



Ministry of Labour

Labour Relations Code Review 2024

Engagement on Report and Recommendations

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BRITISH COLUMBIA COUNCIL OF FILM UNIONS

IATSE 891

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September 19, 2025

This is the submission made to the Code Review Panel by the BC Council of Film Unions (BCCFU) and its member-unions: IATSE Local 891, Teamsters Local 155, and ICG Local 669. Collectively we represent over fifteen thousand workers in the film industry in British Columbia.

We have reviewed the submission being made by UBCP/ACTRA, the trade union representing performers in the film industry. The BCCFU and its member-unions fully support UBCP/ACTRA's submission. Instead of providing a separate submission containing the same positions and arguments, the BCCFU and its member-unions submit that UBCP/ACTRA's concerns and recommendations are shared by the BCCFU and its member-unions.

Sincerely,



Paul Klassen
Executive Director
BC Council of Film Unions



Amanda Bronswyk
President
IATSE 891



David Holm
Secretary-Treasurer
Teamsters 155



Michael Balfry
President
ICG 669



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www.bcemploymentstandardscoalition.com

The BCESC acknowledges that we are located on the traditional and unceded territory of Coast Salish peoples including xʷməθkʷəy̓əm (Musqueam), səliłwətaɬ (Tsleil-Waututh), Skwxwú7mesh (Squamish) territories

Honourable Jennifer Whiteside
Minister of Labour
Room 342 Parliament Buildings
PO Box 9064 Stn. Prov Govt,
Victoria, BC, V8W 9E2

Via Email: LBR.Minister@gov.bc.ca

September 12, 2025

Dear Minister Whiteside:

Re: 2024 Labour Relations Code Review Panel Report – Sectoral Certification & Bargaining

About the BC Employment Standards Coalition

Formed in 2011, the BC Employment Standards Coalition (the “Coalition”) campaigns for decent wages, working conditions, and respect and dignity in the workplace for workers without union representation. The Coalition is comprised of individual members, representatives from worker and community legal advocacy organizations, public policy researchers, labour lawyers and volunteer advocates.

Submission Summary

In this submission we respond to the 2024 Labour Relations Code Review Panel Report’s (the “Review Panel”) discussion and recommendations with respect to “Sectoral or Multi-Employer Certification and Bargaining” (report pages 23 – 28) and repeat our call for new provisions in the *Labour Relations Code* (the “Code”) to enable sectoral certification/broader based collective bargaining for workers in the private sector.

The Labour Code Review Panel’s Report

On June 23, 2025 your **Ministry** released the August 31, 2024 report of the 2024 Review Panel to the then Minister of Labour, Harry Bains, which contains recommendations for amendments to the *Labour Relations Code* (the “Code”). On release of the Review Panel’s report, you invited feedback from interested parties on the Review Panel’s report to determine your next steps.

In 2024 we provided the Review Panel with both written and oral submissions which called upon it to recommend to the Minister of Labour that provisions be established in the *Code* that provide

some form of sectoral certification and bargaining for workers in the private sector who face insurmountable barriers to unionization under the current **enterprise** system of certification.

In those submissions we, with many other workers advocacy organizations and unions, called for your government to commit to institutionalizing a model or models of sectoral/broad based bargaining as a first step, and to establish a single-issue commission, as soon as possible, to consult and make recommendations on the implementation details of sectoral bargaining.

In general, we are extremely disappointed in the Review Panel's discussion and recommendations dealing with the numerous calls for a modernization of the *Code* through the introduction of provisions for a new model of sectoral or broad-based certification and bargaining for workers and employers in the private sector.

In its report, the **Review Panel** separates its discussion of the topic of "Sectoral Certification" from the topic of "Sectoral Bargaining". It concluded that, because sectoral certification is a very complex issue which should be approached with considerable caution, they could not recommend any changes to the *Code* relating to sectoral certification at this time.

However, the **Review Panel**, to its credit, then went on to acknowledge that "certain groups of workers encounter significant employment issues that must be addressed." But then, without reference to any submissions on the subject, and acknowledging that it was beyond their mandate, concluded that: 'the *Employment Standards Act* is the appropriate mechanism to ensure sectoral standardized terms and conditions of employment, protections and improvements for the working lives of domestic, agricultural, food delivery and ride hail workers.'

On the basis of a reference to a number of U.S. cities and states having recently established "advisory councils" or "worker standards boards" (comprised of representatives of workers, employers and governments, to review terms and conditions of employment and make recommendations for legislated standards for domestic and agricultural workers, fast food workers, nursing and home care workers), the **Review Panel** recommended that the Ministry of Labour establish similar "advisory councils" under the *Employment Standards Act*, for the types of workers identified (domestic, agricultural, food delivery and ride hail). And that these advisory councils should include representatives of workers, employers and government and should be designed to focus on the challenges unique to those workers and implement effective enforcement mechanisms.

Our Response on the Employments Standards Act "Advisory Councils" Recommendation is as follows:

- In recommending the establishment of advisory councils to "advise" the Ministry of Labour on occupational or sectoral employment standards the Review Panel makes no reference to, and we have no knowledge of, any submissions to the panel calling for such a new labour standards institution.
- In any event, the abandonment of sectoral or broad-based union certification and collective bargaining provisions under the *Code* in favour of occupational or sectoral "advisory councils" under the *Employment Standards Act* is premature, and instead the issue of sectoral union certification should be added to the mandate of the Industrial

Inquiry Commission that the Review Panel has recommended with respect to further investigation of “sectoral bargaining”.

- Except for reference to one U.S. article on the “Momentum for Worker Standards Boards” by A. Glass and D. Madland, a comprehensive review of the literature on the recent emergence of advisory councils in the U.S. appears not to have been undertaken by the **Review Panel**.
- The recent emergence of advisory councils and worker standards boards in the U.S. reflects a unique labour relations and political environment not being experienced in BC. In the U.S. union certification is governed exclusively by federal labour law under the National Labour Relations Act (NLRA), not by state law. The mandate/jurisdiction of advisory councils in U.S. cities and states is therefore very narrow because of the restrictions imposed on cities and states by the NLRA.
- Although some unions in the U.S. have campaigned for and participate in advisory councils such councils are not their preferred institutional form of worker representation and collective bargaining. They have called for advisory councils at the state and city level as a partial substitute for sectoral union certification at the federal level because of the anti-union federal political environment. [see for example: Ian Sherwood, “Sectoral Bargaining in the United States: SEIU’s Plan for Rebuilding the U.S. Labor Movement”, TCLAS Center for Work and Democracy, Arizona State University, 2025.]
- Under the U.S. advisory councils model, employee representation is problematic. The sectoral/occupational advisory council model does not include access to union membership and certification of unions to be the collective bargaining representative of union members in a sector or occupation. Therefore, the formation of advisory councils is not a substitute for unionization.
- Under the advisory councils model the adoption of council recommended wages and other working conditions is not automatic and is subject to the political whims of the political party in power.
- The BC Employment Standards Branch has neither the resources nor the expertise to provide the institutional infrastructure that would be needed to be the host for occupational or sectoral advisory councils, or the effective enforcement agency for occupational or sectoral standards set by regulation based on advisory council recommendations to government.

We therefore reiterate that the Review Panel’s abandonment of sectoral or broad-based union certification and collective bargaining provisions under the *Code* in favour of occupational or sectoral “advisory councils” under the *Employment Standards Act* is premature. We strongly suggest that, instead, the issue of sectoral union certification should be added to the mandate of the Industrial Inquiry Commission that the **Review Panel** has recommended with respect to further investigation of sectoral bargaining.

Respectfully yours,

A handwritten signature in blue ink that reads "David Fairey". The signature is written in a cursive style with a large, stylized 'D' and 'F'.

David Fairey & Pamela Charron
Co-Chairs, BC Employment Standards Coalition

DBF/
September 12, 2025

From: [President - BCFED](#)
To: [LRC Review LBR:EX](#)
Cc: [President - BCFED](#)
Subject: BC Federation of Labour Submission to the Labour Relations Code Review Panel Report
Date: September 18, 2025 2:30:35 PM
Attachments: [image001.jpg](#)
[image003.png](#)
[image004.jpg](#)
[BCFED Initial Submission Labour Code Review.pdf](#)
[BCFED Second Submission Labour Code Review.pdf](#)
[BCFED Response to Recommendations Chart.pdf](#)
[BCFED Intervenor Application BCGEU vs Gateway Casinos.pdf](#)
[BCFED Initial Submission Labour Code Review appendix on sectoral bargaining.pdf](#)
[BCFED Final Submission Labour Code Review Final Report.pdf](#)

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Via email: LRCReview@gov.bc.ca

The Honourable Jennifer Whiteside
Minister of Labour

Dear Minister Whiteside,

Please find attached a response from the BC Federation of Labour to the Labour Relations Code Review Panel Report and the following attachments:

1. BCFED Initial submission Labour Code Review
2. BCED Initial submission Labour Code Review - appendix on sectoral bargaining
3. BCFED Second submission Labour Code Review
4. BCFED Intervenor application BCGEU vs Gateway Casinos
5. BCFED Final Submission Labour Code Review Final Report (New)
6. BCFED Response to recommendations – Chart (New)

Kindly acknowledge receipt by replying to this email.

Sincerely,

Sussanne Skidmore (she/her)
President

Hermender Singh Kailley (he/him)
Secretary-Treasurer

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September 19, 2025

Via email: LRCReview@gov.bc.ca

The Honourable Jennifer Whiteside
Minister of Labour

Dear Minister Whiteside,

Re: BCFED response to 2024 Labour Relations Code Review Panel Report

Thank you so much for the opportunity to respond to the 2024 Labour Relations Code Review Panel ("Panel") Report and their recommendations for legislative changes to the *Labour Relations Code* ("Code").

The laws surrounding the relationship between unions and their employers are of the utmost importance not only to the BC Federation of Labour and our affiliates, but to the economic and social well-being of British Columbians.

As BC's affordability crisis deepens and economic disparity increases, growing unionization rates would make a significant difference for workers. Countries with higher union density have lower rates of income inequality. Unionization effectively combats the economic discrimination faced by women, immigrants and racialized workers. Our government should continue to take legislative action to remove barriers and ensure all workers can choose to unionize.

We have attached a spreadsheet summarizing the panel's recommendations and our response. We've also included our submissions to the panel and a copy of our application as intervenors in requesting leave and reconsideration of BCGEU vs Gateway Casinos & Entertainment Limited.

We'd like to highlight a few areas of specific importance to us.

Sectoral certification and bargaining

In our submissions, we called for a single-issue commission to consult and make recommendations on the implementation of a sectoral certification and bargaining model

to ensure that all workers can exercise their right to join a union and collectively bargain for better working conditions.

The panel concludes that an Industrial Inquiry Commission should be struck to examine the issue of sectoral bargaining but did not recommend including sectoral certification. Instead, they recommend the government only consider advisory panels for certain workers under the *Employment Standards Act* (“Act”). We strongly disagree with this position and maintain that a commission must look at both sectoral certification and bargaining structures.

While we appreciate the panel’s acknowledgement that “certain groups of workers encounter significant employment issues,” denying these workers an opportunity to make the case for sectoral certification is unjustified. In theory, such panels could result in improved working conditions, but our province’s history belies this assertion. We have sector-specific employment standards for many industries and the result for workers has been a reduction in entitlements, not an improvement. Farmworkers, online platform workers and high-tech workers are subject to significant exclusions under the Act and resulting in fewer and inferior rights than the average BC worker.

Workers want a union. They want a say in their working conditions. They have a *Charter* right to collectively organize, and they should be given the opportunity to make a case for sectoral certification and bargaining as a solution.

Successorship

Expanding successorship protections to contract retendering in specific sectors has been hugely successful. It is one of the most impactful actions flowing from the government’s 2018 amendments to the Code-- addressing the affordability crisis, protecting good jobs and lifting wages.

It has brought stability to work to what was incredibly precarious work in sectors like cleaning, security and long-term care. Importantly, successorship protects wages and benefits for workers in low-wage sectors who are predominately racialized and where women are overrepresented.

The provisions provide security for workers in the event of a contract being re-tendered, and they deter the practice of contract flipping as a way of driving down labour costs. The Panel’s report notes 12 applications were made under section 35.2, and the provisions certainly deterred many from using contract flips as part of their business practice.

Given the success of the existing provisions, these protections should be extended to all workers impacted by contract retendering. Application to expand through regulation results in winners and losers – and that’s simply unfair.

We strongly support the first recommendation of Sandra Banister,

The definition of “contract for services” in section 35(0.1) be deleted.

Freeze period

Achieving a certification is only the first hurdle to making improvements in a workplace. Often the bigger challenge is negotiating a first collective agreement. Improvements have been made to the first agreement process, but unions report ongoing struggles to get a first agreement across the line.

Extending the freeze period would take away the incentive for employers to drag out the bargaining process and put pressure more equally on both parties to reach a settlement.

We disagree with the Panel’s decision to decline making a recommendation in this area and resubmit that the freeze period should be extended until a first agreement is reached.

Access to lists

Our workplaces are changing. New business structures are growing. Many workplaces are entirely remote without a central work location. Some workers receive their assignments entirely through an app and have no contact with other workers. And many organizations use a hybrid model with some workers engaged remotely and others on site. These changes to work structure were not temporary during the pandemic -- they are the new normal.

Workplace structures shouldn’t dictate whether a group of workers has access to unionization or not. Workers in all kinds of workplaces want to join a union and have the right to do so in theory. But in practice, those employed in workplaces with a high number of remote workers, dispersed worksites, high turnover, shorter term employment contracts and those working through apps face unfair barriers to collectively organizing. Workers must have a way to communicate with each other to act on their right to associate.

We maintain our position that the Code should require employee lists with contact information to be shared with union organizers during a certification drive once the trade union has received signed cards from at least 20% of the eligible workers.

Changes to cards, timelines and certification process

We strongly reject proposed changes to the certification process to lengthen time periods or reword cards. We have fought hard to remove barriers for workers, tighten up processes and increase resources at the Labour Relations Board. These changes were made to protect workers and ensure fair processes.

We see the proposed wording change to certification cards as misleading and confusing. The intent of signing a card is already clear. We strongly reject this proposal.

Secondary picketing

The Code unduly limits the rights of striking employees to picket by excluding the ability of workers to picket the struck employers' other locations of business. This unfairly insulates an employer with multiple sites or divisions from the economic impact of a strike. This restriction is in violation of the *Charter*.

A union must be able to engage in meaningful collective bargaining and this hinges on a balance of power between workers and employers. This balance cannot exist if a picket does not have an impact on the employers' business.

We maintain our position that section 65(4) should be amended by adding a new item (b) to permit picketing at worksites where the employer is performing substantially similar work and by deleting section 65(8).

Further background on the reasons for our position can be found in the attached intervenor submission for leave and reconsideration of 2025 BCLRB 67 – Case No. 2025-000678.

NEW Legal name issues

Since the review, a new issue has emerged with respect to card eligibility, specifically around the use of legal names on cards. Many people use a common name that is not their legal name. This is typical amongst racialized workers and recent immigrants who may feel pressure to anglicize their name. A number of affiliates have reported significant issues with cards being rejected where a signer used their preferred or common name, because of duplicate names or incomplete names.

They also reported an over-representation of racialized and immigrant workers among rejected cards. This could result in the systemic oppression of racialized and immigrant workers' right to join a union. The government must ensure it takes steps to prevent systemic oppression in public services as required by the *Anti Racism Act*.

A membership audit is an effective way to ensure a membership card has been validly signed.

We are calling for the addition of a subsection (d) to section 3 of the *Labour Relations Regulation*:

3 (d) a membership card meeting the minimum criteria set out in subsections (a), (b), and (c) but where the name of the employee does not match employer records must be subject to examination and other

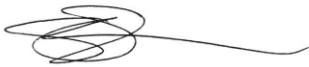
inquiries as set out in sections 22 and 140 (c) of the Code before being deemed as no longer in good standing.

Other recommendations

In relation to the panel's other recommendations, we ask that you review our original submissions for more information on our position. A number of affiliates have also sent submissions that provide additional background information on areas we have not covered in detail. We encourage you to consider their submissions in conjunction with ours.

We greatly appreciate the opportunity to share our views on how to improve BC's *Labour Relations Code*. We'd be happy to provide further information or meet to discuss any of our responses in person.

Sincerely,



Sussanne Skidmore
President



Hermender Singh Kailley
Secretary-Treasurer

Encls.

1. BCFED Initial submission Labour Code Review
2. BCED Initial submission Labour Code Review - appendix on sectoral bargaining
3. BCFED Second submission Labour Code Review
4. BCFED Intervenor application BCGEU vs Gateway Casinos
5. BCFED Final Submission Labour Code Review Final Report
6. BCFED Response to recommendations - Chart

APPENDIX to the
BCFED Submission to the
Labour Relations Code
Review Panel

BCFED Response to
Labour Code Review

Jim Stanford, Ph.D.
(he/him)

Economist and Director,
Centre for Future Work

March 2024



Authority

This document is respectfully submitted on behalf of the Executive Officers of the BC Federation of Labour and represents the views of more than 500,000 affiliated members across the province of British Columbia.

Appendix: Economic benefits of sectoral and broader-based bargaining

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Introduction and summary

Collective bargaining plays a vital and powerful role in creating conditions for shared, sustainable prosperity. Without collective representation, voice and bargaining power, few workers are able to negotiate effectively with their employers, and thus achieve decent work and living standards. No society in history has achieved inclusive prosperity – whereby most working people have access to comfortable, secure living standards – without widespread collective bargaining.

However, the capacity of conventional Wagner Act-style collective bargaining regimes to fulfil this potential is being undermined by economic, technological, and political changes. Average workplaces have become smaller – which makes traditional workplace-based certification and bargaining systems less viable. Companies have exploited organizational and technological innovations – such as franchising and outsourcing, or platform-based gig work models – to avoid unions and the responsibility to negotiate collectively with their employees. In fact, in many cases these firms deny their workers are employees at all. The tremendous struggles which workers in many such industries (from coffee chains to warehouses to on-demand gig platforms) are forced to undertake just to win basic union recognition and collective agreement coverage, is proof positive that the current system does not ensure meaningful access to these rights. Meanwhile, sectoral changes in the economy are reducing the relative size of traditionally unionized industries (including mining, forestry, and manufacturing). In their place, private service industries have grown, but most have relatively lower bargaining coverage.¹

The result of these intersecting trends has been a steady and worrisome decline in collective bargaining coverage, concentrated in private sector workplaces. In BC, private sector union coverage has fallen to below 15%. Barely one private sector worker in seven now has access to the protections and benefits of collective bargaining. This erosion of collective bargaining has contributed to income inequality and social polarization.

To counter these worrisome trends, reforming labour laws to facilitate greater use of sectoral, occupational, multi-employer and other forms of broader-based collective bargaining holds great potential to expand collective bargaining coverage and achieve fairer labour market outcomes. Such reforms would also help to make collective bargaining more efficient and effective. This would generate significant economic benefits for workers, employers, industries and the broader provincial economy (even benefiting the provincial government's fiscal situation). Those benefits fall into two broad categories.

First, a major rationale for the introduction of sectoral and broader-based bargaining systems is to extend effective access to collective bargaining to a broader group of workers. A majority of workers in the private sector are effectively excluded from collective bargaining arrangements – because of their location in small or fragmented workplaces, their engagement in insecure or non-standard employment relationships, overwhelming employer opposition to unionization and bargaining, and other barriers to conventional Wagner-style representation and bargaining. For these workers, the economic benefits of accessing collective bargaining through alternative, broader-based channels are similar to the general

¹ The most recent employment forecast from the B.C. government shows that the retail and accommodation/food service sectors will be the third and fourth-fastest growing sources of net employment growth over the next decade (B.C. Ministry of Post-Secondary Education and Future Skills 2023, p. 15), reinforcing this shift toward lower-wage and largely non-unionized jobs.

benefits of collective representation and bargaining already experienced by other workers (through conventional collective bargaining arrangements).

However, in addition to the direct benefits arising simply from the expansion of collective bargaining, a second category of economic benefits arises from specific advantages of sectoral, multi-employer or broader-based bargaining systems. In other words, it is not just that sectoral and broader-based arrangements allow greater access to bargaining: they also provide for the better coordination of bargaining, and the establishment of equivalent benchmarks for wages, working conditions and benefits that apply across entire sectors. In this context, the introduction of sectoral or broader-based arrangements could generate benefits beyond just those workers who cannot presently access collective bargaining at all. Additional benefits would be attained from the application of sectoral practices to industries and occupations which already feature at least some collective bargaining.

This appendix will review both broad categories of economic benefits from sectoral and broader-based bargaining: those associated with the general expansion of collective bargaining coverage, and those arising from the particular features of sectoral coordination. The appendix references abundant published research regarding the correlation between sectoral and broader-based bargaining systems, collective bargaining coverage and economic performance. The appendix also reviews data and analysis regarding the current use of sectoral arrangements in Canada and in other industrial countries – confirming that the practice is common and well-established, and hence, its introduction in British Columbia can be informed by the structures and experience of other jurisdictions.

This review confirms the following main findings:

- International experience shows that coordinated and broader-based collective bargaining systems are associated with higher bargaining coverage than decentralized systems based primarily in individual workplaces.
- Increasing collective bargaining coverage, to ensure that more workers can benefit from collectively-negotiated compensation and working conditions, likely requires the use of sectoral and broader-based bargaining systems.
- Collective bargaining coverage provides workers with consistently stronger monetary and non-monetary employment outcomes: including higher and more equal wages; stronger supplementary pension and benefits; regular and secure channels of voice, communications, and input in workplaces; better access to training; better job security; and more protection against occupational health and safety dangers (including risks such as mental health injuries and workplace harassment).
- In addition to expanding bargaining coverage, sectoral or coordinated bargaining systems often demonstrate superior outcomes in negotiating, implementing and administering collective agreements. Countries with greater reliance on coordinated bargaining systems are able to establish stronger wage norms that apply across industries and occupations; they are more able to attain lower unemployment rates in the long-run, coincident with stable inflation; and they provide extra stimulus to innovation and productivity growth by firms (which are spurred to compete on grounds of quality, productivity and efficiency – rather than trying to suppress compensation costs).

Sectoral, multi-employer, and broader-based bargaining systems in other jurisdictions

International practices

In an exhaustive study of labour relations across industrial countries,² the OECD recently developed a rich categorization of collective bargaining systems. This categorization captures the extent to which collective bargaining occurs mostly at the enterprise level (decentralized) versus various forms of sectoral, broader-based or multi-employer bargaining (centralized). It also considers the extent to which bargaining is coordinated across occupations, industries or broader portions of the labour force. The OECD summarized this international diversity in bargaining systems, with the following four broad categories:

1. **Coordinated centralized systems**: Nine countries in Europe have very structured, centralized collective bargaining systems, in which major negotiations occur at a centralized level (for entire industries and occupations), involving participation by multiple unions and employer associations, often joined by government representatives. The OECD recognizes that the form and intensity of coordination in these centralized systems varies, but they are similar in their shared attempt to coordinate bargaining at the sectoral or national levels.
2. **Coordinated decentralized systems**: Six countries (also in Europe) possess highly coordinated collective bargaining systems, but which operate in a more decentralized manner. They combine sector-wide provisions with considerable flexibility to negotiate specific terms at the level of individual firms or workplaces.
3. **Partial sectoral bargaining or coordination**: In five identified countries, collective bargaining occurs primarily at the firm level, but is supplemented by opportunities to negotiate on a sector-wide basis in certain circumstances, negotiate pattern contracts, and/or undertake wage coordination by peak-level union and employer organisations.
4. **Firm-level collective bargaining**: In this most decentralized category, collective bargaining occurs mostly at the firm level, with little capacity to coordinate bargaining or set broader conditions and benchmarks. Even within many of these countries, however, opportunity exists for multi-employer bargaining: including pattern, sectoral and occupational arrangements extending across many employers.³

Table 1 lists the countries belonging to each of these four broad categories of industrial relations systems.

² See OECD (2019).

³ For example, as discussed further below, multi-employer bargaining is common in Canada in many industries, including the construction, manufacturing, education and health sectors. Industry-wide or multi-workplace bargaining occurs in several UK industries (including construction, arts and manufacturing). Industry-level collective bargaining has become common in the Czech Republic following a 2004 labour law reform. These countries are characterized by higher collective bargaining coverage than other countries in the OECD's decentralized category, and this partial use of sectoral and broader-based bargaining systems is important in supporting that higher level of coverage.

Table 1 Major categories of industrial relations systems	
Category	Members
Coordinated centralized¹	Belgium, Finland, France, Iceland, Italy, Portugal, Slovenia, Spain, Switzerland
Coordinated decentralized	Austria, Denmark, Germany, Netherlands, Norway, Sweden
Some sectoral bargaining or coordination	Greece, Ireland ² , Japan, Luxembourg, Slovak. Rep.
Mostly workplace based	Australia ³ , Canada, Chile, Czech Rep., Estonia, Hungary, Korea, Latvia, Lithuania, Mexico, New Zealand, Poland, Turkey, U.K., U.S.
Source: Adapted from OECD (2019). 1. Includes two sub-groups: weakly and strongly coordinated centralized systems. 2. Ireland appears in two categories in the OECD taxonomy; we have placed it in this category on the basis of its system of system of sectoral employment orders and joint labour committees. 3. Australia has a unique system of sector-specific minimum wages and labour standards, called the Modern Awards system, which the OECD considers as an alternative to sectoral collective bargaining. However, the Awards system no longer features direct negotiations between employers and unions, and almost all collective bargaining in Australia occurs at the level of individual workplaces.	

One very strong conclusion from this international comparison of bargaining systems is that multi-employer bargaining systems of all kinds are associated with notably higher collective bargaining coverage. The widespread use of sectoral and multi-employer systems of all kinds results in a higher proportion of workers in each country covered by the terms of collective agreements. There is a strong and almost monotonic relationship between the availability of multi-employer bargaining systems and the scope of bargaining coverage. With options for multi-employer bargaining, and the ability to negotiate across multiple workplaces, collective agreements can reach a larger share of workers, lifting wages and improving conditions for a broader segment of the labour market.

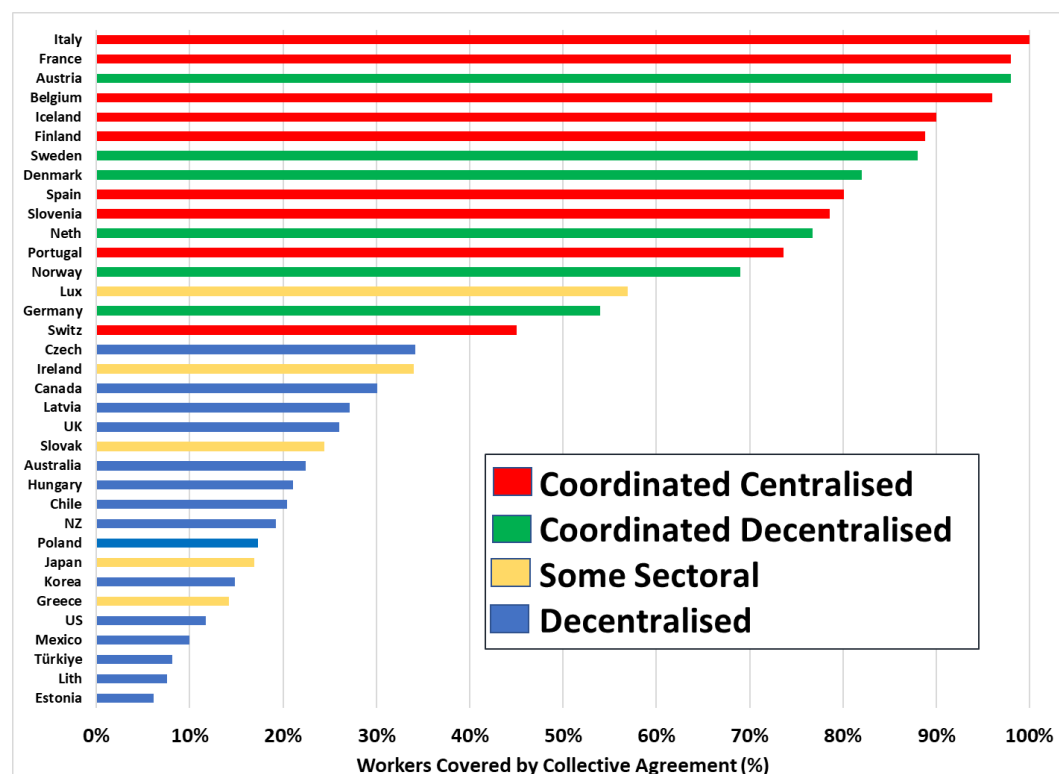
Table 2 Bargaining systems and bargaining coverage OECD countries					
	Coverage (2018 or latest)	Change since 2010 (or latest)		Coverage (2018 or latest)	Change since 2010 (or latest)
Coordinated centralized			Some sectoral bargaining / coordination		
Belgium	96.0%	0.0	Greece	14.2%	-85.8
Finland	88.8%	1.3	Ireland	34.0%	-6.5
France	98.0%	0.0	Japan	16.9%	-1.5
Iceland	90.0%	0.0	Luxemb.	56.9%	-1.5
Italy	100.0%	0.0	Slovak Rep.	24.4%	-15.6
Portugal	73.6%	-4.2	Average¹	33.1%	-6.3
Slovenia	78.6%	8.6	Mostly enterprise-based		
Spain	80.1%	0.7	Australia ²	22.4%	-11.5
Switzerland	45.0%	3.9	Canada	30.1%	-1.3
Average	83.3%	1.1	Chile	20.4%	5.0
Coordinated decentralized			Czech Rep.	34.2%	-1.8
Austria	98.0%	0.0	Estonia	6.1%	-9.6
Denmark	82.0%	-0.6	Hungary	21.1%	-6.2
Germany	54.0%	-5.8	Korea	14.8%	2.6
Netherlands	76.7%	-13.9	Latvia	27.1%	-5.8
Norway	69.0%	-5.0	Lithuania	7.6%	-3.3
Sweden	88.0%	-0.7	Mexico	10.0%	-0.2
Average	77.9%	-4.3	N.Z.	19.2%	3.6
			Poland	17.3%	-1.3
			Turkiye	8.1%	1.2
			U.K.	26.0%	-4.9
			U.S.	11.7%	-1.4
			Average	18.4%	-2.3
Source: Adapted from Stanford, Macdonald and Raynes (2022), citing OECD Labour Market Statistics, Collective Bargaining Coverage. 1. Excluding Greece. 2. Includes current federally- and state-registered enterprise agreements.					

Table 2 provides data on collective bargaining coverage in OECD countries for 2018 (the latest year for which near-complete data is available⁴), and the change in coverage in each country since 2010. The table is organised into the same four categories of bargaining systems described in Table 1. Countries with coordinated centralized systems have the highest average coverage rate (83%), followed closely by those with coordinated decentralized systems (78%). The group characterised by partial sectoral

⁴ Some countries do not report bargaining coverage data each year, so the most recent available data prior to 2018 is reported in Table 3.

bargaining or coordination has average coverage of 33%.⁵ Decentralized systems report the lowest average coverage, at just 18%. Canada's coverage rate (30.1% in 2018) was second-highest of all the countries in this category (behind the Czech Republic).

Figure 1. Bargaining Systems and Bargaining Coverage, 2018 (or most recent)



Source: OECD Labour Market Statistics, Collective Bargaining Coverage.

Figure 1 provides visual confirmation that achieving higher bargaining coverage is very much dependent on access to some form of multi-employer bargaining arrangement. The half of countries with above-median bargaining coverage rates is composed exclusively of countries with coordinated systems, whether centralized or decentralized (illustrated in red and green, respectively, on Figure 1). Meanwhile, almost all of the countries with decentralized systems (illustrated in blue) have very low coverage rates. Moreover, within the group of decentralized systems, countries which feature more scope for broader-based or multi-employer bargaining (including the Czech Republic, Canada and the UK) have achieved significantly higher bargaining coverage than other countries in the decentralized category.

About two-thirds of OECD economies have seen collective bargaining coverage decline since 2010, although as indicated in Table 2, that trend is not universal. The coordinated centralized category experienced stable collective bargaining coverage – increasing, on average, by just over one percentage point since 2010. Most countries in the other three categories experienced declining coverage since 2010, with some exceptions. Countries with decentralized systems, but where bargaining coverage grew,

⁵ The averages for this group reported in Table 1 exclude Greece, which experienced a radical retrenchment of collective bargaining practices following the global financial crisis I 2008-09: moving rapidly from centralized to decentralized as a condition of structural adjustment measures negotiated with the EU and the IMF.

include Chile, Türkiye, Korea and New Zealand. The decline in bargaining coverage in Canada was relatively modest in this period; again, this likely reflects the partial use of sectoral and broader-based policies in some industries (especially public sector occupations, where collective bargaining coverage has been stable⁶), which has helped to stabilize coverage. However, with Canada maintaining among the highest coverage rates of countries in the OECD's decentralized category, it seems that collective bargaining coverage in Canada is unlikely improve without the introduction of alternative channels for accessing collective bargaining.

The critical importance of multi-employer collective bargaining systems to stronger collective bargaining coverage has been acknowledged by policy-makers in other countries, who have prioritised the expansion of collective bargaining coverage as a strategy for lifting wages and improving income equality.⁷ In Europe, for example, a new directive from the Council of the EU has instructed EU-member countries to expand collective bargaining coverage toward 80% of employment, as part of an ambitious strategy to lift wages and reduce the incidence of low-wage work across the EU:

“One of the goals of the directive is to increase the number of workers who are covered by collective bargaining on wage setting. To reach that objective, countries should promote the capacity of social partners to engage in collective bargaining. Where the collective bargaining coverage rate is, for instance, below a threshold of 80%, member states should establish an action plan to promote collective bargaining. The action plan should set out a clear timeline and specific measures to progressively increase the rate of collective bargaining coverage.” (Council of the EU, 2022)

As is clear from Table 2 and Figure 1 above, reaching bargaining coverage of 80% would require the widespread implementation of coordinated multi-employer bargaining systems. No OECD countries without such systems have bargaining coverage even close to that 80% level. So the EU directive in effect is instructing its member countries to implement multi-employer bargaining systems in order to attain the desired coverage rate (as argued by Muller and Shulten, 2022).

In sum, the international evidence linking the existence of multi-employer collective bargaining practices with higher collective bargaining coverage is very strong. Countries which aim to expand the scope of collective bargaining coverage, as part of a broader strategy for lifting wages and attaining more equal income distribution, need to include multi-employer bargaining opportunities as a central component in their strategies.

Canadian practices

Sectoral and broader-based bargaining systems are a common and familiar dimension of collective bargaining in many Canadian situations. And in Canada, too, the correlation between broader-based bargaining and higher bargaining coverage is also clear.

Sectoral and broader-based bargaining systems have been implemented in most provinces in a variety of broader public sector activities, including education, health care, social services and public

⁶ The decline in bargaining coverage in the private sector, however, has been more severe: private sector bargaining coverage declined by one-tenth (to just 15.5%) in Canada from 2010 through 2023, and by more than one-sixth in B.C. (to 14.6%).

⁷ Traxler and Behrens (2002) provide a detailed survey of the mechanisms of collective bargaining extension mechanisms across 20 EU countries.

administration. In most provinces, public sector bargaining is commonly coordinated across multiple worksites, often involving multiple unions and employers (such as individual school boards or hospitals), who coordinate their bargaining engagement through collective union- and employer-side councils. These structures, through which strong collective bargaining relationships are sustained and applied across whole sectors, is clearly an important factor explaining the higher rate of union coverage in public sector work.⁸ In Canada, union contracts covered 77% of public sector employment in 2023,⁹ and that share has not changed in recent decades. In BC, public sector union coverage equalled 79% in 2023, and that coverage ratio has been similarly stable.

Sectoral, multi-employer and broader-based bargaining structures are also common in many private sector settings in Canada. Examples include construction, film and entertainment production, private transport operations (including owner-operator arrangements in trucking and taxis), cleaners and some manufacturing industries.¹⁰ There is great variety in the history, rationale and specific processes incorporated into these private sector broader-based models. It is not a coincidence that private sector industries where broader-based bargaining is common, are also characterized by higher levels of bargaining coverage. For example, bargaining coverage in the construction industry (where sector-based bargaining is the norm) averaged 31.4% across Canada in 2023 – twice the average for the overall private sector.¹¹ Other private sector industries where various forms of broader-based and multi-employer bargaining exist include manufacturing (22.9% coverage in 2023) and transportation and warehousing (40.7%). This positive relationship between broader-based bargaining and coverage is self-reinforcing: industries with higher coverage have been able to introduce broader-based bargaining structures, which in turn support continued or even expanded coverage.

It is worth noting the particularly extensive experience with broader-based bargaining models in Quebec. Quebec has a unique “decree” system which established innovative systems for negotiating and extending collective bargaining provisions across specified occupations and regions, in which collective bargaining would otherwise be unlikely to occur. Examples include private security services and motor vehicle maintenance shops.¹² In addition, Quebec’s construction industry has a well-developed sectoral structure. Other channels for multi-employer or sector-wide collective bargaining have also been established in Quebec, including a unique system for province-wide collective bargaining for self-employed workers in home-based childcare centres.¹³ In light of this experience, and with continuing support within the Quebec industrial relations system for innovation with broader-based bargaining systems, it is no surprise that private sector union coverage in Quebec in 2023 (23% in 2023) is significantly stronger than in any other province.

Across both industries and across provinces, therefore, the correlation between sectoral and broader-based bargaining systems and union coverage is clear in Canada – just as is true in the international data.

⁸ Other factors contributing to higher union coverage in public sector roles include more conducive employer attitudes to collective bargaining in many cases, the higher average educational qualifications of public sector employees and reduced exposure to private competitive pressures.

⁹ Calculations from Statistics Canada Table 14-10-0070-01.

¹⁰ A survey of broader-based bargaining models including in many private sector applications is provided by Mitchell and Murray (2017); see especially pp. 352-368.

¹¹ Calculations from Statistics Canada Table 14-10-0070-01.

¹² For more details on the history and workings of the “decree” system, see Jalette (2006) and Unifor (2015).

¹³ See CBC News (2020).

Where collective bargaining can be solidified within the framework of ongoing broader-based and multi-employer arrangements, they are less vulnerable to the efforts of employers to evade or defeat union representation and bargaining. Moreover, the application of established bargaining procedures to new workplaces that fall within defined sectors ensures that bargaining coverage grows with the overall level of sectoral employment. Particularly in private sector workplaces, sectoral bargaining arrangements seem critical to attaining and maintaining a critical mass of collective bargaining coverage – so vital to the ability of workers to negotiate better compensation and better jobs.

General economic benefits from extending bargaining coverage

The preceding section described the clear correlation – both internationally and across Canadian provinces and industries – between sectoral and broader-based collective bargaining systems and bargaining coverage. A major motive for pursuing the implementation of such structures in BC is precisely to extend the effective ability to use collective bargaining to a broader range of BC’s labour force. This is particularly important in private sector industries, especially those characterized by small, dispersed, or fragmented business structures and workplaces. At present, workers in many of these private service sectors (such as food service, warehousing and on-demand platforms) must confront daunting obstacles – not least being the unremitting efforts of employers to defeat and evade collective bargaining responsibilities, even shutting down locations or franchises which manage to unionize despite the odds – to winning access to basic representation and bargaining rights.

In this context, one major category of economic benefits from sectoral and broader-based bargaining systems derives simply from the fact that more workers (including in these fragmented private service industries) will have access to collective bargaining. There is a vast international research literature attesting to the positive impacts of collective representation, collective voice and collective bargaining for both the well-being of workers, and the quality and success of workplaces. This section briefly summarizes several of the major channels through which broader collective bargaining coverage can benefit workers, employers and the economy.¹⁴ Collective representation and bargaining coverage, giving workers more say in their workplaces and opportunity to negotiate improved compensation and conditions, is not only important to the well-being of workers directly covered. There is abundant evidence that collective representation and bargaining coverage contribute positively to broader economic and social outcomes, in many ways.

Wages

A central benefit of collective bargaining is it allows workers to counter-balance the disproportionate bargaining power of employers in setting wages and other components of compensation. On an individual basis, few workers possess leverage to negotiate wages that keep pace with their skills, efforts and productivity: the “cost of disagreement” facing an employer who prefers not to improve wages for any individual worker is small, limited to the possibility that that individual might quit. Collective bargaining evens the scales, allowing workers to impose a more significant cost of disagreement on employers (up to and including work stoppages if necessary to win a better outcome), and thus attain a more balanced wage structure.

¹⁴ For more detailed surveys of the economic benefits of collective representation, voice and bargaining coverage, please see Stanford and Poon (2021), Wilkinson et al., (2020), Bennet and Kaufman (2007), and OECD (2019).

In Canada, median hourly wages for workers covered by a collective agreement were 27% higher in 2023 than for those with no contract.¹⁵ In BC, this union wage premium is similar (25%). The union wage premium has narrowed since the turn of the century; one key reason is the significant increases in minimum wages implemented in most provinces (including BC) over the last decade, which has significantly and positively lifted median wages for non-union-covered workers. Nevertheless, the impact of collective bargaining on wages remains strong, and is vitally important for maintaining a sustainable balance of income distribution between labour and other factors of production.

Recent research on the problem of monopsony power in labour markets (whereby large and concentrated employers can exert a negative wage-suppressing influence on labour markets due to their large size) attests to the importance of workers having countervailing power to negotiate better wages.¹⁶ In the case of monopsony, the ability of collective bargaining to lift wages serves a dual purpose, since it can simultaneously lead to both higher wages and higher employment: since the incentive for large firms to limit employment in order to suppress wages is dissipated when wages are set through negotiation rather than employer preference.

Income distribution and inequality

Empirical evidence confirms that collective bargaining leads not only to higher wages, but also more equality in wage incomes – both within workplaces and across broader society.¹⁷ There are many dimensions to this equity-promoting effect of worker voice and agency. Jaumotte and Buitron (2015) show that reduced inequality results from both lifting the bottom of the wage distribution (by raising wages for lower-income workers) and curtailing excessive growth at the top (limiting escalation of salaries and bonuses for executives and other elites).¹⁸ Freeman et al., (2015) show that higher wages resulting from unions and other wage-regulating institutions result in greater intergenerational mobility, by facilitating more economic opportunity for the children of workers who benefit from these structures. Other dimensions of inequality are also ameliorated by stronger union representation and collective bargaining, including gaps in household wealth¹⁹ and racial inequality – since the benefits of union-negotiated benefits are especially important for Black, Indigenous and workers of colour.²⁰ Across all of these dimensions, union representation plays an important role moderating the economic and social consequences of growing inequality in Canadian society.

Health and safety

By ensuring regular channels of input and communication, including standing joint health and safety committees and related structures, unionized workplaces are best able to monitor emerging health and safety threats, educate both workers and managers on how to prevent risks and pressure employers to

¹⁵ Calculations from Statistics Canada Table 14-10-0066-01.

¹⁶ See Naidu et al. (2018) and U.S. Department of the Treasury (2022) for more theoretical and empirical evidence on the impacts of employer monopsony power.

¹⁷ Important contributions to this finding are Blanchflower and Bryson 2010; Eidlin 2016; and Card, Lemieux, and Riddell 2018.

¹⁸ Doorey and Stanford (2023) provide empirical data for Canada attesting to the impact of unions in moderating incomes for the richest segments of society.

¹⁹ See Weller, Madland, and Powell (2016).

²⁰ See Rosenfeld and Klaykamop (2012) and Weller and Madland (2018).

undertake pro-active investments in prevention and care.²¹ This applies to newly emerging occupational risks, such as repetitive strain injuries, mental health injuries and exposure issues. Union representation is also effective in the increasingly important area of public health education and protection, as evidenced so dramatically during the COVID-19 pandemic. By providing a reliable and trusted voice in workplaces around public health issues (including contagion prevention, vaccinations, etc.), and providing workers with assured channels for implementing health practices, union representation constitutes a critical asset in helping to build safer, healthier workplaces and communities.²²

Productivity

Abundant empirical research confirms that labour productivity and efficiency are improved in the context of collective representation systems that provide for workers' regular voice and input, and close-off lower-productivity cost-minimizing employment strategies.²³ These positive productivity effects are stronger when managers are encouraged or compelled to listen and respond to workers' input and demands, rather than being allowed to ignore or obstruct these processes (as is often the case in non-union workplaces, where workers' input is dependent on managers voluntary discretion). One channel through which collective representation contributes to productivity is through improved employee retention (discussed further below). But there are many other links between union coverage and productivity. The existence of more stable jobs and better compensation (associated with unionization and other formal structures of worker voice) encourages employers to adopt more skill- and capital-intensive business strategies. It also curtails the use of "low-road" business strategies based on labour cheapening and insecure employment models, which are associated with lower productivity.²⁴ By collecting information on worker experiences and preferences, stronger voice mechanisms also induce better staffing decisions and management practices that improve morale and cooperation in workplaces, and further boost firm performance. And by lifting wage levels, collective bargaining provides a spur to labour-saving technological change and innovation, that reinforces productivity growth.

Turnover and retention

Workers who are more satisfied with their work arrangements, conditions and compensation are more likely to stay in their positions, reducing costs of turnover, recruitment and training. Canadian data indicate that satisfied workers are 17% more likely to stay in their current job than those who are not.²⁵ Worker satisfaction is also closely linked to having more control over working hours and conditions. Avoidable turnover can add tens of thousands of dollars per year to labour costs per worker. Unfortunately, Canada's labour market is currently marked by very high levels of job turnover and churn. About one-fifth of Canadian workers start new jobs in any given year; in some low-wage, less appealing industries, turnover is much higher. Canada's accommodation and food services – with among the lowest union coverage rates of any industry in Canada – has by far the highest turnover and shortest average job tenure of any industry. Average tenure in this sector in 2023 (52 weeks) was less than half as long as

²¹ For example, Zoorob (2018) finds a one percentage point decline in union density is associated with a 5% increase in the incidence of workplace fatalities.

²² Soares and Berg (2023) provide strong evidence of the impact of unionization in reducing mortality from COVID-19 in the US. If unionization had maintained its postwar peak level in the US (35% density in the mid-1950s), the national mortality rate would have been reduced by over one-quarter.

²³ See, for example, Addison et al., (2007); Bart et al., (2020); Huebler and Jirjahn (2001); and Jirjahn (2014).

²⁴ See Kochan and Kimball (2019).

²⁵ See Martin (2018).

highly unionized industries (such as utilities, transportation, education and health care).²⁶ This ongoing flux, driven in part by dissatisfaction among workers with their jobs (as well as the insecurity of precarious positions) adds to labour costs, underutilizes skills and training and undermines productivity.

Macroeconomic performance

Paid work is the most important source of personal income in Canada, and personal consumption spending is the largest component (by expenditure) of GDP. So by lifting total incomes, collective bargaining also strengthens aggregate demand conditions, economic growth and job-creation. A more equal distribution of income has an additional, secondary effect on aggregate demand: by shifting more income toward those at the lower end of the distribution ladder, who have a higher propensity to spend (rather than save) that income, total spending is boosted. In most industrial countries, redistribution of income toward lower-income households will produce a net boost to aggregate demand and economic growth, thanks to the higher spending propensity of lower-income households.²⁷

Quality of care and service

Workers who have a greater say in working conditions and work organization are also more likely to be able to deliver higher-quality output. This is especially clear in various service occupations, where quality is at least as important as quantity in measuring productivity. In human and public service jobs, for example, workers who are empowered with voice, representation and job security are better able to demand practices and improvements that facilitate better quality service delivery – benefiting both the workers and the clients they serve. A timely example of this effect was provided during the COVID-19 pandemic: rates of mortality in privately-run long term care facilities (largely non-unionized) were much higher than in non-profit or publicly-owned centres (most of which are unionized).²⁸ Long-standing research in other human service industries (such as health care and childcare) also confirms the positive link between union representation, job stability, compensation levels, reduced turnover and the quality and safety of service delivery. A similar benefit is visible in many private service jobs, too. Rapid job turnover, poor training, low wages and irregular work schedules all undermine the quality of service in many low-wage private sector roles – including hospitality, personal services and retail trade.

Other benefits

International research has documented and quantified many other spin-off benefits that flow from collective representation, voice and bargaining. Better wages, more stable jobs and the provision of supplementary pensions and benefits means that workers in better jobs pay more taxes, and have less need to rely on public programs and income supports; the net impact on government fiscal balances of broader collective bargaining is thus positive.²⁹ Empirical evidence indicates that workers with more control over their working hours have better sleep patterns, better mental and physical health, less use of prescriptions and stronger family relationships.³⁰ US research has found that unionized workers with

²⁶ Statistics Canada Table 14-10-0054-01.

²⁷ Lavoie and Stockhammer (2012) provide

²⁸ See Stall et al., (2020) and Armstrong and Cohen (2020).

²⁹ See Sojourner and Pacas (2019).

³⁰ See Peetz (2019), pp. 185-186.

better-paid, more secure jobs are also less likely to die from suicide or overdose³¹ – a finding that is especially relevant in the context of BC’s continuing opioids crisis.

Broader collective representation and bargaining coverage can even translate into stronger democracy. Research suggests that when politicians face organized worker voices in their constituencies, they are less likely to be swayed by the concerted influence of wealthy elites; this advances the democratic principle of “equal responsiveness.”³² The skills and experience that workers learn through participation in workplace systems of voice and representation (associated with union-covered workplaces) enhance their confidence and capacity to participate in broader democratic processes outside of the workplace.³³ Finally, US research suggests that collective representation (leading to both enhanced channels of workplace dialogue, and higher and more equal wages) helps to reduce racial resentment among white workers, improve internal solidarity and cohesiveness in workplaces and reduce the extent of racial and social polarization in the broader community.³⁴

Through all of these channels, therefore, broader coverage by collective bargaining arrangements and related structures and practices (including channels of internal voice and representation, health and safety committees and other structures) can advance a wide range of economic and social goals: from stronger wages, more economic equality and safer, more productive workplaces, through to diffuse benefits such as inclusive communities and stronger democracy. In this context, actively facilitating collective bargaining should be a policy priority for any government concerned with those issues. And given the clear correlation between sectoral and broader-based bargaining systems, and stronger collective bargaining coverage, implementing opportunities for sectoral and broader-based bargaining is an obvious means of promoting stronger bargaining coverage.

Specific advantages of sectoral and broader-based bargaining systems

As discussed above, the most obvious and direct economic benefits resulting from sectoral and broader-based bargaining systems arise from their evident value in supporting greater extent of collective bargaining. This allows the well-documented benefits of collective bargaining to be experienced across a broader segment of the labour market.

However, there are additional, incremental economic benefits which result from sectoral and broader-based systems, in addition to the general benefits of extending access to broader collective bargaining. In essence, these additional benefits reinforce and amplify the gains achieved through expanded bargaining coverage. Not only is coverage broadened, and thus more accessible to more workers (including those in occupations and workplaces effectively barred from collective bargaining via conventional Wagner Act processes), but bargaining itself can become more effective and efficient. In this section, we briefly describe several ways in which sectoral and broader-based bargaining systems can generate additive economic benefits:

³¹ See Eisenberg-Guyot et al., (2020).

³² See Becher and Stegmüller (2020).

³³ See Patmore (2020).

³⁴ See Frymer and Grumbach (2020).

More focused, coordinated bargaining

In industries where collective bargaining is widespread but dispersed and uncoordinated, multiple bargaining processes can overlap, conflict and/or result in more frequent and unpredictable work stoppages. This is particularly true when major facilities incorporate multiple collective agreements covering different groups of workers (across occupation or function). Indeed, an important motive for the past introduction of sectoral or broader-based bargaining systems in many industries in Canada (including construction, education and health care) was precisely to build a more consistent and predictable bargaining system out of disparate and fractured decentralized arrangements, and thus reduce the frequency of disputes.

Another advantage of focused, coordinated bargaining is that it allows both parties in negotiations to concentrate their resources (including leadership attention, research, legal resources and other inputs) at particular points in time. This ensures that bargaining is well-resourced, supported by adequate attention and resources on both sides. Economies of scale in the costs of bargaining can also be attained by concentrating bargaining around larger, more concentrated tables, rather than dealing with a broad and overlapping portfolio of smaller negotiations.

Level playing field

Sector-wide bargaining arrangements aim to establish benchmarks for wages, working conditions and other key dimensions of employment that would apply evenly across all players in a given industry, region or occupation. This provides a more consistent, transparent and reliable footing for all parties to enter into employment relationships.³⁵ It also channels competitive pressure between firms into more useful and productive directions: instead of competing with each other to find new ways of driving down labour costs (in a “race to the bottom”), firms are steered toward more genuine improvements in efficiency, technology and innovation, to the benefit of employers, workers and consumers. Common sector-wide standards facilitate increased mobility across workplaces or employers within any industry, since any worker can be confident they will achieve similar compensation and conditions if they find a new role within the industry. This is useful for industries that are adapting to technological, economic or demographic change. European research confirms that under sectoral bargaining arrangements, firms are more adept at responding to shocks and disruptions, while providing employers with enhanced confidence regarding reliable labour supply and stable labour costs.³⁶ With the establishment of clear sector-wide standards, and well-resourced bodies for implementing and overseeing those standards, responsibility for monitoring and enforcing labour standards can be taken up, in the first instance, by unions and employers (often operating through respective councils), instead of under-resourced employment standards departments of government. This enhances confidence that the agreed, uniform standards will be respected on all sides.

Training and qualifications

Sectoral and broader-based bargaining regimes can facilitate stronger, more uniform and more reliable training and qualification systems for sectors and occupations. By providing structures through which workers, employers, educational institutions, professional regulatory bodies and other stakeholders can discuss training needs, design and implement training and qualification standards and support

³⁵ Glass and Madland (2022) discuss these benefits in the context of recent innovations in sector-wide wage boards in various U.S. states and cities.

³⁶ See Marginson et al. (2014).

workplaces to ensure that skills and training benchmarks are well-known and achieved, sectoral bargaining systems can lift and harmonize skills and certification performance across broad industry and occupational groupings. This benefit is visible in other industries with well-established broader-based bargaining systems. In construction, for example, skills and apprenticeship requirements for specific building trades are defined and enforced through collective bargaining and contract administration. In many broader public sector activities (such as health care and allied services), sectoral bargaining tables also serve as a vehicle for defining, monitoring and improving skill and qualification expectations. Quebec's decree system has also been paired with sector-wide training and certification standards.³⁷ When these standards are set on a consistent sector-wide basis, employers can be sure that new recruits meet accepted standards. For workers, mobility across employers is enhanced by the existence of uniform and transparent standards and certifications. Moreover, by negotiating pay progression systems that are tied to these industry- or occupation-wide training standards, workers can be certain their investments in their own skills and qualifications will reliably pay off in better incomes and increasing responsibilities – thus enhancing the incentives for skills acquisition.

Boost to innovation and productivity

With wage and compensation benchmarks established across whole sectors or occupations, the innovative and entrepreneurial efforts of employers can be better channeled into more productive and socially useful channels. For one company to gain an edge over its competitors, management attention must now be directed toward other strategies – instead of pursuing strategies to reduce labour costs through more exploitive terms and conditions. Evidence from Europe indicates that sector-wide and broader collective agreements facilitate positive, technology-intensive innovation strategies, with corresponding benefits for productivity performance.³⁸ Improved training, job retention and income security provided under sector-wide agreements has also been found to contribute to productivity growth.³⁹ Enhanced workforce stability can also help employers achieve more stable workforces, with assured qualifications and capabilities (thanks to the universal application of consistent standards for training and qualification).⁴⁰

Applications to non-standard employment

There are numerous industries in the BC economy marked by working arrangements for which conventional collective bargaining arrangements are difficult to organize and maintain. Despite those challenges, some such industries have a long and successful experience with collective bargaining. Even for workers in self-employed or contractor positions, collective bargaining can even the scales with purchasers or contracting firms and improve compensation and working conditions. Examples include collective bargaining for self-employed or owner-operator workers in fishing, forestry and trucking. Most often, given the fragmented nature of these industries, these arrangements must apply to multiple employers or across entire sectors.

³⁷ In the decree covering vehicle maintenance facilities in Montreal, for example, the “Parity Committee” which negotiates and implements the decree also establishes standards for mechanic certification tied to respective pay grades.

³⁸ See da Silva Bichara et al., (2023) for recent evidence.

³⁹ Benassi and Wright (2023) review data from numerous OECD countries to find a positive correlation between sectoral bargaining and productivity.

⁴⁰ See Roberts (2021) for examples.

The growth of non-standard or precarious employment arrangements requires that the application of collective bargaining structures to nominally independent producers will become more important in the future. A specific current example is the case of platform-based work-on-demand workers, whose access to traditional collective bargaining processes is limited by virtue of their supposed “contractor” status, the dispersed nature of their work, and very high turnover among participants. It is difficult to imagine how compensation and working conditions for these workers could be improved without access to some form of broader-based collective bargaining. Possible models would involve elected representatives of platform workers negotiating terms with platform firms, that would then apply to all workers engaged through the business.⁴¹

Macroeconomic outcomes

More coordinated collective bargaining systems can also exert a positive impact on broader labour market and macroeconomic outcomes. The OECD’s recent review of collective bargaining systems (OECD, 2019) explored these impacts. Researchers used multivariate analysis to compare labour market outcomes across the various categories of labour relations systems identified above. The report showed that coordinated multi-employer bargaining systems achieve better employment and unemployment outcomes than decentralized firm-level systems. It also concluded that multi-employer options achieve greater equality and economic inclusion. As the OECD summarizes:

“Co-ordinated systems are shown to be associated with higher employment, lower unemployment, a better integration of vulnerable groups and less wage inequality than fully decentralized systems. Weakly co-ordinated, centralized systems and largely decentralized systems hold an intermediate position, performing similarly in terms of unemployment to fully decentralized systems, but sharing many of the positive effects on other outcomes with co-ordinated systems.” (OECD 2019, p. 113)

Multi-employer bargaining, therefore, opens the possibility of achieving stronger macroeconomic and distributional performance. When collective bargaining is coordinated on a sectoral or economy-wide basis, there is no trade-off between bargaining progress and aggregate employment. To the contrary, coordinated multi-employer bargaining is associated with better employment outcomes.

This finding is especially important in the context of current concerns in Canada and other industrial countries with inflation, in the wake of supply chain disruptions and the other after-effects of the COVID-19 pandemic. Coordinated bargaining allows all parties to negotiations (including employers, unions and where relevant government) to respond to shocks like the recent inflationary cycle with a longer-term, more collaborative process. This is better than letting stakeholders fight each other for their best possible outcome, in hopes of protecting their own interests amidst macroeconomic uncertainty. Coordinated bargaining can thus facilitate longer-term deals that restore real wages for workers (which fell as a result of recent inflation), but in a gradual manner that does not exacerbate that inflation. Strong and coordinated collective bargaining, in this context, can play a positive role in stabilizing macroeconomic and inflation conditions.

⁴¹ Collective bargaining arrangements for platform workers have been implemented in several European countries, generally with application across multiple firms or platforms; see Stewart and Stanford (2022) for details.

Conclusion

International and Canadian evidence confirms that expanding sectoral and broader-based bargaining is essential for arresting the decline in bargaining coverage and ensuring that more BC workers have access to basic representation and bargaining rights – and the economic and social progress they can facilitate. Expanding bargaining coverage will usher in a broad portfolio of economic benefits: including higher and more equal wages, better health and safety practices, spurs for productivity growth, reduced employee turnover and better access to training. Moreover, specific features of broader-based and sectoral bargaining systems hold out the prospect of more efficient and effective bargaining, even for workers who are already covered by conventional collective bargaining. These include making bargaining more focused, predictable and better-resourced; facilitating bargaining for workers in non-standard employment relationships; and creating transparent and fair benchmarks for wages, qualifications and working conditions that apply across entire sectors, hence enhancing stability and best practices in all workplaces.

For all of these reasons, the development of new certification and bargaining processes to facilitate sectoral, broader-based and multi-employer collective bargaining systems should be a top priority for future labour law reform in BC. There is a growing consensus among industrial relations experts in Canada⁴² and internationally that this will be necessary for bringing the benefits of collective bargaining to workers who at present are denied that opportunity and ensuring that collective bargaining will continue to contribute to a fairer, more inclusive economy and society.

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Submission to the
Labour Relations Code
Review Panel

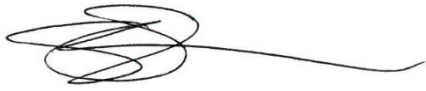
BCFED Response to
Labour Code Review

March 2024



Authority

This document is respectfully submitted on behalf of the Executive Officers of the BC Federation of Labour and represents the views of more than 500,000 affiliated members across the province of British Columbia.



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The BC Federation of Labour is located on unceded xʷməθkʷəy̓əm (Musqueam), səliłwətaʔ (Tsleil-Waututh), Skwxwú7mesh (Squamish) territories.

ab/moveup

The BC Federation of Labour is pleased to submit its recommendations for improvements to BC's Labour Relations Code

In the five years since the previous review of the Labour Relations Code, our world and workplaces have changed significantly. In 2018, online platform work was just beginning in BC for food delivery services, and ride-hailing had not yet arrived in the province. The global COVID-19 pandemic necessitated the explosion of remote work. And more recently, artificial intelligence (AI) has significantly advanced and can take on tasks that were unimaginable just five years ago.

With many of the recommendations flowing out of the last Code review now implemented, we can assess whether they've achieved their stated goals. Many have brought welcome improvements to our workplaces and made a difference in workers' lives. We recommend that these improvements, such as successorship protections, be maintained and, in some cases, expanded to benefit more workers.

But workers continue to face considerable gaps in their ability to access unionization, and those who would benefit from collective bargaining the most too often find themselves without a path to representation. These workers are disproportionately women, racialized workers, workers with disabilities, 2SLGBTQIA+ workers, young workers, migrant workers, newcomers to our province and those from other marginalized groups.

It is time to look to new bargaining structures — sectoral and broader-based bargaining models — to ensure that precarious workers have a pathway to unionization. All workers must have access to their Charter-protected right to organize and have meaningful collective bargaining and should be able to exercise that right without fear of retaliation. Our labour relations system must provide workers with timely access to justice and the services and supports that are promised in the Code.

As well, the path to Reconciliation requires the Code to be reviewed and aligned with the UN Declaration on the Rights of Indigenous Peoples. While we understand this work may be beyond the scope of this review, the BC Federation of Labour supports this necessary and important work. We look forward to participating in the future.

As you consider amendments to the Code, we urge you to adopt one overriding lens: to ensure that they create equity, fairness and balance, giving working people a voice at the table in their workplaces. As BC businesses expand and proliferate, new structures emerge. Proposed amendments must put the needs of workers at the centre, protect their rights, and address the concerning growth of precarious work. And they must ensure all workers can exercise their Charter right to collectively organize.

Our submission makes recommendations in four key areas:

- Improving access to collective bargaining;
- Preserving and protecting workers' rights;
- Improving processes at the Labour Relations Board; and
- Acknowledging the requirements of the *Declaration of Indigenous Peoples Act*.

Executive Summary of recommendations:

A. Improving Access to Collective Bargaining:

1. Explore sectoral/broader-based bargaining

Establish a single-issue commission as soon as possible to consult on the implementation of sectoral bargaining to address changing workplaces structures, BC's high level of worker precarity and the barriers to unionization too many workers face. This commission should consult on a specific sectoral bargaining model or models to provide focus and narrow the scope of the feedback it receives.

2. Recognize the success of single-step certification

Maintain single-step certification as an effective and fair method for trade union certification.

3. Improve access to employee lists

Provide employee lists with contact information to organizers during a certification process once a trade union has signed cards from at least 20% of the eligible workers.

B. Preserving and Protecting Workers' Rights:

4. Expand successorship protection

Amend successorship provisions so the certification follows a transfer of workers and work to reflect the modern realities of contracting, subcontracting, contract flipping and modern forms of corporate transfer. Place the primary evidentiary burden on the employer where a successorship or common employer application is filed.

5. Ensure provincially regulated workers can honour the picket lines of workers who are regulated by the federal government or another provincial government.

Amend the definition of strike and person as set out in Bill 9, Miscellaneous Statutes Amendment Act, 2024.

6. Extend the freeze period for first collective agreements

Amend section 45 of the Code to have the statutory freeze apply until a first collective agreement is reached by eliminating the time limit.

7. Address remote work and virtual picket lines

Ensure that remote or digital workers have the right to establish virtual picket lines and communicate about the strike with the public. Confirm that a virtual picket line has the same standing as any other picket line.

8. Protect the rights of online platform workers

Affirm that online platform workers are covered by the definition of employee in the Code and have the right to organize.

9. Allow secondary site picketing

Amend section 65(4) by adding a new item (b) to permit picketing at worksites where the employer is performing substantially similar work, and by deleting section 65(8).

10. Prevent double breasting

Amend the common employer provision to remove the discretionary nature of common employer applications in construction.

11. Address the impact of AI and automation on BC's workplaces

Establish a commission dedicated to examining the impact of artificial intelligence and automation on BC's workplaces.

12. Better protect workers during restructuring

Strengthen the adjustment plan language in section 54 to better protect workers by requiring negotiated adjustment plans.

C. Improving LRB processes:

13. Increase LRB funding

Provide a significant increase of at least \$5 million to the operating funding for the Labour Relations Board. Provide the necessary capital funding to accommodate additional staff and meet technology requirements.

14. Improve timely access to LRB services and decisions

Ensure that the Board has sufficient personnel and resources to meet the timelines established in the Code and to make procedures, services and decisions available within a reasonable timeframe.

D. Indigenous Rights and Reconciliation

The BC Federation of Labour is committed to Reconciliation and to fully participate in future processes to align the Labour Relations Code with the UN Declaration on the Rights of Indigenous Peoples. BC's unions strongly believe that access to unionization and freedom of association is a tool for reconciliation and, from an intersectional perspective, to address the dignity of Indigenous workers.

Recommendations:

Improving Access to Collective Bargaining

Recommendation 1: Explore sectoral/broader-based bargaining

Establish a single-issue commission as soon as possible to consult on the implementation of sectoral bargaining to address changing workplaces structures, BC's high level of worker precarity and the barriers to unionization too many workers face. This commission should consult on a specific sectoral bargaining model or models to provide focus and narrow the scope of the feedback it receives.

The prevalent model of enterprise collective bargaining has left many workers behind, unable to exercise their Charter bargaining rights. The enterprise model is effective for midsize to large workplaces where workers convene at a single worksite. But more and more, this doesn't represent the structure of our modern workplaces. Workers in small (and very small) workplaces, franchises, contracted work, or dispersed workplaces have little ability to effectively unionize and use their collective power.

Here are some examples:

BC has thousands of **domestic workers**: individuals employed in a home, usually working alone and employed by a single family, and most of them are racialized, newcomers and often employed through the Temporary Foreign Worker Program (TFWP). Their isolation and vulnerable status make traditional organizing impossible.

Migrant farm workers come to BC to work on farms, ranches, orchards and other agricultural operations. They must navigate multiple enforcement and government bodies while facing language barriers and isolation from the broader community. They rely on their employers for both income and housing and often owe fees to recruitment agencies despite this practice being prohibited. Community groups that advocate for workers are given little standing by employers, and efforts to unionize this workforce have been largely unsuccessful.

BC's tens of thousands of **ride-hail and food delivery workers** — overwhelmingly racialized immigrants or newcomers to Canada — work for large, powerful multi-national corporations, with no central dispatch location and major if not insurmountable structural obstacles to unionizing and bargaining.

Certified dental assistants (CDAs) are predominantly women, working in dental offices for small businesses often owned by one or more dentists. With only a handful of workers in each office, wall-to-wall certification would provide little to no bargaining power, and the difficulties in organizing multiple very small offices are enormous.

Franchises employ generally small groups of workers — tending to be racialized, younger and, increasingly, employed through the TFWP — under structured employment conditions set by central corporate bodies, making the work virtually identical. Yet, each franchise must be unionized one by one, with turnover and the high degree of central corporate influence making organizing and bargaining extremely difficult.

Workers in industries like those described above face both structural challenges when unionizing and significant barriers to achieving a first collective agreement. Failing to address their needs increases experiences of precarity, drives down working conditions and entrenches systemic discrimination, making already-vulnerable workers even more vulnerable and at higher risk of economic insecurity.

Implementing a sectoral and/or broader-based bargaining model ensures workers can have a say in their pay and working conditions. BC's labour movement has significant experience with sectoral bargaining models, which continue to be used in several sectors including health care, education and community services. Other sectors like construction have used a sectoral model in the past. Jurisdictions such as New Zealand and the state of California have implemented sectoral models to improve working conditions in sectors with vulnerable workers.

We see moving ahead on sectoral bargaining as critically important for our province's most vulnerable workers. Migrant workers, for example, would greatly benefit from sectoral bargaining as it would provide representation and day-to-day support by ensuring regularized wages, fair working conditions and a consistent standard of care across the workforce. Union representation would provide a clear path and faster remedies to unsatisfactory conditions. A sectoral model could also help to level the playing field by ensuring workers aren't unfairly targeted for attempting to organize or for speaking out about working conditions that are contrary to their Labour Market Impact Assessment Contract.

A model for sectoral bargaining directed at industries with traditionally low union density was proposed by the majority of the 1992 Labour Code Review panel. The issue was again raised in submissions in 2018, but the panel determined it hadn't received sufficient input to make specific recommendations. Instead, the panel proposed further study through a single-issue commission. Neither recommendation was implemented.

Our affiliated unions have reviewed several models of sectoral and broader bargaining, and we are continuing to discuss the key elements of a model that would address the needs of BC's modern workplaces. Due to the short timeline of this review, we do not have a specific model to recommend, but we hope to expand on our views at our oral presentation in March.

Our recommendation is to establish a panel to move ahead with consulting on and implementing sectoral bargaining in short order. Further, given the experience of the last panel in BC and Ontario's Changing Workplaces Review, we believe an open-ended process is unlikely to result in submissions that move the process meaningfully forward. We suggest instead that the proposed commission consult on a specific model or models of sectoral bargaining to get more focused and usable feedback for implementation.

Recommendation 2: Recognize the successes of single step certification

Maintain single-step certification as an effective and fair method for trade union certification.

In June of 2022, the provincial government reinstated single-step certification. How workers can unionize has been a contentious issue throughout the past few decades of labour relations in BC, but the results since the reinstatement should speak for themselves.

Single-step certification successfully and objectively removes barriers to unionization.

In 2023, the Board approved 195 applications for certification. This number is 36% increase over the 143 applications received in 2022. And in 2022 the number filings post Bill 10 was more than double those from the first half of the year.¹ Workers are organizing at an impressive rate because there are fewer structural barriers and fewer opportunities for employers to interfere and intimidate workers.

Single step also helped workers achieve collective bargaining rights in traditionally harder to unionize sectors like arts, entertainment and recreation; construction; real estate and rentals leasing; and retail. For example, in 2022 successful applications in retail jumped from only three before single-step was implemented to nine².

To ensure the integrity of the single step process, the LRB has implemented an extensive membership card audit process. That process has found very few issues with cards. In 2022, 74 certification applications were audited, and concerns were statistically insignificant. In all cases the Board “was able to satisfy itself there was no issue with the veracity of the union’s application or the membership evidence submitted in support of it.”³

But it’s not just about the numbers. It’s about the difference joining a union makes in a workers’ life. Sean McKenna, a worker who organized his workplace through single-step certification had this to say about single-step certification:

“The legislation changed partway through the union drive, and I honestly do believe it was the reason why were successful. After we had certified, we had some employees that might have been intimidated into not voting. Single-step certification allows a union to form more easily, more organically...Honestly, before, I didn’t think there was anything that we could do. We were at the mercy of an owner that we had to beg for raises, beg for safety. I feel a lot more positive going to work, seeing everybody there and know that we’re taking the steps to help them. This is exactly what unions are for.”⁴

We have asked our affiliates and their members to share more stories with you in their submissions and oral presentations.

Recommendation 3: Improve access to employee lists

Provide employee lists with contact information to organizers during a certification process once a trade union has signed cards from at least 20% of the eligible workers.

Access to accurate employee information allowing effective communication with workers is essential to fair organizing practices. Workers interested in unionizing in workplaces with a high number of remote workers, dispersed worksites, high turnover, shorter term employment contracts and those working through apps face unfair barriers. These new ways in which people are employed are now permanent

¹ <https://thetyee.ca/News/2023/12/22/How-2023-Became-Year-Of-Unions/>

² <https://www.lrb.bc.ca/media/20791/download?inline>

³ <https://www.lrb.bc.ca/media/20791/download?inline>

⁴ https://www.youtube.com/watch?v=PW23578lg4k&t=4s&ab_channel=BritishColumbiaFederationofLabour

features in our economy and the Code must be adapted accordingly to provide workers with meaningful access to union certification and collective bargaining.

Employers have all the control over employees – who they hire, where and when they work, and how they can be communicated with. Even in more traditional workplaces, technological change has made it more difficult for workers to identify and communicate with their colleagues. Workers must be provided with access to their colleagues if they are going to have any meaningful ability to freely associate and have a union in their workplace.

In 2016, Ontario’s “Changing Workplaces Review” recognized the implications of new workplaces structures and the impact on workers’ ability to communicate with each other about the conditions of their employment. That review recommended that employers be required to provide a list of employees where a union made application and had obtained the support of 20% of the workers in a proposed bargaining unit.

The sharing of this type of information is appropriate as union drives are not external or public processes. They are internal to the workplace and led by employees coming together to form or join a union for the purposes of accessing the rights set out in the Code. Collecting names, employment location and personal contact information is a routine part of an organizing drive.

We recommend that employers be required to provide employee lists, containing work location, job title and personal contact information, once the union has met a 20% threshold of cards signed. This strikes an appropriate balance of facilitating union organizing in the modern workplace while avoiding unwarranted dissemination of personal information.

Preserving and Protecting Workers’ Rights

Recommendation 4: Expand successorship protection

Amend successorship provisions so that the certification follows a transfer of workers and work to reflect the modern realities of contracting, subcontracting, contract flipping and modern forms of corporate transfer. Place the primary evidentiary burden on the employer where a successorship or common employer application is filed.

One of the most impactful improvements arising from the 2018 Code review was the expansion of successorship protections to workers employed in building cleaning, security, bus transportation, food services, and non-clinical services in the health sector. By ensuring the continuation of their collective agreement during a contract flip, thousands of workers were protected from losing their jobs, negotiated wages and benefits.

At a time when we have seen significant cost of living increases, workers cannot afford to lose ground. Providing successorship protections is also an important pay equity measure as it protects racialized, immigrant, and newcomer workers, who are overrepresented in the sectors where contract flips commonly occur.

Successor protections are needed for workers and their unions in every sector. No employer should be able to outsource, re-tender or flip a contract to undermine the democratic rights of workers to

unionization and collective bargaining. Workers must be equally protected in the transfer of work and in the sale of business regardless of the form taken.

The onus should be on employers to show successorship provisions do not apply, since they have access to pertinent information about the successorship or transfer of business. A similar requirement already exists in section 14(7) of the Code related to unfair labour practices.

Recommendation 5: Ensure provincially regulated workers can honour the picket lines of workers who are regulated by the federal government or another provincial government.

Amend the definition of strike and person as set out in Bill 9, Miscellaneous Statutes Amendment Act, 2024.

A 2022 reconsideration decision found that the refusal of poly party union members to cross the Canadian Merchant Services Guild's picket line at the Vancouver Shipyards amounted to an illegal strike.⁵ The workers were ordered back to work. The panel found that the current language in the definition of strike, "permitted under this code" was insufficient to protect provincial picketing as the LRB does not have jurisdiction over strikes established under another code e.g. the *Canada Labour Code*.

Since that decision, the issue has arisen during several federal job actions where provincially regulated workers were directed to cross the picket lines. This caused significant confusion, frustration and disappointment amongst union members. The affiliates of the BC Federation of Labour strongly hold the view that protecting the right to honour picket lines regardless of the jurisdiction is a fundamental expression of worker solidarity. Further, allowing workers to honour picket line reduces worker-to-employer and worker-to-worker tension and resentment that can build during difficult and long job actions leading to violence or the destruction of property.

In March, the government tabled legislation as part of Bill 9 to amend the definition of person and strike in the Code as follows:

Section 1 of the Labour Relations Code, R.S.B.C. 1996, c. 244, is amended

(a) in subsection (1) by repealing the definition of "person" and substituting the following:

"person" includes an employee, employer, employers' organization, trade union and council of trade unions, but does not include, except for the purposes set out in subsection (3), a person in respect of whom collective bargaining is regulated by the *Canada Labour Code*; ,

(b) in subsection (1) by repealing paragraph (b) of the definition of "strike" and substituting the following:

(b) a cessation, refusal, omission or act of an employee that occurs as a direct result of, and for no other reason than,

⁵

<https://lrb.my.salesforce.com/sfc/p/#f40000022yYB/a/0A0000000qUu/QEgiy412pn2APH5hAsp06ikfrrPXV82xTMxzOx0oEcE>

- (i) picketing permitted under this Code, or
- (ii) picketing conducted by employees in respect of whom collective bargaining is regulated by the laws of Canada or another province who are locked out or on strike , **and**

(c) by adding the following subsection:

(3) For the purposes of paragraph (b) (ii) of the definition of "strike" in subsection (1), the definitions in subsection (1) are to be read as though the definition of "person" did not exclude a person in respect of whom collective bargaining is regulated by the *Canada Labour Code*.

We support the intent of this amendment. We understand its intent is to capture all federally regulated picketing including workers covered by the *Federal Public Sector Labour Relations Act* and picketing conducted under other provincial legislation. As of the date of this submission Bill 9 has not received Royal Assent.

Recommendation 6: Extend the freeze period for first collective agreements

Amend section 45 of the Code to have the statutory freeze apply until a first collective agreement is reached by eliminating the time limit.

A successful certification doesn't result in immediate improvements for workers; a first agreement is necessary. Negotiating a first agreement, and doing so within a reasonable timeframe, continues to be very difficult, especially in sectors with traditionally low density. Because the freeze period can end before a first agreement is reached, delays at the table are a tactical advantage for employers. Running out the time clock gives employers a chance to change pay and working conditions to undermine negotiating efforts. It remains very difficult to achieve a first agreement without taking strike action -- resulting in more workplace disruptions.

Flowing from the 2018 panel's recommendations, the government made some improvements to the first agreement processes by providing the option of mediation prior to a strike vote and increasing the freeze period from four to twelve months. Our affiliates welcomed both these changes, but they report they are continuing to experience significant challenges in getting first agreements due to intentionally long delays as employers try to run out the clock.

The freeze period in section 45, which prohibits an employer from changing the terms and conditions of employment after certification for twelve months, continues to be the biggest barrier. A time-limited freeze period incentivizes employers to drag their heels in negotiations. Removing the time limit would encourage employers to quickly reach a negotiated agreement or trigger section 55 at the end of the one-year period.

Recommendation 7: Address remote work and virtual picket lines

Ensure that remote or digital workers have the right to establish virtual picket lines and communicate about the strike with the public. Confirm that a virtual picket line has the same standing as any other picket line.

Though some workers engaged in remote work prior to the COVID-19 pandemic, the number of workers who work remotely on a full or part-time basis has substantially increased. Remote work has given greater flexibility to both workers and employers. It is no longer uncommon for businesses to employ many if not all their workers on a full-time remote basis. Many collective agreements include negotiated language establishing the terms and conditions of remote work.

The current definition of picketing does not reflect this change in workplace structure. Remote workers must have the ability to establish and communicate about virtual picket lines. Workers have already established the power of virtual pickets in practice by using social media and websites to communicate about their struck work. But without guidance from the Code, we see this as an area of potential friction between workers and their union and employers.

We encourage the panel to review and recommend any necessary amendments to the definition of picketing in section 1(1) and sections 65 and 66 to ensure remote workers can establish, communicate about and honour virtual pickets.

Recommendation 8: Protect the rights of online platform workers

Affirm that online platform workers are covered by the definition of employee in the Code and have the right to organize.

In November of 2023, bill 48, the *Labour Statutes Amendment Act* expressly included online platform workers (those employed in food delivery and ride-hailing) as employees for the purposes of the *Employment Standards Act* and as workers for the purposes of the *Workers' Compensation Act*.

In speaking to the Bill, Labour Minister Harry Bains outlined his intention that these workers have access to their constitutional right to association. He said,

“But workers, as I said before — regardless of where they are from, what they do and how they do it — deserve appropriate employment standards and protections like minimum wage, tip protection, wage transparency, health and safety standards and access to workers compensation coverage if injured or become sick on the job.

They can exercise their constitutional right to association under the Charter of Rights and Freedoms, so they could join a union and collectively bargain for better benefits and wages. Those are standards that workers should be entitled to. Those are the minimum standards that any company should provide to workers, who are the key to their success.”⁶

⁶ <https://www.leg.bc.ca/documents-data/debate-transcripts/42nd-parliament/4th-session/20231121pm-Hansard-n365#bill48-2R>

It is our view that inclusion in the ESA and WCA are sufficient to provide coverage under the Labour Relation Code, but the large multi-national companies who employ these workers have a long history of engaging in extensive litigation to limit workers' rights. We do not believe these workers should have to litigate to determine if they have the right to bargain collectively, especially given their precarity and the other obstacles they face in organizing a large and distributed workplace.

Additionally, these workers must have a path to collective bargaining because they will receive only limited rights under the *Employment Standards Act*. It would be unfair to offer them inferior rights and simultaneously deny them an avenue to collectively bargain better working conditions. Providing limited rights to a predominately racialized and immigrant workforce is in and of itself deeply problematic. Refusing these workers collective bargaining as an avenue of relief amounts to systemic oppression.

We recommend that the panel review the definition of employee and propose amendments if needed to provide online platform workers clear access to the right to organize and collectively bargain.

Recommendation 9: Allow secondary site picketing

Amend section 65(4) by adding a new item (b) to permit picketing at worksites where the employer is performing substantially similar work and by deleting section 65(8).

Section 65 of the Code unnecessarily restricts secondary picketing. The BC ban hampers workers' free expression and allows employers to mitigate the economic impact of a strike by redistributing their goods and services to other substantially similar worksites.

The Supreme Court has ruled that secondary picketing is a constitutional right. Secondary picketing is legal under common law and protected by the freedom of expression guaranteed in section 2(b) of the Charter of Rights and Freedom. Over 70 years ago, the Supreme Court of Canada approved secondary picketing as a necessary consequence of allowing picketing under the Trade Union Act, predecessor of the Labour Relations Code.

In *Williams v. Aristocratic Restaurants*, [1951] S.C.R. 762 the Court noted, "The fact that two of the restaurants were not within the unit of employees for which the union was authorized to act does not affect the question; the owner's economic strength is derived from his total business; and it is against that that the influence of information is being exerted."

The majority of other jurisdictions do not restrict picketing in this manner. There is no suggestion that allowing secondary picketing has caused any difficulty for industry or led to widespread labour unrest. Unfair restrictions on secondary picketing relieve economic pressure on employers and may very well result in longer disputes.

We suggest an amendment to section 65 as follows:

65 (4) The board may, on application and after making the inquiries it requires, permit picketing (a) at or near another site or place that the employer causing a lockout or whose employees are lawfully on strike is using to perform work, supply goods or furnish services for the employer's own benefit that, except for the lockout or strike, would be performed, supplied or furnished at the site or place where picketing is permitted by subsection (3),

(b) at or near another site or place that the employer causing a lockout or whose employees are lawfully on strike is using to perform work, supply goods or furnish services that are substantially similar to the “work” noted at subsection 3 and, in all the circumstances, would provide a reasonable substitute for the public, or

(c) at or near the place where an ally performs work, supplies goods or furnishes services for the benefit of a struck employer, or for the benefit of an employer who has locked out...

65 (8) For the purpose of this section, divisions or other parts of a corporation or firm, if they are separate and distinct operations, must be treated as separate employers.-

Recommendation 10: Prevent double breasting

Amend the Code to remove the discretionary nature of common employer applications in construction.

The Code should be amended to remove the discretionary nature of common employer applications. In construction, double breasting inherently undermines a union’s bargaining rights but it can be very difficult or impossible to prove to the Board’s satisfaction that bargaining rights have been undermined. This allows construction employers a broad scope for spinning off or buying a non-union company and slowly transferring their unionised business to that non-union entity.

Recommendation 11: Address the impact of AI and automation on BC’s workplaces

Establish a single-issue commission to examine the impact of artificial intelligence and automation on BC’s workplaces.

AI and automation are progressing at an incredibly rapid pace. This will have an impact on industries across the board and have significant effects on the workforce. We believe there should be a worker-centered process to examine the impacts and to make recommendations on how to ensure equitable and sustainable employment.

Take, for instance, the film industry, where AI-driven technologies are increasingly used for tasks including writing, special effects, and voice acting. These changes raise significant concerns about job displacement in creative roles.

The potential impact of automation was a major issue at the table in the recent Port of Vancouver strike sending more than 7,400 International Longshore and Warehouse Union (ILWU) members out on the picket line.

A dedicated commission can explore these potential impacts through consultation with stakeholders to better understand the impact of AI and automation and make recommendations from a worker-centered perspective.

Recommendation 12: Better protect workers during restructuring

Strengthen the adjustment plan language in section 54 to better protect workers by requiring negotiated adjustment plans.

The current language in section 54 includes weak language requiring only that the employer and trade union “endeavour to” develop an adjustment plan. Though mediation is available to assist the parties, stronger language requiring a negotiated plan or allowing a mediator to impose one if one is not agreed would better protect workers facing job loss or other significant changes in the workplace.

Improving LRB processes:

Recommendation 13 and 14: Increase funding for the LRB and improve timely access to LRB services and decisions

Provide a significant increase of at least \$5 million to the operating funding for the Labour Relations Board. And provide the necessary capital funding to accommodate additional staff and meet technology requirements.

Ensure that the Board has sufficient personnel and resources to meet the timelines established in the Code, to ensure that procedures, services and that decisions are available within a reasonable timeframe.

Despite small operating increases over the past few years, the Board continues to face a shortfall in both operating and capital funding. Managing this through contingency funding does not allow for long-term planning.

The Board has been making positive steps to modernize its services. Major improvements have been made to the Board’s website and searchable database of decisions. Improvements have also been made to the Board’s office which now offers more reliable basics – like wifi. This is a great start, but more is needed including additional improvements to the case management system.

The Board also needs more staff at every level – vice chairs, mediators and support staff. There are strict timeline requirements in the Act that must be met. When staff are pulled away to adhere to these requirements, other work is delayed. Staffing levels must be sufficient to meet emergent and ongoing needs. Delays in decisions impact both workers and employers. Our affiliates continue to report unacceptable delays when awaiting decisions on critical workplace matters.

Further, the Board needs to lead on equity, diversity and inclusion. It needs to have the capacity to implement equity, diversity, and inclusion strategies at the LRB itself and within the arbitrators’ roster. Establishing an arbitration practice continues to be accessible to a limited number of people, systemically excluding those from marginalized groups and those with lower incomes. There are innovative ways the board could support this work, such as developing a mentorship program. Time spent at the Board, gives prospective arbitrators an opportunity to gain experience as a neutral and to get exposure to employer and union representatives. Other strategies to improve representation must be considered and funded.

The Board needs to consider barriers workers accessing its services may face such as language barriers. The Board should consider providing translated materials in the languages spoken by workers in BC. This could include fact sheets and information on its website about workers' rights, services offered and key decisions. Bringing on staff with different language skills would also better support workers who might have language barriers. Services and web content should also include accessible content for people with vision, hearing, or cognitive impairment who may need to access the services provided at the LRB.

Indigenous Rights and Reconciliation

The BC Federation of Labour is committed to Reconciliation and to fully participate in future processes to align the Labour Relations Code with the UN Declaration. Labour strongly believes that access to unionization and freedom of association is a tool for reconciliation and, from an intersectional perspective, to address the dignity of Indigenous workers.

The BC Federation of Labour and its affiliates are engaged in and support the ongoing and important work of Reconciliation with Indigenous peoples. The *Declaration on the Rights of Indigenous People's Act* passed in BC will require the government to "bring provincial laws into alignment with the UN Declaration and to develop and implement an action plan to achieve the objectives of the UN Declaration in consultation and co-operation with Indigenous Peoples."

We understand this is beyond this review's scope, and a separate process will be required to undertake this work. We look forward to participating in that process and supporting the participation of Indigenous workers.

Our affiliated unions represent thousands of Indigenous workers in every sector of our economy. We know that Indigenous workers are one of the fastest growing demographics in the workforce in BC. We strongly believe that access to unionization and freedom of association is a tool for Indigenous workers to have meaningful input into their wages and working conditions and that collective agreements can provide clear avenues to address bullying, harassment, systemic and structural racism, cultural safety, pay inequity and other forms of oppression too often faced by Indigenous people in our workplaces.

Conclusion:

The BC Federation of Labour appreciates the opportunity to put forward recommendations for improvements to BC's Labour Relations Code.

The regular review of the Code is essential to ensure that it continues to meet the needs of working people in our province, and that it can serve as a tool to level the playing field for some of the most marginalized workers in BC.

We look forward to discussing our recommendations further with you at an in-person presentation.

Reply to: CRAIG BAVIS

telephone direct: 604.602.7988
email: cbavis@vslo.ca

August 15, 2025

Labour Relations Board of British Columbia
600 - 1066 West Hastings Street
Vancouver BC V6E 3X1

Attention: Stephanie Drake, Registrar

Dear Registrar:

Re: Gateway Casinos & Entertainment Limited -and- B.C. General Employees' Union (Part 5 - Case No. 72103/18) (Section 18 - Application for leave and reconsideration of 2025 BCLRB 67 - Case No. 2025-000678)

NATURE OF SUBMISSION

1. The BC Federation of Labour (BCFED) provides this submission as an intervenor in the above noted proceeding.
2. The BC Federation of Labour is the provincial organization of trade unions consisting of approximately 42 union affiliates, which in turn include approximately 1,100 local unions certified and voluntarily recognized under the BC *Labour Relations Code* (the Code) and the *Canada Labour Code* (CLC).
3. The member unions of the BC Federation of Labour represent approximately 500,000 employees in almost all industries in the public and private sector.
4. The BC Federation of Labour is a member of the Canadian Labour Congress and plays a critical role in providing a voice for the workers of British Columbia and speaking on issues that impact both unionized and non-unionized employees.

