

TRAINING LEGISLATION AMENDMENT AND REPEAL BILL 2008

First Reading

Bill read a first time, on motion by **Mr T.R. Buswell (Treasurer)**.

Explanatory memorandum presented by the Treasurer.

Second Reading

MR T.R. BUSWELL (Vasse — Treasurer) [3.23 pm]: I move —

That the bill be now read a second time.

The Training Legislation Amendment and Repeal Bill was first introduced into the Legislative Assembly in June of this year and was passed with the full support of the Liberal Party. The origins of these amendments go back over 10 years to the last coalition government, and are the result of extensive consultation and broad consensus. We are pleased to be able to reintroduce it for the consideration of the Assembly.

This amendment bill will repeal the Industrial Training Act 1975 and modernise the Vocational Education and Training Act 1996. It will enable businesses and training providers to be more flexible and responsive to whatever situations and opportunities arise, whatever financial conditions they are operating under. In particular, without the amendments to the apprenticeship system proposed for part 7 of the Vocational Education and Training Act, we will be trying to respond to the challenges of a twenty-first century economy while shackled to a 1975 training regime. The modernised apprenticeship system in this amendment bill will be different in three ways: it will be more streamlined, more responsive and fairer. The streamlined apprenticeship system will combine apprenticeships and traineeships within a single legislative framework, which is consistent with the situation in other states and territories. The system will be easier and clearer for employers and apprentices to use and will attract more employers to participate in it.

There will be one umbrella term—“apprentice”—for the purposes of the Act; one termination provision that will protect certificate 3 and higher trainees as well as apprentices; one dispute resolution process; a single certificate, instead of the current two; one establishment process for creating new apprenticeships and traineeships; and, apprenticeships will be gazetted rather than provided for in regulations when established.

The apprenticeship system also will be responsive to the needs of the economy for today and in the future. The State Training Board will now include a member with experience in workers’ interests, and another with experience in employers’ interests will be responsible for making a recommendation to the minister on the creation and variation of apprenticeships. Furthermore, and for the first time, a prescribed consultation process will give industry and unions a say in what type of employment-based training best suits their industry area.

When the employers and unions for the relevant industry area of the apprenticeship have been established, they will be involved in deciding the qualification that will be most appropriate; whether the training will be available only through being in employment under a training contract, referred to in the bill as class A qualifications, or whether it will also be available through an institutional training pathway that does not require employment, referred to in the bill as class B qualifications; whether the training arrangement will be called an apprenticeship, traineeship, internship or cadetship; the name of the occupation; the mix of on and off-the-job training; the nominal duration of the apprenticeship; whether part-time and/or school-based arrangements should be made available; or any other special conditions that they feel should be attached to the apprenticeship. Also for the first time, if industry and unions agree that an existing apprenticeship or traineeship would work better if any of the matters I have just outlined were changed, the minister, on the advice and recommendation of the board, will be able to vary it.

The apprenticeship system will be made fairer by increasing the level of protection and support for all types of apprentices. There will now be protection from termination of employment for trainees for the first time. Currently only traditional apprenticeships have access to protection from termination. This will now be extended to all people in employment-based training at certificate 3 level or higher. These new arrangements, including a mediation service for employers and trainees in certificate 1 or 2 traineeships, will improve completion rates in traineeships that currently average 58 per cent compared with 72 per cent for apprenticeships.

The apprenticeship system will be fairer for those people who have been working in industry and business for many years and have the experience to be recognised as a tradesperson but who have never done the formal training. Registered training providers will now be able to issue an apprenticeship—class A qualification—through skills recognition for people who are not employed under a training contract but can demonstrate that they are competent and experienced in the relevant occupation. This will make available a fresh wave of qualified tradespeople at a time when they are greatly needed.

