in that letter exactly the nature of the sham arrangement — how a service contract has to be entered into that is specifically designed to preclude an employment relationship, and how this was totally inappropriate. I also said that I, or the department, had been in touch with the company to ensure that Victoria’s position was made totally clear, because this is, as I said, a sham arrangement.

**Mr RICH-PHILLIPS** — Minister, in your presentation you said that some of the budget savings for the output group will come through refocusing the grants programs. There are two or three programs under IRV which take up a substantial part of the budget. Can you tell the committee how those programs will be refocused?

**Mr HULLS** — Yes. We are still working through some of the issues in IRV, but there are a number of grant programs which include things such as the Partners at Work program and also grants in relation to work and family life. I have already mentioned the trade union education fund. There is funding in relation to these programs. These things will be cut back to the extent that they will be better focused. The exact amount of that is still being worked through

**Mr RICH-PHILLIPS** — How do you mean, ‘better focused’?

**Mr HULLS** — Basically some of the programs obviously fit within the current guidelines. When I say ‘better focused’, we will tighten up the guidelines and there will not be as much funding available to some of these programs, quite simply. Having already sent the message out there that we are keen to promote productive, innovative workplaces — that message is certainly out there — what we intend now to do is to use those workplaces that we believe set an example for the rest of Victoria, put them up on a pedestal and use them as great examples. So rather than actually now putting money in at the front end, we believe we can better target the aims of the government by promoting those companies and organisations that exhibit best practice.

**Mr RICH-PHILLIPS** — When would you say the new criteria are coming into effect? First of July with the new budget? Will it be ready by then?

**Mr HULLS** — That is still being talked through, but I would expect so, yes.

**Mr SOMYUREK** — In terms of the outcomes from the review of Victorian long service leave legislation, has IRV conducted an assessment of the extent of the financial implications for the state budget?

**Mr HULLS** — Yes. In relation to long service leave, we obviously consulted fairly widely right across the community. We consulted with unions, we consulted obviously with employers. We made an election commitment, as you know, to review our long service leave rules with a view to aligning them more closely with those of other states. A discussion paper was released on reforming long service leave, and as you would know some of the provisions in the current legislation date back to the 1950s. The act fails, I think, to properly reflect today’s workplace, where obviously more women work and we have more casual employees, so the bill amends the current act. It makes the following changes: it changes the long service leave entitlement so that we recognise the impact of family commitments on workers and we more closely align our long service leave to other states. The legislation was drafted to minimise costs — for example, there is no change to the actual accrual rate, which is 0.86 weeks per year. This change can be taken earlier, after 10 rather than 15 years. There was a debate, it is true to say, as to whether or not the long service leave should also include things such as shift allowances and the like, and it was a fairly vigorous debate within the union movement and with me.

**Mr FORWOOD** — Bob Smith has committed you to it!

**Mr HULLS** — We took on board those views. We decided that was outside the commitment we gave to ensure that there was national consistency in relation to long service leave. No other state goes down that path. We believe the changes that we have made will have minimum cost but huge benefit to the workers in the long term.

**Mr BAXTER** — Minister, last year when you appeared before the committee you endorsed the concept of a unitary industrial relations system administration act, and several times referred to it this morning, albeit with the qualification as to the issue of fairness. Are the committee to take it that should a High Court challenge be implemented by the other states, Victoria will not be committing funds to such an action?

**Mr HULLS** — No, you should not take it that that is the case. We obviously will reserve our position in relation to that and it is true that we do advocate a unitary system of industrial relations. We have made that quite clear. But what has been proposed, we believe, is unfair — and I will not go over the issues that I have already raised. It will hack into worker’s rights, it guts the independent umpire, it sets up a fair wage commission that in effect is a group of economists that will decide what the minimum wage will be and it will not be a unitary system. That is the reality. If the feds embark on a hostile takeover of state IR systems, it will not end up being a unitary system because there will still be a two-tiered system. The best way to achieve a unitary system is for the states to

hand over their powers in relation to industrial relations. That has more chance of covering the field than being a truly unitary system. But the feds have got Buckley's chance if they think the states are simply going to hand over their systems if it means hacking into worker's rights and gutting the independent umpire. So you say: do we rule out the High Court challenge? We obviously will be having discussions with all stakeholders. I do not know yet whether other states will embark on a High Court challenge, but we reserve our position. It is true I said we believe in the unitary system as long as it is fair. We do not believe what is being proposed is fair. Whether or not that is the feds final position or it is simply an ambit claim and they are hoping to have further discussions with the states, we will have to wait and see, but what is being proposed at the moment is not fair and will not result in a unitary system.

**The CHAIR** — Thank you very much, Minister. I thank the people from industrial relations who will be departing at this point and the department officers who have prepared for today.

**Witnesses withdrew.**