OVERVIEW

5. The BC Federation of Labour supports the position of the BCGEU that s.65(3) and s. 65(8) of Code (the provisions which limits striking workers to picket only those locations of a struck employer at which they regularly work), interferes with the fundamental freedoms of expression and association protected by the *Charter of Rights and Freedoms*.

6. The Code's restriction of picketing to those workplaces where striking employees normally work excludes the struck employers' operations at other locations, thereby insulating an employer with multiple sites or divisions from picketing. This restriction prevents striking workers from matching the full economic power of an employer in collective bargaining.

7. A union's ability to engage in meaningful collective bargaining under the Code framework is substantially hindered if workers are prevented from participating in collective action which allows them to equalize the power imbalance between workers and employers.

8. Recent Supreme Court of Canada decisions, including *Mounted Police Association* 2015 SCC 1 (*Mounted Police*) and *Saskatchewan Federation of Labour v Saskatchewan* 2015 SCC 4 (*SFL*) establish that the freedom of association dictates that meaningful collective bargaining occurs when employers and workers meet on relatively equal terms.

9. Workers, as individuals, can only achieve sufficient bargaining power through associational activities. Permitting workers to engage in associational activities which target an employer's struck and non struck divisions may cause greater economic harm to a struck employer than the Code's limited picketing activity. However, the purely economic interests of employers protected by the restriction on picketing to struck locations cannot trump the constitutionally protected rights of workers to associate and express themselves.

10. The Panel's decision that the *Code* provisions does not violate the *Charter* is incorrect and the BC Fed supports the BCGEU's application for leave and reconsideration.

THE ORIGINAL PANEL DECISION

11. The BCGEU applied to the Board for a declaration that secondary picketing infringes the Charter of Rights and Freedoms by interfering with meaningful collective bargaining. The Panel set out the operation of the picketing restrictions which the BCGEU challenged.

The Code does not expressly define "secondary picketing", but it does provide that, for the purposes of picketing, divisions or other parts of a corporation or firm, if they are separate and distinct operations, must be treated as separate employers (Section 65(8)). It is the combined effect of Sections 65(3) and 65(8) that restricts a union's ability to exercise its right to picket at non-struck locations of the struck employer. [para 39]

12. The Panel found that the rights to collectively bargain, strike, and picket are associational activities protected by section 2(d) of the *Charter of Rights and Freedoms*. The Panel found that there "is no serious dispute that restricting the right to picket limits a union's bargaining power" [para 85].

13. However, the Panel found that the Code's restriction of picketing to the primary worksite of the striking employees did not substantially interfere with the ability of unions to meaningfully bargain under the Code because the *Charter* does not require equal bargaining power between employers and unions.

12. The Panel found allowing striking workers to picket only the at primary sites reflects the associational rights that flow from a union certification. Further, the restriction on secondary picketing protects the interests of not-struck operations of a struck employer and the employees at those non-struck locations by insulating them from the labour dispute.

The Panel was "...not convinced the Court has gone so far as to guarantee a labour relations model that requires the equalization of relative bargaining power as between unions and employers as a necessary component of meaningful collective bargaining. [Para 84]"

13. Although the Panel found the Code does not breach section 2 of the *Charter* the panel then proceeded to find that, even if there was a breach of the *Charter*, it was demonstrably justified. The Panel found that purpose of the picketing provisions were to protect the interests of neutral parties including the struck employer's other operations, found the protection of those interests proportional to a union's ability to meaningfully bargain, and stated it was not presented with a minimally impairing alternative.

14. Accordingly, the Panel dismissed the BCGEU application.

PANEL ERRORS IN THE PANEL'S SECTION 2(D) ANALYSIS

15. The Panel found that the restriction of secondary picketing did not constitute a substantial interference with meaningful collective bargaining as it was a middle ground which permitted some picketing of the employer based on the location the striking worker's employment. This approach conflicts the purposes and principles of the freedom of association as explained in the Supreme Court of Canada's jurisprudence.

MATCHING BARGAINING STRENGTH IS AN INTEGRAL COMPONENT OF MEANINGFUL COLLECTIVE BARGAINING

16. The Panel's fundamental error is view that the *Code* restrictions on the picketing of non-struck operations of a struck employer do not substantially interfere with the ability of workers to come together to bring economic pressure against the employer. Where the *Code* restrictions on picketing create an imbalance in the bargaining powers of the union and employer, that restriction interferes with the ability of the union to engage in meaningful collective bargaining.

17. The Panel found that the ability to of workers to picket where they normally work, but not at other employer operations, did not substantially interfere with their ability to collectively bargain. The Panel found that because workers had the ability to engage in some picketing, there was no need to determine whether this allowed the workers to match the bargaining power of a struck employer,

18. However, a unions' ability to engage in an associational activity does not mean that the union is able to equalize the power imbalance inherent in the employer/employee relationship. Section 2(d) guarantees the right to meaningful collective bargaining, which is necessarily linked to bargaining power and the ability to conduct a strike or resist a lockout.

19. Section 2(d) of Charter protects the ability of workers to associate in order to achieve collective goals. The Panel's approach is limited to finding that workers can engage in collective activities without regard to their effectiveness. While the right to collective bargaining does not guarantee a bargaining outcome, it does require access to an effective ability to bargain. The extent to which a restriction allows or prevents effectively participate in bargaining is the correct contextual and purposive approach required under the Charter.

In summary s2(d) viewed purposively, protects three classes of activities: (1) the right to join with others and form associations; (2) the right to join with others in the pursuit of other constitutional rights; and (3) the right to join with others to meet on more equal terms the power and strength of other groups or entities.[emphasis added]

Mounted Police para 66

20. The Panel erred in failing to consider whether the *Code* interferes with the rights of workers during a strike to picket in order to meet the power and strength of the struck employer. By restricting its analysis to a union's ability to participate in picketing activities, the Panel erred. The freedom of association requires unions be allowed to associate to increase bargaining power to match that of employers. The test is not whether workers have engaged in a bargaining activity, but whether state action or inaction substantially interfered with their ability to exercise a right to increase bargaining power.

To recap, s. 2(d) protects against substantial interference with the right to a meaningful process of collective bargaining. Historically, workers have associated in order "to meet on more equal terms the power and strength of those with whom their interests interact and, perhaps, conflict", namely, their employers: *Alberta Reference*, at p. 366. The guarantee entrenched in s. 2(d) of the Charter cannot be indifferent to power imbalances in the labour relations context. To sanction such indifference would be to ignore "the historical origins of the concepts enshrined" in s. 2(d): *Big M Drug Mart*, at p. 344...

Mounted Police, para 80

21. The Panel ignored then caution set out in *Mounted Police* and ignored the how the picketing rights of workers can aggravate or eliminate power imbalances. The Panel mischaracterized the arguments submitted by the BC Fed and Union which raised this issue as concerns of fairness.

I appreciate the Union's, the BC Fed's, and the BCTF's argument that it is fundamentally unfair to allow a struck employer to benefit from revenue generated at a non-struck operation to withstand the economic impact of the strike, thereby lessening the union's bargaining power. [Para 89]

22. The BCGEU and BC Fed's arguments were not based on the unfairness of the picketing restriction, rather they raised the interference with Charter protected fundamental freedoms.

II. GEOGRAPHY IS NOT A PROXY FOR BARGAINING STRENGTH

23. The Panel accepted that restricting workers to picketing to primary locations was appropriate because it matched the scope of associational rights. Because workers are allowed to picket where the operations where they normally work, a geographic limitation on picketing is reasonable. That reasoning is applicable to a union which represents all workers at a single site. During a strike, the employer's operations and resources are fully engaged by the strike. However, that reasoning is not applicable where an employer has non-struck operations.

24. The Panel's failure to acknowledge this reality, or to dismiss the point when raised in submissions as a complaint about unfairness, ignores the longstanding recognition that employers with non-struck operations have a distinct advantage in a strike or lockout. The restrictions on non-struck employer site picketing insulate corporations from the full effect of economic sanctions. This was aptly stated almost 70 years ago by the Supreme Court of Canada in recognizing the importance of allowing striking workers to picket non-struck employer sites.

25. *Williams v. Aristocratic Restaurants*, 1951 CanLII 24 (SCC), [1951] SCR 762 dealt with whether ss. 3 and 4 of the *BC Trade Unions Act*, R.S.B.C. 1948, c. 342, allowed the union representing employees at a struck location of a restaurant chain to picket the other non-struck locations. The Supreme Court of Canada found that there was no civil liability or criminal liability which prevented the Union from interfering with the entirety of the employer's operations through persuasion:

26. Picketing, while interfering with the non-struck locations, impacted the economic strength of the employer:

The fact that two of the restaurants were not within the unit of employees for which the union was authorized to act does not affect the question; the owner's economic strength is derived from his total business; and it is against that that the influence of information is being exerted.

Aristocratic, at p. 788

27. It is with this fundamental recognition, that workers are up against the total economic strength of their employer – in mind that the policy reasons for allowing non-struck employer site picketing under the *Trade Union Act* was adopted by the Labour Relations Board in applying the *Code*.

28. When introduced, the *Code* permitted picketing not only at the site of the strike but also at other places of business of the struck employer (and the later language of Section 85(1)(b) of the *Code* considerably broadens the definition of the latter). The Board set out the rationale of Section 85(1)(b) in this way:

The situation must be approached from this premise. The PPWC is engaged in a bargaining dispute with MacMillan, Bloedel. Local 8 has struck the Harmac operation in order to deprive MacMillan, Bloedel of its earnings from that mill, with the object of making" the latter more amenable to a favourable contract settlement. (At the same time, because the striking members of the PPWC have been out of work for nearly two months, the trade-union is under severe pressures to modify its own bargaining demands as well.) Section 85 of the Labour *Code* permits the PPWC to train its picketing weapon on other operations of MacMillan, Bloedel and to shut them down for the same economic objectives. ...

In recognition of the fact that an employer which derives revenues from other operations has an enhanced ability to withstand a strike, the law entitles a union to use peaceful picketing to stop those other sources of revenue if it can.

MacMillan Bloedel Packaging Ltd. v. P.P.W.C., Local 5, 1975 CarswellBC 1240, [1976] 1 Can. L.R.B.R. 10, para 17

29. These two historical cases illustrate that the recognition that a multi-site employer has the ability and incentive to rely upon the non-struck operations to withstand a strike brought a struck location. The Panel's reasoning in this case failed to consider how bargaining power is impacted by operations outside of the *Code* permitted strike or locked and thereby failing to consider how a restriction on picketing impacts meaningful collective bargaining.

CERTIFICATIONS ARE NOT ISSUED BASED ON BALANCING BARGAINING STRENGTH IN A LABOUR DISPUTE

30. The Panel justified its view that a picketing restriction which matches the location of associational rights did not breach the *Charter* because certifications are the choice of the union. It is important to note that the parties did not call evidence on this point, nor did the Panel cite authority which supports a claim that the Board issues certifications based on how that certification will impact the meaningful collective bargaining.

31. The Panel's reasoning is that because a union makes an application for certification and proposes an appropriate bargaining unit, that certification application set the parameters of the bargaining power of the union and employer for future labour disputes.

It is the fact the *Code* and Board policy give unions the latitude to choose the bargaining unit they want to represent (subject only to appropriateness and support) that permits a single employer to have multiple sites, only some of which are covered by the union's collective agreement. Put another way, the fact that a struck employer may have non-struck locations is a direct result of the union's choice – and right – to apply for site-specific bargaining units in the first place. [para 127]

32. While the Board considers access to collective bargaining in a certification for a proposed bargaining unit, the scope of a certification is not determined by the wish of the union. A union making an application for certification is seeking access to bargaining for its members by the Board's recognition of it as a bargaining agent for an appropriate bargaining

33. A union is required to submit an application for certification for an appropriate bargaining and must anticipate or respond to employer objections. Factors such as community of interest, functional integration, geography and employer organization of its operations all shape the appropriateness of a bargaining unit and the certification issued.

34. It should be obvious that where an employer commences operations at new worksites after the certification, where the employer expands operations, reorganizes work, or acquires or disposes of business units, its work locations will change and that the original certification granted to a union will no longer reflect the employer's new operations.

35. The Board may issue a certification for a bargaining unit that would normally be inappropriate for collective bargaining to a union where there has been employer interference or the employees are in a traditionally difficult to organize sectors.

PANEL ERRORS IN THE PANEL'S SECTION 1 ANALYSIS

36. The Panel proceeded to apply a section 1 justification under the Oakes test in the event that the impugned provisions violated the sections 2(b) and 2(d) of the Charter. The Panel views the rights of an employer to conduct operations at non-struck locations and the interests of workers at those sites to be neutral third party interests.

Rather, for the reasons that follow, I find that the Legislature's policy objectives in restricting picketing at non-struck operations of the struck employer are the ones the Respondents identify: (a) to protect neutral third parties, including but not limited to the struck employer's non-struck operations, from labour disputes to which they are not a party and (b) to do so as part of a comprehensive labour relations framework designed to balance bargaining power. [para 102]

37. Setting aside the contradiction under the *Code*, the Supreme Court of Canada has accepted that strikes are critical components of Canadian society's economic relations such that limiting their impact cannot be pressing and substantial as explained in SFL:

48 The recognition that strikes, while a powerful form of economic pressure, are nonetheless critical components of the promotion of industrial — and therefore socio-economic — peace, was also cogently summarized in *Pepsi-Cola Canada Beverages (West) Ltd. v. R.W.D.S.U., Local 558*, [2002] 1 S.C.R. 156 (S.C.C.):

Labour disputes may touch important sectors of the economy, affecting towns, regions, and sometimes the entire country. The cost to the parties and the public may be significant. Nevertheless, our society has come to see it as justified by the higher goal of achieving resolution of employer-employee disputes and the maintenance of economic and social peace. The legally limited use of economic pressure and the infliction of economic harm in a labour dispute has come to be accepted as a legitimate price to pay to encourage the parties to resolve their differences in a way that both can live with (see generally G. W. Adams, *Canadian Labour Law* (2nd ed. (loose-laf)), at pp. 1-11 to 1-15). [para. 25]

PANEL FAILED TO CONSIDER MINIMALLY IMPAIRING ALTERNATIVES.

38. The restrictions on non-struck employer site picketing are not minimally impairing as they do not meet the requirement of a contextual analysis of the rights and interests which will differ from worksites to industry. Rather than a prohibition on secondary site picketing, an alternative approach which is less impairing of rights is found in the pre-1984 I and its application to see a minimally impairing model of protecting the balance in labour disputes.

39. The 1975 decision evaluating the impact and operation of picketing of non-struck employers in the mining sector in *Canex Placer Ltd. and CAIMAW, Local 18, Re*, 1976 CarswellBC 1455, [1976] 2 Can. L.R.B.R. 265, provides an excellent example of how the interests of all parties to a dispute can be balanced and what factors the Board could consider.

15 Accordingly, in the words of Section 37, the Gibraltar mine and the Endako mine are associated or related activities carried on through common control and direction. While, from the point of view of the employees, the immediate decisions affecting their interests are made by local mine management, it is clear that these managers are part of a larger economic organization from which they take direction. (Indeed, management and staff at the mines customarily rotate from mine to mine.) Placer is directly interested in the bargaining dispute at the Gibraltar mine, insofar as the rates the Union is seeking or the cut off of revenues from the mine may affect either its relationships with its long-term customers or its net earnings for the year. The continuing operation of the Endako mine provides Placer with resources which enable it better to withstand the pressure of CAIMAW's lengthy strike at Gibraltar. A shutdown of the Endako mine is a lever which CAIMAW might reasonably believe would make Placer more eager to end the Gibraltar strike. Unquestionably, Placer is in a position to have its Mine Manager settle the contract dispute with CAIMAW at Gibraltar if it so wishes. Accordingly, for purposes of the principles of picketing law under the Code, Endako mine should be treated as an operation of the same primary "employer" which operates the Gibraltar mine, not as the operation of a neutral, secondary employer which is totally uninvolved in the Gibraltar strike.

40. The Board then considered whether picketing at Endako should nonetheless be prohibited pursuant to the Code. The Board held that MacMillan Bloedel Packaging Limited was the leading case on this issue and the policy was to "...to restrain secondary location picketing of a primary employer where such picketing would produce an excessive and disproportionate escalation of a bargaining dispute from its origins in the striking unit."

41. The Board identified the following factors to consider:

i. Relative size of the bargaining unit, but this is not a determinative factor.

The board held that it takes a "jaundiced" approach to small striking bargaining units using picketing to shutdown larger operations as that provided them with disproportionate bargaining power.

Here there was concern that employment of the non-striking unit was being affected while the striking unit had largely obtained other employment.

ii. The purpose the union is trying to achieve by exerting extra economic pressure.

The Board does not endorse the use of other employees as "cannon fodder" to secure better settlements for themselves compared to the nonstriking unit.

In this case this was not a concern as the union was trying to get equivalent and not better terms than the Endako mines units

iii. Whether the striking and non-striking unit are represented by the same union

Some measure of internal self-restraint is ensured when the same unit represents both units

iv. The final factor appears to be the economic impact, although it was not specifically enumerated

The Board noted that union was able to shut down 22 shifts at Endako, but Gibraltar was able to run 24 shifts without union employees.

42. While the Code as presently drafted does not provide the Board with discretion to allow picketing at secondary locations of a non struck employer, the Charter requires a contextual analysis of how rights are exercised and the ability to of the Board to permit or restrict picketing at non-struck locations in order to balance bargaining power.

43. The Code previously allowed the Board to permit secondary picketing where doing so would provide equalize the balance of power and provide a union with the ability to meaningfully collectively bargain. A blanket probation on secondary picketing at non-struck locations doesn't achieve this.

This Court has consistently held that freedom of association does not guarantee a particular model of labour relations (Delisle, at para. 33; Health Services, at para. 91; Fraser, at para. 42). What is required is not a particular model, but a regime that does not substantially interfere with meaningful collective bargaining and thus complies with s. 2(d) (Health Services, at para. 94; Fraser, at para. 40). What is required in turn to permit meaningful collective bargaining varies with the industry culture and workplace in question. As with all s. 2(d) inquiries, the required analysis is contextual [emphasis added]

Mounted Police para 93

44. By failing to consider this alternative, as set out in the BC Fed submission, the Panel erred.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Yours truly,

VICTORY SQUARE LAW OFFICE LLP

per:

A handwritten signature in black ink, appearing to read "Craig Bavis", written over a horizontal line.

Craig Bavis
Professional Law Corporation

cc: Parties and Intervenors

Rec. #	Topic / Section of Code	BCFED response to panel recommendations
1	Labour Relations Board Resources	Support, recommend continuous monitoring to ensure adequate resourcing going forward.
2	Definition – “Mediation”	Support
3	Definitions - , “Trade Union”, “Bargaining Unit”	Support
	Definitions - “Employee”	Support CUPE's position on remedying exclusion of grad students from the definition of employee.
—	Definitions – “Strike” (Bill 9)	Oppose. Maintain our position in support of Bill 9 amendment as is.
4	Definitions - “Picketing” & Virtual Picketing	Support
5	Section 2(b) – Duties Under Code	Neutral
6	Section 5(2) – Complaint Time Frames - Prohibitions against dismissals	Oppose timeline extension.
7	Section 14(4.1) – Remedial Certification	Support Fleming and Banister's recommendation to maintain remedial certification discretion.
8	Section 23 – Certification Method	Support Fleming and Banister's recommendation to retain single step certification.
9	Section 24(2) – Certification Vote Timing	Oppose timeline extension.
10	Regulation Section 3(b) – Membership Cards	Strongly oppose rewording of certification cards
11	Pre-Application Employee Lists	Maintain position on access to lists once a 20% card threshold is reached.
12	Section 27 – First Contract Support	Support concept. Recommend a process to agree on model language, themes and content.
13	Sectoral Certification	Maintain position that an IIC should review both sectoral certification and bargaining.
14	Sectoral Bargaining	Maintain position that an IIC should review both sectoral certification and bargaining.
15	Collective Bargaining and other issues in Forestry	Support position of USW District 3 and Local 1-1937
16	Successorship - contract retendering incl forestry	Support Banister recommendation that the definition of "contract for services" be deleted.
17	Reverse Onus	Oppose. Reverse onus should apply to successor and common employer applications.

Rec. #	Topic / Section of Code	BCFED response to panel recommendations
18	Section 38 - Common Employer	Retain position that an amendment is needed to remove the discretionary nature of common employer applications in construction.
19	Section 45 - Statutory Freeze	Oppose. Maintain our position that freeze period should be extended until a first agreement is reached.
20	Section 53 and 54 - Joint consultation and adjustment plans	Support Banister recommendation except strike the word "generative". Maintain position that a commission should be established to examine the impact of artificial intelligence and automation on BC's workplaces.
21	Section 65 and 68 Picketing and replacement workers	Maintain position that section 65(4) should be amended by adding a new item (b) to permit picketing at worksites where the employer is performing substantially similar work, and by deleting section 65(8).
22	Section 62 - Continuation of benefits during a labour dispute	Support
23	Section 99 and 100 - Review of Arbitration Awards	Support
24	Section 104 - Expedited arbitration	Support increasing decision length. Support clarification on process to request a settlement officer's appointment. Appointment of a settlement officer should not extend 90 day timeline. Oppose rewording of section 104(8.1)(0.a) and changes to applicability of section 104.
25	Construction Industry	Support position of BC Building Trades.
NEW	Certification card issues around use of legal vs preferred name	Addition of a subsection (d) to section 3 of the Labour Relations Regulation: 3 (d) a membership card meeting the minimum criteria set out in subsections (a), (b), and (c) but where the name of the employee does not match employer records must be subject to examination and other inquiries as set out in sections 22 and 140 (c) of the Code before being deemed as no longer in good standing.

Submission to the
Labour Relations Code
Review Panel

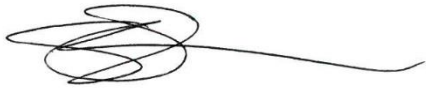
BCFED Response to
Labour Code Review

March 2024



Authority

This document is respectfully submitted on behalf of the Executive Officers of the BC Federation of Labour and represents the views of more than 500,000 affiliated members across the province of British Columbia.



Sussanne Skidmore (she/her)
President



Hermender Singh Kailley (he/him)
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The BC Federation of Labour is located on unceded xʷməθkʷəy̓əm (Musqueam), səliłwətaʔ (Tsleil-Waututh), Skwxwú7mesh (Squamish) territories.

ab/moveup

The BC Federation of Labour is pleased to submit its recommendations for improvements to BC's Labour Relations Code

In the five years since the previous review of the Labour Relations Code, our world and workplaces have changed significantly. In 2018, online platform work was just beginning in BC for food delivery services, and ride-hailing had not yet arrived in the province. The global COVID-19 pandemic necessitated the explosion of remote work. And more recently, artificial intelligence (AI) has significantly advanced and can take on tasks that were unimaginable just five years ago.

With many of the recommendations flowing out of the last Code review now implemented, we can assess whether they've achieved their stated goals. Many have brought welcome improvements to our workplaces and made a difference in workers' lives. We recommend that these improvements, such as successorship protections, be maintained and, in some cases, expanded to benefit more workers.

But workers continue to face considerable gaps in their ability to access unionization, and those who would benefit from collective bargaining the most too often find themselves without a path to representation. These workers are disproportionately women, racialized workers, workers with disabilities, 2SLGBTQIA+ workers, young workers, migrant workers, newcomers to our province and those from other marginalized groups.

It is time to look to new bargaining structures — sectoral and broader-based bargaining models — to ensure that precarious workers have a pathway to unionization. All workers must have access to their Charter-protected right to organize and have meaningful collective bargaining and should be able to exercise that right without fear of retaliation. Our labour relations system must provide workers with timely access to justice and the services and supports that are promised in the Code.

As well, the path to Reconciliation requires the Code to be reviewed and aligned with the UN Declaration on the Rights of Indigenous Peoples. While we understand this work may be beyond the scope of this review, the BC Federation of Labour supports this necessary and important work. We look forward to participating in the future.

As you consider amendments to the Code, we urge you to adopt one overriding lens: to ensure that they create equity, fairness and balance, giving working people a voice at the table in their workplaces. As BC businesses expand and proliferate, new structures emerge. Proposed amendments must put the needs of workers at the centre, protect their rights, and address the concerning growth of precarious work. And they must ensure all workers can exercise their Charter right to collectively organize.

Our submission makes recommendations in four key areas:

- Improving access to collective bargaining;
- Preserving and protecting workers' rights;
- Improving processes at the Labour Relations Board; and
- Acknowledging the requirements of the *Declaration of Indigenous Peoples Act*.

Executive Summary of recommendations:

A. Improving Access to Collective Bargaining:

1. Explore sectoral/broader-based bargaining

Establish a single-issue commission as soon as possible to consult on the implementation of sectoral bargaining to address changing workplaces structures, BC's high level of worker precarity and the barriers to unionization too many workers face. This commission should consult on a specific sectoral bargaining model or models to provide focus and narrow the scope of the feedback it receives.

2. Recognize the success of single-step certification

Maintain single-step certification as an effective and fair method for trade union certification.

3. Improve access to employee lists

Provide employee lists with contact information to organizers during a certification process once a trade union has signed cards from at least 20% of the eligible workers.

B. Preserving and Protecting Workers' Rights:

4. Expand successorship protection

Amend successorship provisions so the certification follows a transfer of workers and work to reflect the modern realities of contracting, subcontracting, contract flipping and modern forms of corporate transfer. Place the primary evidentiary burden on the employer where a successorship or common employer application is filed.

5. Ensure provincially regulated workers can honour the picket lines of workers who are regulated by the federal government or another provincial government.

Amend the definition of strike and person as set out in Bill 9, Miscellaneous Statutes Amendment Act, 2024.

6. Extend the freeze period for first collective agreements

Amend section 45 of the Code to have the statutory freeze apply until a first collective agreement is reached by eliminating the time limit.

7. Address remote work and virtual picket lines

Ensure that remote or digital workers have the right to establish virtual picket lines and communicate about the strike with the public. Confirm that a virtual picket line has the same standing as any other picket line.

8. Protect the rights of online platform workers

Affirm that online platform workers are covered by the definition of employee in the Code and have the right to organize.

9. Allow secondary site picketing

Amend section 65(4) by adding a new item (b) to permit picketing at worksites where the employer is performing substantially similar work, and by deleting section 65(8).

10. Prevent double breasting

Amend the common employer provision to remove the discretionary nature of common employer applications in construction.

11. Address the impact of AI and automation on BC's workplaces

Establish a commission dedicated to examining the impact of artificial intelligence and automation on BC's workplaces.

12. Better protect workers during restructuring

Strengthen the adjustment plan language in section 54 to better protect workers by requiring negotiated adjustment plans.

C. Improving LRB processes:

13. Increase LRB funding

Provide a significant increase of at least \$5 million to the operating funding for the Labour Relations Board. Provide the necessary capital funding to accommodate additional staff and meet technology requirements.

14. Improve timely access to LRB services and decisions

Ensure that the Board has sufficient personnel and resources to meet the timelines established in the Code and to make procedures, services and decisions available within a reasonable timeframe.

D. Indigenous Rights and Reconciliation

The BC Federation of Labour is committed to Reconciliation and to fully participate in future processes to align the Labour Relations Code with the UN Declaration on the Rights of Indigenous Peoples. BC's unions strongly believe that access to unionization and freedom of association is a tool for reconciliation and, from an intersectional perspective, to address the dignity of Indigenous workers.

Recommendations:

Improving Access to Collective Bargaining

Recommendation 1: Explore sectoral/broader-based bargaining

Establish a single-issue commission as soon as possible to consult on the implementation of sectoral bargaining to address changing workplaces structures, BC's high level of worker precarity and the barriers to unionization too many workers face. This commission should consult on a specific sectoral bargaining model or models to provide focus and narrow the scope of the feedback it receives.

The prevalent model of enterprise collective bargaining has left many workers behind, unable to exercise their Charter bargaining rights. The enterprise model is effective for midsize to large workplaces where workers convene at a single worksite. But more and more, this doesn't represent the structure of our modern workplaces. Workers in small (and very small) workplaces, franchises, contracted work, or dispersed workplaces have little ability to effectively unionize and use their collective power.

Here are some examples:

BC has thousands of **domestic workers**: individuals employed in a home, usually working alone and employed by a single family, and most of them are racialized, newcomers and often employed through the Temporary Foreign Worker Program (TFWP). Their isolation and vulnerable status make traditional organizing impossible.

Migrant farm workers come to BC to work on farms, ranches, orchards and other agricultural operations. They must navigate multiple enforcement and government bodies while facing language barriers and isolation from the broader community. They rely on their employers for both income and housing and often owe fees to recruitment agencies despite this practice being prohibited. Community groups that advocate for workers are given little standing by employers, and efforts to unionize this workforce have been largely unsuccessful.

BC's tens of thousands of **ride-hail and food delivery workers** — overwhelmingly racialized immigrants or newcomers to Canada — work for large, powerful multi-national corporations, with no central dispatch location and major if not insurmountable structural obstacles to unionizing and bargaining.

Certified dental assistants (CDAs) are predominantly women, working in dental offices for small businesses often owned by one or more dentists. With only a handful of workers in each office, wall-to-wall certification would provide little to no bargaining power, and the difficulties in organizing multiple very small offices are enormous.

Franchises employ generally small groups of workers — tending to be racialized, younger and, increasingly, employed through the TFWP — under structured employment conditions set by central corporate bodies, making the work virtually identical. Yet, each franchise must be unionized one by one, with turnover and the high degree of central corporate influence making organizing and bargaining extremely difficult.

Workers in industries like those described above face both structural challenges when unionizing and significant barriers to achieving a first collective agreement. Failing to address their needs increases experiences of precarity, drives down working conditions and entrenches systemic discrimination, making already-vulnerable workers even more vulnerable and at higher risk of economic insecurity.

Implementing a sectoral and/or broader-based bargaining model ensures workers can have a say in their pay and working conditions. BC's labour movement has significant experience with sectoral bargaining models, which continue to be used in several sectors including health care, education and community services. Other sectors like construction have used a sectoral model in the past. Jurisdictions such as New Zealand and the state of California have implemented sectoral models to improve working conditions in sectors with vulnerable workers.

We see moving ahead on sectoral bargaining as critically important for our province's most vulnerable workers. Migrant workers, for example, would greatly benefit from sectoral bargaining as it would provide representation and day-to-day support by ensuring regularized wages, fair working conditions and a consistent standard of care across the workforce. Union representation would provide a clear path and faster remedies to unsatisfactory conditions. A sectoral model could also help to level the playing field by ensuring workers aren't unfairly targeted for attempting to organize or for speaking out about working conditions that are contrary to their Labour Market Impact Assessment Contract.

A model for sectoral bargaining directed at industries with traditionally low union density was proposed by the majority of the 1992 Labour Code Review panel. The issue was again raised in submissions in 2018, but the panel determined it hadn't received sufficient input to make specific recommendations. Instead, the panel proposed further study through a single-issue commission. Neither recommendation was implemented.

Our affiliated unions have reviewed several models of sectoral and broader bargaining, and we are continuing to discuss the key elements of a model that would address the needs of BC's modern workplaces. Due to the short timeline of this review, we do not have a specific model to recommend, but we hope to expand on our views at our oral presentation in March.

Our recommendation is to establish a panel to move ahead with consulting on and implementing sectoral bargaining in short order. Further, given the experience of the last panel in BC and Ontario's Changing Workplaces Review, we believe an open-ended process is unlikely to result in submissions that move the process meaningfully forward. We suggest instead that the proposed commission consult on a specific model or models of sectoral bargaining to get more focused and usable feedback for implementation.

Recommendation 2: Recognize the successes of single step certification

Maintain single-step certification as an effective and fair method for trade union certification.

In June of 2022, the provincial government reinstated single-step certification. How workers can unionize has been a contentious issue throughout the past few decades of labour relations in BC, but the results since the reinstatement should speak for themselves.

Single-step certification successfully and objectively removes barriers to unionization.

In 2023, the Board approved 195 applications for certification. This number is 36% increase over the 143 applications received in 2022. And in 2022 the number filings post Bill 10 was more than double those from the first half of the year.¹ Workers are organizing at an impressive rate because there are fewer structural barriers and fewer opportunities for employers to interfere and intimidate workers.

Single step also helped workers achieve collective bargaining rights in traditionally harder to unionize sectors like arts, entertainment and recreation; construction; real estate and rentals leasing; and retail. For example, in 2022 successful applications in retail jumped from only three before single-step was implemented to nine².

To ensure the integrity of the single step process, the LRB has implemented an extensive membership card audit process. That process has found very few issues with cards. In 2022, 74 certification applications were audited, and concerns were statistically insignificant. In all cases the Board “was able to satisfy itself there was no issue with the veracity of the union’s application or the membership evidence submitted in support of it.”³

But it’s not just about the numbers. It’s about the difference joining a union makes in a workers’ life. Sean McKenna, a worker who organized his workplace through single-step certification had this to say about single-step certification:

“The legislation changed partway through the union drive, and I honestly do believe it was the reason why were successful. After we had certified, we had some employees that might have been intimidated into not voting. Single-step certification allows a union to form more easily, more organically...Honestly, before, I didn’t think there was anything that we could do. We were at the mercy of an owner that we had to beg for raises, beg for safety. I feel a lot more positive going to work, seeing everybody there and know that we’re taking the steps to help them. This is exactly what unions are for.”⁴

We have asked our affiliates and their members to share more stories with you in their submissions and oral presentations.

Recommendation 3: Improve access to employee lists

Provide employee lists with contact information to organizers during a certification process once a trade union has signed cards from at least 20% of the eligible workers.

Access to accurate employee information allowing effective communication with workers is essential to fair organizing practices. Workers interested in unionizing in workplaces with a high number of remote workers, dispersed worksites, high turnover, shorter term employment contracts and those working through apps face unfair barriers. These new ways in which people are employed are now permanent

¹ <https://thetyee.ca/News/2023/12/22/How-2023-Became-Year-Of-Unions/>

² <https://www.lrb.bc.ca/media/20791/download?inline>

³ <https://www.lrb.bc.ca/media/20791/download?inline>

⁴ https://www.youtube.com/watch?v=PW23578lg4k&t=4s&ab_channel=BritishColumbiaFederationofLabour

features in our economy and the Code must be adapted accordingly to provide workers with meaningful access to union certification and collective bargaining.

Employers have all the control over employees – who they hire, where and when they work, and how they can be communicated with. Even in more traditional workplaces, technological change has made it more difficult for workers to identify and communicate with their colleagues. Workers must be provided with access to their colleagues if they are going to have any meaningful ability to freely associate and have a union in their workplace.

In 2016, Ontario’s “Changing Workplaces Review” recognized the implications of new workplaces structures and the impact on workers’ ability to communicate with each other about the conditions of their employment. That review recommended that employers be required to provide a list of employees where a union made application and had obtained the support of 20% of the workers in a proposed bargaining unit.

The sharing of this type of information is appropriate as union drives are not external or public processes. They are internal to the workplace and led by employees coming together to form or join a union for the purposes of accessing the rights set out in the Code. Collecting names, employment location and personal contact information is a routine part of an organizing drive.

We recommend that employers be required to provide employee lists, containing work location, job title and personal contact information, once the union has met a 20% threshold of cards signed. This strikes an appropriate balance of facilitating union organizing in the modern workplace while avoiding unwarranted dissemination of personal information.

Preserving and Protecting Workers’ Rights

Recommendation 4: Expand successorship protection

Amend successorship provisions so that the certification follows a transfer of workers and work to reflect the modern realities of contracting, subcontracting, contract flipping and modern forms of corporate transfer. Place the primary evidentiary burden on the employer where a successorship or common employer application is filed.

One of the most impactful improvements arising from the 2018 Code review was the expansion of successorship protections to workers employed in building cleaning, security, bus transportation, food services, and non-clinical services in the health sector. By ensuring the continuation of their collective agreement during a contract flip, thousands of workers were protected from losing their jobs, negotiated wages and benefits.

At a time when we have seen significant cost of living increases, workers cannot afford to lose ground. Providing successorship protections is also an important pay equity measure as it protects racialized, immigrant, and newcomer workers, who are overrepresented in the sectors where contract flips commonly occur.

Successor protections are needed for workers and their unions in every sector. No employer should be able to outsource, re-tender or flip a contract to undermine the democratic rights of workers to

unionization and collective bargaining. Workers must be equally protected in the transfer of work and in the sale of business regardless of the form taken.

The onus should be on employers to show successorship provisions do not apply, since they have access to pertinent information about the successorship or transfer of business. A similar requirement already exists in section 14(7) of the Code related to unfair labour practices.

Recommendation 5: Ensure provincially regulated workers can honour the picket lines of workers who are regulated by the federal government or another provincial government.

Amend the definition of strike and person as set out in Bill 9, Miscellaneous Statutes Amendment Act, 2024.

A 2022 reconsideration decision found that the refusal of poly party union members to cross the Canadian Merchant Services Guild's picket line at the Vancouver Shipyards amounted to an illegal strike.⁵ The workers were ordered back to work. The panel found that the current language in the definition of strike, "permitted under this code" was insufficient to protect provincial picketing as the LRB does not have jurisdiction over strikes established under another code e.g. the *Canada Labour Code*.

Since that decision, the issue has arisen during several federal job actions where provincially regulated workers were directed to cross the picket lines. This caused significant confusion, frustration and disappointment amongst union members. The affiliates of the BC Federation of Labour strongly hold the view that protecting the right to honour picket lines regardless of the jurisdiction is a fundamental expression of worker solidarity. Further, allowing workers to honour picket line reduces worker-to-employer and worker-to-worker tension and resentment that can build during difficult and long job actions leading to violence or the destruction of property.

In March, the government tabled legislation as part of Bill 9 to amend the definition of person and strike in the Code as follows:

Section 1 of the Labour Relations Code, R.S.B.C. 1996, c. 244, is amended

(a) in subsection (1) by repealing the definition of "person" and substituting the following:

"person" includes an employee, employer, employers' organization, trade union and council of trade unions, but does not include, except for the purposes set out in subsection (3), a person in respect of whom collective bargaining is regulated by the *Canada Labour Code*; ,

(b) in subsection (1) by repealing paragraph (b) of the definition of "strike" and substituting the following:

(b) a cessation, refusal, omission or act of an employee that occurs as a direct result of, and for no other reason than,

⁵

<https://lrb.my.salesforce.com/sfc/p/#f40000022yYB/a/0A0000000qUu/QEgiy412pn2APH5hAsp06ikfrrPXV82xTMxzOx0oEcE>

- (i) picketing permitted under this Code, or
- (ii) picketing conducted by employees in respect of whom collective bargaining is regulated by the laws of Canada or another province who are locked out or on strike , **and**

(c) by adding the following subsection:

(3) For the purposes of paragraph (b) (ii) of the definition of "strike" in subsection (1), the definitions in subsection (1) are to be read as though the definition of "person" did not exclude a person in respect of whom collective bargaining is regulated by the *Canada Labour Code*.

We support the intent of this amendment. We understand its intent is to capture all federally regulated picketing including workers covered by the *Federal Public Sector Labour Relations Act* and picketing conducted under other provincial legislation. As of the date of this submission Bill 9 has not received Royal Assent.

Recommendation 6: Extend the freeze period for first collective agreements

Amend section 45 of the Code to have the statutory freeze apply until a first collective agreement is reached by eliminating the time limit.

A successful certification doesn't result in immediate improvements for workers; a first agreement is necessary. Negotiating a first agreement, and doing so within a reasonable timeframe, continues to be very difficult, especially in sectors with traditionally low density. Because the freeze period can end before a first agreement is reached, delays at the table are a tactical advantage for employers. Running out the time clock gives employers a chance to change pay and working conditions to undermine negotiating efforts. It remains very difficult to achieve a first agreement without taking strike action -- resulting in more workplace disruptions.

Flowing from the 2018 panel's recommendations, the government made some improvements to the first agreement processes by providing the option of mediation prior to a strike vote and increasing the freeze period from four to twelve months. Our affiliates welcomed both these changes, but they report they are continuing to experience significant challenges in getting first agreements due to intentionally long delays as employers try to run out the clock.

The freeze period in section 45, which prohibits an employer from changing the terms and conditions of employment after certification for twelve months, continues to be the biggest barrier. A time-limited freeze period incentivizes employers to drag their heels in negotiations. Removing the time limit would encourage employers to quickly reach a negotiated agreement or trigger section 55 at the end of the one-year period.

Recommendation 7: Address remote work and virtual picket lines

Ensure that remote or digital workers have the right to establish virtual picket lines and communicate about the strike with the public. Confirm that a virtual picket line has the same standing as any other picket line.

Though some workers engaged in remote work prior to the COVID-19 pandemic, the number of workers who work remotely on a full or part-time basis has substantially increased. Remote work has given greater flexibility to both workers and employers. It is no longer uncommon for businesses to employ many if not all their workers on a full-time remote basis. Many collective agreements include negotiated language establishing the terms and conditions of remote work.

The current definition of picketing does not reflect this change in workplace structure. Remote workers must have the ability to establish and communicate about virtual picket lines. Workers have already established the power of virtual pickets in practice by using social media and websites to communicate about their struck work. But without guidance from the Code, we see this as an area of potential friction between workers and their union and employers.

We encourage the panel to review and recommend any necessary amendments to the definition of picketing in section 1(1) and sections 65 and 66 to ensure remote workers can establish, communicate about and honour virtual pickets.

Recommendation 8: Protect the rights of online platform workers

Affirm that online platform workers are covered by the definition of employee in the Code and have the right to organize.

In November of 2023, bill 48, the *Labour Statutes Amendment Act* expressly included online platform workers (those employed in food delivery and ride-hailing) as employees for the purposes of the *Employment Standards Act* and as workers for the purposes of the *Workers' Compensation Act*.

In speaking to the Bill, Labour Minister Harry Bains outlined his intention that these workers have access to their constitutional right to association. He said,

“But workers, as I said before — regardless of where they are from, what they do and how they do it — deserve appropriate employment standards and protections like minimum wage, tip protection, wage transparency, health and safety standards and access to workers compensation coverage if injured or become sick on the job.

They can exercise their constitutional right to association under the Charter of Rights and Freedoms, so they could join a union and collectively bargain for better benefits and wages. Those are standards that workers should be entitled to. Those are the minimum standards that any company should provide to workers, who are the key to their success.”⁶

⁶ <https://www.leg.bc.ca/documents-data/debate-transcripts/42nd-parliament/4th-session/20231121pm-Hansard-n365#bill48-2R>

It is our view that inclusion in the ESA and WCA are sufficient to provide coverage under the Labour Relation Code, but the large multi-national companies who employ these workers have a long history of engaging in extensive litigation to limit workers' rights. We do not believe these workers should have to litigate to determine if they have the right to bargain collectively, especially given their precarity and the other obstacles they face in organizing a large and distributed workplace.

Additionally, these workers must have a path to collective bargaining because they will receive only limited rights under the *Employment Standards Act*. It would be unfair to offer them inferior rights and simultaneously deny them an avenue to collectively bargain better working conditions. Providing limited rights to a predominately racialized and immigrant workforce is in and of itself deeply problematic. Refusing these workers collective bargaining as an avenue of relief amounts to systemic oppression.

We recommend that the panel review the definition of employee and propose amendments if needed to provide online platform workers clear access to the right to organize and collectively bargain.

Recommendation 9: Allow secondary site picketing

Amend section 65(4) by adding a new item (b) to permit picketing at worksites where the employer is performing substantially similar work and by deleting section 65(8).

Section 65 of the Code unnecessarily restricts secondary picketing. The BC ban hampers workers' free expression and allows employers to mitigate the economic impact of a strike by redistributing their goods and services to other substantially similar worksites.

The Supreme Court has ruled that secondary picketing is a constitutional right. Secondary picketing is legal under common law and protected by the freedom of expression guaranteed in section 2(b) of the Charter of Rights and Freedom. Over 70 years ago, the Supreme Court of Canada approved secondary picketing as a necessary consequence of allowing picketing under the Trade Union Act, predecessor of the Labour Relations Code.

In *Williams v. Aristocratic Restaurants*, [1951] S.C.R. 762 the Court noted, "The fact that two of the restaurants were not within the unit of employees for which the union was authorized to act does not affect the question; the owner's economic strength is derived from his total business; and it is against that that the influence of information is being exerted."

The majority of other jurisdictions do not restrict picketing in this manner. There is no suggestion that allowing secondary picketing has caused any difficulty for industry or led to widespread labour unrest. Unfair restrictions on secondary picketing relieve economic pressure on employers and may very well result in longer disputes.

We suggest an amendment to section 65 as follows:

65 (4) The board may, on application and after making the inquiries it requires, permit picketing (a) at or near another site or place that the employer causing a lockout or whose employees are lawfully on strike is using to perform work, supply goods or furnish services for the employer's own benefit that, except for the lockout or strike, would be performed, supplied or furnished at the site or place where picketing is permitted by subsection (3),

(b) at or near another site or place that the employer causing a lockout or whose employees are lawfully on strike is using to perform work, supply goods or furnish services that are substantially similar to the “work” noted at subsection 3 and, in all the circumstances, would provide a reasonable substitute for the public, or

(c) at or near the place where an ally performs work, supplies goods or furnishes services for the benefit of a struck employer, or for the benefit of an employer who has locked out...

~~65 (8) For the purpose of this section, divisions or other parts of a corporation or firm, if they are separate and distinct operations, must be treated as separate employers.-~~

Recommendation 10: Prevent double breasting

Amend the Code to remove the discretionary nature of common employer applications in construction.

The Code should be amended to remove the discretionary nature of common employer applications. In construction, double breasting inherently undermines a union’s bargaining rights but it can be very difficult or impossible to prove to the Board’s satisfaction that bargaining rights have been undermined. This allows construction employers a broad scope for spinning off or buying a non-union company and slowly transferring their unionised business to that non-union entity.

Recommendation 11: Address the impact of AI and automation on BC’s workplaces

Establish a single-issue commission to examine the impact of artificial intelligence and automation on BC’s workplaces.

AI and automation are progressing at an incredibly rapid pace. This will have an impact on industries across the board and have significant effects on the workforce. We believe there should be a worker-centered process to examine the impacts and to make recommendations on how to ensure equitable and sustainable employment.

Take, for instance, the film industry, where AI-driven technologies are increasingly used for tasks including writing, special effects, and voice acting. These changes raise significant concerns about job displacement in creative roles.

The potential impact of automation was a major issue at the table in the recent Port of Vancouver strike sending more than 7,400 International Longshore and Warehouse Union (ILWU) members out on the picket line.

A dedicated commission can explore these potential impacts through consultation with stakeholders to better understand the impact of AI and automation and make recommendations from a worker-centered perspective.

Recommendation 12: Better protect workers during restructuring

Strengthen the adjustment plan language in section 54 to better protect workers by requiring negotiated adjustment plans.

The current language in section 54 includes weak language requiring only that the employer and trade union “endeavour to” develop an adjustment plan. Though mediation is available to assist the parties, stronger language requiring a negotiated plan or allowing a mediator to impose one if one is not agreed would better protect workers facing job loss or other significant changes in the workplace.

Improving LRB processes:

Recommendation 13 and 14: Increase funding for the LRB and improve timely access to LRB services and decisions

Provide a significant increase of at least \$5 million to the operating funding for the Labour Relations Board. And provide the necessary capital funding to accommodate additional staff and meet technology requirements.

Ensure that the Board has sufficient personnel and resources to meet the timelines established in the Code, to ensure that procedures, services and that decisions are available within a reasonable timeframe.

Despite small operating increases over the past few years, the Board continues to face a shortfall in both operating and capital funding. Managing this through contingency funding does not allow for long-term planning.

The Board has been making positive steps to modernize its services. Major improvements have been made to the Board’s website and searchable database of decisions. Improvements have also been made to the Board’s office which now offers more reliable basics – like wifi. This is a great start, but more is needed including additional improvements to the case management system.

The Board also needs more staff at every level – vice chairs, mediators and support staff. There are strict timeline requirements in the Act that must be met. When staff are pulled away to adhere to these requirements, other work is delayed. Staffing levels must be sufficient to meet emergent and ongoing needs. Delays in decisions impact both workers and employers. Our affiliates continue to report unacceptable delays when awaiting decisions on critical workplace matters.

Further, the Board needs to lead on equity, diversity and inclusion. It needs to have the capacity to implement equity, diversity, and inclusion strategies at the LRB itself and within the arbitrators’ roster. Establishing an arbitration practice continues to be accessible to a limited number of people, systemically excluding those from marginalized groups and those with lower incomes. There are innovative ways the board could support this work, such as developing a mentorship program. Time spent at the Board, gives prospective arbitrators an opportunity to gain experience as a neutral and to get exposure to employer and union representatives. Other strategies to improve representation must be considered and funded.

The Board needs to consider barriers workers accessing its services may face such as language barriers. The Board should consider providing translated materials in the languages spoken by workers in BC. This could include fact sheets and information on its website about workers' rights, services offered and key decisions. Bringing on staff with different language skills would also better support workers who might have language barriers. Services and web content should also include accessible content for people with vision, hearing, or cognitive impairment who may need to access the services provided at the LRB.

Indigenous Rights and Reconciliation

The BC Federation of Labour is committed to Reconciliation and to fully participate in future processes to align the Labour Relations Code with the UN Declaration. Labour strongly believes that access to unionization and freedom of association is a tool for reconciliation and, from an intersectional perspective, to address the dignity of Indigenous workers.

The BC Federation of Labour and its affiliates are engaged in and support the ongoing and important work of Reconciliation with Indigenous peoples. The *Declaration on the Rights of Indigenous People's Act* passed in BC will require the government to "bring provincial laws into alignment with the UN Declaration and to develop and implement an action plan to achieve the objectives of the UN Declaration in consultation and co-operation with Indigenous Peoples."

We understand this is beyond this review's scope, and a separate process will be required to undertake this work. We look forward to participating in that process and supporting the participation of Indigenous workers.

Our affiliated unions represent thousands of Indigenous workers in every sector of our economy. We know that Indigenous workers are one of the fastest growing demographics in the workforce in BC. We strongly believe that access to unionization and freedom of association is a tool for Indigenous workers to have meaningful input into their wages and working conditions and that collective agreements can provide clear avenues to address bullying, harassment, systemic and structural racism, cultural safety, pay inequity and other forms of oppression too often faced by Indigenous people in our workplaces.

Conclusion:

The BC Federation of Labour appreciates the opportunity to put forward recommendations for improvements to BC's Labour Relations Code.

The regular review of the Code is essential to ensure that it continues to meet the needs of working people in our province, and that it can serve as a tool to level the playing field for some of the most marginalized workers in BC.

We look forward to discussing our recommendations further with you at an in-person presentation.



September 19, 2025

Ministry of Labour

Via email LRCReview@gov.bc.ca

Honourable Minister of Labour Jennifer Whiteside,

Re: 2025 British Columbia Labour Relations Code Review

The BCGEU is pleased to provide feedback to the Ministry of Labour regarding the report on recommendations for amendments to the *Labour Relations Code* (the “Report”) of the Labour Relations Code Review Panel (the “Panel”).

The BCGEU continues to rely on its submissions filed on March 21, 2024 and May 17, 2024.

The BCGEU supports the feedback submissions of the BC Federation of Labour.

The BCGEU will focus its feedback on two recommendations of the Panel:

- i. **The three separate recommendations of the Panel to amend the definition of “strike”:** the BCGEU strongly opposes amending the definition of strike to prevent provincial employees from honouring federal picket lines. The amendments made by Bill 9 achieve an important balance and should not be altered; and
- ii. **The commentary and partial dissent of Sandra Banister, K.C., regarding Recommendation No. 21:** the BCGEU strongly supports the recommendation of Sandra Banister, K.C., to repeal Section 65(8) of the *Labour Relations Code* (the “Code”) and, in addition, the BCGEU strongly supports amending Section 65(4) by adding a new item (in addition to 65(4)(a) and 65(4)(b)): to permit picketing at worksites where the employer is performing substantially similar work and in all the circumstances would provide a reasonable substitute for the public.

We will address each of these in turn.

BCGEU Headquarters

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We are located on the unceded and shared traditional territory of the xʷməθkʷəy̓əm (Musqueam), Skwxwú7mesh (Squamish) & Səlíl̓ lwətaʔ (Tsleil-Waututh) peoples.

i. **The Definition of “Strike”**

1. The BCGEU is strongly opposed to any amendment to the definition of “strike” under the *Code* to prevent provincially regulated employees from honouring federal picket lines.
2. The Legislature struck an appropriate balance when it revised the definition of strike through Bill 9 to exclude: “(ii) picketing conducted by employees in respect of whom collective bargaining is regulated by the laws of Canada or another province who are locked out or on strike.”
3. The Panel raises two concerns arising from the Legislature’s decision to exclude respect for federal picket lines from the definition of strike (p 11):
 - i. That common sites could be impacted, and provincial employers will be unable to seek common site relief from the Labour Relations Board (the “Board”) under the *Code*;
 - ii. That federally regulated employees could engage in activities (that may not even be picketing as conceived of by the *Code*) and thereby impact provincially regulated employees.
4. With respect to the first concern, as noted in the BCGEU’s May 17 submission, provincial employers will be able to apply to the courts to restrict picketing at a federal operation to the extent that picketing by federal employees interferes with their businesses. The courts will likely consider arguments similar to arguments made by employers in common site applications at the Board in determining whether to award injunctive relief.
5. For example, in *Vancouver Shipyards Co. Ltd. v. Canadian Merchant Services Guild*, 2023 BCCA 77, the BC Court of Appeal addressed an appeal of a decision dismissing an application for an injunction to restrict picketing at a common site. The Court of Appeal noted that the employers could have made arguments that they were “innocent third parties” to the court below and that such an argument would have been an “important contextual finding” required for the exercise of the court’s discretion to grant the injunction (at para 46). While there is not much case law on this issue, this decision suggests that the courts are alive to the very same considerations as the Board when determining whether to restrict picketing at common sites.
6. With respect to the second concern, the Panel states that under the expansive common law definition of picketing, federally regulated employees could “potentially shutter completely uninvolved provincial employers who have no ability to impact the outcome of the labour dispute”(p 11).
7. To this second issue, the BCGEU merely wishes to note that the provincial definition of picketing will still be relevant to determinations of whether provincial employees are in

fact honouring a picket line as defined by the *Code*. The Board may well find that where federal employees are engaging in a protest at uninvolved provincial employers, provincial employees' ability to respect that action is not protected, as the action taking place is not in fact picketing.

ii. **Repeal of Section 65(8) and amendment of Section 65(4) of the *Code***

8. The BCGEU strongly supports the recommendation of Sandra Banister, K.C. to repeal Section 65(8) of the *Code*. As stated by Panel Member Banister, Section 65(8), is a significant and unwarranted fetter on the exercise of the Board's discretion in picketing cases (p 40).
9. In addition, as stated in the BCGEU's March 21 submission, the BCGEU strongly supports amending Section 65(4) of the *Code* by adding the following section underlined below:

65(4) The board may, on application and after making the inquiries it requires, permit picketing

(a) at or near another site or place that the employer causing a lockout or whose employees are lawfully on strike is using to perform work, supply goods or furnish services for the employer's own benefit that, except for the lockout or strike, would be performed, supplied or furnished at the site or place where picketing is permitted by subsection (3),

(b) at or near another site or place that the employer causing a lockout or whose employees are lawfully on strike is using to perform work, supply goods or furnish services that are substantially similar to the "work" noted at subsection 3 and, in all the circumstances, would provide a reasonable substitute for the public, or

(c) at or near the place where an ally performs work, supplies goods or furnishes services for the benefit of a struck employer, or for the benefit of an employer who has locked out.

10. The amendments proposed by the BCGEU will strike a better balance between the economic interests of employers and the Section 2(b) (freedom of expression) and Section 2(d) (freedom of association) *Charter*-protected freedoms of unions and their members. The amendments will correct some of the economic asymmetry created by the current Section 65 picketing provisions (the "Picketing Provisions").
11. Since the Panel issued the Report, the Labour Relations Board issued its decision in *Gateway Casinos & Entertainment Limited*, 2025 BCLRB 67 ("*Gateway*"), whereby it upheld the constitutionality of the Picketing Provisions of the *Code*.

12. It is important to note that the parties, including the Attorney General of British Columbia, conceded that the Picketing Provisions infringe Section 2(b) of the *Charter*. Though the Board found that they were saved by Section 1.
13. On May 23, 2025, the BCGEU filed an application for reconsideration of *Gateway*. The submission process is currently underway with the BCGEU's final reply due in mid-October.
14. It is likely that it will be a significant period of time before the question of the constitutionality of the Picketing Provisions is resolved by the Board or potentially the courts.
15. The current *Code* review is an important opportunity for the Legislature to address the Picketing Provisions that we submit, as currently worded, are unconstitutional.
16. One of the major issues with the current Picketing Provisions is that they permit employers to shield themselves from the economic penalties of a strike. In addition, they allow employer to shield their businesses from agreements they freely enter into with unions; agreements permitting employees not to cross picket lines of other unions where they encounter them. The Picketing Provisions "go behind" agreements between unions and employers by limiting the pickets that employees may encounter. The Picketing Provisions thereby defeat free agreements between unions and the employers.
17. More significantly, the Picketing Provisions take away through the "back door" what the Legislature sought to protect in its chosen definition of "strike". The Legislature sought to ensure that unionized workers in this province will be able to respect picket lines of other unions and not be found to be engaging in an illegal strike when they do so. In defining "strike" to exclude the act of respecting a picket line, the Legislature sought to protect the Section 2(d) freedom of workers to associate outside of bargaining unit lines. The Picketing Provisions substantially interferes with that freedom.
18. It is of little value to have protections for employees to be able to respect picket lines of other unions if the Picketing Provisions work to ensure workers in this Province will rarely, if ever, encounter an actual picket line of another union. The current Picketing Provisions leave employees with theoretical rights to respect picket lines that they can rarely actualize.
19. The facts in *Gateway* helpfully illustrate the ways in which the Picketing Provisions create a serious imbalance in favour of employers. The BCGEU represents three separate bargaining units of employees working at separate casinos of Gateway Casinos & Entertainment Limited (the "Employer"). Employees in each bargaining unit perform substantially similar work. Two of the casinos are located in the Lower Mainland within approximately 20-minutes drive of each other.

20. Under the current language of the *Code*, if BCGEU members at one casino went on strike they would not be permitted to picket at the Employer's other casino located only 20 minutes away. Members of the public attending the non-struck casino would have no knowledge that the Employer, whose business they were supporting, was currently embroiled in a labour dispute at its other casino only 20 minutes away. Other members of the public, who normally attend the struck casino and who are perhaps less concerned about supporting an employer embroiled in a labour dispute, would be able to drive the reasonable distance and take their business to the non-struck location. The employer is thus able to benefit from the inability of the Union to picket at its non-struck location. While the Union's members at the struck location suffer financially through the strike, the Employer is able to withstand the strike more effectively by benefiting from continued, or perhaps even increased, business at its non-struck site.
21. The recommendation of Sandra Banister, K.C., in conjunction with the BCGEU's proposed amendments will go a long way to correcting the historic imbalance the Picketing Provisions of the *Code* have created. The changes proposed will allow workers in this province to realize the Section 2(b) and Section 2(d) *Charter*-protected freedoms the Legislature sought to protect by excluding respect for picket lines from the definition of strike.

All of which is respectfully submitted,



Paul Finch
President, BC General Employees' Union

September 19, 2025

Ministry of Labour
Victoria, British Columbia

via: LRCReview@gov.bc.ca

Re: Feedback regarding Labour Relations Code Review 2024

Thank you for the opportunity to provide feedback on the recommendations made by the Labour Relations Code Review Panel as set out in their report dated August 31, 2024.

This feedback is on behalf of the BC Public School Employers' Association (BCPSEA) and the 60 employers (school districts) that comprise the K-12 public education sector in BC.

By way of overview:

- BCPSEA supports the following panel recommendations: 1, 2, 3, 4.A, 5, 6, 9, 10, 11, 12, 19, 20, 21, 22, 23, and 24;
- BCPSEA does not support the following panel recommendations: 4.B, 7, and 8; and
- BCPSEA takes no position with respect to the following panel recommendations: 13, 14, 15, 16, 17, 18, and 25.

In addition, BCPSEA recommends that either proposed section 61.1 or existing section 62 of the *Labour Relations Code* be amended to clarify that a union may not elect to continue benefits for only some employees during a strike or lockout.

[continued on next page]

Recommendation No. 1

A. Funding for the Board must be substantially increased to provide sufficient staffing levels necessary to reduce delays and to replace the case management system with a system compatible with the Board's operational needs.

B. There should also be a review of remuneration levels for vice chairs and mediators to ensure they are sufficiently attractive to support recruitment and retention.

BCPSEA **supports** this recommendation. BCPSEA agrees that additional staffing at the Labour Relations Board (LRB) is necessary and desirable to reduce delays and provide improved mediation services.

Recommendation No. 2

The following definition of "mediation" be added to Part 1, section 1(1):

Mediation means attempting to resolve issues in dispute between the parties including meeting separately with the parties and/or their representatives or legal counsel.

BCPSEA **supports** this recommendation. The LRB has a longstanding practice of facilitating mediations through single party communications. This practice is effective and should be continued. BCPSEA agrees that the recommended update will reduce the potential for conflict with the British Columbia Law Society's *Code of Professional Conduct*.

Recommendation No. 3

Retain the existing definitions of "employee", "trade union" and "bargaining unit" in section 1(1) of the *Labour Relations Code*.

BCPSEA **supports** this recommendation. The current definitions are clear and well-established and provide predictability for employers and unions.

Recommendation No. 4

A. Retain the existing definition of "picketing" in section 1(1).

B. Amend section 70(3) to add:

(c) *Without limiting the Board's discretion under section 70(3)(b), where there is no physical site for a trade union, member or members to picket pursuant to section 65(3), the Board must exercise its discretion to ensure employees' expressive rights are given effect in a manner consistent with the intent and purpose of picketing under this Part.*

BCPSEA **supports** recommendation 4.A.

BCPSEA **does not support** recommendation 4.B. The proposed amendment would introduce the possibility of picket lines authorized in physical locations that are not reasonably connected with a labour dispute. Moreover, it is unclear how the LRB might allow for “virtual” picketing or how such picketing would interface with the existing legal framework regarding freedom of expression.

In our view, unions (and employers) are not unduly restricted in their virtual activities during a strike or lockout and it is unclear what problem the amendment seeks to address. BCPSEA, therefore, does not support the proposed amendment as it will introduce uncertainty for employers and unions.

Recommendation No.5

Retain the existing language of section 2:

The board and other persons who exercise powers and perform duties under this Code must exercise the powers and perform the duties in a manner that:

(a) recognizes the rights and obligations of employees, employers and trade unions under this Code

(b) fosters the employment of workers in economically viable businesses

BCPSEA **supports** this recommendation. The existing language appropriately captures the necessary balancing of economic interests with the fair and effective representation of employee interests.

Recommendation No. 6

Amend section 5(2) as follows:

If no collective agreement respecting a unit is in force and a complaint is filed with the board alleging that an employee in that unit has been discharged, suspended, transferred or laid off from employment or otherwise disciplined in contravention of this Code, the board must inquire into the matter and, if the complaint is not settled or withdrawn, the board must

(a) commence a hearing on the complaint within 3 business days of its filing,

(b) promptly proceed with the hearing without interruption, except for any necessary adjournments, and

- (c) *render a decision on the complaint within 2 business days of the completion of the hearing.*

BCPSEA **supports** this recommendation. Changing from “calendar days” to “business days” will improve procedural fairness for the parties while continuing to ensure the prompt resolution of disputes.

Recommendation No. 7

Retain section 14(4.1), which gives the Board the authority to order a remedial certification in response to unfair labour practices where the Board believes it is just and equitable.

BCPSEA **does not support** this recommendation. BCPSEA agrees with the comments made by panel member Lindsie Thomson. Section 14(4.1) was introduced to protect employee free choice under a secret ballot vote system as part of the 2019 amendments and, following the change to a card check system in 2022, should revert to the previous language.

Recommendation No. 8

Retain the existing language of section 23.

BCPSEA **does not support** this recommendation. BCPSEA agrees with the comments made by panel member Lindsie Thomson. A secret ballot vote system better protects employees’ fundamental right of freedom of association enshrined in the *Charter* and reflected in section 2(c) of the *Code* than the card check system.

Recommendation No. 9

Amend section 24(2):

A representation vote under subsection (1) must be conducted within 6 business days from the date the board receives the application for certification or, if the vote is to be conducted by mail, within a longer period the board orders.

BCPSEA **supports** this recommendation. Changing from 5 to 6 business days will improve procedural fairness for the parties while continuing to ensure the prompt resolution of a representation vote.

Recommendation No. 10

Section 3 of the Regulation be amended to read:

In applying for membership, I understand that the union intends to apply to be certified as my exclusive bargaining agent and to represent me in collective

bargaining. If the Labour Relations Board does not conduct a certification vote, I verify my signature on this membership card has the same effect as casting a vote in favour of the union being certified.

BCPSEA **supports** this recommendation. This update will provide more clarity for employees in their decision to sign a union card under the current single step certification process.

Recommendation No. 11

No amendment.

BCPSEA **supports** this recommendation. Employers should not be compelled to provide employee lists or contact information to a prospective union on the basis of limited support, which would unduly interfere with the privacy interests of employees.

Recommendation No. 19

Retain the existing language of sections 45(1)(b) and 45(1.1).

BCPSEA **supports** this recommendation. The current 12-month post-certification freeze provides sufficient protection and encourages the timely conclusion of a first collective agreement.

Recommendation No. 20

A. Amend section 53(4) as follows:

The purpose of the consultation committee is to:

- (a) promote the cooperative resolution of workplace issues, including but not limited to work reorganization, productivity, technological change,*
- (b) respond and adapt to changes in the economy,*
- (c) foster the development of work-related skills and*
- (d) promote workplace productivity.*

B. The B.C. government undertake a consultation process on the impacts of AI which must involve unions, employers and employees to determine, amongst other things, whether any changes to employment related legislation (including the Employment Standards Act, Labour Relations Code, Human Rights Code, Personal Information Protection Act and Freedom of Information and Protection of Privacy) are required.

BCPSEA **supports** recommendation 20.A. This amendment clarifies the types of workplace issues that the parties are able to discuss under section 53 now and into the future.

BCPSEA **supports** recommendation 20.B.

Recommendation No. 21

No changes to section 65 or section 68.

BCPSEA **supports** this recommendation. The current replacement worker provisions and picketing provisions which have been in place for more than 30 years provide an appropriate balance which should not be upset.

Recommendation No. 22

Add section 61.1:

Under section 61, the union may elect to pay to continue only certain health and welfare benefits and if so, provided it tenders payment as required under 61(1)(a) and (b) for those benefits, section 62(2) applies to continue those benefits, unless prohibited by the terms of the plan.

BCPSEA **supports** this recommendation. This addition clarifies that a union may elect to pay to continue coverage for only some health and welfare benefits during a labour dispute.

In addition, BCPSEA recommends that either proposed section 61.1 or existing section 62 be amended to also to clarify that a union may not elect to continue benefits for only some employees during a strike or lockout.

Recent LRB jurisprudence invites the possibility that a union may choose to continue benefits for some but not all employees during a strike or lockout pursuant to section 62 of the *Code*: [Richmond Inn Hotel Ltd. \(Re\), 2024 BCLRB 48](#). Our understanding is that this practice is not commonplace, however, our view is that does not further the purposes of the *Code* and allowing it to continue creates significant risks for employers, unions, and employees.

From the employer perspective, allowing a union to choose to continue benefits for some but not all employees would create significant administrative burden with the possibility that employees may be incorrectly denied benefit coverage. In addition, allowing the practice creates the risk of selection bias (selecting only those employees who *need* benefits) and may run contrary to benefit plan terms and conditions (e.g. mandatory participation).

From the union perspective, a decision to choose to continue benefits for some but not all employees would come with significant risk of an unfair labour practice complaint by its members, as was the case in the decision relating to the employees affected in the above-noted case: [Edith Jean Jahn, 2024 BCLRB 115](#).

Recommendation No. 23

Amend section 100 to add:

- (2) *The time limit for filing and serving a notice of an appeal under the Court of Appeal Rules is one (1) year from the date of the decision or award of an arbitration board.*

BCPSEA **supports** this recommendation. Extending the time limit for filing and serving a notice of appeal under the Court of Appeal Rules to one (1) year will allow the LRB to determine whether or not a matter can be heard under section 99 prior to the expiry of the deadline for an appeal under section 100, avoiding the unnecessary and perfunctory duplication of proceedings.

Recommendation No. 24

Amend section 104.

BCPSEA **supports** this recommendation. The proposed changes will improve the efficiency and effectiveness of expedited arbitration under section 104.

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Thank you once again for the opportunity to provide feedback.

Yours truly,



Chris Beneteau
Executive Director, Labour Relations
BCPSEA
chrisb@bcpsea.bc.ca

cc. Bruce L. Anderson, CEO, BCPSEA
John A. Davison, CEO, PSEC-Secretariat

By email: LRCReview@gov.bc.ca

September 18, 2025

The Honourable Jennifer Whiteside
Minister of Labour
PO Box 9064 Stn Prov Govt
Victoria, BC V8W 9E2

Dear Minister Whiteside:

**Subject: Labour Relations Code Review
BC Teachers' Federation Reply to Panel Recommendations**

We have reviewed the report and recommendations of the Labour Relations Code Review Panel. The following is feedback on behalf of the BC Teachers' Federation and its approximately 50,000 members.

In addition to the feedback below we express support for the positions taken by the BC Federation of Labour.

Consideration of Indigenous rights and the needs of Indigenous workers

The Panel has declined to consider Indigenous rights or the needs of Indigenous workers in its review of the *Labour Relations Code* (the "Code"). The Panel provided the following rationale:

In 2019, the provincial government enacted the Declaration on the Rights of Indigenous Peoples Act, [SBC 2019], c.44 (the "Declaration Act") which, in part, mandates government to ensure the laws of B.C. are consistent with the United Nations Declaration on the Rights of Indigenous Peoples. To support the implementation of the Declaration Act, government established the Declaration Act Secretariat. Since our terms of reference do not include a delegation under the Declaration Act, we believe any application of the Declaration Act is beyond the scope of our present mandate.

The *Declaration Act* should not be misinterpreted as meaning that the rights of Indigenous people will only be considered through processes specifically initiated under the Act. It would be quite contrary to the intention of the *Declaration Act* if review panels could rely on the creation of the Declaration Act Secretariat to decline to consider Indigenous rights. We submit that it is inherently within the scope of the mandate of any review panel to consider Indigenous rights. Indigenous

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rights form part of the foundation of legal systems in Canada and no review of legislation should be considered complete without consideration of those rights.

We recommend amendments to the Code to establish a respectful framework for ongoing engagement with Indigenous communities and First Nations governments. We encourage consideration of the following possible amendments:

1. Amendment of section 2 to add a general statement of principle:

2 (i) is consistent with the Declaration on the Rights of Indigenous Peoples and upholds and does not abrogate or derogate from the Aboriginal and treaty rights of Indigenous peoples as recognized and affirmed by section 35 of the Constitution Act, 1982.

2. Amendment of section 18 to add an obligation to promptly address jurisdiction issues to section 18:

18 (5) Where an issue arises with respect to whether an enterprise is under Provincial or Federal jurisdiction, the Board will resolve the issue on an expedited basis.

3. Amendment of section 47.1 to recognize Indigenous rights as part of the requirement to bargain in good faith:

47.1 (1) The parties will make every reasonable effort to bargain terms consistent with the Declaration on the Rights of Indigenous Peoples and terms which uphold and do not abrogate or derogate from the Aboriginal and treaty rights of Indigenous peoples as recognized and affirmed by section 35 of the Constitution Act, 1982. (2) The employer will provide the union with copies of any agreements made with First Nations or Indigenous organizations which may be relevant to bargaining.

4. Amendment of section 10 to recognize that implementation of equity programs is consistent with trade union obligations:

10(4) It is not a breach of this section for a trade union to implement an equity program or provide for affinity-based representation for Indigenous members or individuals and groups who are disadvantaged for reasons recognized by the BC Human Rights Code.

5. Addition of procedural provisions:

83 (5) The register of arbitrators will include arbitrators who are Indigenous.

89(i) consider the Declaration on the Rights of Indigenous Peoples and the Aboriginal and treaty rights of Indigenous peoples in facilitating a settlement or reaching a determination.

92(1) (f) consider Indigenous protocols and dispute resolution approaches in determining procedure.

Board Resources

- **Recommendation 1**

We agree with the Panel that funding for the Board needs to be substantially increased.

Definitions and Introductory Provisions

- **Recommendation 2 – Definition of “Mediation”**

We agree with the recommendation to add a definition of mediation to section one, however, we recommend a definition that is more comprehensive than the one proposed by the Panel.

The Code contains approximately 40 references to mediation but does not define what mediation entails. The Panel's definition resolves a concern of mediators and lawyers but does not provide an adequate definition of mediation for those who are less familiar with legal proceedings.

We recommend that language similar to the following be added to Part 1, section 1(1):

“Mediation” means a collaborative process in which parties attempt, with the assistance of a neutral and impartial mediator, to negotiate a mutually acceptable settlement of issues in dispute. Mediators may communicate and meet jointly or separately with the parties and/or their representatives or legal counsel.

- **Definition of “strike”**

We support retaining the existing definition of a strike, including the amendments made through Bill 9. These amendments were necessary to protect the reasonable expectations of BC workers with regard to their right to respect picket lines of other striking workers, including workers regulated by the laws of Canada or other provinces.

- **Recommendation 4 – Definition of picketing**

We support the proposed amendment to section 70 of the Code. While this amendment does not specify how workers with no physical site can engage in picketing, confirmation of the expressive rights of striking remote workers would still provide important guidance for those acting under the Code.

Rights, Duties and Unfair Labour Practices

- **Certification**

We support the majority's recommendation to maintain the discretion to order remedial certification where an employer has engaged in unfair labour practices.

We also support the majority recommendation to retain single step certification. Single step certification provides a simple straightforward path to certification that is easy for both workers and employers to understand. This helps ensure that all workers have a fair opportunity to organize and engage in collective bargaining.

- **Recommendation 10**

We oppose the proposed revision to the wording of membership cards.

Membership cards already clearly confirm workers' understanding that the union, if certified, will be their exclusive bargaining agent and represent them in collective bargaining. The further wording recommended by the Panel is unnecessary and confusing.

- **Pre-application Employee lists**

As remote work becomes more common, it is important that structures be put in place to ensure that workers can connect for the purpose of creating or joining unions. We support amendments to require employers to provide names and contact information once an initial threshold of 20 percent of employees are signed up. This provides an appropriate balancing of employees' privacy rights with their right to a reasonable opportunity to communicate for the purpose of organizing collectively.

- **Recommendation 12 - First Contract Support**

We support the recommendation to provide an information package to newly certified parties.

- **Sectoral or Multi-employer certification and bargaining**

We support the submissions of the BC Federation of Labour with respect to establishing an Industrial Inquiry Commission with a broad mandate which includes consultation on both sectoral certification and bargaining.

Successorship

As we enter into increasingly turbulent economic times, maintaining collective agreement rights helps ensure financial stability for BC workers. We support the expansion of successorship protections to all workplaces.

Collective Bargaining Procedures

- **Statutory Freeze**

Rather than have a statutory freeze of a defined number of months, the period of the freeze should be extended until the conclusion of a first collective agreement. This ensures that the freeze period is not something that employers try to wait out.

- **Recommendation 20 Joint Consultation and Adjustment Plans**

We appreciate the Panel's consideration of the impact of technological change and changes to work organization. This is an area, however, that warrants a full comprehensive review. We support the BC Federation of Labour's call for the establishment of a commission dedicated to examining the impact of artificial intelligence and automation on BC workplaces.

Strikes, Lockouts and Picketing

- **Recommendation 22 – Maintenance of benefits**

We support the Panel's recommended changes with respect to options for continuing health and welfare benefits during strikes or lockouts.

Minister of Labour
September 18, 2025

Concluding comments

We thank the Panel members for their work over the past two years. Reviews of this nature provide for valuable dialogue and we appreciate the opportunity to provide input on behalf of our members.

Yours truly,

A handwritten signature in black ink, appearing to read "C. Gordon". The signature is fluid and cursive, with the first letter "C" being large and prominent.

Carole Gordon
President

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CG:sa:tfu



CUPE BC'S RESPONSE TO THE 2024 LABOUR CODE REVIEW PANEL RECOMMENDATIONS



About CUPE BC

CUPE BC represents more than 100,000 workers in British Columbia who deliver public services across a wide range of sectors including public and postsecondary education, childcare, community social services, community health, local government, transit, emergency services, and libraries.

We acknowledge that our province of British Columbia is located on the homelands of 203 distinct Indigenous nations and cultures; more than 30 different languages and close to 60 unique dialects are spoken in the province. We ask all participants to reflect, acknowledge and honour in their own way the First Nation land on which they are located.



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We welcome the opportunity to comment on the special advisors' Recommendations for Amendments to the *Labour Relations Code* (the *Code*). Work and workplaces are changing rapidly; it is crucial that this legislation be amended to reflect these changes to ensure that the *Code*'s original purposes are met.

On behalf of our over 105,000 members in municipalities, schools, colleges, universities, libraries, health, emergency medical services, social services, and transportation, we submit the comments below. In addition to our own commentary, CUPE BC also supports the BC Federation of Labour's response to the Review Panel's recommendations. We also submit for consideration CUPE BC's 2024 submission to the Review Panel at appendix A.

EXECUTIVE SUMMARY

RECOMMENDATION NO.1

CUPE BC supports Recommendation #1 and recognizes some action has already begun to better resource the LRB, we encourage the government to continue to make progress in this area.

RECOMMENDATION NO.3

CUPE BC disagrees with the Panel's recommendation that the existing definition of "employee" should be retained, and we recommend that the definition of "employee" be amended to capture the work that student workers perform which also furthers their own education.

RECOMMENDATION NO.4 – DEFINITION OF "STRIKE" AT SECTION 1

CUPE BC supports maintaining the current definition of "strike", as updated by Bill 9.

RECOMMENDATION NO.4 – AMENDMENTS TO RECOGNIZE "VIRTUAL PICKET LINES"

CUPE BC believes the Panel failed to consider the importance of permitting a "virtual picket line" where there is also a physical picket line and submit that section 70 of the *Code* should be amended to recognize virtual picket lines.

RECOMMENDATION NO.6

CUPE BC strongly opposes recommendation #6 and submits that the existing *Code* language should be retained.

RECOMMENDATION NO.7

CUPE BC supports the recommendation of the majority of the panelists, section 14(4.1) should be retained.

RECOMMENDATION NO.8

CUPE BC strongly supports the Panel's majority recommendation to retain the single-step certification model established in the 2019 amendments to the Labour Relations Code.

RECOMMENDATION NO.9

CUPE BC strongly opposes recommendation #9 and submits that the current timeline for representation votes should be retained.

RECOMMENDATION NO.10

CUPE BC opposes recommendation #10, the proposed changes are unnecessary and could cause confusion amongst employees seeking union representation.

RECOMMENDATION NO.11

CUPE BC disagrees with the majority's recommendation and supports Banister's dissenting recommendation.

RECOMMENDATION NO.12

CUPE BC opposes recommendation #12, an information package describing rights and obligations under the *Code* is helpful and is supported by CUPE BC. However, it will be very difficult to create model language for collective agreements to recommend to the parties.

RECOMMENDATION NO.13 AND RECOMMENDATION NO.14

CUPE BC is deeply concerned by the Panel's recommendations, we maintain that a single-issue commission with a mandate to examine the viability of sectoral certification and bargaining in BC is required and we strongly oppose the creation of advisory councils under the ESA.

RECOMMENDATION NO.16

CUPE BC agrees with the Banister dissent in recommendation #16, there is no reason to limit successorship protection to the services currently set out under section 35(0.1) and that therefore the definition of "contract for services" in section 35(0.1) should be deleted.

RECOMMENDATION NO.17 and RECOMMENDATION NO.18

CUPE BC disagrees with the Panel and submits existing language of sections 35 and 38 should be amended to impose a "burden of proof" obligation on employers seeking to oppose an employer successorship application or a common employer application.

RECOMMENDATION NO.19

CUPE BC disagrees with the Panel's recommendations to retain the existing language of the *Code* and recommend a freeze period until a first collective agreement has been negotiated.

RECOMMENDATION NO.20

CUPE BC supports amending section 53(4) to explicitly include technological change as a topic for joint consultation committees.

While agreeing with Banister that additional protections are urgently needed, CUPE BC cautions that her proposed new section 54.1 is too narrow in focusing only on “generative AI.” We recommend expanding it to cover all data-driven and algorithmic technologies, and strengthening section 54 by requiring employers to conduct risk assessments and negotiate adjustment plans with unions—with binding arbitration if agreements cannot be reached.

Given the complex and rapidly evolving nature of AI and automation, CUPE BC echoes the BC Federation of Labour’s call for a provincial commission to examine their impacts on workers’ privacy, job security, and autonomy.

RECOMMENDATION NO.21

CUPE BC opposes recommendation #21 and supports the dissent of Banister in regard to repealing section 65(8). CUPE BC maintains its position regarding picketing from its original submission and endorses the positions of the BCFED and BCGEU’s Code Review Submission.

RECOMMENDATION NO.24

CUPE BC partially supports recommendation #24. The sections of the recommendation that CUPE BC supports are:

1. Procedural amendments expediting the appointment and use of a settlement officer;
2. Adjusted appointment time of an arbitrator; and
3. Expanding the page limit for decisions.

CUPE BC opposes the following provisions of recommendation #24:

1. The addition of the power to arbitrators to decide a matter is not appropriate to proceed under section 104 and remain seized; and
2. The amendment to Section 104(6.1)(b).

CUPE BC'S RESPONSE TO 2024 LABOUR CODE REVIEW PANEL RECOMMENDATIONS

RECOMMENDATION NO.1

- A. *Funding for the Board must be substantially increased to provide sufficient staffing levels necessary to reduce delays and to replace the case management system with a system compatible with the Board's operational needs.*
- B. *There should also be a review of remuneration levels for vice chairs and mediators to ensure they are sufficiently attractive to support recruitment and retention.*

CUPE BC supports Recommendation #1. The Labour Relations Board (LRB) plays a foundational role in administering and enforcing the *Code*, and the ability of workers to exercise their rights is directly dependent on the Board's operational capacity, independence, and efficiency.

We recognize and appreciate the recent funding commitments made by the provincial government — specifically the additional \$3 million per year over three years — as well as improvements to the compensation for vice chairs and other LRB staff that have already benefited the board's efforts to attract and retain staff. These are meaningful developments that begin to address long-standing concerns within the labour community regarding under-resourcing of the Board.

However, CUPE BC submits that more is required. Even with this additional investment, the Board remains significantly underfunded relative to historical benchmarks. If Board funding had simply kept pace with inflation and the growth in the labour market since the early 2000s, its annual budget would be substantially higher today even after the recent increase. The operational impacts of this underfunding are visible in the form of case backlogs and resistance to utilize the full powers of the *Code*, for example auditing employer payroll records, which undermine workers' access to justice and collective bargaining.

To ensure fair and timely adjudication, reduce delays in certification, and support worker access to collective bargaining, CUPE BC supports the Panel's recommendation for increased funding to the LRB and we believe that this funding should indexed to inflation at a minimum.

RECOMMENDATION NO.3

Retain the existing definitions of "employee", "trade union", and "bargaining unit" in section 1(1) of the Code.

Background

Recommendation 3 of the Labour Relations Code Review Panel report (the "Report") addresses various definitions under section 1(1) of the *Code*. The Panel recommends that the existing

definition of “employee” be retained (along with the definition of “trade union” and “bargaining unit.”)

Despite the helpful commentary on access to collective bargaining for gig workers, the Report is silent on other categories of precarious workers who have been effectively excluded from access to collective bargaining by the lack of clarity in the *Code*, including student employees.

CUPE therefore disagrees with the Panel’s recommendation that the existing definition of “employee” should be retained. CUPE notes that the existing definition has led to the exclusion of student workers from the right to join a union, most recently in the Board’s decision in *UBC*. In *UBC*, the Board determined that Graduate Research Assistants (“GRAs”) did not meet the definition of “employee” under the *Code*, based on criteria not set out in the definition of “employee” in the *Code*, that the work that GRAs do also further the GRAs education and training (at para. 363).

Currently, the *Code* provides little guidance as to the definition of “employee”, and therefore the definition has evolved through the Board’s case law. However, the lack of guidance has led to some inconsistent decisions from the Board.

The existing definition and Board jurisprudence provides an incentive for educational institutions to structure graduate programs in a manner to prevent graduate student employees from gaining access to collective bargaining under the *Code*. This is particularly concerning given that many educational institutions are relying more heavily on contract faculty to deliver programs while tenured faculty positions have been in decline: Pasma, Chandra, Shaker, Erika, (2018). *Contract U: Contract Faculty Appointments at Canadian Universities*. Canadian Centre for Policy Alternatives, available at: <https://www.policyalternatives.ca/wp-content/uploads/attachments/Contract%20U-0.pdf> Further, and at UBC, the university is increasingly relying on graduate research assistants to perform research to generate publications and to perform research: *University of British Columbia*, 2025 BCLRB 85 (“UBC”), at paras 19 and 26.

In *UBC*, the Board also noted at paragraph 336, following *Cranbrook and District Hospital*, BCLRB No. 128/74 (“*Cranbrook*”), that the definition of employee in the *Code* is not precise. Consequently, the Board has struggled with the question of whether students engaged in waged work for an institution – which also may contribute to their own education and training – are employees for the purposes of the *Code*.

For example, in *Cranbrook and District Hospital*, BCLRB No. 128/74 (“*Cranbrook*”), the Board held that student nurses engaged in a practicum placement at a hospital were not “employees” for the purposes of the *Code* based on a number of factors, including that they were mainly working in the hospital in fulfilment of their own education.

In contrast, the Board held in *Vancouver General Hospital*, BCLRB No. 38/81, that a student resident physiotherapist was an employee for the purposes of the *Code* despite the work being unpaid and without the student receiving specific instructions as to the methods of work.

Accordingly, and as the above examples demonstrate, there is little predictability or certainty in the Board's case law as to whether a student will meet the definition of "employee" under the *Code*. Yet, we note that the Report, following the 2018 Report, describes the importance of "predictability, certainty, and balance to the health of the BC economy" (page 5). In our submission, such "predictability, certainty, and balance" can be achieved by providing greater guidance to the Board regarding the definition of "employee" under the *Code*.

Currently, the *Code* defines "employee" as follows:

"employee" means a person employed by an employer, and includes a dependent contractor, but does not include a person who, in the board's opinion,

(a) performs the functions of a manager or superintendent, or

(b) is employed in a confidential capacity in matters relating to labour relations personnel

CUPE submits that the existing definition of employee under the *Code* does not provide sufficient guidance to the Board and results in inconsistent decisions as to the categories of workers who meet the definition of "employee" under the *Code*, as illustrated by the above examples.

Further, the imprecise definitions have the effect of defeating the purposes of the *Code* under section 2, particularly relating to 2(c), and the duty to encourage "the practice and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees." These inconsistencies in the Board's law and policy require legislative clarification and guidance in order to ensure that the purposes of the *Code* under section 2 can be properly realized.

CUPE therefore recommends that the definition of "employee" be clearly defined, to capture the work that student workers perform which also furthers their own education. We therefore recommend that the definition be amended, with the additional language underlined and bolded below as follows:

“employee” means a person employed by an employer, and includes a dependent contractor, **and persons who, in the course of their employment, also perform work which furthers their education or training,** but does not include a person who, in the board’s opinion,

(a) performs the functions of a manager or superintendent, or

(b) is employed in a confidential capacity in matters relating to labour relations personnel.

RECOMMENDATION NO. 4 – DEFINITION OF “STRIKE” AT SECTION 1

Fleming:

Definition of “strike”

a) is a related company providing the same or substantially similar services or products on the same site as the struck employer (or who has locked out), regulated by the laws of Canada or another province; or

b) where an employer regulated by the laws of B.C. assists or supplies goods or furnishes services for the benefit of the struck employer regulated by the laws of Canada or another province.

Banister:

A. Section b(ii) of the definition of “strike” be amended as follows:

*(ii) picketing conducted by employees **of the same employer or of a related or associated employer** in respect of whom collective bargaining is regulated by the laws of Canada or another province who are locked out or on strike; **or***

B. Add section b(iii) to the definition of strike as follows:

(iii) respecting a clause in the collective agreement governing the employee’s work which permits them to honour a picket line.

Thomson:

I recommend Bill 9 be repealed.

CUPE BC supports maintaining the current definition of “strike”, as updated by Bill 9. The scope of the Bill 9 amendment to the *Code* should not be narrowed in any manner whatsoever.

RECOMMENDATION NO.4

A. Retain the existing definition of “picketing” in section 1(1).

B. Amend section 70 to add:

70(3)(c) Without limiting the Board’s discretion under section 70(3)(b), where there is no physical site for a trade union, member or members to picket pursuant to section 65(3), the Board must exercise its discretion to ensure employees’ expressive rights are given effect in a manner consistent with the intent and purpose of picketing under this Part.

CUPE BC submits the Panel respectfully failed to consider the importance of a “virtual picket line” for a striking or locked out union in a multi-union hybrid work environment in making this recommendation. With the ubiquity of hybrid virtual and physical work environments across many unionized sectors, workers must be allowed to enact picket lines simultaneously across physical and virtual boundaries of a workplace that can be respected by employees represented by other unions working for the same struck or locked out employer.

The concept of a virtual picket line should not be recognized only when “there is no physical site for a trade union, member or members to picket” as recommended by the Panel, rather virtual picket lines should be recognized regardless of whether the struck or locked out union can enact a physical picket. Employers are already taking advantage of hybrid work environments and instructing employees belonging to a union other than the striking or locked out union enacting physical picket lines to avoid crossing physical picket lines by working remotely during a strike or lockout. This existing issue is watering down the negotiated ability of unions to respect the picket lines enacted by other unions to show solidarity to striking or locked out workers and exert further economic pressures on the struck or locked out employer.