Apprentices and trainees will receive a wage that will reflect that they are just starting their career and will be attending training on a regular basis. However, some employers believe that attending formal training means that the apprentice should not receive any pay. This amendment bill will make it clear that the training required under an apprenticeship or traineeship is deemed to be hours worked and that failure to pay wages for hours worked will be investigated and prosecuted. The amendment bill provides the apprenticeship system with greater clarity so that employers and apprentices know what their obligations are and what is expected of them. Most of the employers and training providers in Western Australia do the right thing. However, there have been cases in which a few have not. This amendment bill will protect apprentices, trainees and students from those few by providing the ability to investigate and prosecute employers and training providers who commit offences. This will also be of service to the vast majority of employers and training providers who are doing the right thing.

Beyond apprenticeships, further amendments enable the State Training Board, Training Accreditation Council and TAFE colleges to operate in the changed and changing contemporary environment. The State Training Board will be responsible for a state training plan that will better suit the training needs of our economy. The Training Accreditation Council will now operate on the basis of the national model clauses, the introduction of which will bring Western Australia's legislation into line with the legislation of other states. The model clauses deal primarily with the establishment of a nationally consistent framework for the registration and audit of training providers. Under the model clauses, registered training providers can operate in any state or territory through a single registration in the state of its principal place of business.

TAFÉWA colleges will now operate on the basis of more comprehensive strategic and annual business plans. This will bring the colleges into line with other agencies such as the port authorities. It will enable the colleges to operate more flexibly and independently with all the functions of the college, including fee-for-service and commercial activities, to be addressed in the plans for the approval of the minister.

This amendment bill is the result of consultation with employer groups, unions and other key stakeholders, including the Chamber of Commerce and Industry and UnionsWA. The departments of Treasury and Finance, Consumer and Employment Protection and Education Services have been involved in regular consultation and have made significant contributions to the drafting process.

In conclusion, the Western Australian workplace has experienced 32 years of growth and change since the Industrial Training Act was introduced in 1975. Similarly, the VET sector has experienced major change in the 12 years since the VET act was introduced—reflected in the move to a national training framework. This amendment bill will introduce a modern apprenticeship system through part 7 as part of an updated vocational education and training system that is better able to deal with the requirements of our contemporary business environment of which training is an essential part. I commend this bill to the house.

MR M. MCGOWAN (Rockingham) [3.31 pm]: The opposition will be supporting the Training Legislation Amendment and Repeal Bill 2008. We are keen to advance this legislation in the interests of the state of Western Australia. We hope that this legislation will pass through the Parliament shortly and will not be unduly delayed in its progression. This legislation was introduced into and passed by this house earlier this year. I recall that it received support from all sides of Parliament and was sent to the upper house. However, it failed to progress through the upper house before the election was held. It has progressed through the upper house under the new government and has been introduced into this house, where we expect it will pass shortly.

It has been a long road to get to this point. I introduced this legislation into the house as Minister for Education and Training and second read it earlier this year. Shortly after becoming education and training minister at the commencement of 2007, the department brought to my attention the fact that legislative reform in our training system, which was largely based upon legislation passed in 1975, was required. One of my staffers, a very capable woman named Wendy Dunne, progressed the legislation in my office in conjunction with representatives of the department, representatives of the union movement and employer bodies. At that point there were some issues to resolve. I recall, quite rightly, that people inside the union movement were quite keen to see that there was no diminution or reduction in the quality of trades, particularly some of the more traditional trades in the broader Western Australian community. They wanted to ensure that this legislation was closely examined so that it did not result in one of those outcomes. We progressed the legislation on the basis that we would consult extensively with the union movement and other interested parties to ensure that the legislation did not end up having unfortunate consequences in the rush towards simplicity and streamlining and move towards a more flexible creation of new trades and a more easily understood system between apprenticeships and traineeships. I recall one union leader advising me that he did not want to see some mickey mouse trades created. He did not want to see some of the high quality tradespeople having their roles and responsibilities diminished by new trades that did not require the same quality of training to acquire that particular trade.

We did a lot of work with the union movement, the State Training Board and some of the employer bodies. The department, under the leadership in that particular division of the department of Rob Player, and assisted by

other staffers in the department, including Siobhan Mulvey and Ray Wallace, did a very good job of ensuring that all that consultation was undertaken and that some of the issues at the forefront of the minds of some of the people involved in this field were dealt with. I could not go on without also acknowledging Keith Spence, the chair of the State Training Board, who was the champion of this legislation and wanted to see some of this work undertaken.

