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**BUSINESS UNITY SOUTH AFRICA (BUS A) SUBMISSION TO THE  
PORTFOLIO COMMITTEE ON HIGHER EDUCATION & TRAINING  
ON THE  
SKILLS DEVELOPMENT AMENDMENT BILL [B16-2011]**

**3 NOVEMBER 2011**



## **1. BACKGROUND**

BUSA is a confederation of business organisations including chambers of commerce and industry, professional associations, corporate associations and unisectoral organisations. It represents South African business on macro-economic and high-level issues that affect it at the national and international levels. BUSA's function is to ensure that business plays a constructive role in the country's economic growth, development and transformation and to create an environment in which businesses of all sizes and in all sectors can thrive, expand and be competitive.

As the principal representative of business in South Africa, BUSA represents the views of its members in a number of national structures and bodies, both statutory and non-statutory. BUSA also represents businesses' interests in the National Economic Development and Labour Council (NEDLAC).

**Date:** 3 November 2011

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## **2. BUSA INPUT ON THE SKILLS DEVELOPMENT AMENDMENT BILL**

### **a) Engagement at NEDLAC**

The social partners, Organised Business, Organised Labour and Government engaged at NEDLAC to address the proposed amendments to the Skills Development Act, Government Gazette No 34222 of 15 April 2011.

The BUSA Task Team had gained clarity re the strategic thrust of the draft Bill, the objectives as well as differentiation between statutory matters and policy issues. Through consultation, Organised Business had obtained a consensus on the divergent views expressed by its membership.

The key principles which were deliberated at NEDLAC were:

- Amendments which had clarity and were fit for purpose re the intentions clear and applications easy
- Acceptance of the need/principle of standardisation with sufficient flexibility to accommodate justifiable differences/exceptions
- Common/shared approach to generic matters such as SETA Constitutions, terminology
- The principle of control and voting rights to be recorded in the legislation to ensure fair and transparent practices
- The Act should define policy and principles, the Constitution and/or Code of Good Practice to guide application and implementation
- Transitional provisions to be clearly defined to ensure no vacuum is created, by the repeal of sections in the Act
- Transformation principles endorsed, but responsibility and accountability residing with stakeholders, who had insight and would be sensitised to the sector
- The Minister's efforts to enhance service delivery were supported

### **b) Proposed Process**

**1 July 2011:** The Skills Development Task Team addressed the proposed process re negotiating the changes to the draft bill. It was acknowledged that the NEDLAC process needed to be followed, which identified that the Parliamentary process would not proceed without the NEDLAC report. Subsequent NEDLAC meetings were held on 22 July 2011, 03 August 2011 and 15 August 2011.

**18 October 2011:** Portfolio Committee meeting on Higher Education and Training, Parliament Cape Town. It was noted by BUSA that the Bill has been gazetted and tabled at Parliament calling for comments and public hearing, with the NEDLAC report **not yet signed off**. NEDLAC has been informed of this outstanding matter, which was due Friday 19 August 2011.

### **c) Proposed Amendments**

1. The changes in ministerial structure in 2009 impacted both the Minister of Higher Education & Training and the Minister of Labour requiring the repeal of clauses of the Skills Development Amendment, relating to Minister of Labour. These related specifically to Productivity South Africa and Employment Services which fall under the authority of the Minister of Labour.
2. The Minister sought to improve the service delivery of SETAs with appropriate standardisation and technical amendments

### **d) Areas of Disagreement**

#### **i. Composition of Accounting Authority of SETA**

The Minister must appoint 14 persons as members of the Accounting Authority from the interested parties in the relevant sector. “The members referred to in subsection (2) have full voting right”...

#### Business position

The two ministerial appointments from any government department, any interested professional body, any bargaining council or any organisation in a community should **not** have voting rights and should be appointed in consultation with the NSA.

#### **ii. Constitution: Definitions**

The definition of Organised Employers as contained within the Constitution included identification of the state as an Employer and this required clarity in terms of implementation of the Act.

#### Business position

- (a) **“Organised Employers”** means any employers organisation in the Sector, registered in terms of the Labour Relations Act, 1995 (Act 66 of 1995), as well as any other association of employers in the Sector, of representing the interests of its members as employers and includes, **where relevant to the scope of a SETA**, a State Department as contemplated in Schedule 2 of the Public Service

Act, 1994 that is recognised by the Minister in its capacity as an employer in the Sector;

### iii. Constitutional Matters

There were a number of operational matters proposed with the draft Constitution. It must also be ensured that the provisions in the Constitution are aligned with the provisions of the Act where necessary.

### 3. SUMMARY CONCLUSION

Business recognised the need for changes to address improvement to service delivery, however sought to have recognition of the critical role that Business can play in economic development specifically in job creation and skills development. It was essential that the proposed Act both acknowledges and supports the role Business needs to play.

- A delicate balance of power is required
- The Skills Development Levies Act introduced a “mandatory training” tax and Business requests the recognition that due to the nature of their labour market knowledge, there is insight and we seek input to ensure maximum return on investment in levies spend.

Organised Business sought acknowledgement from the social partners of the strategic role that can be played a legislative framework which is empowering, protects the rights of the partners as well as meeting the agreed objectives as defined by the Minister

BUSINESS UNITY SOUTH AFRICA

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