We recommend the following amendment to Panel’s recommendations:

A. Retain the existing definition of “picketing” in section 1(1).

B. Amend section 70 to add:

*70(3)(c) Without limiting the Board’s discretion under section 70(3)(b), **regardless of whether where** there is no physical site for a trade union, member or members to picket pursuant to section 65(3), the Board must exercise its discretion to ensure employees’ expressive rights are given effect in a manner consistent with the intent and purpose of picketing under this Part.*

RECOMMENDATION NO.6

Amend section 5(2) as follows:

(2) If no collective agreement respecting a unit is in force and a complaint is filed with the board alleging that an employee in that unit has been discharged, suspended, transferred or laid off from employment or otherwise disciplined in contravention of this Code, the board must forthwith inquire into the matter and, if the complaint is not settled or withdrawn, the board must

*(a) commence a hearing on the complaint within 3 **business** days of its filing,*

(b) promptly proceed with the hearing without interruption, except for any necessary adjournments, and

*(c) render a decision on the complaint within 2 **business** days of the completion of the hearing.*

CUPE BC strongly opposes recommendation #6. CUPE BC's membership includes employees who do not have traditional work schedules, including working weekends and statutory holidays. Union's counsel is also required to prepare and attend the hearing under the same timeframe as Employer's counsel. Employer side arguments regarding timing and the recommendation of the panel in response to those arguments are centered around the convenience of the legal counsel and not the workers that section 5(2) of the *Code* is meant to protect. It is not reasonable for a terminated employee to need to wait longer than absolutely necessary to have a complaint regarding their loss of employment or other discipline heard.

There is a significant backlog of cases and delay in getting decisions from the Board. Applications under section 5(2) are meant to protect employees who have faced discharge, suspension, transfer, lay off, or other discipline during their most vulnerable time, prior to a collective agreement coming into force. These provisions of the *Code* are crucial to protecting employees who exercise their constitutionally protected right to access collective bargaining.

There are already protections under section 5(2) of the *Code* that allow for necessary adjournments. Expanding the language to three business days is unnecessary as any essential adjournments can be granted by the Board if required. This can address the Employer's concerns where needed. Rather, extending the timeframe for section 5(2) complaints to be heard will contribute to further delay and litigation at the Board. In 2023, 35 section 5(2) applications were filed. Of those, 28 settled. Similarly, in 2024 22 section 5(2) applications were filed and 19 settled. The tight timelines currently reflected in section 5(2) of the *Code* encourage prompt settlement discussions between the parties. Further, as demonstrated in the explanation from the Panel on Recommendation #6, the Board is already not applying the

language of section 5(2) as it is written (not scheduling hearings on Sunday) and the parties may under the current language agree to extend the timelines past three days when appropriate. This is not an urgent issue which requires amendment of the current *Code* provisions.

The current language, which has been present in the *Code* for decades, protects the interests of vulnerable workers and fulfills the purposes of the *Code* including encouraging expeditious settlement of disputes. It should be kept with no amendments. The issues raised by the Employer regarding counsel availability and preparation time can be addressed, when appropriate, through adjournments ordered by the Board or by consent. Nevertheless, a counsel's availability or preparation time should not outweigh the interests of someone who has faced unwarranted and unfair discipline, or the potential damaging effects improper conduct could have on a union's organizing drive.

RECOMMENDATION NO.7

Retain section 14(4.1).

CUPE BC supports the recommendation of panelists Fleming and Banister to retain section 14(4.1). The inclusion of section 14(4.1) has not created an imbalance in the *Code* and is not required to be tied to secret ballot votes. Since the introduction of section 14(4.1) in 2019, remedial certification continues to be a very rare remedy and has not caused a significant increase in remedial certifications.

In the recent case of *Amazon Canada Fulfillment Services, ULC*, 2025 BCLRB 155 (Leave for Reconsideration of 2025 BCLRB 131), the Employer sought reconsideration of the Board's finding that the employer had breached sections 6(1), 6(3)(d) and 9 of the *Code* and that remedial certification was appropriate. In the original decision, the Board found that the employer had demonstrated a "lengthy and pervasive anti-union campaign" including an extensive hiring spree to pad its employee list and prevent the applicant union from certifying. The Board found the employer's conduct warranted remedial certification. When arguing on reconsideration that the original panel erred in ordering remedial certification, the employer submitted that the original decision represented a "fundamental departure" from established Board jurisprudence regarding remedial certification. In denying the employer's application for reconsideration, the Board made, in part, the following comments regarding remedial certification:

26 In British Columbia, employees demonstrate support for unionization by signing union membership cards. Certification may be granted where the union has signed membership cards from a minimum threshold of employees within the proposed unit. When an employer knowingly and improperly pads the list with individuals who are not

properly employees, it establishes a fraudulent bar against which the union's threshold support is evaluated. In that way, the intentional improper padding of an employee list is a direct attack on employee free choice.

....

34 While unions regularly argue that employers have improperly padded their employee lists, rarely does the Board receive evidence to substantiate those accusations. Thus, while the Board may be suspicious of the veracity of an employee list, it rarely receives the evidence necessary to substantiate a finding of impropriety (see, for example, *British Columbia Lottery Corporation*, BCLRB No. B87/2002, para. 279; *Certain Employees of Nishin Kanko Investments Ltd. (Days Inn)*, BCLRB No. B132/2013, para. 51; *Certain Employees of Paul Bunyan Hotels Inc.*, BCLRB No. B93/94). This is one of the rare cases where the Union's accusations were substantiated by significant physical evidence, none of which was explained away in testimony.

35 The Board has had to address these kinds of concerns when they are raised by employers and involve union membership evidence. The Board has held that improprieties in the union's membership evidence go to the heart of the integrity of the card-based system (*Fabricland Pacific Limited*, BCLRB No. B53/99 (Leave for reconsideration denied, BCLRB No. B218/99, para. 19). Where the membership evidence on which the Board relied to grant certification was obtained fraudulently, the Board may cancel the certification (*Fabricland Pacific Limited*, BCLRB No. B218/99 (Leave for Reconsideration of BCLRB No. B53/99); *Certain Employees of R.C. Purdy Chocolates Ltd.*, BCLRB No. B412/2001). In our view, this case represents the flip side of the same coin.

(emphasis added)

Fabricland Pacific Limited, BCLRB No. B218/99 addresses an organizing drive in the time of single-step certification. CUPE BC strongly supports that section 14 (4.1) remain in the *Code*.

RECOMMENDATION NO.8

No change to section 23 of the Code.

CUPE BC strongly supports the Panel's majority recommendation to retain the single-step certification model established in the 2019 amendments to the Labour Relations Code. This model is a critical protection for workers' rights to organize free from intimidation and harassment.

Prior to the return to single-step certification, BC operated under a two-step model that required a representational vote even after a clear majority of workers had signed union cards. This system provided employers with an opportunity to intervene, delay, and engage in coercive tactics to suppress unionization. The two-step process lowers union success rates, not because of lack of worker support, but due to employer interference and chilling effects on organizing.

The single-step model in BC has proven to be successful. Union organizing and certification has increased since the introduction of single step certification. And the system has adequate checks and balances to ensure that a majority of workers in a workplace have signed union cards. This model also reduces the incentive and opportunity for employers to engage in unfair labour practices that target union supporters. By eliminating the vote and, more importantly, the period between the certification application and a vote – when a substantial number of unfair labour practices occur – the certification process is fairer to workers and mitigates against potential employer misconduct.

We urge the Minister of Labour to uphold this important democratic reform and reject any calls to return to a two-step process.

RECOMMENDATION NO.9

Amend section 24(2):

A representation vote under subsection (1) must be conducted within 6 business days from the date the board receives the application for certification or, if the vote is to be conducted by mail, within a longer period the board orders.

CUPE BC strongly opposes recommendation #9. The current 5 business day timeline for representation votes — implemented in the 2019 reforms — strikes a fair balance between administrative feasibility and the urgent need to protect workers from anti-union employer campaigns during certification drives and the period before a vote is conducted.

Any delay beyond 5 days unnecessarily increases the risk of employer interference and retaliation. As we and many unions have experienced firsthand, employers frequently use even short delays to launch aggressive anti-union messaging, hold captive audience meetings, spread misinformation, and pressure workers to withdraw support for unionization.

The argument that an extra day is required for logistics is unconvincing. Many modern workplaces — particularly in sectors like health care, retail, hospitality, and transportation — operate seven days a week, and LRB officers already work with the flexibility needed to accommodate different schedules and vote formats. The use of mail-in ballots should not justify a blanket extension; such situations can already be addressed through Board discretion under the current *Code*.

The move to extend the voting window is not a neutral, technical change — it is a regressive measure that tilts the playing field in favour of employers and weakens worker protection.

CUPE BC recommends that the government retain the existing 5 business day timeline for certification votes and resist efforts to dilute the hard-won improvements of the 2019 reforms.

RECOMMENDATION NO.10

- A. *Section 3 of the Regulation be amended to read:*

*In applying for membership I understand that the union intends to apply to be certified as my exclusive bargaining agent and to represent me in collective bargaining. **If the Labour Relations Board does not conduct a certification vote, I verify my signature on this membership card has the same effect as casting a vote in favour of the union being certified.***

- B. *The Regulation provide a transition period of 10 months following the effective date of the amendment to the Regulation during which time Board must accept membership cards bearing either the existing language in Regulation 3 or the amended language.*
- C. *The Board must proactively inform unions that their membership cards must contain the revised language to qualify as membership evidence.*

CUPE BC opposes recommendation #10. The proposed changes in recommendation #10 are unnecessary and could cause confusion amongst employees seeking union representation.

Nothing in the current wording of the *Labour Relations Regulations*, BC Reg. 7/93 suggests that employees will be entitled to cast a ballot in a certification vote. The original wording as set out in the Regulation was created the same year that automatic certification returned to British Columbia in 1993. For the near decade that automatic certification was in place and this wording existed on membership cards, there were no concerns or need for clarification as set out in recommendation #10. There is also no evidence since automatic certification has returned that the current wording has been problematic.

This is an unnecessary change that causes administrative and financial burdens on all unions as everyone will need to change their cards.

RECOMMENDATION NO.11

CUPE disagrees with the majority's recommendation of no amendment to the *Code* being required to provide a union with an employee list in cases where the union can establish it has the support of at least 20% of employees in a proposed bargaining unit.

CUPE supports amending the *Code* to require an employer to disclose the employee list, with contact information, where a union establishes it has the support of at least 20% of employees in a proposed bargaining unit. We further submit that it is possible to achieve a balance between employee privacy and employee access to collective bargaining by allowing employees the option to object to releasing their personal information to a union if they so choose.

We submit that, contrary to many employer-side submissions, production of this list does not give unions an “organizing advantage that exists nowhere else in Canada.” Further, precedent for this approach existed in prior versions of the *Code*. As noted in the Report, between 1975 and 1977 the *Code* contained such a provision requiring employers to produce a list of employee names, addresses and telephone numbers to the Board where it was satisfied the union was actively engaged in an organizing drive for a bargaining unit which could be appropriate. Upon receipt of the union’s application for a list the Board’s practice was to have a notice of the application posted at the worksite so employees could object to the release of their name and contact information.

CUPE submits that posting the notice of application at the worksite so employees may object to the release of their contact information strikes an appropriate balance between employee privacy and employee access to collective bargaining.

Further, as the Report also notes, there is precedent for enactment of the 20% threshold with amendments introduced in Ontario in 2018 by a liberal provincial government – although these amendments were later overturned by a conservative government.

Finally, in response to the points raised in the Report regarding section 7(2) of the *Code* providing discretion to the Board to grant a union access to employees who reside on their employers property, and no such employee list is provided to the union in these circumstances, we say that is because the union is able to see the employees who live on their employer’s property. However, no such access is available in cases of remote or gig work.

In the alternative, the Banister dissent provides an incremental first step towards achieving increased access to collective bargaining for employees engaged in part-time, gig or platform work. The Banister dissent provides the following recommendation:

Where a trade union applies to the Board declaring it intends to attempt to persuade the employees of a unit to join a trade union and, in the Board's opinion, the circumstances or location of the work may impede employees accessing collective bargaining, the Board may order the employer deliver to the trade union a complete list of names, addresses and either the email addresses or telephone numbers of the employees in the intended unit

RECOMMENDATION NO.12

Amend section 27(1) to add:

(d) The Board must provide an information package to the newly certified employer, with a copy to the trade union, describing rights and obligations under the Code and including model language related to collective agreement provisions required by the Code.

CUPE BC opposes recommendation #12. An information package describing rights and obligations under the *Code* is helpful and is supported by CUPE BC. However, it will be very difficult to create model language for collective agreements to recommend to the parties. The Board will essentially be creating language that will be present in every collective agreement as once it is provided by the Board in the model package, it will be very difficult to move a party away from the proposed language.

Even collective agreement provisions that are typically or mandated to be included in every collective agreement can be and often are worded differently for each collective bargaining relationship. CUPE has extensive collective agreements across its locals and they are unique to the local and the bargaining relationship.

The only wording changes that could be acceptable would be very basic terms. This is of limited help to the parties. Also, when the parties work together to draft some of the more basic or common collective agreement provisions, this can be used to build consensus as a starting point in the negotiation process.

If recommendation #10 is implemented, CUPE BC submits that the model language must be minimal and developed through a joint consultation committee.

RECOMMENDATION NO.13

- A. *No change to the certification provisions of the Code.*
- B. *The Minister of Labour should establish advisory councils for domestic, agricultural, food delivery and ride hail workers, under the Employment Standards Act or regulation, to make recommendations for the establishment and enforcement of standardized terms and conditions of employment designed to address the challenges unique to these workers.*

and

RECOMMENDATION NO.14

An Industrial Inquiry Commission be established to consult with stakeholders to consider:

- a. *whether sections 79 and 80 are broad enough to enable sectoral bargaining in appropriate circumstances for a particular industry; and if not,*
- b. *whether those sections require amendment; and/or*
- c. *whether other additions or amendments to the Code (such as a companion to 41 for mandatory employers' associations or changes to Division 6 Employers' Associations) are required to allow mandatory accreditation of an employer's organization in specific circumstances; and make any appropriate recommendations.*

CUPE BC is deeply concerned by the Panel's recommendations on sectoral certification and bargaining — despite extensive submissions from labour unions, and other advocacy groups calling for such reforms. In addition to our own comments below, we strongly support the positions of the BC Federation of Labour and the BC Employment Standards Coalition with respect to recommendations 13 and 14.

The current enterprise-based model of labour relations was designed in the mid-20th century and is ill-suited to our current economic context with increasingly fragmented, precarious, and platform-based employment structures. Workers in sectors such as cleaning, child care, home care, food delivery, security, and rideshare services face near-insurmountable barriers to certification due to high turnover, irregular scheduling, and the misclassification of workers as independent contractors.

CUPE BC maintains that a single-issue commission with a mandate to examine the viability of sectoral certification and bargaining in BC and make recommendations to the Minister regarding a possible model or models that could be adopted and incorporated into the *Code*. This is the only meaningful path toward ensuring that all workers — regardless of sector or employment status — can access the rights and protections afforded by the *Code*.

With respect to Recommendation 13 B, we appreciate the Panel's recognition that there are occupational groups with employment issues that are need of immediate action. The Panel proposes advisory councils under the Employment Standards Act to provide recommended minimum standards within specific industries. However, these councils cannot substitute for enforceable collective bargaining rights. The proposed councils lack a path to certification, worker-led democratic structures and stability across political cycles. Additionally, the Employment Standards Branch (ESB) lacks the infrastructure to establish and maintain such councils. The ESB does not proactively enforce existing employment standards it is unlikely to have the capacity for this larger role.

RECOMMENDATION NO.16

...we do not recommend any additions to the list in section 35(0.1) at this time. Section 159(f)(ii) remains an option should sufficient appropriate information be available.

Banister Dissenting:

The incremental extension of successorship in contract retendering has proven successful. It has not resulted in a flood of applications and no legitimate concerns were brought to our attention. There is no principled reason to limit successorship protection to those services currently listed in section 35(0.1). This point was illustrated by an example in the live event sector; when the operations of the facility were retendered, the food service workers enjoyed successorship protection but the live event services did not.

I recommend:

A. The definition of “contract for services” in section 35(0.1) be deleted; or

B. Alternatively, at a minimum, the definition of “contract for services” in section 35(0.1) be amended to add:

- (g) waste management services;**
- (h) live event services; and**
- (i) forestry services**

CUPE BC agrees with the Banister dissent in recommendation 16, that there is no reason to limit successorship protection to the services currently set out under section 35(0.1) and that therefore the definition of “contract for services” in section 35(0.1) should be deleted.

Furthermore, the Panel’s reported statistics of applications filed under section 35(2) at the middle of page 30 of the Report are inaccurate. CUPE locals filed three s.35(2) applications concerning bus transportation services alone in the five years since section 35 was amended in 2019 and all three were granted by the Board. All three applications involved contract services being retendered and all three sets of predecessor and successor employers voluntarily recognized that employer successorship had occurred under s.35(2) of the *Code* without dispute.

CUPE BC therefore supports the recommendations of other unions to extend successorship to contract retendering in all sectors, and agree there is no rational basis for limiting this protection to certain sectors.

We also support HEU's recommendation to extend successorship to the repatriation of previously contracted out work, like that which was in issue in *Health Employer's Association of B.C.* BCLRB No. B20/2023 ("Redfish").

RECOMMENDATION NO.17 and RECOMMENDATION NO.18

Recommendation #17: No change is required to sections 35 to enable unions access to the information and documents necessary to advance successorship or common employer applications.

Recommendation #18: Retain the existing language of section 38.

CUPE BC disagrees with the Panel and submits existing language of sections 35 and 38 should be amended to impose a "burden of proof" obligation on employers seeking to oppose an employer successorship application or a common employer application.

With respect, contrary to the assertions of the Panel, placing the evidentiary burden on the employer when a common employer or employer successorship application is filed will not be a fundamental change to the *Code*. Employers already have "burden of proof" obligations under other *Code* provisions concerning employer conduct that seriously affects the Union's continued ability to represent their members, such as unfair labour practices filed under sections 6(3)(a) and (b) or when an employer suspends or discontinues operations in their establishment for a cause not constituting a lockout under section 63(2). The purpose of both a common employer declaration and an employer successorship declaration is to ensure existing union certifications and collective bargaining rights, that unions have fought hard to obtain and to maintain, are preserved.

We recommend section 35 be amended to include the following subsection:

(3.1) The burden of proof of an application filed under this section is on the employer.

We recommend section 38 be amended to include the following subsection:

38 If in the board's opinion associated or related activities or businesses are carried on by or through more than one corporation, individual, firm, syndicate or association, or a combination of them under common control or direction, the board may treat them as constituting one employer for the purposes of this Code and grant such relief, by way of declaration or otherwise, as the board considers appropriate.

(1) The burden of proof of an application filed pursuant to 38(1) is on the employer.

RECOMMENDATION NO.19

Retain the existing language of sections 45(1)(b) and 45(1.1)

CUPE BC disagrees with the Panel's recommendations to retain the existing language of sections 45(1)(b) and 45(1.1). There remains no rational basis for time-limiting the freeze period under section 45(1)(b) at all. While the Panel recognized other jurisdictions freeze periods that lasts until a first collective agreement is concluded (Saskatchewan) or until a strike/lockout or the conclusion of a first collective agreement (Ontario, Quebec, and Federal), the Panel found the 12 months freeze period currently under section 45(1) can effectively be further extended until a first collective agreement is concluded if an application is made under section 55 of the *Code*. Respectfully, this extended protection should be provided to all unions negotiating a first collective agreement without placing unnecessary administrative burdens on the immediate parties to collective bargaining and the Labour Relations Board.

We recommend amending section 45(1) by simply deleting s.45(1)(b)(i) and adding language similar to that in section 45(2)(a), as follows:

45 (1) When the board certifies a trade union as the bargaining agent for employees in a unit and a collective agreement is not in force,

(a) the trade union may by written notice require the employer to commence collective bargaining, or the employer may by written notice require the trade union to commence collective bargaining, and

(b) subject to subsection (1.1), the employer must not increase or decrease the rate of pay of an employee in the unit or alter another term or condition of employment until

(a) a strike or lockout has commenced,

(b) a new collective agreement has been negotiated, or

(c) the right of the trade union to represent the employees in the bargaining unit has been terminated,

whichever occurs first.

RECOMMENDATION NO.20

A. Amend section 53(4) as follows:

53(4) The purpose of the consultation committee is to:

- a) promote the cooperative resolution of workplace issues, **including but not limited to work reorganization, productivity, technological change,***
- b) respond and adapt to changes in the economy,*
- c) foster the development of work related skills and*
- d) promote workplace productivity.*

B. The B.C. government undertake a consultation process on the impacts of AI which must involve unions, employers and employees to determine, amongst other things, whether any changes to employment related legislation (including the Employment Standards Act, Labour Relations Code, Human Rights Code, Personal Information Protection Act and Freedom of Information and Protection of Privacy) are required.

Banister dissent:

...I propose adding section 54.1 to encourage consultation and specifically address the impacts on employment caused by Generative AI before the decision becomes irrevocable.

54.1 (1) If an employer intends to introduce generative artificial intelligence that may affect the terms, conditions or security of employment of a significant number of employees to whom a collective agreement applies,

(a) the employer must give notice to the trade union that is party to the collective agreement at least 120 days before the date on which generative artificial intelligence may be introduced;

(b) the notice provided must include:

- (i) the nature of the proposed generative artificial intelligence;*
- (ii) the earliest date on which the employer intends to introduce the generative artificial intelligence;*
- (iii) approximate number and type of jobs which may be affected by the generative artificial intelligence; and*

(iv) the rationale for the proposed generative artificial intelligence

(c) after notice has been given, the employer must consult with the trade union concerning potential alternatives to the proposed introduction of generative artificial intelligence; and

(d) if generative artificial intelligence will be introduced the parties must endeavor to develop an adjustment plan which may include provisions respecting any of the following:

- (i) human resource planning and employee counselling and retraining;*
- (ii) notice of termination;*
- (iii) severance pay;*
- (iv) entitlement to pension and other benefits including early retirement benefits;*
- (vi) a bipartite process for overseeing the implementation of the adjustment plan.*

(2) If, after meeting in accordance with subsection (1)(d), the parties have agreed to an adjustment plan, it is enforceable as if it were part of the collective agreement between the employer and the trade union.

(3) If, after meeting in accordance with subsection (1)(d), the parties have not agreed to an adjustment plan, either party may apply to the associate chair of the Mediation Division for the appointment of a mediator to assist the parties in developing an adjustment plan.

(4) An application under subsection (3) must include a list of the disputed issues.

(5) If a mediator is appointed, the parties must provide the mediator with the information the mediator requests concerning the proposed measure, policy, practice or change, the anticipated impact of the proposal and the efforts to develop an adjustment plan.

(6) If, after mediation, the parties have not agreed to an adjustment plan, the mediator may

make recommendations for the terms of an adjustment plan for consideration by the parties.

(7) If, after mediation, the parties have agreed to an adjustment plan, it is enforceable as if it were part of the collective agreement between the employer and the trade union.

(8) Subsections (1), (2) and (7) do not apply to the termination of the employment of employees exempted by section 65 of the Employment Standards Act from the application of section 64 of that Act.

CUPE BC supports the panel's recommendation to amend s.53.4 to identify technological change as a topic for joint consultation committees. We also share Sandra Banister's view that stronger measures are needed as new technologies are rapidly being introduced to BC workplaces. However, Banister's proposed new s.54.1 is limited to "generative AI", leaving many harmful technologies outside its scope. Algorithmic systems used for surveillance, scheduling, hiring, and automated decision-making pose equally serious risks to workers, and must also be addressed.

CUPE BC recommends broadening Banister's proposed s.54.1 to cover all data-driven and algorithmic technologies, not just generative AI. Section 54 should overall be strengthened to require negotiated adjustment plans, with a more robust dispute resolution process that includes arbitration where an agreement cannot be reached. Employers should also be required to conduct and disclose risk assessments before introducing new technologies, so that unions have the information they need to negotiate meaningful protections.

Given the complexity and fast-changing nature of AI and automation, we echo the BC Federation of Labour's call for a provincial commission to examine the impacts on BC's workplaces and make recommendations that protect workers' privacy, job security, and autonomy.

RECOMMENDATION NO.21

No changes to section 65 or section 68

Banister dissent:

I accept the balance between the current picketing provisions and replacement workers have had a positive impact on labour stability and investment and therefore no major change is required. However, s. 65(8) is a significant and unwarranted fetter on the exercise of the Board's discretion in picketing cases.

I recommend:

Repeal section 65(8)

CUPE BC opposes recommendation #21 and supports the dissent of Banister in regard to repealing section 65(8). CUPE BC maintains its position regarding picketing from its original submission and endorses the positions of the BCFED and BCGEU's Code Review Submission.

In making recommendation #21, the panel accepted that the legislated limits to picketing set out in section 65 of the *Code* are balanced with the ban of replacement workers set out in section 68 of the *Code*. However, a review of other jurisdictions across Canada demonstrates that a balancing of power between employers and unions during a labour relations dispute can be achieved without such significant limits on picketing as is set out in the *Code*. For example, in Manitoba and Federally, there is legislation banning the use of replacement workers, but no corresponding legislated limits on picketing. There is no evidence that these jurisdictions have more deleterious or less effective labour disputes than British Columbia. The "balancing" that is referenced by the panel is not a sufficient reason not to amend unconstitutional picketing limitations as currently set out in the *Code*.

RECOMMENDATION NO.24

Amend section 104 as follows:

Add section 104(1)(a): "When a difference is referred under this section, the applicant must indicate if they request the appointment of a settlement officer pursuant to section 104(4)(c)"

*Add section 104(1)(b): "**Within three (3) days of the referral under this section, the respondent must indicate if they request the appointment of a settlement officer pursuant to section 104(4)(c)**"*

*Amend section 104(5): "If a settlement officer is appointed under subsection (4), the settlement officer must, within **14** days after the appointment or within such further time as the director may allow, inquire into the difference endeavor to assist the parties in settling the difference, and report to the director on the results of the inquiry and the success of the settlement effort."*

Amend section 104(a):

(4) if a difference is referred to the director within the time periods specified in this section, the director

*(a)(i) "must, **if a settlement officer is not appointed**, appoint an arbitrator*

within three (3) business days of the time limited by section 104(1)(b); or

(a)(ii) “must, if a settlement officer is appointed and the matter is not resolved within the time period stipulated under section 104(5)(c), appoint an arbitrator within three (3) business days of the report to the director under section 104(5)(c).

Add section 104(8.1)(0.a):

“on application of either party, decide the matter is not appropriate to be dealt with under section 104, and in the that event will remain seized to arbitrate the matter under section 89 of the Code;”

Amend section 104(6.1)(b):

“conclude the arbitration **hearing** within 90 days after the date on which **the arbitrator was appointed**”.

Amend section 104(7)(b)

*(b) the arbitrator must issue a decision with reasons not exceeding **10** pages within 30 days after the conclusion of the **arbitration hearing** unless an oral decision has been issued under paragraph (a) of this subsection and the parties agree that written reasons are not required.*

CUPE BC partially supports recommendation #24. The sections of the recommendation that CUPE BC supports are:

4. Procedural amendments expediting the appointment and use of a settlement officer;
5. Adjusted appointment time of an arbitrator; and
6. Expanding the page limit for decisions.

CUPE BC agrees these amendments will assist with the expeditious and fair resolution of disputes referred under section 104.

CUPE BC opposes the following provisions of recommendation #24:

3. The addition of the power to arbitrators to decide a matter is not appropriate to proceed under section 104 and remain seized; and
4. The amendment to Section 104(6.1)(b).

As noted by the 2018 Section 3 panel, allowing certain grievances not to proceed through section 104 “would limit the utility of Section 104 by excluding a wide range of grievances.” Giving the power to arbitrators to determine whether a matter is appropriate to proceed

through the 104 process or not will lead to increased litigation and significant delays in the resolution of matters. Arbitrators will need to hear applications as to whether the matter is appropriate for section 104, thus delaying the hearing of the grievance. This can be used by employers as a delay tactic and to force matters out of the section 104 process and timelines. If a matter is removed from the section 104 process for any reason, the parties should not be required to retain the same arbitrator as was appointed under the expedited process.

Extending the timeframe under section 104 decreases its effectiveness. Currently, the arbitration must conclude within 90 days. This requires parties to proceed expeditiously to ensure the hearing is concluded within enough time for the Arbitrator to issue their decision within the 90-day time limit. It also provides a timeframe for the Arbitrator to make their decision further resolving the dispute quickly. By amending the language such that the hearing will conclude within 90 days gives no deadline for a decision from the Arbitrator and can significantly extend the timeframe for resolution under section 104, limiting its effectiveness and contrary to its purpose.

APPENDIX A: CUPE BC 2024 SUBMISSION TO THE BC LABOUR RELATIONS CODE REVIEW PANEL



MODERNIZING THE BC LABOUR RELATIONS CODE:

Submission to the 2024 Labour
Code Review Panel



About CUPE BC

CUPE BC represents more than 100,000 workers in British Columbia who deliver public services across a wide range of sectors including public and post-secondary education, childcare, community social services, community health, local government, transit, emergency services, and libraries.

We acknowledge that our province of British Columbia is located on the homelands of 203 distinct Indigenous nations and cultures; more than 30 different languages and close to 60 unique dialects are spoken in the province. We ask all participants to reflect, acknowledge and honour in their own way the First Nation land on which they are located.



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INTRODUCTION AND OVERVIEW

The Canadian Union of Public Employees, BC Division, represents over 100,000 members working in municipalities, schools, colleges, universities, libraries, health, emergency medical services, social services, and transportation. We welcome the opportunity to participate in the review of British Columbia's workplace laws, including the *Labour Relations Code*.

Minister Harry Bains appointed a three-member panel to review the BC *Labour Relations Code* (the "Code") in January of 2024. The panel is "tasked with consulting interest groups and Indigenous parties across the province, and reporting back to the Minister...with a report and recommendations for potential amendments" to the *Code*. This panel should continue the work of the 2018 Labour Code Review panel by restoring the historic balance sought when the *Code* was created, and our present model of modern labour relations was established. This balance was premised on labour stability by regulating strikes on the one hand, while facilitating unionization through the certification process on the other hand. Over the fifty years since the *Code*'s inception that compromise between employers and labour has been eroded by governments intent on shifting power to employers and never fully restored under governments more attuned to the interests of working people.

The implementation of recommendations made by the Labour Code Review panel in 2018 resulted in a substantial move toward the historic balance referenced above, particularly the implementation of a single-step certification process and a return to limitations on employer speech as it relates to the workers' choice to certify a union. Single step certification significantly improved workers' ability to actualize their constitutionally-protected right to freely associate and join a union.

The present review should continue the positive work of restoring fairness in the *Code* and remove barriers that restrict workers from exercising their Charter right to access collective bargaining by recommending amendments to modernize the *Code* in a manner that recognizes the changing nature of workplaces and the increase of precarious employment.

Unions give workers an opportunity to negotiate for improvements to wages and conditions of employment. Unionized workers have greater job security, and better access to vacation, extended health benefits, pensions, and a host of other employment-based benefits. Higher-union-density jurisdictions see improvements for all workers, in part because all employers have to offer better terms and conditions to attract employees, and in part because a strong labour movement helps to raise legislated minimum standards. Barriers to unionization that exist in the *Code* ultimately drag down the standards for all workers in the province. Because unionization across the economy has broad implications for all workers, it is imperative that workers' right to access union certification and collective bargaining not be eroded because legislation is outpaced by the evolving nature of work and economy.

For well over a decade, work and workplaces have been rapidly changing, and that change has only accelerated since the *Code* review conducted in 2018. Increasingly, work is performed remotely, on either a part-time or full-time basis. It is common that workers for a single employer are spread across a wide geographic area. In some instance workers have little or no contact with each other and are rarely in the same physical location. Employment precarity has also risen dramatically, with more workers than ever employed by app-based employers such as ride hailing and food delivery services. Some of these employers have thousands of employees. These workers, by the very nature of their employment, have little to no ability to connect with each other to communicate effectively about something as basic as their workplace rights, and under the current *Code* provisions face systemic barriers to accessing collective bargaining.

The economy is increasingly characterized by the fracturing of work into small units, sometimes single workers, working for many employers within the same sector of the economy. While B.C.'s existing certification and bargaining mechanisms do not technically bar workers in these circumstances from forming a union and bargaining; the reality is that these workers cannot exercise their rights in a meaningful way.

This Panel should recognize these generational and technological shifts that shape work in our province and make recommendations for *Code* amendments that provide meaningful access to collective bargaining for all workers. This Panel should also consider the changed nature of the government's relationship with Indigenous people in British Columbia and the implications of the implementation of the Declaration on the Rights of Indigenous Peoples Act (the "Declaration Act").

The following are CUPE BC's recommendations for reforms to the *Code* to achieve these ends. We firmly believe that these recommendations

are a step in the right direction to better align with present day realities. These changes, if adopted, will make a positive difference in the lives of working people by restoring balance in labour relations in our province.

We would like to highlight several areas that we are particularly concerned about, which we believe should be the first areas on which the government acts:

- Expand successor rights so that all unionized workers maintain their collective agreements and collective bargaining rights when work is contracted out and contracts are re-tendered to successive contractors.
- Amend provisions of the *Code* related to secondary and common site picketing so that they comply with the *Charter*.
- Extend the post-certification "statutory freeze" period until a first collective agreement is reached.
- Make recommendations that provide for multi-employer, sectoral certifications for traditionally difficult to organize sectors.

SUCCESSORSHIP RIGHTS

Successor rights are a necessary protection for workers and their unions. The practices of contracting out, contract retendering and cancellation undermine the democratic rights of workers to join and remain in unions and undermine collective bargaining. In cases of contracting out, unions lose bargaining rights and negotiated agreements, and workers lose their jobs. Successor rights help protect vulnerable workers.

Despite improvements made to the *Code* in 2019, workers continue to be vulnerable in a number of sectors that are regularly subjected to the practice of contracting out, such as residential and long-term care in the healthcare system. We support the broadest possible extension of successor rights. Any work that is covered by a collective agreement should be protected by successor rights provisions. Amendments to the *Code* in 2019 provided extended successorship protections to workers in particular sectors;

- (a) building cleaning services;
- (b) security services;
- (c) bus transportation services;
- (d) food services;
- (e) non-clinical services provided in the health sector.

This extended successorship protection has been in place for a number of years now without issue, and has reasonably protected the hard-fought rights of workers. This protection should be provided to all unionized workers. This necessary expansion is achieved with relative ease, by removing the specification that the provision only applies to the above sectors.

When workers exercise their constitutional rights to freedom of association by joining a union, their rights should be maintained at their workplace. They should not lose their hard-fought rights through contract re-tendering or transfer of workers or work functions that fall outside the Board's interpretation of successorship provisions in the *Code*.

The only effective way to protect workers' bargaining rights is to guarantee that their union certification, their collective agreement, and their bargaining rights follow them when work is transferred from one company (or public sector organization) to another employer. The new employer will thus be responsible for upholding the terms and conditions of the collective agreement, and subsequently negotiating a new collective agreement upon its expiry. Access to fundamental democratic rights should not be overridden by loopholes that allow employers to avoid the application of the *Code* simply by structuring a transfer in a way that falls outside of existing provisions.

We recommend an extension of collective bargaining rights and collective agreements in cases in which work is contracted out or retendered; work or workers are transferred, and in all sale of business cases regardless of the form taken. These changes will bring considerable benefits to workers with minimal, if any, downside to employers. As the 2018 Code Review Panel reported, since B.C. has had successorship protection, businesses in B.C. are bought and sold regularly without any discernable negative implications despite the initial concerns of the business community.

As the 2018 Code Review Panel recommended, changes to the successorship language should be retroactive to the date of the Panel's Report to prevent contracts being cancelled to avoid the application of the extension of expanded successorship rights.

Furthermore, given that unions and workers do not have ready access to documentation required to establish successorships as this information is normally solely in the possession of employers and successorships can happen fairly quickly, we recommend that the *Code* be amended to place the evidentiary burden on employers, and require that they disclose all relevant documents, in cases where a successorship or common employer application is filed.

RECOMMENDATION 1: Amend successorship provisions so that the certification follows a transfer of workers and work to reflect the modern realities of contract tendering, retendering and cancelling, and modern forms of corporate transfer. Place the primary evidentiary burden on the employer when a successorship or common employer application is filed.

RECOMMENDED SUCCESSORSHIP LANGUAGE

Successor rights and obligations

- 35** (1) If a business or a part of it is sold, leased, transferred or otherwise disposed of, the purchaser, lessee or transferee is bound by all proceedings under this Code before the date of the disposition and the proceedings must continue as if no change had occurred.
- (2) If a collective agreement is in force, it continues to bind the purchaser, lessee or transferee to the same extent as if it had been signed by the purchaser, lessee or transferee, as the case may be.
- (2.1) [Not enacted.]
- (2.2) If a contract for services is retendered and substantially similar services continue to be performed, in whole or in part, under the direction of another contractor,
- (a) the contractor is bound by all proceedings under this Code before the date of the contract for services entered into by the contractor and the proceedings must continue as if no change had occurred, and
 - (b) any collective agreement in force continues to bind the contractor to the same extent as if it had been signed by the contractor.
- (3) If a question arises under this section, the board, on application by any person, must determine what rights, privileges and duties have been acquired or are retained.
- (4) For the purposes of this section, the board may make inquiries or direct that representation votes be taken as it considers necessary or advisable.
- (5) The board, having made an inquiry or directed a vote under this section, may
- (a) determine whether the employees constitute one or more units appropriate for collective bargaining,
 - (b) determine which trade union is to be the bargaining agent for the employees in each unit,
 - (c) amend, to the extent it considers necessary or advisable, a certificate issued to a trade union or the description of a unit contained in a collective agreement,
 - (d) modify or restrict the operation or effect of a provision of a collective agreement in order to define the seniority rights under it of employees affected by the sale, lease, transfer or other disposition, and
 - (e) give directions the board considers necessary or advisable as to the interpretation and application of a collective agreement affecting the employees in a unit determined under this section to be appropriate for collective bargaining.
 - (f) on an inquiry by the board into an application under this section, the employer bears the burden of proof to establish that no successorship has occurred.

COMPLIANCE WITH UNDRIP

In November of 2019 the historic *Declaration Act* came into effect in the province of British Columbia. One of the objectives of the *Act* is that the province's laws are brought into alignment with the UN Declaration on the Rights of Indigenous Peoples. CUPE BC supports the ongoing work towards reconciliation.

Section 3 of the *Declaration Act* requires that the province “in consultation and cooperation with Indigenous Peoples” take “all measures necessary” to ensure consistency between the laws of British Columbia and the United Nations Declaration on the Rights of Indigenous Peoples.

We trust that this commitment guides this Panel. However, we respectfully submit that that this is outside the current review's mandate, and in any event the review's timelines do not allow meaningful and good faith consultation with stakeholders in the labour relations community and Indigenous people. The panel should recommend that the province work with the Declaration Act Secretariat to review the *Code* and make such changes as are necessary to comply with Section 3 of the *Declaration Act*.

RECOMMENDATION 2: The province engage in a process consistent with Section 3 of the Declaration Act to make the B.C. Labour Relations Code compliant with the province's commitments to the U.N. Declaration on the Rights of Indigenous Peoples.

WORKER ACCESS TO UNIONIZATION

EQUAL ACCESS TO EMPLOYEE LIST

The nature of work and workplaces in British Columbia is changing rapidly and many workplaces have undergone transformational change since the last *Code* review in 2018. Now, more than ever, workers are employed remotely some or all the time, a trend that was accelerated by the COVID 19 pandemic. The prevalence of app-based work has also grown at an astounding rate. The new ways in which people are employed are now permanent features of our economy and the *Code* must adapt accordingly to provide workers with meaningful access to union certification and collective bargaining.

In 2016 the province of Ontario's "*Changing Workplaces Review*" recognized the trend toward more fractured workplaces and the implications that has for workers' ability to communicate with each other about their conditions of employment. That review recommended that employers be required to provide a list of employees where a union made application and had obtained the support of 20% of the workers in a proposed bargaining unit.

Employers have complete control of information regarding who employees are, where and when they work, and how to communicate with them. Even in more traditional workplaces, technological change has made it more difficult for workers to identify and communicate with their colleagues. Workers must be provided with access to their colleagues if they are going to have any meaningful ability to freely associate and have a union in their workplace should they choose to do so.

Some have raised employee privacy concerns, however union organizing does not entail a group of third-party union representatives coming in and taking over a workplace. Instead, union organizing entails employees in the workplace banding together and either forming or joining an existing trade union so they can access the rights and responsibilities that flow from union certification under the *Labour Relations Code*. This is not an external process imposed on the workplace. This is an internal process involving workers acting together to achieve their right to associate.

Therefore, we recommend provision of employee lists containing work location, job title, and personal contact information, once the union has 20% threshold as this strikes an appropriate balance of facilitating union organizing in the modern workplace while avoiding unwarranted dissemination of personal information.

RECOMMENDATION 3: Require employers provide an employee list, including contact information, when a union makes an application and meets a threshold of 20% support among members in a proposed bargaining unit.

MEMBERSHIP EVIDENCE VALIDITY EXTENSION

Membership cards are valid for six months under Regulation 3 of the *Code*. The validity of membership evidence should be extended to twelve (12) months to reflect the organizing challenges that persist for many difficult to organize sectors and workplaces in the province. The 2018 Code Review Panel reflected that features of the modern economy included “smaller workplaces, variety of shifts, working from home and remote worksites, and turnover”. These features of the modern economy and modern workplaces persist today.

Membership evidence is valid in Ontario for 12 months as a matter of practice upheld by the Ontario Labour Relations Board for almost two decades. This suggests 12 months is a reasonable time frame for a union to obtain signed membership cards before filing a certification application.

RECOMMENDATION 4: Amend Regulation 3 to provide that membership evidence be valid for a period of 12 months.

MULTI-EMPLOYER, SECTORAL CERTIFICATIONS

The limitations of the existing Wagner Act model to facilitate collective bargaining across our diverse economy are well known and the subject of discussion for a considerable time. A majority of the 1992 Code Review Panel made a recommendation to address the need for sectoral bargaining that was not adopted by the government of the day. Since that time a new approach to union certification in

certain economic sectors and modernization of the *Code* has only become more urgent.

Workers in highly fractured or remote work environments such as domestic and app-based workers, and employees of franchises and other small operations face systemic barriers to accessing union certification and collective bargaining. And, where unions are able to secure certifications in these sectors, union density is insufficient for workers to bargain effectively. Given that these workforces are comprised disproportionately of people from equity denied groups it is imperative that structural barriers to accessing their charter rights to organize a union and collectively bargain are removed.

The 2018 Code Review Panel recognized the limitations of the existing model of obtaining collective bargaining rights and the need for the *Code* to be amended. However, they were not prepared to make a specific recommendation for a new model. That panel saw the need for more in-depth analysis of the issue by a single-issue commission. We strongly urge the Panel to make the appointment of a single-issue commission a key feature in your recommendations to the Minister. Further, we strongly believe that such a consultation should not be open-ended; a single-issue commission reviewing broader based bargaining should consult on a specific sectoral bargaining model, or models, to provide focus and narrow the scope of the feedback it receives.

RECOMMENDATION 5: The province appoint a single-issue commission to investigate and make recommendations that provide for multi-employer, sectoral certifications (Broader Based Bargaining) for traditionally difficult to organize sectors.

EXTENDING THE POST-CERTIFICATION STATUTORY “FREEZE”

A statutory freeze on terms and conditions of employment after union certification is a standard principle in Canadian labour relations. As the 1998 Section 3 Committee observed in their Report, “The statutory freeze... is designed to level the playing field during first contract negotiations.” It prevents employers from engaging in reprisals against employees who choose to unionize and fosters conditions for a smooth collective bargaining process. There is no guarantee that any particular condition will remain in place; but there is a guarantee that during the freeze period there will not be ongoing disruptions to collective bargaining due to unilateral changes to working conditions. In fact, one goal of unionization is to prevent the unilateral imposition of employment terms by employers.

The 1998 Section 3 Committee noted that, at that time, it took an average of six to nine months to conclude a first agreement

and recommended extending the “freeze” period to eight months to better align with that timeframe. In 2019, in keeping with the recommendation of the 2018 Labour Relations Code Review Panel, the *Code* was amended to extend the freeze period to 12 months.

However, there is no rational basis for time-limiting the freeze period at all and some jurisdictions in Canada have eliminated this time limit. Employers can readily delay bargaining by engaging in tactics that extend negotiations beyond whatever time period is established. There is an incentive to do so, as employers then have free rein to change terms and conditions of employment with little consequence or remedy for the affected workers, who are particularly vulnerable. Given this power imbalance, it makes abundant sense to remove the reference to a time-duration for a statutory freeze post-certification. This would simply require deleting s.45(1)(b)(i) and adding language similar to that in s.45(2)(a).

RECOMMENDATION 6: Extend the statutory “freeze” post-certification until the parties reach a first collective agreement.

RECOMMENDED STATUTORY “FREEZE” LANGUAGE

It is recommended that s.45(1)(b) be amended to read:

- 45 (1)** When the board certifies a trade union as the bargaining agent for employees in a unit and a collective agreement is not in force,
- (b) the employer must not increase or decrease the rate of pay of an employee in the unit or alter another term or condition of employment until
 - (i) a strike or lockout has commenced, or
 - (ii) a collective agreement is executed.

The recommended language found on the preceeding page would not prevent an employer from making bona fide changes to working conditions or wages. It would require application to the Board under s.45(3). This would balance an employer's legitimate business needs with protection for workers when they are most vulnerable, restoring balance in labour relations in a manner that is consistent with the purposes of the *Code*.

As noted by the 2018 Code Review Panel, changes to the freeze period require change to other relevant sections of the *Code*. It follows that revocation under Section 33 should not be permitted during the freeze period to permit sufficient time to conclude a first collective agreement.

If an application has been made under Section 55, the freeze should continue until that process has been completed.

STRIKES AND PICKETING

DEFINITION OF “STRIKE”

The current definition of “strike” in section 1 of the *Code* no longer contains a subjective intention, and reads as follows:

“strike” includes a cessation of work, a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding, or a slowdown or other concerted activity on the part of employees that is designed to or does restrict or limit production or services, but does not include

- (a) a cessation of work permitted by section 63(3), or
- (b) a cessation, refusal, omission or act of an employee that occurs as the direct result of and for no other reason than picketing that is permitted under this Code, and “to strike” has a similar meaning;

On the other hand, the current definition of “lockout” under section 1 of the *Code* includes an intention to compel:

“lockout” includes closing a place of employment, a suspension of work or a refusal by an employer to continue to employ a number of his or her employees, done to compel his or her employees or to aid another employer to compel his or her employees to agree to conditions of employment;

The definitions of “strike” and “lockout” are not balanced in the *Code*. Employers can engage in conduct that would meet the objective element of a “lockout” (i.e., significant changes to terms and conditions of employment). But the Union has the additional burden of proving the subjective element in order to have the conduct declared a lockout. On the other hand, employees are prohibited from stopping or slowing down work, or limiting production, in combination or concert regardless of whether or not they intend to compel their employer to agree to terms or conditions of employment.

This results in a significant imbalance: the Union must rely on the slower grievance process to deal with unlawful changes to working conditions rather than file an application alleging an unlawful lockout. Yet the Employer can bring the Union before the Board and ultimately seek significant damages even where workers did not intend their conduct to amount to a “strike”.

This lack of a subjective element can also result in workers being found to have engaged in an illegal strike when they respect the picket line of federally certified workers who are engaging in a legal strike and legal picketing under federal labour legislation.

Thus, the definition of “strike” should include the subjective element, i.e. to compel their employer to agree to terms and conditions of employment.

RECOMMENDATION 7: Restore the definition of “strike” to include the intention to compel the employer to agree to terms of employment.

SECONDARY PICKETING

Restrictions on secondary picketing should be removed so that the *Code* complies with Supreme Court of Canada decisions recognizing that secondary picketing is a constitutional right guaranteed by the Charter rights to both freedom of expression and freedom of association.

Unlike other Canadian jurisdictions, secondary site picketing is still unlawful in most circumstances under the *Code*. The justification that corresponding restrictions on both secondary picketing and the use of replacement workers during a labour dispute maintains “an appropriate balance” is no longer reasonable. Secondary picketing restrictions have not been maintained in other jurisdictions and notably the recent introduction of Bill C-58 - An Act to amend the Canada Labour Code and the Canada Industrial Relations Board Regulations, 2012 did not include a “corresponding restriction” on secondary picketing to “balance” the introduction of robust measures to prevent the use of replacement workers in by federally regulated employers.

RECOMMENDATION 8: Repeal restrictions on secondary picketing.

COMMON SITE PICKETING

The Board’s approach to applications for common site picketing relief by a “neutral third party” involves the neutral third party proposing picketing restrictions that would relieve them from being impacted by the effects of picketing altogether. Under s.65(7), the Board “must” adopt the common site picketing relief proposals of a neutral third party unless the proposals result in a complete prohibition on picketing, in which case the Board will restrict picketing geographically or temporally to limit the impact on the neutral third party.

Section 65(7) in its plain wording and the Board’s approach to implementing the provision are inconsistent with workers’ constitutionally protected rights to strike and picket under ss.2(b) and 2(d) of the *Charter*. Section 65(7) should be amended to recognize these constitutionally protected rights and require the Board to only grant common site picketing restrictions in a manner that is minimally impairing on a union’s right to strike and picket.

RECOMMENDATION 9: Amend provisions related to common site picketing relief to comply with the right to strike under s.2(d) of the *Charter*.

PICKET LINES OF OTHER JURISDICTIONS

We understand that this matter is currently before the Legislature, but as the Bill to amend the Code's definition of strike has yet to pass third reading, we provide the following recommendation.

The definition of strike should be changed so that workers who honour a picket line at a federally regulated workplace will not be penalized as engaging in an illegal strike. To be consistent with the Charter-protected values of free expression and association, the *Code* must protect the right to respect picket lines, regardless of the jurisdictional origin of those picket lines. This change can be made to Section 1 of the *Code* by simply changing the current phrase "picketing that is permitted under this Code", to "picketing that is not prohibited under this Code".

RECOMMENDATION 10: Recognition of legal picket lines from another jurisdiction.

SUMMARY OF RECOMMENDATIONS

RECOMMENDATION 1: Amend successorship provisions so that the certification follows a transfer of workers and work to reflect the modern realities of contract tendering, retendering and cancelling, and modern forms of corporate transfer. Place the primary evidentiary burden on the employer when a successorship or common employer application is filed.

RECOMMENDATION 2: The province engage in a process consistent with Section 3 of the *Declaration Act* to make the B.C. Labour Relations Code compliant with the province's commitments to the U.N. Declaration on the Rights of Indigenous Peoples.

RECOMMENDATION 3: Require employers provide an employee list, including contact information, when a union makes an application and meets a threshold of 20% support among members in a proposed bargaining unit.

RECOMMENDATION 4: Amend Regulation 3 to provide that membership evidence be valid for a period of 12 months.

RECOMMENDATION 5: The province appoint a single-issue commission to investigate and make recommendations that provide for multi-employer, sectoral certifications (Broader Based Bargaining) for traditionally difficult to organize sectors.

RECOMMENDATION 6: Extend the statutory "freeze" post-certification until the parties reach a first collective agreement.

RECOMMENDATION 7: Restore the definition of "strike" to include the intention to compel the employer to agree to terms of employment.

RECOMMENDATION 8: Repeal restrictions on secondary picketing.

RECOMMENDATION 9: Amend provisions related to common site picketing relief to comply with the right to strike under s.2(d) of the *Charter*.

RECOMMENDATION 10: Recognition of legal picket lines from another jurisdiction.

CONCLUDING REMARKS

In addition to the recommendations above, CUPE BC supports the BC Federation of Labour's submission to this panel.

The Panel instructed stakeholders to identify their desire to participate in a public hearing as part of their submission and identified two possible dates in Vancouver. CUPE BC requests to attend a public hearing in Vancouver on either of April 5th or May 7th 2024, our preference is for May 7th if that date is available.

The BC *Labour Relations Code* requires ongoing review; revisions should continue to restore balance and fairness in labour relations in our province to provide workers with meaningful access to their *Charter* protected rights to freely associate and bargain collectively. Furthermore, changes in the labour market, and the structure of employment relations exacerbate the limitations of the *Code*. A broad array of reforms, set out in this submission, is therefore necessary to redress the inadequacies of the *Code* and bring it in line with the realities of modern employment relations.





CUPE/SCFP Local 2278

Canadian Union of Public Employees/Syndicat canadien de la fonction publique

18th September 2025

Ministry of Labour
PO Box 9594 Stn Prov Govt
Victoria, BC V8W 9K4

Re: Reply Submission Section 3 Review Panel's Recommendations

Thank you for the opportunity to comment on the report of the 2024 Section 3 Labour Code Review Panel's recommendations for the BC *Labour Relations Code* (the Code).

I write on behalf of CUPE 2278, which represents thousands of academic workers at The University of British Columbia (UBC) and The University of Northern British Columbia (UNBC). Specifically, we represent Teaching Assistants, Graduate Academic Assistants, and Tutors at UBC, Exam Invigilators at UBC's Centre for Accessibility, Instructors in the English Language Institute at UBC, and Graduate Teaching Assistants at UNBC.

Our local union does not, however, represent Graduate Research Assistants (GRAs) at UBC, despite over 55% of them signing union cards in 2022-23. UBC objected to our certification application on the grounds that GRAs are not employees, and that they do not perform work within the purposes of the Code. This is patently not true, but unfortunately the Labour Relations Board sided with UBC and these workers' application to certify their union was rejected.

GRAs are graduate students who conduct research, some of which will be used in their thesis. Almost all of the research produced is at the direction of and for the benefit of the professor that employs the GRA, and therefore ultimately for the university. GRA-generated research comprises the majority of the research conducted at UBC—research that is published in the most prestigious journals in the world, that fuels the prestige of professors and the university, and that drives innovation in this province.

While a thesis that results from this research is part of degree requirements, it is still work that UBC draws direct benefit from, and work that is being conducted by highly qualified personnel under the supervision of a professor. The structure of this relationship can be compared to that of a trade apprenticeship. In an apprenticeship, the apprentice gains skills and works towards a certification and at the same time is engaged in productive labour for the benefit of another party. This is very similar to the case of GRAs, in which they produce research output while also pursuing their degree. However, apprentices are rightly considered to be employees, but GRAs are not. GRAs need to be considered employees with the corresponding rights and entitlements.

GRAs are paid by UBC to conduct research. They have supervisors and there are expectations as to their productivity as well as other common workplace metrics that must be met. Much like other employees, if they fail to meet these expectations, they could receive reduced pay, or be dropped by their supervisor, akin to being fired. GRAs have a designated number of holidays which they have to obtain permission of their supervisor to schedule, and most have defined minimum hours of work.



CUPE/SCFP Local 2278

Canadian Union of Public Employees/Syndicat canadien de la fonction publique

Like other workers in a workplace, there is a significant power imbalance between supervisors and GRAs and that power imbalance is frequently abused. Supervisors have power over working conditions including pay, future career prospects, immigration status, housing, degree timeline, etc. This power imbalance is one of the most significant reasons that GRAs at UBC organized to form a union. They know that there is no other mechanism available to vulnerable and precarious workers to address this power imbalance other than standing together through a union.

UBC knows research is a job. Professors, who are undisputedly employees, conduct the same research as GRAs, only with more credentials and years of experience. Undergraduate Research Assistants are considered employees and are paid at least minimum wage. These undergraduate researchers are often supervised by GRAs, even while GRAs make less than minimum wage. UBC also hires Postdoctoral Fellows whose only job is to conduct research, and that research is frequently done alongside GRAs. Postdoctoral Fellows are widely acknowledged as employees. The only salient difference between Postdoctoral Fellows and GRAs is that GRAs are working towards the degrees that Postdoctoral Fellows already have. Nothing in the Labour Relations Code specifically precludes those who are working towards a degree from being employees for the purposes of the Code.

Despite these obvious facts, the Labour Relations Board decided that GRAs do not fit the definition of employee under the Code. As such, the Code must be updated to reflect the evolving nature of work and workplaces such as those at UBC.

CUPE Local 2278 supports CUPE BC's comments in response to the Panel's recommendations, particularly with respect to Recommendation 3. We disagree with the Panel's recommendation that the definition of "employee" should remain unchanged and make the following suggestion to recognize the work of GRAs and their Charter right to access collective bargaining through the Code.

The definition of employee in the Code should be amended to read as follows:

"employee" means a person employed by an employer, and includes a dependent contractor, and persons who, in the course of their employment, also perform work which furthers their education or training, but does not include a person who, in the board's opinion,

(a) performs the functions of a manager or superintendent, or

(b) is employed in a confidential capacity in matters relating to labour relations personnel

Again, I thank you for accepting our comments on the recommendations of the Section 3 Panel, and I hope that the government will take this opportunity to strengthen and modernize the Code to reflect the evolving nature of work and workplaces.

Respectfully submitted,

Drew Hall

President

CUPE Local 2278

LABOUR CODE REVIEW 2024

2025 Review of the Panel's Submission

September 2025

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About CLAC

Formed in 1952, CLAC is a national union representing over 60,000 workers in almost every sector of the economy. Based on values of respect, dignity, and fairness, CLAC is committed to building better workplaces, better communities, and better lives.

CLAC is an affiliated member of the [World Organisation of Workers](#).

Our Commitments

We build positive workplaces

We bring workers together to create a strong voice in the workplace and help you achieve a better work life. Our approach is constructive, not confrontational. We talk; we don't shout. Most importantly, we get results. And through it all, we help keep you working.

The values of respect, dignity, and fairness underpin how we negotiate on your behalf. We create a positive bargaining climate, seeking win-win outcomes. We get you what you need, without risking what you already have.

We're champions of you

We have your back. We work hard to ensure you get the benefits and working conditions you need and deserve and protect your rights and safety. We also provide you with opportunities to grow, to expand, and to fulfil your potential.

We make every day great

We know that when people enjoy the work they do when they feel rewarded and respected when they want to be at work, then everyone benefits—workers, employers, families, and communities. That's what we mean by everyday greatness.

Overview:

CLAC appreciated the balanced approach of the panel and its resistance to committing to large labour relations pendulum swings in its recommendations. To that end, we urge the panel to avoid an unnecessary destabilization of the labour relations framework for the province and reject recommendation No. 25.

Recommendation No. 25

We oppose the appointment of an Industrial Inquiry Commission under section 79 of the Code to review collective bargaining and labour relations in BC's construction industry.

Now is the worst possible time to consider major changes. As tariffs are threatening Canada's economy, governments are advancing large construction projects to support growth. The success of those initiatives depends on reducing, not increasing, barriers for project proponents.

Historically, reviews of construction labour relations in BC have operated as a vehicle to undermine wall-to-wall bargaining units. We submit that eliminating wall-to-wall organizing undermines the economic viability of major projects and several core principles of the Labour Code.

Canada's largest construction companies, all active in BC, rely upon workforces who have opted for wall-to-wall representation in collective bargaining. These companies bring the largest labour pools and the expertise to build cost-effectively. Imposing craft-based models artificially limits the number of bidders, increases costs, and reduces the number of projects that can move forward.

Indeed, experience in eastern Canada, where wall-to-wall organization is restricted, shows higher costs, fewer projects, and weaker economies. Only BC, Alberta, and Saskatchewan, none of which outright prohibit access to participation in the construction industry by wall-to-wall based union organization, enjoy sufficient economic strength to not receive federal equalization payments. All have relatively robust construction sectors, including private sector construction activity.

For largely political reasons, BC has recently prohibited access of companies organized on a wall-to-wall basis for publicly funded infrastructure and has limited projects based on union affiliation. We predict that the harm inflicted by restricting competition for such projects will be felt by the province over time. What is certain is that the largest construction projects in the province, pipelines, LNG, mines and dams, would not be viable absent healthy access from the largest pool of potential bidders.

Multi-trade, wall-to-wall sites are far better suited for training and integrating new workers, including Indigenous people. Examples like the removal of an Indigenous-owned company from the Cowichan Valley Hospital site highlight the failure of imposed closed-shop regimes.

For decades, BC's construction industry has thrived under a mixed, choice-driven model, validated by Labour Relations Board jurisprudence. Since the Board issued the *Cicuto & Sons Construction* decision decades ago, the industry has been established upon a framework that respects alternate forms of labour relations organization in construction. Craft-based construction is permissible, but it has not been a favoured mode of organization in the construction industry.

If there is to be any review of the statutory regime regulating construction labour relations, it should be limited to how craft-based construction is undertaken. Intuitively, a scheme that requires a company to deal with up to 14 different unions on the same work site, each of whom has drawn a propriety box around its work assignments, all governed by an umpire, cannot possibly be a model to emulate.

Perhaps most importantly from the perspective of a progressive labour union, eliminating wall-to-wall organization undermines several core purposes and principles of the Code, including the facilitation of collective bargaining via their "freely chosen" bargaining agents, the fostering of "the employer of workers in economically viable businesses," and the Board's express preference for larger bargaining units. Those working against these principles should be required, at the very least, to convince the BC construction workforce of the merits of their proposed monopoly and (un)economic model.

In summary:

- The Government of British Columbia should not establish an Industrial Inquiry Commission under s. 79 or launch a sector wide review of construction labour relations.
- BC's current, choice-based construction model is successful, competitive, and stable; creating a commission would inject uncertainty, delay projects, and add costs.
- Restricting wall to wall unions or imposing craft only rules would shrink the bidder pool, raise costs, and weaken both private and public investment.
- BC's mixed, choice driven model aligns with Board jurisprudence favouring larger, simpler bargaining units and economically viable businesses; it has delivered stability and high union density.
- The Labour Relations Board has examined labour relations structures in the construction industry often and in depth. There is nothing new to be learned from a further review.



September 18, 2025

Honourable Jennifer Whiteside, Minister of Labour

Ministry of Labour
PO Box 9064 Stn Prov Govt
Victoria, B.C. V8W 0E2

via email: LRCReview@gov.bc.ca

Subject: Recommendations for amendments to the *BC Labour Relations Code*, RSBC 1996 c. 244 (the “Code”) submitted to the Honourable Minister of Labour (the “Minister”) on August 12, 2024, by a panel of special advisors (Fleming, Banister, Thomson) (the “Review Panel”) appointed under Section 3 of the Code (the “Report”)

The Hospital Employees’ Union (the “HEU”) is pleased to accept the Minister’s invitation to provide feedback and commentary on the Review Panel’s Report. We thank the Minister for this opportunity.

ISSUES ADDRESSED HEREIN

HEU will not address all of the Review Panel’s recommendations herein. Just as our submissions to the Review Panel focused on certain issues that concern us most, these submissions will, for the most part, address the Review Panel recommendations which directly and squarely address those same issues. Where we do not address a recommendation, please do not take that as indifference.

In addition to providing feedback on these recommendations, HEU will also respond to Review Panel recommendations that are related to those made by HEU and also, Review Panel recommendations touching on issues discussed in our reply submissions. Finally, HEU will address a few sundry recommendations on issues not mentioned by HEU until now.

REVIEW PANEL RECOMMENDATIONS AND COMMENTARY THAT CORRESPOND DIRECTLY TO HEU RECOMMENDATIONS

HEU made six recommendations numbered as follows in its submissions to the Review Panel. As said, HEU will provide feedback and commentary on the Review Panel recommendations which address the recommendations made by HEU. Briefly summarized for ease of reference, HEU's recommendations were:

1. Amend section 35(2.2) and add section 35(2.3) to ensure bargaining rights are maintained and continued when an employer first contracts out services and when an employer repatriates work

(Successorship; Continuity of Bargaining Rights, Code, Part 3)

Corresponding Review Panel Recommendation: No. 16 (Fleming, Thomson, with Banister in dissent)

2. Amend section 45 to provide that the "statutory freeze" period is maintained until a first collective agreement is concluded.

(First collective agreements, the "Freeze"; Collective Bargaining Procedures, Code, Part 4, Division 1)

Corresponding Review Panel Recommendation: No. 19

3. Amend Section 65(4) by adding a new subsection b. to allow for picketing at a site or place where a struck employer or an employer causing a lockout is using to perform work and furnish goods and services that are substantially the same as the work and goods and services provided at the struck site AND delete Section 65(8).

(Picketing, site or place; Code, Part 5)

Corresponding Review Panel Recommendation: No. 21 (Fleming, Thomson, with Banister in partial dissent)

4. Appoint a committee of special advisors under section 3(1) of the Code to examine and make recommendations as to possible amendments to the Code to provide for broader based bargaining through sectoral certification.

(Sectoral Certification; Continuing Review of the Code, Code Part 1, Introductory Provisions; Code Part 3, Acquisition of Bargaining Rights)

Corresponding Review Panel Recommendation: No. 13

5. Appoint a committee of special advisors under section 3(1) of the Code to examine and make recommendations as to how the Code might be better aligned with

UNDRIP and ensure that further Code review processes are informed by the spirit and principles of reconciliation.

(UNDRIP; Continuing Review of the Code, Code Part 1, Introductory Provisions)

Corresponding Review Panel Recommendation: None

6. Amend the Code to provide that all collective agreements entered into or renewed after January 1, 2025, must contain a process to identify, evaluate and rectify any systemic gender based wage gaps with the right of either party to apply to the Board for interest arbitration to determine process if they cannot agree upon one.

(Interest Arbitration, wages; Collective Bargaining Procedures, Code, Part 4, Division 1)

Corresponding Review Panel Recommendation: None

Successorship: Continuity of Bargaining Rights, Code, Part 3

HEU Recommendation: 1

Corresponding Review Panel Recommendation: 16 (Fleming, Thomson, with Banister in dissent)

HEU recommended that the Code's successorship provisions should apply when work is contracted out initially to a service provider and when it is repatriated by an employer after that. This entails an expansion of the application of successorship provisions in the context of contracting out to fill a gap in the Code.

The Review Panel (Thomson, Fleming) did not recommend any changes to Section 35(0.1), with Banister in dissent to the limited extent that she recommends expanding the protection afforded under Section 35(2.2) to more sectors.

But regrettably, the Review Panel does not address contracting out in the first instance as a species of successorship, and also, expressly declines to even consider repatriation of work in that same conceptual category. This lost opportunity to continue and build upon the work done by the 2018 Code review panel and the Legislature is regrettable.

The Review Panel is properly mindful of its role under section 3 as a moderate, sober influence in keeping with what the 1998 Committee envisioned: an incremental and measured approach; see the Report, page 1, "Background".

The Review Panel makes a special point of this under the rubric of "Contract Re-tendering":

During the 2018 Code Review process employers cautioned if any steps were taken, they should be surgical. The 2018 Review Panel recommended a measured

and incremental approach to address the issues. To that end, they recommended extending successorship protection for contract re-tendering in enumerated services; the Report, page 29.

Thus, the Review Panel sees that important change to the Code, one conceptualizing a re-tendering of contracts as a successorship (albeit in enumerated sectors), not as radical or immoderate, but one that resulted from a measured and incremental approach to the issue by the 2018 panel.

HEU's recommendations here represent a logical next step in the expansion of successor rights and obligations, particularly with respect to repatriation of work. Successorship upon repatriation is the next step or increment. After all, repatriation follows upon tendering, or tendering and re-tendering.

With respect, the Review Panel rather misses the point made by HEU with reference to the Board's decision in *Red Fish*, 2023 BCLRB 20. The Review Panel says, on page 30 of the Report, that:

The Health Employer's Association of British Columbia noted the facts in *Redfish* [sic] were unique and dealt not with successorship but with the Board's policy on proliferation of bargaining units. We agree and therefore will not be addressing repatriation of work in healthcare under our recommendations below.

And on page 31, the Review Panel said:

In our view, what has been characterized as the repatriation of previously contracted work in healthcare as illustrated in the *Redfish* [sic] example is not captured by section 35(2.2) but rather by the Board's policy regarding the proliferation of bargaining units.

However, in *Red Fish*, the Board (and HEABC) was entirely preoccupied with the law around repatriation *qua* successorship. VC (and Registrar) Hassan says this at para. 9 of the decision:

PHSA, through HEABC, its accredited bargaining agent, opposes the Application. It submits the circumstances of this case fall squarely within the Board's well-settled law and policy regarding the recapture/repatriation of work that has been contracted out.

In para. 10, the Board notes that the Employer relied on a number of cases in support of its position that "...returning to an in-house provision of services model, from a contracted out model, merely involves an operator changing the way it carries on its own business, not the acquisition of another entity's business."

In the end, the Board agreed with HEABC (PHSA) and:

...[saw] no reason to depart from that well-established law and policy. I accept and adopt the proposition established by those cases that returning contracted out work in-house does not trigger a successorship under Section 35(1) of the Code. Employers and unions have operated under this understanding for decades. There is no basis to deviate from it now (para. 25)

The Board found that Section 35(2.2) did nothing to change this:

The entire focus of Section 35(2.2) is on the contractors, not the customer of the contractor. Put another way, had the Legislature intended Section 35(2.2) to be applicable, in any way, to a customer that repatriated contracted work, Section 35(2.2) would have been drafted radically different (para. 29)

The Board's analysis in *Red Fish* is based *entirely* upon long standing law and policy of successorship. Here, HEU does not dispute the Board's conclusion that the classic *Lyric Theatre* analysis does not assist unions in coping with repatriation, or that Section 35(2.2) does nothing to change the law of successorship around repatriation/recapture of work by the "customer". HEU's recommendation (no. 1) was in fact aimed at addressing this persistent, long-standing defect or omission or gap in this area of labour law.

There is **not one word said** in *Red Fish* about the Board's policy with respect to the proliferation of bargaining units in the health sector, notwithstanding the fact that the repatriation at issue in that case took place in the community subsector. The Review Panel's refusal to address this issue because the decision in *Red Fish* is based something other than the law of successorship ('...*Redfish* dealt not with successorship but with the Board's policy on proliferation...'; Report, page 30) is not supported by the decision in *Red Fish* at all. The Board relied **entirely** on long-standing, well-worn (to say the least), garden variety successorship cases and dismissed the Steelworkers' application. This outcome did not rest on the Board's bargaining unit proliferation policy; it is not even mentioned. This shows that the Code as it now stands, and the law of successorship generally, is not adequate to deal with issues arising from repatriation.

We would add that if a proliferation issue (i.e. a bargaining unit appropriateness issue) arises upon a successorship resulting from repatriation, the Code already provides the Board and the parties with tools to address it; see Section 35(5)(a) and (c).

This aspect of the Report concerns the HEU a great deal. The Review Panel effectively refused to consider HEU's recommendations at all, not even to deliver up a resounding "no" or "too soon":

We...will not be addressing repatriation of work in health care under our recommendations below (page 30)

This is not a measured or incremental or careful approach. It is in our respectful view an abdication of the Review Panel's role under Section 3 in an area that is very important to health care workers. This curt refusal does not rest upon a sound foundation and is not within the Panel's mandate.

We urge the Minister to revisit this issue (a glaring gap in the Code) on the basis of our commentary as set out above, and on the basis of HEU's initial submissions on this important point:

Since 2019, HEU has seen five sites repatriated. In the absence of successorship protections, repatriation of work is leading to the loss of jobs. Even when employees are re-hired into the same roles, they nonetheless lose accrued seniority and benefits.

Indeed, repatriated employees typically find themselves reporting to the same facility to perform the same work they have done for years, only now a probationary basis due to their re-set "start date". Where the repatriating employer is not certified, rehired employees are deprived not only of their previous collective agreements, but of union representation altogether.

This is the same mischief in the industry that the 2019 amendments were meant to protect against and address. This is especially important in the healthcare industry given the long-lasting impact of Bills 29 and 94 in fragmenting the health sector.

(HEU Submission to the Special Advisers to the Minister of Labour, pages 5, 6)

Clearly, it is high time for "next steps".

First collective agreements, the "Freeze": Collective Bargaining Procedures, Code, Part 4, Division 1

HEU Recommendation: 2

Corresponding Review Panel Recommendation: 19

HEU recommended an amendment to section 45 to provide that the "statutory freeze" period is maintained until a first collective agreement is concluded. The Review Panel recommends that the existing language should be retained.

The basis for Review Panel recommendation is that the 2019 amendments to the Code provide sufficient protection (the Report, page 34). However, as HEU pointed out, it is not at all uncommon for first collective agreements to take more than 12 months to conclude.

A change in the terms and conditions of employment after 12 months (changes that are not likely to benefit workers, needless to say) but before the first agreement is executed, erodes worker confidence in this process and compromises access to collective bargaining. Access to collective bargaining must not be forgotten after a certificate is issued to a trade union. Meaningful access remains fragile on the road to a first collective agreement. The Code ought to treat access as an *ongoing* concern.

Picketing, site or place: Code, Part 5

HEU Recommendation: 3

Corresponding Review Panel Recommendation: 21 (Fleming, Thomson, with Banister in partial dissent)

HEU proposed an amendment to Section 65(4) i.e. a new subsection b., to allow for picketing at a site or place where a struck employer or an employer causing a lockout is using to perform work and furnish goods and services that are substantially the same as the work and goods and services provided at the struck site.

In addition, HEU recommends that Section 65(8) should be deleted entirely.

The Review Panel recommended “no changes to section 65 or section 68”, with panel member Banister recommending the deletion of section 65(8) in partial dissent. The basis of the majority recommendation is that the constraints on the scope of picketing¹ are tempered by the replacement worker provisions and some balance is achieved.

HEU’s recommendations are based upon ensuring that the Code clearly and explicitly allows unions and their members to picket *the struck employer*. The repeal of Section 65(8) achieves this; the proposed amendment to section 65(4) simply makes this clear and explicit.

HEU says that this should not be contentious, but alas, in British Columbia, the right to picket the struck employer is significantly constrained under the Code.

This state of affairs in turn constrains the Board’s ability to meet its obligation to ensure the expeditious settlement of disputes (section 2(d)) in the sense that the Board must enjoin picketing at sites operated by the struck employer apart from the struck site. Further, this does not minimize the effects of labour disputes on persons who are not involved in the dispute for the reason that a struck employer is not uninvolved, a plain and simple truth, in our submission.

¹ Panel member Thomson correctly notes that “the location of picketing is more restricted in BC than in other jurisdictions...” when addressing Bill 9; the Report, page 12.

The quality of discourse around the question of the scope of permissible picketing has, in HEU's view, been much diminished of late. That support for these constraints must rest upon the fiction that the struck employer is uninvolved and a "neutral" in the dispute illustrate how untenable they are. And yet, these constraints find support in the labour relations community and in the office of the Chair of the Labour Relations Board; *Gateway Casinos*, 2025 BCLRB 67. BCGEU has applied for reconsideration of this decision with the support of HEU and other intervenors. If labour's position is accepted, the result is that section 65(8) is of no force or effect in BC.

Panel member Banister urges this same result upon the Minister, and it is important to note that together with the majority, she acknowledges in her dissent that:

...the balance between the current picketing provisions and replacement workers have had a positive impact on labour stability and investment and therefore no major change is required. However, s. 65(8) is a significant and unwarranted fetter on the exercise of the Board's discretion in picketing cases.

I recommend: repeal section 65(8).

(the Report, page 40)

In other words, according to panel member Banister, the balance achieved by offsetting the harm done by a strict picketing regime against a prohibition on the use of replacement workers is *not* disturbed by the deletion of section 65(8). This is an important and sound labour relations insight.

HEU would make this more explicit through its proposed amendment to Section 65(4) but substantially accepts panel member Banister's thoughts and recommendation. We urge the Minister to do the same.

Sectoral Certification: Continuing Review of the Code, Part 1, Introductory Provisions; Code Part 3, Acquisition of Bargaining Rights

HEU Recommendation: 4

Corresponding Review Panel Recommendation: 13

HEU recommended the appointment of a committee of special advisors under section 3(1) of the Code to examine and make recommendations as to possible amendments to the Code to provide for broader based bargaining through sectoral certification.

The Review Panel usefully distinguishes between sectoral certification and sectoral bargaining.

As we understand the distinction, sectoral certification allows for unions to organize employers in a defined sector (e.g. various employers in the “convenience store” sector) one by one or in groups who are then included in a multi-employer certification covered by one sectoral collective agreement. Sectoral bargaining ensues.

Sectoral bargaining, though, can follow upon the creation of (say) councils comprised of already established bargaining agents with their own certifications to bargain with an association of employers. This kind of broad-based bargaining takes place in BC in both the public and private sector; see the Report, page 26.

HEU’s recommendation is directed at sectoral certification. The Review Panel recommended “no change to the Code”; No. 13, page 26.

HEU urges the Minister to endorse HEU’s recommendation. HEU’s proposal – a review committee charged with exploring this issue – takes a modest and measured and incremental approach to this important issue, particularly in light of the fact that sectoral certification in certain sectors potentially provides urgently needed access to collective bargaining for vulnerable and low wage workers who do not fully enjoy that right now. Also keep in mind that BC labour legislation provided for a form of sectoral certification for almost 20 years; see HEU’s submission, page 11, fn. 1.

UNDRIP: Continuing Review of the Code; Part 1, Introductory Provisions

HEU Recommendation: 5

Corresponding Review Panel Recommendation: None

HEU recommended the appointment of a committee of special advisors under section 3(1) of the Code to examine and make recommendations as to how the Code might be better aligned with UNDRIP and ensure that further Code review processes are informed by the spirit and principles of reconciliation.

The Review Panel explains:

To support the implementation of the *Declaration Act*, the government established the Declaration Act Secretariat. Since our terms of reference do not include a delegation under the *Declaration Act*, we believe any application of the Declaration Act is beyond the scope of our present mandate.

While we take the Review Panel’s point, HEU did not invite the panel members to apply the *Declaration Act*. The review panel envisioned by HEU would, with the support and guidance of the Declaration Secretariat, develop a process to provide for scrutiny of proposed Code changes with reference to the *Interim Approach to Implementing Section 3 of the Declaration Act* (the “Interim Approach”). We think this recommendation is

consistent with both the role of a review panel appointed under section 3(1) and the role of the Declaration Secretariat.

Step 1 of the Interim Approach is to identify changes to legislation and policy that might impact Indigenous Peoples differently than other members of society. This might be the case with (say) band councils that deliver health and social services in partnership with government under complex agreements and who bargain with unions certified as bargaining agent under the Code. Identification of such changes trigger consultation with Indigenous Peoples and may lead to the next steps of the Interim Approach.

If adopted, HEU's recommendation will assist the Minister in their efforts to engage effectively with section 3 of the *Declaration Act* in relation to the Code. Reconciliation will then, through these measures, have at least some presence in what we do. That is the aim of HEU's proposal.

Interest Arbitration, wages; Collective Bargaining Procedures, Code, Part 4, Division 1

HEU Recommendation: 6

Corresponding Review Panel Recommendation: None

HEU recommended a Code amendment to provide that all collective agreements entered into or renewed after January 1, 2025, must contain a process to identify, evaluate and rectify any systemic gender based wage gaps with the right of either party to apply to the Board for interest arbitration to determine process if they cannot agree upon one.

Perhaps the Review Panel did not address this proposal on the basis that it is a matter for collective bargaining, or one that is best addressed in proceedings before the HRT. This matter can, of course, be tabled as a collective bargaining proposal. But HEU included this recommendation here nonetheless because a refusal to agree to an interest arbitrator to simply determine a collective agreement process to address potential gender based wage gaps may arguably be bargaining in bad faith, at least if taken to impasse, as perpetuating an unlawful wage structure. This proposal mandates nothing other than a *process* to address a human rights issue in collective bargaining, not an outcome. And see *Parry Sound Social Services*, 2003 SCC 42.

REVIEW PANEL RECOMMENDATIONS THAT ARE RELATED TO A CERTAIN HEU RECOMMENDATION

Under this heading, we address Review Panel Recommendations that were made in response to proposals by stakeholders other than HEU but are nonetheless related to a

certain HEU Recommendation, namely No. 3, “Picketing”. The shared theme here is what we will call “the efficacy of picketing”.

Code, Section 1, Definition of “Strike”; Picket Lines; Bill 9

Review Panel Commentary

Changes to the definition of “strike” were introduced in the *Miscellaneous Statutes Amendment Act* (“Bill 9”) to exclude a refusal to cross picket lines not regulated under BC law from the definition. Bill 9 allows provincially regulated union workers to legally refuse to cross picket lines regulated by jurisdictions other than BC, including Canada.

Clause 57 of Bill 9 received Royal Assent on April 25, 2024.

The Review Panel did not make a recommendation on this issue because all 3 members took a different approach with none of them supporting the change introduced in the Bill.

Employer groups made their opposition to Bill 9 known to the Review Panel; see pages 10, 11 of the Report.

HEU did not make recommendations on this issue or raise it in reply. However, HEU’s recommendation no. 3 (picketing, sections 65(4) and (8)) was essentially aimed at enhancing the *efficacy* of picketing, and so too does the change to the definition of strike introduced in Bill 9. They are related issues in that sense.

HEU supports such measures without qualification.

Code, Section 1, Definition of “Picketing”; Virtual Picket Lines

Review Panel Recommendation No. 4

The Review Panel declined to change the definition of “picketing” to include activity (on social media, e.g.) that is akin to picketing in its purpose and intent, undertaken where the employer has no physical location that can be physically picketed. We understand the Panel’s concern that there is perhaps no common understanding of what “virtual picketing” means precisely, but this is not a reason to eschew an amendment. This is something that can be developed over time in Board jurisprudence as things evolve, and in this brave new world, evolve they will. Indeed, the common law, so to speak, is the appropriate way to develop what is meant by “virtual picketing” in this evolving area.

Virtual picketing also relates to the efficacy of picketing, as does HEU recommendation no. 3, in a broad sense.

REVIEW PANEL RECOMMENDATIONS ON THE ISSUES RAISED IN HEU’S REPLY
SUBMISSIONS

These are not the only issues raised in HEU's reply submissions, only the ones not already addressed above.

Code, Part 3, Acquisition of Bargaining Rights; Section 23; Single Step or Card Check Certification

Review Panel Recommendation No. 8.

The Review Panel (Fleming, Banister, with Thomson in dissent) recommended:

No change to Section 23 of the Code.

HEU supports this recommendation to maintain single step certification.

Code, Part 3, Acquisition of Bargaining Rights; Representation Vote; Timeline; Section 24(2)

Review Panel Recommendation No. 9.

In our reply submissions, HEU opposed changes to the current provision that requires that a representation vote must be held within 5 business days of the date an application for certification is filed in favour of a longer period. HEU wrote that:

...while HEU acknowledges that the current timeline is tight...a ten day timeline would be unwarranted; a 20 day timeline would be egregious (page 3)

The Review Panel recommended an amendment to section 24(2):

A representation vote under subsection (1) must be conducted within **6** business days from the date the board receives the application for certification or, if the vote is to be conducted by mail, within a longer period the board orders.

HEU does not support, but does not oppose, this change if it serves to assuage concerns in the community that the current timeline (5 business days) may compromise the right to a fair hearing.

Code, Part 8; Arbitration Procedures; Division 4, Expedited Arbitration; Section 104

Review Panel Recommendation No. 24.

The Review Panel addressed stakeholder proposals on section 104 at some length and made recommendations which may be summarized as follows:

- new provisions which more prominently feature the role of Board settlement officers in the early stages following a referral under section 104 should be added

- that section 104 should not be limited to specific categories of cases, instead leaving it to arbitrators to determine if a given case is not suitable e.g. one where expert evidence is required
- that awards should *not* be non-precedential
- that the current seven page limit for awards should be increased to ten

Also, the Review Panel did not accept that parties with expedited arbitration provisions in their collective agreements cannot access section 104.

HEU's concerns, as set out in our reply submissions, focus on access to expedited arbitration for parties who also have access to expedited processes under collective agreements, and the importance of securing binding, precedential awards through expedited arbitration under section 104.

The Review Panel's recommendations are not at odds with HEU's concerns and indeed, HEU supports the changes to section 104 recommended by the Review Panel.

SUNDRY REVIEW PANEL RECOMMENDATIONS

Under this heading, HEU will address a few Review Panel recommendations that were not addressed in HEU's submissions but warrant a few words.

Code, Part 3, Acquisition of Bargaining Rights; Regulation 3(b); Membership Evidence; Membership Cards

Review Panel Recommendation No. 10

The Review Panel recommends a change to Membership Cards to reflect the fact that signing a card does not necessarily mean a chance to vote will follow. HEU did not address this issue in our submissions to the Review Panel, but as a trade union with a strong commitment to organizing, HEU will respond to this recommendation.

HEU opposes this recommendation. The current wording that Regulation 3 requires on the card is as follows:

In applying for membership I understand the union intends to apply to be certified as my exclusive bargaining agent and to represent me in collective bargaining.

HEU says this statement is accurate and complete and entirely sufficient: the membership card will be used to support an application by the union to be certified as bargaining agent. The card signer's wishes are clear and straightforward: to be represented in collective bargaining.

If the proposed change is accepted, a prospective card signer is implicitly invited to consider something else, apart from a desire to be represented in collective bargaining i.e. *how* the union will use the card to secure bargaining rights. This is unnecessary. The current wording on the card says it all, namely, what the card is used for. A signed card tells the Board what the employer wants.

In *WG Enterprises Ltd.* BCLRB No. B308/96 (leave for reconsideration of B334/95), the Board extensively reviewed the use of membership evidence (cards with the current wording) required to secure bargaining rights. The Board notes that membership cards submitted to the Board are processed under an administrative system (the alternative being an inquiry into each and every card). Membership cards are essentially hearsay evidence that is accepted as evidence of employee wishes. Note that single step certification was included in the Code at this time.

The Board accordingly adopted a policy of *strict compliance* the Regulation to ensure the integrity of this administrative regime. It has worked for nearly 30 years. There is no reason to change the features of the regulatory scheme examined in *WG Enterprises*.

We would add that the Review Panel's concern is misplaced. The wording on the card is not a problem that needs fixing. Rather, the "mischief" arises on those rare occasions when a union organizer assures a prospective card signer that a chance to vote *will certainly* ensue where single step certification is in place. The Board has found that this misrepresentation means that the card cannot be included in the calculation of threshold support because it is not an unequivocal statement of support for the union.

Code, Part 1, Section 1; Definition of Mediation

Review Panel Recommendation No. 2

HEU generally and in particular, HEU in-house counsel, support the definition of "mediation" proposed by the Review Panel:

Mediation means attempting to resolve issues in dispute between the parties including meeting separately with the parties and/or their representatives or legal counsel

...though we would suggest:

Mediation means an attempt(s) by the board to resolve issues in dispute together with the parties to the dispute and includes meeting separately with the parties and/or their representatives or legal counsel

Code, Part 8; Arbitration Procedures; Division 3, Appeal Jurisdiction of Court of Appeal, Section 100

Review Panel Recommendation No. 23

HEU supports the Review Panel's recommendation to extend the time limit for filing a Notice of Appeal with the Court of Appeal Registry from 30 days of the arbitration award to one (1) year. As the Review Panel said at page 42:

The Court of Appeal rules require a Notice of Appeal be filed within 30 days of the award unless otherwise provided by statute. This problem can be alleviated by amending section 100 to provide that a Notice of Appeal must be filed within one year of the arbitration award. This would eliminate the necessity of filing appeals simultaneously in both forums and provide the Board the opportunity to exercise its expert opinion on the jurisdictional question.

General: Labour Relations Board Resources*Review Panel Recommendation No. 1*

HEU supports the Review Panel's recommendation for a substantial increase in Board funding for sufficient staffing levels and a more effective case management system.

Sincerely,



Lynn Bueckert

Secretary-Business Manager
Hospital Employees' Union



August 14, 2025

Via Email: lrcreview@gov.bc.ca

Attention: The Honourable Harry Bains, Minister of Labour

RE: *Labour Relations Code Review Panel Report*

1. Please accept this letter as a joint submission made on behalf of the Interior Forest Labour Relations Association (IFLRA) and the Council on Northern Interior Forest Employment Relations (CONIFER). We write in response to the August 31, 2024 Report from the *Labour Relations Code* (the “Code”) Review Panel (the “Report”) and invitation from the Ministry of Labour to provide feedback. We also provided submissions to the Review Panel dated March 18, 2024 and May 14, 2024.
2. The IFLRA was formed in 1959 to represent forest companies in the southern interior of BC in collective bargaining with what was then the International Woodworkers of America, now the United Steelworkers Union (USW).
3. There are currently 9 member companies and 14 operating divisions, whose manufacturing employees (approximately 2,100) are represented by USW, Local 1-417 in the Kamloops region, Local 1-423 in the Okanagan region and Local 1-405 in the Kootenays.
4. CONIFER was formed in 1973 to represent forest companies in the northern interior of BC. in collective bargaining with what was then the International Woodworkers of America, now the USW.
5. There are currently 13 member companies and 18 operating divisions, whose manufacturing employees (approximately 2,300) are represented by USW, Local 1-2017.
6. The Report mainly reflects a balanced model that does not perpetuate the pendulum swing further towards union advocacy and promotion. We submit that the Report’s tempered recommendations should be respected.

-
7. In particular, the focus on the “B.C. Economy and the Need for Balance, Stability and Predictability” and the recommendation to keep the section 2(b) duty that fosters “the employment of works in economically viable businesses” are vital for our member companies.
 8. The most clear and urgent issue flagged by the Report is the Bill 9 change to the definition of a “strike” to permit B.C. unions to respect picket lines of non-B.C. unions “...regulated by the laws of Canada or another province who are locked out or on strike”.
 9. The Report summarises our prior submissions regarding this is a major change favouring unions, creating significant advantages to non-B.C. pickets, which the *Code* and Labour Relations Board do not have jurisdictional powers to resolve. The *Code* applies to B.C. employees, B.C. employers and B.C. unions. The *Code* permits B.C. unions to strike after meeting the requisite preconditions and picket at certain reasonable locations. The *Code* permits B.C. unions to respect those lawful B.C. pickets. The *Code* has common site powers to restrict the picketing of the B.C. union on strike.
 10. The *Code* has **no** authority to regulate strikes or picketing of non-B.C. unions “...regulated by the laws of Canada or another province...”. Specifically, the *Code* does **not** have jurisdiction over a federal union to restrict picketing for common site purposes, meaning a common site B.C. employer has **no** recourse under the *Code*.
 11. This a serious distress for our members, approximately 90% of who have operations connected to federal railways, transportation and marine operations. Those federal unionized employees would have an ability to set up pickets at or near our members’ worksites, and prevent USW employees from attending work. Moreover, in the case of pickets under the *Canada Labour Code*, there is **no** restriction on where they can go, meaning pickets could impact workplaces completely unconnected to the underlying strike or lockout. Further, the Labour Relations Board does not have jurisdiction to even determine if the non-B.C. union is properly on strike or locked out and the non-BC employer may not seek a decision from the applicable Labour Board to answer that question.
 12. This is inconsistent with the section 2(f) duty, “minimizes the effects of labour disputes on persons who are not involved in those disputes”, by expanding the scope of extra-provincial unions who can now lawfully prevent B.C. unionized employees from attending work.
 13. The timing of Bill 9, while Panel’s review process was underway, prevented the consultation that would have flagged the above issues before bringing Bill 9 into force.
 14. All three Panel members agree that the current definition of a “strike” is not workable and recommend changes to align with the *Code* section 2 duties. We agree with and support the

Commentary and Recommendation of Lindsie Thomson, to repeal Bill 9 and return the definition of a “strike” to its prior state. Doing so will allow the *Code* and Board to properly oversee and address labour disruptions within B.C.’s jurisdictional scope and avoid significant labour disruptions caused by non-B.C. union pickets.