We reached a point late last year and early this year where we had everyone in the boat and the legislation was able to proceed through cabinet and thereafter be introduced into Parliament, which we did in June this year. As I said, the rest is history: it passed through this house, went to the upper house and the election was called, so it did not come to fruition.

It is not an area of the law, an area of public administration or an area of public policy that excites people. I found that there was not a great deal of interest in this area of activity, apart from the aficionados—the people who practice in it, the people in the union movement, the people in the training industry and the people within the department. It was regarded as a fairly dry area by members of the media. What I regarded as relatively historic reforms did not exactly excite them to burst into print about the streamlining of apprenticeships or traineeships, the protection of the rights of apprentices and so forth. The funny thing is that it is of great significance to the state's economic future and a great significance to thousands of people in the community who are undertaking apprenticeships and traineeships. Whilst it does not excite a lot of public attention, what we are trying to do here is important. As the minister, I was very pleased to be part of progressing this legislation through cabinet, caucus and then into Parliament. I am very pleased to note that, apart from one or two minor drafting corrections, the legislation is identical to the legislation that was introduced by me earlier this year. Therefore, there is not a great requirement to examine this legislation in the committee stage, unless members want to, because it is virtually identical to the legislation that passed through the caucus and the Assembly earlier this year.

What does the legislation do? It streamlines the apprenticeship and traineeship system into one system. They were previously two separate systems that caused some confusion, particularly for employers, in how to categorise staff. Now staff will be treated the same under the one system, whether undertaking an apprenticeship or traineeship. I was always a little bit confused as to why some people were trainees and others were apprentices before I got a handle on this portfolio, but it turns out that it is all subject to history. Some of the more traditional trades that go back sometimes hundreds of years employ apprentices, and the newer occupations are classed as traineeships. That is a funny definition, because I think the public would assume that an apprenticeship is a tougher task to undertake than a traineeship, but that is not necessarily true. The time taken to complete either is almost always the same, and the level of difficulty is not necessarily harder for one or the other. There are historic reasons why one is an apprenticeship and the other is a traineeship, but from this point forward they will be regulated under the same system.

There has always been a significant issue of disputes between employers and apprentices and trainees. Often trainees or apprentices are young people of 16 years old, 17 years old or 18 years old who are not used to the workplace. Often the employers, particularly the smaller employers who have not had apprentices or trainees before, have some difficulty in dealing with some of the issues of young people. From memory, smaller employers had a lack of tolerance for some of the issues that might have been going on in the minds of young people and so disputes arose. It was my experience in my electorate office that some of these disputes were resolved quite unfairly. In any event, there is now a perhaps more easily understood and a fairer dispute resolution process contained within the new legislation to deal with those issues that arise, particularly between young people and employers.

The creation of new apprenticeships and traineeships was a significant issue. The former state government wanted to provide a more flexible system for the creation of new apprenticeships and traineeships. That caused the union movement some concerns, as it did not want apprenticeships or traineeships created on a whim or to meet a short-term exigency, whilst there also needed to be flexibility. That concern was correct, as people would not want a diminution in the quality of tradespeople in our community, and therefore a robust system must be maintained to ensure that the appropriate level of training and study is undertaken by apprentices and trainees. Therefore, we had to make sure there was some protection in the legislation so that a minister could not just sign a letter or a document that goes down to the Governor for signature that would create a new apprenticeship or traineeship on a whim to undo sometimes centuries of the traditions of the trades and the quality of the trades. The concerns were genuine because safety issues could arise in workplaces where people do not know what they are doing. We put in place some protections in the creation of an apprenticeship or traineeship to avoid that particular problem, and we ensured that the State Training Board would have a representative from both employer and employee bodies to monitor this situation. That means that both the union movement and employer bodies will be represented on the State Training Board, which will ensure that everyone's interests are looked after and these concerns about the creation of new apprenticeships and traineeships are dealt with.

As I recall, the union movement requested that we ensured that someone went on the State Training Board, and I was happy to oblige as I thought it quite sensible. But I also wanted to ensure that someone from employer bodies—because a lot of employer bodies train apprentices and trainees—was also on the board. The Chamber of Commerce and Industry has its own apprenticeship and traineeship service, as do some of the trades' bodies, such as plumbers and electricians and so forth. It was important that the advice of these employer bodies was taken note of. I was always impressed by the sort of coalescence of opinion on these issues between unions and employers. They quite often had similar views about how to maintain the quality of people undertaking trades in Western Australia. Whether one was talking to Jock Ferguson or Jim Murie, or someone from the CCI, one often found that their concerns as to making sure we had a quality, well-trained workforce in Western Australia were exactly the same, which was a refreshing and interesting development considering what one reads about these things, which quite impressed me.

I am pleased the new government has retained the measures related to better employment protection for apprentices and trainees, such as maintaining their pay rates and ensuring that they receive pay when undertaking some of their off-site training activities, which will be well received by apprentices and trainees in Western Australia. It will now be contained in law, and these provisions, I might add, were supported by employer bodies in the conversations I had with them. They thought this was a reasonable provision. I thought I might have had some objection by some of the employer bodies to that particular initiative, but they were quite sanguine about ensuring trainees and apprentices were paid whilst off site, and thought it was a reasonable compromise to make to get the rest of the reforms put into place. Some of the model clauses in the legislation are consistent with those in other states and territories, such as the enhanced capacity to undertake investigations and prosecutions of employers who did not meet their responsibilities.

They are the changes to the legislation in a nutshell. The reforms are much more comprehensive—I knew them a lot better six or so months ago than I do now—and are reforms I was very pleased to have played a role in. I acknowledge my predecessors, Hon Alan Carpenter, member for Willagee, and Hon Ljiljana Ravlich, who commenced the process of reform. In the early part of this century the state Australian Labor Party was very keen to enhance training systems to meet the economic needs of Western Australia. It has taken seven or so years to come to fruition, but I am very pleased that it is about to. It was part of a very significant reform and improvement plan in apprenticeships and traineeships in the training agenda in Western Australia that we undertook while in office. It was one of those issues people never heard much about, probably because it was so successful; in fact, it was so successful that I think even our worst enemies would say that we could be proud of it because of the increase in the number and the quality of people coming through the training institutions in Western Australia over that period of time.

When we arrived in office the economy was roughly half the size it is now. We had slightly more than 18 000 people in apprenticeships and traineeships in Western Australia. I think it was improving in the 1980s, but certainly my perception was that the general view was that to proceed with higher or further education after school for most people meant that university was the place to go. We managed to deal with the perception that people had to go to university after high school to be successful, largely through advertising and partly because people who undertake apprenticeships and traineeships are often very well paid at the conclusion of them. When I was 17 or 18 years of age that was certainly the prevailing attitude in the town I grew up in, and that was in the early to mid-1980s. I think the perception has changed. I certainly find with the high schools in my electorate of Rockingham, and I suspect more broadly, the perception in the general community is that undertaking an apprenticeship or traineeship is a worthwhile and successful way in which to continue further education after school. I believe that we helped to change people's perception. I think the fact that we talked about trades as being a worthwhile and successful way of going forward and that we advertised them as such, and the fact that the economic success of Western Australia meant that people in those occupations were well paid, all assisted in improving that perception.

When we came to office 18 000-odd people were in apprenticeships and traineeships. When we left office a few months ago it was, from memory, in the vicinity of 37 000 to 38 000 predominantly young people who were undertaking apprenticeships and traineeships. The figure was imprinted on my brain at that time. We were trying to get older people back into apprenticeships and traineeships so that they could upskill. We had signed agreements with the commonwealth for additional commonwealth money to do that. That was part of the process. Certainly in my view, the most significant economic problem that we faced as a government was the lack of trained labour, which was a good problem to have with hindsight compared with what potentially could have been our problems. We worked hard on resolving that issue. As members will note, we more than doubled the number of people in apprenticeships and traineeships in seven years. That required a huge amount of effort on the part of the Department of Education and Training. It also required a huge amount of money from the government to ensure that we could do that. We put a lot of extra resources into the apprenticeship and traineeship system, which was not matched by the commonwealth. A signed funding agreement between the state and the commonwealth gave rise to an expectation of how many people would be in apprenticeships and