15. In the alternative, we support the Commentary and Recommendation of Michael Flemming, to narrow the ability to respect non-B.C. pickets to “a related company providing the same or substantially similar services or products on the same site as the struck employer” or where the B.C. employer is an ally.
16. In summary, we urge the immediate change to the definition of “strike” and the mainly tempered recommendations set out in the Report.

Sincerely,



Jeff Roos
President
IFLRA



Mike Bryce
Executive Director
CONIFER



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INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, MOVING PICTURE TECHNICIANS,
ARTISTS AND ALLIED CRAFTS OF THE UNITED STATES, ITS TERRITORIES AND CANADA

August 5, 2021

VIA EMAIL (LBR.Minister@gov.bc.ca)

The Honourable Harry Bains
Minister of Labour
Province of British Columbia
Ministry of Labour
PO Box 9206 Stn Prov Govt
Victoria, BC V8W 9T5

Dear Minister Bains:

Re: Designating the Live Event and Screen-Based Media Services as “Prescribed Services” under Section 35 of the BC Labour Relations Code

I write on behalf of the International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States and Canada (“IATSE”) locals in British Columbia, to advance a request for inclusion of services rendered in the Screen-Based Media, and Live Event sectors as services falling under the definition of “contract for services” in Section 35 of the BC *Labour Relations Code* RSBC 1996, c. 244 (the “Code”). Extending the successorship provisions pursuant to Section 159(2)(f) of the *Code* to cover contract flipping in these industries is essential to protecting workers who are otherwise precariously employed in these sectors.

Throughout this submission, the many ways in which the practice of “contract flipping” or “contract re-tendering” has had serious detrimental impacts on employees in the Screen-Based Media and Live Event sectors in BC will be described. The practice of contract flipping occurs when a contract for services is re-tendered and a new employer is awarded the contract. Employees of the former employer are often left without work or are re-hired by the new employer at lower wages. The new employer is not covered by any previous bargaining certification or collective agreement that applied to the previous employer and the employees are thus forced to “start from square one” in any efforts to collectively organize. Moreover, any gains employees made through collective bargaining are lost with the contract flip. It has been proven that the practice of contract flipping has led to stagnation of wages and precarity of workers in many industries.

The Legislature has acknowledged in recent changes to the *Code*, that certain sectors must be protected from this practice.¹ The Screen-Based Media and Live Event sectors have also been disproportionately impacted by the corrosive effects of contract flipping. In these industries, where a contract is re-tendered and substantially similar services continue to be performed, any collective agreement in force should continue to bind the new contractor. Such protection fosters the ability of British Columbians to access stable employment at liveable wages.

¹ *Labour Relations Code Amendment Act* (“Bill 30”).

While the sectors covered by this application are diverse, one defining characteristic of the work in these sectors is that it is often casual, short-term and project-based, or what is known colloquially as “gig work”. Working conditions in these “gig sectors” are notoriously precarious and uncertain. Moreover, employers often unlawfully mis-classify workers in these sectors as “independent contractors” to avoid obligations under the *Employment Standards Act*² and the *Workers Compensation Act*³. Workers often must rely on multiple sources of employment to make ends meet. Making the proposed changes to the successorship legislation under the *Code* will contribute to improved working conditions in sectors that have been defined by instability and insecurity for workers.

While the workers in these sectors have always been subject to precarious working conditions, the impacts of COVID-19 have exacerbated existing issues in these sectors and have highlighted the pressing need for regulatory protections. Furthermore, acknowledging the importance of these workers and protecting their rights to unionize will ensure the healthy recovery to BC’s arts and entertainment industry as the Province looks to the next chapter of post-pandemic reopening.

Throughout the pandemic the number of layoffs in the Live Event sector, for example, has been unprecedented. Results of the Professional Association of Canadian Theatres “Covid-19 Impact Survey”, in which 132 theatre companies across Canada participated, reveal that companies have laid off an average of 10 staff members during the pandemic, with some companies having laid off up to 90% of their staff.⁴

To date, workers in the arts have sustained hundreds of millions of dollars of COVID-related income losses over the last year and a half, with no end in sight. The Live Event sector will be one of the last to recover, and it will not be in 2021. Workers in the arts have suffered disproportionately from the impacts of the pandemic. The success of the post-pandemic arts and entertainment recovery will depend on them. Making the relatively discrete order available to Cabinet under Section 159(2)(f) is essential to ensuring that the recent supports to the arts and entertainment sector improve the lives of those working in that sector.

As there are impending large-scale contracts set to expire within the next six months (with some contract flips anticipated as soon as January 2022), with corresponding losses of bargaining rights to employees in these industries, I respectfully request that this submission be considered on an expedited basis.

IATSE MEMBERSHIP

IATSE is the largest union in the entertainment industry, representing over 155,000 technicians across North America, including 29,000 in Canada. IATSE members work in the screen-based media and live event sectors. In British Columbia, IATSE also represents arts and cultural workers.

IATSE represents over 11,000 members and over 5,500 permittees in BC, in all forms of live theatre, motion picture, trade shows and exhibitions, concerts, as well as the equipment shops, construction shops, and animation and visual effects studios that support all areas of the entertainment industry. Camera technicians, stage employees, projectionists, as well as people working in wardrobe, lighting,

² RSBC 1996, c. 113.

³ RSBC 2019, c. 1.

⁴ *Professional Association of Canadian Theatres*, “Covid-19 Impact Survey- One Year On”, May 13, 2021.

art direction, set design and construction, special effects, among other areas of motion picture, film, digital internet and television production, are among IATSE-represented workers. Virtually all the behind-the-scenes workers in crafts ranging from motion picture animator to theatre usher are represented by IATSE. There are, at present, seven (7) IATSE Locals in BC (Appendix "A" includes a short description of each of these Locals).

It is noteworthy that the Province's screen based media sector accounted for approximately \$4.1 billion in direct spending in BC in 2019.⁵ The driving force behind that sector of the economy is the thousands of skilled IATSE Local 891 and Local 669 members and permittees who work on sets and in production. Due in no small part to the fact that these jobs are unionized, British Columbians can (but for contract flipping) have secure employment and a promising career in this sector. The promise of secure employment encourages individuals to invest in obtaining the requisite training to work in this field. The highly skilled workforce this Province offers is a key component to making our Province a premier film-making destination. Technical workers in the film industry are critical to the success of the entertainment industry in BC.

Moreover, it should be noted that from the early days, IATSE has actively participated in the development and growth of the entertainment industry in BC. IATSE's screen-based media Locals (891 and 669) are members of the BC Council of Film Unions, the Motion Picture Industry Association of BC, the BC Federation of Labour, and the Canadian Labour Congress. IATSE's stage Locals (118, 168, ADC 659 and B-778) are members of the latter two organizations and represent theatre, performing arts and tradeshow technicians and are essential to attracting large tradeshow and productions which are critical to the development of arts, culture and entertainment in the Province.

THE LABOUR RELATIONS REVIEW PANEL REPORT 2018 AND CHANGES TO THE CODE

On March 16, 2018, IATSE submitted its recommendations to the Labour Relations Code Review Panel (enclosed with this letter for your review). Recommendation #7 of the submission was that the Board extend successor rights to address contract flipping. IATSE emphasized that one of the factors leading to the declining union density in BC, from over 36% in 1999 to 31% in 2012 (to approximately 29% in 2019)⁶, is the prevalent practice of contracting out or contract flipping.

In its submission, IATSE emphasized that often the most vulnerable employees bear the brunt of contract flipping arrangements:

We do conclude, however, that in industries mostly populated by vulnerable and largely unskilled workers, the constant re-tendering of contracts is, in many cases, not a mechanism aimed at achieving efficiencies through acquiring greater expertise or different methods of production but, rather, a mechanism to reduce costs by substituting a cheaper, non-union contractor for a unionized one. **The social cost and impact of this "efficiency" is borne by those least able to bear it, namely, the vulnerable and the precarious employees in that industry. If a union in collective bargaining negotiates improvements in the working conditions for the unskilled and vulnerable people it**

⁵ [https://biv.com/article/2020/10/bc-film-sector-worth-41b-2019-while-industry-gathers-steam-amid-pandemic#:~:text=It%20remains%20unclear%20how%20much,Media%20Producers%20Association's%20\(CMP A\).](https://biv.com/article/2020/10/bc-film-sector-worth-41b-2019-while-industry-gathers-steam-amid-pandemic#:~:text=It%20remains%20unclear%20how%20much,Media%20Producers%20Association's%20(CMP A).)

⁶ <https://bcbc.com/insights-and-opinions/coverage-context-and-change-an-update-on-unionization-rates-in-b-c.>

represents, these gains are negated by re-tendering. The effect of constant re-tendering is not only to keep compensation low but also to eliminate improvements achieved through collective bargaining.

This situation of contracting out and re-tendering is perhaps one of the best examples of a fissured workplace, creating competition among suppliers of low-skilled services on a constant basis to keep wages and benefits as low as possible. **Clearly, this is a major contributor to the continued presence of vulnerable workers in precarious work in some sectors. Stability and advancement through meaningful collective bargaining is not sustainable when the workers are unskilled and the lead employer can reduce costs, keeping them at rock-bottom through an endless series of re-tendering.**

Obligating successor employers in the contract services sector to uphold collective terms and conditions of employment and bargaining rights through the extension of the Code's successorship provisions would effectively thwart tactics used by employers to undermine bargaining rights by contract flipping.

(emphasis added)

At the time of its submission, IATSE was seeking to extend successor rights to protect workers in all industries where contract flipping is a prevalent practice.

On August 31, 2018, the Labour Relations Review Panel issued its Report. The Panel agreed with many of the submissions from labour organizations finding that contract re-tendering is most pronounced in sectors with the greatest precarity.⁷

The Review Panel concluded that “it is no more socially desirable to allow cost savings through reducing labour costs and eliminating established collective bargaining rights by the re-tendering of contracts than it is in the sale or transfer of a business. Both require the protection of the successorship protections of the Code.”⁸

Finally, the Panel acknowledged that employer organizations advocated for a “conservative measured approach and cautioned that any extension of successorship should only be done ‘surgically’”. Employer organizations were concerned that extensions of successorship beyond healthcare could be destabilizing for investment in BC. The Panel stated that initially when successorship provisions were introduced in BC there were concerns regarding the economic impacts on business. However, “businesses are now bought and sold regularly in B.C. without any discernable negative implications”.⁹

The Panel ultimately supported a measured approach that addresses the problem in an incremental sustainable manner and recommended that successorship protection be extended to re-tendering of contracts for specified services.

⁷ At page 20.

⁸ At page 20.

⁹ At page 20.

As a result of the Panel's recommendations, Section 35 of the *Code* was amended to recognize that a contract for services in any of the following industries would be considered a successorship if "substantially similar services continue to be performed":

- (a) building cleaning services;
- (b) security services;
- (c) bus transportation services;
- (d) food services;
- (e) non-clinical services provided in the health sector;
- (f) services prescribed under section 159 (2)(f).¹⁰

The Panel and the Legislature clearly contemplated that there would be other industries where job security would be undermined by contracting out and thus revised Section 35 to include Section 35(f) and 159(2)(f). The Lieutenant Governor in Council is thus authorized to prescribe services or services in a particular sector for the purposes of the definition of "contract for services" in Section 35. The current successorship provisions of the *Code* do not protect the unionized workers in our sectors from loopholes that employers are able to take advantage of and create a "race to the bottom".

VULNERABILITY OF IATSE MEMBERS

IATSE members working within the arts and entertainment industries face unique workplace challenges which the current legislative framework in British Columbia is ill-equipped to address. As acknowledged in the *Changing Workplaces Review: An Agenda for Workplace Rights*, in Ontario, the arts, entertainment and recreation industry has one of the highest concentrations of vulnerable workers engaged in non-standard employment.¹¹

Moreover, over ten years ago a report commissioned by the International Labour Organization *The digital labour challenge: Work in the age of new media*,¹² already identified that flexibility and fragmentation of work have led to an increase in precarious employment in media and entertainment workplaces.¹³ At the same time, unions wrestle with the problem of recruiting members among freelance staff in an isolated and fragmented labour market.¹⁴

While all sectors in which IATSE represents employees have increasingly relied on casual workers, doing project work, in fragmented workplaces, making it difficult to organize generally, there are specific and unique challenges to the different sectors which are important to consider in the context of the particularly damaging impacts of contract flipping.

THE LIVE EVENT SECTOR

¹⁰ Section 159(1)(f) of the *Code*: The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*... (f) prescribing services or services in a particular sector for the purposes of the definition of "contract for services" in section 35.

¹¹ Michael Mitchell and John Murray, Special Advisors, "Changing Workplaces Review: An Agenda for Workplace Rights, Final Report", Ontario, May 2017.

¹² Aidan White, "The digital labour challenge: Work in the age of new media", International Labour Office, Geneva, March 2012, (the *Digital Labour Challenge*).

¹³ *Ibid.*

¹⁴ *The Digital Labour Challenge, supra*, p. 31.

In the live event sector, there are specific challenges to organizing the workforce which leaves much of the workforce unrepresented. While Local 118 has worked diligently to organize workers, union density remains low in this sector. The loss of bargaining rights due to a contract flip is even more damaging after a hard-fought union certification drive and in the context of a sector that is difficult to organize.

The live event industry is made up of many freelance and casual workers who work for multiple employers under numerous occupational titles, with different forms of contracts for each arrangement. Generally, their workspace changes often and most employees' work fluctuates throughout the year.

Live entertainment workers work on contract for irregular hours. Concerts typically occur at nights and on weekends. Workers put in long hours, at relatively low pay rates. It is common in the industry for shifts to be more than 12 hours. Workers often receive fixed pay rates for a day of work and are at times denied basic entitlements to overtime pay. In addition, wages have stagnated in this industry. One factor leading to the stagnating wages, are the relatively low barriers to entry into this field of work, especially in the less specialized roles performing this type of work. The low barriers to entry create a surplus of labour which creates downward competition and a process of wage regression. Workers are also subject to health and safety hazards – both through dangerous working conditions and repetitive stress injuries. Injury rates hover above provincial averages.¹⁵

Significantly, only 10-20% of workers in this sector work full time. This is well below the 78.9% of the general workforce that have full-time work.¹⁶ There is no doubt that work in this industry is rigorous and performed under difficult working conditions.

The fact that much of the work is project-based and most of the workforce is part-time, or casual makes it notoriously difficult for employees to create momentum to organize. Moreover, the fact that there are fluctuating numbers of workers at any given time in a bargaining unit makes the bargaining unit a moving target; at any given point, the number of individuals needed to win a representational vote is subject to change.

Making matters even more complicated, is the fact that at present, the Labour Relations Board of BC does not have a standard policy for calculating the number of eligible voters in a proposed bargaining unit in this sector. For example, in the case of *Eventstar Services Inc. (Re)*, [2012] BCLRBD No. 8, the Board looked at the 90-day period prior to the date of the application for certification to determine the number of individuals in the bargaining unit. On the other hand, in the case of *Chemainus Theatre Festival Society v. IATSE, Local No. 168*, [2020] BCLRBD No. 77, the Board used the date of the application as the relevant date for determining the number of employees in the bargaining unit. Many casual employees that normally worked in the theatre were thus denied representation. Without the support of the casual employees the Union lost its application vote. Previously, Local 168 had successfully certified two units made up entirely of casual employees.

Thus, not only are employees tasked with organizing a moving target, in a sense, they are forced to do so “blindfolded” due to the lack of transparency and consistency around how voter eligibility will be determined in this industry. This means that even though the *Code* prescribes a 45% threshold of members required in a union certification drive, in this sector, an employer is easily able to inflate the

¹⁵ <https://www.worksafebc.com/en/health-safety/industries/arts-entertainment/statistics>.

¹⁶ <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1410032703>.

numbers by reference to an undefined scope of casual personnel. This means that any prudent union applying for certification in this sector must sign up numbers far in excess of the requisite 45%.

Finally, once workers have overcome the many challenges to organizing in this sector, companies are able to contract out a project, or operation of a venue to non-unionized companies.

One example of the damaging impacts of contracting out in this industry took place in 2008, when NASCO employees at Rogers Arena certified with IATSE Local 891. The organizing drive took place over the course of over eight months. In preparing to file the application for certification, IATSE had several meetings at the Labour Relations Board to clarify the test for inclusion in the bargaining unit, since as stated above, there is, to this day, no clear policy on the matter. On February 20, 2009, the Board issued its order of certification for the unit of 330 workers, with five months determined as the timeframe for bargaining unit inclusion. Within days of this certification, the Arena contracted out the work to another labour provider and the newly unionized workers all lost their jobs. Unsurprisingly, although many of those now working in the Arena are union supporters and IATSE members at other job sites, they will not re-certify, as the result last time was the immediate loss of employment, and for those able to secure re-employment, a downgrade to inferior working conditions.

Another, more recent example, is the case of a group of stage and technical employees working for the Granville Island Theatre District Society (the “GITD Society”), Carousel Theatre Society and Boca del Lupo Theatre Society (the “Societies”) who certified in several theatres in January 2019. During the certification process, the Union encountered issues with respect to determining the test the Board will apply to decide on the number of employees in the bargaining unit eligible to vote. Union counsel raised this issue with the Labour Relations Board in a letter dated October 2019 (enclosed).

On September 18, 2020, and before a collective agreement was concluded, the contract between GITD Society and Boca del Lupo Theatre Society was terminated. The GITD Society took over the role of Boca del Lupo in operating Performance Works and reduced employee wages from \$23.00 per hour to a sliding scale of \$20.00-\$22.00 per hour. Employees were thus paid at reduced wages for performing the same work.

The Societies currently have a contract to operate certain theatres. However, in **July 2022**, the Societies’ management contract will come to an end. The management of the theatres may be contracted out to another employer and if they cannot access the protections of Section 35 of the *Code*, these workers could lose their union representation. Some of these workers may lose their jobs, and the “lucky” ones will likely be hired to work at the very same theatres and perform the same work they had been performing for the Societies at a lower wage rate. The hard-fought bargaining rights and organizing campaign, as well as years of effort at the bargaining table, may have only secure protection for these employees for merely a few months. The advent of unionization in this context meant that tenuously employed workers were finally safe to voice their concerns regarding a toxic culture of bullying and harassment.¹⁷ The loss of their bargaining agent would turn back the progress made in improving the terms and conditions of their employment.

¹⁷ <https://www.cbc.ca/news/canada/british-columbia/vancouver-kids-theatre-cuts-ties-with-artistic-director-after-bullying-harassment-allegations-1.5647077>.

Finally, yet another example of contract flipping in this industry is the case of a bargaining unit of stage and technical employees of Global Spectra working at and from the Abbotsford Centre (the “Centre”). The certification application was made in November 2016. Just five years later, in May 2021, the City of Abbotsford awarded the contract for managing the Centre to Aquilini Investment Group (AIG). The new contract will commence on **January 1, 2022**. Employees at the Centre now face the possibility of losing their bargaining agent and potentially their employment, as happened at Rogers Arena when AIG cancelled the NASCO agreement following its certification.

While the current successorship provisions under the *Code* will preserve the bargaining rights of a group of food services workers working in the Centre today, they do not protect workers in the Live Event sector working in the Centre. Food services workers and Live Event workers are subject to the same precarious conditions and the same impacts of contract flipping and should be equally protected under the law.

The process of contracting out in this industry and the revolving door of employers has led to a stagnation of wages in an industry in which workers are already subject to difficult working conditions and little to no job security. Contracting out has allowed employers to access a pool of cheap and unorganized labour and defeat any limited union gains, which has contributed to low union density in this sector.

THE SCREEN-BASED MEDIA SECTOR

In the film industry, while a significant proportion of the industry is unionized, production companies not covered by the exclusive jurisdiction of the British Columbia Council of Film Unions’ (the “Film Council”) Master Agreement, are able to hire non-unionized workers. IATSE has often organized these companies only to then lose bargaining rights when a project terminates. A recognized feature of the film industry is that a production company is created for the sole purpose of producing the film, television movie or series. Each production company is considered a separate employer for a separate production. Employees thus go through the difficult process of certification and negotiation of a collective agreement, only to then have their hard-fought gains eliminated through a contract flip. In these cases, employers can incorporate a new corporation with every new film they make, even though the same individuals are creating the film and largely the same workers are employed. Employers will incorporate a new corporation specifically to avoid obligations to unionized workers.

Such was the case in the Board’s decision in *Santa Buddies Productions Inc. (Re)*, [2009] BCLRBD No. 215, where employees of a production company that was working on a production known as “Space Buddies” had certified and ratified a collective agreement in June 2008. In October 2009, a new production of “Santa Buddies” commenced. The two films were part of the same genre of films produced by the same writer, director and producer. While the Santa Buddies production company refused to enter into a collective agreement with the BC Council of Film Unions (BCCFU), it entered a voluntary recognition agreement with the Association of Canadian Film Craftspeople (ACFC West) which had negotiated for lower wages than the BCCFU’s collective agreement. By incorporating as a new company, Santa Buddies was able to avoid any obligations to its former employees. The Labour Relations Board found that there was no discernable continuity of business between Space Buddies and Santa Buddies and thus refused to find that a successorship had taken place, despite the companies having the same principal officers, addresses, cast and crew. The voluntary recognition agreement between ACFC West and Space Buddies and Santa Buddies enterprise continues to this day with the BCCFU unable to organize the workers of this employer.

Finally, animation and visual effects artists face some of the most serious challenges to organizing in the Screen-Based Media Sector. Employees are usually hired on short-term contracts and move from studio to studio with regularity. As with the live action industry, most employers incorporate each project separately. Despite the fact that the same individuals are in control of the enterprise, employers seek to shed any previous liabilities to their workforce. Often when employees are rehired at the same location/employer, it is under a contract to perform the exact same work but for a different corporate entity. The work is project-based, and short term, making these sectors historically difficult to organize, and BC visual effects facilities are currently non-union.

Animation and visual effects workers are discouraged from unionizing or reporting illegal employment practices such as unpaid overtime, because they rely on the favour of employers to be hired for the next contract. Employers are thus able to take advantage of contract flipping specifically to avoid unionization and maintain a precarious and vulnerable workforce.

In October 2020 after years of organizing, Local 938 certified an animation employer. However, union density in this sector remains extremely low, with only about 200 unionized BC animation workers represented by Local 938, miniscule in a sector that incurs approximately 1 billion dollars in labour costs annually. The animation sector is heavily supported by the government through tax incentives - in 2019/20 for every dollar spent on BC labour, an average of \$0.38 was returned to companies through tax credits for live action, visual effects, and animation work.

CONCLUSION

We submit that designating the Live Event and Screen-Based Media Services described in this submission as falling under the definition of “contract for services” under Section 35 will meet the clear aims of the Legislature in carving out specific protections for sectors that have been significantly impacted by contracting out of services. Designating services in the sectors enumerated would be an incremental yet important step in correcting some of the more troubling trends leading to precarity of employment in these sectors. Making this order would ensure that the aims of the *Code* are balanced and that contracting out is not used to defeat employees’ constitutional rights to freely choose their representatives.

Finally, designating the services provided by workers in these sectors as prescribed services will be essential to ensuring a sustainable reopening of BC’s arts and culture industries. On this note, the following excerpt from the recent report *Art, now more than ever: 2021-26 Strategic Plan*¹⁸ by the Canada Council for the Arts bears consideration:

Art and culture have played an important role in people’s daily lives throughout the pandemic, although the arts—like other sectors—have had to suspend many activities. Audiences are still engaging with art, although the opportunities for most artists and cultural workers to practise their craft have dwindled to almost nothing. This situation will not continue indefinitely—the sky clears after even the most destructive storms. We need artists to imagine a new reality now more than ever.

¹⁸ Canada Council for the Arts, “Art, now more than ever: 2021-2026 Strategic Plan”, April 2021.

For this to happen, we need an arts sector that is supported, valued, resilient, inclusive, accessible, equitable, and sustainable. We need a sector that is able to create and share artistic and literary experiences, limited only by the imagination. We need a sector that can take better care of its workers and remunerate them adequately.

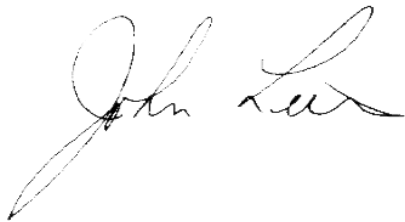
As stated, the pandemic has exposed the fragile underpinnings of the arts and culture industries, one where arts and culture workers knit many pieces into a low to modest income arts career; the original “gig” economy. The pandemic has not created precarity in this field, but it has uncovered the pressing need for reforms. While monetary investments from Federal and Provincial levels of government have been critical to the survival of arts and entertainment sectors, they must be accompanied by basic legislative changes to ensure that the benefits are distributed equitably and reach the hardworking employees working on the ground in these sectors.

Protecting the services of unionized workers in the arts sectors are an essential, if not the most essential way to ensure that workers in the arts are treated with respect and remunerated adequately. In industries that are known for their instability and casual workforces expanding successorship provisions to these workers will provide much needed protection and security.

Implementation of the regulatory change requested as soon as possible, would disincentivize and reduce contract flipping and protect workers in this province.

Thank you for your time and consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John Lewis", with a stylized, flowing script.

John M. Lewis

International Vice President and Director of Canadian Affairs

cc: The Honourable Melanie Mark, Minister of Tourism, Arts, Culture and Sport
Bob D’Eith, Parliamentary Secretary for Arts and Film
Adam Walker, Parliamentary Secretary for the New Economy
IATSE Locals 118, 168, 669, 891, 938, ADC 659, B-778
IATSE Canadian and Western Canadian Offices
BC Federation of Labour
BC Labour Relations Board

APPENDIX “A”

IATSE 118 (Stage – BC except for Vancouver Island)

Since 1904, IATSE Local 118 has been an integral part of Vancouver's performing arts almost since Vancouver's inception. Local 118 has established a tradition of excellence that it will continue as it enters its second century. With over 400 members, some are full-time employees of various venues, but most work on-call when work is available.

Local 118's employers are the who's who of the Vancouver Arts and Entertainment Scene. In addition to Vancouver's Civic Theatres (Queen Elizabeth, Playhouse, Orpheum, Annex), the Arts Club Theatre Company and the Cultch, we provide skilled technical labour to the Vancouver Opera, Vancouver Symphony, Ballet BC, Vancouver Recital Society, and supply local crews for scores of touring rock shows and theatrical productions at Vancouver theatres, Abbotsford Centre, the Pacific Coliseum, BC Place and elsewhere.

IATSE Local 118 members were responsible for skilled technical production work for Expo 86 and many aspects of the 2010-Olympics; and continue to perform that work for the Pacific National Exhibition.

IATSE 168 (Stage – Vancouver Island)

IATSE Local 168 has jurisdiction for theatre work on Vancouver Island, where it has agreements with eight employers from Victoria to Campbell River. Local 168 represents over 200 Members, and an additional 100 permittees working towards membership. The Local represents theatre workers in lights, sound, video, wardrobe and staging work, as well as box office, usher, bartender, and janitorial positions. Other Local 168 workers engage in pre-production construction and finishing of sets, properties, wardrobe and painted elements for stages across North America. Local 168 provides crew for concerts and events, including load in and load out crews, riggers, forklift and boom lift operators, as well as sound and lighting operators. Also represented by the Local are arts administration workers, projectionists, drivers, and first aid attendants.

ADC 659 (Associated Designers of Canada)

Within the live performance industry, designers are responsible for the conceptualization and supervision of the implementation of the creative elements of a show or production. They are hired to design theatre, dance, opera, or other live entertainment in collaboration with the director, choreographer, or other creative team members. For the most part, designers can be categorized into five main disciplines: set, costumes, lighting, video, and sound, although there are additional subcategories like props, or hair and makeup. Canadian designers are classified as independent contractors, and work on each live performance on an individual contract, typically outside of provincial employment standards legislation. The Associated Designers of Canada was founded in 1965 as the representative voice for live performance designers in English Canada. On January 1, 2021, the ADC was granted a charter from the International Alliance of Theatrical Stage Employees, forming a new autonomous local: Local ADC659 — the only nationwide IATSE charter in Canada.

ICG 669 (International Cinematographers Guild, Western Canada)

The International Cinematographers Guild Local 669 membership is involved in all aspects of film and television that pertains to the camera. ICG 669 represents membership across Western Canada consisting of Directors of Photography, Camera Operators, Camera Assistants, Unit Publicists, Unit Still Photographers, Electronic Camera Operators and Assistants, Video Assist, Digital Engineers and Technicians, Data Management Technicians, Drone Technicians, Remote Head Technicians and Camera Trainees in all phases of filmed or electronically recorded theatrical feature films, films for television release, internet and television series productions.

IATSE Local 891 (Motion Picture Technicians, BC)

IATSE Local 891 represents over 15,000 professional artists and technicians across 19 departments who work in film and television production in British Columbia. We support all genres of production at all budget levels and our members made some of the biggest feature films and some of the longest running and most successful television series ever screened. Our award-winning members are internationally renowned for their expertise and skill and, among others, have won or been nominated for Academy Awards, BAFTAs, Emmy Awards, Canadian Screen, and Leo Awards.

From our earliest days, we have actively participated in the development and growth of the film and television production industry in BC and marketed our Province as the premier filming destination. Our approach is to supply world class talent and act to ensure a stable labour relations climate within our industry. IATSE 891 provides its members with ongoing training opportunities with a strong emphasis on safety. 891 also provides an extended health and dental plan, an RRSP plan, an employee and family assistance plan, and access to other benefits.

CAG 938 (Canadian Animation Guild, BC)

Animation as an industry can be defined as the rendering of imaging services provided to television, cinema, video games or advertising. Though there are many different positions within Animation, they can be broken into three main sectors: Pre-Production, Production and Post-Production. Animation workers across all of these sectors are predominantly hired as full-time employees on a contract-to-contract basis into projects and productions that were not willing or able to allow those same workers a seat at the table when it came to substantial concerns about their own workplaces. That all changed in October of 2020 when, in the midst of a global pandemic, workers at Titmouse Vancouver fought to create the first IATSE union for the Canadian animation industry. With 98% of workers voting in favour of representation, the Canadian Animation Guild Local 938 was born. Now the Guild fights for the rights of current and future members to build real collective change for our industry and our communities.

IATSE B-778 (Arts and Cultural Workers Union)

In 2020, IATSE chartered a new local called the Arts and Cultural Workers Union (ACWU), IATSE Local B778 to support the organizing efforts of precarious gig workers in the visual arts sector in British Columbia. These workers work in a variety of non-profit arts organization settings including museums, galleries, and arts festivals. They work in classifications including arts administrators, curators, preparators, and installers. Many of these arts organizations rely on temporary gig workers to supplement the core program workforce for the installation of new shows, exhibitions, and for temporary event production.



September 18, 2025

To the Honourable Jennifer Whiteside, Minister of Labour:

This is in response to the Report of the Labour Relations Code Review Panel (August 31, 2024) and the Ministry's request to provide comments by September 19, 2025.

As members of Local 118 of the International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, its Territories and Canada (IATSE) we work as stagehands and technicians on live theatre, convention and concert productions in the Vancouver area.

We write in support of the dissenting opinion provided in the Report by Panelist, Sandra Banister, K.C., regarding the needed expansion of successorship rights, especially as applied to the live events sector (pages 31–32).

Most of our members depend on work on a casual basis as a part of the vulnerable non-standard “gig economy,” although we mostly work as employees, not contractors. There are also many in the industry, who are working at and supplying some very large venues without the benefit of union jurisdiction.

We were pleased to see successorship rights included in Section 35 of the revised Labour Relations Code six years ago but were very disappointed that that our industry was not included in the grouping of industries where the provisions would apply. We have had experience in contract flipping in the past (e.g., Rogers Arena) and continue to be threatened by this anti-union, and anti-fair employment, tactic as we see signs of its growing use in our industry across North America. Without this protection it also means that our colleagues (and many of our own members) working in non-union environments fear that they could face reduced wages, hours and benefits – and even be punished – through contract-flipping should they try to seek union certification.

In August 2021, IATSE and its B.C. Locals wrote to the Honourable Harry Bains, Minister of Labour at the time, to explain our case for inclusion of our industry under Section 35. We provided a copy of this letter as a part of our submission to the Labour Code Review Panel in 2024. I have also included a copy of the letter along with this this response. Attachments referred to in the letter are available upon request.

We urge you to expand the successor rights and protection under Section 35 of the Labour Relations Code to other industries, which is especially important in the live events and entertainment sector where contract-flipping can currently be easily used as a means of preventing or removing union representation and reducing employee wages, benefits, working conditions and their ability to exercise collective bargaining rights.

Thank you for your work in ensuring that our labour laws are keeping up with modern workplaces.

John Allan
President
IATSE Local 118
Vancouver



INTERNATIONAL LONGSHORE & WAREHOUSE UNION CANADA

180 – 111 Victoria Drive Vancouver, BC V5L 4C4 ♦ Tel: 604-254-8141 ♦ Fax: 604-254-8183 ♦ E-mail: officers@ilwu.ca

September 19, 2025

BY EMAIL

Submission by ILWU Canada regarding the Labour Relations Code Review Panel's Report and Recommendations

ILWU Canada provides this submission on the BC Labour Relations Code Review Panel's August 31, 2024 report and recommendations.

ILWU Canada represents workers within the jurisdiction of both the BC *Labour Relations Code* and the *Canada Labour Code*. The importance of picket lines and respect for fellow union workers in a labour dispute with any struck employer are core values of the ILWU. ILWU Canada and its Locals have negotiated picket line recognition clauses in federally and provincially regulated collective agreements.

ILWU Canada intervened in the Labour Relations Board proceedings with the CMSG strike against Seaspan in 2022 in support of the recognition of federal picket lines as exemptions from strike activity under the BC *Labour Relations Code*. While the protection for workers under the BC *Labour Relations Code* is unfortunately absent from the *Canada Labour Code*, it is confusing and unfair for those workers under the BC *Labour Relations Code* to have to cross a federal picket line where they have bargained a picket line recognition clause with their employer.

The Government's decision to pass Bill 9, *Miscellaneous Statutes Amendment Act, 2024* which allows BC unions to observe picket lines of federally regulated workers should be respected. Recommendations that recognition of federal picket lines should be limited to only those picket lines set up by striking federal employees of a related employer to the BC employees wishing to observe the picket line.

ILWU Canada strongly disagrees with the report recommendations which would retreat from the broad protection just added to the Code because:

- 1) it is unnecessary;
- 2) it does not reflect the picketing permitted under the *Canada Labour Code*, and;
- 3) it would complicate and confuse conduct on the picket line.

1) Unnecessary to have more restrictive recognition

In the last forty years, there has been one significant labour dispute where BC Unions honouring federal picket lines has drawn the attention of the labour community, the 2022

Seaspan strike. The picketing at issue was a result of Seaspan establishing federal and provincial divisions of marine enterprise and operating them from the same geographic worksite which had only one main road access point: the North Vancouver campus. There have not been other situations in which federal picketing has proven to be disruptive.

It is particularly important to note that the Review Panel's comments about the potential impact on forestry industry operations from federal picketing were speculative and alarmist. The Review Panel wrote:

The Council of Northern Interior Forest Employment Relations ("CONIFER") and Interior Forest Labour Relations Association ("IFLRA") provided an example of the potential nature and scope of the problem created by Bill 9, noting that more than 90% of their members' operational facilities could be impacted by federally regulated picket lines because they have, or are adjacent to, federally regulated rail lines or marine operations.

After the Report was written in the summer of 2024, the federal regulated and unionized employees of Canadian National and Canadian Pacific railways went on strike. Despite the fears of the forest industry, federal railway worker pickets did not target sawmills and unionized mill workers did not shut down the forest industry by refusing to cross federal picket lines because none were set up at sawmills.

2) Limiting recognition to same employer inconsistent with federal picketing

ILWU Canada as a federally regulated union has the ability to lawfully picket anywhere on public property or roadways during a labour dispute. We do so responsibly and direct picketing towards the terminal operators and employers. However, during a labour dispute, there may be occasions in which the ILWU may decide to target a related company in the corporate family of a terminal operator, a non-employer company acting as an ally of a struck employer, or picket an employer not involved in the labour dispute because ILWU workers perform work at that site. The BC Code should permit BC unions to observe picket lines established by federal unions at any point during a labour dispute

3) Same employer picket line recognition is complicated and confusing

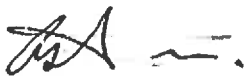
During a labour dispute, workers and employers benefit from clear and understandable rules of conduct which provide predictable behaviour. A picket line is a picket line and allowing workers to honour a picket line is an easily applied right. Limiting picket line recognition based on the connection between the striking workers' employer and the honouring workers' employer requires investigation and knowledge of facts that are best known by the employers and which they would have incentive to withhold from the union workers encountering a picket line. It is easy to anticipate employer discipline and applications to the Labour Relations Board where the corporate relationship between the struck employer and the provincial employer is unclear, disputed, or has been altered by the employer during the labour dispute because of this requirement.

A core value of the ILWU is solidarity, and ILWU members would be at least as concerned about crossing a picket line of ILWU Locals representing employees of a struck employer

not related to their employer as they would if they were encountering a picket line by a non-ILWU union.

Clear expectations and commonsense rules favour recognizing picket lines without distinction. Maintaining the existing language added by Bill 9 is fair and reasonable and best promotes stable labour relations.

Respectfully Submitted By:

Rob Ashton
President
ILWU Canada
president@ilwu.ca



September 19, 2025

To: Ministry of Labour

Re: Feedback on Recommendations for Amendments to the Labour Relations Code

The Post Secondary Employers' Association is the employer bargaining agent for all public colleges, special-purpose teaching universities, and institutes in British Columbia. These nineteen institutions are governed by the *College and Institute Act* and the *University Act*, respectively.

We are pleased to provide the following feedback on the August 31, 2024 Recommendations for Amendments to the Labour Relations Code (the "Report").

Recommendation No. 22 - Continuation of Health and Welfare Benefits During a Labour Dispute

The Labour Code Review Panel (the "Panel") has recommended amending the Labour Relations Code (the "Code") to allow a union to select which benefits it wishes to continue during a strike. We believe the proposed revised language could cause operational issues and litigation. Specifically, while it is possible to cancel benefits by coverage type, such as life insurance, or accidental death and dismemberment, it is not possible to pick and choose specific benefits within a benefits plan. Specifically, within extended health coverage the following types of benefits are typically available:

- coverage for prescription drugs,
- vision care,
- medical supplies and equipment,
- paramedical services such as physiotherapy, massage and personal counselling,
- hospital accommodations such as coverage for a private or semi-private room, and/or
- out of province or out of country coverage.

In addition to not being permissible under industry standard insurance contracts, an ability to temporarily decline parts of a benefit plan is not operationally feasible. Benefit plans often have a set fee for all benefit coverage, or a set fee for the administration of all the benefits within the benefit plan. While we appreciate the proposed revised language provides that the selection of benefits is subject to the terms of the plan, we believe the language will lead to disputes regarding the limitations of specific plans. We recommend updating the recommended language as follows (all changes are **bold**, with additional language being underlined and removals using ~~strike through~~):

Recommendation No. 22

Add section 61.1:

61.1 Under section 61, the union may elect to pay to continue only certain health and welfare benefits coverage type and if so, provided it tenders payment as required under 61(1)(a) and (b) for those benefits coverage types, section 62(2) applies to continue those benefits, unless prohibited by the terms of the plan(s).

Recommendation No. 23 Review of Arbitration Awards - Section 99 and 100

Since the Panel completed its Report, the law has changed. Specifically in March 2025 the Court of Appeal revised its test for when the Court of Appeal will accept jurisdiction of an appeal under Section 100 of the Code.¹ This change has further narrowed the application under Section 100 of the Code.

The dual jurisdiction of the Court of Appeal and the Labour Relations Board (the “Board”) to hear appeals of arbitration awards has been described by the Court of Appeal as “a brain teaser of the highest order”.² The existence of these parallel processes means that it is possible for a party to simultaneously seek review of an award or decision before both the Board and the Court of Appeal. This has led to absurd results. In one particular instance, both the Board and the British Columbia Court of Appeal held that they did not have jurisdiction³. In another instance, a party asked the Court of Appeal to decide the same questions that the Board had already determined, despite not applying for reconsideration of the Board’s decision.⁴ In another instance, a party was required to argue for an extension of the timelines under the Code including arguments on jurisdiction before the Board,⁵ and simultaneously make a jurisdictional argument before the British Columbia Court of Appeal before the case was heard on its merits.⁶

When presented with the problem of dual jurisdiction, in revising the legal test, the Court of Appeal reflected on the current language of the Code, questioned the current approach and offered a preferable approach for appeals reaching the Court:⁷

[49] Although the Code creates two possible avenues of review, pursuit of the appeal to this Court following a final decision of the Board raises questions about the waste of judicial resources and the prospect of inconsistent results. Permitting appeals to proceed in these circumstances could violate “such principles as judicial economy, consistency, finality and the integrity of the administration of justice”: *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63 at para. 37. Although the Union has not taken this position, I am concerned that these circumstances could be seen to be an abuse of process.

...

[52] However, it is my view that should a similar circumstance arise in the future, where the Board accepts jurisdiction and determines the review on its merits, it would be preferable for the party who sought review to pursue its administrative remedies by seeking a reconsideration

¹ *Rehn Enterprises Ltd. v. United Steelworkers, Local 1-1937*, 2025 BCCA 116; and *Okanagan College v. Okanagan College Faculty Association*, 2025 BCCA 117

² *Health Employers Assn. of B.C. v. B.C. Nurses’ Union*, 2005 BCCA 343 at paragraph 38.

³ See *West Fraser Mills Ltd. (100 Mile House Lumber Division) v. United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 1-2017*, 2020 BCLRB 124 and *West Fraser Mills Ltd. v. United Steelworkers, Local 1-2017*, 2021 BCCA 266 (CanLII)

⁴ *Rehn Enterprises Ltd. v. United Steelworkers, Local 1-1937*, 2025 BCCA 116

⁵ *Vancouver (City) v. International Association of Fire Fighters, Local No.18*, 2023 BCLRB 95 (CanLII)

⁶ *Vancouver (City) v. Vancouver Firefighters’ Union, Local 18*, 2024 BCCA 33 (CanLII)

⁷ *Rehn Enterprises Ltd. v. United Steelworkers, Local 1-1937*, 2025 BCCA 116

of the Board's decision pursuant to s. 141 of the Code, rather than attempting to invoke this Court's jurisdiction under s. 100. If unsuccessful in obtaining reconsideration, that party could then pursue an application for judicial review to the British Columbia Supreme Court and, ultimately, an appeal of the judicial review into this Court. The advantage of these procedures is that the reviewing court would have the benefit of the record and decision of the Board before it. It would also guard against the potential risk of this Court declining to hear the appeal to prevent an abuse of process.

Situations where the British Columbia Court of Appeal will have jurisdiction are rare, yet maintaining the mutually exclusive jurisdictions in its current form, even with the revised test, continues to create uncertainty, and unnecessary expense and time. That said, the judicial efficiency of a straightforward appeal path for matters of general law, directly to the Court of Appeal, was appreciated. We recommend amending the Code to better position the Court of Appeal to hear appeals, and to reduce the time and resources spent arguing about appropriate jurisdiction

Specifically, we propose modification to Sections 99, 100 and 141 of the Code as follows:

- On matters relating to the collective agreement, labour relations or related determination of fact, an appeal under Section 99 remains.
- Section 100 is removed.
- For issues of general law, which were previously addressed under section 100, an applicant has the right to appeal under Section 141 of the Code.
- An appeal from either a reconsideration decision under Section 141, or an appeal of a matter of general law under 141, should proceed to the Court of Appeal, rather than British Columbia Supreme Court.

This revised process will allow a more stream-lined appeal process with less uncertainty. Further, the Court of Appeal will have the benefit of the record and decision of the Board before it. Increasingly arbitrators are being asked to review decisions on matters of general law. It is important to create a clear process for review of these awards.

All of which is respectfully submitted,

Katie Cobban
Executive Director, Legal and Sector Services
Post-Secondary Employers' Association

September 19, 2025

Ministry of Labour
PO Box 9594 Stn Prov Govt
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Re: SEIU Local 2 Reply Submission Labour Code Review Panel Recommendations

This letter provides comment on the Labour Code Review Panel's recommendations for the BC Labour Relations code for Service Employees International Local 2 (SEIU), which currently represents approximately 6,000 workers in BC and 20,000 workers across Canada. Our members work across the private sector, from brewing and wine industries to golf courses to retail. Many are in particularly precarious industries like cleaning and security. We urge the Ministry of Labour to expand successorship rights for precarious workers to retain their jobs and their union after a re-tendering of a commercial contract, and to take sectoral bargaining seriously by establishing a specialized single-issue commission to chart a successful path forward.

Successorship

Successorship remains the most impactful change to the labour code for SEIU Local 2 members. By extending successorship rights to contract building cleaning service workers, nearly 10,000 SEIU Local 2 members in BC have had more stability, rights to employment and bargaining power, and employers in return received more productivity and stability. No longer a partisan issue, successorship in some form lives under NDP, Liberal and Conservative provincial governments, in recognition that industrial stability is good for Canada, especially in uncertain times.

Successorship was reviewed extensively by the 2018 Labour Code Review Panel. The Panel found that the lack of successorship legislation for contract service workers impacted existing collective bargaining rights for workers, as "employees are required to re-apply for their jobs, the union is required to organize the workforce and a new collective agreement must be negotiated."

To address this problem, successorship rights and responsibilities were expanded in 2019 to include contract for services to address these undue burdens on workers, unions, and employers, though "contract for services" was narrowly defined to include only building cleaning, security, bus transportation and food services, as well as non-clinical services provided in the health sector. The Panel described this narrow expansion as a "measured and incremental approach." SEIU Local 2 has six years of data in the building cleaning

services sector to examine the consequences of this change, and after over six years of success, now is the time to increase the coverage of successorship.

A measured approach

SEIU Local 2 currently represents approximately 4,000 cleaning workers in BC. Over the six-year period between August 2019 – July 2025, at least sixty-seven commercial contracts affecting nearly 10,000 SEIU Local 2 building cleaning workers in BC have been re-tendered. The impact of successorship rights for these workers, and their employers has been monumental, saving millions of dollars and hundreds of employer and employee hours, increased rights and benefits for workers, and increased productivity for British Columbia's economy. With successorship rights for building cleaning workers after contract re-tendering:

- Employment was not disrupted, easing the burden on Employment Insurance benefits.
- Employment services were freed up for job-seekers who were actually without work.
- Thousands of resumes did not need to be written and submitted by workers.
- Thousands of resumes did not need to be read and prioritized by employers.
- Thousands of interviews did not need to be scheduled and conducted by employers, and prepared for and done by employees.
- Fewer workers needed to be re-trained because of increased retention.

In addition:

- 67 Worksites did not need to be re-organized, lifting a substantial and unfair strain on union resources.
- 67 New collective agreements did not need to be renegotiated by SEIU Local 2 and 12 unique employers, in some circumstances with no prior relationship with the new employer.
- A baseline contract did not need to be bargained, but rather thousands of workers lifted themselves out of poverty with enhanced bargaining power. Workers previously making minimum wage and no benefits won substantial wage increases of at least 20%, benefits, and a pension over a 3-year period.
- There were more opportunities to build positive relationships with new employers under less contentious circumstances of union organizing and first contract negotiation.
- There was a reduced strain on the already over-burdened BC Labour Relations Board for certification hearings, or other proceedings such as ULPs.

Undoubtedly the result has been more stability and productivity in the workplace and more free time for workers who need not navigate unemployment and organizing another union. The result is widespread positive effects on British Columbia's economy, which has only continued to grow since 2019.¹ The experience of this subset of workers in the building cleaning industry proves that successorship rights and responsibilities is good for workers, good for employers and good for British Columbia.

Incremental change amidst unfettered contracting out

Narrow definitions draw arbitrary lines around workers who already face precarity and inequity by being contracted out. SEIU Local 2 represents workers across the private sector in other industries that are contracted out, like community services, golf courses, goods distribution and more, who do not have access to these rights. Even there is disparity among workers doing nearly the same work at the same location. For instance, SEIU Local 2 represents workers who clean YVR airport buildings with Alpine Building Maintenance, but also workers who clean airplane cabins at YVR airport with Delta Facilities Maintenance (DFM). Under the *Code*, workers who clean buildings have the peace of mind of stable employment, but those who clean the airplanes do not. In Ontario, DFM workers who organized a union in 2007 never got a collective agreement because the commercial contract was re-tendered. Over 200 newly organized DFM workers in BC run the same risk without a necessary change to the *Code*. There are also workers who clean trains, trucks, ferries and other vehicles for example, who don't have access to the same rights workers who clean buildings have.

The 2024 Labour Code Review Report noted that unions in their submissions support expanding successorship rights to all sectors. Employers argued that "any [successorship] extension would further tip the balance in the *Code* even more in favour of unions." Consider that contracting out continues to rise in BC, a continuing trend since the legislation change,² while successorship rights have not. Workers across industries are affected by contracting out: from IT services to parks to construction work, and Employers are not restricted in their choice to contract out, or to end or take over a contract. It is workers in industries outside building cleaning, food service, security, bus transportation and non-clinical services in the health sector whose rights are limited.

Minister Whiteside was mandated to grow the economy by creating good jobs across British Columbia. A good job is a stable job. In rising precarity, workers and employers in

¹ BC Government Economic Statistics [2023](#) and [2024](#)

² [Migone, A., & Howlett, M. \(2024\). The Pigeons Coming Home to Roost: The Continuing Perils of Contracting Out in Canada. Canadian Public Administration, 67\(4\), 533-547.](#)

narrowly defined industries like building cleaning services were afforded some stability. This mutual benefit has positive effects on the BC economy.

The majority of workers in Canada per capita are covered by some form of successorship legislation. A baseline of successorship is not a politically partisan issue anymore, as the legislation in some form exists under Liberal, Conservative and NDP provincial governments. Introduced in Ontario under the Liberals, successorship legislation continues under Doug Ford's government, for example. Across party lines, governments have agreed successorship is good for both workers and industry, by affording more stability and limiting labour disruption.

All British Columbians should benefit from increased stability across sectors of our economy, with the expansion of successorship rights to everyone. Like the case of building and airplane cleaners at YVR, restricting successorship to a subset of workers creates inequities and will inevitably leave someone behind. We agree with Bannister's dissent that the definition of "contract for services" should be deleted, so all services can be covered by this legislation.

While we strongly disagree that contract for services must be defined at all, the restriction to "building" cleaning services is the most egregious. Should a definition remain, "building" must be removed and so all cleaning workers have successorship protection.

Sectoral Bargaining and Certification

British Columbia is one of the fastest declining provinces for union density, going from 37% to 30% over the last 25 years.³ These are not workers voluntarily choosing to de-certify, but more workers are becoming structurally denied access to unionization by our Enterprise Bargaining model that strongly favours employers in our modern economy. Employers can classify workers as "independent contractors" by relying on automated management tools, or can own dozens of "independent franchises" of the same businesses and call them unique employers. Under these rules, organizing unions and bargaining collective agreements is becoming increasingly challenging due to this kind of fragmentation and reflects the decline in union density in British Columbia. The way to correct the current imbalance towards employers is to take steps towards sectoral bargaining and certification, by first establishing a specialized single-issue commission to chart a successful path forward.

³ [StatsCan 2024](#)

SEIU Local 2 submitted an extensive package to the Labour Code Review Panel to address the urgent need to take legislative action to adopt a sectoral model for certification and bargaining. It outlined a pathway to modernization of our current labour framework and some key reasons to address the limits of Enterprise Bargaining that has resulted in structural barriers that prevent effective unionization and reduced bargaining power for those who manage to form a union. The panel concluded that sectoral bargaining and certification are both “complex,” and no changes to the Code were recommended. British Columbians cannot shy away from complex issues, and we urge the Review Panel to reconsider its recommendation.

We reject the recommendation for the Minister of Labour to establish advisory councils for domestic, agricultural, food delivery and ride hail workers, under the *Employment Standards Act* or regulation. These proposed councils under the ESA would provide no additional protections for increasingly precarious workers, no enhanced bargaining power, and no new flexibility in union recognition. Workers want to exercise their *Charter* rights and form a Union and collectively bargain, and are being structurally denied these rights. No such council under the ESA can overcome the structural that our submission identified across franchises, fragmented worksites, or multiple locations.

The risk of inaction

The Panel noted that “it is very difficult to assess the risks and impacts of mandatory sectoral bargaining in the abstract.” As outlined in our submission, SEIU Local 2 has proven that sectoral bargaining exists in British Columbia. It was built through union-employer collaboration, in the mutual interest of industrial standards and stability. This kind of bargaining has mitigated some of the power imbalance between employers and precarious employees. Thousands of our members have been lifted out of poverty, secured health benefits, and are now earning a pension to retire with dignity, all due to enhanced bargaining power that sectoral bargaining affords.

Assessing risk will be one of the mandates of the commission dedicated to developing a sectoral framework specific to British Columbia. Failure to act is one of the key risks. Increased union density is associated with higher wages, healthier families with extended health and dental benefits paid by the employer and not the government, reduced gender and racial inequality, and more.⁴ As these become more out of reach for working British Columbians, our economy, society, and social fabric become less stable, and more working people must become more reliant on our already strained safety net. Without a dedicated commission on the sectoral approach overall, industry-specific inquiry risks

⁴ [Economic Policy Institute 2025](#)

siloing what needs to be a systemic approach to labour relations. We reaffirm our call for sectoral certification and bargaining, towards a more equitable future for the workers of British Columbia. We urge the Ministry to take steps to undertake this complex, yet not uncharted task.

Thank you for providing the opportunity to comment on the recommendations of the Labour Code Review Panel. We look forward to seeing the *Labour Code* modernized so more good jobs can be created for the benefit of British Columbians.

Respectfully Submitted,

SEIU Local 2

C/O Kayla Hilstob, Researcher



Teaching Support Staff Union

September 19, 2025

Ministry of Labour
PO Box 9594 Stn Prov Govt
Victoria, BC V8W 9K4

Re: TSSU Reply Submission Section 3 Review Panel's Recommendations

I write to provide comment on Section 3 Labour Code Review Panel's recommendations for the BC *Labour Relations Code* for the Teaching Support Staff Union (TSSU), which represents nearly 4000 non-faculty teaching and research workers at Simon Fraser University (SFU). Precarity and retaliation for speaking out is the daily reality for our members, and time and time again they've come together to collectively defend their inherent rights to the dignity that unionization brings and ask you to enshrine that inherent right in legislation.

After nearly 7 years of organizing and bargaining efforts, most research workers at SFU are now included under our certification and the TSSU/SFU collective agreement. This includes a whole gamut: undergraduate student research assistants, graduate research assistants, post-graduate research workers, non-student research workers, research associates, lab managers, and more. In the five months since ratification of the collective agreement, I've been able to advocate for dozens of research workers facing problems from harassment, to illegal terminations, to ensuring they have access to owed maternity leave, to just trying to get access to benefits. It has literally been life-changing for some of these workers, some of whom have toiled for decades under terrible conditions.

However, approximately 800 research workers at SFU are still denied these rights and await a pending labour board decision. Those workers receive their pay biweekly through payroll with a pay rate and hours attached, but have the Employer code it as non-taxable "scholarship" income because they are graduate students. Hundreds of other graduate students receive pay from the same grants to do the same work, but are coded as employees instead and so now have union rights. In some cases the same person is being paid from the same grant with half their pay as an employee and half not.

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Teaching Support Staff Union

This absurd scenario and others like it, persist despite over 80% of these supposedly "non-employee" research workers signing union cards, first in 2019, and then again in 2023. It persists because their Employer, SFU, has objected on the basis they are not employees. That objection led to 22 days of hearing, a huge amount of board resources and again a decision that is still pending. The timeline for a decision means that the vast majority of those who signed cards have already graduated. But hundreds of new workers have taken their place to toil in labs and archives, behind computers, or in front of study participants, because without this work a modern research university such as SFU simply could not function.

The Employer's rationale for this exclusion has shifted over time, but focuses on their being some educational benefit to the research work being done. That educational benefit is used to excuse every kind of labour, from training others, to building tools for others to use and in some for the Employer to monetize, to administrative tasks like ordering and cataloguing supplies, cleaning the lab, and updating computers, not to mention doing research wholly unrelated to the researcher's graduate studies.

Nearly 5 years ago to the day, our Employer admitted in writing that, except for perhaps a few cases, these workers were employees. Over 3 years ago, Arbitrator Jim Dorsey ruled: *"it is common sense that in July 2022 the SFU research enterprise did not pay almost 800 graduate students over \$250,000 a week for over 17,000 hours commitment with no responsibilities and no performance of assigned duties."* Yet 1824 days after the Employer's admission and 1103 days since Arbitrator Dorsey's ruling, these research workers go into the field, use higher power lasers, and handle radioactive materials, all without the assurance that if they're injured they'll even have the most basic protection offered by WorksafeBC coverage.

Our members are also acutely aware that the Board has issued a decision regarding workers paid similarly at UBC, finding they are not employees. That case too, took dozens of days of hearing, copious resources, and is now under reconsideration.

The LRB's 2023 annual report stated that in total, the Board held 351 days of hearings in the whole calendar year 2023. That means this particular issue of these two Employer objections to research workers unionizing (at UBC and SFU) took over 10% of the entire LRB's hearing resources for a year. That's an incredible amount of resources going from our public institutions to deny the rights of precarious workers to collectively bargain.

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Teaching Support Staff Union

The issues that have driven these research workers to unionize aren't going away. The work is precarious, lowly paid, and, in some cases, quite dangerous. These workers will continue to agitate, continue to need collective advocacy, and continue to seek basic dignity in their working lives. A solution is needed and the government has the power to solve this problem.

TSSU supports CUPE BC's comments in response to the Panel Recommendation 3. We disagree with the Panel's recommendation that the definition of "employee" should remain unchanged and make the following suggestion to ensure that all research workers are allowed their Charter right to access collective bargaining through the Code.

The definition of employee in the Code should be amended to read as follows:

"employee" means a person employed by an employer, and includes a dependent contractor, and persons who, in the course of their employment, also perform work which furthers their education or training, but does not include a person who, in the board's opinion,

(a) performs the functions of a manager or superintendent, or

(b) is employed in a confidential capacity in matters relating to labour relations personnel

Again, I thank you for providing an opportunity to comment on the recommendations of the Section 3 Panel, and I hope that the government will continue to ensure the inherent right to a union is protected.

Respectfully submitted,

Derek Sahota

Senior Member Representative

Teaching Support Staff Union

&

Research worker at Simon Fraser University

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The Canadian Animation Guild

IATSE Local 938

SEPTEMBER 18, 2025

To the Honourable Jennifer Whiteside, Minister of Labour,

This submission, on behalf of The Canadian Animation Guild, IATSE Local 938, is regarding worker protections around Artificial Intelligence (AI) in the BC Labour Relations Code. This letter is in response to the Recommendations for Amendments to the Labour Relations Code that was submitted by Michael Fleming, Sandra Banister K.C. and Lindsie Thomson on August 31st, 2024. We are writing to provide feedback on their recommendations in keeping with the instructions provided. We thank the panel for their time and effort during the engagement period and for their work in assembling and delivering their report and recommendations.

The Labour Code Review Panel took time during its overview of the emerging issue of AI to draw attention to work being done in other areas of Canadian and international Governments as well as the calls from the BC Information and Privacy Commission and BC Human Rights Commission for the BC government to expand consultation efforts to the public to be better informed when crafting legislation around AI. By highlighting these efforts, it appears that the Panel is trying to define what issues should be addressed in other areas of government, and what aspects of the AI issue is able to be addressed by the scope of the BC Labour Relations Code. We will try to similarly limit the scope of this submission to meet the Panel where they have identified opportunities for improvements to the Code to address AI and other emerging technology.

From reviewing the recommendations made by the Panel, as well as the partial dissent made by Sandra Bannister K.C., we feel that a combination of both proposed approaches may be where the most effective path forward lies. Our Local's guiding principle when working with emerging technologies like AI is to be proactive in the prevention of harm. The following overview is how we believe the Code may be amended within the Panel's framework to place an emphasis on responsible and informed adoption of new technologies. We encourage any reform that comes out of this process to be swift to adopt protections in order to prevent technology from moving fast and breaking things, as it likes to do.

Both The Panel's recommendation and the partial dissent by Bannister contemplate addressing AI issues through Sections 53 and 54 of the Code, and we support amending the code in this area to address issues that emerge around AI. The Panel's suggestion of amending section 53 to clarify that technological change is an item for discussion at a joint labour-management committee meeting may provide movement towards cooperative

problem solving, and highlights that section 54 may be relied upon to negotiate an adjustment plan for technological change. Unfortunately, what the Panel's recommendation lacks is that it does not materially create any protections for workers that address the complexity of the AI problem. We agree with Bannister's partial dissent that longer timelines are beneficial for this process, to allow parties to fully inform themselves on the subject for negotiation and appropriately deal with issues that arise well ahead of implementation.

Bannister's proposed amendment also wisely calls for employers to deliver essential information regarding the introduction of AI technologies in their notice to the union. The inclusion of this information will help both parties to negotiate in an informed manner, and also necessitates that an employer fully understands the impact of a tool that it intends to adopt. In our original submission to the BC Labour Code Review, we called for employers to conduct impact assessments before the introduction of emerging technologies to the workplace on the grounds that a lot of AI technologies are built in a manner that is opaque, or are sold with misleading claims regarding their safety or efficacy. In our original submission, we also raised issues of privacy, credit, compensation, surveillance and bias that are created by the implementation of AI tools– all complex and nuanced issues in their own right. These aspects may be beyond the Code to address, but are appropriate to be addressed between an employer and a union when both are properly informed. Requiring an employer to fully report on what impact the technology they want to introduce to the workplace will have before they introduce it will allow employers and unions to more fully grasp all of the issues for discussion.

We would caution against the delineation between Artificial Intelligence and Generative Artificial Intelligence that is present in the language proposed in Bannister's partial dissent, to avoid issues arising from technological nomenclature shifting over the years and creating confusion. While we agree that generative artificial intelligence is applied in much more hazardous ways that merit the attention Bannister has paid it in her dissent, the actual naming of the technology in the Code may create unnecessary litigation between parties over what technologies are factually Generative AI or not. Our experience working with certain tech forward employers so far has been that there is a first reaction to quibble over the technicalities of what is or isn't AI in order to avoid discussing the material impacts of the technology in the workplace. Instead, our preference would lean towards applying Bannister's methodology of longer timelines and more robust reporting requirements to the Panel's scope of utilizing Section 54 to address all instances of disruptive technological change that emerges in the workplace. Addressing technological change in a wholesome manner as the Panel has suggested allows for the harms of Generative AI to be addressed in the here and now, while future proofing the Code for any other volatile emerging technologies that may arise.

Unfortunately, while the solutions contemplated in the Panel's recommendation and Bannister's partial dissent are moving in the right direction, the lack of coverage under section 54 of the Code for workers excluded by section 65 of the BC Employment Standards Act prevents us from fully endorsing either position. Maintaining this exception in Section 54 would exclude all workers who are employed for a definite term from benefiting from its protections. The animation industry is run almost entirely on project-based employment that provides workers with definite term contracts, making any protections against AI that are contemplated by the Panel's recommendations or Bannister's dissent out of reach for the majority of our workers. BC also lacks a clear precedent that determines at which point a worker given multiple, subsequent definite term employment contracts from the same employer would be considered a permanent employee. We are not able to fully endorse either the Panel's recommendation or Bannister's dissent with this gap in protections left intact and would ask that the exception be removed, or the BC Government create a standard that will allow workers to be considered permanent employees after a certain amount of time worked on definite term contracts.

Ultimately, we feel that amending and expanding sections 53 and 54 of the code would be a solid foundation for updating the labour code to be prepared for the challenges that AI will bring to BC's labour relations landscape. We support the increased emphasis on the use of Sections 53 and 54 to address all disruptive technologies that emerge in the workplace, as well as the extended notice timeline and notice requirements proposed by Bannister in her dissent. Above all, to make these protections meaningful, they must also be extended to workers on definite term contracts in order to ensure they cover all workers put at risk by the introduction of emerging technologies. The B.C. government must not delay any further in its duty to safeguard the workers of this province against the harms of AI and other emerging technologies. If indeed there is anything for the BC worker to gain from this technology, inaction will lead to that benefit being lost to the harms of exploitation without recourse. We ask that the Ministry of Labour stand firm in its duty to ensure that the balance of power is maintained, and that workers are not left behind in a technological gold rush.

Respectfully submitted on behalf of the IATSE Local 938 Executive Board.

In Solidarity,

A handwritten signature in black ink, appearing to read 'Emily Gossmann', with a stylized flourish at the end.

EMILY GOSSMANN
SENIOR STEWARD
SHE/HER/HERS

CC;
EDDY PEDREIRA, PRESIDENT, CAG IATSE Local 938

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September 19, 2025

VIA EMAIL: LBR.Minister@gov.bc.ca

The Honourable Jennifer Whiteside
Ministry of Labour
Room 342 Parliament Buildings
P.O. Box 9064 Stn Prov Govt
Victoria, BC V8W 0E2

Dear Minister Whiteside,

Re: 2024 Labour Relations Code Review Panel Report – Response to Report by Unifor

On February 2, 2024, the (then) Minister of Labour appointed a panel pursuant to Section 3 of the *Labour Relations Code* (the “**Code**”) to conduct a review of the *Code* and make recommendations for amendments to the Minister (the “**Review Panel**”). On June 23, 2025, the Ministry of Labour released the report of the Review Panel to the public (the “**Report**”), which contains recommendations for amendments. Despite the Report having been completed by August 31, 2024, your government waited nearly a year before releasing it. Following its release, the Ministry of Labour has invited feedback on the Report from stakeholders to determine your next steps on the Review Panel’s recommendations. Please accept the following response to the Report on behalf of Unifor.

About Unifor

Unifor is Canada’s largest union in the private sector, representing 320,000 workers across all economic sectors, including nearly 30,000 workers in British Columbia.

Summary

In 2024, Unifor submitted proposals to the Review Panel, advocating for significant updates to the province's labour relations framework to reflect modern workplace dynamics and certification challenges in low union density sectors. The Review Panel’s Report, however, has fallen far short of addressing these necessary changes.

Repeating the Fallacies of the 2018 Review Panel

We strongly disagree with the conclusions of the Review Panel repeating the assertions of the 2018 review panel that strengthening labour laws could negatively impact British Columbia's economic outlook. We encourage your Ministry to review the submission and presentations made by the Centre for Future Work and the Canadian Centre for Policy Alternatives (BC), which demonstrate that strong and effective labour laws support a strong economy aimed at reducing income inequality.

It is also incumbent upon us to note that the current government restored card check certification in 2022, against the majority recommendation of the 2018 review panel to maintain the secret ballot vote. As Sandra Banister noted in her 2018 dissent, "card check certification remains the single most effective mechanism to avoid unlawful employer interference and to ensure employee choice." Unifor applauds your government for taking a courageous and much-needed step to ensure that more workers across British Columbia have access to collective bargaining.

The successful outcome of the government's decision to ignore the 2018 review panel's majority recommendation on maintaining the secret ballot is indisputable: since its restoration, card check certification has led to 323 and 264 certification applications in 2023 and 2024, respectively (the first full years for which card check certification data is available). This amounts to an annual average of 294 certification applications filed over the past two years compared to an annual average of just 112 applications during the pre-pandemic period from 2017 to 2019. In total, card check certification helped to provide more than 17,000 workers in British Columbia with access to collective bargaining over the past two years, which stands in stark contrast to a total of 7,900 newly unionized workers over the three-year period from 2017 to 2019.

However, as Unifor's recent experiences organizing Amazon's Delta warehouse suggest, the restoration of card check certification is not enough to halt employer abuses of the certification process nor can it guarantee increased union density in traditionally anti-union workplaces and industries. As the BC Labour Relations Board noted in [its ruling upholding](#) remedial certification of warehouse workers at YVR2, Amazon's "intentional padding of an employee list for the purpose of undermining an organizing drive" constituted a "fundamental attack on its employees' associational rights guaranteed by Section 4 of the Code and the *Charter*" and "a direct attack on employee free choice."

Importantly, the ruling notes: "While unions regularly argue that employers have improperly padded their employee lists, rarely does the Board receive evidence to substantiate those accusations. Thus, while the Board may be suspicious of the veracity of an employee list, it rarely receives the evidence to substantiate a finding of impropriety [...]." Clearly, however, this is not because no such evidence exists, but due to the obstacles that unions confront when attempting to obtain said evidence.

It is partly for this reason that Unifor has advocated for mandatory early disclosure of employee lists and contact information once the union can demonstrate support of 20 per cent of the proposed bargaining unit, as was mandated in Ontario in 2018 prior to the incoming Progressive

The Panel's recommendations, rooted in outdated views and rehashing some well-trodden arguments from the 2018 review panel, ultimately fail to modernize the Code for workers in British Columbia's rapidly growing gig economy and within fragmented workplaces and industries. Notably, against the 2018 panel recommendations, the current government took the bold step to restore card check certification in 2022. Its restoration has led to a significant increase in unionization efforts and successful certifications, yet challenges persist, particularly in anti-union workplaces like Amazon.

We continue to underscore the urgency for legislative changes to better support gig workers and those in precarious employment, while continuing to call on the implementation of broad-based collective bargaining structures and a 20 per cent threshold for mandatory early disclosure of employee lists. The Review Panel's reluctance to endorse sectoral certification or more far-reaching labour relations reforms leaves many workers in British Columbia without adequate protections, perpetuating low wages and poor working conditions, especially for marginalized groups.

British Columbia must see the establishment of an industrial inquiry commission to explore these issues comprehensively, so that ambitious reforms can be adopted that enhance access to collective bargaining and protect workers' rights in today's rapidly changing labour market.

The Review Panel's Report

In 2024, Unifor provided the Review Panel with written submissions which called upon the panel to make recommendations to address much needed changes to the labour relations landscape in the province. In this effort, Unifor joined many other trade unions and workers advocacy organizations calling on your government to modernize the Code to ensure it reflects the changing nature of many workplaces in the province.

Part of the terms of reference for the Review Panel's Report came from the Premier's December 2022 mandate to the Minister of Labour to ensure the province's "labour law is in keeping with modern workplaces, providing stable relations and supporting the exercise of collective bargaining rights". The Report's recommendations fall far short of meeting this mandate.

Unifor is extremely disappointed and discouraged in the Review Panel's discussion and recommendations dealing with numerous issues, particularly those that would update the Code to address new forms of workplace organization that no longer reflect the industrial model workplace.

The consistent – and misplaced – themes of the Report repeat the fallacies of many of the submissions by made by employers and employer associations before the Review Panel. The Review Panel's focus on striking a "fair" or "balanced" approach by supporting incremental changes is at odds with the needs of workers in the province.

The economic scales are tipped against workers. Fragmented, non-standardized forms of labour in the private sector continues to grow. Low-wage workers, precarious workers and gig workers still struggle to access their right to fair working conditions, to unionize and collectively bargain. Sectors with high numbers of indigenous, black, racialized workers, gender diverse workers and workers living with disabilities, continue to see markedly lower pay, worse working conditions and fewer employment benefits.

Conservative government. Such early disclosure might help the union to identify unfair labour practices such as the padding of employee lists. Unfortunately, none of the Review Panel members supported this approach, with the majority recommending no change to the status quo (**Recommendation No. 11**).

The case of Amazon also highlights an even more deplorable union-busting practice that the Review Panel has completely failed to address, which also underscores the *Code*'s lack of teeth around some of the most blatant forms of unfair labour practices – namely, the threat to move or close operations when workers unionize. Amazon is certainly not the first anti-union company to engage in this tactic, but it notably closed all seven of its warehouses in Quebec in February 2025 following the successful unionization of 230 workers at its Laval warehouse in 2024 and amidst ongoing union drives at other Amazon facilities across the province. Ultimately, 1,700 employees and an additional 2,800 workers employed by Amazon's delivery subcontractors lost their jobs.

Governments across the globe – including some in Canada – have increasingly rewarded Amazon and other large anti-union corporations with billions in lucrative government contracts despite their established record of low wages, union-busting and tax avoidance. Meanwhile, no effective recourses or penalties exist in the *Code* for punishing a company that opts to shut down in response to successful union certification. Simply stated, how would your government respond if Amazon were to shut down all of its facilities in British Columbia and lay off thousands of workers in response to the Delta warehouse certification? In our view, the province must be adequately prepared for this scenario by amending the *Code* to cover such egregious cases of anti-union “restructuring” and mandate severe penalties where such acts are found to have occurred. And as indicated in our letter to Premier Eby in April 2025, we continue to call on your government to conduct a thorough review of the contracts Amazon might have with the province, while ensuring that procurement decisions consider the full range of a company's present and past labour practices.

Failure to Address Union Density in Modern Workplaces and the Gig Economy

The lack of ambition in the Review Panel's recommendations ultimately leaves in place a labour relations system that permits some of the most powerful anti-union corporations in the world to engage in unfair labour practices in lower union-density sectors and newer workplaces, knowing that their actions will lead to a chilling effect on attempts to further organize workers in the sector, whatever the outcome of a specific workplace certification drive. Despite Unifor's victory in the Delta warehouse case, the fact of the matter is that it took several lengthy hearings and over a year of delays before the certification of these Amazon workers was finally upheld.

As it currently stands, British Columbia's labour relations framework places the onus on workers to prove that employers are engaging in union-busting behaviour by catching them in the act, rather than providing a robust legal framework under which fragmented, precarious workforces in low union density sectors are able to freely choose to unionize, free from employer interference, intimidation and anti-union practices.

The current Review Panel's failures to make recommendations that would adequately address declining union density and the lack of practical access to collective bargaining for workers in traditionally difficult-to-organize sectors is also fundamentally at odds with the purposes of the *Code*. The *Code* expressly sets out to "encourage the practice and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees." The *Code*'s object is to facilitate access to collective bargaining, not frustrate it. Employers' repeated suggestions that the *Code*'s protection of employees' access to collective bargaining should be limited or restrained because it is bad for business is offensive, and plainly ignores the important purposes of the *Code*.

Unifor's response to the Report focuses on its key failings: the Report does not adequately address modernizing the *Code* to reflect the workplaces of today. Unifor's submissions to the Review Panel called for two interrelated changes:

1. to expand protections for gig workers by providing a meaningful path to unionization; and,
2. to create a scheme for broad-based collective bargaining structure in the private sector.

Unifor was joined by a number of other trade unions and worker advocacy groups calling for the *Code* to reflect modern realities of work by ensuring gig workers and workers engaged in precarious or traditionally difficult-to-organize sectors get access to their constitutionally protected right to bargain collectively. The Review Panel's discussion and recommendations on these issues failed to meet the challenges of the day.

Gig Work

As the Review Panel acknowledges, the share of workers performing gig work, particularly through digital platforms, continues to grow. The Review Panel acknowledges that as of 2020, the share of workers in Canada engaged in gig work is nearly 10% of the workforce. But this number is both outdated and misleading. Statistics Canada tends to report on the percentage of workers who rely on digital platforms as their primary job rather than reporting the percentage who earn any source of income from the gig economy at some point throughout the year. Recent Angus Reid surveys commissioned by [Securian](#) and [H&R Block](#) suggest that the proportion of gig workers has been far higher over the past year, with around 1 in 4 workers across Canada relying on gig work as their primary income source or to supplement their income.

A primary purpose of the *Code* is to provide workers with a means to exercise their right to bargain collectively. Gig workers, particularly those accessing their employment through digital platforms, are difficult, if not impossible, to organize under the current scheme for certification in the *Code*. Gig work that occurs through app-based dispatch companies happens across broad geographic areas, with workers attending no centralized dispatch location, or any location at all. App-based dispatch companies experience high turnover in their workforces. There is no publicly accessible forum in which unions could obtain or determine an eligible list of employees or assess an appropriate bargaining unit of employees for purposes of applying to certify a new bargaining unit to bargain collectively. The nature of app-based dispatch work is at fundamental odds with the scheme for certification under the *Code*, which was designed with a

different type of workplace in mind. The *Code* is therefore not well suited to address the changing nature of workplaces and workplace technologies that create disperse and precarious work. Absent a legislative response to this issue, unions and gig workers alike face insurmountable obstacles in organizing and no meaningful path to access rights under the *Code*.

The Report, however, fundamentally failed to address how the *Code* can be modernized to ensure gig workers have access to the protections of the *Code* and right to collectively bargain. Proposed changes to the *Code* that would have made access to collective bargaining for gig workers a practical reality were not endorsed, including changes to the definition of “employee” in section 1; unions easier access to employee lists; or a scheme for sectoral certification or bargaining.

Unifor encourages you to review the “Submission 1” reply filed by the BC Federation of Labour with the Review Panel; its report entitled “Workers Rights in the Gig Economy: Ensuring Equal Employment Standards Protections for All Workers”.

Frustratingly, the Review Panel did not even endorse, at a minimum, the need for an industrial inquiry commission to hear from stakeholders on how this gap in *Code* can be addressed. At a minimum, your government should commence an industrial inquiry commission on this issue. This recommendation goes hand-in-hand with the advocacy of trade unions and worker advocacy organizations for the government to introduce a system of sectoral certification or bargaining.

Sectoral Certification & Sectoral Bargaining

Unifor and numerous other unions and worker advocacy groups reiterated calls for innovative changes to the *Code* to permit for sectoral certification and/or broad-based bargaining in the private sector. The response by the Review Panel to these calls is both underwhelming and inadequate.

As of 2022, workers in British Columbia continued to experience a dramatic decline in rates of unionization since the 1980’s – a decline of 14.7% compared to the overall national decline of 9%.¹ This trend has been driven by falling union density in the private sector. This decline in union density has grown up alongside other trends in the changing nature of workplaces due to technology, leading to more precarious work.

In order for labour laws in British Columbia to keep pace with today’s workplaces, the government must step in to address issues of access to union representation. As already noted, the single enterprise model of labour relations embodied in the *Wagner Act* model presents series barriers for access to collective bargaining to those sectors of the economy that do not look like the workplaces for which the model was envisioned, large industrial enterprises. The single enterprise model for certification and bargaining for smaller workplaces, franchises,

¹ Statistics Canada, “Unionization in Canada, 1981 to 2022”, November 23, 2022; Statistics Canada, “Trade Union Density Rate ,1997 to 2021”, May 30, 2022.

contracted work, and dispersed workplaces does not work. Change requires a legislative response.

The need for this change is not new. In 1992, the panel appointed to conduct a review of the *Code* recognized that the decline in private sector unionization has to be addressed through changes to the *Code* with the introduction of broad-based bargaining provisions (the “Baigent-Ready model”).² The recommendations of the Baigent-Ready model were not ultimately adopted into law, and the province has continued to see a decline in union density in the private sector.

Similarly, broad-based certification and bargaining structures are not new. Such structures have been longstanding features of collective bargaining regulation in Canada, particularly in the public sector.³

The Report has made inadequate recommendations to address the need for changes to the *Code* to ensure realistic access to collective bargaining for workers engaged in precarious work, gig work and historically difficult-to-organize sectors.

The Review Panel declined to recommend substantive changes relating to sectoral certification or sectoral bargaining. The Report’s reasoning for reaching its conclusions was wholly inadequate, simply stating, in effect, that “these are complex issues”. Instead, the Review Panel made the following recommendations (**No. 13 and 14**), both of which we reject for being either entirely insufficient to address the core issues surrounding the need for broader based bargaining in British Columbia or inappropriate remedies that muddy the water when it comes to charting a viable path forward.

Recommendation 13 (oppose): With respect to sectoral certification, the Review Panel failed to make meaningful or sensible recommendations. Indeed, in addressing sectoral certification, the Review Panel acted beyond its mandate – as the Report itself acknowledges – by suggesting changes be made to the *Employment Standards Act* in the establishment of “advisory councils”. These “advisory councils” would be modelled after a phenomenon in some U.S. cities and states in which a council comprised of representatives of workers, employer and government review terms and conditions of employment and make recommendations for legislative standards for workers. No other details of this proposed recommendation were given. Unifor is unaware of any submission that was put before the Review Panel addressing or calling for such a change. It is not clear that the Review Panel conducted a comprehensive review of relevant literature on this topic. The Review Panel did not explain how such councils would operate; how representatives for workers or employers would be chosen; or why an advisory council would be preferable to other legislative changes (since it made no comparison of the advantages or disadvantages of such an institution to sectoral certification). In the U.S., any such council recommendations are only advisory and are therefore improperly subject to political influences.

² British Columbia, Ministry of Labour and Consumer Services, Sub-committee of Special Advisors, *Recommendations for Labour Law Reform: A Report to the Honourable Moe Sihota, Minister of Labour* (Victoria: Ministry of Labour and Consumer Services, 1992), at pp 30-33.

³ Sara Slinn, “Broad-based and Sectoral Bargaining Proposals in Collective Bargaining Law Reform: An Historical Review”, 2018, pp 33-34.

Fundamentally, an advisory council does not address what the *Code* is meant to facilitate, namely, access to collective bargaining; and it does not address what sectoral certification is meant to address, namely, union representation in a sector or occupation. Any formation of an advisory council is not a substitute for the purposes or benefits of unionization.

Recommendation 14 (oppose): With respect to sectoral bargaining, the Review Panel concluded – for no principled reason – a recommendation to determine whether something like sectoral bargaining could be integrated into certain existing sections of the *Code*, namely, Sections 79 and 80. However, these sections of the *Code* serve a fundamentally different purpose than creating a scheme for sectoral bargaining. They do not expressly permit for mandating the formation of employers’ associations or councils of trade unions to establish collective bargaining procedures for a sector or occupation, and they provide no clear guidance on how that could occur by way an application to the Board.

While Unifor agrees with the spirit of the Review Panel’s recommendation for your government to begin tackling the need for sectoral bargaining, it does not go far enough. Unifor encourages your government instead to launch an industrial inquiry commission addresses both sectoral certification and sectoral bargaining, and how the *Code* can be amended to introduce a scheme that promotes access to collective bargaining for sectors or occupations in the province. The Review Panel provided no principled basis for why it would be appropriate to conduct an industrial inquiry commission on sectoral bargaining but not sectoral certification.

The Review Panel’s abandonment of sectoral or broad-based union certification and collective bargaining provisions under the *Code* in favour of occupational or sectoral “advisory councils” under the *Employment Standards Act* is premature and inappropriate.

Unifor encourages you to review the submissions filed by the BC Employment Standards Coalition and the BC Federation of Labour with the Review Panel on the topics of sectoral and broad-based bargaining.

Unifor urges this government to commence an industrial inquiry commission to consult stakeholders on the establishment of a sectoral certification and/or broad-based bargaining scheme and make any appropriate recommendations.

Additional Comments

Recommendation 1 (endorse): Unifor strongly endorses with the recommendation to substantially increase funding and staffing levels for the Board. As the Review Panel notes, funding was cut by 40% in 2003 and staffing levels have yet to substantially increase since that time. The reintroduction of card-check certification – while welcome and long overdue – has obviously added to the caseload of the Board given the significantly higher number of certification applications filed since 2022. Unifor’s experiences are consistent with the delays, backlogged cases and timely mediation challenges cited by the Review Panel, in addition to failures to appoint expedited arbitrators and outright refusal by some arbitrators to take on cases due to non-payment. Such challenges and delays only serve to create new windows of opportunity for employers to suppress certification drives and union activities, as we saw in the Amazon Delta warehouse case.

Recommendation 3: Unifor strongly endorses the commentary and recommendation of Sandra Banister, K.C., with respect to the definition of “strike” in Section 1 of the *Code*.

Recommendation 7 (endorse): Unifor strongly endorses the majority recommendation of the Review Panel to maintain section 14(4.1). Here, we must again emphasize the fact that remedial certification played a critical role in achieving a fair and just outcome for the workers of Amazon’s Delta warehouse. We note that the dissenting opinion, which suggests that 14(4.1) should be repealed since it was “packaged” as part of a series of measures under a secret ballot system that no longer exists, constitutes a political argument rather than one based on sound legal reasoning. The goal of the Review Panel should be to determine whether the measure in question – remedial certification – continues to serve a critical function in response to unfair labour practices, rather than identifying which package of measures it belonged to or the prevailing certification system that existed when it was first legislated. Cases such as Amazon Delta demonstrate beyond the shadow of a doubt that remedial certification continues to play a vital role in the era of card-check certification.

Recommendation 8 (endorse): Unifor strongly endorses the majority recommendation of the Review Panel, and the commentary of Sandra Banister, K.C., on maintaining Section 23 unchanged, particularly since “the large number of certifications granted since single step certification was reintroduced in June 2022 confirms the efficacy of the system in ensuring access to collective bargaining, which is a fundamental duty of the *Code*.” We note that the dissenting opinion, which argues that the secret ballot system is more in line with “democratic norms” and “protects employees’ fundamental right of freedom of association” offers no proof to support these assertions. Such arguments fly in the face of the evidence – namely, the 17,000 workers that have successfully unionized and nearly 600 certification applications filed over the past two years in British Columbia. Ongoing attempts to repeal card check certification are fundamentally rooted in ideological claims rather than sound data, and ultimately undermine the purpose of the *Code*, which, as we noted above, is to facilitate access to collective bargaining.

Recommendation 16 (oppose): Unifor opposes the majority recommendation of the Review Panel, and endorses the commentary and dissent of Sandra Banister, K.C., with respect to expanding successorship protections in contract retendering situations. There is no principled reason to limit successorship protections only to those services listed in Section 35(0.1).

Recommendations 17 and 18 (oppose): Unifor opposes both recommendations 17 and 18 to maintain sections 35 and 38 unchanged. Despite the Board’s ability to order disclosure of relevant information from employers, unions face an uphill battle when it comes to overcoming the evidentiary challenges of successorship and common employer applications, particularly in industries where work is fragmented and contract turnover is high (e.g. construction). There exists a clear imbalance of power given an employer’s ability to obstruct, delay and omit relevant information, especially in the context of the ongoing backlog of cases confronting the Board. Employers, however, should have little difficulty providing the necessary evidence to prove that no common employer exists or that successorship rights should not apply. In light of this obvious imbalance, the onus of proof with respect to successorship and common employer applications should lie with the employer.

Recommendation 19 (oppose): Unifor strongly opposes the recommendation to the retain existing language of sections 45(1)(b) and 45(1.1), which would keep the statutory freeze period after certification at 12 months. Against the Review Panel's claim that 12 months with the option to extend under section 55 provides sufficient protection, we point to the capacity for anti-union employers such as Amazon and Walmart to obstruct and delay the conclusion of a first agreement and to galvanize a decertification process through these tactics. Rather than force newly unionized workers to confront the daunting prospects of a continually shifting terrain of bargaining conditions that ends with potential decertification, a freeze period that lasts until a first collective agreement is reached (as in Saskatchewan) would provide both the stability and incentive both parties need to reach a timely conclusion.

Recommendation 20: Unifor strongly endorses the commentary and partial dissent of Sandra Banister, K.C., regarding the need to decisively address the impacts of generative artificial intelligence (AI) in light of the rapid advance in AI development in recent years and months. Unifor supports the addition of the proposed section 54.1 that would address the potential impacts of the introduction of generative AI on employment through a defined consultative process between the union and employer; however, we would go further by ensuring that section 54.1 mandates an enforceable adjustment plan through Board-appointed arbitration in situations where both parties have failed to come to an agreement on an adjustment plan among themselves or via mediation.

Recommendation 21: Unifor strongly endorses the commentary and partial dissent of Sandra Banister, K.C., regarding the *Code's* current picketing restrictions. Section 65(8) of the *Code* should be repealed.

Yours very truly,



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September 19th, 2025

This is the submission of UBCP/ACTRA, the trade union representing performers in the film industry in British Columbia, to the Code Review Panel, (“the Review Panel”), which is seeking submissions from interested groups regarding potential amendments to the Labour Relations Code (the “Code”). This process is part of the Minister of Labour’s mandate to undertake an independent review of the Code every five years.

The Panel’s initial report, (“the Report”) dated August 31, 2024, was published on June 23, 2025. The Panel is now seeking feedback on the Report from interested parties.

BC Federation of Labour Submission

UBCP/ACTRA supports and adopts the submissions of the BC Federation of Labour to the Review Panel regarding the priorities of BC Federation of Labour members in respect of amendments to the Code.

Artificial Intelligence

UBCP/ACTRA supported in the call by the BC Federation of Labour for the Review Panel to establish a single-issue panel to examine the impact of artificial intelligence and automation on BC’s workplaces.

The establishment of the single-issue panel would have been consistent with the initiatives of the Federal government in this area, particularly the proposed Digital Charter Implementation Act, Bill C-27, which would bring into effect the Artificial Intelligence and Data Act (“AIDA”). The purpose of AIDA is to ensure that the design and implementation of AI systems in Canada are safe and respect the values of Canadians.

However, the Report does not call for the establishment of a single-issue panel on AI. Instead, the Panel differed in their approaches to the AI issue. The majority of the Panel recommended limited changes to Section 53 of the Code as well as the establishment of a consultative process to address AI issues:

“Recommendation No. 20

A. Amend section 53(4) as follows:

53(4) The purpose of the consultation committee is to:

- a) promote the cooperative resolution of workplace issues, **including but not limited to work reorganization, productivity, technological change,***
- b) respond and adapt to changes in the economy,*
- c) foster the development of work related skills and*

d) promote workplace productivity.