traineeships. I made the arrangements with Andrew Robb, who was then the federal Minister for Vocational and Further Education. We would have expected there to be some form of automatic adjustment to commonwealth funding with the increase in the number of apprenticeships and traineeships. Unfortunately, that did not take place. The commonwealth put in its amount of money and the state, in order to meet the demand in Western Australia, put in extra money because there was no automatic adjustment by the commonwealth. We kept pouring in additional resources time after time to meet the demand of industry in Western Australia for apprenticeships and traineeships. At regular ERC meetings the Treasurer had to confront demands from the Department of Education and Training for more money for apprenticeships and traineeships.

As part of the Skills Formation Taskforce process, we wanted to make sure that we upgraded, where appropriate, available public facilities the length and breadth of Western Australia, particularly in TAFE, for which we were responsible as a government. My view when I was Minister for Education and Training was that facilities were very important and very significant in making sure that there was a good perception and good quality education. Other issues were more important, but they were important. As part of the Skills Formation Taskforce process we threw in \$50 million on top of ordinary expenditure to improve TAFE colleges in Western Australia and, in particular, to upgrade equipment. I went to some TAFE colleges where equipment, such as lathes and mechanical equipment, was very basic. This might be a false memory, but I have a recollection of one piece of equipment at a TAFE college dating back to the Second World War. As I say, that might be a memory that was created subsequently. However, although not being an expert in the operation of lathes and some of the other equipment at TAFE colleges, the strong impression I had was that much of it was very dated. We had a massive program to update it. I might say that the TAFE colleges were excellent at getting hold of that money and making the most of it. In Kununurra, for example, what the staff managed to do with a couple of hundred thousand dollars was really quite extraordinary. I saw the same in Karratha and Geraldton and in colleges in the Perth area and Bunbury. We upgraded programs at TAFE colleges all over the state to make sure that they had better and more modern equipment to deal with the demands of the students.

We increased the numbers of apprenticeships and traineeships, improved the equipment and instituted the Skills Formation Taskforce. We amalgamated the department, which happened before my time, in 2003, as I recall. The idea was that we needed to develop those synergies, and I still support that idea. In a day and age when students in years 11 and 12 are undertaking apprenticeships and traineeships, to have a separate department of training where schoolkids are undertaking apprenticeships did not seem to me to make much sense. Both had to be integrated. There was some concern because education was the major component and training was a much smaller component. Education was approximately 90 per cent of the Department of Education and Training's budget, and training was perhaps a little over 10 per cent of the entire budget. We therefore made sure that training had its own deputy director general. Mr Rob Player was successful in becoming the deputy director general to ensure that the training voice was heard. We were happy to ensure that a permanent position of deputy director general of training was put in place within the Department of Education and Training, so that voice was heard, and the broader integration of training and education was a must. We ensured that the minister who was responsible for education was also responsible for training. It is a small issue, but it meant that when there were weekly briefings with the director general, the director general of education and training and the training people were there, so it was a very integrated system for dealing with all issues across the portfolio.

The previous government ensured that schools were very much more attuned to undertaking apprenticeships and traineeships in years 11 and 12. That process started in the early 1990s, but we put in place the resources and also the courses to ensure that students could undertake apprenticeships and traineeships while still at school. I visited almost 400 schools within 18 months at which I saw all sorts of initiatives in place to achieve that. We were working with the commonwealth to ensure that the trade training centres were placed at the right locations and that they fitted in with the state's demand that the schools provide traineeship training to students while they were at school.

In addition, the previous government shortened the apprenticeship time, particularly for apprenticeships in the building and hospitality trades, to get, for example, more people into the roofing and, perhaps, plastering industries quickly. In most cases the apprentices were specialising in only one component of the building trade. We went for a shorter training period to meet the demands of industry, particularly the building and construction areas which were booming in Western Australia. Industry demanded people who would work and a lot of people wanted to work. Therefore, the time for completing some apprenticeships and traineeships was shortened.