B. The B.C. government undertake a consultation process on the impacts of AI which must involve unions, employers and employees to determine, amongst other things, whether any changes to employment related legislation (including the Employment Standards Act, Labour Relations Code, Human Rights Code, Personal Information Protection Act and Freedom of Information and Protection of Privacy) are required.”

In contrast, Panel member Sandra Banister recommended that significant changes be made to the Code by adding a new Section 54.1 to deal address Generative AI issues:

“Commentary and Partial Dissent of Sandra Banister, K.C.

While I agree the consultation process noted above is critical, given the pace of the introduction and evolution of generative artificial intelligence (“Generative AI”) I am concerned that process will be unable to deal with the challenges to employment posed by Generative AI in a sufficiently timely manner. Accordingly, I propose adding section 54.1 to encourage consultation and specifically address the impacts on employment caused by Generative AI before the decision becomes irrevocable.

54.1 (1) If an employer intends to introduce generative artificial intelligence that may affect the terms, conditions or security of employment of a significant number of employees to whom a collective agreement applies,

(a) the employer must give notice to the trade union that is party to the collective agreement at least 120 days before the date on which generative artificial intelligence may be introduced;

(b) the notice provided must include:

(i) the nature of the proposed generative artificial intelligence;

(ii) the earliest date on which the employer intends to introduce the generative artificial intelligence;

(iii) approximate number and type of jobs which may be affected by the generative artificial intelligence;

(iv) the rationale for the proposed generative artificial intelligence

(c) after notice has been given, the employer must consult with the trade union concerning potential alternatives to the proposed introduction of generative artificial intelligence; and

(d) if generative artificial intelligence will be introduced the parties must endeavor to develop an adjustment plan which may include provisions respecting any of the following: (i) human resource planning and employee counselling and retraining;

(ii) notice of termination;

(iii) severance pay;

(iv) entitlement to pension and other benefits including early retirement benefits;

(vi) a bipartite process for overseeing the implementation of the adjustment plan.

(2) If, after meeting in accordance with subsection (1)(d), the parties have agreed to an adjustment plan, it is enforceable as if it were part of the collective agreement between the employer and the trade union.

(3) If, after meeting in accordance with subsection (1)(d), the parties have not agreed to an adjustment plan, either party may apply to the associate chair of the Mediation Division for the appointment of a mediator to assist the parties in developing an adjustment plan.

(4) An application under subsection (3) must include a list of the disputed issues.

(5) If a mediator is appointed, the parties must provide the mediator with the information the mediator requests concerning the proposed measure, policy, practice or change, the anticipated impact of the proposal and the efforts to develop an adjustment plan.

(6) If, after mediation, the parties have not agreed to an adjustment plan, the mediator may make recommendations for the terms of an adjustment plan for consideration by the parties.

(7) If, after mediation, the parties have agreed to an adjustment plan, it is enforceable as if it were part of the collective agreement between the employer and the trade union.

(8) Subsections (1), (2) and (7) do not apply to the termination of the employment of employees exempted by section 65 of the Employment Standards Act from the application of section 64 of that Act."

In the event that a single-issue Panel on the issue of AI is not established, UBCP/ACTRA submits that the recommendations of the majority of the Panel do not go far enough. The establishment of a consultative process is not sufficient because it has an uncertain mandate and an uncertain timeline. AI is changing the nature of the workplace in the film and television industry and the BC economy as a whole at a very rapid pace.

UBCP/ACTRA therefore urges that the recommendations of Sandra Banister be adopted. Her recommendations create a requirement that Employers give notice of the adoption of Generative AI in the workplace, that an adjustment plan must be developed if the adoption of Generative AI would result in job losses, and that mediation is required if there are disputes as to the provisions of the adjustment plan. The adoption of this new section of the Code is the minimum that is required to address the many legal issues that are sure to develop as AI usage in most workplaces becomes more widespread.

Sectoral Bargaining / Certification

The Labour Relations Code is deficient in that there is presently no way for new groups of employees to become obtain representation by a trade union in the film and television industry.

On July 15, 2024 UBCP/ACTRA made an application under Sections 139 (a), (d), (k) and (l) of the Code seeking a determination by the Labour Relations Board that Intimacy Coordinators working in the film and television industry in British Columbia were included within the bargaining unit structure and valid voluntary recognition relationship between UBCP/ ACTRA and the major employers in the film industry

[who are known as the “Negotiating Producers” and are made up of the Canadian Affiliates Alliance of Motion Picture and Television Producers (the “AMPTP”) and the Canadian Media Producers Association (the “CMPA – BC”)].

Engagement of Intimacy Coordinators in the film and television industry has recently increased dramatically. In previous rounds of collective bargaining with the Negotiating Producers, UBCP/ACTRA asked the Negotiating Producers to include terms in the UBCP Master Collective Agreement (the “BCMPA”) that would have recognized UBCP/ACTRA as the bargaining agent for Intimacy Coordinators and established terms and conditions of employment for their engagement on productions in British Columbia. The Negotiating Producers refused. UBCP/ACTRA was undeterred because it wished to represent Intimacy Coordinators for the purpose of collective bargaining and to that end obtained membership cards from the overwhelming majority of intimacy coordinators working in the film industry in British Columbia.

The Negotiating Producers opposed the July 15, 2024 application, stating in summary, that the Board had no jurisdiction to add employees to the existing bargaining unit structure in the film industry. They also argued, in effect, that groups of employees could only be added to the film industry structure with the agreement of the Negotiating Producers.

In *Alliance of Motion Picture and Television Producers, 2024 BCLRB 177*, (the 2024 Decision”) the Board agreed with the Negotiating Producers and concluded that it did not have the power under Section 139 of the Code to declare UBCP/ACTRA to be the exclusive bargaining agent for Intimacy Coordinators in collective bargaining with the Negotiating Producers.

The Board found that neither Sections 139 (a), (d), (k) or (l) gave it the power to grant the remedies sought by the Union. The Board clarified that its decision did not preclude the union from applying for a certification under Section 18(1) of the Code but acknowledged at page 10 of the 2024 Decision that it shared the Union’s concerns about the meaningfulness of accessing collective bargaining through Section 18(1), given the short-lived nature of any given producer’s production. The Board also acknowledged the Union’s position that industrial instability may result from a situation where access to collective bargaining for unrepresented employees in the film and television industry is limited to the Negotiating Producers’ agreement or Section 18(1) of the Code. Nevertheless, the Board dismissed the Union’s application.

There is a “gap” in the Code that exists with respect to organizing in the film and television industry sector of the BC economy. That gap, as acknowledged in the 2024 Decision, is that there is no avenue for previously unrepresented employees in the film industry to become represented by a trade union and access meaningful collective bargaining, without the consent of the employers in the industry, or without creating industrial instability in an industry where stability is key to competing with other potential filming locations around the world.

The Code is deficient because it does not allow new groups of employees to become represented in the film industry without causing instability to the industry as a whole. In any other industry in British Columbia, provisions such as Section 18 and Section 142 and others allow new groups of employees to become represented by a trade union and exercise their *Charter* right to engage in collective bargaining with the help of a trade union.

The vast majority of Intimacy Coordinators in British Columbia have sought union representation from UBCP/ACTRA and signed membership cards. The other film industry unions do not dispute UBCP/ACTRA seeking representation and have agreed, through the Jurisdiction Resolution Agreement for the unions in the film industry, that Intimacy Coordinators are within the jurisdiction of UBCP/ACTRA.

Intimacy Coordinators are vulnerable, at-risk workers. Their hiring is not guaranteed, and their employment consists of projects that usually last a few months at a time where they may be the only individual performing the work. Despite this, most Intimacy Coordinators have ignored the potential risks to their careers and joined UBCP/ACTRA seeking their right to have Union representation. The only obstacle that prevents their representation by UBCP/ACTRA is the Labour Relations Code itself.

The 2024 Decision of the Labour Relations Board aptly demonstrated that the Code's provisions must be amended with respect to the film industry. The film industry sector already has a form of sectoral bargaining due to the existence of the BC Film Council (formed by IATSE 891, Teamsters Local 155 and IATSE 669), the existence of the industry-wide collective bargaining by the Negotiating Producers, and the use of industry-wide master collective agreements within the majority of production. In effect, the film industry in BC already has Sectoral Bargaining. That bargaining structure must be changed, through amendments to the Code, to allow new groups of employees in the film industry to become represented by a trade union.

In the alternative, if an Industrial Inquiry Commission is established pursuant to Recommendation 14 of the Panel, one of the matters it should consider is how new groups of employees can become represented by a trade union in the film and tv sector of the BC economy.

UBCP/ACTRA seeks a change to the structure of the Sectoral Bargaining and/or Certification in the film and television sector to allow new groups of employees to become represented in its existing structure. Sections 18, 139 and/or 142 Code must be amended to achieve this result in the context of any review of Sectoral Bargaining and/or the Certification provisions in the Code.

Thank you for considering our submissions.

Sincerely,



Keith Martin Gordey
President
UBCP/ACTRA

September 19, 2025

VIA EMAIL: lrcreview@gov.bc.ca

Members of the Labour Relations Code Review Panel:

Sandra Banister, K.C.,
Michael Fleming, and
Lindsie Thomson

RE: BC Labour Relations Code Review – UBCJA Submissions

We write in response on behalf of the British Columbia locals of the United Brotherhood of Carpenters and Joiners of America (“**UBCJA**”) to the open invitation to the public to offer comment with respect to the *Recommendations For Amendments to the Labour Relations Code* (the “**Report**”), submitted by the Labour Relations Code Review Panel (the “**Panel**”) on August 31, 2024.

The UBCJA would like to highlight the following two paragraphs of the Report (emphasis added):

Construction industry stakeholders identified a wide range of issues specific to the industry, including: the functioning and structure of the current collective bargaining processes; instability concerns relating to the existence of two unions representing carpenters; issues relating to the interface between wall-to-wall and craft unions, particularly in the B.C. Bargaining Council of Building Trades Unions (the “**Bargaining Council**”); the fact all building trades unions are required to belong to the Bargaining Council while there is no equivalent requirement on the employer side; raids; and double breasting (pages 44-45 of the Report). The next review of the industry occurred in 2012 in the Interim Report. In keeping with the limited scope of the Board’s authority under section 41, the 2012 Interim Report focused on recommendations relating to instability concerns arising from the existence of two competing carpenter unions (which while permitted by the Board was never intended to be permanent), how collective bargaining should begin, continue and conclude and the development of consultative processes to deal with contentious issues between rounds of bargaining (Page 46 of the Report).

The Panel alludes to “instability concerns” and a supposed intention of the Board that the sharing of the craft of carpentry was never meant to be permanent. The UBCJA

takes issue with these assertions. Firstly, instability concerns ought not to be confused with actual instability. We address this further below.

Second, it is essential to highlight that the sharing of the craft of carpentry is in fact the product of a settlement agreement between CMAW and the UBCJA (the “**Settlement Agreement**”) which was endorsed by the Board in 2007 by way of the decision in *United Brotherhood of Carpenters and Joiners of America*, BCLRB No. B277/2007 (the “**Settlement Decision**”). This Settlement Agreement arose in the context of the split of UBCJA locals from the then British Columbia Provincial Council of Carpenters (the then provincial council of the UBCJA), which went on to form CMAW. The settlement agreement addresses division of assets and sharing of the craft of carpentry. As with all settlement agreements, the terms of this one are interdependent. As is seen in paragraphs 19-21 of the Settlement Decision, a value was assigned in the Settlement Agreement to the sharing of the craft of carpentry. Both parties made concessions, and those concessions were based on the assurances provided by the other in the context of the agreement, which the Board endorsed. Values were assigned to both assets and the sharing of the craft, and—as with any legally binding contract—there was consideration which exchanged hands. There is no indication in the Settlement Decision or otherwise that the value of the sharing of the craft took into account an impermanent intention. Nor does the Settlement Decision say that the arrangement was intended to be temporary. Respectfully, it is improper for the review panel to now suggest that the Board did not intend for the terms of settlement, which the Board endorsed, to be anything but permanent. Any undermining of that agreement or rescission of it would more than likely create for one party or the other entitlement to significant damages, none of which is contemplated in the Report.

Contrary to the view expressed by the Panel, the Board foresaw potential instability “concerns” and built in a mechanism for continued oversight. In paragraph 21(d) of the decision, the Board indicated that CMAW and UBCJA were to submit regular reports of any difficulties arising and requiring the Board’s oversight. To the knowledge of the UBCJA, neither union has had cause to submit any such report to the Board, suggesting that the sharing of the craft has not in fact been a source of instability within the construction sector.

The UBCJA reviewed the submissions of construction industry stakeholders canvassed by the Panel in the preparation of their report, including CLR, CMAW, the BC Building Trades, and the various building trades unions who made submissions. None of these stakeholders provided any evidence of actual instability resulting from the sharing of the craft of carpentry, so the UBCJA submits that the Panel’s conclusions in this regard can only amount to “concerns” of instability rather than actual instability.

While the stakeholders may have raised “concerns” regarding instability, there is no actual instability to point to, and the Minister must be cautious with respect to taking action on concerns alone.

While the UBCJA acknowledges that the Board remains seized of the issue of the sharing of the craft pursuant to paragraph 21(e) of the decision, the decision does not set out what financial consequences will flow from any externally imposed alteration to the terms of the underlying settlement agreement. The UBCJA therefore objects to any casual assertions (including parenthetical ones) in the review panel’s recommendations that would suggest that a legally binding agreement between parties, for which consideration has been exchanged and which the Board endorsed as consistent with the *Labour Relations Code*, may be jeopardized by political forces. For that reason, we return to emphasize the fact that there has been no indication of any actual instability resulting from the sharing of the craft of carpentry. Were such instability to arise, the UBCJA has every confidence that the Board, seized of the matter in accordance with the Settlement Decision, will ensure that the parties fulfill their respective obligations pursuant to the Settlement Agreement.

Sincerely,

A handwritten signature in blue ink, appearing to read 'L-K Weston', is written over the printed name.

Laura K. Weston
Legal Counsel (*West*)

Submission to the BC Ministry of Labour

UFCW 1518 response to recommendations for amendments to the Labour Relations Code

Introduction

As the largest private sector union in BC, UFCW Local 1518 is familiar with the changing needs of today's workplace in British Columbia. We represent workers across various sectors including grocery stores, food processing plants, ride hailing, cannabis shops, retailers, and other worksites. Our local represents over 28,000 members across BC and the Yukon.

Today, we are writing to respond to the recommendations for amendments to the *Labour Relations Code* put forward by the Labour Relations Code Review Panel. Our view is simple: amendments must put the needs of workers at the centre. As an organizing union that is growing in emergent sectors and represents many immigrant and racialized workers, we bring those unique perspectives to this submission.

Summary of responses

1. Single step certification & secret ballot votes

We are pleased to see the panel's recommendation to make no change to Section 23 of the *Code*. As an organizing union, we believe single step certification is crucial and necessary to ensure employee choice and fair access to collective bargaining under the *Code*. This is especially true for the workers that UFCW 1518 organizes, who are often young, new immigrants, and in some cases working their first job. The organizing process is already overwhelming for these workers, so single step certification is necessary for these workers to be able to make a democratic decision without employer interference.

2. Statutory Freeze of Terms – Sections 45(1)(b) and 45(1.1)

We urge the Ministry to reconsider its recommendation to make no change to sections 45(1)(b) and 45(1.1) of the *Code*. Negotiating a first agreement, and doing so within a reasonable timeframe, continues to be very difficult. Because the freeze

period can end before a first agreement is reached, delay tactics are often used by employers, providing them with an advantage at the bargaining table. Running out the time clock gives employers a chance to change pay and working conditions that undermine negotiating efforts and the right of workers to collectively bargain.

This is why we recommend that sections 45(1)(b) and 45(1.1) be amended to remove the 12-month milestone in favour of the statutory freeze of terms extending until a first collective agreement is ratified. The panel does note that an application under Section 55 can extend the freeze. However, that is an additional step for the union to take, further delaying the bargaining process while adding complications for workers already dealing with an extended bargaining process.

3. Enhancing New Collective Bargaining Relationships

In UFCW 1518's original submission in 2024, we proposed simplifying negotiations of first collective agreements by adding recommendations of standard baseline language for first CBAs to the *Code*. We welcome the panel's recommendation to provide an information package containing model language to newly certified employers.

We propose that a consultation process that includes labour unions is undertaken in the development of this information package with model language. As in our original submission, we would like to see this model language cover standard collective agreement provisions, including:

- the grievance procedure
- grievance arbitration
- management rights clauses
- joint labour-management processes
- access to employee files
- probationary periods

4. Examining Membership Evidence – Labour Relations Regulation Section 3

In July 2025, our union made history when we certified the first ride-hail workers in the country – Uber drivers in Victoria. This was a key victory for ride-hail workers not just in BC but nationally.

The certification process had its challenges though after membership evidence was submitted. During the certification process, membership cards were disqualified by the Labour Board based on duplicate or incomplete names. An audit by the union of the disqualified membership cards showed that ride-hail workers with ethnic names were disproportionately represented among the rejected cards.

While the union was able to get many of these cards re-signed, this could have had a chilling effect on the democratic decision-making of those immigrant and racialized workers.

In addition, the Officer's Report indicated that no membership or payroll audit took place even though these cards were rejected. The same report even identified that the employee list provided by the employer showed "First Name Unknown" for some employees first names. This "First Names Unknown" also disproportionately impacted ride-hail workers with ethnic names. Despite an incomplete employee list, no membership audit took place before membership cards were rejected.

Section 22 of the *Code* references the *Labour Relations Regulation* in establishing membership in good standing. Section 3 of the *Regulation* sets out minimum requirements for membership cards.

We are proposing that membership cards that meet the existing minimum criteria do not get rejected due to different naming standards among immigrant and racialized workers without a membership audit. The power of the Labour Board to conduct such an audit is already laid out in section 140(c) of the *Code*.

For that reason, we are making a new but timely recommendation for the addition of a new subsection (d) to section 3 of the *Labour Relations Regulation*:

3 (d) a membership card meeting the minimum criteria set out in subsections (a), (b), and (c) but where the name of the employee does not match employer records must be subject to examination and other inquiries as set out in sections 22 and 140 (c) of the Code before membership is deemed as no longer in good standing.

As a union representing many immigrant and racialized workers, we want to make sure those workers have the same access to the democratic decision to unionize as other workers.

5. Sectoral Bargaining for TFW Reliant Industries

We strongly recommend the addition of the issue of sectoral union certification to the mandate of the Industrial Inquiry Commission that the Review Panel has recommended to further investigate sectoral bargaining. Without further inquiry and consultation, the Review Panel's recommendation against sectoral certification in favour of sector-specific "advisory councils" is premature and does not consider how sector-specific standards for many industries have resulted in inferior rights for workers.

In addition, we recommend that the Industrial Inquiry Commission explore the use of sectoral bargaining in industries that heavily rely on Temporary Foreign Workers (TFWs).

In Canada's overall workforce, TFWs are heavily focused in the sectors of agriculture, forestry, fishing, and hunting (up to 18% of the workforce in those sectors in 2019). In 2021, 57% of all TFW work permits were for the primary agricultural stream. This stream focuses on the labour needs of farms, nurseries, and greenhouses.

For the agricultural sector, the use of sectoral bargaining would be a tool to stabilize the industry and align immigration policies with employer needs. The Review Panel even acknowledges that "certain groups of workers encounter significant employment issues that must be addressed." One of these groups is TFWs.

UFCW 1518 is making this recommendation for sectoral bargaining based on our experience with TFW farmworker members. In 2024, 400 workers at Highline Mushrooms joined our union, becoming the largest group of farmworkers to unionize in Canada. With the support of our union, these temporary foreign workers secured a historic first contract that includes life-changing provisions and raises the bar for the agricultural industry in British Columbia.

Yet, the issues faced by TFWs and the employers who rely on them are complex and multi-faceted. Workers, employers, and governments at both the provincial and federal level are all stakeholders. British Columbia already ranks second in its reliance on the use of TFW labour (23,000 TFWs in 2021) just behind Ontario. Reliance on TFW labour is not going away. This province cannot "meet the labour challenge" without substantively improving conditions in the agricultural sector for TFWs. Multi-employer bargaining – i.e. across the sector – is critical to achieving this. With this form of sectoral bargaining, the province could tackle common issues

for both agricultural employers and TFWs but also better align the labour needs of employers and immigration policies at the provincial and federal level.

The focus for sectoral bargaining should be on models that allow all industry leaders, and government in some form, to engage in broad-based bargaining. Most other liberal market economies very similar to Canada – e.g., Australia, New Zealand, even the UK – are already doing this. Models for how this could be done in Canada exist as well, specifically looking at how the New Zealand Fair Pay Agreement framework could be adapted¹. Adopting a sectoral bargaining approach in the agricultural sector in BC could be the ideal pilot to evaluate how well the model could work in Canada. It would show bold, visionary leadership by the BC government.

6. Time Frame for Unfair Labour Practices

Our union represents more than 14,000 retail members across hundreds of locations in BC and the Yukon. Many of these members work outside regular “business” hours providing essential services at grocery stores on evenings and weekends.

We strongly oppose the Review Panel’s recommendation to replace “calendar” days with “business” days for complaints under section 5(2) of the *Code*. The use of business days is unfair not only for thousands of our retail members but also the many thousands of non-union retail workers who work outside regular business hours. In an organizing drive, they may face dismissal outside of regular business days requiring a complaint under section 5(2) to be filed.

As the Review Panel notes, it is in both the union’s and employer’s interest to have the complaint dealt with as quickly as possible. For that reason, we believe the current Board practice of not including Sunday for time limits under section 5(2) and of the parties typically agreeing to not commence a hearing on a weekend is a reasonable balance while keeping the current wording of “calendar” days.

7. Access to Employee Lists

¹ Slinn, Sara and Rowlinson, Mark, "Bargaining Sectoral Standards: Towards Canadian Fair Pay Agreement Legislation" (2022). *All Papers*. 349.
https://digitalcommons.osgoode.yorku.ca/all_papers/349

The face of labour is changing from workers in single in-house workplaces to distributed workers engaging remotely. In fact, our union just organized Uber ride-hail workers in Victoria who work through an app.

While these workers have the right to unionize in theory, they faced multiple barriers in practice to organize collectively such as their ability to communicate with each other due to the distributed nature of their work. The type of workplace structure should not determine whether workers have fair access to the democratic decision to unionize.

That is why we hold a position that the *Labour Relations Code* requires employee lists with contact information to be shared with union organizers once a trade union has signed cards from 20% of eligible workers.

8. Certification Card and Timeline Changes

We oppose any changes that lengthen the certification process or reword membership cards. Workers deserve a clear certification process. We believe the current wording on cards and timelines already protects workers and ensures a fair certification process.

9. Protections around Artificial Intelligence

Artificial intelligence (AI) is already having far-reaching implications for workers in British Columbia. That will only accelerate moving forward. Some of these implications could even include the use of AI as scab labour.

To begin addressing these impacts, we support the Banister recommendation from the Review Panel on adding language in section 54.1 that addresses the impacts of AI on workers in British Columbia. We maintain the position that a commission should be established to both examine the impacts of AI on BC workers but also to propose guardrails on AI and protections for workers as the use of AI expands in BC's workplaces.

DELIVERED VIA EMAIL: LRCReview@gov.bc.ca

September 19, 2025

Honourable Jennifer Whiteside, Minister of Labour
PO BOX 9064 Stn Prov Govt
Victoria BC V8W 0E2

Dear Minister:

Re: *Labour Relations Code Review 2024 – Report of the Labour Relations Code Review Panel (August 31, 2024)*

On behalf of the United Steelworkers ("USW"), I am pleased to provide this feedback on the August 31, 2024 Report of the *Labour Relations Code Review Panel* (the "Report").

Our feedback will focus on the following five issues:

1. Sectoral bargaining;
2. Post-certification freeze period;
3. Time periods for dismissal complaints and certification votes;
4. Access to employee lists;
5. Successorship; and
6. The adjustment provisions of the Code.

We will address these issues in the order in which they appear in the Report.

RECOMMENDATION 6:

Prohibitions Against Dismissals – Section 5(2) – Time Frames

USW opposes the recommendation to extend the deadline to commence a hearing of a dismissal complaint under s. 5(2) of the Code.

The Panel's recommendation rests on complaints from the employer community that the current time frame undermines procedural fairness because the computed time includes weekends.

With respect, we submit that this reasoning is flawed. There is nothing inherently unfair about being asked to work a weekend. Indeed, weekend work makes up a significant portion of the economy. While approximately two-thirds of Canadian workers have regular weekday work schedules¹, that is not the reality for the other one third of workers.

Weekend work is especially common in the retail and hospitality industries, where wages are relatively low and where workers are disproportionately young, racialized, or immigrants. For that reason, the power imbalance between employees and employers in these sectors is particularly pronounced. It is workers such as these who are most in need of the protections afforded by s. 5(2) of the Code – including its swift timelines.

The notion that it is not feasible to seek advice or prepare for a hearing over the weekend is radically at odds with our experience. Weekend hearing preparation is the norm, not the exception. In an age of cell phones, remote access to servers, and cloud storage, it is increasingly viable to seek legal advice and access documents and other evidence outside of "normal" office hours.

While weekend hearing work may be less convenient than weekday work, that inconvenience should not suffice to weaken the protections under s. 5(2) of the Code. Throughout the submissions process, the business community repeatedly urged the Panel to recognize the importance of maintaining "flexible employment arrangements". Our view is that employers, too, should be asked to demonstrate flexibility to help safeguard employees who are exercising their statutory rights.

RECOMMENDATION 9:

Certification Vote – Time Frame – Section 24(2)

USW similarly opposes the recommendation to extend the timeframe for a certification vote under s. 24(2) of the Code.

As argued above, weekend work is the norm for many; there is no innate unfairness to a system that may require work on a Saturday or Sunday. Most employers have remote access to payroll systems that may be used to generate employee lists; those that do not typically have direct access to those records.

We also note that while the employer community has raised "fair hearing issues" related to the current timeline, we are aware of no applications for review of a Board's certification order in which the timelines have been cited as causing an unfair hearing. If this was the problem that employers

¹ Akyeampong, E. B., & Siroonian, J. (1993). Work arrangements of Canadians—An overview. *Perspectives on Labour and Income*, 5(3), Article 1. Statistics Canada. <https://www150.statcan.gc.ca/n1/en/pub/75-001-x/1993003/article/2-eng.pdf>

allege it to be, one would have expected this to generate at least some litigation over the past six years.

While the current timeline may create inconvenience, that is a reasonable trade-off, we submit, to support the policy objective of minimizing employer interference prior to a vote. Section 24(2) should remain unchanged.

RECOMMENDATION 11:

Employee Lists

USW opposes the recommendation that no amendment be made to the Code to permit access to employee lists.

Respectfully, the Panel's comments about the availability of access orders under s. 7(2) of the Code does not address unions' core concern about access to employees. As the Panel notes: "There may well be circumstances beyond those addressed in section 7(2) where workers' ability to be informed about a union's organizing activities may be inordinately hindered." We agree. Section 7(2) is limited to situations where employees reside on employer property or in remote areas where access is controlled by the employer. Those are situations where the employees are, nonetheless, physically present at the worksite, and that presence is relatively concentrated geographically.

The challenge of organizing in the modern era of virtual work, or work-from-home, is often the polar opposite of a "camp" situation – employees are spread out geographically, lack a central physical worksite, and may have little or no contact with their coworkers. Section 7(2) does nothing to ameliorate this.

As the Panel noted, a model that grants access to employee lists upon proof of 20% support is not without precedent: this was the law in Ontario after the introduction of Bill 148. While that model was short-lived due to the change in government, the proverbial sky did not fall during that time. The system appeared to work.

With respect to the Panel's concerns about generating litigation, we submit that list-access requests could be handled administratively by the Board's officers – much like the current process of investigating and preparing tentative voters' lists – and thus avoid duplicative litigation.

While we appreciate Ms. Banister's commentary and dissent on Recommendation No. 11, we nonetheless urge the government to adopt a model that grants access to employee lists upon proof of 20% support. In our respectful view, the Minority's proposed amendment would invite more litigation as the Board would have to develop its policy about what constitutes appropriate circumstances for granting access to lists. In contrast, the proposed 20% threshold would provide

a "bright line" test that would offer greater certainty and predictability for the labour relations community.

RECOMMENDATION 14:

Sectoral Bargaining

USW opposes the recommendation to strike an Industrial Inquiry Commission ("ICC") to consider sections 79 and 80 of the Code. Instead, we strongly advocate that the Minister establish a single-issue panel to make recommendations for the implementation of sectoral bargaining.

Sectoral bargaining is, like many systemic labour relations issues, complex. However, there is no reason why a commission need be limited to address the issue in the "abstract", as is the Panel's concern. To the contrary, we suggest that a commission on sectoral bargaining can and should include the research, stakeholder consultation, and "factual matrix" of various industries that the Panel has identified as important.

The Report acknowledges the periodic need to investigate systemic labour relations issues. Respectfully, however, its recommendation amounts to striking a commission to determine if there is a need for a commission. We are concerned that this approach only creates an unnecessary step and further delay.

One of the common themes that ran through the submissions made to the Panel was that of "efficiency" – a word that appeared frequently in the submissions by employers and labour unions alike. This should be no surprise; efficiency is one of the hallmarks of effective organizations and of sound labour relations systems. It is one of the labour relations community's shared values. Even the Minister's mandate letter asks that the Ministry's programs and initiatives remain efficient².

Sectoral bargaining was recommended by the Ready-Baigent Report well over 30 years ago. There is, to be blunt, nothing efficient about studying whether we should study sectoral bargaining. It is time, we say, to "get on with it".

We urge the Minister in the strongest terms to establish a single-issue panel to make recommendations for the implementation of sectoral bargaining.

² Office of the Premier. (2025, January 16). *Mandate letter to Minister Jennifer Whiteside*. Government of British Columbia. https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/premier-cabinet-mlas/minister-letter/mandate_letter_jennifer_whiteside.pdf

RECOMMENDATION 16:

Successorship

We are concerned that the Report does not advance changes to successorship, despite longstanding evidence that workers are put at risk when bargaining rights and collective agreements do not follow the work. This issue is particularly acute in the forest industry, where tenure and volume transfers are common, but the principle applies broadly: workers should not lose protections simply because work is reorganized or reassigned.

In our earlier submission, and consistent with the findings of the IIC in 2022, we recommended extending successorship protections to all workers to ensure that when work continues, so too do the rights and agreements that have been negotiated. This approach provides stability for workers, employers and communities alike.

We urge government to move forward with legislative amendments that extend successorship protections in forestry and, ultimately, across sectors where work is shifted but not eliminated.

RECOMMENDATION 19:

Statutory Freeze of Terms – Section 45(1)(b) and 45(1.1)

USW opposes the recommendation to maintain the current 12-month limit on the post-certification "freeze".

As the Panel notes, a number of other Canadian jurisdictions extend the freeze period to the conclusion of a first collective agreement (or until strike/lockout): Saskatchewan, Ontario, Quebec, and federally (Canada). If British Columbia were to follow suit, it would bring the BC Code inline with the majority of the country.

While we recognize that an application under s. 55 may serve to extend the freeze in some circumstances, an application under s. 55 is not always appropriate. If a s. 55 application becomes necessary in order to close the "gap" in the freeze period, we are concerned that this may unduly strain the resources of the Mediation Division.

Unions' primary concern with the current "gap" is that employers may delay the bargaining process in order to get to the 12-month mark. Currently, the only way to address unjustified delays in bargaining is to file a bad faith bargaining complaint. Again, this invites litigation and unnecessarily taxes the Board's resources. Bridging the gap by extending the freeze until a first collective agreement creates predictability while avoiding the need to litigate.

RECOMMENDATION 20:

Joint Consultation and Adjustment Plans – Sections 53 and 54

While the USW does not oppose the recommendation to add "artificial intelligence" to the list of workplace issues to be discussed by consultation committees, our view is that these recommendations do not go far enough.

In our March 2024 submissions to the Panel, we recommended that the Code be amended to facilitate and support meaningful consultation under s. 54:

"Individual employees are not the only beneficiaries of a meaningful adjustment plan. As a union representing workers in forestry, mining, and other resource sectors, we know that the economic viability of an enterprise impacts everyone. In resource-based communities, the town's very survival may be at stake. And given that much of the province's wealth is generated in these rural communities, there is a broader public interest engaged when a company faces economic challenges. In such cases, it may be appropriate to convene broader consultations with stakeholders to ensure that s. 54 can effectively serve the Code's objective of 'fostering the employment of workers in economically viable businesses'.

Currently, there is no statutory mechanism to facilitate such consultations."

The specific language we proposed is attached as Appendix "A".

Much has changed since March 2024. The Canadian economic landscape has been fundamentally altered by the tariffs imposed by the United States. Meaningful consultation under s. 54 is more important than ever.

As of the date of this letter, the following tariffs have been implemented:

- 35% tariff on all imports that are not CUSMA-compliant;
- 10% tariff on non-CUSMA compliant potash and energy products;
- 50% tariff on aluminum and steel;
- 25% tariff on cars and trucks; and
- 50% tariff on copper.

In addition, there remains the threat of additional s. 232 tariffs added to the average 35% anti-dumping and countervailing duties already imposed on Canadian softwood lumber. Canadian dairy products, semiconductors, and pharmaceutical products are also at risk.

These tariffs pose an existential threat to key Canadian industries. Companies will have to adapt to survive. That inevitably leads to major workplace changes, such as layoffs, reorganization, and technological changes, all of which trigger the duty to consult with the union.

This month alone, the closure of two local manufacturing plants has been announced: food processing plant Hain-Celestial and a steel fabrication plant operated by A.J. Forsyth (a Division of Russel Metals), both in Delta, BC. Approximately 200 Steelworkers stand to lose their jobs due to economic uncertainty and soft markets. However, the current framework for under s. 54 is ill-equipped to do anything other than soften the blow of job losses. What we need is a robust model of adjustment planning that focuses in keeping businesses and jobs in Canada, not just negotiating the terms of severance.

In its Report, the Panel expressed concerns that proposed changes to sections 53 and 54 would incentivize "more adversarial approaches and litigation". While we do not agree with that conclusion, we share the Panel's concern about the potential for an unduly adversarial approach to adjustment plans.

Now, perhaps more than ever, employers and unions need to be able to work cooperatively to "foster the employment of workers in economically viable businesses". Canadian businesses face an unprecedented challenge in the form of increased American protectionism. Old models of labour-management consultation are ill-equipped to meet this challenge.

A facilitated approach to workplace adjustment tempers the otherwise adversarial nature of labour-management discussion by interposing a neutral third party. Furthermore, the neutral can liaise with other stakeholders (including indigenous partners, governmental entities, utilities, vendors, and others) to develop a creative and effective plan that fosters both employment and economic viability. This is of benefit not only to the company and union, but to the communities in which these businesses are embedded, and the Canadian economy as a whole.

Unprecedented times call for creative solutions. We urge the Minister to consider our proposal for a facilitated approach to workplace adjustment planning.

ADDITIONAL COMMENTS

We have not commented, in this letter, on Recommendation No. 15 (Collective Bargaining and other issues in the Forestry Sector). It is the view of USW Local 1-1937 that government should reject the recommendation that a separate commission be struck to address labour relations issues in the forest industry. Rather, those issues should be subsumed under the mandate of a commission struck to address sectoral bargaining generally. We strongly support that position. USW Local 1-1937 is providing its own commentary on Recommendation No. 15. We adopt and rely upon those submissions.

We also offer our full support of the positions taken by the BC Federation of Labour on behalf of its affiliated unions.

We thank the Minister for the opportunity to offer this feedback for your consideration.

Yours truly,

A handwritten signature in black ink, appearing to read "Scott Lunny", followed by a period.

Scott Lunny
Director, District 3

DB/sch

c.c.: BC Staff Representatives, USW

APPENDIX "A"

USW proposed amendment to s. 54 of the Code

54.1

- (a) *If during the term of a collective agreement, there is or is a likelihood of an employer introducing a measure, policy, practice or change that affects the terms, conditions or security of employment of a significant number of employees to whom a collective agreement applies, the minister may, in the interest of fostering the employment of workers in economically viable businesses, on application or on the minister's own motion, appoint an economic advisor.*
- (b) *On appointment, the economic advisor must investigate the causes and potential impact of the changes set out in (a) and may make recommendations consistent with fostering the employment of workers in economically viable businesses.*
- (c) *The economic advisor must report the result of its inquiries and its recommendations to the minister within 14 days after its appointment or within a further time the minister specifies.*
- (d) *On receipt of a report of an economic advisor appointed under this section, the minister must furnish a copy to each of the parties affected and must publish it in the manner considered advisable.*
- (e) *If either before or after the report is made the parties agree in writing to accept the report in respect of the matters referred to the economic advisor, the parties are bound by the report in respect of those matters.*

CONSTITUTIONAL PROTECTION FOR UNION ACTIVITY

SUBMISSION TO THE LABOUR RELATIONS CODE REVIEW

JUNE 2025 UPDATE

Adrienne S. Smith
Adrienne Smith Law

CONSTITUTIONAL PROTECTION FOR UNION ACTIVITY

The *Canadian Charter of Rights and Freedoms*¹ protects the constitutional right of working people to organize into democratic unions of their choice; to bargain collectively; and - should bargaining reach an impasse- to exert economic pressure to achieve a fair collective agreement with employers who occupy a position of disproportional power over them. Labour power is by definition collective.

The Supreme Court of Canada's New Labour Trilogy² reversed the Court's earlier jurisprudence, which had largely denied the 2(b) association rights of unionised workers. Despite this correction labour relations regulators have been slow to correct enabling legislation, including the *Labour Relations Code*, which were drafted with an anemic understanding of the constitutional nature of union activities.

The purpose of the *Code* is to maintain labour peace in British Columbia³ by minimizing the effects of labour disputes on uninvolved persons or to protect the public interest during labour disputes. These are not improper purposes, but they are subordinate interests to workers' constitutional rights. *Charter* compliance now demands its correction.

Employer preference is not a right

The employer community has no corresponding right to balance against worker's constitutional rights. Neither the *Charter* nor any other part of Canadian Law entitles employer or the board to complicate union organizing, to insulate the labour disputes of some workers from *Charter* protection, or to restrict the expression of labour organizations. As a result, submissions focused on industrial stability or the availability of standing or a remedy from the Board misstate the interests at stake, and ask government to countenance substantial interference with the *Charter* rights of workers without justification. They should be given no weight. This would be true even under the older narrower reading of the *Charter* because picketing is also an exercise of expressive freedom.

Employers are on notice that an impasse could result when they bargain with a union. Employers affected by pickets from a neighbouring labour dispute can encourage their employer colleagues to negotiate fairly with their workers. They are not entitled to more. Neither can respect for other workers' picket lines be predicated on an employer's willingness to concede to a proposal advanced in bargaining. This invites employers to simply refuse and subordinates *Charter* rights to private contract law.

¹ *Canadian Charter of Rights and Freedoms*, s 7, Part 1 of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.

² *Saskatchewan Federation of Labour v Saskatchewan*, 2015 SCC 4; *Mounted Police Association of Ontario v Canada (Attorney General)*, 2015 SCC 1; *Meredith v Canada (Attorney General)*, 2015 SCC 2.

³ At 2(e), by Promoting conditions favourable to the expeditious settlement of disputes".

No jurisdiction to regulate hot edicts

Neither the government nor the Board have the authority to interfere with hot edicts or any calls for picket support issued by workers' democratically elected leadership. These are core to both expressive and associational freedom. They cannot be displaced simply because an employer frowns up the practice.

The right to organize cannot be unduly fettered

Any Board process or procedure which unnecessarily prevents workers from choosing to organize would not withstand *Charter* scrutiny. Card check and advances in remedial certification were necessary advances which must be retained. However the Board's historic reliance on employer lists has been insufficient, and the Board's verification procedure frightens organizing workers and dissuades those standing farthest from justice from fully exercising their rights. Administrative barriers to achieving certification must be addressed.

Picketing is *Charter* protected

Union members owe each other a duty of solidarity. The sacrosanct nature of a picket line is a core principle of this solidarity, which predates confederation. It is not limited by how the Dominion of Canada was administered by a distant colonial powers. Union members played no role in dividing their work into distinct provincial or federal jurisdiction under section 91 and 92 of the *Constitution Act* 1867. Historic efforts to criminalise worker power through various Combination Acts have not extinguished the right. Neither do they define it. Freedom to associate is defined by the union's understanding of the nature and scope of the freedom to associate. The importance of a picket line to union members, is not contingent on a Board or Court's later ruling about its lawfulness, or by employer convenience. It should not fall to the worker to determine for themselves at the plant gate whether a picket line is lawful, or whether certain employers are related before they defend another union's right to strike. Provincially regulated union workers must be able express to support picket lines erected by federally regulated trade union members, because a worker is a worker. If it looks like a picket line and it is in British Columbia, union workers are bound by their catechism to respect it, as part of a constitutionally protected activity. The Bill 9 amendments addressing the clear issues in *Vancouver Shipyards* were necessary and appropriate⁴. Their withdrawal would be retrograde to *Charter* compliance.

WHO WE ARE

Adrienne Smith holds a JD from the University of British Columbia, and an LLM in constitutional Law from York University.

⁴ Vancouver Shipyards, BCLRB No. B146/2022



Dear Minister Whiteside,

Thank you for the opportunity to comment on the BC Labour Relations Code Review Panel's recommendations to the Minister of Labour. As representatives of the Alma Mater Society of UBC Vancouver, Canada's largest student society representing over 62,000 undergraduate and graduate students, we are writing with concern for our members. Graduate research assistants play a leading role in the research which drives our university forward and maintains UBC's status as one of the world's best institutions of higher learning. Research can be both mentally and physically challenging work; yet, graduate-assisted research is not considered work under the labour code, which has dire consequences for the well-being and safety of research assistants.

Not being recognized as workers means research assistants can end up working many hours informally, without compensation, effectively doing free labour for the University. Yet, those same workers have no right to negotiate with UBC for better pay or benefits. Graduate students, who are often given stipends that pay less than the minimum wage, bear the heaviest burden of our affordability crisis. The AMS' 2024/2025 Services Report shows that, despite comprising only 20% of UBC's student population, graduate students accounted for 49% of food bank visits. These same students, who struggle to put food on the table for themselves and their families, are also the most likely to work overtime without pay.

Without the right to form a union, research assistants cannot speak out against exploitative or hazardous work practices or bargain for better pay and conditions. Researchers may face discrimination or harassment in their hiring process or while working, often without access to support systems that are available to other employees. This often means navigating difficult situations on their own, without a formalized process to handle serious workplace violations and disputes. The result is an unwelcoming and unfair work environment where researchers feel that they would rather keep their heads down and be complacent, leading to an exploitative and toxic work culture, burnout, and increased strain on mental health.

Allowing graduate research assistants to unionize would mean advancing the well-being, safety, security, and dignity of UBC's hardest-working, yet most undercompensated, workers. This would benefit the University too, as researchers will work more productively under less stress and continue to pay UBC dividends through their hard work. This is a step that many other major Canadian universities have already taken; in the U15, this includes the University of Alberta, the University of Calgary, Laval University, McGill University, the University of Montreal, the University of Ottawa, Queen's University, the University of Saskatchewan, and the University of Waterloo. Yet, UBC, one of the country's largest and most research-intensive institutions, has lagged behind its peers in this regard.

We request that the rights and work of graduate research assistants be recognized; that the Labour Relations Code be amended accordingly to ensure graduate research assistants and other student workers are protected under the definition of work and that their right to unionize be explicitly protected.

Best regards,

Solomon Yi-Kieran, Vice President External, AMS of UBC

Riley Huntley, President, AMS of UBC



September 18, 2025

The Honourable Jennifer Whiteside
Minister of Labour
Government of British Columbia
Victoria, B.C.

By email: LRCReview@gov.bc.ca

Re: BCCPA Submission – Establishing an Advisory Council under the Employment Standards Act to Review the Regulations for Live-in Home Support Workers

Dear Minister Whiteside,

On behalf of BC Care Providers Association (BCCPA), I am writing regarding the current review of the B.C. Labour Relations Code. In particular, BCCPA strongly endorses **Recommendation 13b of the Expert Panel**, which calls for the establishment of advisory councils to review and develop employment standards for precarious workers under the Employment Standards Act (ESA).

BCCPA urges the government to establish an advisory council specifically to review the employment standards for **live-in home support workers**. Reform of this employment standard is long overdue. A revised framework should balance affordability for seniors with fair wages for workers, while enabling family-funded (private) home health providers to meet the care needs of older adults.

Addressing this issue is pertinent as our province is currently facing a well-documented senior care crisis. Demand for senior care—both in long-term care spaces and home health services—continues to grow, while supply remains constrained, leaving thousands of older adults on long waitlists or without appropriate support services. Currently, an older adult spends an average of **290 days** on the waitlist to move into a long-term care home. As a result, many seniors are forced to accept compromises in quality of life while waiting to move into a space that provides the necessary level of care.

Many families turn to family-funded home health agencies to purchase 24-hour live-in support. Unfortunately, the current framework under the ESA makes it virtually impossible for family-funded home health agencies to provide 24-hour care to seniors in an affordable manner. Consequently, many seniors are left to purchase this care through less formal arrangements, such as unregulated online marketplaces such as Craigslist or Kijiji. These arrangements create inherent risks for both seniors and workers themselves, highlighting the urgent need for reform.

In 2016, the BC Employment Standards Tribunal reaffirmed that live-in home support workers employed by family-funded providers must be paid hourly, with overtime applied after 8 hours of work. Before this ruling, families were accessing live-in home support at a flat rate, typically around \$250 per day. This arrangement made live-in care accessible and affordable for average-income families, while ensuring fair wages for workers. However, after the ruling, only government-funded live-in home support

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workers could be paid through this alternative minimum wage standard, while family-funded providers were effectively excluded, giving way to an asymmetrical labour standard between workers.

The consequences for seniors have been profound. At the current average hourly rate of \$23 per hour, a 24-hour live-in shift (including paid breaks) costs the operator approximately **\$690.00 per day, or more than \$15,000 per month.**¹ Once necessary expenses like administration, overhead, and travel costs etc. are factored in, operators must charge the clients an even higher rate to remain financially sustainable. These costs put live-in care well beyond the reach of most families, especially considering the median annual income for seniors in B.C. is about \$31,000.

Minister, we appreciate the panel's balanced approach and its commitment to thoughtful reform, which is reflective of modern workplace realities. Our Association is pleased to endorse numerous recommendations in the Report, which we will outline in a separate submission, and welcomes further dialogue with your Ministry. BCCPA looks forward to collaborating to ensure that future changes to the Employment Standards Act uphold fair wages for workers, while ensuring stable and uniform labour practices in the seniors' care sector.

Thank you for considering our submission.

Sincerely,

Mary Polak
CEO, BC Care Providers Association

About BCCPA:

BC Care Providers Association (BCCPA) has represented non-government care providers for over 40 years. We work with over 500 long-term care, home health care, assisted living, independent living, and commercial members across the province. As part of our mandate, BCCPA champions B.C.'s family-funded seniors living and continuing care options as a way for older adults to live well.

¹ Calculations are based on typical cases where senior clients require a home support worker to provide 24-hours of support. We base this calculation on the average wage of \$23.00 per hour for live-in workers (as per WorkBC). A 24-hour shift includes 24 hours of paid time (inclusive of breaks), with a standard rotation of 5 days on and 2 days off, equating to an average of 22 shifts per month.

Daily wage: \$690.00

[\$23.00 per hour for the first 8 hours + 4 hours paid at time and a half (1.5x) and 12 hours paid at double time (2x) = \$690.00]

Monthly compensation: \$15,180

[At \$690.00 per 24-hour shift, with 22 shifts in a month, for 5 days on and 2 days off shift schedule]

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September 11, 2025

The Honourable Jennifer Whiteside
Minister of Labour
Government of British Columbia
Victoria, B.C.

By email: LRCReview@gov.bc.ca

Re: BCCPA Submission – Labour Relations Code Review

Dear Minister Whiteside,

On behalf of the British Columbia Care Providers Association (BCCPA) and our members across the seniors' living and continuing care sector, we thank you for the opportunity to provide feedback on the review of the *Labour Relations Code* and the recommendations made by the expert panel. Our Association represents a broad range of providers, both unionized and non-unionized, delivering seniors living and continuing care services to thousands of British Columbians.

We appreciate the Panel's balanced approach in many areas and its commitment to thoughtful changes where needed to respond to the modern workplace. We are pleased to express our support for several of the recommendations in the Panel's report. Notwithstanding our general support, we have significant concerns regarding the impacts of certain recommendations, as well as possible future amendments to the *Code*. In particular:

1. Multi-Employer (Sectoral) Certification

The Association is concerned about enabling sectoral certification without careful consideration. Combining multiple employers into a single bargaining unit could lead to complicated, unmanageable bargaining relationships and might threaten service consistency for seniors. The greatest risk is for many small and medium-sized providers in the home health and independent living sectors, many of which lack collective bargaining experience and operate on thin margins to keep services affordable while paying fair wages. Additionally, some providers experienced in collective bargaining also worry about the potential for multi-employer certifications, as overly large bargaining units could harm the culture within individual teams. Any adverse changes in this sector would increase pressure on our already stressed public health care system.

BCCPA supports Recommendation 13a made by the expert panel to retain the current certification provisions in the Code.

2. Expansion of Successorship Rights

While BCCPA supported the 2019 restoration of successorship rights for health care services to address instability caused by contract re-tendering, we do not support a further expansion of these provisions, as recommended by several labour groups. Extending successorship rights

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beyond those services already enumerated, or to address the initial contracting out of health care services could impose significant operational and financial burdens, including the obligation to honour outdated collective agreements that may no longer align with current service delivery models or funding structures. Such changes would have substantial financial impacts for both public and private health care employers, at a time when fiscal restraint is necessary.

BCCPA supports Recommendation 16 made by the expert panel to retain the current language in the Code regarding successorship rights.

3. Single Step Certification – Section 23

BCCPA strongly supports a return to **secret ballot votes** for union certification. The secret ballot process is in keeping with our democratic principles and creates confidence that workers have made an informed decision to certify, free from misinformation, peer pressure, or coercion. To many, moving away from the secret ballot vote represented a loss of workers' rights. Restoring this approach would help to re-establish balance in the *Code*, which is needed to maintain the credibility of our system, particularly if any consideration of multi-employer certification is being considered.

BCCPA opposes the majority recommendation made by the expert panel, and endorses the dissenting opinion of panellist Lindsay Thomson with respect to Recommendation 8.

4. Restoring Balance to the Code—Section 24(2) and Section 14(4.1)

Should government choose to retain single-step (card-check) certification, BCCPA recommends restoring balance in the Code by:

- Lengthening **certification timelines** (Section 24(2)); and
- Removing the Labour Relations Board's ability to impose **remedial (automatic) certification** (Section 14(4.1)).

BCCPA opposes the majority recommendations made by the expert panel and endorses the dissenting opinion of panellist Lindsay Thomson with respect to Recommendation 7 and opposes the panel's recommendation with respect to Recommendation 9.

5. Employment Standards Act – Advisory Councils

BCCPA supports the expert panel's recommendation to establish advisory councils to address the challenges facing precarious workers under the *Employment Standards Act*. We further recommend that this work be expanded to include a review of the ESA definition and regulations for **live-in home support workers**—a group whose working conditions and protections have long required modernization. A revised employment standard, that is inclusive of family-funded (private) home health providers, would need to be developed to maintain a balance between affordability for seniors and fair wages for workers.

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BCCPA endorses Recommendation 13b made by the expert panel to establish advisory councils under the Employment Standards Act to make recommendations addressing the unique employment conditions of these workers.

We welcome the opportunity to discuss these issues further and to work with your Ministry to ensure that any changes to the Labour Relations Code maintain fair and stable labour relations in the seniors' care sector.

Thank you for considering our submission.

Sincerely,

Mary Polak
CEO, BC Care Providers Association

About BCCPA:

BC Care Providers Association (BCCPA) has represented non-government care providers for over 40 years. We work with over 500 long-term care, home health care, assisted living, independent living, and commercial members across the province. As part of our mandate, BCCPA champions B.C.'s family-funded seniors living and continuing care options as a way for older adults to live well.

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CACE's Response to *Labour Relations Code* Review Panel
Recommendations for Amendments to the *Labour Relations Code*

– September 2025 –

INTRODUCTION TO CACE'S PERSPECTIVE

1. The Canadian Association of Counsel to Employers (CACE) wishes to thank the members of the Review Panel for their efforts in developing the Recommendations for Amendments to the *Labour Relations Code* that were issued in June 2025 (the "Report"). It is not an easy task to assemble and assimilate the views of disparate interest groups in order to produce a report that tries to take into account multiple perspectives on various issues (often competing ones) against a backdrop of unheralded events, such as the COVID-19 pandemic.
2. We applaud the Review Panel's endorsement (at page 5 of the Report) of the description in the 2018 Report of the importance of predictability, certainty and balance. The importance of those factors was, as noted by the Review Panel, agreed between economists from the Centres for Future Work (endorsed by trade unions), the Business Council of BC and the Independent Contractors Association of BC, as necessary elements of strong sustainable economic performance in British Columbia. As the Panel noted, in 2023 (the year prior to the Report), every other province registered strong job growth in the private sector, while BC experienced a contraction of private sector jobs. This is not sustainable.
3. It appears the Report was provided to the BC Ministry of Labour on August 31, 2024 prior to some significant economic events, like the ongoing "tariff war" with the United States. Government decisions made in response to the Report must take into consideration the current economic client, which has changed considerably since August 2024.
4. That tariff war has resulted in all levels of government in Canada recognizing the need to remove internal trade barriers in order to best meet the current challenges. This recognition places a premium on ensuring consistency of BC's labour laws with the laws of other provinces so our labour laws do not become a non-tariff barrier to investment in BC.
5. In the "Engagement Summary" description on the GovTogetherBC website, the task assigned to the Review Panel was to make "recommendations to ensure that BC's laws keep up with the needs of modern workplaces and are consistent with the rights and protections enjoyed by other Canadians". The Engagement Summary indicates that the Panel "invited submissions from workers, labour organizations, business and industry groups, indigenous partners, the legal profession and the general public".
6. The description of those impacted interests is consistent with the notion that labour laws are not simply intended to balance a bilateral set of interests consisting only of unions (and their members) and employers. Rather, the task assigned to the Review Panel, and indeed the Report, recognizes that labour issues are polycentric and should be addressed by taking into account the interests of the many, as opposed to the few. Indeed, the introduction to the Review Panel's



recommendations references the fact that the Review Panel was “directed to have regard to section 2 of the *Code* and consider relevant developments in other jurisdictions”. This latter consideration, along with the Engagement Summary’s identification of consistency with the rights enjoyed in other Canadian jurisdictions, is a recognition of the reality that investment decisions, which will ultimately affect the economy of this province, are often focused on the differences in labour relations statutes and the resulting labour relations climate in various provincial jurisdictions.

7. Section 2 of the *Code* is a directive from the Legislature that labour relations decisions should take into account a variety of factors beyond the interests of individual parties. It provides:

The Board and other persons who exercise powers and perform duties under this *Code* must exercise the powers and perform the duties in a manner that

- a) recognizes the rights and obligations of employees, employers and trade unions under this *Code*;
- b) fosters the employment of workers and economically viable businesses;
- c) encourages the practices and procedures of collective bargaining between employers and trade unions as the freely chosen representatives of employees;
- d) encourages cooperative participation between employers and trade unions in resolving workplace issues, adapting to changes in the economy, developing workforce skills and developing a workforce and a workplace that promotes productivity;
- e) promotes conditions favourable to the orderly, constructive and expeditious settlement of disputes;
- f) minimizes the effects of labour disputes on persons who are not involved in those disputes;
- g) ensures that the public interest is protected during labour disputes; and
- h) encourages the use of mediation as a dispute resolution mechanism.

8. It is critical that the factors listed in section 2 of the *Code* inform the government’s approach to any amendment of the *Code*. While, on its face, section 2 is intended to have a real-life impact on the decisions of the BC Labour Relations Board (the “Board”) under the *Code*, the primary responsibility for ensuring the overall satisfaction of the polycentric nature of labour relations issues must lie with government. It is the role of government to ensure that our labour laws reflect a balance between all competing interests in order to provide predictability and avoid “pendulum swings” that are inconsistent with that balance. Certainty and predictability are important considerations to be taken into account in investment decisions and, if British



Columbia labour laws become a decision-making criterion, the economic interests of all the citizens of this province are actually or potentially negatively affected. The Review Panel, and previous Review Panels, identified these considerations as paramount influences to be taken into account when considering *Code* amendments.

9. We do not propose to respond to every element of the Review Panel's recommendations; we will identify our responses using the headings in the Report. Thank you for your consideration of CACE's perspective.

NEW DEVELOPMENTS

10. The Review Panel identified a number of matters which loom on the horizon for workers, trade unions and employers in British Columbia. For example, it identified "Gig Work" and "Artificial Intelligence" as matters that will clearly have an impact on labour relations in British Columbia in the future. To this portion of the Report, we would add the issue of "Remote Work". Issues of remote work have become far more frequent and contentious since the Report was drafted, and we wish to highlight this issue as one that will require input from all of the stakeholders in employment matters before it can be sensibly addressed in law. We urge the government to canvas the opinions of stakeholders widely so that, if legislative amendments are considered in relation to Remote Work, they are made with a full appreciation of the policy and employment implications of any legislative initiatives.

DEFINITIONS – EMPLOYEE – ONLINE PLATFORM WORKERS

11. As identified by the Panel, the definition of "employee" in section 1(1) of the *Code* is already broader than the common law definition of employee, in that it embraces workers identified as "dependent contractors". While the Panel did not recommend any changes in that regard, it should be noted that the definition of "employee" in the *Code*, because it includes dependent contractors, has not been an impediment to certification of online platform workers in British Columbia. For example, Uber drivers in Victoria have recently been certified.

DEFINITION – MANAGER

12. We endorse the Panel's recommendation that persons meeting the definition of "manager" continue to be excluded from the definition of "employee" under the *Code*. Proper collective bargaining requires an arm's length relationship between the employer and the union, which would be impeded by the inclusion of management representatives in the union's bargaining unit.



DEFINITION – STRIKE

13. In April 2024, through the *Miscellaneous Statutes Amendment Act (“Bill 9”)*, the government expanded the definition of “strike” under the *Code* to permit employees to refuse to cross a picket line erected by employees who are regulated by the *Canada Labour Code*, or by labour legislation in another province. This amendment is a paradigm example of the government acting completely contrary to the criteria under section 2 of the *Code* and, in particular, the provisions of that section identifying the obligation to ensure the public interest is protected during labour disputes. The expansion of picketing rights in this fashion is antithetical to the protection of the public interest during labour disputes: s. 2(g). As the Panel noted, *Bill 9* was passed without input or consultation from the employer community, and it occurred while the Panel was doing its work and in the middle of the consultative process leading to the Report. In the second reading of the *Bill* on March 13, 2024, purported jurisdiction was stated as follows:

Honouring the picket lines of other workers is a fundamental feature in BC labour relations. This change adheres to the core principles of labour solidarity, which are well established in this province. With this change, it won’t matter whether workers are part of a federal or provincial sector. There will be consistency.

14. It is simply wrong to assert that *Bill 9* provides “consistency”. There is no broad-based right to refuse to cross a picket line in any jurisdiction in Canada. Indeed, labour legislation throughout this country makes it an illegal strike for workers to refuse to attend at work during the life of a collective agreement. This fundamental feature of Canadian labour law has been well established and administered, across Canada, since the 1950s. Respectfully, an ephemeral notion such as “labour solidarity” should not trump the protection of the public interest.
15. The definition of strike, which was changed by *Bill 9*, came into effect because of the jurisdictional dilemma existing where strikes and picketing activity in the federal sector are regulated by the courts while strikes and picketing in British Columbia are regulated by the Labour Relations Board. The definition of “strike” was amended so that the exemption from the definition related to honouring picket lines (which occurs only in British Columbia) was limited to provincially regulated employees and did not extend to picketing by federally regulated employees. This amendment was made in response to the sequential shutdowns of provincial operations affecting provincially regulated trade unions and their members by concerted picketing activities by federally regulated employees during a strike at what was then the British Columbia Telephone Company. This resulted in the shutdown of pulp mills and sawmills throughout this province and BC Hydro locations and BC Ferries to name but a few, simply because those locations contained telephone equipment serviced by striking BC Tel workers. Both unions and employers in British Columbia were concerned about the shutdown of their operations, with the resulting loss of wages for employees, brought about by the importation of federal picketing



activity into what was essentially provincial locations related to matters the picketed employer could not address.

16. Since the sponsoring Minister only consulted with the trade union movement, she appeared to be unaware of the effect of *Bill 9* on the public interest. *Bill 9* must be repealed and the proper consultative process undertaken so that government may take into account not only the relevant history (as set out above) but the impact of such an unbalanced change in our labour laws on persons not involved in labour disputes and on the investment climate in British Columbia.
17. A similar concern arises from a recent series of decisions of the Labour Relations Board involving an employer known as Gate Gourmet. In those decisions the Board has compelled employers in British Columbia to direct activities of workers in another province to avoid being in breach of the *Code*. Thus, in addition to importing federal strikes into this province of British Columbia, we are now exporting our labour strife into other provinces. In making its decisions, the Board failed to engage in any analysis of the impact on the public interest as mandated by section 2 of the *Code*. While this is, respectfully, an error the part of the Labour Relations Board, ultimately, the “buck stops” with the Legislature. The Legislature should take immediate steps to protect the economy of British Columbia from circumstances where multi-jurisdictional employers will now find our labour laws as a non-tariff barrier to doing business in our province. The issue raised both by *Bill 9* and this recent series of cases are matters of public policy which should be addressed by the Legislature.
18. As both the 2018 Review Panel and the current Review Panel noted, section 2 reflects the reality that “employment, business viability, and collective bargaining, are integrally connected” and “the duty to recognize that contributes to the balance in the *Labour Code*” (Report, page 15). When amending the Labour Code, the government must ensure it considers the direct impact of any amendments that it makes on investment decisions. CACE members frequently hear from clients that BC’s current labour laws are a disincentive to doing business in BC.

SECTORAL CERTIFICATION AND BARGAINING

19. Requiring employees to be covered by a collective agreement simply because they have chosen to work in a particular job or industry sector is the very antithesis of “freedom of association”.
20. It is now beyond controversy that freedom of association under section 2(d) of the *Charter* encompasses a freedom not to be associated (this is variously described as “forced” or “compelled” association). The decision of the Supreme Court of Canada in *Lavigne v. Ontario Public Service and Employees Union*, [1991] 2 S.C.R. 211 contains discussion on the issue of the applicability of the *Charter* to employees who do not wish to be associated with certain initiatives:



225 ... The question then, is whether the protection of this community interest in and the antecedent individual interests requires that freedom from compelled association be recognized under section 2(d) of the *Charter*.

The Court went on to comment:

227 ... It is clear that a conception of freedom of association that did not include freedom from forced association would not truly be “freedom” within the meaning of the *Charter*.

228. This brings into focus the critical point that freedom from forced association and freedom to associate should not be viewed in opposition, one “negative” and the other “positive”. These are not distinct rights, but two sides of a bilateral freedom which has as its unifying purpose the advancement of individual aspirations. The bilateral nature of the associational right is explicitly recognized in Article 20 of the *United States Universal Declaration of Human Rights*, 1948, which provides as follows:

1. Everyone has a right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

This construction of the associational right in two reflective strands serves to recognize the often overlooked potential for coercion in association. Governmental tyranny can manifest itself not only in constraints on association, but in forced association. There is no logical inconsistency in recognizing this reality. Nor do I accept the proposition that including the right to be free from compelled association within the reach of section 2(d) will weaken or “trivialize” the cherished right to be free to from associations. It will do nothing but strengthen it. Moreover, the purposive approach to *Charter* interpretation demands such a result.

(Emphasis added.)

21. Freedom of association encompassing both the right to associate and the right to be free from compelled association was also canvassed by the Court in *R v. Advanced Cutting and Coring Ltd.*, 2001 SCC 70 (discussing the *Lavigne* decision at paras. 183 to 202) and affirmed again in *Benard v. Canada (Attorney General)*, 2014 SCC 13 (in the majority judgment at para. 38).
22. The *Code* must take a holistic view of freedom of association as required by the case law.
23. Sectoral certification would be a clear infringement of the freedom of association provisions of the *Charter*. It should not be given any further consideration.

REVIEW OF ARBITRATION AWARDS – SECTION 100 OF THE *CODE*

24. In the Report, the Panel noted that section 100 of the *Code* provides for the review of labour arbitration awards by the BC Court of Appeal on matters involving the general law *which are unrelated to a collective agreement or labour relations or related determinations of fact.*



25. However, decisions from the BC Court of Appeal, subsequent to the filing of the Report with the Ministry of Labour, have neutered the jurisdiction of the Court of Appeal to the point where there is simply no need to maintain section 100 of the *Code*. To continue to maintain it complicates the process of review of arbitration awards in British Columbia.
26. The application of section 100 of the *Code* is confounding because, of course, labour arbitration always involves matters which are “related to a collective agreement or labour relations”.
27. However, and we say this descriptively and not critically, the Court of Appeal has interpreted the legislation as effectively assigning all initial jurisdiction to the Labour Relations Board with jurisdiction in the Court existing only as an afterthought. The maintenance of the fiction that there is any original jurisdiction in the BC Court of Appeal to review arbitration awards is not helpful and section 100 should be repealed.

All of which is respectfully submitted for and on behalf of CACE:



James D. Kondopulos
Director, British Columbia
Canadian Association of Counsel to Employers (CACE)



Honourable Jennifer Whiteside
Minister of Labour
PO Box 9064 Stn Prov Govt
Victoria BC V8W 0E2

Via Email: LRCReview@gov.bc.ca

Dear Minister Whiteside,

On behalf of the undersigned business associations representing employers across British Columbia, we are writing to share our collective response to the Section 3 Panel's *Recommendations for Amendments to the Labour Relations Code*. Together, we represent the majority of private sector jobs in the province and are central to investment, productivity, and economic growth.

We agree with the Panel's view that balance, stability, and predictability are essential to effective labour relations. These principles, reflected in section 2 of the *Code* and in your mandate letter from Premier Eby, remain critical to ensuring that B.C.'s labour laws support both workers' well-being and thriving businesses.

B.C.'s economic context makes this balance more important than ever. The province is facing weak private sector growth, declining investment, a deteriorating fiscal position, and record out-migration of young workers. In this climate, it is vital that labour policy provides certainty and supports competitiveness.

We are concerned, however, that recent changes, including the 2022 move to card-check certification and the 2024 Bill 9 amendment, have tilted the *Code* significantly toward organized labour, creating uncertainty for employers and discouraging investment. These changes have also made B.C. an outlier within Canada with clear consequences for the province's competitiveness. The Panel's further recommendations to retain enhanced measures introduced under the secret ballot model, create new advisory councils, or launch an Industrial Inquiry Commission into sectoral bargaining and the construction sector risk compounding that uncertainty.

We therefore urge government to avoid further amendments that disrupt the balance of the *Code*. Instead, we recommend restoring secret ballot certification, repealing Bill 9, and rejecting any steps toward sectoral bargaining. Maintaining a balanced and predictable framework is essential to competitiveness, investment, and job creation in B.C.

Thank you for considering the attached submission. We remain committed to working with you to ensure labour laws that support a dynamic private sector economy.

Sincerely,



Laura Jones
President and CEO
Business Council of British
Columbia



Alex McMillan
Interim CEO
B.C. Chamber of Commerce



Bridgitte Anderson
President and CEO
Greater Vancouver Board of Trade



Ryan Mitton
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Paul Hawes
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British Columbia
Hotel Association



Dave Earle
President and CEO
British Columbia
Trucking Association



Walt Judas
Chief Executive Officer
Tourism Industry Association
of BC



Andrew Wynn-Williams
Divisional Vice President
Canadian Manufacturers
& Exporters



Mark von Schellwitz
Vice President, Western Canada
Restaurants Canada



Greg Wilson
Director, Government Relations, BC
Retail Council of Canada

JY/vjc
Attach.

Coalition of Business Associations

Submission on

The Labour Relations Code Review Panel's Recommendations for Amendments to the *Labour Relations Code*

September 16, 2025

*Prepared with the assistance of
Roper Greyell LLP*

Endorsed by:

Business Council of British Columbia

British Columbia Chamber of Commerce

Greater Vancouver Board of Trade

Canadian Federation of Independent Business

British Columbia Hotel Association

British Columbia Trucking Association

Tourism Industry Association of BC

Canadian Manufacturers & Exporters

Restaurants Canada

Retail Council of Canada

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INTRODUCTION

The signatory associations represent large, medium-sized, and small business enterprises across all sectors and regions of the provincial economy. Together, the associations and their members account for most private sector employers in the province and are central to driving job creation, productivity, and economic growth.

We appreciate the opportunity to continue participating in the review of the B.C. *Labour Relations Code* by providing commentary on certain of the Section 3 Panel's August 31, 2024, Recommendations for Amendments to the *Labour Relations Code* (the "Recommendations").

The Panel was tasked under section 3 with identifying what, if any, changes to the *Code* are necessary in the public interest and the need to encourage investment in a strong economy. As a starting point, we agree with the Panel that **balance, stability, and predictability** are essential principles for effective labour relations.

We therefore fully support the Panel's endorsement in its Recommendations of principles established by the 2018 Review Panel as follows (all from page 5 of the Recommendations):

- "...it is essential to avoid pendulum swings by implementing balanced changes that are sustainable".
- "Certainty and predictability are important considerations for investment decisions and the competitive position of B.C. in an increasingly globalized economy".
- "Collective bargaining and freedom of association are essential features of Canadian society and must be given meaningful effect. At the same time creating an environment supportive of business, particularly in the context of our rapidly changing economy, is also important".
- "Labour relations in B.C. should not result in a binary mutually exclusive choice between the protection of fundamental workers' rights, productivity and business success. Economic growth can be achieved alongside flexible, innovative protections and practices under the *Code*".

We also appreciate the Panel's observation that economists from all stakeholder groups agree "policy makers need to ensure labour laws are consistent with strong sustainable economic performance in all sectors of the economy" (page. 5 of Recommendations). This observation reflects the idea that sound labour policy is also about creating the conditions for long-term investment, business expansion, and job creation across all industries.

One of the clearest expressions of the balanced approach endorsed by the Panel is found in section 2(b) of the *Code*. In both the 2018 and 2024 section 3 *Code* review processes, a number of unions proposed that *Code* s. 2 be amended to remove the duty placed on those exercising powers under the *Code* to exercise that power in a manner that "fosters the

employment of workers in economically viable businesses” (s. 2(b)). The Panel confirmed on page 15 of the Recommendations that “[M]ost unions say the *Code* should focus on encouraging access to and promoting collective bargaining, not the viability of businesses”. The Panel rejected this notion (as had the 2018 Review Panel) based on its finding that *Code* s. 2(b) “reflects the reality that employment, business viability, and collective bargaining are integrally connected and the inclusion of that duty contributes to the balance in the *Code*” (pg.15 of Recommendations).

We agree that section 2(b) remains essential to preserving a balanced and realistic approach to labour relations in British Columbia. When businesses grow and succeed, they create jobs, increase wages, and contribute to the tax base that funds public services. When businesses fail, jobs are eliminated. A strong and growing economy benefits all British Columbians by supporting broad-based prosperity and attracting investment needed to build a province of rising living standards. **Section 2(b) rightly ensures that the *Code* continues to recognize this essential link between business success and worker well-being.**

This same commitment must guide how government responds to the Recommendations going forward. **We continue to urge the Government to maintain stable and predictable labour relations and address the need to attract capital investment and support private sector growth when considering the Recommendations and *Code* amendments.**

This approach is entirely consistent with Premier Eby’s mandate letter to Minister of Labour Jennifer Whiteside which, consistent with the mandate issued to each Minister, lists as the first challenge to tackle: “[G]row the economy by creating good jobs across British Columbia” through collaborating with “businesses, workers, and communities to attract investments in...the economy” to “bring certainty for business, security for workers, and generate...wealth”. The mandate particular to Minister Whiteside also includes among the listed priorities, “[W]ork to ensure our labour laws are keeping up with modern workplaces through the continued review of the *Labour Relations Code*, providing stable labour relations and supporting the exercise of collective bargaining rights.” **The goal of this exercise must be to maintain stable labour relations that are necessary to grow the economy.**

A number of *Code* amendments have already occurred since 2018, including amendments in 2022 and 2024, without a section 3 process or any consultation with the business community, which have significantly tipped the balance within the *Code* toward the interests of organized labour. Introducing further amendments without restoring balance risks inappropriately skewing labour relations legislation in B.C., undermining the competitiveness of B.C.’s already weak investment climate, discouraging investment from outside the province, and eroding the foundations of private sector job creation to the detriment of the very workers the *Code* is meant to support.

Our commentary is therefore structured as follows. We begin with an overview of the current economic context to frame the challenges facing B.C.’s economy. We outlined the current economic context in our submissions to the Panel, given the Panel’s request for stakeholder

views on *Code* changes in the context of our modern economic realities. A number of these observations are recorded on pages 5 and 6, where we described the “sobering economic climate” already facing B.C. That climate continues to worsen in the 18 months since.

We then provide comments on selected recommendations of the Panel, highlighting areas where we support the Panel’s findings and where we believe further caution or correction is warranted. We conclude with a short summary of our positions.

ECONOMIC CONTEXT

Labour law directly shapes the conditions under which businesses operate, make hiring decisions, and invest. A stable and balanced labour relations framework signals that B.C. is a reliable place to do business. It is therefore critical that changes to the *Code* support the province’s broader economic competitiveness.

While B.C.’s headline Gross Domestic Product (GDP) growth remained positive over the past two years, it was being driven almost entirely by rapid population increases and public sector spending. After adjusting for population, B.C.’s economy shrank by -0.8% in 2023 and a further -1.8% in 2024 (see [Williams, 2025](#)). Growth has become increasingly concentrated in the public sector and a narrow band of service industries. Output in key private sectors such as construction, manufacturing, natural resources, and wholesale trade has stagnated or declined. Notably, the modest growth seen in 2019–2022 was largely supported by a handful of mega capital projects that are now completed.

The labour market reveals the same structural weakness. Between 2019 and 2024, private sector employment grew at just 1.1% per year, which is half the province’s historical average and well below other provinces (see [Yunis, 2025](#)). In contrast, public sector employment has surged by 5.4% annually, nearly triple its long-run average.

An economy that becomes increasingly reliant on public sector activity cannot, over the long term, sustain the levels of growth, investment, and rising living standards that British Columbians rightly expect. Public sector jobs and services ultimately depend on a strong tax base, which in turn requires a dynamic, productive private sector capable of generating real income and business growth. When the private economy weakens, those foundations begin to erode.

A weakening private economy also poses significant fiscal risks. B.C. is now running the largest deficit-to-GDP ratio in Canada and is projected to continue run significant deficits throughout the forecast horizon. Provincial debt has more than doubled since 2021, and per capita debt is forecast to reach \$29,000 by 2027–28 (see [Williams & Yunis, 2025b](#)). Interest payments, now the fourth largest line item in the provincial budget, are expected to exceed \$7 billion in 2027-28. With credit rating downgrades already underway and a negative outlook from major ratings agencies, B.C. may soon face higher borrowing costs. The province’s ability to fund essential

services without raising taxes or cutting programs will increasingly come under pressure, particularly if the economy continues to underperform.

One visible consequence is the outmigration of young, skilled workers, who are leaving B.C. for other provinces in record numbers. In the past year alone, nearly 70,000 residents left B.C., which is the highest level of interprovincial out-migration ever recorded (see [Williams & Yunis, 2025a](#)). The majority are under 40, highly educated, and economically motivated, with many heading to Alberta and Ontario in search of better opportunities. This suggests cost-of-living pressures, limited private sector opportunities, and declining confidence in the province's long-term prospects. If unaddressed, this trend will hollow out the talent pool on which future entrepreneurship and job creation rely.

In this context, any changes to the *Code* must be assessed in terms of their economic impact. Labour policy that tilts too far in one direction risks exacerbating these challenges and undermining the very foundations of long-term economic prosperity.

COMMENTS ON RECOMMENDATIONS

Our comments with respect to certain identified sections of the Recommendations are set out below. We have not commented on unanimous Recommendations that we support and/or do not require any further clarification.

1. Definition of “Strike” (pg. 10)

This aspect of the Panel's review was so controversial that it did not produce a majority Panel recommendation – only three separate commentaries/recommendations.

At the time that the Panel was formed (February 2024) and commenced its work:

- the definition of “strike” in the *Code* expressly excluded strike action that was due to “picketing that is permitted under this Code”; and
- the phrase “picketing that is permitted under this Code” was interpreted (following an initial hearing and reconsideration proceedings that included interventions from the B.C. Federation of Labour and the Business Council of B.C. among others) to refer to picketing within the jurisdiction of the BC Labour Relations Board to regulate under the *Code* (*Vancouver Shipyards*, BCLRB No. B146/2022).

This meant that employees of provincially regulated employers would continue to have the right to honour lawful picket lines of other provincially regulated employers in B.C. but refusing to work due to picket lines erected by workers of federally regulated employers and not regulated under the *Code* could be deemed a strike.

In April of 2024, *while the Panel's work was underway*, Government passed the *Miscellaneous Statutes Amendment Act* (“Bill 9”) that included a *Code* amendment that reversed the

Vancouver Shipyards decision. Under Bill 9, provincially regulated employers are now powerless to address the impact of federally regulated picket lines that shutter their businesses. This measure is not found in most other Canadian jurisdictions and places B.C. businesses at a competitive disadvantage relative to counterparts across the country.

Bill 9 was passed without any consultation with or even prior notice to the employer community. The concerns of the employer community about the content, timing, and lack of consultation concerning Bill 9 are aptly summarized on pages 10 and 11 of the Recommendations. Making changes without sufficient consultation and in the middle of a s.3 process erodes the principles of balance, stability, and predictability while undermining the process itself. As the Panel rightly observed, “the fact the amendment to the definition of strike occurred without apparent consultation with the employer community in the middle of this consultative process compromised the integrity of this review process.”

Bill 9 is arguably the most significant “pendulum swing” Code amendment favouring organized labour since the 1992 modern Code was implemented. As we address further below in our comments regarding Recommendation 21, the key “trade-off” in the 1992 modern B.C. Code was the containment of picketing to the site of a labour dispute in exchange for a rigorous prohibition of the use of replacement workers during a labour dispute.

The 2018 Review Panel and a majority of the current Panel have expressly found that this remains an appropriate balance and rejected organized labour requests to allow for expanded picketing rights as a result. **We do not come to this review with a request to remove or erode the replacement worker prohibitions out of respect for that balance and are very concerned about amendments such as Bill 9 that increase the damaging exposure of B.C. employers to secondary picketing.**

It is very notable that none of the Panel members recommend that Bill 9 be maintained without amendment. For government to retain it without amendment would require disregarding not only the concerns of the employer community but also the clear advice of the very Panel of labour relations experts it appointed to fulfill its statutory obligations under s. 3 of the Code.

We also reiterate that there was and remains no legal need for the Bill 9 amendment. The absence of a “free pass” for mid-contract strikes due to picketing in the *Canada Labour Code* continues despite a *Charter* challenge dismissed by the Federal Court of Appeal (with leave to appeal to the Supreme Court of Canada denied): *Grain Workers’ Union, Local 333 v. B.C. Terminal Elevator Operators’ Association*, 2009 FCA 201 (leave to appeal dismissed [2009] SCCA No. 352).

Moreover, the Bill 9 amendment introduced unacceptable uncertainty into the business environment, directly contrary with the Premier’s stated priority of ensuring certainty for business through economic growth, as set out in Premier Eby’s mandate letter to Minister Whiteside.

The Recommendations reference several examples (pg. 11) of the risk Bill 9 poses to employers in B.C., including the fact that 90% of the members of the Council on Northern Interior Forest Employment Relations (“CONIFER”) and Interior Forest Labour Relations Association (“IFLRA”) have or are adjacent to federally regulated rail lines or marine operations. Bill 9 exposes provincially regulated businesses to work stoppages they have no role in causing or resolving, undermining confidence in B.C.’s labour relations framework and creating significant risk for capital investment and economic growth across affected sectors.

We strongly support the recommendation of Panel Member Thomson to repeal the Bill 9 Code amendments and return to the pre-existing “strike” definition that protects the rights of unionized employees to honour picket lines of fellow provincially regulated unionized employees.

Panel Member Fleming recommends that the *Code* strike definition be amended to allow B.C. employees to respect federal picket lines only when their employer is a “related company providing the same or substantially similar services or products on the same site as the struck employer”, or “where the B.C. employer assists or supplies goods or furnishes services that benefit the struck employer”. **We oppose this recommendation. While these amendments would temper the current, broad impacts of Bill 9, the fundamental imbalance created by Bill 9 would continue. Federal picketing will continue to have a broader impact in B.C. than does provincial picketing which is regulated by the *Code*.**

Panel Member Banister would go even farther to preserve the Bill 9 amendments with recommendations similar to those of Member Fleming plus changes to protect conduct linked to a collective agreement term that allows employees to respect picket lines. **We oppose this recommendation. Such an amendment will continue to put B.C. at odds with other legislation in Canada, most notably the *Canada Labour Code*.**

The *Charter* challenge to the federal strike definition in the decision cited above failed despite the unions involved pointing to bargained rights to respect picket lines. The Canada Industrial Relations Board confirmed that parties should not be permitted to effectively “contract out” of basic *Code* protections in collective bargaining. Collective agreement protections for the right to honour picket lines can fairly protect employees from discipline and unions from damage claims under a collective agreement but should not purport to dictate how the *Code* right to strike will operate for those parties. The *Code* should continue to clearly set the framework in which collective bargaining occurs with terms that do not vary and need not be subject to interpretation depending on the particular terms and conditions of employment bargained between private parties thereafter.

2. Recommendation 7 – Remedial Certification (pg. 16); Recommendation 8 – Certification (pg. 17)

As outlined on page 18 of the Recommendations, the majority of the 2018 Review Panel preferred the secret ballot vote to card check, but recommended enhanced measures:

- a) to protect employee free choice during representation votes through a shortened time frame for votes,
- b) to ensure expeditious and efficient processing of certification applications and unfair labour practice complaints, and
- c) the expansion of the Board's remedial authority.

The secret ballot was maintained in 2019 but with all the protections recommended by the 2018 Review Panel.

The *Code* was then amended in 2022 to restore card check certification without a secret-ballot representation while retaining all of the enhanced measures that were recommended in 2018 solely in the context of a continued secret ballot vote. **The B.C. certification structure is, as a result, an outlier as compared to other Canadian jurisdictions in many respects.**

The shift from secret ballot certification to card check in 2022 significantly benefited organized labour. Annual certifications granted by the Labour Relations Board have more than doubled, rising from an average of 71 per year (2018–2021) to 166 per year (2022–2024), while decertifications have remained relatively flat¹. This change has also sharply increased the ratio of certifications to decertifications, from an average of 4:1 per year (2018-2021) to nearly 8:1 per year (2022-2024), indicating a material tilt in outcomes.

We submitted to the Panel and continue to **urge Government to return to a secret-ballot vote (as recommended by Panel Member Thomson) to preserve employees' right to choose consistent with democratic norms and employees' *Charter* rights.** The secret ballot is a core democratic safeguard that ensures employees can make decisions independently. Its removal undermined the integrity of the certification process and, combined with the other changes that favour organized labour that occurred in 2019, further distances B.C.'s framework from other Canadian jurisdictions.

We also continue to submit that, **in the alternative that the card-check certification process is preserved, the enhanced protections added in 2019 should be reversed.**

One of the enhanced measures, addressed in the Panel's Recommendation 7, concerns increased Board discretion with respect to remedial certifications (s. 14(4.1)). The majority of the Panel (with Panel Member Thomson dissenting) recommended that this enhanced protection be

¹ BCBC's own calculations based on annual reports from the Labour Relations Board.

maintained primarily because of their observation that remedial certification remains relatively rare. This is not an appropriate justification to maintain a substantive *Code* amendment plainly premised on preservation of a secret-ballot certification system that was since dropped. There is no present mischief that requires preservation of these amendments. In addition, retaining a protective measure tailored to a different certification model undermines the principle of legislative coherence by preserving an exceptional power without the procedural context that originally justified it. **We believe that s. 14(4.1) should be repealed if card-check certification is preserved.**

3. Recommendation 11 – Employee Lists (pg. 21)

One of the justifications for the preservation of card-check certification is the marked increase in rates of certification under that system since it was added to the *Code* in 2022. Despite that significant advantage for union organizers, **organized labour asked the Panel to consider further amending the Code to require employers to produce employee lists to a union that can show 20% support among employees, a change unprecedented in Canada. We support the Panel’s majority recommendation to reject that request.**

Panel Member Banister similarly does not recommend an amendment to allow for production of a list upon proof of 20% support but recommends instead that the *Code* be amended to permit the Board to order production of an employee list where “circumstances or location of the work may impede employees accessing collective bargaining”.

We oppose such an amendment that will make B.C. an outlier for those looking for places to invest, particularly absent any clearly demonstrated need for it. Such a need is belied by recent higher rates of certification and unions’ ability to access social media and other modern means of communication for organizing purposes, along with access orders already contemplated by the *Code*. An amendment with this sort of vague criteria will also very likely result in increased Board litigation and would allow unions to apply for production of employee lists without demonstrating any support within a proposed bargaining unit – again unprecedented anywhere in Canada.

4. Recommendations 13 and 14 – Sectoral Certification and Bargaining (pg. 23)

The Panel considered several submissions with respect to the introduction of sectoral certification for certain sectors and broader access to sectoral collective bargaining.

We strongly support the Panel’s unanimous recommendation not to introduce any *Code* amendments with respect to sectoral certification or bargaining at this time.

The Panel has also unanimously recommended advisory councils that include representatives of workers, employers and government for “domestic, agricultural, food delivery and ride hail workers under the *Employment Standards Act* (“ESA”) or regulation, to make recommendations

for the establishment and enforcement of standardized terms and conditions of employment designed to address the challenges unique to these workers.”

We understand that the concerns driving such proposals stem largely from issues around minimum standards and protections in certain industries, rather than a need for a fundamental change to B.C.’s collective bargaining framework that would make the province an outlier in Canada. **However, we have a number of concerns with this particular recommendation.**

First, there is **no precedent for such an advisory council structure anywhere in Canada.**

Further, the *ESA* establishes minimum standards for certain terms and conditions of employment so we assume that any advisory councils established under the *ESA* would similarly be focused on minimum standards for employment in the noted sectors, and not some form of standard package of employment terms and conditions that all must follow, similar to a collective agreement. The latter would be unprecedented in Canada and inconsistent with Government’s focus on growing the economy. We note that ***ESA Regulation already specifically addresses the unique circumstances of employees in several sectors***, including domestic, agricultural and ride hail, so **advisory councils may be duplicative of work that is already done or underway.**

For example, Bill 48 (Labour Statutes Amendment Act, 2023) and its associated regulations (B.C. Reg 140/2024 and 141/2024) already introduced sector-specific requirements under the *ESA* for ride-hailing and food delivery workers. These reforms followed extensive consultations and were tailored to the unique nature of platform-based work. Establishing new advisory councils to revisit or parallel this work risks duplicating existing policy development processes and creating overlapping or inconsistent frameworks.

The Panel has also unanimously recommended an Industrial Inquiry Commission (“IIC”) to consider Code amendments, if any, necessary for sectoral bargaining. We strongly oppose this recommendation. While presented as a neutral process of study, launching a public IIC on sectoral bargaining would send a negative signal to investors and employers that B.C. cannot afford at a time of economic uncertainty and declining private sector confidence. Launching an IIC on sectoral bargaining would also prematurely signal that reform is needed, despite no evidence of a labour relations failure or broad-based concern that would justify rethinking B.C.’s long-standing firm-level model. Opening the door, in this manner, to sectoral bargaining would inject unnecessary uncertainty into labour relations, undermine the competitiveness of B.C.’s investment climate, and put jobs at risk.

5. Recommendation 15 – Forestry Sector (pg. 28)

The Panel unanimously recommends that government establish a “Forest Industry Commission, including representatives from government, unions and industry, with a broad mandate to address the critical issues facing the sector, including labour relations issues”.

We note that this Recommendation appears to be beyond the Panel's mandate to consider Code amendments. We encourage the government to instead work collaboratively with the forest industry to address all of the "critical issues" beyond labour relations.

6. Recommendation 16 – Successorship on Contract Re-tendering (pg. 29)

The *Code* was amended in 2019 to deem that successorship occurred between contractors in certain service industries based on extensive information provided to the 2018 Review Panel about so-called "contract flipping" and its detrimental effects in those service industries.

We support the Panel's majority recommendation not to expand these protections in the absence of sufficient information similar to that received in the 2018 review to justify expansion. We also oppose Panel Member Banister's recommendation to expand it to all, or alternatively some, additional sectors without reference to any clear problem beyond the sectors identified.

7. Recommendation 20 – Sections 53 and 54 Consultation (pg. 34)

In response to broad concerns about joint consultation provisions in the *Code*, a majority of the Panel has recommended a minor amendment to s. 53(4) to clarify the purpose of a consultation committee – a recommendation which we support.

A majority of the Panel has also recommended that the B.C. Government undertake a broad consultation process including unions, employers and employees on the subject of artificial intelligence (AI) "to determine, amongst other things, whether any changes to employment related legislation...are required". We oppose this recommendation. It is our view that this recommendation exceeds the mandate of the Panel, which is the *Code*, not broad matters of policy or legislative reform beyond the *Code*.

Panel Member Banister also recommends a new *Code* provision that will impose very significant notice and consultation obligations in advance of any employer's intended introduction of generative AI that "may" affect unionized employees. The proposed new s. 54.1 would impose detailed notice obligations with twice the amount of notice currently required by s. 54 and include an obligation to "consult" about these matters rather than the current s. 54 obligation to "meet in good faith" to discuss planned changes.

We oppose this recommendation which is unprecedented in Canada and would essentially require employers to treat unions representing their works as co-managers with respect to the introduction of AI in a unionized workplace. A provision such as that recommended by Panel Member Banister will hinder investment in and exploration of AI in British Columbia.

The recommendation also appears to assume that the presence or timing of AI introduction in a workplace is all within an employer's particular control which is, of course, not accurate. AI is

already ubiquitous. It is and will continue to be embedded and advanced within the equipment, technology, and software that employers access and use in many facets of their businesses every day. Employers that wish to remain competitive do not have the luxury of ceasing to use products that may contain advanced use of AI for 120 days during consultation with the union representing their workers.

We acknowledge concerns and questions about the use of AI and its potential impacts on both employers and workers. However, we urge caution in imposing regulatory or procedural barriers on emerging technologies and industries before they have had a chance to develop and demonstrate their potential benefits. Premature regulation risks stifling innovation, deterring investment, and limiting the competitiveness of B.C. businesses in rapidly evolving sectors. The appropriate role for public policy at this stage is to enable innovation and not to constrain it through rigid compliance burdens or adversarial frameworks.

8. Recommendation 21 – Replacement Workers and Picketing (pg. 40)

Organized labour representatives sought to expand secondary picketing rights, including eliminating current s. 65(8) that treats separate and distinct divisions of an employer as separate employers for purpose of picketing regulation. Two employer groups (not within our coalition) sought certain changes to *Code* prohibitions on the use of replacement workers. **A majority of the Panel recommended that the current replacement worker and picketing provisions which have been in place for more than 30 years provide an appropriate balance which should not be upset. We support this recommendation.**

As mentioned earlier, the key “trade-off” to create balance within the first version of the modern B.C. *Code* in 1992 was continued containment of picketing to the site of a labour dispute, including preserving what is now s. 65(8), in exchange for rigorous prohibition of the use of replacement workers during a labour dispute. The 1992 review panel members (John Baigent for labour, Tom Roper for employers, and neutral chair Vince Ready) all addressed picketing and replacement worker aspects of the *Code* in their 1992 report:

- Mr. Baigent supported continuing secondary picketing restrictions only if replacement worker prohibitions were introduced and opposed the continuation of what is now s. 65(8).
- Mr. Roper supported continuing secondary picketing restrictions, including what is now s. 65(8), and opposed replacement worker prohibitions.
- Mr. Ready supported continuing secondary picketing restrictions - with modifications to avoid common site picketing relief that resulted in the elimination of primary picketing rights but continuing what is now s. 65(8) - and the introduction of replacement worker prohibitions.

Government essentially adopted the position of Mr. Ready, thus achieving the balance between the interests of organized labour and employers that has now existed since 1992. Further, Board caselaw has developed to avoid common site picketing restrictions that lead to the elimination of primary picketing rights, that includes an examination of any connection between the struck employer and that seeking the relief: *Sovereign General Insurance Co.*, BCLRB No. B54/194 (Leave for reconsideration of BCLRB No. B275/94). The 2018 Review Panel and a majority of the current Panel have expressly found that the balance struck in 1992 remains appropriate and should be preserved.

Panel Member Banister agrees that the balance between current picketing provisions and replacement workers have been positive but recommends that s. 65(8) be repealed because it “is a significant and unwarranted fetter on the exercise of the Board’s discretion in picketing cases”.

We oppose this recommendation. The *Code* is designed to and does operate to contain picketing to the location(s) where the labour dispute is occurring and not secondary sites. Separate and distinct divisions of an employer are properly treated as sites secondary to the dispute, which cannot occur absent the protection of s. 65(8). As outlined above, there is no risk that s. 65(8) will operate to eliminate primary picketing rights even at shared sites of separate employer divisions. Further, the Board clearly maintains the discretion under s. 65(8) to determine whether an employer’s division is separate and distinct so there is no reason to interfere with s. 65(8).

9. Recommendation 25 – Industrial Inquiry Commission for the Construction Industry (pg.46)

We note the Panel’s unanimous recommendation that government appoint an Industrial Inquiry Commission under section 79 of the *Code* to review collective bargaining and labour relations issues in the construction industry. **While we recognize the importance of the construction sector to B.C.’s economy and the complexity of its labour relations framework, we do not support this recommendation.**

The establishment of an IIC, in the absence of a clear labour relations failure, risks introducing uncertainty into a sector that is central to the province’s economic performance and already facing significant cost and competitiveness pressures. The sector is also key to the province’s commitment to accelerate and deliver major capital infrastructure projects that would strengthen B.C.’s economy in the face of the uncertainty created by the United States’ trade policies. Major projects, whether in infrastructure, housing, or resource development, require certainty in labour relations to proceed. An IIC would undermine that certainty by suggesting systemic flaws that require government intervention.

Moreover, many of the concerns raised in the report are long-standing dynamics in the sector. These matters have historically been managed within the *Code*’s existing provisions (under section 41 and 42) and through established collective bargaining processes. Launching a public

IIC risks reopening settled debates, destabilizing existing bargaining relationships, and diverting resources at a time when the industry is grappling with high costs and weak investment and the need for flexibility to deliver on accelerated provincial and federal projects.

CONCLUSION AND SUMMARY OF COMMENTS

In closing, we appreciate the opportunity to engage in this review of the *Code*. As employer organizations representing the majority of private sector jobs in British Columbia, we reiterate our support for balanced, stable, and predictable labour relations policy. Many of the Panel's recommendations reinforce these values.

However, we remain concerned by several issues that were not meaningfully addressed, including the lack of review or justification for recent legislative amendments made outside the s.3 process and the absence of evidence-based evaluation of their impact. We are also concerned by proposals that would tilt the *Code* further in one direction or introduce regulatory uncertainty at a time of weak economic activity and declining business confidence. The following summary outlines our key positions on the recommendations under review.

1. **Reaffirm foundational principles of the *Code*:** We support the Panel's reaffirmation of balance, predictability, and stability as bedrock principles of the *Code* and the importance of the language around viable businesses under section 2(b) of the *Code*.
2. **Repeal Bill 9:** Restore the pre-2024 definition of "strike" to limit exposure of uninvolved provincially regulated businesses to secondary picketing, providing clarity and certainty for investment.
3. **Restore secret ballot certification:** Reinstate secret ballot votes to uphold employee free choice, *Charter* values, and democratic norms. If card check is retained, repeal remedial certification powers introduced in 2019.
4. **Maintain current *Code* rules on employee list access:** We oppose introducing obligations to produce employee lists to unions absent demonstration of 45% threshold support based on the Board's broad discretion with respect to vague criteria. Doing so would create uncertainty, increase litigation risk, and undermine the clarity and fairness of the current system.
5. **Oppose an Industrial Inquiry Commission on sectoral bargaining:** We do not support the Panel's recommendation to establish an Industrial Inquiry Commission to explore sectoral bargaining, as it sends a negative signal to investors and risks legitimizing unbalanced reform.
6. **Oppose ESA Advisory Councils:** We oppose the recommendation to establish new ESA advisory councils across multiple sectors that risk regulatory duplication and overlap.

7. **Maintain current scope of successorship provisions:** We support the majority's recommendation not to expand successorship without clear evidence. We oppose Panel Member Banister's proposal to broaden coverage to unspecified sectors without justification.
8. **Reject AI consultation and new notice obligations:** We oppose new section 54.1 and broad consultations on AI. Avoid regulatory overreach that may stifle innovation and impose unnecessary constraints on emerging technologies.
9. **Maintain current picketing and replacement worker rules:** We Support retention of existing *Code* provisions on replacement workers and picketing.
10. **Oppose an Industrial Inquiry Commission for the construction industry:** An IIC would create uncertainty in a sector vital to B.C.'s economy and key to the province's commitment to accelerate major capital infrastructure projects. Address issues through existing *Code* mechanisms (s. 41 and 42) and targeted consultation instead.

September 17, 2025

Hon. Jennifer Whiteside
Minister of Labour
Parliament Buildings
Victoria, BC V8V 1X4

Email: LRCReview@gov.bc.ca

Re. Submission in response to the August 2024 Special Committee Recommendations on the Labour Relations Code Review

We make this submission on behalf of the Confederation of University Faculty Associations of British Columbia (CUFA BC). CUFA BC is a provincial organization that represents 5,500 faculty members through their unionized faculty associations at BC's research universities, including the University of British Columbia, Simon Fraser University, University of Victoria, University of Northern British Columbia, and Royal Roads University. For more than fifty years, we have promoted the value of high-quality post-secondary education; academic freedom; university governance; academic labour relations; and research and teaching to the provincial government and wider public.

We appreciate the opportunity to respond to the Committee's recommendations from August 31, 2024 on the *Labour Relations Code* ("the Code"). Below we respond to the recommendations by supporting or opposing those that apply to post-secondary faculty unions.

Recommendation #1 – Labour Relations Board Resourcing

We support the recommendation to increase funding and review remuneration for vice chairs and mediators of the Labour Relations Board. Stable and timely decision-making requires strong investment in infrastructure and personnel. We recommend continuous monitoring to ensure adequacy of resourcing.

Recommendation #4 – Definition of Employee/Trade Union

We support the Committee's recommendation to retain the current definitions of "Trade Union" and "Bargaining Unit" and to continue excluding managers. The definition of employee in the *Code* is clear and constitutionally sound, reflecting the spirit of section 2(d) of the *Charter of Rights and Freedoms*. Any extension to include managers and supervisors would undermine the concept of a trade union, create inherent conflicts of interest, and destabilize long-settled labour relations.



Recommendation #6 – Complaint Time Frames

We oppose the recommendation to lengthen complaint time frames by replacing “calendar days” with “business days.” Such a change would unduly delay access to justice and disadvantage workers bringing serious claims against the employer, especially on topics of dismissal or reprisal. Swift access to remedies must be protected.

Recommendation #7 – Definition of Picketing

We support the recommendation to retain the definition of “picketing” under section 1(1) and to add Section 70(3)(c), clarifying the Board’s discretion to ensure expressive rights where no physical picketing site exists. This language will reinforce workers’ rights under the *Charter of Rights and Freedoms* and appropriately extend protections to workplaces with dispersed or digital workforces.

Recommendation #16 – Certification / Sectoral Bargaining

We support the Committee’s recommendation not to alter the certification provisions of the Code to permit sectoral certification or consolidation. Post-secondary institutions are complex workplaces, and their multiple bargaining units accurately reflect distinct communities of interest. Consolidation would weaken collective agreements, obscure faculty-specific interests, and diminish effective university governance. Stable, granular bargaining structures remain essential to collegial labour relations.

Recommendation #18 – Common Employer Provisions

We support the Committee’s recommendation not to alter the certification provisions of the Code to permit sectoral certification or consolidation. Post-secondary institutions are complex workplaces, and their multiple bargaining units accurately reflect distinct communities of interest. Consolidation would weaken collective agreements, obscure faculty-specific interests, and diminish effective university governance. Stable, granular bargaining structures remain essential to collegial labour relations.

Recommendation #20 – Technological Change and Artificial Intelligence

We support amendments to Section 53(4) encouraging cooperative resolution of issues such as technological change. We particularly endorse the proposal advanced by Committee Member Sandra Banister KC to introduce Section 54.1(1) requiring procedures where employers intend to introduce generative artificial intelligence that may affect terms, conditions, or security of employment. To this end, we additionally recommend that a provincial commission be established to examine the impacts of AI across all workplaces, including the public post-secondary sector. AI has already transformed intellectual labour, academic work, and governance; proactive investigation is essential.



Recommendation #21 – Picketing and Replacement Workers

We oppose the Committee’s recommendation not to amend Sections 65 and 68. We recommend that Section 65(4) should be amended to allow picketing at related worksites where substantially similar work is performed, and that Section 65(8) should be deleted to ensure expressive freedoms are aligned with the *Charter of Rights and Freedoms*. Furthermore, we continue to recommend retaining existing restrictions on replacement workers in Section 68(1)(a). Employer submissions seeking to weaken these provisions—ostensibly to address managerial labour shortages—are unjustified. The status quo ensures fair bargaining and mitigates imbalances of power between employers and employees.

Recommendation #24 – Expedited Arbitration

We oppose amendments that would curtail unions’ access to expedited arbitration, including proposed addition of Section 104(8.1)(a): “on application of either party, decide the matter is not appropriate to be dealt with under section 104, and in the that event will remain seized to arbitrate the matter under section 89 of the *Code*,” Faculty associations have historically exercised care in invoking expedited processes, which are essential for resolving limited but urgent disputes, such as terminations and major discipline. Arbitrators already face heavy caseloads and faculty associations currently struggle with access to swift resolutions to grievances. Requiring an arbitrator to decide over the matter of expedited arbitration would further restrict access and would further burden arbitrators, causing undue delay and harm to workers while undermining confidence in the system. Instead, we encourage investment in the Labour Relations Board to ensure sufficient capacity to meet demands of expedited arbitration and other time-sensitive services.

In Closing

CUFA BC continues to urge caution to avoid destabilizing the *Labour Relations Code*, which has provided balance and stability in university labour relations for decades. The recommendations we support maintain that equilibrium, while we oppose those recommendations that would risk undermining it. Faculty associations across British Columbia are deeply committed to constructive, respectful labour relations, and we believe our submission helps to safeguard both workers’ rights and institutional stability.

Should you have any questions, please reach out to our office via Executive Director Annabree Fairweather at executive.director@cufa.bc.ca or at 604-646-4677 ext.100.

Thank you for your time and consideration of our input.

Sincerely,

Ken Christie, PhD
Acting President

September 19, 2025

BC Ministry Of Labour

by email: LRCReview@gov.bc.ca

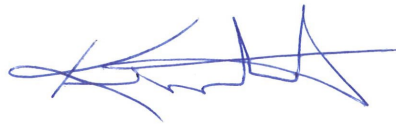
Re: Labour Code Review Panel Report Feedback

CLR is writing today in response to the Labour Code Review Panel's report which was released in June and the accompanying request for feedback from interested parties.

CLR has had an opportunity to review the *Recommendations for Amendments to the Labour Relations Code* submitted by the Labour Relations Code Review Panel to the Minister of Labour. While there are some facets of the report which we do not entirely agree with, overall we believe the report is a thorough and balanced review of the *Labour Relations Code*. Therefore, CLR supports this Report in its entirety as the Government considers specific changes to the Code in response to the recommendations of the expert Review Panel it appointed.

We would like to thank Government for the opportunity to make submissions to the Review Panel and for the opportunity to respond with our support of its recommendations.

Sincerely,



Ken McCormack
President & CEO



September 18, 2025

Hon. Jennifer Whiteside
Minister of Labour
P.O Box 9064 Stn Prov Govt
Victoria BC V8W 0E2

Via email: LBR.Minister@gov.bc.ca

Dear Minister Whiteside,

First West Credit Union (“First West” or the “Credit Union”) appreciates the opportunity to provide feedback on the recent Labour Relations Code Review Report. As one of British Columbia’s largest credit unions, we are committed to fostering fair, balanced, and effective labour relations within the Credit Union and across the financial services sector. After carefully reviewing the Panel’s recommendations, we would like to share our perspective on several key areas, including Sectoral Bargaining, Employee Lists, and the Card Check versus Secret Ballot Certification process.

Sectoral Bargaining (Part 3)

The proposal to explore sectoral bargaining through an Industrial Inquiry Commission raises significant concerns for First West. Sectoral bargaining could impose uniform standards and agreements that ignore the unique needs and operational realities of individual businesses. At First West, each regional brand serves a distinct region of the province, with unique member needs and preferences. Uniform sector-wide agreements risk overlooking these differences, leading to inefficiencies and potential dissatisfaction among employees and members.

Centralizing control through sectoral bargaining would also remove critical business decisions from those who best understand local contexts. This shift could increase administrative complexity and costs, diverting resources away from innovation and member service. We urge the Government to conduct a comprehensive assessment of the potential impacts on businesses of different sizes and structures before advancing any sectoral bargaining initiatives.

Employee Lists (Part 3)

First West supports retaining the current provisions on employee lists in the *Labour Relations Code*. Protecting employee privacy remains essential, and the existing certification application thresholds strike the right balance between union rights and individual privacy. Introducing amendments in this area could compromise sensitive employee information and create unnecessary privacy risks.



Card Check System (Part 3)

First West agrees with the commentary and dissent expressed by Lindsie Thomson regarding the card check system. Reinstating the secret ballot vote system, which was in place from 2001 to 2022, better reflects democratic norms and safeguards employees' fundamental right to freedom of association. This approach ensures transparency and fairness in the certification process, giving employees confidence that their choices are made freely and without undue pressure.

Maintaining section 14(4.1) of the Code, which allows for remedial certifications in cases of unfair labour practices, is also critical. This provision deters unlawful interference and protects employees' rights during unionization efforts.

Conclusion

First West appreciates the efforts of the Labour Relations Code Review Panel to strengthen labour relations in British Columbia. We urge the government to carefully assess the potential impacts of sectoral bargaining, maintain the current provisions on employee lists, and restore the secret ballot vote system for union certifications.

We remain committed to collaborating with all stakeholders to ensure labour relations policies protect employee rights while supporting business sustainability. Thank you for considering our feedback.

Sincerely,

Margo Lawrence

VP, People & Culture
First West Credit Union

September 19, 2025

ICBA RESPONSE TO B.C. LABOUR CODE REVIEW

The Independent Contractors and Businesses Association (“ICBA”), Canada’s largest construction association and representing more than 4,500 member and client companies, is pleased to provide these comments in response to the Section 3 Committee’s (the “Committee”) Report to the Minister, dated August 31, 2024 (but released to the public in June 2025 (the “Committee Report”).

ICBA is the single-largest sponsor of trades apprentices in British Columbia (including female and Indigenous apprentices), directly trains more than 6,000 construction professionals every year, and serves more than 300,000 Canadians our group benefit plans.

Economic Environment

The Committee’s Report arrives at a time of significant economic challenges for both Canada and British Columbia. Shifts in the global geopolitical landscape and continued uncertainty over the future of Canada’s trade relations with the United States are taking a toll on economic activity and business confidence across the country, including in B.C. On top of this is the impact of a sharp downturn in real estate development and residential construction – a broad sector that accounts for more than a quarter of the province’s GDP (as measured by the combined output of all industries). Canadian real GDP contracted in the second quarter of 2025 and is likely to do so again in Q3, thus satisfying the technical definition of a recession. While Statistics Canada does not provide quarterly GDP estimates for individual provinces, it is likely that B.C. is following an economic growth trajectory similar to Canada as a whole.

Last year, economic growth in B.C. came in at a tepid 1.2%, near the bottom among the ten provinces and well below the growth of the B.C.’s population in 2024 – leading to a further decline in the value of economic output (real GDP) on a per capita basis. For 2025, most forecasters expect even weaker economic growth. Business bankruptcies and insolvencies are on the rise, layoffs are mounting, B.C.’s unemployment rate is ticking higher, and the job vacancy rate has fallen markedly from the high levels seen in 2022-23. At the same time, private sector non-residential capital spending remains sluggish and housing starts are running well below the levels needed to close the supply-demand gap that opened up in the

period after 2018. In short, the economic environment in British Columbia is unsettled and business confidence is fragile. **In this setting, the B.C. government should avoid policy changes, including to the *BC Labour Code*, that will further increase business operating costs, reduce competitiveness, and/or erode the ability and willingness of entrepreneurs, business managers and investors to deploy capital and create jobs in British Columbia.**

Response to Report

In the January 16, 2025, mandate letter from the Premier, the first challenge identified for this Minister of Labour was as follows:

- Grow the economy by creating good jobs across British Columbia. *We will collaborate with businesses, workers, and communities to attract investments in both new and traditional sectors as well as emerging sectors of the economy. This approach will bring certainty for business, security for workers, and generate the wealth needed to support the essential services British Columbians rely on.*

The mandate letter later identified the first priority as:

- To protect key services that British Columbians rely on, work with the Minister of Finance to review all existing Ministry of Labour programs and initiatives, to ensure our programs remain relevant, are efficient, protect employees and their families, *grow the economy*, and help keep costs low for British Columbians. *This is important in the context of current provincial budget constraints; the realities faced by provincial employers in relation to access to capital, global inflation and interest rates; and the threat of American tariffs.*

And the final priority was identified as:

- Work to ensure our labour laws are keeping up with modern workplaces through the continued review of the Labour Relations Code, *providing stable labour relations* and supporting the exercise of collective bargaining rights.

To summarize, a central part of the Minister's mandate is to collaborate with businesses to attract investments and bring certainty. Priorities include growing the economy given the realities faced by employers in relation to access to capital, and to stabilize labour relations.

Respectfully, many of the Committee's recommendations would directly contradict the Minister's mandate as defined by the Premier. Indeed, some of the most significant

recommendations would serve to increase uncertainty and destabilize labour relations, threatening investment and discouraging the growth of B.C.'s economy.

In 2018 and again in 2024, the Committee acknowledged the serious consequences of a “pendulum swing” in labour relations in the province. In 2018, the Committee explained:

There have been a number of pendulum swings in important Code provisions over the past 30 years largely depending on the governing political party. This is not consistent with predictability, certainty or balance. Although not an easy task, it is essential to avoid pendulum swings by implementing balanced changes that are sustainable. Certainty and predictability are important considerations for investment decisions and the competitive position of B.C. in an increasingly globalized economy.

In our view, the principles enunciated by the Woods Task Force and Professor Weiler in striking a balance between the interest of employers to operate their businesses and the right of employees to join unions remain important and relevant.

Collective bargaining and freedom of association are essential features of Canadian society and must be given meaningful effect. At the same time creating an environment supportive of business, particularly in the context of our rapidly changing economy, is also important.

Labour relations in B.C. should not result in a binary mutually exclusive choice between the protection of fundamental workers' rights, productivity and business success. Economic growth can be achieved alongside flexible, innovative protections and practices under the Code.¹

Despite this caution against a pendulum swing, the Committee made twenty-nine formal recommendations – a large number calling for significant change – virtually all of which were adopted by the government in the 2019 Code changes². These included:

- Automatic successorship in certain sectors upon re-tendering of a contract³

¹ A Report to the Honourable Harry Bains Minister of Labour; Recommendations for Amendments to the Labour Relations Code, Submitted by the Labour Relations Code Review Panel, Michael Fleming, Sandra Banister, Q.C., Barry Dong, August 31, 2018, at p.7.

² Labour Relations Code Amendment Act, 2019 (Bill 30 - 2019)

³ It is important to note that the actual Code change went beyond the Committee's recommendation. Specifically, the 2018 Report recommended that food services *in the health sector* fall within the scope of the automatic successorship provisions. The 2019 amendments to Section 35 do not have such a limitation, such that all “food services” without any further definition fall within the scope of the provision. This has

- Increased discretion for the Labour Relations Board to impose remedial certifications
- Period between certification application and vote shortened to 5 business days
- Directed that raid periods in the construction sector occur in July and August of each year⁴
- Permitted applications to re-open collective agreements after a successful raid
- Excluded education as an essential service
- Removed strike vote requirement for access to first collective agreement mediation/arbitration
- Allowed employer conduct during certification process to be considered in the first collective agreement mediation/arbitration process
- Extended freeze on decertification applications
- Doubled the validity of union membership evidence to 180 days

In 2022, the Government swung the pendulum even further in the same direction by making additional very significant statutory changes to the *Code*, including the elimination of the secret ballot in certification votes.⁵ It did so in the face of the contrary majority recommendation of the Committee, and also without any “collaboration” or further consultation with the employer community.

In 2024, in the midst of this Committee’s consultations and with no discussion with the labour relations community or consultations with business, the Government amended the *Code* to significantly expand rights for provincially regulated unions with respect to picketing at federally regulated work-sites.

As a result of this series of changes in a relatively short period of time, the pendulum in B.C. has swung very strongly towards organized labour, upsetting an important balance that had resulted in relative labour peace over the preceding two decades. The changes made since 2017 have specifically and dramatically expanded unions’ ability to certify workplaces – while at the same time diminishing employees’ rights and choice to ensure that such certification is what they truly desire. These changes have also impacted businesses’ ability to navigate an increasingly difficult and uncertain economic landscape, in the process rendering British Columbia a relatively less attractive jurisdiction in which to invest and build a business.

The significant amendments to the *Code* implemented between 2018 and 2024 require a period for the labour relations community to adapt to these changes and digest their related

already led to anomalous results. See, for example, *Sky Café*, 2023 BCLRB 61, application for reconsideration pending.

⁴ But left in place the limitation that the raid period be in the final year of a three-year agreement.

⁵ *Labour Relations Code Amendment Act, 2022* (Bill 10 – 2022) (“Bill 10”)

impacts. The 2018 Report expressly recognized the wisdom of an incremental approach in several areas, most notably with respect to its recommendation to retain the secret ballot until the impact of the other “enhanced measures” could be assessed.⁶

In 2024, the Committee restated in the Report the above-noted 2018 caution against pendulum swings and acknowledged ICBA’s, the Business Council of British Columbia’s and the Centre for Future Work’s position that “policy makers need to ensure labour laws are consistent with strong sustainable economic performance in all sectors of the economy.”⁷ This caution is consistent with the Premier’s 2025 mandate letter.

The Committee went on to say that it recognizes “the importance of ensuring labour policy under the *Code* facilitates and encourages a strong and stable economy,” before saying that it believed that its recommendations support that objective⁸.

Respectfully, we submit that the Committee is mistaken in this latter belief.

While the Committee acknowledged the concerns arising from a pendulum swing in this province and the need to consider the impact of any changes for a reasonable period of time, its most recent recommendations bely that acknowledgement. Rather, the Committee’s recommendations would not only continue to swing the pendulum toward an unbalanced and unstable labour relations regime, its recommendations with respect to various Industrial Inquiry Commissions would foster even more uncertainty – uncertainty that the provincial economy can ill-afford in these unpredictable times and which is flatly inconsistent with the Minister’s mandate letter.

Construction Industry

The Committee’s recommendations with respect to the construction sector are of grave concern to ICBA and our 4,500 member and client companies.

The Committee correctly says the construction industry “has many unique features and is particularly susceptible to economic pressures.”⁹ This is undoubtedly true, and it means that the need for certainty and stability identified in the Minister’s mandate letter is even more pronounced in the B.C. construction industry.

Despite this acknowledgment, the Committee goes on to recommend that an Industrial Inquiry Commission be appointed “to conduct a thorough review of collective bargaining

⁶ 2018 Report, p. 12

⁷ Report, at p. 5

⁸ Report, at p. 7

⁹ Report, at p. 46

and labour relations issues in the construction industry and make recommendations to the Minister for any necessary changes to the *Code*".¹⁰

The Committee appears to suggest that this review include consideration of various forms of sectoral bargaining, with most of the Report's discussion focused on the history and evolution of CLR and BCBCBTU¹¹ standard agreements and the various challenges arising from these relationships. The Report also identifies what industry had understood to be settled labour relations policy with respect to craft and wall-to-wall (all employee) bargaining units.

Whether intentional or not, the Report effectively summarizes the instability and failures of the CLR and BCBCBTU models.

However, what the Report fails to note is that the CLR-BCBCBTU model represents less than 15% of all the men and women working in construction and the overall economic activity that is directly attributable to the B.C. construction industry. Moreover, this modest segment of the construction sector is also the least competitive portion of the industry that has (unsurprisingly) seen a decline in representation over the last several decades.

Approximately 250,000 workers were employed in the industry at the beginning of 2025, however, only about 35,000 of those work within the CLR model. The remainder work in open shop and merit-based workplaces with a variety of non-building trade union, and non-union workforces. The union workplaces are primarily wall-to-wall, represented by a variety of unions, including the Christian Labour Association of Canada (CLAC), International Union of Operating Engineers (IUOE), Labourers International Union of North America (LIUNA), and the two carpenters' unions. The open shop sector also includes a mix of craft-based bargaining units represented by the various building trade unions. These arrangements have been able to respond to B.C.'s rapidly changing economy with a flexibility and nimbleness that has not been possible in the CLR model on which the Committee focuses. The result is that the broadly defined open-shop construction sector has expanded while the CLR sector has declined in terms of market share and employment.

When these additional facts and context are considered, it becomes clear that the Committee's focus on the history and challenges of the CLR model is a faulty foundation for its recommendations. If adopted, it threatens to reinforce the weaknesses of this increasingly outdated model into the segments of the construction industry that have done the most to support economic growth and business innovation in British Columbia.

¹⁰ Ibid.

¹¹ CLR refers to the Construction Labour Relations Association. BCBCBTU refers to the Bargaining Council of British Columbia Building Trade Unions

The appointment of an IIC to consider yet further changes to construction sector labour relations is precisely the opposite approach to what is needed in these challenging economic times. It would cause further uncertainty and unpredictability that would only serve to undermine the economic health of a sector that represents nearly 10% of British Columbia's GDP.

The Committee justifies this recommendation by saying, "Stakeholders identified numerous issues and advocated for a range of different solutions, including a separate panel to review labour relations in the construction industry."¹²

Respectfully, the Committee's assertion in this regard is misleading. Businesses and their associations *did not* advocate for a panel to review labour relations in the construction industry. Rather, it was only a few organized labour submissions that sought such a panel, and even then, these requests were largely tangential to their main submissions.

None of the main business organizations have sought such a panel.

To be clear, ICBA not only did not request such a panel, we strongly oppose this specific recommendation. It is our understanding that this view is consistent with every other business and industry organization.

The CLR made it clear in its submission that it opposed the sweeping changes being sought by BCBTU. It was only in the event that the government was prepared to consider these changes that it would support the building-trade specific panel review proposed by UA, Local 170.

We strongly urge the Government not to lead the province into a new period of uncertainty for the construction industry by either considering the far-reaching and structural changes being proposed by organized labour at this time or moving to appoint a panel to consider these changes – thereby introducing the additional uncertainty that this would entail.

Sectoral Certification

The Committee appears to understand the hazards of proceeding with sectoral certification in a jurisdiction like B.C. The Committee warns, "Sectoral Certification is a very complex issue which should be approached with considerable caution."¹³ The Committee then goes on to expressly recommend that no changes be made to the *Code* relating to sectoral certification.¹⁴

¹² Ibid.

¹³ Report, at p. 25

¹⁴ Ibid.

ICBA agrees with the Committee's recommendation on this matter.

The Committee acknowledges at page 24 of the Report that, "The *Wagner Act* model of labour relations, on which the B.C. Code is based, is foundational to all North American Jurisdictions and unique to the world." The broad imposition of sectoral bargaining and certification would have a profound and potentially destabilizing impact on labour relations in British Columbia. These models have not been adopted in *Wagner Act* jurisdictions, and for good reason. We urge the Ministry to review the substantive previous submissions made by ICBA and other businesses and industry organizations as the extent of the impact on B.C.'s labour relations model needs to be properly understood.

The Committee noted in its 2018 Report that British Columbia would be an outlier in North America, were it to embark on the path of sectoral certification. None of the submissions received by the Committee since then provide any foundation for proceeding with such a significant change to B.C. labour relations.

There remains no evidence that, as suggested by the BC Federation of Labour, "enterprise bargaining has left many workers behind, unable to exercise their Charter bargaining rights".

Sectoral Bargaining

The Committee has recommended that an IIC be appointed to consult with stakeholders to consider the imposition of sectoral bargaining on certain industries in B.C.

ICBA strongly opposes this recommendation.

The broad imposition of sectoral bargaining in the private sector would have a profound and destabilizing impact on labour relations and the broader investment climate in British Columbia. These models have not been adopted in *Wagner Act* jurisdictions, and for good reason. The Committee has acknowledged that broad-based sectoral bargaining is common only in continental European countries.¹⁵ We submit that the most relevant economic context for British Columbia is North America, the principal market for B.C.'s exports and also the main source of competition for new business investment and business growth.

Some have argued, as the BC Federation of Labour has done, that "enterprise bargaining has left many workers behind, unable to exercise their Charter bargaining rights". To our knowledge, there is no evidence to support this claim. The Report refers to a few historical examples of sectoral bargaining in British Columbia to support its recommendation; however, these examples must be properly understood. We believe these examples provide

¹⁵ Report, at p. 27 (even then, the Committee notes that "There has been a move to decentralize bargaining and increase bargaining at the company level in recent years.")

context that argues against the imposition of sectoral bargaining over the objections of the parties involved.

The Committee notes, at page 26, that, “In the private sector, broad based bargaining exists in several industries.” However, all the examples cited by the Committee have come about on a voluntary basis.

The Committee states, “In construction, industry bargaining existed for many years on a voluntary basis.”¹⁶ The voluntary nature of this bargaining is an important distinction, and it also should not be lost that the portion of the construction industry to which the Committee refers has a history of labour instability and, as explained above in this submission, has shrunk to the point that it now accounts for a minority of the industry.

The Committee refers to broad based bargaining in the film and television industry, however this is another example in which employers “voluntarily agreed to an industry bargaining scheme”.¹⁷ Moreover, the economic environment for the film and television industry in B.C. is strongly shaped by the existence of exceptionally generous taxpayer-financed subsidies that are not available to other industries and result in a competitive landscape that differs greatly from the situation facing other parts of the B.C. private sector.

The Committee similarly cites other examples: “The hospitality, waterfront and recently, the commercial cleaning sectors have all voluntarily developed broad based bargaining schemes.”¹⁸

These are examples of industry actors recognizing that, in the unique circumstances of their industries, broad based collective bargaining was a means to address issues unique to their industries. It also allowed individual employers to determine whether they could fairly compete in that model.

All these examples clearly demonstrate that mandatory sectoral bargaining is not necessary. The strength of B.C.’s current labour relations model is that employers and employees can negotiate terms that make sense for their specific circumstances, thus ensuring both the viability of the employer and continued gainful employment for the employees. It also ensures that workers at an enterprise have a meaningful say in the terms of employment that will govern their working lives.

Imposing mandatory sectoral bargaining in industries in which the parties themselves have not sought such a structure would artificially create winners and losers and threaten the

¹⁶ Report, at page 26

¹⁷ Ibid.

¹⁸ Ibid.

viability of many enterprises that employ hundreds of thousands of B.C. workers. This is particularly true in smaller and mid-sized companies that often are unable to compete with larger organizations which can more easily absorb the costs related to sectorally-mandated terms and conditions of employment.

Some stakeholders, such as the B.C. Federation of Labour, have asserted that sectoral bargaining would channel “competitive pressures between firms into more useful and productive directions: instead of competing with each other to find new ways of driving down labour costs (in a ‘race to the bottom’), firms are steered toward more genuine improvements in efficiency, technology and innovation, to the benefit of employers, workers and consumers.”¹⁹ That claim fails to understand the marketplace, but what is also left unsaid is that firms that do not have the same available capital as their competitors are left to perish, along with the jobs of their employees. Nor is evidence provided that wages and salaries have been falling – in fact, in B.C., the opposite has occurred. Over the past decade, with the exception of the year following the COVID-19 global pandemic, the average annual increase in construction trade wages has been double the rate of inflation. And, wages and salaries have risen steadily across most sectors of our economy, often growing faster than labour productivity as measured by real GDP per hour.²⁰

What is missing from the Report (and from the submissions provided by organized labour) is any actual evidence that mandatory sectoral bargaining would improve working conditions or encourage economic growth and business investment in the province. The only concrete examples cited by the Committee were the voluntary arrangements referenced above that the parties themselves entered into on the basis that it made sense for their industries. There is no suggestion that this voluntary model is not working, nor that there is any need for a mandatory scheme.

Despite this lack of foundation, the Committee has recommended that an IIC be established to consider the imposition or “enabling” of sectoral bargaining in “appropriate circumstances for a particular industry”.²¹ Respectfully, the Committee has not made a credible case for this recommendation – and indeed has cited evidence which demonstrates it is not needed.

Furthermore, the establishment of an IIC to consider such far-reaching structural changes to B.C.’s *Wagner Act* model would only serve to heighten uncertainty and foster labour relations unpredictability and instability.

¹⁹ Appendix to the BC Federation of Labour submission, at page 17

²⁰ David Williams, “Which Industries Pay the Bills for British Columbia? An Update, Business Council of B.C., October 21, 2021.

²¹ Report, at page 28

Picketing by Federally Regulated Employees

As noted above, in April 2024, the Government amended the definition of “strike” under the *Code* to permit provincially regulated unions and their members to refuse to cross secondary picket lines set up by federally regulated workers. It did so in the midst of this Committee’s consultations, and with no discussion with the labour relations community or collaboration with businesses.

This amendment was misguided and should be corrected.

The amendment has resulted in the untenable situation in which federally regulated picketers can shut down a provincial unionized operation that is uninvolved in a dispute and there is no ability to regulate the activity under either the provincial or federal codes. Such an outcome is directly contrary to the Section 2 duties to (f) minimize the effects of labour disputes on persons who are not involved in the disputes and (g) ensure that the public interest is protected during labour disputes. It also conflicts with the other duties set out in (a), (b), (d), and (e). It is inconsistent with the scheme of the *Code*, is unbalanced, and serves only to encourage labour relations instability. It heightens uncertainty in the province and increases labour instability, all of which is contrary to the Minister’s mandate letter.

The Committee was unanimous in holding that the current (amended) strike definition should not remain in place. One Committee member recommended repealing the amendment, and the other two committee members proposed differing amendments.²²

Removal of Secret Ballot

The removal of the right of employees to freely exercise their decision about unionization continues to be a significant defect in the *Code*. The majority of the Committee recommended against its removal in 2018. Despite this, the government removed this employee right yet still proceeded with other measures in the *Code* (s. 14.1) that were designed to ameliorate any issues arising during the course of such a vote.

In the recent Report, one Committee member continued to recommend that employees retain the right to democratically exercise their choice about union representation through a secret ballot – while the Chair reversed his recommendation without any explanation.

ICBA continues to strongly urge the government to return to employees their ability to democratically exercise their choice to be represented by a union. The secret ballot is the best way to remove any concerns about undue influence being exercised by one side or another in the certification process and to ensure that the true intention of the workforce is

²² Report, at pages 11-13

reflected accurately and transparently. We also agree with the Committee member who questioned the imbalance resulting from the imposition of s. 14.1 in the face of the removal of the secret ballot.²³

Membership Evidence

The non-confidential single-step certification process is far less likely to reflect the true wishes of employees with respect to unionization. It is incumbent on the Government to ensure that this process addresses any potential confusion or lack of understanding of what it means to sign a union membership card.

ICBA agrees with the Committee's recommendation that the wording of a membership card makes it clear that the employee is agreeing to be represented by a union without the benefit of a secret ballot vote.

Employee Lists

Certain labour organizations have carried on with their campaign to erode employee privacy without employees first agreeing to have unions as their representatives. They seek the unprecedented disclosure of employees' personal information for the purpose of certification drives prior to demonstrating that they have threshold support (with as little as 20% of employees signing a card), and without these employees having any say over whether their information is disclosed to the union as a third party.

The majority of the Committee has recommended against this erosion of employee privacy rights.

The remaining Committee member has recommended in dissent that the Board be given the ability to order disclosure of employee personal information where "the circumstances or location of the work may impede" a union's organizing drive.²⁴

Respectfully, the ability of a union to pursue an organizing drive should not be a factor that results in such a significant and egregious compromise of employee privacy rights. This would result in employees having different privacy rights depending on where they work or in which industry. Such an outcome would be both unfair and inconsistent with the policy aims of privacy legislation in this province – legislation that makes no such distinctions.

Sections 65 and 68

²³ Report, at pages 17-19

²⁴ Report, at page 23

Unions continue to seek to upset the long-standing balance between the replacement worker ban in Section 68 and the restrictions on secondary picketing in Section 65. In 2018, the Committee rejected this attempt, and explained:

The restrictions on both secondary picketing and the use of replacement workers during a labour dispute were proposed by the 1992 Report which recommended the Code should restrict the picketing of a secondary location provided the ability to use replacement workers was also restricted. Those corresponding restrictions were intended to provide balance and enhance industrial stability. We agree that is an appropriate balance.

There has been a significant decline in person days lost due to labour disputes in B.C. since the mid -1990s. Employers maintain the Code has been an important factor in this decline. While additional factors play a role, we agree that Sections 65 and 68 have contributed to this decline. The restrictions on secondary picketing and the use of replacement workers were intended to be a package. In our view, the countervailing restrictions on secondary picketing and use of replacement workers during a labour dispute have worked well and should be maintained.

The majority of the Committee in the Report recognized that the balance that has been in place for more than 30 years should not be upset. We agree.

The remaining Committee Member has now changed her position and seeks to allow picketing at other divisions of an employer whose employees are not involved in the dispute. No explanation or foundation has been provided for this erosion of the long-standing balance between ss. 65 & 68. This recommendation would serve to only increase labour instability and would be contrary to s. 2(f) of the Code.

Conclusion

In light of the challenges confronting the B.C. private sector and the difficult economic and fiscal circumstances facing the province, we strongly urge the Government to reject the Committee's recommendations that would further destabilize B.C.'s labour relations climate and erode the balance that has been carefully built over decades.

The changes to the Code introduced since 2017 have already shifted the Code dramatically in favour of organized labour, with significant impacts on business competitiveness, employee choice, and economic certainty. Introducing additional sweeping changes – or appointing Industrial Inquiry Commissions to consider them –

will only deepen uncertainty and discourage investment at a time when B.C.'s economy can ill afford it.

The path forward must be one of stability, collaboration, and respect for the realities of a modern, diverse construction industry. More than 85% of B.C.'s construction workforce operates outside of the CLR-BCBCBTU model, and these open-shop, merit-based workplaces have been the engine of growth, innovation, and opportunity for hundreds of thousands of workers and their families. Government policy should reflect and support this reality, rather than seeking to entrench outdated structures that serve a shrinking segment of the industry.

ICBA calls on the Minister to align any future labour relations decisions with the Premier's mandate: to grow the economy, attract investment, and provide certainty for workers and businesses alike. By rejecting recommendations that would fuel division and foster instability, the province can protect B.C.'s economic competitiveness, safeguard employee rights, and ensure that our construction industry remains a driver of prosperity for decades to come.

September 19, 2025

BC Government, Ministry of Labour
Sent by email: LRCReview@gov.bc.ca

Dear Ministry Officials,

Re: British Columbia Labour Relations Code Review Panel Report

The Progressive Contractors Association of Canada (“PCA”) is pleased to present our comments on the recommendations found in the British Columbia *Labour Relations Code* (the “**Code**”) Review Panel’s report, as well as providing other comments and considerations relating to provincial labour relations in general.

Introduction

The PCA is the voice of progressive unionized employers in Canada’s construction industry. PCA represents construction and maintenance contractors across Canada, with substantial activity in BC. PCA’s national membership includes around 150 contractor organizations, and PCA members directly employ more than 40,000 employees, and many thousands more in affiliated organizations. PCA members have unionized relationships primarily with non-Building Trades unions (unions that operate on an industrial or multi-trade basis), but members also include Building Trades contractors and non-union contractors. In BC today, of the 90,000 people working in non-residential construction, roughly 30,000 are unionized of which our PCA member contractors represent roughly one-third of those unionized workers in the province.

Since our founding in 2000, PCA has worked to ensure fair access to work opportunities for contractors and workers by promoting legislative frameworks and industry practices that establish a level playing field for all construction industry participants. PCA believes fairness means paying workers competitive wages and benefits and, most importantly, keeping them working. This can only be accomplished if there is an economic landscape in BC that supports investment and thriving businesses. PCA firmly believes that fairness for workers and business is best derived from a collaborative relationship between employees and employers, rather than the more zero-sum, confrontational model that we see all too often.

Therefore, our submission will again focus on encouraging initiatives that foster collaboration, cooperation and build trust, and discourage proposals that undermine these principles that are so necessary to BC’s long-term economic success for all British Columbians.

Response to the Panel’s Report

As the Ministry conducts its final deliberations, PCA would like to remind the BC government, as it did the Review Panel, about the need to ensure the Code remains in balance. The Code reflects our past compromises that were hard-fought for over the years. These compromises helped establish a peace in our province’s labour relations history, something we weren’t known for before the 1992 review and legislative changes.

PCA want to thank the Review Panel members for their dedication to the review of the BC Labour Relations Code. In response, PCA provides the following comments on the Panel’s report.

General

It is worth noting that the Review Panel had a lot of information to sift through following the initial call for submissions, the in-person hearings and the subsequent call for supplemental submissions. By the Panel's own count, they received and processed 126 written submissions and oral presentations from 63 groups at seven public hearings not to mention its engagement with Indigenous partners.

Like many stakeholders who take part in a broad review of this nature, the results of the Panel's recommendations can be seen as a mixed bag. For instance, based on our submissions, PCA would not support the Panel's recommendation to keep a card check system (Recommendation 8), but would support the commentary and dissent to Recommendation 8.

Furthermore, PCA would tend to support the Panel's recommendations on employee lists (Recommendation 11), common employers (Recommendation 18), and secondary picketing and replacement workers (Recommendation 21).

While we could provide a recommendation-by-recommendation response, PCA really wants to focus on two (2) recommendations we do not support:

1. Recommendation 25 – An Industrial Inquiry Commission for the Construction Industry, and
2. Recommendation 14 – An Industrial Inquiry Commission on Sectoral Bargaining.

Recommendation 25 – An Industrial Inquiry Commission for the Construction Industry

PCA would not support the Panel's recommendation to conduct an industry inquiry commission of the construction industry. While PCA believes the BC Labour Relations Code could be enhanced to better utilize the full potential of all participants in the construction sector, the Panel's recommendation feels a solution looking for a problem at this time.

Given the BC government's commitment to expediting major infrastructure projects in BC, the last thing the province needs is another lengthy review that would come from such a commission.

Overall, the BC construction industry is a competitive sector and a key driver of economic growth in the province, employing tens of thousands and contributing billions to the provincial GDP. A lengthy inquiry runs the risk of destabilizing labour relations and creating uncertainty among project owners who are looking to invest in major BC infrastructure projects.

Additionally, there is a financial cost of conducting such a commission—including administrative expenses, legal consultations, and stakeholder hearings—that outweigh its benefits. With a sizeable deficit facing our province, an industrial inquiry commission is an added expense the BC government doesn't need to take on now.

Recommendation 14 – An Industrial Inquiry Commission on Sectoral Bargaining

PCA also would not support the Panel's recommendation to conduct an industry inquiry commission on sectoral bargaining. Like Recommendation 25, this recommendation also feels like a solution looking for a problem.

For the same reason, we don't support an industrial inquiry commission for the construction industry, PCA would argue an inquiry commission on sectoral bargaining sends the wrong message to major infrastructure project owners looking to build in BC. As we mentioned above, investors are looking for certainty, while an industrial inquiry commission would create a level of uncertainty as we look to attract investment that can



@PCACanada



Progressive Contractors Association
of Canada

help get our economy growing.

Conclusion

PCA appreciates the opportunity to make a submission on the Review Panel's recommendations.

Overall, based on what is in the Panel's report, PCA would largely favour leaving the Labour Relations Code alone at this time, but we would like to leave some concluding thoughts with the BC government on the current labour landscape in the construction industry that doesn't need a industrial inquiry commission to fix.

Construction works best when there is competition. Competition has created tremendous benefits for workers, the public, and the development of construction projects in BC. Having unions and contractors competing is healthy for BC, just as competition is healthy for all economies. It forces organizations to achieve greater efficiency and effectiveness.

We hope the government takes this opportunity to advance sensible changes that will foster competition and fairness for all workers, unions, and contractors.

The positions put forward by PCA, on behalf of our members, respect worker choice and freedom, promote competition, foster stability, enhance efficiency and generate investment and economic growth.

Valuable construction work should be open for all to bid on through a fair and open tendering process.

Thank you again for allowing us to share our thoughts. Please do let us know if you need any further information.

Respectfully yours,



Dan Baxter
Regional Director, BC
Progressive Contractors Association of Canada (PCA)

cc. Paul de Jong, President and CEO, PCA
Darrel Reid, VP Public Affairs, PCA

From: [Blair Littler](#)
To: [LRC Review LBR:EX](#)
Subject: Recommendations Regarding Workplace Consultation and Union Health & Welfare Benefits
Date: September 18, 2025 1:01:31 PM

You don't often get email from blair.littler@rucbc.ca. [Learn why this is important](#)

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To: LRCReview@gov.bc.ca

Subject: Recommendations Regarding Workplace Consultation and Union Health & Welfare Benefits

Dear Review Committee,

I am writing to provide input regarding the proposed recommendations outlined in the review of workplace legislation. Our comments are as follows:

Recommendation No. 20 – Amend Section 53(4):

A. Proposed Amendment to Section 53(4):

53(4) The purpose of the consultation committee is to:

- a) promote the cooperative resolution of workplace issues, **including but not limited to work reorganization, productivity, and technological change;**
- b) respond and adapt to changes in the economy;
- c) foster the development of work-related skills; and
- d) promote workplace productivity.

B. Consultation on AI Impacts:

The B.C. government undertake a consultation process on the impacts of AI which must involve unions, employers and employees to determine, amongst other things, whether any changes to employment related legislation (including the Employment Standards Act, Labour Relations Code, Human Rights Code, Personal Information Protection Act and Freedom of Information and Protection of Privacy) are required.

Commentary:

The determination of which workplace issues fall under Section 54 is best guided by Board policy as shaped through case law. In practice, the scope of workplace issues is an evolving standard that legislation cannot fully anticipate or replicate. Moreover, most collective agreements already include provisions addressing the examples cited. Where such language exists, matters should be managed in accordance with the negotiated terms, with disputes resolved through grievance arbitration. Introducing statutory language that could be interpreted as expanding the Board's role into areas currently reserved for arbitrators would conflict with established Board policy, which emphasizes deferral to arbitration.

Commentary on Recommendation No. 22 – Add Section 61.1:

Proposed Section 61.1:

61.1 Under section 61, the union may elect to pay to continue only certain health and welfare benefits and if so, provided it tenders payment as required under 61(1)(a) and (b) for those benefits, section 62(2) applies to continue those benefits, unless prohibited by the terms of the plan.

Commentary:

Upon reviewing the context, this proposal appears aimed at addressing concerns that unions may lack the financial capacity to fund benefit costs as they arise or in advance. However, this is not the appropriate solution. Imposing this requirement places an unusual and significant administrative burden on employers, forcing them to manage health and welfare plans in a manner tailored to the circumstances of a labour dispute. It could require complex configuration or custom coding of Human Resources Information Systems, creating unmanageable processes or substantial costs for the employer.

Employers already face considerable disruption under strike notice, including managing essential services, complying with replacement worker provisions, and winding down operations that may not continue during the dispute. These pressures are a normal and intended part of a labour dispute. Requiring employers to provide financial relief to unions engaging in job action shifts a responsibility that should fall on the union onto the employer, upsetting the intended balance. In the alternative, clarity on which health and welfare benefits would be continued should be made clear to both employees and employers no later than the time at which strike notice is served or within one (1) day of receipt of notice of lockout.

A more appropriate solution is to allow unions to cover benefit costs on a reimbursement basis, payable once a new or renewed collective agreement is in place.

Commentary on Recommendation No. 4 – Amend Section 70:

A. Retain the existing definition of “picketing” in section 1(1).

B. Amend section 70 to add:

70(3)(c) Without limiting the Board’s discretion under section 70(3)(b), where there is no physical site for a trade union, member or members to picket pursuant to section 65(3), the Board must exercise its discretion to ensure employees’ expressive rights are given effect in a manner consistent with the intent and purpose of picketing under this Part.

Commentary:

The issue with this proposal is that it solely reflects the right to picket without fully referring to the rights of an employer to relief from common site picketing or the effect of rotating pickets. The balance expressed throughout *Code* should be reflected in the proposed language. The suggested amendment should reference the Board’s discretion under **both** 70(3)(a) **and** 70(3)(b) as follows:

A. Amend section 70 to add:

70(3)(c) Without limiting the Board's discretion under sections **70(3)(a) and 70(3)(b)**, where there is no physical site for a trade union, member or members to picket pursuant to section 65(3), the Board must exercise its discretion to ensure employees' expressive rights are given effect in a manner consistent with the intent and purpose of picketing under this Part.

We trust that these comments will be carefully considered as part of the review process. Please do not hesitate to contact me should further clarification or discussion be required.

Sincerely,

Blair Littler

Executive Director

University Public Sector Employers' Association

Subject: Submission in Support of the Labour Relations Code Review

Thank you for the opportunity to contribute to the ongoing review of British Columbia's Labour Relations Code. We appreciate your government's commitment to ensuring the Code reflects the realities of today's workplaces while protecting stability, fairness, and public interest.

Sysco is one of Canada's largest foodservice distributors. In BC, our teams are responsible for ensuring consistent and timely delivery of food to hospitals, long-term care facilities, childcare centres, schools, and hospitality businesses. Our work is essential to food security, cost stability, and the resilience of public-serving institutions throughout the province.

As a critical link in BC's supply chain, Sysco Canada supports the overall objectives of the Labour Relations Code—to uphold the right to collective bargaining while promoting stability and minimizing unnecessary disruptions that affect the public and the services they rely on.

We respectfully submit the following comments related to several of the independent review panel's recommendations.

1. Clarifying the Definition of “Strike” and Mitigating Third-Party Disruptions

Sysco supports Michael Fleming's recommendation concerning the definition of “strike” in the BC Labour Code. We also support Recommendation #3. In particular, we encourage the government to explore legislative clarity around situations where provincially regulated employees, such as our delivery drivers, are affected by third-party picketing unrelated to their employer.

Currently, these disruptions can prevent drivers from crossing picket lines at delivery sites, even when they are not parties to the dispute. This can interrupt food distribution to essential services, raising the risk of shortages and cost spikes for institutions and families alike.

We recommend the province adopt a narrow, clearly defined provision that enables designated workers, like food delivery personnel to hospitals and care homes, to safely cross third-party picket lines in accordance with guidelines that respect the legitimate rights of striking workers. This would ensure critical services remain stable during labour disruptions, without undermining the principles of the Code.

If third-party picketing loses effectiveness, workers could be left with less power in multi-employer supply chains. While this may ease operational pressures for some employers, it risks shifting the balance too far, undermining the fairness that the Labour Relations Code is intended to protect.

2. Ensuring Due Diligence in the Card-based Certification Process

In reference to recommendation #8, Sysco supports the Review Panel's recommendation to maintain card-based certification. We recognize that this approach can streamline the certification process and reduce opportunities for employer interference.

However, we encourage the Ministry to pair this with enhanced due diligence requirements to ensure the process is fair, transparent, and trusted by all parties—especially considering the significant financial and operational implications certifications can carry.

Our recommendation is that the Ministry implement minimum standards for financial and procedural accountability by union organizing campaigns, and a formalized audit process at the Labour Relations Board to validate card-based certifications where appropriate, without delaying timelines for certification.

For example, at the Federal jurisdiction, the Canada Industrial Relations Board (CIRB) Regulations require unions to collect at least \$5 from each employee who signs a union membership card. This payment serves as proof of support for the union, with the signed card and payment being submitted to the CIRB as evidence to support an application for certification. The fee must be paid to the union within six months of the application for certification.

These measures would not interfere with workers' rights to organize but would ensure safeguards are in place for all parties, helping preserve trust in the system's integrity.

We also urge the Ministry to ensure any oversight mechanisms are administered by neutral bodies, not employers, to uphold the principles of free and fair association.

3. Extending the Mediation Period for Greater Stability and Resolution

Under the current BC Labour Relations Code, parties may be referred to mediation for a maximum of 20 days. By comparison, the Canada Labour Code provides for a longer mandatory mediation period of 60 days, followed by a structured cooling-off period and a 72-hour strike notice requirement.

Sysco recommends aligning with the federal model by extending the BC mediation period to 60 days. This change would:

- Allow parties to understand each other's positions better,

- Reduce the likelihood of rushed decisions leading to avoidable labour actions, and
- Provide additional space for consensus-building in complex sectors such as transportation, health care, and education.

We believe a longer mediation period would strengthen outcomes for both employers and unions, protect public services, and contribute to more stable long-term agreements.

4. Ongoing Dialogue and Stakeholder Engagement

We commend the Ministry for initiating this review and for engaging with diverse stakeholders in a transparent, consultative process. We understand that the panel's final recommendations are intended to balance the rights of workers and the need for economic and service continuity.

Sysco Canada remains committed to playing a constructive role in this discussion. We welcome the opportunity to participate in future dialogue or follow-up consultations as the Ministry develops its policy response.

The British Columbia Labour Relations Code must reflect the evolving realities of work, supply chains, and service delivery. We believe the recommendations above will strengthen stability, enhance trust in labour processes, and protect the vital institutions British Columbians rely on every day.

Thank you again for the opportunity to contribute to this important review.

Dear Minister Whiteside,

The Thompson Rivers University Labour and Employment Association (LELA) is a student law club. Our mandate is to explore labour rights, workplace policies, and employment law. We are pleased to make our submission on the Panel's recommendations.

We arrived at our recommendation by a majority vote by members of our Association. The submission reflects strictly those of our Association, and is not the opinion of Thompson Rivers University, the TRU Faculty of Law, or other law students at TRU who are not members of LELA.

We have a submission on Recommendation No. 3.

With due respect to the Panel's expertise, we submit that the government should not repeal Bill 9.

Propriety of Government Action: The legislation enacted after *Vancouver Shipyards*, which allows a provincial worker to respect a lawful federal picket line, shows a deep respect for workers' rights. We do not regret that the government acted swiftly. Legislation regarding Charter rights should not have to wait until the next government report. In our respectful submission, the employer community views on Bill 9 ought to have been well known, as the BC Business Council had intervenor status in *Vancouver Shipyards*, and in our opinion, ably expressed the potential concern of employers.

We do not fault the government for passing progressive legislation.

Contents of the Report: even now that the report has been released, there is no consensus: one panelist recommends complete repeal, while the other two offer different solutions that would retain some form of the Charter protections. While in more sympathy with some form of protection, we urge the government to keep intact the more progressive legislation. Unions should not have to bargain for what previous legislation once protected, and people of dissimilar workplaces ought to be able to join in solidarity when there is a lawful picket line.

Case Law cited by the Panel: The Panel cited *British Columbia Ferry Corporation v. TWU* 1981 Canlii 543. The Panel wrote, "If that were to happen today, their employees would have the right to honour federal pickets." With due respect, we take no issue with the conferral of such a right. We urge the government to read the concurring opinion of Craig J.A., who wrote, "...the provincial legislation

is competent to enact such legislation but that it has not exercised this power in the present Labour Code” (Para 13).

The appellate judge, back in 1981, at a time of higher union density, did not seem to think it would be that remarkable if the province decided to expand picketing rights. We likewise do not believe it to be that remarkable; it is the simple extension of a Charter right that the province has the competence to enact.

Duties under the Code: at least some of our members think that *Vancouver Shipyards* (reconsideration) was correctly decided. There is a Code duty to minimize impact on uninvolved parties, even when it pits a purposive Charter right—picketing—against the duties of the Code. This informs how the Board must adjudicate cases. It is our submission, however, that these duties do not limit the legislature, especially in regard to drafting legislation that conforms to Charter values.

Conclusion: for the above reasons, we submit that the government should not repeal the current legislation that expands the scope of picketing rights.

Sincerely,

LELA



WESTERN

Forest Products

September 19, 2025

The Honourable Jennifer Whiteside

Minister of Labour
Government of British Columbia
PO Box 9064, Stn Prov Govt
Victoria, BC V8W 9E2

Via email: LRCReview@gov.bc.ca

Dear Minister Whiteside:

Thank you for the opportunity to comment on the *Recommendations for Amendments to the Labour Relations Code*, submitted by the Labour Relations Code Review Panel, consisting of Michael Fleming, Sandra Banister K.C. and Lindsie Thomson, dated August 31, 2025 (the Panel).

Western Forest Products Inc. is headquartered in Vancouver with operations in the coastal region of B.C. and Washington State. Western makes beautiful, high-quality forest products that help build a better world. We are making strategic investment decisions and accelerating the expansion of our higher-value product lines. We leverage a local skilled workforce to make the most of the valuable forest resource we have the privilege of stewarding. In BC, we have five sawmills, two remanufacturing facilities, extensive timberlands operations and the largest private tree seedling nursery in the province. We have 5.6 million cubic metres of annual allowable cut in our coastal BC timberlands and approximately 700 million board feet of capacity at our BC sawmills. Western has averaged over \$1B in annual revenue since 2015 and this revenue results in growth multiples within the province, which help support local communities and other businesses. We have three collective agreements in BC, each of which has term lengths of six years or longer. This speaks in part to our commitment to continuing to build positive relationships with our labour partners.

In BC, our direct unionized workforce exceeds 1,000 employees. Western also contracts roughly half of our timberlands logging to primarily-unionized companies, each with hourly employees within the province. In addition to supporting the communities in which we and our contractors live and work, Western provides the province with stumpage fees (nearly \$28 Million in 2024), plus taxes and other charges. We are proud of our industry-leading agreements with First Nations and continue to work diligently to ensure our values and actions are consistent with reconciliation and respect for First Nations. Our operations overlap with the traditional territories of more than 50 First Nations in British Columbia.



WESTERN

Forest Products

We have taken the time to carefully review the recommendations of the Panel—and believe they have provided a very thoughtful, holistic review of the Labour Code and the implications for employers, unions and employees within the Province.

Firstly, we endorse their unanimous comments on the criticality of considering First Nations perspectives before any *Labour Relations Code (the Code)* changes are enacted. As the Panel highlights on the first page of their report, the Declaration on the Rights of Indigenous Peoples Act (DRIPA) requires the Government of BC to ensure that all laws, and changes thereto, are consistent with the DRIPA legislation. The Panel comments, appropriately in our view, that they have not been given a mandate to consider changes to the *Code* in light of these issues, but that government must. We agree and echo the position that any legislative changes would be premature at this stage, until the Province undertakes and completes the work mandated by DRIPA. Given the report has nonetheless been presented and feedback is being sought, we provide the following feedback as a large, unionized British Columbia-based employer.

Recommendations 2, 3, 5, 6, 9, 10, 12, 13, 14, 17, 18, 19, 23, 24 and 25 were unanimous and Western has nothing to add to the views of the Panel.

Panel Recommendation No. 1 – Board Funding

Western strongly agrees with this recommendation. The Board must be able to deal with issues raised by the parties in an expeditious manner. Without adequate funding, we believe the Board cannot properly fulfill their mandate.

Recommendation No. 4 – Picketing, Strikes [Federal / Provincial Issue]

As a result of Bill 9, federal disputes have the potential to shut down provincially regulated enterprises. Bill 9 was implemented without any consultation with provincially regulated industries, such as Western. As a result, a legal federal strike can now result in damages for provincial enterprises. In the event of a dispute that impacts our operations (e.g. Railway, ports, federally-regulated trucking and shipping), we would have no standing to impact the resolution of such a strike. Thus, Bill 9 has removed our ability to argue for consideration of our business interests. This is not appropriate, nor, in our view constitutionally valid, given that federal regulation can now impact provincial entities. Western endorses Panel member Thomson's view on this issue.

Recommendations Nos. 7 & 8 – Board ability to order certification in cases of unfair labour practices; card check vs secret ballot votes

On all issues of certification, Western first comments that most of our BC workforce is already unionized, but we do have a view with respect to the unionization process. As Ms. Thomson

points out, the Board's remedial certification process was implemented to protect employee free choice when secret ballots were used. She points out that if secret ballots are re-introduced, this remedial Board power should be retained, otherwise the legislation should revert to the previous language.

Western supports this view and would like to add our perspective that these processes should support democratic free will in all instances. Previously, the secret ballot certification process was paired with a similar Board-supervised decertification process. Today, however, s.33 of the Code is substantively different leaving it much more difficult to decertify than to certify. In our view, both should be a matter of employee choice, in keeping with a free and democratic society. In a global era where free democratic choice is increasingly under threat, we believe it is critical that our governments continue to respect the right to choose – in this case the free will/rights of employees. We believe both certification and de-certification standards should mirror each other.

Recommendation No. 11 – Employee Lists During Certification Drive

Western agrees with the majority of the Panel on this issue. The existing legislation serves to protect employee privacy concerns, in that the Board can order production of employee lists, once they are satisfied through their investigation that enough signature cards have been signed. It is our view that to allow the process that Ms. Banister suggests would be to violate the privacy rights of employees.

Recommendation No. 15 Collective Bargaining in the Forestry Sector

Western feels very strongly about this recommendation. Any sector, including forestry, should have the right to bargain collectively, as a voluntary coalition, if they so choose. However, no industry should be forced to bargain with its competitors without consent. Furthermore, the recommendation is for a Forestry Industry Commission to include representatives from government, unions and industry. We acknowledge that the Panel, in its opening remarks, points out that they do not have a mandate to incorporate DRIPA comments. With that acknowledgement, we are unclear why First Nations are further excluded from the recommended Commission. It is Western's view that any review of forestry-sector specific labour issues should include consultation with First Nations.

WESTERN

Forest Products

Recommendation No. 16 – Successorship

We agree with the majority of the panel. We strongly oppose the inclusion of forestry in section 35(0.1). The intent of this section is to deal with industries which have been inherently difficult for unions to penetrate, and where there has been a history of using successorship (or lack thereof) to de-certify unions. That is not the case in the coastal forest industry. Forestry is one of the most heavily unionized industries in the province. Western has significant examples of transactions where successorship has been readily acknowledged and has resulted in unionization and collective agreements to flow to the new entity. It is therefore our view that no changes are required to the Code.

Recommendation No. 21 – Picketing & Replacement Workers

Western agrees with the majority of the Panel on this item.

Recommendation No. 22 – Continuation of Health and Welfare Benefits During a Labour Dispute

Western strongly opposes this recommendation for a number of reasons. Firstly, a practical concern is that most health and welfare plans are bundled for cost reasons. To attempt to break it up, even if not disallowed by a plan, is likely to result in future higher costs to the payor. In Western's case, through bargaining, we pay for 100% of the plan cost. The result of this recommendation would mean higher future costs for Western, further challenging economics in an already high-cost jurisdiction. Therefore, the recommendation of the Panel is not something we can support. In addition, any union deciding on whether to strike or not knows the cost of that strike going into it. This recommendation would lower the cost of entry for a union, but not an employer. Thus, it would tip the scales in favour of strikes, instead of the balanced perspective mandated by the opening statements in the Code.

On behalf of Western, I would like to acknowledge our appreciation for the Panel's time and efforts to advance labour policy in BC, including by inviting participation and commentary on their recommendations. We respectfully submit ours. We trust there will be further opportunity to comment on potential proposed legislative changes, and look forward to the opportunity for further participation to share our perspective.

Respectfully,
WESTERN FOREST PRODUCTS INC.



Jennifer Foster
Senior Vice President, Human Resources & Corporate Affairs

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VIA E-MAIL: LRCReview@gov.bc.ca

August 15, 2025

Re: Public Engagement on Labour Relations Review Panel Recommendations on Reforming
the British Columbia Labour Code

Minister Whiteside:

Thank you for the opportunity to comment on the Labour Relations Review Panel's report on potential changes to the British Columbia Labour Relations Code. We are impressed with the report's thoroughness, and we support its overarching goals. We agree that the Code should be updated and modernized to reflect the evolving legal, economic, and social landscape.

We write separately only to address the panel's treatment of three issues: sectoral certification, sectoral bargaining, and industry councils. While the panel rejects the first two proposals as unworkable, it recommends more study of the third. We agree in part. While the panel got it right on the first two proposals, it went wrong on the third. All three proposals are legally dubious, practically unworkable, and fundamentally inconsistent with the Labour Relations Code. We urge the Ministry to reject them all.

Labour law is not static. While updates and revisions are sometimes necessary and often desirable, these three proposals are not the updates British Columbia needs. They would harm workers, consumers, and even unions. The Ministry should spend its time and resources pursuing more productive reforms.

About WPI

The Workplace Policy Institute (WPI) is the government-relations and public-policy arm of Littler Mendelson, the world's largest labor and employment law firm. As such, it

advocates for employers on a global scale. It focuses on defining and shaping workplace policy at the national, international, and local levels.

Through our policy work, we have deeply studied the policy and legal implications of sector-wide representation schemes. Those schemes range from sectoral bargaining to worker representation by proxy on tripartite industry councils. We write to draw your attention to the economic, social, and legal issues raised by those systems. None of these systems has succeeded in its aims, and many have in fact undermined their goals. So while we support the broader effort to update and modernize labour laws in general, and the B.C. Labour Relations Code in particular, we urge you to consider other solutions.

The Proposals

Proposal 13.A: Sectoral Certification

In its report, the panel examines so-called sectoral certification. Sectoral certification would allow a single union or collection of unions to represent and bargain on behalf of employees in multiple workplaces—potentially across an entire industry. This approach is loosely modeled on bargaining structures in Europe and Latin America.¹ It is “strongly” supported by some unions, who claim that it makes organizing more “efficient.”² The unions also argue that sectoral certification will help “standardize” the terms of employment.³

The panel rightly rejects these arguments. Far from promoting efficiency, sectoral certification would only muffle competition and choice. It would reduce opportunities in both union and nonunion workplaces. And it would make the unions themselves more distant, less responsive, and less representative of their members.

Sectoral certification reduces worker choice. By design, sectoral certification assigns a single union to represent all workers in an industry or sector.⁴ Workers no longer choose

¹ See VINCENT VERNUCCIO, *SECTORAL BARGAINING: ONE-SIZE-FITS-ALL COLLECTIVE BARGAINING FOR ENTIRE INDUSTRIES*, INST. FOR THE AM. WORKER (2021), <https://i4aw.org/reports/sectoral-bargaining-one-size-fits-all-collective-bargaining-for-entire-industries/>.

² See Report to the Honourable Henry Bains, Minister of Labour, *Recommendations for Amendments to the Labour Relations Code 24* (Aug. 31, 2024), <https://engage.gov.bc.ca/app/uploads/sites/121/2025/06/Labour-Relations-Code-Review-2024-Panel-Revisions-corrected-June-2025.pdf> [hereinafter *Recommendations*]

³ *Id.* See also Sara Slinn, *Broader-based and Sectoral Bargaining Proposals in Collective Bargaining Law Reform: A Historical Review*, 85 LE TRAVAIL 324 (2020) (arguing that sectoral bargaining creates “common employment conditions” and therefore “reduce[s] focus on wage competition” among employers).

⁴ See David Madland, *The Re-emergence of Sectoral Bargaining in the US, Britain, Australia, and Canada*, ONLABOR (April 22, 2021), <https://onlabor.org/the-re-emergence-of-sectoral-bargaining-in-the-us-britain->

a representative only for their own workplace. They instead are grouped into a sector-wide bloc.⁵ So by definition, they have fewer options: workers who might have voted for a different union in their own workplace now have to vote for a single sectoral union or no union at all. And because any certification would cover the whole industry, a larger total number of workers who would have chosen no union at all are forced to accept representation.⁶ In effect, sectoral certification widens the gap between worker preferences and electoral results.⁷

That gap extends beyond selecting a union: it also affects workers' control over their immediate working conditions. Under the current B.C. Labour Code, workers decide whether to unionize workplace by workplace.⁸ That approach allows them to choose different unions with different philosophies toward bargaining and administration. Workers can opt into different approaches not only by voting for different unions, but also by moving between workplaces.⁹ In effect, they can exercise electoral and market-based choices—a menu of options that incentivizes unions and employers to develop policies agreeable to the broadest array of workers.¹⁰ By contrast, under sectoral certification, workers are unable to choose a representative with policies tailored to their workplaces.

[australia-and-canada/](#) (explaining that sectoral bargaining “seeks to cover all workers in an industry or region with a collective bargaining agreement and ensure that similar work receives similar pay”).

⁵ See David Madland, *What Is Sectoral Bargaining?*, CTR. FOR AM. PROG. (March 2, 2020), <https://www.americanprogressaction.org/article/what-is-sectoral-bargaining/> (describing difference between sectoral systems and Wagner-style enterprise systems).

⁶ See U.S. CHAMBER OF COMMERCE, *BAIT AND SWITCH: THE FALSE PROMISE OF NEW “REPRESENTATION” MODELS* 8 (2021), <https://www.uschamber.com/employment-law/bait-and-switch-the-false-promise-of-new-representation-models> (explaining that some proposals to adopt sectoral systems result in representation based on the affirmative votes of as few as ten percent of the represented workers).

⁷ See Initiative Petition 23-35: An Act Giving Transportation Network Drivers the Option to Form a Union (Mass. 2023), <https://www.mass.gov/doc/initiative-petition-for-an-act-giving-transportation-network-drivers-the-option-to-form-a-union-and-bargain-collectively/download> (creating system whereby as few as 2.5% of workers can choose a union for the entire covered workforce); Alexander T. MacDonald, *Sectoral Bargaining for Rideshare Drivers in Massachusetts: Legally Dubious, Economically Disastrous*, FEDERALIST SOC'Y (Jan. 10, 2024), <https://fedsoc.org/commentary/fedsoc-blog/sectoral-bargaining-for-rideshare-drivers-in-massachusetts-legally-dubious-economically-disastrous> (describing consequences of the ballot initiative); TUFTS UNIV. CTR. FOR STATE POLICY ANALYSIS, *QUESTION 3: A UNION FOR RIDESHARE DRIVERS* 2 (Sept. 2024), https://cspa.tufts.edu/sites/g/files/lrezom361/files/2024-09/cSPA_2024_Q3_rideshare_union.pdf (describing how scheme allows minority of workers to choose union for vast majority).

⁸ See B.C. Labour Relations Code [RSBC 1996] Chapter 244 § 18 [hereinafter B.C. Labour Code] (describing acquisition of bargaining rights in an appropriate bargaining unit).

⁹ See *generally* RICHARD FREEMAN & JAMES MEDOFF, *WHAT DO UNIONS DO?* (1984) (describing how workers express their preferences in the workplace through two channels: internal (voice) and external (exit)).

¹⁰ Tom Campbell, *Exclusive Representation in Public and Private Labor Law After Janus*, 70 SYRACUSE L. REV. 731, 733, 772 (2020) (arguing that a nonexclusive bargaining regime would reintroduce competitive pressures into the representation system); Alexander T. MacDonald, *Originalism, Social Contract, and Labor Rights: What the Reawakening of Natural Law Means for Exclusive Union Representation*, 99 N. DAKOTA L. REV. 28, 64–65 (2023) (same). Cf. CHARLES J. MORRIS, *THE BLUE EAGLE AT WORK: RECLAIMING RIGHTS IN THE AMERICAN WORKPLACE* 219 (2004) (arguing that members'-only bargaining is superior to exclusive bargaining because it gives the agent, a union, more incentive to respond to the desires of the principal, the employees).

They are also unable to escape bad representatives by moving to different workplaces in the industry. They are effectively a captive audience.¹¹

That denial of choice affects not only workers' "exit" options, but also their "voice" options within the union. When workers choose a union for their own worksite, they often do so based on direct and personal contacts. They know their local business agents; they are on a first-name basis with their union president.¹² But when they choose a sectoral union, they may do so with little or no personal knowledge. They may have less chance to get to know their potential union officers. Each worker is only one of thousands, maybe tens of thousands, of potential or actual union members. That means each worker's voice carries less weight. Even if the union does its best to listen to them, their concerns are drowned out by the concerns of thousands of others. Each worker's voice is diluted by the union's sheer size.¹³

Sectoral certification distorts unions. That change in scope also changes the union itself. To start, the union simply knows less about each individual workplace. By necessity, it spreads its attention across dozens or hundreds of workplaces strewn through a region.¹⁴ It cannot appreciate or advocate for workers with the same gut-level understanding. It does not know about the leaky roof, the dirty bathroom, or the rude supervisor. It cannot understand and prioritize those issues in the same way. Its knowledge is limited by the brute realities of geography and time.¹⁵

But even if the union could understand the peculiar problems of each workplace, it would be unable to address them all at once. By necessity, a sectoral union sheds its narrow focus on the workplace for a broader focus on the industry. It owes the same duty

¹¹ See VERNUCCIO, *supra* note 1, at 4–5 (explaining how sectoral systems in Germany and elsewhere have homogenized working standards and thus reduced worker choice); Kristian Stout & Julian Morris, *Lessons for the US from Germany's Sectoral-Bargaining Experience*, INT'L CTR. FOR L. & ECON. (Sept. 29, 2022), <https://laweconcenter.org/resources/lessons-for-the-us-from-germanys-sectoral-bargaining-experience/> (same).

¹² See Micah Uetracht, *Anatomy of a Union Organizing Drive*, Jacobin (Oct. 30, 2022), <https://jacobin.com/2022/10/daisy-pitkin-on-the-line-union-drive-organizing-unite> (interviewing union organizer and detailing extensive and close contacts between organizers and workers); Am. Postal Workers Union, AFL-CIO, Shop Steward's Training Manual 133 (2022) (urging stewards to make personal connection with members and emphasizing close contacts).

¹³ See U.S. CHAMBER OF COMMERCE, REPRESENTATION, *supra* note 6, at 12–14 (describing dissatisfaction among workers in Italy, Germany, France, and Denmark with distant and uninvolved sectoral representation).

¹⁴ See *id.*

¹⁵ See *id.* See also Veena Dubal, *Sectoral Bargaining Reforms: Proceed with Caution*, 31 NEW LAB. FORUM 11, 14 (2022) (explaining that recent sectoral bargaining proposals for industries with low union densities would "have limited democratic worker participation and voice in the conditions created through bargaining and risked turning collective representation into an instrument of management control").

to all of its members. So its proposals must serve not only employees in one workplace, but all workplaces in the aggregate.¹⁶

To take one example, when proposing wage levels, it must account for the smallest as well as the largest employers.¹⁷ If it presses its advantage to the hilt, it may put weaker employers out of business. So it must chart a middle path—one that will inevitably serve some workers better than others. Its focus is spread across the industry, like a pad of butter on too much bread.¹⁸

Sectoral certification is unpopular where it is practiced. Likely for that reason, sectoral certification has been unpopular wherever it has been practiced. Sectoral systems have a long history in countries like Italy, France, Denmark, and Germany.¹⁹ Those systems differ in their details; some use contract-extension mechanisms, while others combine overlapping national and regional agreements.²⁰ But uniformly, they are unpopular with workers.²¹ Workers say that their sectoral unions are slow to appreciate and react to workplace-level concerns. They also complain that sectoral agreements are rigid and outmoded. Perhaps worst, they say that sectoral representation restricts their options and makes it harder for them to find jobs they like.²²

That dissatisfaction likely explains the gap between contract coverage and union membership. In sectoral systems, contract coverage is usually high, ranging from the low fifties to the high nineties.²³ But union membership is comparatively low. For example, in France, where contract coverage is nearly 100%, but union membership hovers around

¹⁶ See Isabel Soto, *sectoral Bargaining and Independent Work*, AM. ACTION FORUM (Nov. 9, 2021), <https://www.americanactionforum.org/research/sectoral-bargaining-and-independent-work/> (describing disconnect between sectoral unions and some workers within the unions, including app-based workers and other independent workers).

¹⁷ See Mattias Jacobs & Matthias Munder, *A Worthy Import? Examining the Advantages and Disadvantages of Sectoral Collective Bargaining in Germany*, INT'L CTR. FOR L. & ECON. (Sept. 25, 2022), <https://laweconcenter.org/resources/a-worthy-import-examining-the-advantages-and-disadvantages-of-sectoral-collective-bargaining-in-germany/> (explaining that sectoral systems produce agreements aimed at the lowest common denominator in the industry as opposed to agreements tailored to particular workplaces).

¹⁸ See *id.* (explaining that most sectoral agreements aim to accommodate the bottom third of employers in a sector to avoid crippling weaker employers—which paradoxically reduces costs of the most efficient firms).

¹⁹ See U.S. CHAMBER OF COMMERCE, REPRESENTATION, *supra* note 6, at 12–14.

²⁰ See David Madland, *How to Promote Sectoral Bargaining in the United States*, CTR. FOR AM. PROGRESS (July 10, 2019), <https://www.americanprogress.org/article/promote-sectoral-bargaining-united-states/> (describing different approaches under existing models). See also VERNUCCIO, *supra* note 1, at 6–8 (same).

²¹ See U.S. CHAMBER OF COMMERCE, REPRESENTATION, *supra* note 6, at 12–14.

²² See *id.* at 14 (reporting that employees “frequently find that the sectoral agreements reduce flexibility and prevent them from making agreements with their employer to respond to local circumstances”).

²³ See *Collective Bargaining and Social Dialogue*, OECD, <https://www.oecd.org/en/topics/collective-bargaining-and-social-dialogue.html> (last visited July 9, 2025) (chart).

10%.²⁴ The same story can be seen in Italy, where contract coverage is almost universal, while union membership stagnates around a third of workers.²⁵ And even in countries with traditionally high membership rates, the trend has been toward lower membership levels. For exam, in Germany, membership rates have fallen to 16.3% and seem to be headed lower.²⁶

These numbers reflect a rot at the heart of the system. Rather than flocking to sectoral representatives, workers are voting with their feet. Even as sectoral unions wield power across their industries, workers are declining union membership. This is no paradox, or even a mystery; it is the natural product of a system that puts distance between the workers' representatives and the workers themselves.²⁷

Sectoral certification benefits no one. It harms both workers and unions. It also undermines the purpose of collective bargaining, which is to give workers a voice in their own working conditions. The panel rightly rejects it, and so should the Ministry.

Recommendation 13.B: Industry Councils

As an alternative to sectoral certification, the panel recommends exploring industry councils.²⁸ Industry councils are typically “tripartite” bodies comprising representatives from labor, industry, and government.²⁹ They develop industry standards through what has sometimes been called negotiated rulemaking, or “co-regulation.”³⁰ They have become increasingly common in the United States, where some policymakers have explored them as an alternative to collective bargaining.³¹

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* See also Jacobs & Munder, *supra* note 17 (describing declining rates in both Eastern and Western Germany since 1996).

²⁷ See U.S. CHAMBER, REPRESENTATION, *supra* note 6, at 15 (reporting that the “European sectoral model is on the decline” because “employers find the sectoral agreements contain overly restrictive work rules, while employees often feel poorly represented in this system”). See also OECD, *supra* note 23 (describing declining union density across Europe).

²⁸ See Recommendations, *supra* note 2, at 25. Even as the panel makes this recommendation, it acknowledges that industry councils are “beyond our mandate.” *Id.*

²⁹ See U.S. CHAMBER OF COMMERCE, CARTEL BARGAINING, BALLOT INITIATIVES, AND INDUSTRIAL DEMOCRACY 14–15 (2024), <https://www.uschamber.com/assets/documents/USCC-White-Paper-Union-Tactics.pdf>.

³⁰ See Cynthia Estlund, *Sectoral Solutions that Work: The Case for Sectoral Co-Regulation*, 98 CHICAGO-KENT L. REV. 539, 541, 555–56 (2023).

³¹ See, e.g., SEATTLE MUN. CODE ch. 14.23 (standards board for domestic workers); ORDER OF COMMISSIONER OF LABOR ROBERTA REARDON ON THE REPORT AND RECOMMENDATIONS OF THE 2022 FARM LABORERS WAGE BOARD (Sept. 22, 2022), https://dol.ny.gov/system/files/documents/2022/09/fwwb_signed_order_093022.pdf (same); N.Y. LAB. L. § 674-a (standards board for agricultural workers); COLO. REV. STAT. § 8-13.5-205 (same); COLO. REV. STAT. § 8-7.5-104 (standards board for direct care workers); NEV. REV. STAT. 608.640 (standards board for home care workers); DETROIT ORD. NO. 2021-42 (Nov. 3, 2021) (standards board for multiple industries); CAL. LAB. CODE §

We urge the panel to reject this proposal as well. Industry councils are a flawed U.S. import. Even on their home turf, they are legally dubious and practically unsound. They suffer from nearly all flaws associated with sectoral certification, while offering almost none of the supposed benefits. They should be rejected as a failed experiment unsuited for the modern workplace and inconsistent with the Labour Code.

Industry councils are on shaky legal ground in their home territory. Industry councils are an idea imported from the United States.³² Facing low levels of unionization and collective bargaining, some U.S. cities and states have turned to industry councils as an alternative.³³ They have promoted the councils as a tool to bring quasi-bargaining to industries where union organizing has proven difficult.³⁴ The councils were designed, in short, to address problems specific to U.S. labor markets.

But even in that context, the councils are legally shaky. To start, many of them sit in tension with U.S. antitrust law. U.S. antitrust law generally forbids anticompetitive arrangements among competitors, including companies, unions, and workers.³⁵ Industry councils are inherently anticompetitive because they bring those groups together to set uniform terms and conditions of employment—in other words, to fix the price of labor.³⁶ And while antitrust doctrine does make an exception for certain “state action,” that exception is narrow. It applies only when a state actively supervises the anticompetitive behavior, either by approving or amending any anticompetitive rules.³⁷ But many industry standards boards are not so supervised. Some of them have direct regulatory power, which they can use without approval from any public official. For example, in California, a new “Fast Food Council” can raise minimum wages up a statutory cap.³⁸ The Council needs no

1475 (standards board for fast-food workers). See also Kate Andrias et al., *Workers’ Boards: A Brief Overview*, CTR. FOR AM. PROGRESS (Dec. 19, 2019), <https://www.americanprogress.org/article/workers-boards-brief-overview/> (describing rise of concept in the United States).

³² See U.S. CHAMBER, CARTEL BARGAINING, *supra* note 29, at 14–19 (describing rise of worker-standards boards in jurisdictions across United States).

³³ See BUILDING WORKER POWER IN CITIES AND STATES: A TOOLKIT FOR STATE AND LOCAL LABOR POLICY INNOVATION, CTR. FOR LAB. & A JUST ECON. 19 (2024), https://clje.law.harvard.edu/app/uploads/2024/08/2024.08.29_CLJE_Toolkit-DIGITAL_FINAL.pdf (arguing that boards can replicate or replace union representation “[w]ithin sectors with low or no union density”).

³⁴ See *id.*

³⁵ See 15 U.S.C. § 1 (forbidding all contracts, conspiracies, and agreements in restraint of trade).

³⁶ See Comments of the Workplace Policy Institute to the Federal Trade Commission, No. FTC-2025-0028-0102 (May 27, 2025), <https://www.regulations.gov/comment/FTC-2025-0028-0102> (describing tension between worker-standards boards and competition law and policy).

³⁷ See *Parker v. Brown*, 317 U.S. 341, 350–51 (1943) (establishing “state action” immunity under U.S. antitrust law). But see U.S. DEPT’ OF JUSTICE ANTITRUST DIV., ROUNDTABLE DISCUSSION SERIES ON COMPETITION & DEREGULATION, at iii (2018) (reporting consensus that antitrust exemptions should be read narrowly).

³⁸ CAL. LAB. CODE § 1475(d)(2)(B).

approval to do this; if it votes to raise wages, the raise takes effect as a matter of law.³⁹ That kind of unilateral authority—wielded by people who would otherwise compete in the labor market—raises significant questions under U.S. antitrust law.⁴⁰

That same unilateral authority also raises constitutional concerns. For example, under the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution, a state may not give unsupervised regulatory authority to a self-interested party.⁴¹ That rule stems from longstanding Anglo-American jurisprudential principles, which recognize that every person is entitled to a neutral decisionmaker.⁴² This principle is flouted when the government gives regulatory power to a person with a private financial interest in the subject of regulation.⁴³ Such a person cannot be expected to give other people a fair shake, especially when those people are her competitors. Her natural instinct will be to tilt the rules in her own favor. For that reason, U.S. courts have long treated delegations to self-interested private parties as suspect at best.⁴⁴ But now, many industry councils, including

³⁹ *Id.*

⁴⁰ See *N. Carolina State Bd. of Dental Examiners v. FTC*, 574 U.S. 494, 511 (2015) (holding that anticompetitive behavior by dental practitioners was actionable even though they conducted their anticompetitive activity through a state-authorized regulatory board) (“The similarities between agencies controlled by active market participants and private trade associations are not eliminated simply because the former are given a formal designation by the State, vested with a measure of government power, and required to follow some procedural rules.”).

⁴¹ See, e.g., *Carter v. Carter Coal Co.*, 298 U.S. 238, 311 (1936) (striking down delegation of regulatory authority to private parties); *State of Washington ex rel. Seattle Title Tr. Co. v. Roberge*, 278 U.S. 116, 121–22 (1928) (same); *Eubank v. City of Richmond*, 226 U.S. 137, 143 (1912) (same). See also *Tumey v. Ohio*, 273 U.S. 510, 531, 534 (1927); *Calder v. Bull*, 3 U.S. 386, 388 (1798) (describing “law that makes a man a Judge in his own cause” as contrary to due process); Paul J. Larkin Jr., *The Private Delegation Doctrine*, 73 FLA. L. REV. 31, 69 (2021) (noting that the requirement of a disinterested decisionmaker has “deep roots” in Anglo-American jurisprudence).

⁴² See, e.g., G. Schwarzenberger, *The Nemo Jux in Sua Causa Maxim in International Judicial Practice*, 1 ANGLO-AM. L. REV. 482 (1972); Robert Uwe Hess, *Nemo Jux in Sua Causa and the Challenge Procedure Under the Uncritical Model Law*, 50 INT’L L. & POLITICS J. 1431, 1431–32 (2018) (describing role of principle in international practice as a method to reinforce confidence in the legal system).

⁴³ See *Carter Coal*, 298 U.S. at 311 (describing delegation to private union and employers to set wages and working conditions within their industry, including for their competitors, as a “legislative delegation in its most obnoxious form”). See also *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495, 537 (1935) (describing delegation to private industry regulators as “unknown to our law” and “inconsistent with the constitutional prerogatives and duties of Congress”).

⁴⁴ See, e.g., *Stevens v. City of Columbus, Ohio*, No. 21-3755, 2022 WL 2966396, at *1 (6th Cir. July 27, 2022) (explaining that due process “prohibits certain delegations of legislative power to private persons without sufficient standards to guide their discretion”); *Gen. Elec. Co. v. N.Y. State Dep’t of Lab.*, 936 F.2d 1448, 1445 (2d Cir. 1991) (finding that delegation of authority to set prevailing wages to self-interested unions and contractors would violate due process).

the Fast Food Council, hand regulatory power to self-interested market participants.⁴⁵ Such a delegation is hard to square with fundamental due process.⁴⁶

It is also hard to square with the freedom of association. Under Canadian, United States, and international law, every person enjoys the freedom to associate with groups of her choice.⁴⁷ She also enjoys the freedom not to associate with groups she would prefer to avoid.⁴⁸ In the United States, that principle has been applied to labour unions in both directions. Just as a person has a right to associate with a union, she cannot be forced to associate with the union when the union is advancing a political message.⁴⁹

But industry councils offend that principle. They allow a government official to appoint a representative for workers.⁵⁰ This representative then speaks for the workers on issues like pay, scheduling, and benefits.⁵¹ In effect, she represents the workers just as a union would represent them in collective bargaining. But unlike in collective bargaining, she is not chosen by the workers themselves. She does not organize any workers, campaign for any support, or win any votes. She does not even have to solicit the workers' views. She can instead simply act on their behalf.⁵² And worse, she can do so in a context where she

⁴⁵ See CAL. LAB. CODE § 1475(a)(1) (describing council's membership as including representatives of private companies, workers, and worker representatives, who together account for a voting supermajority).