The previous Labor government started the process for fewer and better-funded industry training advisory bodies. This was a suggestion put to me by Mr Keith Spence and also Jock Ferguson. It was a worthwhile initiative and I suspect that the new government will continue with that initiative for which money had been set aside.

The previous government was also responsible for the ApprentiCentre initiative. I take this opportunity to acknowledge the staff of that department, including Rob Player and Siobhan Mulvey. The ApprentiCentre was a

very good initiative because it brought employers, apprentices and school leavers together. I recall that we did establish a website—although some people mocked its being established. The website listed all the trades and people applying for those trades. It was one of the components of the ApprentiCentre that I was pleased with. The ApprentiCentre has received additional money and the associated advertising campaign, in which members have seen large heads dancing around on the television, has been very successful. In addition, the vehicles from that centre can be seen around Western Australia on a regular basis. The people in the vehicles are part of the ApprentiCentre network within the Department of Education and Training, but they are now aligned to specific trades. About 30 or more of these people travel around Western Australia, particularly Perth, ensuring that issues between employers and apprentices are resolved.

I also opened up competition for some of the funding that traditionally had been TAFE's. I recall that it involved a \$70 million fund that had been predominantly for apprenticeships under TAFE. That fund was opened to the private and public registered training providers. The reason that was done was that the government might get more bang for its buck from apprenticeships.

I have outlined some of the initiatives that we undertook when in office to deal with the demand for apprenticeships and traineeships and the demand from employees for trained people in Western Australia. They were good initiatives and this legislation is a concluding part of that process.

I have noted that most of the legislation that is coming through this Parliament is the former government's legislation. I suppose that in a way it is a compliment that the new government is proceeding almost entirely with the former government's legislative agenda. If members read the notice paper they will see that the Mineral Sands (Eneabba) Agreement Amendment Bill 2008, the training legislation, the surrogacy legislation and other pieces of legislation, as well as some of the legislation in the upper house are all the previous government's legislation. I am very pleased that that is the case.

I counsel the government on a couple of things. Firstly, I think it made a mistake in dividing the two portfolios of education and training between two ministers. I do not know the reason behind it. For the reasons I outlined, it is natural that the education minister should also be the training minister. The second issue that I counsel the new government on is that it continue the previous government's efforts to put additional resources into training to ensure that the needs of industry are met. It might not be as great an issue now as it was a few months or years ago. The greatest economic problem faced by the previous government was the demand for trained people in Western Australia. That demand might slacken off. However, I have always held the very strong view that the economic success of Western Australia is something that the Western Australian government should ensure that Western Australians can take advantage of. The best way to do that is to ensure that Western Australians are properly trained. That is what the previous government tried to do. In spite of the lack of attention that it received, the previous government was remarkably successful in doing that. This piece of legislation concludes the reform and improvement process that we put in place. On behalf of the opposition, I am pleased to indicate that we will support this legislation.

MR T.R. BUSWELL (Vasse — Treasurer) [4.08 pm] — in reply: To formally close the second reading of the Training Legislation Amendment and Repeal Bill 2008, I acknowledge the comments of the member for Rockingham and thank him and the opposition for their support of the bill. It is interesting that the member for Rockingham alluded to the fact that a number of previous ministers had been involved in this legislation. When I was briefed by the Department of Education and Training, I was advised that I was the tenth minister who had been briefed not necessarily on this bill, but on bills associated with this process. In opposition, the Liberal Party supported the bill that the previous government brought into the house. It is logical that, now in government, we support this bill.

One observation I make is that Western Australia faces labour shortage challenges and, notwithstanding current economic movements, will continue to face them. In fact, the Chamber of Commerce and Industry has forecast a demand for 400 000 and a supply of 250 000 full-time equivalent labour; therefore, for the reasons I have outlined, over the next 10 years there will be a shortfall of 150 000 FTE labour in Western Australia. There is still a lot to do. I certainly intend turning my attention to the issue of broader labour force planning.

Again, I thank the member for Rockingham and the opposition for their support of this bill.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Mr T.R. Buswell (Treasurer)**, and passed.