⁴⁶ See Alexander T. MacDonald, *Burgers with a Side of Bias: Why a New Fast-Food Law in California Likely Violates the Private-Nondelegation Doctrine*, *Federalist Soc'y* (Sept. 21, 2023), <https://fedsoc.org/commentary/fedsoc-blog/burgers-with-a-side-of-bias-why-a-new-fast-food-law-in-california-likely-violates-the-private-nondelegation-doctrine> (explaining that the council's enabling legislation "gives regulatory power to private, financially interested parties" and sits in tension with "the rule against private delegation").

⁴⁷ See, e.g., U.S. CONST. amend. I; CANADIAN CHARTER OF RIGHTS AND FREEDOMS § 2(b); INT'L LAB. ORG. CONVENTION No. 87, *Freedom of Association and Protection of the Right to Organise Convention* (1948).

⁴⁸ See *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 648 (2000) (explaining that under U.S. law, the freedom to associate includes the freedom not to associate); *Bernard v. Canada* (2014) 1 S.C.R. 227 ¶ 38 (Can.) (explaining that section 2(d) protects "freedom from association as well as freedom of association"). Cf. *Slaight Comm'ns Inc. v. Davidson* (1989) 1 S.C.R. 1038, 1080 (Can.) (recognizing that the freedom of expression includes the freedom to refrain from expression); *Nat'l Bank of Canada v. Retail Clerks' Union* (1984) 1 S.C.R. 269 Can.) (same).

⁴⁹ See *Janus v. AFSCME*, 138 S. Ct. 2448, 2486 (2018) (freedom not to fund union's bargaining activity in public sector); *Smith v. Arkansas State Highway Emp., Loc. 1315*, 441 U.S. 463, 464–65 (1979) (acknowledging freedom to associate with unions privately). Cf. *Thornhill v. State of Alabama*, 310 U.S. 88, 101 (1940) (recognizing labor speech as protected speech under First Amendment).

⁵⁰ See, e.g., CAL. LAB. CODE § 1475 (providing for appointment rather than election of board members); COLO. REV. STAT. § 8-7.5-103(2)(I) (same); Seattle Mun. Code § 14.23.030(B) (same); N.Y. Lab. L. § 674-a (same).

⁵¹ See, e.g., Cal. Lab. Code § 1475 (authorizing "representatives" to develop working conditions for fast-food industry); Mass. Rideshare Petition, *supra*, § 5 (authorizing single union to represent every rideshare driver in state after truncated organizing process).

⁵² Compare *California Fast Food Union: Launched!* SERV. EMP. INT'L UNION (Feb. 22, 2024), <https://www.seiu.org/blog/2024/2/california-fast-food-workers-union-launched> (announcing creation of new "union" to represent fast-food workers on statewide board), with Michael Saltsman, *The SEIU's Fake Fast Food Union*, EMP. POLICIES INST. (Feb. 9, 2024), <https://epionline.org/oped/the-seius-fake-fast-food-union/>

is making public policy—i.e., engaging in politics. That kind of nonconsensual political association raises serious questions under U.S. and Canadian law.⁵³

In short, there are serious doubts about industry councils' legality. The councils are the product of U.S. policy, so the doubts plaguing them naturally stem from U.S. law. But even so, Canadian policymakers should also take heed. If the Ministry were to transplant industry councils into Canadian soil, it would be carrying the fruit of a poisoned tree.

Industry councils suffer from the same policy flaws as sectoral certification. Legal questions aside, industry councils bear the same policy drawbacks as sectoral certification. Like sectoral certification, they put distance between the representative and the represented. Again, in most industry-council schemes, the worker representative is chosen not by the workers, but by a government official.⁵⁴ The representative therefore owes her loyalty not to the workers, but to a politician. She has no incentive to learn workers' desires or represent their views on the council. Instead, her incentive is entirely political: she will aim to do not what workers need, but what her political patron wants.⁵⁵

As a result, workers are disempowered.⁵⁶ They have no say in choosing the representative and no way to shape the representative's positions. They do not even have a formal way to bring their concerns to the representative's attention.⁵⁷ The representative is unlikely to understand their needs, much less to represent them adequately on a tripartite council. The system gives them only the veneer of sectoral representation, offering all of a sectoral system's flaws with none of its supposed benefits.⁵⁸

Industry councils would inject uncertainty in developing industries. In its proposal, the panel suggests establishing industry councils in targeted sectors, including app-based

(describing the Fast Food Workers Union as a “union in name only” because it did not organize workers and did not have a claim to majority support; it merely purported to speak for workers).

⁵³ See *Bernard*, 1. S.C. R. 227 ¶ 38 (recognizing the freedom from forced association); *Janus*, 138 S. Ct. at 2486 (same).

⁵⁴ See authorities cited *supra*, note 50.

⁵⁵ See U.S. CHAMBER, CARTEL BARGAINING, *supra* note 29, at 20 (describing how unions in practice use sectoral boards to achieve their own goals rather than to aid workers). Cf. Soto, *supra* note 16 (describing mismatch between union goals and worker needs in sectoral systems).

⁵⁶ See Dubal, *supra* note 15, at 13 (criticizing proposal to adopt sectoral system in United States for app-based workers) (“Rather than centering worker power, the proposal ignored the myriad problems with federal labor law and the historical reality that concerted activity—not mere representation—is the locus of power for organized labor.”).

⁵⁷ See U.S. CHAMBER, REPRESENTATION, *supra* note 6, at 14 (reporting employee dissatisfaction with distant and unresponsive union representation).

⁵⁸ See Dubal, *supra* note 15, at 14 (arguing that “policy attempts to create sectoral bargaining may be putting the cart before the horse” and that “lawmakers should support reforms that have the potential to grow, and not limit, workplace democracy, concerted activity, and power”).

delivery and rideshare services.⁵⁹ But that approach would inject uncertainty into an already uncertain regulatory environment. Just last year, the Ministry adopted regulations setting new standards for app-based workers.⁶⁰ Before adopting yet another regulatory reform, the Ministry should give the existing one time to work.

In 2023, the government adopted legislation extending parts of the Employment Standards Act and Workers' Compensation Act to cover app-based rideshare and delivery drivers.⁶¹ The Ministry then undertook an extensive public-engagement process to study how to implement that legislation.⁶² The result was a comprehensive standard covering minimum pay, distance allowances, wage statements, and even deactivations.⁶³ These standards took effect in September 2024.

Given the novelty of those rules, industry councils would be at best premature. The new standards have been in effect for less than a year. It is not yet clear how they will affect working conditions, much less industry growth and innovation.⁶⁴ The Ministry should give them time to breathe.

Nor is it clear that these workers need special organizing rules. Just this year, a group of Victoria rideshare drivers announced that they had formed the province's first rideshare union.⁶⁵ In response, the rideshare platform operator announced that it planned to bargain with their representatives.⁶⁶ Bargaining seems imminent, and no intervention appears necessary.

But if the Ministry introduces more regulatory complexity now, it will be impossible to disentangle the effects. The new regulations may squelch a nascent, worker-led effort to determine their own working conditions. Worse, the Ministry might damage a growing

⁵⁹ See Recommendations, *supra* note 2, at 28.

⁶⁰ See Employment Standards Act and Regulations, OIC 0340-2024: Online Platform Workers Amendments (Sept. 3, 2024), <https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/forms-resources/igm/updates#online-platform-workers>.

⁶¹ See *Gig Workers*, British Columbia (Sept. 2, 2024), <https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/gig-worker-engagement#intro> (describing new regulations).

⁶² See *id.*

⁶³ See, e.g., ESR pt. 4 § 18.2 (minimum wages), ESR pt. 7.2 § 45.29 (distance allowance), ESR pt. 7.2 § 45.33 (written reasons for removal).

⁶⁴ Cf. Soto, *supra* note 16 (observing that sectoral systems “could create a mismatch between wages and productivity, resulting in higher inflation, negative effects to productivity and innovation, higher prices for consumers, and even potential layoffs (particularly to vulnerable members of the labor force).

⁶⁵ See Akshay Kulkarni, *Uber Drivers in Victoria Granted Union Certification*, CBC (July 3, 2025), <https://www.cbc.ca/news/canada/british-columbia/victoria-uber-drivers-unionize-1.7575942>.

⁶⁶ See *id.* (quoting Uber spokesperson).

industry—one that has offered new earnings opportunities to tens of thousands of Canadians. Change can be good, but too much at once can destabilize an industry.

Recommendation 14: Sectoral Bargaining

Finally, the panel recommends establishing an inquiry commission to study sectoral bargaining.⁶⁷ It notes that while sectoral bargaining enjoys strong support from unions, it poses significant economic risks. It cannot be adopted without serious study, which simply has not been done in any Canadian market.⁶⁸

We agree that sectoral bargaining is a dangerous policy. At minimum, it would suppress competition in labor markets, drive up prices, and damage industrial dynamism. It might even drive whole industries out of the province. So while we have no objection to studying possible solutions, we strongly urge the Ministry to discard sectoral bargaining and look for more promising reforms.

Sectoral bargaining suppresses competition. While sectoral bargaining takes different shapes in different countries, the core idea is collective bargaining for a whole industry.⁶⁹ A union or collection of unions bargains with employers for every workplace in the sector.⁷⁰ Its defining feature is uniformity: it imposes one contract on all workplaces.⁷¹

Its proponents say that this uniformity is a feature: it reduces “inequality” and promotes stability.⁷² But uniformity has another side—a lack of competition. No less than in product markets, businesses compete with one another in labor markets. They tailor their benefits and pay to attract the best workers. They have an incentive to offer good terms because if they don’t, their competitors will poach their most productive employees.⁷³ But sectoral bargaining eliminates that incentive. It imposes one set of terms

⁶⁷ See Recommendations, *supra* note 2, at 27.

⁶⁸ See *id.* See also generally Slinn, *supra* note 3 (describing prior abortive attempts to study sectoral bargaining in British Columbia and other Canadian provinces).

⁶⁹ See U.S. CHAMBER, REPRESENTATION, *supra* note 6, at 12–14 (describing sectoral bargaining as practiced in European countries). See also Soto, *supra* note 16 (describing proposals to introduce sectoral bargaining in the United States).

⁷⁰ See VERNUCCIO, *supra* note 1, at 1 (observing that in broad strokes, sectoral bargaining would “give union-controlled boards the power to set wages and benefits for entire industries or regions”).

⁷¹ See *id.* See also Jacobs & Münden, *supra* note 17.

⁷² See Slinn, *supra* note 3, at 1–2 (arguing that sectoral bargaining can reduce inequality by minimizing wage “fragmentation”); Madland, *How to Promote Sectoral Bargaining*, *supra* note 20 (same).

⁷³ See JOHN LETTIERI & KENAN SIKRI, THE CASE OF ECONOMIC DYNAMISM AND WHY IT MATTERS FOR THE AMERICAN WORKER (2022), <https://eig.org/wp-content/uploads/2022/10/Case-for-Dynamism-FINAL-Web.pdf> (describing how competitive labor markets can boost wages and benefits). See also JAY SHAMBAUGH ET AL., THE STATE OF COMPETITION AND DYNAMISM: FACTS ABOUT CONCENTRATION, START-UPS, AND RELATED POLICIES, THE HAMILTON PROJ. 8

on all workplaces, homogenizing the terms of employment and eliminating competition. Businesses no longer have to compete for employees because their terms are set by a single sectoral agreement.⁷⁴

Perversely, this centralized structure tends to suppress total wages. While it may reduce differences between individual workers, it allows businesses to pay less to workers overall.⁷⁵ Sectoral standards tend to center on the least productive firms in the sector. If those firms had to pay what the leading firms pay, they would go out of business. So standards are set to accommodate the lowest common denominator, and the leading firms get a discount.⁷⁶ These firms pay what their laggard competitors are paying and pocket the difference. The only losers are their employees, who can no longer calibrate their demands to reflect their employers' success.⁷⁷

Indeed, even more pernicious effects are possible. In sectoral systems, employer bargaining councils are often dominated by the largest firms.⁷⁸ These firms also happen to have the most sophisticated compliance departments. They can better cope with greater complexity, and so have an incentive to push for more complex sectoral agreements.⁷⁹ While they can have no trouble navigating byzantine contract provisions, their smaller rivals struggle.⁸⁰ The big firms therefore enjoy a competitive advantage—one that allows them to squelch nascent competition before it gets off the ground.⁸¹

(2018), https://www.hamiltonproject.org/wp-content/uploads/2023/01/CompetitionFacts_20180611.pdf (describing how overly concentrated and homogenous labor markets can suppress wages and benefits).

⁷⁴ See VERNUCCIO, *supra* note 1, at 4–5 (describing how sectoral bargaining in Germany has muted labor-market competition by homogenizing terms of employment). See also Madland, *How to Promote Sectoral Bargaining*, *supra* note 20 (acknowledging that sectoral bargaining reduces labor-market competition but arguing that reduced competition is a virtue because it requires firms to compete along other lines, such as enhanced productivity or quality).

⁷⁵ See Stout & Morris, *supra* note 11 (connecting sectoral agreements to lower wages and productivity among German workers in comparison to economies using Wagner-style systems, such as the United States).

⁷⁶ See *id.* (“[I]f other firms pay less for labor than they would in absence of a sectoral-bargaining agreement, the advantage (effectively, a subsidy) the agreement confers to those firms is likely to promote allocative inefficiencies and, indeed, costs to labor.”).

⁷⁷ See *id.* (“Paradoxically, sectoral bargaining may put downward pressure on wage demands in highly productive firms within a sector, as wage levels are traditionally based on the least productive one third of participating companies.”).

⁷⁸ See Jacobs & Munder, *supra* note 17.

⁷⁹ See *id.* (observing that the “overwhelming complexity” of sectoral agreements tends to favor large firms with sophisticated human-resources and labor-relations functions).

⁸⁰ See U.S. CHAMBER OF COMMERCE, REPRESENTATION, *supra* note 6, at 14 (“A broader consequence of sectoral agreements is to discourage innovation. Collective-bargaining agreements tend to be very rigid without leeway to enable a ‘new’ approach, such as personal transportation or running retail stores. Adapting collective bargaining agreements to new business models tends to take a long time.”).

⁸¹ See Soto, *supra* note 16 (observing that sectoral requirements can “act as barriers to entry for new companies looking to enter the industry in question, thus driving down competition and disincentivizing innovation”).

The result is less choice for workers and fewer options for consumers. The only winners are entrenched incumbents. The Ministry should not inject such a distortion into British Columbia's labor markets.

Sectoral bargaining is unpopular and unsuccessful in practice. These effects likely explain sectoral bargaining's unpopularity in its home territory. The paradigm practitioner of sectoral bargaining has long been Germany, which has had used some form of sectoral bargaining for most of the post-World War II era. Sectoral bargaining's supporters point to Germany as evidence of the system's real-world success.⁸² But in fact, even in Germany, sectoral bargaining is in sharp decline.⁸³

Germany's economy was once exhibit A in the defense of sectoral bargaining. For decades, Germany managed to balance a robust manufacturing sector with low unemployment and high wages.⁸⁴ But now, the country's post-war economic miracle may be coming to an end. Germany's manufacturing strength has long stemmed from exports—especially exports to China.⁸⁵ But now, as China's growth has slowed, the German economy has slowed as well. It fell into a recession in 2023 and continued to contract in 2024.⁸⁶ This drop sparked a wave of labor unrest, with strikes hitting their highest levels in recent memory. German doctors, train drivers, and airport workers all walked off the job.⁸⁷

This unrest highlighted a long-running problem. Even before Germany's economy turned downward, its labor market was trailing other markets in important ways. For one, German workers were less productive. While the average U.S. worker produced more than

⁸² See, e.g., Dylan Matthews, *Europe Could Have the Secret to Saving America's Unions*, Vox (April 17, 2017), <https://www.vox.com/policy-and-politics/2017/4/17/15290674/union-labor-movement-europe-bargaining-fight-15-ghent> (citing Germany as model for sectoral bargaining); Shana Iden, *Sectoral Bargaining: The Benefits of the European Model for Collective Bargaining*, Fordham Int'l L.J. (April 19, 2022), <https://www.fordhamilj.org/iljonline/sectoral-bargaining-the-benefits-of-the-european-model-for-collective-bargaining> (same).

⁸³ See Jacobs & Munder, *supra* note 17 (“Quantitative data shows that sectoral collective bargaining is steadily becoming less prevalent in Germany.”).

⁸⁴ See Christian Dustmann et al., *From Sick Man of Europe to Economic Superstar: Germany's Resurgent Economy*, 28 J. OF ECON. PERSPECTIVES 167, 167 (2014) (describing German economy as the “superstar” of Europe).

⁸⁵ See *The German Economy, from European Leader to Laggard*, ECONOMIST (Aug. 17, 2023), <https://www.economist.com/finance-and-economics/2023/08/17/the-german-economy-from-european-leader-to-laggard>.

⁸⁶ See *Economic Forecast for Germany*, EUROPEAN UNION (May 19, 2025), https://economy-finance.ec.europa.eu/economic-surveillance-eu-economies/germany/economic-forecast-germany_en.

⁸⁷ See John Kamfner, *Germany Doesn't Work Like It Used To: Short-Term Shocks and Long-Term Trends Are Strangling Germans' Cooperative Economy*, FOREIGN POL'Y (April 9, 2024), https://foreignpolicy.com/2024/04/09/germany-economy-strikes-labor-planes-trains-farmers/#cookie_message_anchor.

\$60,000 in value in 2020, the average German worker produced just over \$50,000.⁸⁸ And that gap had only grown over time. Whereas U.S. workers were only \$2,000 more productive than their German counterparts in 1991, by 2022 they produced on average \$10,000 more each year.⁸⁹

That productivity gap has had at least two effects. First, it has helped U.S. workers make more money (about \$200 to \$400 more per month).⁹⁰ Second, it has driven firms to look for ways around the sectoral-bargaining system. As global trade has grown and competition become more fierce, German employers have increasingly negotiated for individual flexibility or have opted out of the sectoral system entirely. In 1996, 70% of firms in Western Germany and 56% in Eastern Germany participated in the system. But by 2020, those percentages had fallen to 45% and 32%.⁹¹

These declines raise serious questions about the system's viability. If its chief practitioners are abandoning it in droves, why should British Columbia take it up now? It has failed to adapt to a modern, global economy even in its home soil. There is no reason to expect it to perform any better in new territory.

Sincerely,

A handwritten signature in blue ink that reads "1st Alexander T. MacDonald".

Alexander T. MacDonald
Co-Chair, Workplace Policy Institute

⁸⁸ See Stout & Morris, *supra* note 11.

⁸⁹ *Id.* See also Michael Watson, *The Cases Against Sectoral Bargaining: The Economic Case*, CAPITAL RES. CTR. (Aug. 8, 2024), <https://capitalresearch.org/article/the-cases-against-sectoral-bargaining-part-5/> (describing France's similarly poor economic track record under sectoral systems in comparison with Wagner-system economies).

⁹⁰ See *Average Salary in Germany*, TIMECAMP, <https://www.timecamp.com/average-salary/germany/> (last visited July 9, 2025).

⁹¹ Jacobs & Munder, *supra* note 17.

From:
To: [LRC Review LBR:EX](#)
Cc: [Rob Girard](#)
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Dear Minister Whiteside:

Thank you for asking for input regarding needed changes to the Labour Code.

The Glade Ferry Society (GFS) was formed in early January, 2025 to represent our community of 300 residents in meeting the risks to our health, safety, and wellbeing that would result if 2024 BCLRB 180 were implemented. We are all volunteers, committed to addressing this very real existential threat to our community—working closely with and supporting the work of the Harrop-Procter Ferry Committee Society (HPFCS).

Current law is deficient and prejudices rural British Columbians. It erroneously assumes that the private companies contracted to operate inland ferries are in the best position to present the impacts of service reductions or disruptions to the BCLRB.

The BCLRB recognized the deficiencies of this approach in the recent job action involving the Harrop and Glade cable ferries, as BCLRB Chair Jennifer Glougie noted in her January 5, 2025 opinion (*Kootenay Lake Ferry Division (Western Pacific Marine Ltd.)*, 2025 BCLRB 4):

"While the Employer focussed its submission on the impact the reduction will have on residents' ability to earn an income (an income on which it says they depend to fund the necessities of life), I am concerned that there are a myriad of ways in which such a reduction - in the absence of an alternative route - may present an immediate threat to

the welfare of the residents of the Affected Communities. **I am also concerned that the issue of welfare does not appear to have been fully canvassed by the parties before the original panel.**" (emphasis added)

After the HPFCS hired a respected law firm to represent them in that dispute, the GFS mobilized to support them, mostly with various fundraising initiatives. Their law firm filed a comprehensive motion for standing, a motion which was never adjudicated in light of the parties' agreement to interest arbitration. HPFCS incurred tens of thousands of dollars in legal fees, just to try to get community voices and impact directly heard by the BCLRB.

This was neither fair nor equitable. The private companies operating inland ferries are expert in the operation and maintenance of those vessels, **not** in the unique needs of the communities on either side of those ferries. Allowing the affected communities to directly present that impact to the LRB would streamline proceedings, give the LRB accurate factual information on which to make essential services designations, and would address a glaring inequity in the current state of the law.

On behalf of the Glade Ferry Society,
Respectfully,
Anne Mowat, Chair, and Rob Girard, Vice-Chair

.....
Anne Mowat
Talk or Text:

From:
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Dear Minister Whiteside:

Thank you for asking for input regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Current law is deficient and prejudices rural British Columbians. It erroneously assumes that the private companies contracted to operate inland ferries are in the best position to present to the LRB the impact of service reductions or disruptions. The LRB recognized the deficiencies of this approach in the recent job action involving the Harrop and Glade ferries, where LRB Chair Jennifer Glougie noted in her January 5, 2025 opinion (*Kootenay Lake Ferry Division (Western Pacific Marine Ltd.)*, 2025 BCLRB 4):

“While the Employer focussed its submission on the impact the reduction will have on residents’ ability to earn an income...I am concerned there are a myriad of ways such a reduction - in the absence of an alternative route - may present an immediate threat to the welfare of the Affected Communities. **I am also concerned that the issue of welfare does not appear to have been fully canvassed by the parties before the original panel.**”
(Emphasis added)

Shortly thereafter, the communities of Harrop and Procter hired a respected law firm to represent them in that dispute, and filed a comprehensive motion for standing, a motion which was never adjudicated in light of the parties’ agreement to interest arbitration. These small communities incurred tens of thousands of dollars in legal fees, just to try to get their voices and impact directly heard by the LRB.

This was neither fair nor equitable. The private companies operating inland ferries are expert in the operation and maintenance of those vessels, **not** in the unique needs of the communities on either side of those ferries. Allowing the affected communities to directly present that impact to the LRB would streamline proceedings, give the LRB accurate factual information on which to make essential services designations, and would address a glaring inequity in the current state of the law.

Thank you for your consideration.
Ina Pockrass
President
Harrop Procter Ferry Committee Society

cc: Harrop Procter Ferry Committee Society

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Thank you for supporting the floating highways of rural British Columbia!

The Harrop Procter Ferry Committee Society

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

=====

On behalf of the Harrop Procter Ferry Committee Society

Rob Vuik

From: [Garry Jackman](#)
To: [LRC Review LBR:EX](#)
Subject: comments for consideration during BC Labour Code review
Date: September 19, 2025 3:44:40 PM
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Thank you for the opportunity to provide input on current issues which BC residents are facing relating to the BC Labour Code.

I have reviewed the panel report with recommendations, but note a critical area of concern for many BC interior residents, falling under Part 6, Essential Service, has not been highlighted,. Perhaps the review panel was unaware of some of the ongoing impacts arising from the provincial government contracting out inland ferry service delivery to various private entities. In the Kootenay Lake region, the lack of awareness may be largely due to the timing of the review panel work versus the more recent 5 month period of service interruption to the main crossing of the Kootenay Lake inland ferry. I bring the matter to your attention largely because **the process which was intended to protect the public from harm failed** as the dispute between Western Pacific Marine (WPM) and the BCGEU played out through the winter of 2024/25.

Section 72(2) of the *Labour Relations Code* defines essential services as “**facilities, productions and services**” that are “**necessary or essential to prevent immediate and serious danger to the health, safety or welfare of the residents of British Columbia.**”

During the 5 month period of job action and severely limited access to the ferry service, the Chair of the Labour Relations Board stated in her ruling of Jan 5th, 2025 that the LRB did not fully understand the essential service needs pertaining to the impacted area. She also indicated the LRB did not have the capacity to make a determination of the harm to communities arising from cuts to the ferry service, and that if they were provided capacity they would not be able to indicate how long it would take to evaluate the potential harm.

Two extensive community surveys were conducted through the strike period. As a result, we were able to share with Ministry staff the extensive feedback we received from residents as to the depth and breadth of harm to community which occurred through the 5 months of job action. I have attached the results of the survey from the RDCK Electoral Area A, which I have represented over the past 17 years (first term in local government office) for reference. Impacts of this strike continue today with closed businesses and the loss of some residents. So what

circumstances evolved to result in residents not having a meaningful, effective voice at the LRB when essential service levels were being reviewed?

I want to go back more than 20 years to the transition from government directly hiring staff and operating the ferries to the private contractor model. The government built in a requirement for the contractor/operator to convene a stakeholder advisory committee. I was on the first one for the Kootenay Lake ferry back in the early 2000's. I feel Ministry staff needs to investigate whether this was intended to fill the "gap" created by removing the government, who hold the public trust, from the LRB proceedings to ensure the contractor/operator could effectively convey community interests to the LRB. This is most critical when setting essential service levels. Since the Labour Code is being actively reviewed and amended, as a first step **amend the code to clarify the role of community stakeholder advisories, or an equivalent formally recognized community organization, as they pertain to all inland ferries and provide them with automatic standing at LRB hearings.**

The longer-term fix should be through legislated determinations of minimum essential service levels for all inland ferries, captured in both the Transportation and Labour Acts if necessary.

Garry



Kootenay Lake Ferry Strike Impacts 2024-2025

Survey Report for RDCK Area A (East Shore)

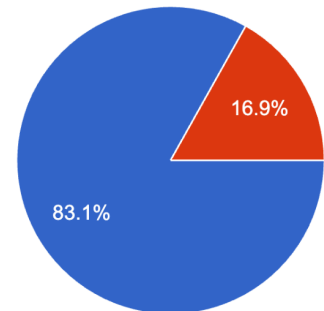
SUMMARY

The BC General Employees' Union (BCGEU) ferry workers went on strike November 3, 2025, reducing and providing unreliable ferry sailings for the Kootenay Lake ferry. This strike action impacted ferry users on both sides of Kootenay Lake and was intended to put pressure on the operator, Western Pacific Marine (WPM,) to settle the dispute with the union. On April 9, 2025 it was announced that the strike would end on April 11, 2025, with binding recommendations yet to come from Vince Reading, the appointed Special Mediator.

This survey was open to submissions April 4, 2025 until April 11, 2025, and brought in 243 respondents. The announcement of the end of the strike, two days prior to the survey closing, may have reduced the number of responses. The survey was created to collect the impacts of the strike on those who use the ferry, with a focus on the residents of the East Shore, RDCK Area A. The data below shows that there were significant negative impacts. The quantitative survey data speaks to the impacts on health, safety and welfare and is supported with qualitative comments.

FERRY USERS

Of the 243 respondents 202 were East Shore residents (83.1%), and 41 were nonresidents (16.9%).



Nonresidents noted that they travelled to the East Shore via the ferry rather than driving the Salmo Creston Pass because:

1. 74.1% - The ferry was safer than driving over the pass
2. 68.5% - Kootenay residents - convenience of the ferry for visiting family and friends
3. 64.8% - Less costly than driving over the pass
4. 55.6% - Kootenay residents - convenience of the ferry for business
5. 53.7% - Quicker than driving over the pass
6. 24.1% - Visitors - Enjoy the ferry and drive along highway 3A

Kootenay Lake ferry provides service to a variety of users. The following tells how often people were impacted by the reduced sailings, from most to least frequency, based on the 243 respondents:

1. 26.7% (65) - Daily
2. 22.6% (55) - A few times a week
3. 20.2% (49) - A few times a month
4. 18.9% (46) - Once a week
5. 9.9% (24) - Once a month
6. 1.6% (4) - I have never been impacted by the reduced sailings

IMPACTS

The BCGEU strike action [reduced the number of ferry sailings](#), and at times cancelled sailings at the last minute, making accessing the ferry in a reliable manner very challenging. This action resulted in 233 of the 243 respondents (95.9%) stating that their health, safety and/or welfare (economics) were impacted.

- 77.4% experienced **health** impacts: mental health, medical appointments, social events, activities and more
- 69.1% experienced **safety** impacts: driving over the pass or other accessibility
- 59.3% experienced **welfare** impacts: economic loss, sales, salary, income and more
- 4.1% noted that they were not impacted by the strike in any of these three ways

HEALTH

Specific to the health impacts, mental health was the largest impact to the people using the ferry at 72.4%, followed by personal and family needs (61.3%), and medical needs (57.2%). The health impacts, in order of highest to lowest percentages were:

- 72.4% (176) - Mental health - a feeling of emotional strain and pressure, stress
- 61.3% (149) - Unable to attend to personal, family or social needs
- 57.2% (139) - Unable to attend medical appointments, diagnosis, treatments, follow up, etc
- 46.9% (114) - Unable to meet my obligations to other people
- 34.6% (84) - Unable to attend physical activities
- 18.1% (44) - Other health impacts not noted above
- 8.6% (21) - My health has not been impacted by the Kootenay Lake ferry strike
- 1.6% (4) - Unable to attend my place of worship

SAFETY

With the ferry not operating on its regular schedule for five months people were forced to drive over Kootenay Pass in the winter (November to April) to meet their needs. The trip can be treacherous at times, the pass can sometimes be closed, and the trip makes for a much longer, costly commute. In addition, with the semi-annual ferry maintenance deferred there were concerns with the safety of the operation of the ferry. The data shows that people's safety was impacted in the following ways:

- 77.4% (188) - Driving over the Kootenay Pass rather than taking the Kootenay Lake Ferry
- 70.4% (171) - Concerned about people being isolated and not having access to what they need
- 65.4 (159) - Driving concerns by family, friends or myself, rather than taking the Kootenay Lake Ferry
- 57.2% (139) - Concerned about the operation of the ferry due to deferred semi-annual maintenance of the Osprey
- 32.5% (79) - Driving concerns for a business trip, rather than taking the Kootenay Lake Ferry
- 12.3% (30) - Other safety concerns not noted above
- 5.8% (14) - My safety has not been impacted by the Kootenay Lake ferry strike

WELFARE

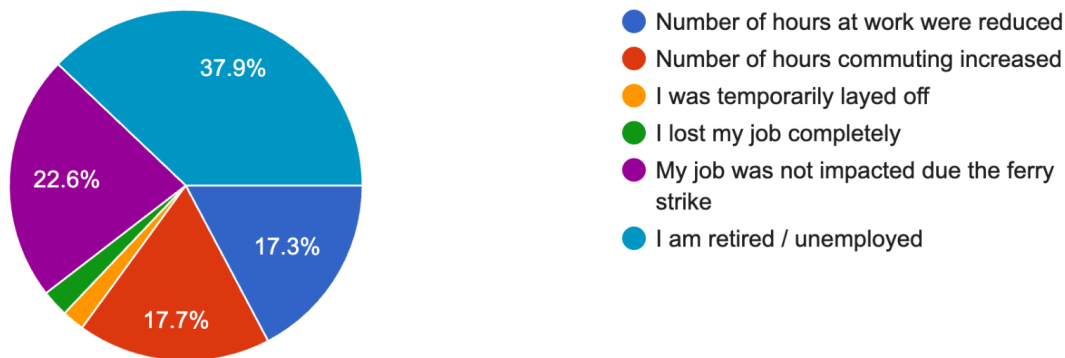
The BCGEU strike action reduced ferry sailings which resulted in the economics of some residents and nonresidents being impacted. Additional costs for travel over the pass or to Creston was the top impact (62.6%), followed closely by time spent driving (58.8%), and then loss of income due to challenges of accessibility by workers, suppliers, product distribution and employees (33.7%). All of the impacts, from highest to lowest are below:

- 62.6% (152) - I incurred additional costs for fuel and car maintenance
- 58.8% (143) - I spent many hours driving rather than working or attending to my personal needs
- 33.7% (82) - I had a loss of income, salary, sales, etc
- 27.2% (66) - Suppliers were unable to deliver their product reliably
- 27.2% (66) - Other welfare related impacts not noted above
- 18.5% (45) - I was unable to get to and from work reliably
- 16.9% (41) - I was unable to deliver my product reliably

- 14.4% (35) - Employees were unable to get to and from work reliably
- 13.6% (33) - My welfare has not been impacted by the Kootenay Lake ferry strike

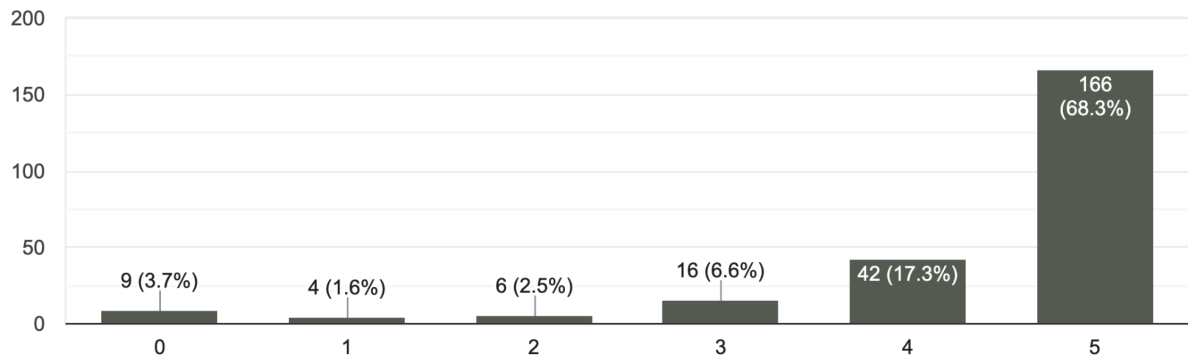
Many of the respondents' welfare (economics) was personally impacted by the strike (wages, salary, income) since November 3, 2025. The survey data shows that 78.2% (190) were economically impacted, and 21.8% (53) were not economically impacted. The impacts varied from under \$1000 to over \$100,000. An approximate amount people were negatively impacted economically was \$1.57 million over 5 months.

The ferry strike impacted people's jobs and their economic livelihoods in various ways. Based on these survey results 2.5% lost their jobs completely, and 2.1% were laid off. Hours commuting increased by 17.7% and 17.3% had reduced work hours. 37.9% were retired or unemployed, and 22.6% were not impacted.



MAINTENANCE CONCERNS

Semi-annual maintenance of the Osprey ferry over the past 5 months has been deferred twice (winter and spring). [Alerts are noted on the WPM website and the last noted maintenance is April 2024.](#) Why this has occurred has not been clearly documented publicly. Operating and riding a ferry not properly maintained creates a concern for both ferry users and the ferry workers. On a scale of zero to five (high concern), 166 respondents were very concerned. The additional ratings are in the chart below.



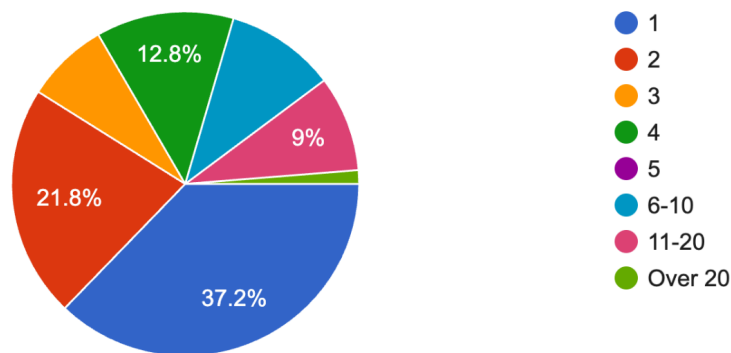
BUSINESS IMPACTS

Respondents were asked if they operated a business or not on the East Shore. 85 of the 243 responded yes. The following information speaks to their business related impacts.

The business sectors on the East Shore are broad, covering a variety of livelihoods, from retail to service to finance. Retail and tourism total 34.1% of the businesses and with the busiest season quickly approaching (spring/summer) it is imperative the strike ends or the negative impacts will increase and the economics and variety of livelihoods will decrease. This statement is based on the analysis of the data from this survey. The percentages are as follows:

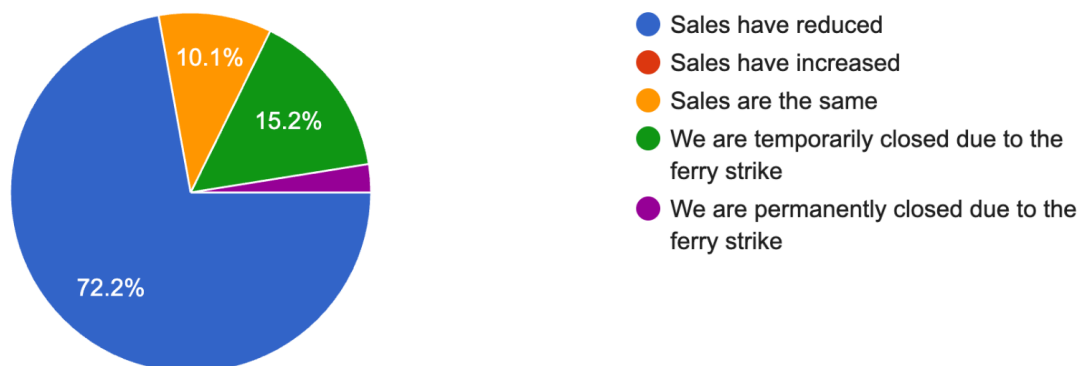
- 18.8% retail
- 15.3% tourism
- 9.4% construction
- 7.1% food & beverage
- 7.1% service (property maintenance)
- 5.9% sales
- 4.1% arts
- 3.5% transportation
- 2.4% finance
- 25.9% noted “other” as their sector

Businesses reported varying numbers of employees from 1 to over 20 totalling approximately 405 employees. One business noted in the qualitative section of the survey that they have 64 employees and are reliant on ferry users spring, summer, and fall.



Financial impacts from businesses are noted below. 72.2% saw a reduction in sales, some closed temporarily or permanently, and no one reported an increase in sales. This is not a good economic picture for any region or business.

- 57 (72.2%) had reduced sales
- 12 (15.2%) temporarily closed due to the ferry
- 8 (10.1%) had sales that stayed the same
- 2 (2.5%) permanently closed due to the ferry
- 0 had an increase in sales



Businesses have lost approximately \$1.2 million in sales since November 3, 2024. If the strike was to continue for another three months (April, May, June) businesses anticipated losing an additional \$2.4 million, and two respondents said that their business would have to close if the strike continued.

30 business operators had to reduce hours or days of operation due to the reduced and unreliable ferry sailings. 51 did not have to reduce hours or days of operation.

Kootenay Lake Ferry Strike Impacts - Survey Report for RDCK Area A (East Shore)

Submitted April 14, 2025 - RDCK Area A Representative

COMMENTS

An open-ended question was asked to further understand the health, safety and welfare impacts from the BCGEU ferry workers strike action. 128 respondents submitted statements and stories. Here are some of the comments:

The ferry was so unreliable that on numerous occasions we had to drive around 250 km to get to Trail to help my mother-in-law. This has brought great hardship to our family.

Just the unknown: Is the ferry running, will we get our products, will our grandkids have to go over the pass in winter conditions to get home, can I get our products from the other side, did our grandkids get home.

I have not been able to attend recreational activities in Nelson. Whitewater ski pass wasn't used as intended & not able to attend dance class or climb.

Our family has experienced substantial loss in expenses due to having to either shop in Creston or travel over and around the pass.

The anxiety of never knowing you will make it back home at a decent hour. Driving the pass has been an experience I never want to do with a company van again.

My partner and I bought our house in Crawford Bay in August and it required building and renovations to be completed before it was livable. The ferry schedule as of November really set back the timing of everything.

In October we found out we are pregnant. It has caused so much stress for us trying to get to Nelson where our whole support team is, getting to appointments. I have felt extremely isolated, not being able to visit friends or attend events, completely cut off from our community. As our due date fast approaches in June, we are now having to change our birth plan and think about ways to overcome the obstacle of the ferry if the strike is still ongoing at that point. I never thought it would carry on this long.

Stress and anxiety the strike has caused from not being able to get to my house consistently.

My daughter's education, team sports and mental health is at risk by not being able to make it to school or being abandoned in Balfour when ferries are cancelled. She was left alone on a Sunday evening in the cold and dark at 9:40pm when the ferry was cancelled, crying and scared.

I started getting digestive issues and hives due to stress.

We have tourist rentals and bookings are down because people outside the Kootenays think all ferries in this region have unreliable service due to the job action. The Kootenay Lake ferry is a big tourist draw and we always recommend visitors go to Crawford Bay to patronize the artisans there.

I had to rent a place in Nelson to keep my job.

It is stressful with the cancellations, travelling the pass (weather and road condition concerns) lack of cell coverage on the pass, more costly for gas being forced to use the pass.

We have family members with disabilities who had to drive the pass multiple times - in bad driving conditions.

With the sailings being so erratic lately I have been avoiding the ferry as much as I can.

High impact on tourism.

Constant uncertainty is inhumane. Premier Eby basically said that he has bigger problems to deal with and that we are not worth being passionate about. Elected officials and the press rant and yell about people being victimized yet no one cares that that is what has happened to East Shore residents for the past five months.

We purchased our retirement property on the East shore with the understanding there was reliable ferry service readily available. Dealing with the constant uncertainty and added expenses is negatively impacting our daily life as well as our proximity to much needed resources. This should have been resolved months ago. Shame on all parties involved and those that didn't step in to help!!

*I have brain tumours requiring surgeries and radiation. I have had to stay extra hotel times and food costs to fit into return ferry times. I leave again Monday for surgery to Kelowna and worry if I can get across with the ferry or does it take more extra hotel gas etc...I have enough stress with my health - this is past acceptable.
I had to leave my home and pay rent in Nelson because of the unreliability and have trouble paying rent and paying the mortgage to not lose my job!*

I have concerns about the overall safety on board due to the limited experience and qualifications of the current crew. After learning about the minimum certificate requirements, several of us began to question whether proper safety standards are being met.

We had our grandchildren aged 5 and 7 here and the extra sailing due to pass closure was cancelled 5 minutes prior to sailing. We could not get out of here. The kids were very upset and it cost an extra day to get home. School kids are driving over the pass 3 plus hours to get home.

For an older person like myself, it is a constant worry, will the ferry be cancelled, should I bother to go. I've cancelled some appointments. It has created anxiety.

On-going daily stress--I don't own a business. I work for a charity and every day we are having to deal with the effects of the strike. They have taken quite a hit financially and it looms even larger with the current upheavals. How can we receive paid guests who travel for days already to get here. It's so stressful!

This is unacceptable for all residents of the East Kootenays.

I live in a community who is being impacted negatively more than is captured on this survey. Guests, employees, and residents here are meeting significant challenges, especially in the last 2 weeks, where sailings have been extremely unpredictable and the pass has been closed at times.

Property values have dropped due to the ferry strike and uncertainty now and in the future of reliable sailings.

Stress of never knowing whether the ferry will actually sail... many cancellations are announced at the last minute.

Daily stress of having a child who commutes to & from Nelson is immense. Sending your child to school in the morning & not knowing if they can make it home is very unsettling for myself & my child.

Educational - daughter phys.ed. component of homeschooling is in Nelson and she has missed half of the classes.

The compounded impacts to our community are significant and like with Covid we will continue to see the harm this strike has had played out for many months and possibly years after it's over. This is not a time to play lightly with people's lives. And it has felt like we have been toyed with at great cost to ourselves and our neighbours.

Time and energy spent trying to arrange and then rearrange appointments in Nelson. Will the ferry run in the morning and will I have a way home at the end of the day? Very very very stressful.

Division amongst the community has grown, as well as the relationship between community members and the ferry workers. There will need to be a lot of repair to make things right moving forward.

We need to stress that the ferry is part of the southern trans B.C. highway system. Name one other major route (e.g. highway #1,) where it isn't "essential" to keep the highway open. Please put an emphasis that this is part of the Trans BC route!

I can't get to and from school reliably, I have missed school activities and haven't been able to participate in anything extracurricular or anything to see my friends since this has started. Now me and others are forced to either take the pass, leave school or stay in Nelson often.

The impact on doctors and other medical staff being able to come from Nelson weekly to serve our community. The ferry strike affected the decision of new doctors who were being recruited for our community.

Unreliability of service and operating schedule is causing anxiety for our teenage daughter who attends LVR secondary school in Nelson. Stranded multiple times, missing school due to erratic cancellations. She's falling behind in her studies. We always worry she will be stranded due to last minute cancellations.

Community welfare. Eg - students studying in Nelson cannot be stranded. That is unacceptable!

I worry about my folks making it to necessary medical appointments in Trail or Nelson.

I had decided from the beginning to not take the ferry and go to Creston for everything. I will not take the Ferry until the dispute is over.

We provide a health and wellness service to a large community, 75% of our community is from across the lake. We have had clients sleep in their cars overnight so they can attend our events. One client took 17 hours to get home over the pass. Our clients put their own health and safety at risk in order to receive the benefits of what we offer. Many are blocked from our services at a time when it is desperately needed!

The strike factored into our decision to move off the East Shore in December and since then has been a deterrent to tenants interested in renting our house. It has made the moving process much more difficult and stressful than it otherwise would have been and at times downright dangerous -- like when my husband had to drive over the pass at night with 3 young children and two dogs towing a large trailer due to a canceled sailing.

We have also been much more cut off from friends and family -- it's hard not having access to your support system with young children.

I'm going to shut down my business by Sept 2025, I lost 4 contracts because of this ferry strike. I put out over \$60,000 to start up my business.

My son, he has now been diagnosed with catatonia. Very serious and rare. Being unable to access professionals he needed, the abrupt changes in his routine, unpredictable access to his peers, activities and supports in Nelson has affected his well being. My family property is for sale & had two offers that were withdrawn due to the strike. Many potential buyers also backed out due to the strike. I reduced the price \$210, 000

Great concern of emergency and ambulance service impact. Many important medical appointments have been missed because of the unpredictable ferry service. Not having a regular ferry is like not having a bridge, the ferry is our bridge, our road, it's essential, our freedom to come and go has been severely impacted, always the stress of not knowing if there's going to be a ferry is very stressful day after day, very hard on mental health, we don't need to worry about a « road » every day !!

Teenager attends LVR. Uncertainty/cancelling of sailings creates anxiety and stress. Teen is missing school. Has been stranded in the dark alone.

Property values are hugely impacted people are moving in order to keep jobs

Suppliers from the Nelson area have not been able to finish work on my residence.

Medical appointments I have been unable to get to, it's hard to reschedule and we do not drive over the pass for safety and health reasons.

I support the ferry workers in the strike and do not want to cross their picket line. Ferry workers are also my friends and I have been very disappointed in the way some East Shore residents have been treating them and blaming the workers trying to get a fair settlement from a company that is trying to break the Union. Very upsetting.

It's not only my mental health but also I have an aging senior parent in Nelson who relies on my help.

The ferry strike has significantly increased certain costs related to planning for the expansion of the Bluebell Manor in Riondel, and fire safety inspections at the Manor have been delayed due to unreliable ferry access for companies operating on the Nelson side of Kootenay Lake.

As the Coordinator of the East Shore Hospice Society I have seen a very negative effect from the ferry strike on many of our aging community, who have not been able to get to appointments or have family members come to visit from the other side of the lake. It has also had a huge impact on how I have been able to support my volunteers, with the inability to attend training sessions and support gatherings. Clients have not been able to attend Day Hospice group meetings or Grief Group meetings, which has led to increased isolation for them here on the east shore. I have been unable to pick up supplies from Nelson in a timely fashion and have had to rely on electronic communications which have also proved to be unreliable due to where we live. Travel time over the Kootenay Pass has meant increased stress, fuel consumption and travel time.

It has been hard to get trades people for service calls and our staff has been short and many times with no warning leading to a drop in production.

I have an elderly, mobility challenged parent living in Balfour. Trying to get to Balfour in the winter has been a real obstacle with the unknown ferry sailings, and the Salmo/Creston pass closures. The anxiety it has caused to not only myself, but my parent, due to having to drive up and over in the winter has been horrendous to say the least.

Lingering loss of tourism traffic due to unreliable ferry service. Travellers are avoiding the east shore all together because they don't want to get stranded. This is resulting in a severe loss in revenue and income for me and my family and my employees.

I'm a Senior. I feel isolated. I've needed medication and could not get it. I've needed a colonoscopy but cannot get it because I'm scared the ferry will not be running when I need to come home and am too scared to go over the pass.

The ferry service should be designated as an essential service!

The uncertainty is the worst, and I am very worried about maintenance into the summer months.

I am constantly disgusted by the indifference of the government and its inaction, and by the callousness of the two parties.

I worry this will occur again next contract negotiation.

As a teacher in Crawford Bay, my coworkers are frequently not able to make it here and we then have to scramble to cover their classes and make sure all students are safe and supervised. My own children are also then missing their teachers. I also had to take a bus load of students around the pass after a ski day, with no warning, no dinner, and through a freezing rain/snowstorm. It was incredibly dangerous and stressful for all of us and students as young as 8 and 9 years old did not get home until 10pm. We cannot go to appointments, sports, or a variety of other services we used to access in Nelson.

Have lived on East shore for 45 years...travelled ferry countless times...feel like early relationships with ferry workers was very friendly, happy...then 2 years ago approximately the vibe changed dramatically and the ferry workers became unfriendly,tense,less helpful, less understanding,less compassionate, grumpy...not sure why this happened, but it definitely did and was noticeable...when this is all over I wonder if the ferry workers will take the time to reflect upon their actions and think that there may have been a better way to deal with all this...I think a considerable amount of damage has been done in regards to the relationship between the workers and the Eastshore community...feel like I have been held hostage...feel like the ferry workers went out of their way to make life on the east shore miserable and I am not sure if the relationship can be repaired...I would like it to be...not sure the workers are as keen.

Rarely get angry but this BS strike is getting to me. Losing respect for the ferry workers, maybe the Union is pressuring them?

I am a retired senior citizen. I have missed out on family dinners with my children, I missed being able to attend a memorial for a very close friend. I have missed functions that I normally attend. This has all interfered with my mental health as well as my lifestyle.

The viability of the school has been greatly impacted. With students' families having to move from the East Shore, our local school can no longer offer the same programs, sports teams, trips etc.

This has to stop NOW. Revert to government-run ferry as we had for decades with excellent and dependable service, paid by us as taxpayers!

It is scary how some of the employees act aggressively towards east shore residents when the residents simply try to ask questions just to stay informed.

My adult son is critically ill. He lives in Alberta and I am one of his support people. Not being able to take the ferry or worse playing the game of will the ferry run, and what are the other options, causes me a lot of stress. I'm a senior and having this additional issue to deal with is absurd.

I am a health care worker. People are maximally stressed, some even traumatized, and stress is a killer. Hormones released by stress are some of the most toxic chemicals humans can be exposed to. People are chronically braced, with chronic hypertension, and I am seeing secondary health issues developing for many.

The undercurrent of stress and instability will have enduring effects on my life in the future.

I could not take a job in Nelson and had to decline. Having ferry workers take their frustration out on the ferry riders is unacceptable, the microaggressions are ridiculous.

I am concerned about the impact the strike is having on our staff at the Crawford Bay School. Several of the teachers and the principal use the ferry to commute to work. They have had to add several hours to their day because of this strike. We are a rural

community that struggles to maintain staff at the school, and this strike will likely deter some of the staff from returning next year.

We have 64 employees and guests will be impacted and concerned whether they will be able to take the ferry during the season. We have guests enquiring about our cancellation policy as added driving time will be added to their stay to take the pass and then up the lake.

This is an essential service and should be treated as such. Time to eliminate the Union and get the Government involved to rectify the situation.

Loss of ability to reliably maintain internet infrastructure which serves customers on the East and West shores of Kootenay Lake.

Cost of overnight hotel stays for health appointments

I have been driving to Kelowna for weekday radiation treatments for cancer. Each Friday, after treatment, I had to rush to attempt to make the only afternoon sailing. If I had my treatment later, I would have to drive an extra 3 hours over the pass. At times I had to rush and avoid taking rest breaks.

Millions in tourism for the whole area has been lost. Children have been stranded multiple times. Our taxpayer funded highway has been held hostage. No alternate routes were available when both Salmo Creston pass and the ferry were closed at the same time. Elderly couldn't get to medical appointments. This 3rd world debacle has been a massive failure by the Province of BC. Our Provincial Government and local MLA have shown themselves to be inadequate for the job of representing British Columbians in the Kootenays. Shame Shame Shame.

I have been in pain for 5 months because I cannot reliably get to my chiropractor.

The mental and physical impact has been overwhelming. No government support or accountability is very disconcerting.

The physicians at the East Shore Health Centre could not get here because of the canceled sailings, the lab work could not be sent to KLH in a timely manner, and the vulnerable sector of our community could not receive the medical attention they needed. Outrageous!!

I have prostate cancer and neither could I get chemo or tests done, but my medication comes from the KLH pharmacy and I had to scramble to find someone who could get it to me.

On more than one occasion we had to deal with the stress of being stuck in Nelson and having to find reasonable accommodations for the night and having to arrange for someone to take care of our animals at home.

Suffering chronic pain, it was difficult and often impossible to travel to Nelson for physiotherapy.

Loss of income due to the ferry strike has affected mortgage payments, had to get loans, borrowed money from family members, all credit cards maxed out and has caused mental health issues in relationships and well being. It's been a nightmare and going to take my family years to repair from the loss and damages.

-30-

From: [Teresa Weatherhead](#)
To: [LRC Review LBR:EX](#)
Subject: Inland ferries
Date: September 11, 2025 2:04:48 PM

You don't often get email from tweatherhead@rdck.bc.ca. [Learn why this is important](#)

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Dear Minister Whiteside,

Thank you for soliciting toward input regarding needed changes to the Labour Code. As a Central Kootenay Regional District elected official of the rural Arrow Lakes Region, serving my residents who must rely on three inland ferries as their highway access, I respectfully ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Current law is deficient and prejudices rural British Columbians. It erroneously assumes that the private companies contracted to operate inland ferries are in the best position to present to the LRB the resident and community impacts of service reductions or disruptions. Months after our own Arrow Lakes region residents and business owners endured its own lengthy strike action with numerous impacts to our residents and businesses, I stayed tuned in to our neighbouring contractor job action dispute for Harrop and Glade ferries which most unfortunately for those residents continued on long past ours.

The LRB recognized the deficiencies of the assumptive approach in the current law, where LRB Chair Jennifer Glougie noted in her January 5, 2025 opinion (*Kootenay Lake Ferry Division (Western Pacific Marine Ltd.)*, 2025 BCLRB 4):

“While the Employer focussed its submission on the impact the reduction will have on residents’ ability to earn an income...I am concerned there are a myriad of ways such a reduction - in the absence of an alternative route - may present an immediate threat to the welfare of the Affected Communities. *I am also concerned that the issue of welfare does not appear to have been fully canvassed by the parties before the original panel.*”

These impacted communities of Harrop and Procter had no other means to advocate for themselves and hired a respected law firm to represent them in that dispute, filed a comprehensive motion for standing, which was never adjudicated in light of the parties’ agreement to interest arbitration. These small communities incurred tens of thousands of dollars in legal fees in their efforts to get their voices and impact directly heard by the LRB.

This was neither fair nor equitable. While private companies operating inland ferries are experts in the operation and maintenance of their vessels, this expertise does not extend outward to the unique needs of each of the communities who must rely on inland ferry travel. Allowing the affected communities to directly present that impact to the LRB would streamline

proceedings, give the LRB accurate factual information on which to make essential services designations, and would address a glaring inequity in the current state of the law.

Thank you for your consideration.

Teresa

Teresa Weatherhead | Director Electoral Area K (Arrow Lakes)

Regional District of Central Kootenay

Phone: 250.352.8160 | **Cell:** 250.265.8252 | **Fax:** 250.352.9300

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From: [Cheryl Graham](#)
To: [LRC Review LBR:EX](#)
Subject: LRC Review
Date: September 17, 2025 8:59:30 AM

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Dear Minister Whiteside,

Thank you for asking for input from the public regarding needed changes to the Labour Code. I am the Elected Official for Area E of the RDCK which area includes services from the Kootenay Lake Ferry and Harrop Procter Cable Ferry, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you and best regards,

Cheryl Graham | Director Electoral Area E

Regional District of Central Kootenay
Phone: 250.505.4990

rdck.ca



ZACHARIAS
VICKERS
MCCANN LLP

September 17, 2025

Assistant: Lisa May

VIA E-MAIL: LRCReview@gov.bc.ca

Attention: Ministry of Labour

Dear Sir/Madam:

**Re: First Nations Partner Response Regarding Lack of Adequate Consultation and Consideration -
Labour Relations Code Review Panel Report and Recommendations**

The First Nations Leadership Council (the “FNLC”) writes further to the Ministry of Labour’s call to interested “stakeholders”, including First Nations partners, to provide a formal response to the Labour Relations Code Review Panel’s (the “Panel”) August 31, 2024 report, *Recommendations for Amendments to The Labour Relations Code*, a report to the Honourable Harry Bains, Minister of Labour (as he then was) (the “Report”).

The FNLC provides the following formal response to the Report, which elucidates the Panel’s lack of meaningful consultation and cooperation with First Nations peoples and engagement with First Nations organizations. The FNLC urges the Ministry of Labour, and the Honourable Minister of Labour, Jennifer Whiteside, to carefully consider its serious concerns when evaluating the Report and when determining next steps with respect to the Panel’s 25 recommendations as are enumerated therein.

Ultimately, the FNLC urges the Ministry to place little weight on the Report and the various recommendations made thereunder as a result of the FNLC’s concerns, including the Report’s inherent flaws and the lack of appropriate consultation and cooperation with First Nations and engagement with First Nations organizations. Although the Ministry has advised that it will heed the FNLC’s prior submissions and recommendations regarding the incorporation of the United Nations Declaration on the Rights of Indigenous Peoples (“UNDRIP”) into the British Columbia *Labour Relations Code*, RSBC 1996, c. 244 (the “Code”), as well as its proposed process for government-to-government consultation and cooperation, this does not alone remedy the substantial issues resulting from the complete lack of adequate consultation and cooperation with First Nations and engagement with First Nations organizations, which is evident from review of the Report itself for the reasons that follow.

As noted in the Report, the Panel was instructed to engage in consultations with, and receive submissions from, First Nations partners, among other stakeholders in the community. The Panel’s brief mention of consultation with First Nations partners in the introduction to the Report, and the inherent suggestion that any such consultation was adequate, is entirely disingenuous. Although consultation

with “Indigenous parties” is specifically highlighted in the introduction to the Report, no sufficient consultation was meaningfully undertaken, and no further mention of First Nations perspectives or feedback is noted in the Report after the introductory section, other than two cursory mentions in Recommendation Nos. 14 and 15.

When appointed in January 2024, the Panel was tasked with reviewing the *Code* to ensure it remains current and responsive to the needs of modern workplaces, as well as to ensure consistency with the rights and protections enjoyed by other Canadians. Reconciliation and Indigenous cultural safety, and Indigenous-specific anti-racism, are critically important modern interests impacting workers and employers in British Columbia workplaces, as is the growth in First Nation workforces which must be more specifically considered under the *Code*.

Given the nature of the Panel’s review, and the import of First Nations perspectives in the Province, the Report ought to have contemplated how to best advance reconciliation, and the Panel should have provided recommendations to improve the socioeconomic circumstances of First Nations peoples and their communities in British Columbia in the context of labour relations. This was not done, and other than the brief mention in Recommendation Nos. 14 and 15, not a single recommendation in the Panel’s Report, *out of a total of 25 recommendations*, contemplates UNDRIP, the Province’s obligations to First Nations peoples, or First Nations perspectives.

As stated by the FNLC in its submission to the Panel dated August 30, 2024, the FNLC was not initially called upon to provide such submissions, despite being identified as a key “stakeholder” by the Ministry of Labour in 2022. Notwithstanding the Panel’s gross oversight, and as a result of its own initiative, the FNLC sought and was granted permission to make submissions to the Panel from the Deputy Minister of Labour (the “Submissions”). As noted in those Submissions, the exclusion of the FNLC, and various other First Nations organizations and voices, was a procedural defect of the Panel’s review (and later, its Report) which demonstrates the Ministry’s insufficient focus on First Nations rights, issues, and perspectives.

As additionally identified in the FNLC’s Submissions, where possible revisions to the *Code* are contemplated, First Nations rights, issues, and perspectives must be foregrounded to ensure compliance with the Province’s legal and ethical obligations to First Nations peoples, and First Nations voices must be duly heard. This is particularly important given the Province’s legal obligations under the *Declaration on the Rights of Indigenous Peoples Act*, SBC 2019, c. 44 (the “*DRIPA*” or the “*Act*”), and more specifically, under section 3 of the *Act* which requires the Province to “take all measures necessary to ensure the laws of British Columbia are consistent with [UNDRIP]”. In order to meet its obligations under the *DRIPA*, the Panel’s review of the *Code* and resulting Report must have necessarily considered amendments to align the *Code* with UNDRIP in order to be of any value to the Ministry.

Unfortunately, despite its obvious legal and ethical requirement, the Panel’s review and Report did not consider, in any meaningful way, any amendments to the *Code* which are required for the legislation’s alignment or harmonization with UNDRIP. In addition to failing to meaningfully consider First Nations concerns in any of the 25 recommendations set out in the Report (except for superficial mentions in

Recommendations No. 14 and 15), the Panel explicitly refused to consider the *DRIPA* despite being aware of the Province's resulting obligations thereunder. This is evidenced by the Panel's following statement in the introductory section of the Report, which provides:

In 2019, the provincial government enacted the Declaration on the Rights of Indigenous Peoples Act, [SBC 2019], c.44 (the "Declaration Act") which, in part, mandates government to ensure the laws of B.C. are consistent with the United Nations Declaration on the Rights of Indigenous Peoples. To support the implementation of the Declaration Act, government established the Declaration Act Secretariat. Since our terms of reference do not include a delegation under the Declaration Act, we believe any application of the Declaration Act is beyond the scope of our present mandate.

[Emphasis added]

As noted above, the Panel expressly declined to contemplate application of the *DRIPA*, erroneously finding it to be beyond the scope of its mandate given that its terms of reference did not specifically "include a "delegation" under [the *DRIPA*]", and as a result of the establishment of the Declaration Act Secretariat (the "Secretariat").

First, there is no process outlined under the *DRIPA* which provides for any delegation of authority to consider the Province's obligations under the statute, or the statute itself. That is, delegation of authority, or a lack thereof, is not a requirement or a bar to meaningful consideration and application of the *Act*. Second, and importantly, the fact that the Province established the Secretariat does not, without more, satisfy its obligation under section 3 of the *DRIPA* to "take all measures necessary" to ensure laws are consistent with UNDRIP. The Secretariat was also not imbued with the *exclusive* authority to ensure provincial laws align with UNDRIP, which remains a shared obligation of the Province and its delegates.

The Panel is a committee which was constituted by the Minister under section 3 the *Code* to assist the Province in complying with its statutory obligation to review the *Code* every 5 years; therefore, the Panel was acting as a delegate of the Province under the *Code*, using delegated authority from the Minister. When acting on behalf of the Province, the Panel cannot seriously maintain that the *DRIPA* was beyond the scope of its mandate, even if such consideration was not directly stated in its terms of reference. Further, if the Panel truly believed that its obligation (both legal and ethical) to consider the *DRIPA* was usurped by the Secretariat, it should have engaged the Secretariat, and its Deputy Minister, to assist the Province and Panel in ensuring that the *Code* aligns with UNDRIP and that any revisions to the *Code* are done after consultation and cooperation with First Nations Peoples, guided by the Interim Approach to Implement the Requirements of Section 3 of the *DRIPA*, in keeping with the Secretariat's mandate.

If the Secretariat's core function is indeed to provide guidance on consultation, cooperation, and consistency of laws, to develop processes and measures to support alignment of laws, to inform the

government's legislative agenda, and to serve in an interlocutor role leading British Columbia's cross-ministry work to align provincial laws with UNDRIP, and the Panel was aware of the Secretariat and this mandate, it is perplexing as to why the Secretariat's expertise was not heavily relied upon by the Panel in this context, which ought to have been reflected in the Report.

In section 1 of the *DRIPA*, the legislature expressly contemplated that nothing thereunder should be construed as delaying the application of UNDRIP to the laws of British Columbia. The Panel's outright refusal to meaningfully consider and apply the *DRIPA* and UNDRIP, as a result of its purported lack of "delegation" under the *Act*, creates the very harm which the legislature sought to statutorily avoid. The Panel's attempt to excuse its failure to attend to First Nations concerns, or to legitimately contemplate the application of UNDRIP to a centrally important Provincial statute, based on a lack of apparent "delegation", runs directly afoul to the legislature's express guidance that nothing under that *Act* must cause a delay in the implementation of UNDRIP. This would naturally include a prohibition on delaying UNDRIP's implementation because of lack of "delegation" under the *DRIPA*, which again, is not even contemplated thereunder.

Even if a consideration of the *Act* itself was beyond the scope of the Panel's review, which is an untenable and paradoxical premise for reasons including those stated above, the Panel ought to have undertaken some effort to meaningfully contemplate UNDRIP and put forward recommendations to align the *Code* with it. Other than noting the interests of First Nations peoples in the introduction to the Report, First Nations peoples, and their rights and interests, are only superficially referenced in the Report, and are not seriously considered with respect to any of the 25 recommendations made by the Panel.

In this case, if the *DRIPA* was not considered by the Panel, but the *Code* must be consistent with the *DRIPA* and UNDRIP because of the Province's statutory and ethical obligations, including under the *DRIPA*, the Panel's report is of little value and the recommendations thereunder should be disregarded, or given little to no weight by the Ministry.

To echo the FNLC's earlier submissions, the Province (and its agents) are obligated under section 3 of the *DRIPA* to "take all measures necessary to ensure the laws of British Columbia are consistent with the Declaration [on the Rights of Indigenous Peoples]." As a result, it is clear that, in order to comply with its statutory obligations, the Province's review of the *Code*, and by extension the Panel's review of the *Code*, must have considered amendments to harmonize the *Code* with UNDRIP in order to be of any value to the Province as it contemplates legislative reform or revision.

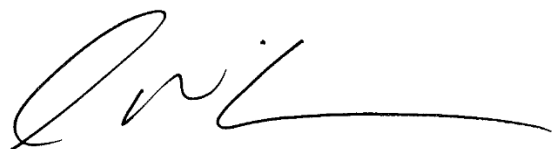
The FNLC reiterates its earlier recommendation that the *Code* must be *intentionally* and thoughtfully revised to incorporate the minimum human rights of First Nations peoples recognized in UNDRIP, and that more meaningful and adequate consultation, cooperation, and the obtaining of free, prior and informed consent occur prior to any revisions being made to the *Code* which could impact First Nations peoples and workplaces.

Proposed amendments to the *Code* must be reviewed through the lens of consistency with UNDRIP by operation of various statutes, including the *Interpretation Act*, RSBC 1996, c. 238 (the “*Interpretation Act*”). This measure is necessary given the Province’s previously shallow engagement with First Nations communities, and its failure to modernize labour laws in a manner which supports First Nations communities – this is further evidenced in the Report itself. Without express reference to UNDRIP in the *Code*, its principles will continue to be overlooked (in the same manner they were overlooked by the Panel) and the work of nation rebuilding will be impeded. Again, the *Interpretation Act*, which provides that every enactment must be “construed as upholding and not abrogating or derogating from the Aboriginal and treaty rights of First Nations peoples as recognized and affirmed by section 35 of the *Constitution Act, 1982*”, has been insufficient to ensure that First Nations rights are upheld under the *Code* to date. It is this insufficiency which demands that UNDRIP be expressly incorporated.

Finally, as formerly noted in the FNLC’s previous Submissions, any proposed amendments to the *Code*, including the 25 recommendations in the Report, must be flexible enough to achieve the objectives of First Nations and fully align with UNDRIP, as required by *DRIPA*. Given that this was not done, the Report and resulting recommendations must be largely disregarded, or severely qualified due to such deficits.

Sincerely,

ZACHARIAS VICKERS MCCANN LLP

A handwritten signature in black ink, appearing to read 'Smccann', with a long horizontal flourish extending to the right.

Scott McCann
Partner
smccann@zvmllp.com
Direct: 604-392-8644

From:
To: [Minister, LBR LBR:EX](#)
Cc:
Subject: 69240 Incoming - 2024 Labour Relations Code Review Panel report
Date: July 29, 2025 7:13:53 PM

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Dear Minister Whiteside:

Thank you for the opportunity to provide feedback on the 2024 Labour Relations Code Review Panel report. As part of this important process, I wish to bring forward the need to modernize the employment classification and labour protections for Nurse Practitioners (NPs) currently working under the *Excluded Terms and Conditions of Employment* within British Columbia's health authorities.

Nurse Practitioners are highly educated, autonomous health professionals who provide essential, often complex, care across the continuum of services in B.C.'s healthcare system. Despite the clinical and leadership nature of NP roles, NPs employed by health authorities are currently designated as "excluded employees"—a classification historically intended for senior administrators rather than frontline health professionals.

This designation no longer reflects the realities of modern NP practice.

Key Issues:

- **Inability to Negotiate Role-Appropriate Terms and Conditions:**
As excluded employees, NPs have no formal mechanism to participate in the development of the master agreements or terms and conditions that govern their employment. Decisions about compensation, workload expectations, benefits, and role scope are made without direct input from those in the role, leading to growing misalignment between NP responsibilities and the frameworks intended to support them.
- **Misclassification of Role:**
The current excluded designation assumes managerial responsibilities that do not reflect the practice of most NPs. While NPs demonstrate leadership and accountability in patient care and interprofessional collaboration, they typically do not perform administrative functions such as budget management or personnel oversight. Their classification should be reconsidered to reflect the clinical, rather than administrative, nature of their work.
- **Inconsistency and Inequity Across Health System:**
The absence of a standardized master agreement for NPs has led to significant regional variation in compensation, role expectations, and supports. This inconsistency

negatively affects workforce morale, retention, and the ability of the health system to deploy NPs strategically to meet patient care needs.

- **Alternate Payment Models Must Support Equity:**

The Ministry of Health's introduction of alternate payment models (APMs), including direct contracts for NPs, has added welcome flexibility and enabled innovation in care delivery. However, there must be a commitment to ensuring equity in compensation, benefits, and role supports across all NP funding models—whether through direct employment, contracting, or other future payment structures. Without this equity, the system risks creating unnecessary disparities that undermine recruitment, retention, and practice sustainability.

- **Lack of Dedicated Professional Development Support:**

NPs are required to maintain clinical currency, meet regulatory continuing competence requirements, and stay informed on evidence-based practice. Unlike other health professionals with formalized funding allocations for education and certification, many NPs—especially those under excluded or contract models—lack consistent access to professional development funding. This undermines their ability to keep pace with rapidly evolving clinical guidelines, technologies, and scopes of practice.

- **Outdated Framework for an Evolving Role:**

The regulatory, educational, and clinical landscape of NP practice has evolved substantially over the last decade. However, the labour frameworks governing NP employment have not kept pace. NPs are now leading specialized programs, serving in rural and underserved communities, and filling system-level gaps—yet their terms of employment remain grounded in outdated assumptions about their role.

Recommendations:

1. **Modernize NP Employment Classification:**

Eliminate the default classification of NPs as excluded employees within health authorities. Establish a distinct classification or category that reflects the clinical, regulated, and accountable nature of NP practice.

2. **Establish NP-Informed Master Agreements:**

Develop dedicated master agreements and terms and conditions of employment for NPs in consultation with Nurse Practitioner leaders and associations. These agreements should reflect the scope, complexity, and accountability of NP roles and ensure alignment with current and emerging healthcare system needs.

3. **Ensure Equity Across Payment Models:**

As alternate payment models expand, ensure they are developed in a way that supports parity in total compensation, professional protections, and working conditions—regardless of whether an NP is working under contract, as an employee, or through future innovative funding structures.

4. **Provide Consistent Professional Development Support:**

Implement province-wide access to dedicated professional development funding for all NPs, regardless of payment model, to support ongoing certification, education, and specialty training. This is essential for patient safety, regulatory compliance, and the

ability of NPs to work to full scope.

5. Promote Consistency and Sustainability:

Implement provincial standards for NP employment that support recruitment, retention, role clarity, and equitable treatment across all health authorities. Such modernization will enhance NP integration and strengthen care delivery across B.C.

In summary, Nurse Practitioners in British Columbia continue to play a vital and expanding role in the health system. However, the existing employment frameworks under which they work are no longer appropriate. A modernized approach—grounded in fair, consistent, and role-appropriate terms—is essential to supporting the long-term sustainability of this critical workforce.

Thank you for your attention and consideration.

Sincerely,

Dr. Stan Marchuk, DNP, MN, NP(F), FAANP

Nurse Practitioner

Miller Nurse Executive Post Doctoral Fellow

Adjunct Associate Professor | University of Victoria

C:

E:

“I’ve learned that people will forget what you said, people will forget what you did, but people will never forget how you made them feel” - Dr. Maya Angelou

From:
To: [LRC Review LBR:EX](#)
Subject: Review and changes to Labour Code
Date: August 18, 2025 5:00:19 PM

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Hello, as requested by the Ministry of Labour, I have a request for a different process be considered and then implemented when dealing with union related matters and the Ministry of Labour.

Within the past 9 months alone there have been four union related strikes that have impacted me and other Canadians directly:

- Canada Post
- Kootenay Lake Ferry
- Cowichan Transit
- Air Canada

Each of these situations has its own issues and considerations: two are BC Provincial and two are federal. However, in all four situations, to the best of my knowledge, there has not been long term relief or resolution provided to either the public or the workers. At times arbitration has been recommended, but it has never satisfied the situations. The issues continue to fester for all those impacted - public and workers - creating instability across our country.

I would hope that through the Labour Code there could be better solutions and systems created to provide resolution to the union related strikes.

If you read further into the first three strikes mentioned above, arbitration has not been a successful resolution. It has just temporarily paused or diverted the pain. I am going to anticipate that the very recent Air Canada strike will sadly end in the same way. This is insane: "Insanity is doing the same thing over and over and hoping for a different result." We have not created a successful Labour Code if this is the result, which is not providing closure, just deferred pain.

Please address how we, as a country, can better manage union related strikes to create a fair resolution that is binding and creates closure for everyone both short and long term.

Dianna Ducs

From:
To: [LRC Review LBR:EX](#)
Subject: labour code review submission
Date: September 18, 2025 12:37:40 PM

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To whom it may concern:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Living in Harrop, BC, recently our small community was in dire need to be heard by the LRB. Our ferry was our only way to get to work, school, trades, agriculture, groceries, medicine, healthcare, social activities, family needs, etc. Our ferry service was reduced 90% as a negotiating tool for the BCGEU during their strike. This was a devastating reduction permitted by the LRB. We had to hire a lawyer, and petitioned hard to raise over \$75,000 so we could be heard. This was not fair. This small change to the labour code, as noted above, would be fair and reasonable for all British Columbians.

Thank you for your consideration on this important matter. We look forward to hearing the results of this engagement.

Dianna Ducs

From:
To: [LRC Review LBR:EX](#)
Subject: A submission to the invitation to respond to the 2024 Labour Relations Code Review report
Date: September 16, 2025 1:38:12 PM

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Below is a response to the 2024 LRC Review report. It will be apparent from the substance that I would be happy to see this attributed to me.

... Chris Budgell

The 2024 Labour Relations Code Review panel delivered its report to the Minister of Labour just over a year ago.

The deadline (September 19) for providing feedback to the report is approaching.

I have not been enthusiastic about taking advantage of this opportunity because of the lack of responsiveness to everything I have submitted in the past, including addressing in person both the 2018 and the 2024 review panels. Nothing that either of those panels produced hinted at hearing from me or from any other individual except those speaking for the unions or employers.

That is in line with the reality that the Code was written to serve unions and employers, and the Labour Relations Board likewise operates to serve unions and employers. The "Duty of Fair Representation (DFR)" has not served the purpose it purportedly was supposed to serve from the time it was first introduced in the Labour Code of the 1970s. I would recommend taking a look at what the first LRB Chair, the late [Paul Weiler](#), had to say in his book, *Reconcilable Differences*, published in 1980, while bearing in mind that we are not living in the 1970's anymore.

All tribunals created by governments should serve the public interest even if they are always dealing with specific constituencies. The LRB is the perfect example of a tribunal that serves one or more specific constituencies (in this case two) and expects the public to believe that that is synonymous with serving the public interest when it is not.

This government needs to make itself aware of the phenomenon of institutional capture. The challenge to doing so of course is that it will need to look in the mirror. When I addressed the 2024 panel I brought with me a copy of the book, [Preventing Regulatory Capture](#) and I recommended that they take a look at it. Did they? I don't know.

The book is a collection of contributions by different authors, none of them Canadian. Only some of those chapters can be read as clearly supporting my views about capture, in particular the capture of adjudicative tribunals. A few chapters were beyond me, and I found that some expressed skepticism about the extent to which capture is a reality in "regulatory" agencies.

However the perspective in that book is largely one developed by economists. A more productive perspective sees capture as a sociological phenomenon, in fact a pervasive one.

The BCLRB is totally captured, by any definition. Its Vice Chairs have always been members of the labour law community, which itself is divided (nominally anyway) between a union-side bar and an employer-side bar. One result is that individuals (union or former union members) bringing "complaints" to the Board are almost invariably self-represented. I would caution against saying anything about the few who are represented by counsel. They are either employer-side labour lawyers who know perfectly well that they are not going to achieve anything for their clients or they are lawyers who have no labour law experience and should also not be taking on such clients.

Many people in government and in the labour law community are familiar with what I have been saying. That includes my claim that when a previous NDP government was in power in the 1990's section 13 of the Code was surreptitiously and illegally amended to remove the term "*prima facie* case" that the three individuals retained to oversee the creation of the new Code - John Baigent, [Tom Roper](#) and [Vince Ready](#) - had foolishly made a key to section 13.

Don't expect me to stop pursuing that issue.

The record of the section 13 story includes the Board's 1994 decision, [Terry Norris -and- IWA-Canada, Local 1-424, B156/94](#). Read it, all of it.

It correctly recites the section 13 debated and approved for enactment by the legislature on November 26, 1992. One person present for that debate is still a government MLA and a cabinet member - Mike Farnworth. The debate was led by Moe Sihota, who needs no introduction even today. I provided to the LRC Review a copy of the debate taken from the Hansard record with the ten instances (near the end) of "*prima facie* . . ." highlighted. That can be read starting at PDF page 656 [here](#). What I highlighted is all on PDF pages 661 and 662, starting with Moe Sihota himself citing "*prima facie* provisions".

The 1994 Terry Norris decision was signed by [John B. Hall](#), [Brent Mullin](#) and A. Paul Devine. It can be read as the inspiration for the amendment subsequently illegally effected, thanks to the cooperation of the Ministry of Attorney General's Legislative Counsel Office (which either did not speak up or was ignored when section 13 was being prepared for presentation to the legislature).

Brent Mullin returned to the Board as the Chair after the 2001 election gave B.C. a Liberal Party government. In January 2003, faced with what was perceived as a threat in a BCSC judicial review judgment that found in my favour, Mr. Mullin selected another DFR complaint to use as a vehicle for the response then published as the "[Judd](#)" decision, [B63/2003](#) (though it decided nothing). He conscripted Vice Chairs Sharon Kearney and Jan O'Brien to add their signatures. Ms. O'Brien's career subsequently included the role of NDP secretary at the same time that Moe Sihota was the president.

In December 2009 the Georgia Straight's Charlie Smith wrote:

*The B.C. New Democratic Party has appointed **Jan O'Brien** as its new provincial secretary.*

O'Brien is a former vice-chair of the B.C. Labour Relations Board, former journalist, and a

former president of the Media Union of B.C., which representing media workers.

*She is married to Vision Vancouver councillor **Geoff Meggs**, and earlier this year she was elected to the board of Vancity as a member of the Action Team.*

Ordinary citizens should not be required to try to deal with a regime that behaves like this.

So here is my suggestion for a solution. The Labour Relations Board should be relieved of the responsibility for receiving and dealing with applications brought by individuals. That mandate should be given to an entirely separate entity. It should be structured so that, to the extent possible, it is visibly free of any political influence or undue influence from the labour law community. The November 26, 1992 debate includes mention of the term, "labour ombudsman". I can't say that I am partial to the term "ombudsman" but the title is of little consequence. There are many other people who could contribute to discussions about how this entity should be structured and operate. I think that it could be set up so that little or even none of the operational costs come out of the public purse. Union members would not resent having a small proportion of their union dues redirected for this purpose. And / or the unions and unionized employers could provide funds.

Such an entity could turn its mind to issues that have never interested the LRB, including analyzing what kind of issues motivate individuals to pursue complaints. My thinking includes that some complaints may be lacking in real merit, but the Board's record shows clearly that they think none of them have any merit.

It's now forty-five years since Reconcilable Differences was published. It's time to move on.

Sincerely,

Chris Budgell

From:
To: [LRC Review LBR:EX](#)
Subject: Seeking Real Reform at the BCLRB
Date: September 17, 2025 3:32:17 PM

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These are my recommendations which I sent to the Premier:

Prohibit BCLRB employees from adjudicating complaints against unions under Section 12. These cases must be referred to independent arbitrators drawn from the existing Register of Arbitrators.

Mandate transparency and accountability by publishing detailed records of how often vice-chairs and adjudicators rule in favour of individual members versus unions.

Establish external oversight of the BCLRB to ensure conflict-free decision-making and restore public confidence in the institution.

Require the BCLRB to recognize and consider judicially upheld arbitration decisions—such as *Teamsters 31 v. Purolator*—as binding precedent in relevant cases.

The labour movement is rooted in principles of fairness, accountability, and democratic representation. These principles are betrayed when the only avenue for union members to seek justice becomes a closed door. No union should be above scrutiny, and no member should be denied a fair hearing because of systemic bias.

I am calling for immediate legislative action to implement these reforms. Specifically, I demand that:

1. No BCLRB employee should handle Section 12 filings moving forward
2. All Section 12 complaints must be assigned to random independent arbitrators from the Board's Register of Arbitrators — following the same successful model used in *Teamsters 31 v. Purolator*
3. The Minister of Labour must table legislation within the next legislative session to formalize these changes and ensure permanent structural reform

The precedent has been set. The solution exists. What we need now is the political will to implement it. Union members deserve the same independent, unbiased adjudication that proved successful in the *Teamsters* case — not the current system that delivers justice to fewer than 3% of complainants.

Sincerely,
Jessie Bains

From:
To: [LRC Review LBR:EX](#)
Subject: Re: Seeking Real Reform at the BCLRB
Date: September 18, 2025 2:17:22 PM

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Response to Labour Relations Code Review Panel Engagement Summary

First thing I would like to know is why this panel didn't automatically send this review process and ask for input directly from the union members who filed applications with the labour board since the last review. This oversight doesn't really give union members and the public confidence that this panel is serious about making any changes and is strictly designed to mislead the union membership they are being heard when in reality the success rate for a union member to get justice is under 3% at the labour board. It doesn't take a rocket scientist to crunch the numbers and figure out serious changes need to take place.

The panel claims to have invited submissions from "workers, labour organizations, business and industry groups, Indigenous partners, the legal profession and the general public" - but this generic approach completely misses the most important voices: those union members who have actually experienced the system's failures firsthand through their Labour Relations Board applications.

If the panel was genuinely committed to ensuring BC's labour laws "keep up with the needs of today's workplaces" and provide meaningful "rights and protections," they would have systematically reached out to every union member who has navigated the LRB process. These individuals possess the real-world experience that should be driving any serious reform effort.

Instead, we have a consultation process that appears designed more for optics than actual change. When the statistical reality shows such a dismal success rate for union members seeking justice through the Labour Relations Board, any credible review panel should be actively seeking out these voices, not waiting for them to stumble upon a general call for submissions.

This fundamental flaw in the consultation methodology raises serious questions about whether the panel's recommendations will address the systemic issues that are clearly evident in the numbers, or simply perpetuate a broken system under the guise of modernization.

The truth is that the success rate for a union member to get justice at the Labour Board is under 3%. It doesn't take a rocket scientist to crunch those numbers and see that serious changes need to take place. Until the panel directly engages with the very people who have lived through the system and seen its flaws firsthand, this entire review risks being nothing more than window dressing.

On Wed, Sep 17, 2025 at 3:31 PM Jessie Bains wrote:

These are my recommendations which I sent

- Prohibit BCLRB employees from adjudicating complaints against unions under Section 12. These cases must be referred to independent arbitrators drawn from the existing Register of Arbitrators.
- Mandate transparency and accountability by publishing detailed records of how often vice-chairs and adjudicators rule in favour of individual members versus unions.
- Establish external oversight of the BCLRB to ensure conflict-free decision-making and restore public confidence in the institution.
- Require the BCLRB to recognize and consider judicially upheld arbitration decisions—such as *Teamsters 31 v. Purolator*—as binding precedent in relevant cases.

The labour movement is rooted in principles of fairness, accountability, and democratic representation. These principles are betrayed when the only avenue for union members to seek justice becomes a closed door. No union should be above scrutiny, and no member should be denied a fair hearing because of systemic bias.

I am calling for immediate legislative action to implement these reforms. Specifically, I demand that:

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The precedent has been set. The solution exists. What we need now is the political will to implement it. Union members deserve the same independent, unbiased adjudication that proved successful in the *Teamsters* case — not the current system that delivers justice to fewer than 3% of complainants.

Sincerely,
Jessie Bains

From:
To: [LRC Review LBR:EX](#)
Cc: [OfficeofthePremier, Office PREM:EX](#)
Subject: FEEDBACK: Labour Relations Code - Feedback Unacknowledged by Appointed LRC Review Committee
Date: September 18, 2025 5:56:24 PM
Attachments: [image001.png](#)
[RE QUESTION Is Feedback being Considered.msg](#)
[LRC Replies to Submissions - Learning Friend.pdf](#)
[LRC Replies to Submissions - Zelda Sun.pdf](#)
[RE LRC Review Hearing - May 7.msg](#)

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Hi,

I am writing to provide feedback for the BC Labour Relations Code review to be considered alongside the report submit to the Minister by the Labour Relations Code Review Committee.

I typically would not be copying the Premier's office on a public engagement opportunity, but given what was published (or not published) in the report, there is some indication that the LRC Review Committee is acting in the labour bar's self-interest, and given the Ministry of Labour's limited response to a question about missing feedback, it's unclear whether certain feedback submitted went unacknowledged entirely due to the LRC Review Committee's own decision-making or it was due to actions taken by public servants.

In copying the Premier's Office, I am hopeful that whatever recommendations are provided to Cabinet consider feedback located on pages 363 to 382 and 385 to 390 of Package #2: [replies received based on submissions \(PDF, 15mb\)](#) at <https://engage.gov.bc.ca/govtogetherbc/engagement/labour-relations-code-review/> so at the least I am aware that government's action or inaction on the feedback is a conscious decision.

For information, the feedback located at pages 363 to 382 was submit to lrcreview@gov.bc.ca on Friday April 5th 2024, and an e-mail responding to the original e-mail confirming whether I would be a speaker at the May 7th Vancouver LRC Review hearing was received on April 12th 2024.

When I spoke at the LRC Review Hearing in Vancouver on May 7th, I did not speak to all of the issues assuming that the committee would have copies of the feedback. This was a fair assumption because Michael Fleming had it in front of him.

On June 12, 2024, I noticed that the feedback submit on April 5 was not included in Package 2: Replies Received Based on Submissions published on engage.gov.bc.ca. I e-mailed lrcreview@gov.bc.ca and asked for reasons why the response was not published and whether the feedback shared in the submission would be considered. The Ministry of Labour responded that the submission would be published to the Labour Relations Code Review webpage, but did not acknowledge the other questions. The government did publish an updated version of “Package 2: Replies Received Based on Submissions” – and it included additional feedback from another member of the public that had overlap with some of my comments. The issues raised by both myself and Zelda Sun on pages 385 to 390 go unacknowledged in the report by the LRC Code Review Committee.

The LRC Code Review Committee’s choice to not acknowledge the feedback provided is unusual. In previous LRC Committee Reports, there often has been acknowledgement of all of the types of feedback received, and that feedback is supplemented by the LRC Code Review Committee’s own commentary about whether they agree with the feedback submitted. This former approach provides cabinet fulsome information and ensures that they consider everything being communicated by the public – and not just what is put forwarded by those internal to the labour relations system.

I am asking that Cabinet actually consider the feedback shared on pages 363 to 382 and 385 to 390 of Package 2: Replies Received Based on Submissions. The feedback submit hopes to address issues relating to:

- The BCLRB not being the appropriate venue for deciding cases that intersect with Aboriginal and Treaty rights
 - My submissions were not the only submission that drew attention to this issue
- The lengthy timeframe it takes to resolve a labour relations dispute and the resulting mental health impacts on the employees who are engaged in that dispute
- Systemic bias within the BC Labour Relations Board
 - This is not just me saying this – this is supported by both the *Woods Report* comments made by Paul Weiler in *Reconcilable Differences*
- Better mechanisms to ensure Union accountability to their members
- The negative impacts of short BC Labour Code timelines on the labour bar and self-represented litigants
- Unions entering into NDAs without the impacted member’s consent
 - This is particularly concerning where there may have been allegations of sexual harassment
- The lack of ethical principles that BCLRB Vice-Chairs need to adhere to
- Lack of diversity amongst the labour arbitration community, some arbitrators

having business that is scheduled 2 years out while some cannot get any clients, and opportunities for learning and development amongst the labour arbitration community

If actioned, the feedback submit would require and result in systemic changes to the labour arbitration system. It would remove the opportunity for strategic arbitrator appointments, give greater protection to an employee's individual charter rights, amongst other things.

It is understandable but unethical that the BC Labour Code Review committee would not even acknowledge this feedback provided, but in the LRC Code Review committee's absence, I am hopeful that the government will consider it.

The Labour Relations system is not working as designed, and you have an opportunity to engage in real change. I have attached the feedback mentioned for easy access.

Regards,

Parveen Khtaria

Parveen Khtaria

Cell:

Email:



Issue 1:	Significant lack of racial/ethnic diversity amongst labour arbitrators
Information:	Allowing labour unions and employers to select who is going to arbitrate their dispute actively discourages diversity. What results is some labour arbitrators have significant amounts of business, and others cannot sustain a book of business and thus do not continue offering services... yet in some cases, individual employees are waiting longer than it would take to secure a court date had the court had jurisdiction. Naturally, humans gravitate to what is familiar and what is comfortable. That can mean seeking out those that have similar ethnic/racial backgrounds, genders, values, work experience, etc. From there, a strategic analysis is done to determine the likelihood of the respective arbitrator ruling in their favour. The public is not permitted to select the judge assigned to their case, and with the deference given to labour arbitration decisions, it does not seem ethical that unions and employers be permitted to choose their arbitrator.
Supporting Evidence:	• Sarah Rudolph Cole, “Arbitrator Diversity: Can It Be Achieved?” (2020) Wash. U. L. Rev. 98 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3744139#> • Ontario Bar Association (OCBA), “Neutral Diversity in Ontario” (2022) https://www.oba.org/CMSPages/GetFile.aspx?guid=feddadcd-980f-4e83-86c9-ff8ecbfba32d • Verlyn Francis, “Ethics in Arbitration: Bias, Diversity, and Inclusion”, 51 Cumberland Law Review 419 (2020-2021) https://heinonline.org/HOL/LandingPage?handle=hein.journals/cumlr51&div=18&id=&page=
Recommendation:	Require that all labour arbitration appointments be done through the Collective Agreement Arbitration Bureau. This can support alleviate some of the financial pressures faced by the BCLRB, ensure that labour arbitrators are given standardized training on best practices annually, allows for arbitrators to enhance their knowledge on a variety of files and work collaboratively with one another in a formalized mentor/mentee relationship, and supports building diversity within the labour arbitration profession.

Issue 2:	Individual employees are waiting an excessively long time for the resolution of termination grievances while their mental health and finances suffer.
Information:	<i>Health Services and Support – Facilities Subsector Bargaining Assn. v. British Columbia</i>, [2007] 2 S.C.R. 391, 2007 SCC 27 at para 60 stated the following: P.C. 1003 was a compromise adopted to promote peaceful labour relations. On the one hand, it granted major protections to workers to organize without fear of unfair interference from the employers and guaranteed workers the right to bargain collectively in good faith with their employers without having to rely on strikes and other economic weapons. On the other hand, it provided employers with a measure of stability in their relations with their organized workers, without the spectre of intensive state intervention in the economy (Fudge and Glasbeek, at p. 370). These elements of P.C. 1003 continue to guide our system of labour relations to this day (Adams, at pp. 2-98 et seq.). <i>Dayco (Canada) Ltd. v. CAW-Canada</i>, [1993] 2 S.C.R. 230 states the following: <i>Unresolved disputes fester and spread the infection of discontent. They cry out for resolution. Disputes in the field of labour relations are particularly sensitive. Work is an essential ingredient in the lives of most Canadians. Labour disputes deal with a wide variety of work related problems. They pertain to wages and benefits, to working conditions, hours of work, overtime, job classification and seniority. Many of the issues are emotional and volatile. If these disputes are not resolved quickly and finally they can lead to frustration, hostility and violence. Both the members of the work force and management have every right to expect that their differences will be, as they should, settled expeditiously. Further, the provision of goods and services in our complex society can be seriously disrupted by long running labour disputes and strikes. Thus society as a whole, as well as the parties, has an interest in their prompt resolution.</i> Arguably, jurisdiction over labour issues was removed from the court and granted to arbitrators to support timely access to justice. Timely access to justice is not happening. Strategic arbitration appointments are made resulting and there is also intentional delay tactics engaged by both unions and employers. It is not just the union or employer that suffer (if they suffer at all depending on the issue being disputed), it is the individual employee whose life is on hold that suffers the consequences of such unethical behaviour. In 2021, of all termination grievances decisions that were published on CanLii that were not related to lay-off, the median timeframe to resolution was 248 days from the date of termination to the date of award. The longest was 707 days, and the shortest 77 days. This is absolutely egregious and if you were the court, I think it would be fair to say that you could take judicial notice of the impact of delay on a grievor's mental health and financial stability.

	These timelines are absolutely unacceptable and need to be addressed. The current system is not working as intended and additional arbitrator availability will not resolve this issue. This needs to have a targeted solution.
Supporting Evidence:	Ronald A. Pink, Q.C. and David C. Wallbridge, "The Future of Labour Arbitration", Canadian Bar Association, 2010
Recommendation:	- Require that all non-layoff related terminations be registered with the BCLRB in some way that affords the individual employee some anonymity (eg. registration with an employee number or other non-SIN related identifier). - Amend legislation to require all grievance steps be complete within 45 days for termination grievances - If an employer has followed all of the expected steps prior to termination as established by years of labour precedent, this timeline is not unreasonable - Consent to extend this timeline should be at the discretion of the employee. It is their lives that are impacted and on hold - Legislate disclosure requirements for the grievance process... there are some employers who only disclose information once the issue has reached the stage of arbitration, which is unacceptable, or the union only requests information after the steps of the grievance are complete. - An amendment like should will hopefully increase the quality of representation by unions and require employers to organize documents as they prepare for termination - At the end of 45 days, if the termination grievance has not been resolved or consent for an extension has not been granted by the employee, the Collective Arbitration Bureau needs to assign an arbitrator who will hear the matter within 45 days.

Issue 3:	The BC Labour Relations Board is systemically biased against individual grievors who file Duty of Fair Representation Complaints
Information:	Canadian labour law has long established that unions are the exclusive bargaining agent for members of a bargaining unit and have considerable latitude when deciding to move forward with an employee's grievance. They control the unionized employee's access to justice and are required to exercise their discretion fairly. If unionized employees feel their union has represented them unfairly, they can file a Section 12 Duty of Fair Representation complaint [DFR] with the BCLRB, which will adjudicate their claim. Their ability to access justice depends on their success in the DFR complaint. Since the 1973 introduction of the BC Labour Code, an employee's DFR complaint is decided by a vice-chair appointed to the board either as an employer or union representative. Of the 3,967 DFR complaints noted in the BCLRB's annual reports between 1991 and 2023, 2.46% have been successful. In most years, the success rate of a DFR complaint has been less than 2.12%. Canada's Labour Law system was mostly developed based on recommendations made in the 1968 <i>Woods Report</i>. The Report suggested that the Canadian Labour Congress and similar organizations set up Public Review Boards with members outside the labour movement to address internal union complaints. The Report stated that when labour boards made decisions, they weren't doing so based on a legally enforceable right but rather what they "<i>consider[ed] to be a fair reconciliation of conflicting interests and claims.</i>" While this would bring some "<i>comfort to the claimant to know that a friendly point of view may be found on the board,</i>" he didn't find that this benefit outweighed its disadvantages in a new labour relations system that would have labour relations boards exercise a more expansive power. The expanded jurisdiction of labour boards would mean enforcing more than interests. They would be tasked with enforcing rights and duties, and he didn't think that these quasi-judicial powers should be executed by a tribunal by which its structure lends itself to compromise. After the Woods Report was released, there was an explosion of labour law reform across the country. Parliament and the ten provinces would amend their labour relations legislation in response. While BC did transfer power away from the court and to the BCLRB, it chose not to implement the most significant recommendations that would have the greatest impact on individuals claiming unfair representation by their union – the reconstitution of labour relations boards with members from outside of the labour movement and public review boards. British Columbia didn't view a labour board comprised of members of the labour community exercising quasi-judicial powers as problematic. Instead, the BCLRB

continued to be constituted with equal representation of employers and trade unions. This model continues today.

While the 1973 Labour Code didn't include public review boards as recommended by the Woods Report, it added a new role of the Labour Ombudsman. The Labour Ombudsman would have the authority to examine and consider decisions and make recommendations. Unfortunately for individual complainants, this part of the legislation was not enacted, and the role of the Labour Ombudsperson never existed. Paul Weiler, who all members of the panel will be familiar, is a widely published and respected labour law scholar and former chair of the BC Labour Relations Board. In his book *Reconcilable Differences*, Weiler referred to the adjudication of DFR complaints by those internal to the labour relations community as a "gaping hole in the integrity of what was supposed to be a comprehensive labour code"

Vice-Chairs have an indirect pecuniary interest in ruling against individual claimants.

Most often, when an appointment to the BCLRB is not renewed (whether by choice or they didn't receive an offer), Vice-Chairs return to legal practice as employer or union representatives or become arbitrators. For those who return to traditional legal practice, demonstrating support for individual rights is not likely to curry favour with employer or union clients. For those who become arbitrators, clients want to understand their views before a consensual appointment.

As noted by Richard Charney, in Ontario, it's no secret that members of the labour relations community who wish to erase perceptions of bias have applied to become Vice-Chairs of the Ontario Labour Relations Board [ONLRB].

Of the thirty-three labour arbitrators who decided the 146 BC labour arbitration decisions published on CanLii in 2022, 39.4% were former BCLRB Vice-Chairs, and 12.1% had held an equivalent role federally, in another province or the United States. 21.2%

had experience being appointed by the Province of BC to another administrative tribunal. Only 27.3% of the Arbitrators identified had no prior experience acting as an adjudicator for an administrative tribunal. Presumably, similar motivations for joining the ONLRB in Ontario exist for those joining the BCLRB in British Columbia.

British Columbia doesn't have a labour law system where all labour disputes are heard by an arbitrator assigned by a neutral bureaucrat.

As written in *C.U.P.E. v. Ontario (Minister of Labour)*, [2003] 1 S.C.R. 539, 2003 SCC 29 at para 191 "*The independence and impartiality of arbitrators is guaranteed not by their remoteness, security of tenure, financial security or administrative security but by training, experience and mutual acceptability.*" Therefore, there is a strong incentive to write decisions that are palatable to the labour community. In Richard Charney's

analysis of Ontario arbitration decisions between 1977 and 2003, there is some evidence indicating arbitrators seek to split results. It isn't a stretch to infer that BCLRB vice-chairs will also consider the impact of their decisions on their post-LRB income.

Further to this, BC's labour relations community and labour relations board have demonstrated their bias against individual employees.

In 1987, BC's legislature strengthened the DFR provision and expanded protections for individual grievors under s. 7 of the then Labour Relations Code.

Unfortunately, increased legislative and procedural protection for individual employees wouldn't last long. In 1992, as part of their Labour Code review, a committee of special advisors representative of the labour community just like yours called these enhancements "*unwarranted*." They recommended implementing a new procedure to adjudicate DFR complaints that obliged employees to make out a *prima facie* case before a hearing would be considered. Additionally, hearings would no longer be required, and the BCLRB could make decisions without submissions.

This new process was promoted as supporting the expeditious resolution of DFR complaints, but in reality, it limited procedural fairness available to employee complainants.

The recommendations regarding the DFR made by the 1992 Special Committee were adopted into the draft legislation put to the legislature. During the debate, it was identified that s. 13 was amended to reduce the workload of the BCLRB.

The Member of the Opposition, MLA Serwa rightly noted the difficulty that employees would have in making out a *prima facie* claim. The Minister of Labour at that time, Moe Sihota in trying to ward off criticism said that individual grievors would be and are assisted "*by an investigating officer appointed by the Board*." Then, he proceeded to criticize the opposition for failing to do their research when they pushed for more information about where to find this assistance in the legislation. Unfortunately for individual claimants, this assistance, like an Ombudsman in previous versions of the legislation, would never come to fruition. It was never existed or was implemented.

As cited in *C.U.P.E. v. Ontario (Minister of Labour)*, [2003] 1 S.C.R. 539, 2003 SCC 29 at para 99, "*courts generally infer that Parliament or the legislature intended the tribunal's process to comport with principles of natural justice*." The BC legislature's removal of procedural rights demonstrates that this isn't always true.

The [BC Court of Appeal](#) has decided that a reviewing court shouldn't concern itself with the application or compliance of the BCLRB with its own labour relations policies under the Code due to its considerable expertise and exclusive jurisdiction. Unfortunately, reviewing courts don't see the "*gaping hole in the integrity of what was supposed to be a comprehensive labour code*," as Paul Weiler identified when members of the labour

movement decide on individual claims. I think this gaping hole in the integrity of the Labour Relations Code is most often seen when the BCLRB blatantly ignores legislative intent without impunity.

In 1996, the s. 13 DFR complaint procedure in the Labour Relations Code was amended from requiring the board to determine whether the “complaint discloses a prima facie case that the contravention has occurred” to requiring the Board to determine whether the complaint discloses “a case that the contravention has apparently occurred.”

The 1998 Labour Code Review report identified that individual complainants were critical of the DFR prima facie requirement and thought the Board treated them unfairly. “The fact that the Board’s Vice-Chairs are drawn from either the union or the employer community compounds this problem.”

The 1998 Sub-Committee of Special Advisers didn’t recommend removing the prima facie requirement. It had already been removed from the Code when they completed their review. They did suggest that DFR complaints be heard by a body independent from the Board and that they be diverted to mediation. The Sub-Committee’s recommendations were not implemented.

On February 21, 2003, the BCLRB released its Judd decision – a decision that the BCLRB has used to deny thousands of DFR complaints by incorrectly applying the defunct *prima facie test* that was removed from the legislation.

In Judd, the BCLRB cites s. 133(4) instead of s. 13, writing that the Board can dismiss any application for failing to make out a prima facie case. What the BCLRB didn’t acknowledge is that s. 133(4) of the Labour Relations Code didn’t say prima facie then; it still doesn’t more than 20 years later in April 2024.

According to its [website](#), the BCLRB views Judd as a “leading decision on Section 12 [and] represents the law and policy of the Code.”

Perhaps a union-side advocate realized that the BCLRB made an error in Judd as the BC Federation of Labour’s desire to have the BCLRB engage the prima facie test at the intake stage of an employee complaint was identified during the 2003 Labour Code Review. Fortunately for individual employees, the legislature didn’t adopt their recommendation then, and the prima facie requirement hasn’t reappeared in the legislation since.

Unfortunately for individual complainants, the BCLRB continues to ignore legislative intent and uses Judd to justify the non-existent prima facie requirement to deny nearly all DFR complaints filed. Additionally, the BCLRB has reintroduced the prima facie requirement into its interpretation of s. 13 of the Code despite its absence in the legislation.

Supporting Evidence:	• S. 115 BC Labour Relations Code • BCLRB Annual reports • Canada, Privy Council Office, Canada Industrial Relations: The Report of the Task Force on Labour Relations, (31 December 1968) (Chair: Harry Douglas Woods), online: https://data2.archives.ca/copies/05-2023/oid-60629/e011781424.pdf [Woods Report] at pgs. 151, 175-186, 207 • Paul Weiler, Reconcilable Differences: New Directions in Canadian Labour Law, (Toronto, Carswell, 1980) at pgs. 149-150 • Richard J. Charney, <i>Arbitration: Grievance Resolution or Aggravation?</i> (November 2010), accessed online: https://www.cba.org/cba/cle/PDF/adm10_charney_paper.pdf at pg. 7 • Sub-committee of Special Advisers, British Columbia, Legislature, A Report to the Honourable Moe Sihota Minister of Labour: Recommendations for Labour Law Reform, (September 1992) at pg. 22 and Appendix 1: Draft Labour Relations Code at pgs. 14 – 15. • Legislative Assembly (BC), Hansard, 35th Leg., 1st Sess, (26 November 1992 afternoon sitting) at pgs. 4298-4299 • <i>British Columbia Ferry and Marine Workers' Union v. British Columbia Ferry Services Inc.</i>, 2013 BCCA 497 at para. 55, leave to appeal to SCC ref'd as cited in <i>Ferguson v. British Columbia</i> (Labour Relations Board), 2023 BCSC 2164 at para 48. • Labour Relations Code, 1992, c 82, s. 13 • Labour Relations Code, RS 1996, c 244 s. 13 • Sub-committee of Special Advisers, British Columbia, Legislature, Prepared for the Minister of Labour Government of British Columbia: Managing Change in Labour Relations – the Final Report (February 25, 1998) at pg. 22 and Appendix 1: Draft Labour Relations Code at pgs. 14 – 15. • Labour Relations Code Amendment Act, SBC 1998, c. 33 • Judd v. Communications, Energy and Paperworkers Union of Canada, Local 2000, 2003 CanLII 62912 (BC LRB) • Committee of Special Advisers, British Columbia, Legislature, Report of the B.C. Labour Relations Code Review Committee to the Minister of Labour, (April 11, 2003) at pg. 26 • In Killoran v Hospital Employees' Union, 2023 BCLRB 176, Vice-Chair Chesman indicates that the <i>prima facie</i> requirement is part of s. 13(1)(a) of the <i>BC Labour Relations Code</i>, and the same Vice-Chair does this again in Meyers v Canadian Union of Public Employees, Local 358, 2023 BCLRB 159 • Harry W. Arthurs, The Three Faces of Justice - Bias in the Tripartite Tribunal, Saskatchewan Bar Review. Volume 28, Issue 4 (1963), p. 147-156
Recommendation:	• Appoint a panel with members outside of the labour relations community to adjudicate employee duty of fair representation complaints • Amend legislation to re-strengthen the DFR provisions in the Labour Relations Code and enhance expectations of union conduct during the processing of employee grievances

Issue 4:	The Duty of Fair Representation is not adequate to ensure proper union conduct in termination grievances or cases involving harassment of any kind.
Information:	For those with any familiarity with labour law, they will know that the Duty of Fair Representation as found in BC Labour Code and interpreted by the BC Labour Relations Board offers zero recourse for employees to have even a valid grievance heard. Karakatsanis J. in Northern Regional Health Authority v. Horrocks, 2021 SCC 42 wrote: [105] Given the mandate and provisions of the Code, including s. 22(1)'s use of "[a]ny person", I find it unacceptable that some unionized employees, whose unions refuse to grieve their members' discrimination claims without breaching the duty of fair representation, would be left without legal recourse. Nothing in the Code suggests that this result was intended; on the contrary, such a result might violate the responsibilities of the Commission under s. 4. [106] Although it is true that the duty of fair representation "acts as a check on the principle of exclusivity", it is not a sufficient check given the importance of the human rights involved (Mummé, at p. 237). Despite the tendency of labour arbitrators to interpret the duty in an expansive way where discrimination is involved, the content of the duty has not evolved since this Court's decision in <i>Gendron v. Supply and Services Union of the Public Service Alliance of Canada</i>, Local 50057, [1990] 1 S.C.R. 1298, which preceded Parry Sound: In a situation of conflicting employee interests, the union may pursue one set of interests to the detriment of another as long as its decision to do so is not actuated by any . . . improper motives . . . , and as long as it turns its mind to all the relevant considerations. . . . [I]t is the underlying motivation and method used to make this choice that may be objectionable. [pp. 1328-29] Thus, in cases involving discrimination against a unionized employee, unions can decide not to grieve without breaching their duty of fair representation, "so long as their decisions are reasoned, not arbitrary, in bad faith or discriminatory" (Mummé, at p. 238; see also <i>Mason v. Gen-Auto Shippers and Teamsters Local Union 938</i>, [1999] OLRB Rep. 242, at paras. 17 and 20; <i>Creed v. International Brotherhood of Electrical Workers, Local Union 339</i>, [1999] O.L.R.D. No. 3422 (QL)). They have the right to make errors, and they must also, at times, balance competing interests. At least one Supreme Court justice recognizes who useless the duty of fair representation process is for employees.

Of the 3,967 DFR complaints noted in the BCLRB's annual reports between 1991 and 2023, 2.46% have been successful. In most years, the success rate of a DFR complaint has been less than 2.12%.

In *Ms. C v. City and others*, 2023 BCHRT 203, the BCHRT will be addressing Ms. C's complaint that view, Ms. C's complaint that the Union was unresponsive to Ms. C's concerns with respect to the City's duty to accommodate her regarding further encounters with a Municipal Councillor that sexually assaulted her.

If this was put to the BCLRB, there is a 98% chance Ms. C's claim would be dismissed before ever reaching a stage of a hearing.

During the [Workplace Sexual Harassment Grievances – When is the Labour Relations Board](#) an option for unionized employees webinar hosted by the Courthouse Libraries the BCLRB cited Sue Furlong, BCLRB No. B534/98 which states:

The issue is not whether the applicant has been subjected to harassment in their workplace, but whether the union represented the applicant in accordance with the duty of fair representation (i.e., not arbitrarily, discriminatorily, or in bad faith)

As pointed out by Karakatsanis J. in *Horrocks*, unions can choose not to grieve without breaching their duty of fair representation. This is even more concerning as during the webinar with the Courthouse Libraries, the BCLRB noted that they are adjudicating cases that could also be heard by the BCHRT because of the workload and delays experienced at the BCHRT. Whether adjudicated by the BCHRT or the BCLRB (or as recommended by a body appointed from outside of the labour community), individuals should be afforded equal protection.

In Quebec, unionized employees having been terminated or experienced harassment and believe that their union is not acting fairly are granted addition protection. S. 47.3 of Quebec's Labour Code provides for the following:

47.3. If an employee who has been dismissed or the subject of a disciplinary sanction or who believes he has been the victim of psychological harassment under sections 81.18 to 81.20 of the Act respecting labour standards (chapter N-1.1), believes that, in that respect, the certified association has contravened section 47.2, the employee must, if he wishes to rely on that section, file a complaint with and apply in writing to the Tribunal for an order directing that the employee's claim be referred to arbitration.

In [Centre hospitalier Régina Ltée v. Labour Court](#), [1990] 1 S.C.R. 1330

I agree. The legislator has clearly indicated his preference here by specifying in s. 47.3 L.C. those extreme cases in which arbitration of a grievance may survive its abandonment by the union: namely, cases of dismissal and disciplinary

sanctions. Collective labour relations are an area of socio-economic law where the legislator is continually making adjustments in an attempt to achieve a desirable balance between union, employee and employer.

This choice is consistent with the general recognition that it is important for an employee to retain his employment, in view of the potentially devastating effects on him. Jean-Denis Gagnon emphasizes this aspect in a passage preceding the one cited above (at p. 674):

[TRANSLATION] It is difficult to deal with the duty of representation incumbent on the union in implementing the collective agreement without making distinctions between the various grievances that can be filed by employees as a consequence of decisions made by the management of a business or department . . . For an employee whose employment comes to an end the challenge to the employer's decision is of considerable importance. His immediate future, his well-being and perhaps also that of his family are tied to his action and whether it succeeds. [Emphasis added.]

Professor Weiler is emphatically of the same opinion (op. cit., at p. 138):

The real reason for singling out discharge grievances for a special legal limitation to the unions' authority is simply that discharge is different. At several points on earlier pages, I have touched on the reasons why the protection against unjust dismissal is perhaps the critical job interest provided by the collective agreement. Especially in the case of the long service employee, being fired as a result of an immediate contretemps with his employer can have a devastating impact on his life. Not only is it difficult for older workers to find another job of any kind, but it is just about impossible to replace the benefits and amenities that are associated with lengthy seniority. [Emphasis added. Italics in original.]

The Quebec legislator's choice to distinguish the rights of an employee facing dismissal from other less serious situations is thus in accordance with a consistent line of scholarly and judicial authority.

BC citizens should be able to expect that they have access to justice for significant issues like termination grievances and harassment as is available to residents of Quebec.

As pointed out in [Horrocks](#):

[38] *Of course, there will be instances of a union declining to advance a grievance to arbitration without breaching its duty of fair representation or engaging in discrimination. And, in such cases, the employee will indeed be left without a forum for resolution. But this state of affairs —*

	<i>which, it bears restating, can be undone by clearly expressed legislative intent to the contrary — is a product of the union’s statutorily granted monopoly on representation (Bisaillon, at paras. 24-28; Noël v. Société d’énergie de la Baie James, 2001 SCC 39, [2001] 2 S.C.R. 207, at para. 41). In other words, it is a product of legislative choice, to which we are bound to give effect.</i>
Supporting Evidence:	• BCLRB Annual reports • S. 47.3 of the Quebec Labour Code
Recommendation:	• In addition to the recommendation above re: Appoint a panel with members outside of the labour relations community to adjudicate employee duty of fair representation complaints, higher expectations for union conduct in termination and harassment grievances needs to be codified • Enact the same or similar provision as seen in s. 47.3 of the Quebec Labour Code in BC

Issue 5:	The timelines for reconsideration of decisions under the BC Labour Relations Code are unreasonable and negatively impact mental health
Information:	S. 141 of the BC Labour Relations Code grants 15 days for a reconsideration of a BCLRB decision. Reconsideration of Workers Compensation decisions must be filed within 30 or 90 days (dependent on the type). Reconsideration of Employment Standards decisions must be filed within 30 days. It is no secret to anyone who works within the legal community that members of the legal profession have atrocious mental health. The reconsideration timelines of the BC Labour Relations Code negatively impact the mental health of labour lawyers. Labour lawyers are needing to give their weekend and evening hours to getting a reconsideration filed if they have an arbitration booked, planned vacation, or another matter that is taking their time. These individuals are sacrificing relationships with their romantic partners, children, parents, or others who are important to them to meet the Labour Relations Code's timelines. These individuals especially suffer when they have responsibilities outside of their jobs that cannot be delegated. These Labour Relations Code's timelines are unreasonable for legal professionals and are even more unreasonable for the self-represented litigant who does not have familiarity with labour law and the law generally. The same mental health concerns are going to exist for the self-represented litigant if they are employed, have a disability or other responsibilities that take up their time. Regarding extensions, the BC Labour Relations Board website states: “You must first ask the other parties if they agree to the extension. You must then write to the Registrar and request the extension, indicating how much more time you need, whether any of the other parties agree, and the reasons why you can't meet the deadline. What this has meant in practice is that if opposing counsel deny the extension, then submissions need to be made to justify why a deadline cannot be met. When asking the BCLRB about policy it uses to evaluate an extension request, the BCLRB staff stated: <i>The Board does not have a list of cases or an internal policy document on extensions; however, the Board's decision Martina Steffin (sic) (particularly paragraphs 13-15) may be helpful.</i> In Steffen, the applicant was unsuccessful in obtaining an extension. It is an incredible risk for a case to not be granted an extension, so instead of just focusing on original submissions, the applicant is also required to make submissions on the reasons for

	extension. This requires legal research, preparation of documents, and a supporting narrative. The BCLRB needs clear and cogent policy regarding extensions, and also have permission to grant extensions for reasons that may have been overlooked in the policy but seem reasonable.
Supporting Evidence:	- Workers Compensation Act s. 293 https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/19001_07#section293 - Employment Standards Act s. 116 https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/00_96113_01#section116 National Study on the Health and Wellness Determinants of Legal Professionals in Canada
Recommendation:	- Increase the timeline for reconsideration of Board decisions within the BC Labour Relations Code - Add a provision in the Code that allows for extensions to be granted with details laid out in policy

Issue 6:	Unions entering into Non-Disclosure Agreements without an Employees' Consent when Settling Grievances
Information:	Unions are given considerable leeway when it comes to how an employee's grievance is to be handled. Unions have and will restrict an employee's choice to speak against injustices by entering into settlement agreements that include a non-disclosure agreement without their consent. Where the employer is considered government, unions are also restricting the member's right to freedom of expression under the Charter. This issue has been rarely litigated and there is only one known case that addresses the issue in a labour law context in Canada. In Myriam Michail v Ontario English Catholic Teachers' Association, 2017 CanLII 6507 (ON LRB), the ONLRB member wrote that “<i>confidentiality clauses and written releases are entirely normal features of a settlement</i>” and “<i>neither the School Board nor the union is duty bound to guarantee the applicant's Charter right to free expression.</i>” The ONLRB noted that anyone can ask another person to refrain from expressing themselves voluntarily, and this is what the school board was doing by offering a settlement to the applicant through the union. The union's pressure on the applicant to accept the settlement was a normal part of the settlement process. In contrast to Michail, in Aboucher, which is an employment law decision and has been widely cited throughout Ontario and BC, the following is stated: <i>The non-disclosure clause was not an implied condition of the settlement reached between the parties. A "complete and final" release does not entail the inclusion of a non-disclosure clause. If a party wishes to insert a non-disclosure clause, it must be negotiated. The parties in this case never discussed the potential need for a non-disclosure clause before the offer to settle was accepted by the plaintiff.</i> Aboucher has repeatedly been cited throughout Ontario caselaw, accepted in BC and Alberta. Non-disclosure agreements have been receiving national attention due to tireless efforts of the founders of Can't Buy My Silence. Freedom of speech is considered essential to a just Canadian society. During the July 4, 1960 debate on the Bill of Rights, the Honourable Member for Iverness-Richmond, Mr. R. S. McLellan, referred to the freedom of expression as “the most important political freedom, and the only one which really counts.” The Bill of Rights informed the text of the Charter.

	Last year, I reviewed the Charter debates. There is no indication that the right to freedom of association was intended to override the right to Freedom of Expression. Allowing unions to enter into NDAs without the impacted member's consent is unacceptable, particularly in cases that include discrimination and harassment. Further, a unionized employee should not be denied their right to access justice because they refuse to be silenced. If unionized employees had access to the courts, they could make their issues public. If an employer and a union want an NDA, they can work to resolve the issue to the impacted member's satisfaction. NDAs should not be viewed as standard clause in settlement agreements.
Supporting Evidence:	House of Commons Debates, 24th Parl, 3rd Sess, Vol 5 (4 July 1960) at 5667 https://parl.canadiana.ca/view/oop.debates_HOC2403_05/1
Recommendation:	Explicitly forbid unions from entering into non-disclosure agreements as part of a settlement agreement without an impacted employee's consent

Issue 7:	Ethical Principles for BCLRB Vice-Chairs
Information:	The Canadian Judicial Council's Ethical Principles for Judges states: <i>5.C.7 Judges should be sensitive to the existence of relationships which, to a reasonable and informed person, would give rise to reasonable apprehension of lack of impartiality. In particular, judges will face this issue in relation to cases involving former clients, members of the judge's former law firm or lawyers from the government department or legal aid office in which the judge practiced before appointment. Each case is unique and the apprehension of bias should be assessed in light of all the circumstances. The following general guidelines may be helpful: (i) judges who were involved in private practice should not sit on any case in which the judge or, to their knowledge, the judge's former firm was directly involved in any capacity before the judge was appointed to office; (ii) judges who practised law in government service or legal aid should not sit on cases in which they had any involvement prior to their appointment; (iii) judges should not sit on a matter in which the judge's former law firm is involved until after a 'cooling off period', often established by local law or tradition, of between two and five years; and, (iv) judges should not sit on a matter in which the judge's former law firm is involved for at least as long as there continues to be a financial relationship between the judge and the law firm.</i> While members of the BC Labour Relations Board are not judges, their decisions are given the same level of deference. Arguably more deference than any other administrative tribunal. While it would be unreasonable to expect the same level of ethical conduct and distancing from members of the BC Labour Relations Board given that they are recruited from the same small community that they are now adjudicating decisions for, it is not unreasonable to expect that there be some minimum ethical standards established for members of the Board. Members are adjudicating issues that were active while they were employed at their former firms, they are actively engaged in non-professional social media interactions with members of the same labour community that appear before them. On a file that engaged a Vice-Chair's former firm and was active while they were employed with the firm as partner, I reached out to the BCLRB about my concern regarding a reasonable apprehension of bias. The test for reasonable apprehension of bias as cited in Wewaykum Indian Band v. Canada, [2003] 2 S.C.R. 259, 2003 SCC 45 is: <i>. . the apprehension of bias must be a reasonable one, held by reasonable and right minded persons, applying themselves to the question and obtaining thereon the required information. In the words of the Court of Appeal, that test is "what would an informed person, viewing the matter realistically and practically — and having thought the matter through — conclude. Would he think that it is</i>

	<i>more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly.”</i> The respective Vice-Chair in question responded: <i>In your email of , you express concern about my being the adjudicator assigned to decide While it is not apparent that the matters you raise would justify recusal in the context of Board decision-making, the Board is prepared to re-assign to a different adjudicator. [Edited to protect anonymity]</i> While I was grateful to have the application re-assigned, I was appalled that a Vice-Chair would not see any ethical issues with their deciding on a case that was active at their former firm during their tenure and being handled by someone who was likely their former subordinate.
Recommendation:	• Develop ethical guidelines for members of the BC Labour Relations Board

Issue 8:	The BC Labour Relations Board does not have adequate expertise to decide on issues engaging Aboriginal and treaty rights
Information:	In Paul v. British Columbia (Forest Appeals Commission), [2003] 2 S.C.R. 585, 2003 SCC 55, at para 39, the Supreme Court of Canada wrote that an admin tribunal has the ability to apply s. 35 of the <i>Constitution Act</i>, 1982 if the tribunal’s empowering legislation grants it permission to decide questions of law. The SCC decided that the court’s approach in permitting administrative tribunals to decide Charter issues should also be the approach taken when assessing whether an administrative tribunal is permitted to decide issues relating to s. 35 rights. There will be administrative tribunals that have the requisite knowledge to make decisions that engage Aboriginal rights and treaty rights, but the BC Labour Relations Board is most definitely not one of them. Unfortunately for Indigenous communities, s. 120 of BC Labour Relations Code grants the BC Labour Relations Board permission to decide on questions of law with no exception granted for deciding issues that engage the rights unique to Aboriginal peoples. In Newcrest Red Chris Mining Limited -and- United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 1-1937, BCLRB 10 the BCLRB makes it clear that they are insensitive to the rights of Indigenous peoples by saying that the Tahltan did not have “<i>direct and material interest in the outcome of a proceeding to establish the content of a first collective agreement</i>” and their constitutional and statutory rights would be protected insofar as an “<i>arbitrator deems [them] relevant</i>”. As concerning as the BCLRB’s statement is on its own, it is absolutely absurd when read with Newcrest Red Chris Mining Limited v United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial And Service Workers International Union, Local 1-1937, 2023 CanLII 88238 (BC LA). In the latter decision, Arbitrator Saunders writes that the law and policy of the Code require that he give deference to a mediator’s recommended terms for a first collective agreement. Further to this, the Supreme Court of Canada has confirmed in McGavin Toastmaster Ltd. v. Ainscough, [1976] 1 S.C.R. 718 that repudiation does not apply to labour law. While the SCC confirmed in Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65, [2019] 4 S.C.R. 653 that the standard of review for matters falling under s. 35 of the <i>Constitution Act, 1982</i> are to be decided on a correctness standard, this will cause issues in labour law where collective agreements aren’t to be repudiated. There are unions like the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 1-1937 that do not support having the terms of an Impact Benefit Co-Management Agreement supersede the terms of a collective agreement. IBCAs are negotiated before a union is

	ever in place. If collective agreements can override the benefits an Indigenous community has negotiated for its members, there is no point of an Indigenous community ever entering into an IBCA that could be undermined until this issue is decided by a superior court.
Supporting Evidence:	USW Bargaining Committee, “USW Local 1-1937 Update – Bargaining Update #12” (13 May 2022), online (PDF): USW Local 1-1937 Red Chris Mine https://www.usw1-1937.ca/uploads/1/1/7/5/117524327/2022_newcrest_red_chris_mine_bargaining_update_12_may_13.pdf
Recommendation:	- Consult with Aboriginal organizations, Aboriginal communities, other interested Indigenous peoples, legal scholars, and the judiciary to determine whether it would be appropriate to set up an admin tribunal that specializes in Aboriginal rights issues that will hear Aboriginal rights claims. - Evaluate the feasibility of such a tribunal having hearings with panels that include the inclusion of at least one member from an admin tribunal that has subject matter expertise on the respective area of law (eg. one panel member borrowed from the BCLRB and 2 others specializing in Aboriginal law) - Engage in a targeted consultation with Aboriginal organizations, Aboriginal communities, and other interested Indigenous peoples to determine how the BC Labour Relations Code should be amended to fulfill the government’s commitments under UNDRIP.

Dear Madam or Sir,

I have some concerns about unions, the BC Labour Relations Code and the BC Labour Relations Board and how they operate in real life. The biggest concerns I have are that unionized workers have even less protections than non-unionized workers if their union does not take their grievances seriously, demographics and outcomes of grievances are not tracked, it is incredibly difficult and burdensome for workers to make a complaint against their union, and that it is effectively impossible for workers or workplaces to change unions. BIPOC workers in particular often need protection from discrimination from both employers and unions.

As it stands, the standards set out in collective agreements take precedence over the BC Employment Standards Act and other related legislation. This makes a few assumptions: that union representatives, such as shop stewards, are capable of understanding and interpreting collective agreements in a way that supports the safety, human rights and dignity of individual workers; that union representatives will represent workers in an unbiased and equitable manner; that union representatives will use all the resources at their disposal to fight for workers' rights; that union representatives are aware, and will inform workers, of alternatives to making a grievance through the union and be supportive of workers who go through WSBC or the BCHRT; that unions are capable of self-regulation; and that union representatives will be honest.

Unfortunately many unions behave in ways that do not support all workers. The same prejudices that are found in other parts of society are found in unions and this leads to vastly different treatment for BIPOC people and other marginalized workers. In Canada racism is most often encountered in the workplace but very little is done to counter it.¹ While unions offer anti-racism and other anti-discrimination training very little of it is effective²; there is no follow-up to see if it has done anything to improve discriminatory behavior. Biases and discriminatory behavior, on the part of union officials, is mostly unconscious but has very real and negative consequences for BIPOC workers³.

Research shows that exposure to micro-aggressive racism negatively affects both psychological and physical health and is a causative factor in cardiovascular diseases such as hypertension, heart attacks, and strokes, for mood disorders such as depression, anxiety, PTSD, etc, and overall health⁴. Being exposed to micro-aggressive racism can be likened to lead exposure; it is often not obvious, poisoning is slow and cumulative, negative health effects are variable but result in poorer quality of life, decreased life span, preventable injuries, and death. Unions have absolutely failed in protecting the health and safety Black and Indigenous workers from the dangers of workplace racism⁵.

Union officials often behave in unconsciously biased ways towards BIPOC workers. Complaints and grievances of BIPOC workers are not taken as seriously as those of white workers, and unions are loathe to even admit that racism and other forms of discrimination exist within their organization. Union officials often hold negative biases and stereotypes about the honesty, intelligence, knowledge, experience, education, criminality, mental stability etc. of BIPOC workers, and label normal behaviours

¹ Inclusion in the Workplace for Racialized Employees; IRCC Anti-Racism Employee Focus Groups Final report; Anti-Black Racism, Sexism & Systemic Discrimination in the Canadian Human Rights Commission

² Prejudice Reduction: What Works; Prejudice Reduction: Progress and Challenges

³ Nice Racism: How Progressive White People Perpetuate Racial Harm; Anti-Black Racism, Sexism & Systemic Discrimination in the Canadian Human Rights Commission; Inclusion in the Workplace for Racialized Employees; IRCC Anti-Racism Employee Focus Groups Final report

⁴ Microaggressions in Everyday Life

⁵ Chris Aylward, PSAC National President, Senate RIDR Committee testimony 2023

as pathological⁶. It is common for union officials to say that they ‘know’ what the worker has experienced, and dismiss and invalidate BIPOC workers’ lived experience and agency⁷. BIPOC workers are seen as less sympathetic and less deserving of resources and effort, and also as less harmed by accidents and abuse⁸. There are few substantial consequences for perpetrators if they are white and the target BIPOC, but not the reverse⁹. Significant pressure is placed on BIPOC workers not to make discrimination complaints or drop them if they do. Retaliation for making a complaint against a white or more favored minority person is common¹⁰.

Unionized BIPOC workers who want to make a complaint through the ESB, BCHRT or WSBC are told that they can’t because a collective agreement supersedes the ESA, and human rights in the workplace are covered under the Respectful Workplace and health and safety policies in the collective agreement; they must go through their unions’ grievance process. This is not strictly true, but if a worker goes to the BCHRT and/or WSBC those agencies will tend to defer to the processes and judgement of the union¹¹, and the worker is in for a long, traumatic, and expensive process. Consequently, if a BIPOC worker’s union does not support them, they often have less protection than they would under the ESA. To fight for their rights the worker must make a complaint about their union under the BCLRA at to the BCLRB, a very complicated and difficult to understand process. Systemic discrimination and unconscious bias also operates at the BCLRB. Unionized workers are also often hesitant to make complaints as union jobs usually pay better, and discrimination is the same no matter where you go.

The reality is that making a successful complaint about the discriminatory behavior of a union or union official through the BCLRB is very unlikely; there are no successful complaints made by a BIPOC person for non-blatant forms of racism or intersectional discrimination that I am aware of. Unions neither keep, nor will provide, any records which might show discriminatory behavior. Unions use union dues to pay for their lawyers and often have lawyers on retainer. Most employment lawyers will not touch that kind of case against a union, and definitely not on contingency, so an individual BIPOC worker has little chance of adequate representation even if they can afford it. Labour councils represent unions, not workers, and tend to be very ignorant about BIPOC issues¹². Complaining to higher levels of a union is equally useless¹³. Changing unions is not really possible as “unions will not raid sister unions for members”¹⁴. Starting a new union requires decertification of the current union in the workplace, then getting a new union certified.

All of this has resulted in a general view amongst BIPOC workers that unions are for white people. Historically this is true, early unions were often formed to explicitly exclude BIPOC workers from

⁶ Microaggressions in Everyday Life; White Fragility: Why It's So Hard for White People to Talk About Racism

⁷ IRCC Anti-Racism Employee Focus Groups Final report; Nice Racism: How Progressive White People Perpetuate Racial Harm, White Fragility: Why It's So Hard for White People to Talk About Racism

⁸ Race-based biases in psychological distress and treatment judgements; In Plain Sight; Understanding intersectional inequality in access to primary care providers using multilevel analysis of individual heterogeneity and discriminatory accuracy

⁹ IRCC Anti-Racism Employee Focus Groups Final report; Deputy Ministers’ Task Team on Values and Ethics Report to the Clerk of the Privy Council; 2021 WBI U.S. Workplace Bullying Survey

¹⁰ Racial discrimination within United Nations offices in Geneva: Results from an online survey; IRCC Anti-Racism Employee Focus Groups Final report; Inclusion in the Workplace for Racialized Employees,

¹¹ Communication from WSBC 2020

¹² Personal communication Victoria Labour Council, VLC executive did not know what ‘BIPOC’ meant, racism a “minority issue”.

¹³ CUPE National communication, “No enforcement of CUPE Locals” 2023

¹⁴ Communications with Victoria Labour Council, IBEW, PSAC 2020

competing with white workers for jobs. Unions fought for years to keep BIPOC people from being able to join but were eventually forced to accept BIPOC (and women) as members by changes in law. Systemic racism still exists in Canada and unions are very much a part of that system. Workplace issues that tend to affect white and BIPOC people equally, like remuneration and benefits, are fought for, but issues that largely only affect BIPOC workers are not¹⁵. Demographic data, grievance types, and outcomes need to be tracked to ensure that discrimination against BIPOC and other marginalized workers does not continue. Currently no one is ensuring that BIPOC and other marginalized workers are being treated equitably by unions.

There does not seem to be much oversight of unions in general as far as human rights and worker safety are concerned. I have been hearing a lot of complaints from all workers about workplace bullying, particularly in the healthcare, education, and gov't sectors, and also about the lack of workplace safety for lower level workers¹⁶. Worker mental and physical health is deteriorating, but rather than change the underlying workplace issues, workers are given classes on subjects like 'mindfulness' and nutrition to help them cope with workplace stress. Workers are also given classes on workplace safety and then pretty much forced to ignore what they were taught because of pressure to get things done quickly. Workers who don't feel better about their workplace situation are told they aren't trying hard enough, have a negative attitude, and aren't team players. They feel pressured to appear to be constantly positive no matter how they feel and, ironically, that causes increased psychological distress for many workers¹⁷. These types of worker 'supports' are a check-box approach that protects unions and workplaces from liability but do little to protect workers. Workers who complain are receiving little support from their unions and are often constructively dismissed, quit, or take health leave.¹⁸

Commonly expressed sentiments, especially amongst older workers, is that today's unions work more for management than workers, are there to keep things quiet, and function as another branch of "Inhuman Resources"¹⁹. Sadly a regional representative for a national union agreed with this assessment and said the main duty of the union was to fight for worker pay and benefits. When asked why they didn't change jobs white workers expressed similar reasons to BIPOC workers, union jobs paid better, but things were the same everywhere. They felt stuck too.

Unions need more gov't oversight than they currently have to ensure that they are enforcing health and safety, and human rights regulations, and are doing so in an equitable manner. Surprise inspections of all workplaces need to be done to make sure safety requirements are being followed and enforced. While employers are ultimately responsible for worker safety unions also bear some responsibility as they are supposed to make sure employers follow the rules on the behalf of union members. All union members should be given anonymous annual surveys, developed and administered by a reputable and truly independent agency, to measure how well unions are doing as far as health, safety, and equity are concerned, and to find out where there are problematic organizations, locals,

¹⁵ CUPE communications 2018-2023: ...(about racism) it is not in the interest of the majority of members for the union to take a stand on issues that only affect a few people; Grievances are not tracked.

¹⁶ CUPE 2081 bargaining units that have greater numbers of BIPOC members given lower quality PPE, unsafe working conditions particularly during Covid-19 pandemic

¹⁷ Employee well-being outcomes from individual-level mental health interventions: Cross-sectional evidence from the United Kingdom

¹⁸ 2021 WBI U.S. Workplace Bullying Survey

¹⁹ Personal communications with retired, and near retirement, union members and union organizers

bargaining units, and individuals. When problems are found corrective measures and penalties must be administered and followed up on to make sure that corrective measures were adequate.

All unions should provide the contact information for the presidents, VPs, and representatives of their various committees at every level on their websites. If someone is, for instance, experiencing a workplace safety issue, and their local is not responding to it, they should be able to easily contact the right person at a higher level. Currently this information is often not accessible to regular members and complaints to general contacts tend to be ignored or not treated seriously. Union management needs to take responsibility for the behaviour, actions, and inactions, of the regional and local levels of unions.

Union representatives should communicate clearly, honestly, and transparently with members. Union members should have access to all communications between union representatives and management in regards to their grievance. Union representatives should never use vague, evasive, or deceptive language, or any language that could be creatively interpreted that would undermine a member's rights and dignity, or work against the member's interests²⁰. Union representatives should defer to the judgement of the union member as to what is in the member's "best interest". Union representatives should not be permitted to sign settlement agreements without the express consent, or against the wishes, of the union member. No blanket consent should ever be allowed. NDAs that limit a member's ability to communicate about human rights, civil rights, or criminal abuses against themselves should never be permitted.

Unions that are not ensuring that employers follow health, safety, and human rights regulations should be sanctioned, with provisions for members to change to a different union, and/or decertification. Members who have been harmed by union inaction on health, safety and human rights, should have the previous 5 years of dues paid to the union returned to them, and additional damages, determined by the duration and severity of the injury, paid by the union. Union representatives that have been negligent in their duties to protect workers, or that have acted in a discriminatory manner, should be barred from holding office and be made to repay to the union any stipends and/or benefits they have received from the union for union duties for the previous 5 years. Where a union representative has failed in their duties the next level of union administration should receive mandatory training so they are better able to recognize when those under their supervision are having difficulty, or are not, carrying out their duties. If there is no higher level of the union administration, the persons in charge should be fired, and replaced with more diligent persons.

If a union member wishes to make a complaint about their union they should be provided with the funds necessary to retain their own lawyer by the union. It does not serve justice that a union may use resources that a union member's dues have paid for to fight a complaint made by that member against the union, while the union member does not have access to equal resources to fight for their rights.

Currently there is almost no incentive for unions and union representatives to do better by union members. Personal responsibility and penalties might smarten them up a little.

Sincerely,

Zelda Sun

²⁰ Playing the Bullshit Game: How Empty and Misleading Communication Takes Over Organizations; Nice Racism: How Progressive White People Perpetuate Racial Harm

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From:
To: [LRC Review LBR:EX](#)
Subject: Review of Submission the the Minister
Date: August 19, 2025 8:25:44 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Good morning,

I have just reviewed the report and recommendations to the Minister. I did some key word searches including:

- essential services
- ferry
- inland ferry
- transportation

I do not see how the report and recommendations address the issues brought forward in relation to inland ferries that are part of the British Columbia transportation system. The recent Kootenay Lake ferry strike had multiple detrimental impacts on the residents of the East Shore of Kootenay Lake. I do not see this issue at all addressed in this report and recommendations. Please advise how you considered the feedback regarding this, how this was considered in the development of your report and recommendations, and if not through this process where are the issues raised in relation to this ferry strike being addressed.

Thank you,

Bart Knudsgaard

From:
To: [LRC Review LBR:EX](#)
Subject: Kootenay lake ferry strike
Date: August 19, 2025 8:43:25 AM

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I was a Captain on the Kootenay lake ferry, the strike was uncalled for and damaged the community and relationship with the locals and ferry personnel ,this should never be allowed to happen ,the ones instigating the strike and taunting the locals are well paid small minded individuals. I personally chose to retire rather than be part of a group that used threats and racist views to justify their cause, KLF should be an essential service, no questions asked. When you let a union force a school-bus load of children to traverse the highest pass in BC during questionable conditions, not once but twice, you are letting the overpaid employee`s risk a community's children's lives for dollars. I witnessed cancer patients having to drive 3 hrs each way over said pass, when in reality a 50 min drive would suffice, small businesses suffered and many people were forced to find accommodations they really could not afford just to survive. Please do what`s right and never let this happen again, thank you Brad Crowdis ,former Captain of the Osprey 2000

From:
To: [LRC Review LBR:EX](#)
Subject: Kootenay Lake Ferry
Date: August 19, 2025 8:10:58 PM

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Yes, the entire ferry system and the strike have had a significant impact on my family's life. I have lived here for 64 years and have witnessed the ferry service deteriorate. Moving the ferry to Queens Bay would have been the smart thing to do t the ferry schedule easier on everyone and cheaper to run.

Impacts are:

We run many log trucks, and our drivers and we have had a huge financial loss.

I work at the school, and the hardships that the teachers had over the winter were unbearable.

Have to hire a boat, missed work, late for work. Adding up to six extra hours to their day.

My grandkids missed many sports opportunities and doctor and dentist appointments.

My family missed doctor appointments

Alana Strom

From:
To: [LRC Review LBR:EX](#)
Subject: Feedback post Harrop / Glade Ferry Strike and the review of the Labour Relations Code
Date: September 3, 2025 12:34:11 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants "automatic standing" to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Current law is deficient and prejudices rural British Columbians. It erroneously assumes that the private companies contracted to operate inland ferries are in the best position to present to the LRB the impact of service reductions or disruptions. The LRB recognized the deficiencies of this approach in the recent job action involving the Harrop and Glade ferries, where LRB Chair Jennifer Glougie noted in her January 5, 2025 opinion (*Kootenay Lake Ferry Division (Western Pacific Marine Ltd.)*, 2025 BCLRB 4):

"While the Employer focussed its submission on the impact the reduction will have on residents' ability to earn an income...I am concerned there are a myriad of ways such a reduction - in the absence of an alternative route - may present an immediate threat to the welfare of the Affected Communities. **I am also concerned that the issue of welfare does not appear to have been fully canvassed by the parties before the original panel.**" (Emphasis added)

Shortly thereafter, the communities of Harrop and Procter hired a respected law firm to represent them in that dispute, and filed a comprehensive motion for standing, a motion which was never adjudicated in light of the parties' agreement to interest arbitration. These small communities incurred tens of thousands of dollars in legal fees, just to try to get their voices and impact directly heard by the LRB.

This was neither fair nor equitable. The private companies operating inland ferries are expert in the operation and maintenance of those vessels, **not** in the unique needs of the communities on either side of those ferries. Allowing the affected communities to directly present that impact to the LRB would streamline proceedings, give the LRB accurate factual information on which to make essential services designations, and would address a glaring inequity in the current state of the law.

Thank you for your consideration.

Bruce Morrison

Property owner in Harrop where in January 2025 I would have been denied access during the labour dispute.

Fellow property owners and I were being used as pawns, and this should never have be allowed to happen.

From:
To: [LRC Review LBR:EX](#)
Subject: Harrop Ferry Concerns
Date: September 5, 2025 11:50:46 AM

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When a ferry is the only access to a Community the operation of the Ferry must be continuous and not affected by Labour negotiations. Canadians should not be held hostage by Unions. The Area MLAs should be standing with the people that elected them not with the Unions.

The Harrop Proctor ferry should be replaced with a bridge. The population is growing and there are businesses located on this side that also require continuous service.

The Bridge should be built where the Ferry is located now. There is room for temporary access for Ferry traffic at the site.

No, things are not going to be cheaper in the future.. Build now.

Rod Wilson

From:
To: [LRC Review LBR:EX](#)
Subject: Kootenay Lake Ferry Strike.
Date: September 9, 2025 9:37:17 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hello,

I would like to submit my feedback regarding the handling of the Kootenay Lake Ferry strike.

As a union member I was horrified to see how long this strike went on. The government should have stepped in to hold the employer accountable for under paying and understaffing this essential service. These union members were targeted by the public with completely misdirected anger when the anger should have been placed on the shady employer practises. I can't speak for all union members but I have little faith our "leaders" are supporting the hard working people in our province. They are on the side of greedy employers. It's common knowledge that our essential service ferry workers were paid lower and under staffed compared to other ferry crossings.

Our cost of living here is through the roof, housing is at a premium for garbage slum lord rentals or every basic home is now "executive" housing and this is how hard working locals are treated? People die in our streets, we step over needles and human excrement daily downtown but we invested millions into a Pier that was not broken with an empty box that displays nothing. Our leaders are completely out of touch as to what it's like to live here.

Not only did this strike harm the workers and public it sky rocketed prices for those involved. It harmed how union members (workers) are seen in the public eye and the perception how the government mishandled the situation completely.

Employers across the province are taking massive advantage of staff and the government keeps turning a blind eye to it.

We need change and the elected officials deserve to make less money to understand what it's like to be living in this difficult time.

Support our workers. We make things happen.

D, a Nelson local just trying to get by.

From:
To: [LRC Review LBR:EX](#)
Subject: feedback Labour Relations Code
Date: September 10, 2025 7:14:59 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Good day.

My name is Patrick Little. I am Canadian, retired and living in Procter, BC.

First allow me to state that reading this code doesn't include everyone! I'm an educated person, but I'd have to take a course at a community college to understand it. If this government is for the people, it should reflect that by making it readable and understandable. I was in business and knew very well that to succeed, you have to give people the tools and show them how to use them. This code is NOT readable for the average lay person. It is not a usable tool. Not a good start!

Second, I note the reason is to "properly reflect the needs and interests of workers, employers, and modern workplaces." What about the victims? We are part of a community that a union held as hostage with NO ALTERNATIVES. It was a premeditated union tactic that was designed to infuriate, cripple, and anger a community. So ... why weren't the victims rights acknowledged?

Third, We had an MLA whose main job was rural affairs and this woman was noticeably absent throughout the entire time of RURAL community pain and unrest. Further she used the jargon of remaining unbiased as a shield when people desperately wanted her presence, input, and at least ... compassion. She failed miserably. Someone needs to remind this MLA that governing is for the serious!

Fourth, I voted Liberal and Conservative my entire life here in Canada. I took a chance on Mr. Horgan because I liked his beliefs and his approach. However, after only ONE year under NDP, I would never, EVER, vote them in again! It was a clear case of the "monkeys running the zoo." A government had to be totally inept, arrogant, and out-of-touch not to have seen how this union victimized so many innocent people who had no other options.

Fifth, and last. A tiny little community (Procter) took matters into their own hands and developed a professional, lucid, and legal argument for making our ferries into FLOATING HIGHWAYS. (An argument that would not allow a rogue union to hold innocent people hostage again.) And to date our absent MLA has thwarted all these legal efforts with stalling techniques which Mr. Horgan I doubt would not have stood for either.

Truthfully, if there is anything good that came out of this past winter experience, it was this ...

I have never lived in a third world country that is autocratic, but from this experience, I have come to appreciate more how innocent people suffer under autocracy (in this case ... a government strictly operating for labour purposes ONLY ... and clearly not for everyone!)

In conclusion, I thank you at least for the opportunity for feedback. Whether it will be heard and acted upon is something I will have to wait and see, but I won't hold my breath.

Sincerely,

Patrick Little

Procter, British Columbia

From:
To: [LRC Review LBR:EX](#)
Subject: submission
Date: September 10, 2025 1:01:08 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Re ferry stoppage on Kootenay Lake due to labour dispute 2025

To Whom it May Concern, The lengthy and on again, off again "service" to residents in the Creston Valley was very interruptive and I am submitting on behalf of a friend who does not have computer access. She writes, "I have been recently widowed and was negatively impacted by the strike. There was poor communication with residents and Drive BC regarding when ferry was running. Daily interruptions in those information bulletins caused adding insult to injury. I had to miss appointments for my health and for those who had medical proof of need and were allowed on the ferry which meant driving past others left behind,, it caused rifts between locals as everyone knows everyone else. This was during forest fire season and the route to evacuate was non existant for those in the area. Businesses were majorly affected as tourism was lessened. While I appreciate an opportunity to share my concerns, if you had been more involved than you were, you would already have a lengthy impact report to present. Until Vince Ready appeared on the scene to negotiate, it appeared to many of us that the 'photo op mla', Brittny Anderson, was doing little or nothing. She had an opportunity instead of making eyes at the Premier, to enact her influence as

Rural Affairs minister but as usual, she was disappointing on this issue. The NDP promised to "do better" when it squeezed into another term but that was a lie.

The ferry system is the sole means of crossing Kootenay Lake to Nelson and beyond unless one can backtrack and go over the Kootenay Pass which is many miles in travel distance. Shortages of employees for the ferry system may be due in part to training requiring lengthy periods of time and at the prospective employees' expense! Who pays for their own training when seeking a job? Especially when the job is not guaranteed and may only result in part time or seasonal employment?

This is a provincial road system that our taxes pay for and occasional work stoppages are acceptable but this interruption showed Kootenay residents and tourists that WE DON'T MATTER!! It should never have been allowed to drag on this long and when you have a Cabinet member responsible for rural affairs living RIGHT IN YOUR OWN COMMUNITY, it was doubly unforgiveable.

Communities on both sides of the lake use the ferry service to get to work. Some lost their jobs~!!! Put yourself in the positions of some of these families who then had to move out of the area because transportation was no longer available. Not to mention dangerous driving conditions; having to drive on a windy road now congested with angry ferry passengers and up over the Kootenay summit in all kinds of weather was hazardous due to congestion and lineups.

This system had to be protected from such a re-occurrence or lives will be lost and lawsuits will occur. People will not forget

this and are still extremely angry.

Pat Martin



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From:
To: [LRC Review LBR:EX](#)
Subject: Amending the Labour Code
Date: September 11, 2025 9:26:35 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

As a Family Physician providing essential service to the very remote Eastshore Community Health Centre in Crawford Bay, my ability to do so is dependent on both the Harrop Ferry and The Kootenay Lake Ferry.

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Andre Piver MD

T:
C:

From:
To: [LRC Review LBR:EX](#)
Subject: Inland ferries in rural areas
Date: September 11, 2025 9:48:17 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Esta Porter, PhD

Esta Porter, PhD, RCC-ACS, LMHC
EMDR Certified Therapist and Approved Consultant
EMDRIA Approved Trainer for EMDR Consulting

I would like to acknowledge, with gratitude and appreciation, that the land on which I walk and live is the traditional territories of the Sinixt, the Syilx, and the Ktunaxa peoples, and is home to many other indigenous persons, including the Inuit and Metis.

From:
To: [LRC Review LBR:EX](#)
Subject: amendment to the Labour code
Date: September 11, 2025 10:17:33 PM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Tatiana Krol

From:
To: [LRC Review LBR:EX](#)
Subject: Labour Relations Board Labour Code Review and Engagement
Date: September 12, 2025 5:08:57 AM

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Dear Minister Whiteside,

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, living in a ferry only accessible community, I ask that you amend the Labour Code to allow "automatic standing" to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

The revision is needed in operations like our inland ferry as the law assumes that private companies operating such ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

He lives away from the Kootenays but the thought that I might not be able to get to him quickly was so incredibly stressful. Furthermore, in allowing an individual, business or union to decide whether my reason for using the ferry was worthy or not seemed inhumane. We use our ferry everyday, it is part of our road. These types of communities need a voice at any hearing which could adversely affect our ability to get across the river.

Thank you for your consideration.
E. Balestra

From:
To: [LRC Review LBR:EX](#)
Subject: Labour Relations Code Review input
Date: September 12, 2025 7:49:13 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

This was clearly proven earlier this year when the communities of Glade and Harrop/Procter had to engage their own legal counsel, at significant cost to the communities, to get representation in front of the LRB to explain the significant safety issues that were inherent in the strike plan that the LRB approved. Inland ferries are akin to highways for communities that have no other access. At no point would it be acceptable to close off the only access route to homes that are accessed via the main highway.

Thank you for your consideration.

Lee Vincent

From:
To: [LRC Review LBR:EX](#)
Subject: Our Ferry Matters
Date: September 12, 2025 8:28:07 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your time
Larry Petryshyn

From:
To: [LRC Review LBR:EX](#)
Subject: Labour Relations Code Review
Date: September 12, 2025 9:00:30 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside,

Thank you for asking for input from the public regarding needed changes to the Labour Code.

As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB). Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries. Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Dr. Fred Pockrass

From:
To: [LRC Review LBR:EX](#)
Subject: Public Input on Changes to the Labour Code
Date: September 12, 2025 9:02:42 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants "automatic standing" to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

This kind of change is critically necessary - as the current law sets up a situation where a private company and/or a union embroiled in a dispute over their own financial interests are the only parties permitted to present purported 'factual information' to the LRB. As our community's recent direct experience demonstrated very clearly - this sets up a situation where incorrect and negatively misleading information may be presented to the LRB, who accept it on its face as factual.

The LRB being unaware of a community's geography, linkages to economic and service centres and population breakdown poses a very high risk of damaging assumptions fueling poor decisions. In our own case - the LRB made a devastating decision without actually understanding the nature of the community, or even the realities of the ferry service in dispute. The community was described by the parties as a group of rather entitled rural hobby farmers, and the impacts of cutting off hundreds of people from getting to work, school, or medical appointments or accessing groceries, prescriptions or livestock supplies were not outlined. Even fundamentals such as the manner in which the cable ferry service operates as opposed to a coastal island ferry service were not explained.

Currently, there is no mechanism for a community that will be affected by an essential services decision to provide accurate information and/or correct misinformation prior to the LRB making decisions that will significantly impact the health, safety and welfare of the community. The potential for real harm exposed by our recent situation is extremely concerning.

I am aware that the majority of disputes that come before the LRB are focused on issues solely within the labour relationship between the employer and their employees. However, in the case of essential services hearings, the focus must be wider. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate contextual and factual information about the impact on the health, safety and welfare of the affected communities. I urge you to incorporate this change into contemplated revisions to the Labour Code.

Sincerely,

Katie H. Hill, Harrop BC

From:
To: [LRC Review LBR:EX](#)
Subject: Kootenay Lake Ferry - Labour Code Amendment
Date: September 12, 2025 9:35:22 AM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a resident of Kootenay Bay, BC, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

--

Nicole Plouffe
Communications Manager



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Living and working on the traditional unceded territories of the Ktunaxa and Sinixt Peoples.

From:
To: [LRC Review LBR:EX](#)
Subject: Re: Automatic standing before the LRB for communities served by inland ferries
Date: September 12, 2025 9:37:09 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

My community of Harrop-Procter is completely reliant on our inland ferry for access to food, medical care, education and employment. Designation as an essential service and as an integral part of the BC road system connecting our community to the rest of BC without blockage by strike action is literally a matter of life and death for us.

We hope that you consider our very real concerns in your decision on this matter.

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Sincerely,

Jane Arness

From:
To: [LRC Review LBR:EX](#)
Subject: Changes to the Labour Code
Date: September 12, 2025 9:58:29 AM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Sincerely,
Victor Corrie

From:
To: [LRC Review LBR:EX](#)
Subject: Response to Minister of Labour Whiteside to request for public comment on changes to the Labour Code.
Date: September 12, 2025 10:12:17 AM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

I live on the East Shore of Kootenay Lake, at Kootenay Bay. I was definitely one of the many people living on the East Shore impacted by the 5 month strike last winter and the uncertainty that created ongoing stress and anxiety.

Thank you for your consideration. Please support our Inland Ferry Communities.

Swami Jyotihananda/Elisabeth Weir
Yasodhara Ashram

Living & working on the traditional unceded territories of the Ktunaxa and Sinixt Peoples

From:
To: [LRC Review LBR:EX](#)
Subject: Inland ferries
Date: September 12, 2025 11:34:44 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

The suggested text to write was given. I was not going to use it but it pretty much says what I was going to write. So I like others will use it so you do not have to reread it so many times as I believe that you are an intelligent person and truly wish to represent the needs of the people in rural BC
I send my gratitude for all complicated work you do for our province.

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.
Truus Zelionka

Sent from my iPhone

From:
To: [LRC Review LBR:EX](#)
Subject: public comment on changes to Labour Code
Date: September 12, 2025 12:02:32 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. I am a British Columbian living in a rural ferry-access only community who was profoundly impacted by the proposed ferry strikes last year. I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

We need this change because the current state of the law assumes that the private companies who operate inland ferries are in the best position to present information to the LRB. This assumption is wrong because the companies focus is on the safe operation and maintenance of the vessels, not the needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.
Andrea Kortello

From:
To: [LRC Review LBR:EX](#)
Cc: [Anderson.MLA](#), [Brittney LASS:EX](#); [Ferry Harrop Procter](#)
Subject: Input from the public regarding needed changes to the Labour Code.
Date: September 12, 2025 12:20:10 PM

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Dear Minister Whiteside:

As a rural British Columbian, a resident of the Harrop Procter communities, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

The LRB must make fully informed decisions and the December 2024 decision regarding the Harrop Ferry clearly was not. The associated hearing was basically 3 lawyers meeting virtually and non had even been to the Harrop Ferry. No user data was presented and some tried to compare the impact to other locations like Adam’s Lake, when the Harrop Ferry is the busiest (most vehicles) of all inland ferries.

The current law wrongly assumes that private companies operating inland ferries are in the best position to present factual information to the LRB. The above example clearly shows that is incorrect. How can individuals who have never been to communities understand the unique community needs served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations they would have accurate factual information about the impact on the health, safety and welfare of the affected communities. Further, I recommend all parties to a hearing be required to actually visit the communities prior to finalization of a decision.

Thank you for your consideration.

Charles Zinkan

From:
To: [LRC Review LBR:EX](#)
Subject: Responses to the Labour Relations Board Labour Code Review and Engagement.
Date: September 12, 2025 12:21:29 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Ashley Elliott

From:
To: [LRC Review LBR:EX](#)
Subject: Harrop Ferry
Date: September 12, 2025 3:00:48 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

We are landlocked with hazardous material passing through by train, come out and I'll give you a tour.

We move over 2000 critters across the ferry twice per year. Livestock can become deadstock quickly if parked on the tarmac.

Common sense please,

Respectfully,
Fred Mansveld

Sent from Gmail Mobile

From:
To: [LRC Review LBR:EX](#)
Subject: Supporter of Inland Ferries
Date: September 12, 2025 3:16:54 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Renee Wiseman
Balfour, BC

From:
To: [LRC Review LBR:EX](#)
Subject: Community Feedback Solicited
Date: September 12, 2025 3:38:09 PM

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Honorable Reviewers

I am a resident of the Harrop Procter Road corridor, that experienced the Harrop Ferry and Kootenay Lake Ferry disruptions last year. I truly believe that Western Pacific Marine was in large measure responsible. They failed to negotiate fairly and they continue to perform inadequately with cancellations on Kootenay Lake. They are not fulfilling their contract with the government. Mismanagement also persists with the construction of the replacement for the Balfour ferry. Is anybody listening and looking?

Further, Constituents whose well being is impacted seriously by labour disputes, should 'automatically' be given a voice within any relevant Labour Board activities addressing same.

We were initially denied that right last year. We had to formally persist to have a voice. Such restrictions to representation do not promote a successful resolution. All parties must be represented fairly.

I wrote to you numerous times to voice my concerns throughout the WPM/Ferry Workers dispute last year. There was a lot of silence from the NDP administration.

Respectfully and thank you for your attention,

Tim Held

From:
To: [LRC Review LBR:EX](#)
Subject: Harrop Procter and other inland ferries.
Date: September 15, 2025 12:05:08 PM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Rob Vuik

From:
To: [LRC Review LBR:EX](#)
Date: September 12, 2025 4:02:08 PM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants "automatic standing" to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies and unions operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

--

Mike Stevely

From:
To: [LRC Review LBR:EX](#)
Subject: Harrop ferry community input
Date: September 12, 2025 4:05:27 PM

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I have lived in Harrop for 37 years and naturally I rely on the ferry for everything on the "other side"; from work to volunteering, health appointments, shopping, delivering artwork, gathering children from school and bus, and on. To think that my opinion has no relevance is insulting and outrageous! The lack of clear consideration for those of us that live this almost island life and have no other means of "getting across" and possibly out of dangers way is unconscionable and our thoughts and input should be top consideration. Any legislation should keep that in mind above all else. Thank you for putting yourselves on our position and honoring our need to be heard. Barbara kingsland

From:
To: [LRC Review LBR:EX](#)
Subject: Inland Ferries
Date: September 12, 2025 4:16:14 PM

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The idea that small, rural communities should have to fund raise in order to be part of the management process is stupid. Do we want us and them? So much baaaad divisiveness between people who had been respectful neighbors for years. At least give the people the means to push back, explain their position, and be heard. It would be best if the Province took the service back. Working on the Ferry was a wonderful job. Now they cannot even attract enough staff to run all sailings. Time to fix what is broken...or it will just get worse! J Bufton

From:
To: [LRC Review LBR:EX](#)
Subject: Inland Ferries and Affected Communities
Date: September 12, 2025 4:17:44 PM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration. "

Paula Snow, Kootenay Bay, BC

From:
To: [LRC Review LBR:EX](#)
Subject: Inland Ferries
Date: September 12, 2025 7:34:44 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside,

As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is only on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are put at a disadvantage by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Regards

Christopher Chart DVM

From:
To: [LRC Review LBR:EX](#)
Subject: Ferry strike
Date: September 13, 2025 5:50:37 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Unbelievable what was done to this community,
unbelievable how you use Harrop Procter hostage for negotiations
I'm disgusted with how we are being treated and demand we have our road and the Harrop ferry deemed essential service.
this government has let us down. You are suppose to work for us not the unions. It's a shame how you disregard our wishes as tax paying citizens.
DEEM OUR COMMUNITY AND FERRY AS ESSENTIAL SERVICE
J K

From: Madelyn Mackay
Sent: September 13, 2025 8:45 AM
To: LRC Review LBR:EX <LRCReview@gov.bc.ca>
Subject: Labour Relations Review

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, living in Harrop which only has access via a ferry, our floating highway, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you!
Sincerely,
Madelyn MacKay

From:
To: [LRC Review LBR:EX](#)
Subject: Ferry
Date: September 13, 2025 9:13:19 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Our ferry in Procter Harrop is thé onLy way of going out of our community. It is essentiel. We need a ferry or a bridge. But something has to be done for our place of mine And our security. Thank you
Johanne Frappier. Résident of Harrop

From:

To: [LRC Review LBR:EX](#)

Subject: Dear Minister, in addition to the previous email I sent I would like to add that I am

Date: September 13, 2025 9:40:45 AM

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there's no time to wait for ambulances or discussions with ferry workers, I need immediate action. My health and the well being of many others in our communities is dependent on this 'floating highway'.

Kind regards, Kenneth Nicholls

From:
To: [LRC Review LBR:EX](#)
Subject: Inland Ferry Support
Date: September 13, 2025 10:01:02 AM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, living on the East Shore of Kootenay Lake, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

You may or may not be aware that the Kootenay Lake ferry is currently not running on the full summer schedule because of staff shortages. This is in the peak season of usage - by the many tourists that are travelling to and through our community, which is in serious need of financial income, especially after effect of the recent long ferry strike. The ferry cancellations not only affect tourism, but also the well-being and medical needs of our community who have to travel to Nelson and Trail for health care.

I sincerely hope you will include our voice in your decisions about essential service designations .
Thank you for your consideration.

Sincerely
Arnon Thompson
Kootenay Bay, BC

From:
To: [LRC Review LBR:EX](#)
Cc:
Subject: Labour Relations Code Review Panel input
Date: September 13, 2025 2:16:01 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, We ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Sandra and Brooke Leatherman

--

Sandi Leatherman

You are not alone. You have generations of ancestors at your back. You have the blessing of interdependence and community. You have the great trees of the forest as steadfast allies. You have the turning of the seasons and the renewal of life as your music. You have the vast sky of emptiness to hold all things graciously. Jack Kornfield 2018

You are under no obligation to be the same person you were 5 minutes ago
Alan Watts

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

From:
To: [LRC Review LBR:EX](#)
Subject: Harrop ferry.
Date: September 13, 2025 7:06:50 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

The job action our community was subjected to this year was very traumatic for the many locals and must never happen again. It created a safety as well as financial and emotional burden for everyone who had no way of leaving the area except by ferry.

Thank you
Jessie Renzie.

From:
To: [LRC Review LBR:EX](#)
Cc:
Subject: LRC Review feedback 2025 09 14
Date: September 14, 2025 7:30:55 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Honourable Jennifer Whiteside
Minister of Labour, British Columbia.

Dear Minister Whiteside

Thank you for soliciting feedback on the LRC. The following comments contain perspectives I hope you might find useful.

Using the loose analogy of two quarrelsome neighbours living across a street from one another, in disagreement and carrying on their fights onto the street ... the LRC is all about "the rules of their fight" e.g. about who can do what and when, about how much of the street they can occupy to press their points.

One perspective would be, "Hey, wait a minute, what about the **other folks who use that street?** Don't they have a say in the quarrel, in how the street is used?" Having the views of just the two neighbours ignores the views of folks affected by their quarrels. After all, there are more folks who use street than just the two neighbours ... the road was designed for/built for/paid by everyone, not just the two quarrelsome neighbours. It isn't their street.

A higher perspective would be, "Allowing the quarrels of two parties to affect the lives of others is wrong and cannot be allowed". If the two neighbours are allowed to shut down the entire street in the quarrels, others who use the street are prevented from having normal lives e.g. they can't go to work, to doctor's appointments, to wherever they need to. Disputes that shut things down are like that, they prevent the general public from living their daily lives. Allowing an inland ferry dispute to shut down service is like that. Shutting a ferry service down should not be allowed simply because employer and union are in dispute. It isn't their ferry service.

Designating services as essential is the simple solution. Are ferries/bridges/roads/Meat Inspectors essential? Absolutely, just ask the folks who use those services, just make sure you ask them. After all, these are their services, not the services of the disputing parties.

Thank you for reading this. Best wishes in your work.

Rocque Goh

From:
To: [LRC Review LBR:EX](#)
Subject: Inland ferry service
Date: September 14, 2025 11:13:04 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input regarding needed changes to the Labour Code.

The Glade Ferry Society (GFS) was formed in early January, 2025 to represent our community of 300 residents in meeting the risks to our health, safety, and wellbeing that would result if 2024 BCLRB 180 were implemented. We are all volunteers, committed to addressing this very real existential threat to our community—working closely with and supporting the work of the Harrop-Procter Ferry Committee Society (HPFCS).

Current law is deficient and prejudices rural British Columbians. It erroneously assumes that the private companies contracted to operate inland ferries are in the best position to present the impacts of service reductions or disruptions to the BCLRB.

The BCLRB recognized the deficiencies of this approach in the recent job action involving the Harrop and Glade cable ferries, as BCLRB Chair Jennifer Glougie noted in her January 5, 2025 opinion (Kootenay Lake Ferry Division (Western Pacific MarineLtd.), 2025 BCLRB 4):

"While the Employer focussed its submission on the impact the reduction will have on residents' ability to earn an income (an income on which it says they depend to fund the necessities of life), I am concerned that there are a myriad of ways in which such a reduction - in the absence of an alternative route - may present an immediate threat to the welfare of the residents of the Affected Communities. I am also concerned that the issue of welfare does not appear to have been fully canvassed by the parties before the original panel." (emphasis added)

After the HPFCS hired a respected law firm to represent them in that dispute, the GFS mobilized to support them, mostly with various fundraising initiatives. Their law firm filed a comprehensive motion for standing, a motion which was never adjudicated in light of the parties' agreement to interest arbitration. HPFCS incurred tens of thousands of dollars in legal fees, just to try to get community voices and impact directly heard by the BCLRB.

This was neither fair nor equitable. The private companies operating inland ferries are expert in the operation and maintenance of those vessels, not in the unique needs of the communities on either side of those ferries. Allowing the affected communities to directly present that impact to the LRB would streamline proceedings, give the LRB accurate factual information on which to make essential services designations, and would address a glaring inequity in the current state of the law.

As a tax payer of Glade, BC my taxes go towards highway maintenance and service. The ferry is our ONLY highway out of our neighborhood. Please protect the rural people that depend on the continuous operation of our highway/ferry for ALL inland ferry serviced communities. It is about SAFETY, SECURITY, and LIVELIHOOD. How would you manage not being able to go past your driveway?

Kindly,
Amanda Ovington
September 14, 2025

Sent from my Galaxy

From:
To: [LRC Review LBR:EX](#)
Subject: KOOTENAY LAKE/HARROP/GLADE, BC Ferries" - Labour Action impact
Date: September 14, 2025 1:10:32 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside,

In December of 2024, our small community of Glade BC was notified that our on-demand cable ferry was going to experience service disruptions due to an ongoing labour dispute between Western Pacific Marine Ltd. (the Employer) and the BCGEU. We were also informed that, according to the Labour Relations Board, we, the people who stood to lose their access to outside services, including schools, hospitals, places of employment, grocery stores, pharmacies, gyms, even the local coffee shop and convenience store, had no say in the matter. It was a matter between the LRB, Employer, and the Union. That is unacceptable.

Three hundred people in the community of Glade, and close to a thousand people in the community of Harrop, rely on the cable ferries the way the residents of Vancouver rely on the Port Mann, Alex Fraser, Patullo, Grandville, Iron Workers, Lions Gate, Oak Street, Cambie, and Burrard bridges, among others to access their jobs, doctors, hospitals, etc., never mind their social interests and activities. The difference for the residents of Glade and Harrop is that we have one bridge, and one bridge only to get in and out of our community: our cable ferry.

In Vancouver, if the Iron Workers' bridge is impacted by a traffic accident or maintenance issue, people can access North Vancouver and beyond (and vice versa) via the Lions Gate Bridge, or the Sea Bus. We don't have an alternate option. We have exactly one, *safe* way to get to and from our homes and our community services: the ferry.

Last January, when we were poised to have our services reduced to Emergency and or a very limited schedule, the effect was immediate. Shift workers, seniors, and parents panicked. How were they to get to/from work, doctor's/physiotherapy/radiation appointments, or to/from a child's school/extra-curricular activities if their schedules/needs did not line up with the proposed, limited service? And what if, due to a line up of community members waiting to get out/into the community, they were unable to get on the scheduled sailing, then what? Did they camp in their cars for hours, maybe even overnight? Where would they go to the washroom if forced to wait for hours in their vehicle to get on one of the limited sailings? There are no public washroom facilities available at Glade Ferry on/off ramps on either side of the river. How would they turn around on the narrow, two lane Glade Ferry road that is hemmed in on both sides by banks; one that rises to a railway line, and the other that descends into the Kootenay river? There was absolute, mental, emotional, and verbal chaos within and amongst community members.

Some community members stated they'd be forced to use personal watercraft, including row boats and paddle boards, to cross the Kootenay River day or night, as their family or work lives required. One community member threatened suicide; they'd just got back on their

financial feet after nearly losing their home during the Covid lockdowns. Another community member, who is their parent's caregiver, was told they'd not be given priority access to come home on their lunch hour to ensure their mother was cleaned and fed. They, and their parent were devastated; and being told to hire a certified Care-Aide - who would be granted priority access - was not helpful to them. Not every senior has the financial might to afford hiring outside help, even partially-govt.-funded help.

Just the potential of having our ferry put on a limited, fixed schedule that did not align with every community member's reality caused our community significant, emotional harm. I hate to think of what might have happened to, or what some people may have done had the strike gone ahead. We may have lost community members to more than the decision to move away.

And yes, last December/January's labour dispute, and the threat of loss of access to our homes, caused some people to move out of the community, and others to state they'd never move here, simply because they cannot trust the reliability of the access. I've never heard anyone say that about moving to/from North Vancouver, Golden, or Merritt, because they know if any of the bridges they need to cross to gain access to their homes and or communities fails the government will move heaven and earth to fix/replace the bridge. The Atmospheric River of 2021 proves that. But when our communities stood to lose their bridges, you hid behind a gauzy veil of words about how disputes were best settled at the negotiating table. Only we weren't permitted to sit at that table, though we were the ones who were going to suffer the greatest losses.

If standing up for the citizens that pay the taxes that fund your, Western Marine Pacific Ltd.'s, and the BCGEU's wages is not in your wheelhouse, then collaborate with your peer, Minister Farnworth, to build fixed bridges to our communities, and be done with it. Otherwise, you, and ultimately, Mr. Eby have a responsibility to ensure our floating bridges are protected from labour disputes the same way access to the Port Mann and or the Iron Workers' bridges are legislatively protected against blockades of any type. Perhaps Minister Farnworth can help with that by updating Section 6 of the Transportation Act to include cable ferries, thus protecting their access against purposeful or organized hindrance or obstruction, so they remain in operation for the people who rely on them to go about their daily lives.

Whatever you ultimately decide to do, the residents of Kootenay Lake, Harrop, and Glade deserve legislative action- from the government they helped elect- to address, permanently, the serious matter of their guaranteed access to and from their homes and communities.

Thank you.

Sincerely,

Deborah Anderson, resident of the tiny, but beautiful community of Glade, BC.

From:
To: [LRC Review LBR:EX](#)
Subject: Labor Code Feedback - Interior Ferries
Date: September 14, 2025 3:13:42 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

As you may be aware our community in the Balfour-Harrop-Glade Ferry communities were severely impacted by the strike that started in Nov 2024 and only ended this spring with the help of Vince Ready.

Our community had to fund raise to hire lawyers to represent us - the people most impacted by this strike. The so called essential service schedule was a disaster as the workers did everything they could to call in sick and make sure the sailings were cancelled last minute or workers quit. We need standing in these inland ferry disputes. Community school students had to take a 2.5 hour bus ride over the dangerous pass in winter from Creston to Nelson (when it was open) to get from Kootenay Bay and Crawford Bay to get to school in Nelson, when even the limited essential service schedule's was cancelled. Most locals take the ferry in winter to avoid the pass and go East via Creston.

Business have still not recovered, people's jobs and livelihoods were impacted and houses could not be listed and sold without consistent ferry service. On one particularly awful day we sat in the line twice in one morning only to be told 5 minutes before the sailing - twice - it was cancelled as we tried to take our grandkids back to Calgary and could not cross from Balfour. The pass was closed due to avalanches. A great 1 week visit was marred by two 5 and 6 year olds crying because they could not get home. They missed 2 days of school because it was a Sunday and we could not get back until Tuesday. In what Universe is this OK? What if there was an evacuation required? The

ferry service still has cancellations due to “crewing” and that is impacting tourism in the middle of summer.

Automatic standing is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries. Given the enormous taxes we pay in BC I will not be voting NDP ever again if we are denied standing and I don't like the conservatives. The NDP lost a lot of support over this and are very lucky the strike happened AFTER the election. Our elected representatives failed us, big time.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Tracey Fellowes

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From:
To: [LRC Review LBR:EX](#)
Subject: Inland Ferries
Date: September 14, 2025 6:43:12 PM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. I grew up in Harrop and now call Nelson home, but my parents both still live in Harrop. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

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Thank you for your consideration.

Tobias Gray, Nelson

From:
To: [LRC Review LBR:EX](#)
Subject: Inland ferry use
Date: September 14, 2025 7:34:05 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration of this very vital topic.

Regards,
Melanie Buerge

From:
To: [LRC Review LBR:EX](#)
Subject: Changes to the Labour's Code
Date: September 15, 2025 7:50:01 AM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Sincerely,
Michele Dupas and Jan Kozlowski

From:
To: [LRC Review LBR:EX](#)
Subject: Harrop Ferry Review
Date: September 15, 2025 8:32:19 AM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

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Thank you for your consideration.

Dennis & Chasch Ray
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From:
To: [LRC Review LBR:EX](#)
Subject: Amendment to Labour Code
Date: September 15, 2025 9:35:55 AM

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Dear Minister Whiteside,

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. Private companies' focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Myriam Zbinden

From:
To: [LRC Review LBR:EX](#)
Subject: Harrop - Procter Ferry 24 Hour service is ESSENTIAL
Date: September 15, 2025 11:44:47 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Good Morning LRC Review Committee:

We live in Sunshine Bay which is half way between Harrop and Procter.

The Harrop - Procter Ferry is a VERY ESSENTIAL SERVICE for our communities Health and Well Being.

Just try to imagine if you were unable to go the hospital as quickly as possible due to a delay in the crossing of the Harrop - Procter Ferry. You or a loved Family member in a near death situation. This is a daily occurrence for people all over the Province.

People living in the Harrop, Sunshine Bay, Procter area NEED 24 hour quick and safe travel across the West Arm of Kootenay Lake.

This is achieved only though 24 hour service of this ferry!

Please understand this is a health and safety issue for everyone living in this area.

Charles and Elaine Beaulac.

Sunshine Bay

Mailing Address

From:
To: [LRC Review LBR:EX](#)
Subject: Comment on Changes to the Labour Code
Date: September 15, 2025 2:04:11 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

My business in Procter suffered financial losses as a direct result of this strike and I am wondering why there were no communication outlets that took my concerns seriously - change is definitely needed.

Thank you for your consideration.
Lisa Norris

From:
To: [LRC Review LBR:EX](#)
Subject: LRC Review feedback from a Glade Community member
Date: September 15, 2025 2:07:53 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Good afternoon,

Please allow me to introduce myself. My name is Jesse Hunter, a lifelong resident in Glade BC. I was born 1980 in Glade, when we still had the overhead reaction lines still above the cable ferry. I am a current business owner. We own and operate a mobile business serving customers in British Columbia and Alberta. I was a firefighter in the Tarrys Fire Department until 2019. I was an Auxiliary operator until i quit in 2019 after testifying against my Union for threatening job action.

I participated as a witness in both the 2019 and 2024 hearings provide examples of the impacts to residents, emergency responders and ferry operators and business owners.

My sworn affidavit in 2019 was extremely helpful to the board in determining the need to deem our ferry service as an essential service, not allowing service to be interrupted by Union job action. My testimony provided actual effects to responding emergency departments, the challenges and safety issues facing ferry operators, the financial and safety impacts on business owners, and safety concerns for residents such as children and elderly. To my surprise when job action was again threatened in 2024, even after a ruling to deem the ferry service as essential, i provided additional testimony to remind the deciding board of those concerns and impacts.

I questioned the board as to what happen to the previous testimonies and why the board did not have any reference to those statements from 2019. I questioned what would have changed that a precedent from another service(Adams Lake) would allow the same ruling for Proctor and Glade as they were not similar services. A response wasnt given as it was a hearing collecting information and not a fact sharing hearing. I bring this to light because if the ruling had indeed allowed the ferry service to be affected, I personally would be crossing the river in a boat, in the middle of the night, in December and January everyday until the service returned to normal. I work at night, its when my customers shut down their system we provide our services on. Finding another place to stay and pay money for room rental for the duration of the job action was out of the question. I would have had to risk personal safety to go to work.

Without repeating all the concerns that were shared in both hearings, please consider that if i was unable to participate in the hearings and give my sworn affidavit, concerns like the logistics for staging a major incident response on the Glade side of the river in an emergency, or considerations to a family if a community member passed away and a burial/funeral was to be held in Glade, or safety concerns to ferry operators, might not have been known to the board.

Thank you kindly,

Jesse Hunter

Glade BC

Sent from my iPhone

From:
To: [LRC Review LBR:EX](#)
Cc: mbardell@shaw.ca
Subject: Harrop/Procter Ferry Service
Date: September 15, 2025 4:19:24 PM

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Dear Minister Whiteside:

As retired residents of Harrop, the Harrop/Procter Ferry is a necessary means of transportation for us. We view it as our lifeline, without which we would surely perish. Any limitations of its service at all have a direct, profound impact on our ability to maintain our survivability. After lengthy, busy, professional careers contributing to the economic build-up of B.C., we invested in Harrop property and retired here nine years ago thinking only good things about the ferry. It's a calm, serene, rugged, beautiful area situated away from the heavy commerce we once knew so well. Little did we know when we settled here that the Labour Code of B.C. might be the greatest threat to all of us in our remote, little community.

So, now we are humbly asking your help toward amending the afore-mentioned Labour Code, such amendment granting "automatic standing" to affected inland ferry communities in job actions before the Labour Relations Board ("LRB"). As you might imagine, folks like us who rely extensively on the services of an inland ferry service feel the law governing such services is narrowly and unjustly focused on only vessel operations, without so much as fair and factual input to the LRB from the heavily-dependent user communities themselves. To our way of thinking, when the LRB is faced with a labour action related to an inland, isolated ferry service such as ours, it deserves to hear how that action might critically affect the health, safety and/or welfare of ferry riders themselves.

Thank you for reading our thoughts and giving them your consideration.

Sincerely,

Nancy Van Allen

Mike Bardell

From:
To: [LRC Review LBR:EX](#)
Subject: Changes to labour code
Date: September 16, 2025 9:01:36 AM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

A. Fahrenbruch

From:
To: [LRC Review LBR:EX](#)
Subject: Harrop ferry service
Date: September 16, 2025 11:20:19 AM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Sent from Dave. Dear review board.

I am writing to say that our ferry is our only link to services. For us, this is our highway. Plain and simple. No one for any reason is allowed to block access to a public road way. Disrupting public ferry service by public employees does just that. It's a citizen's right to travel freely without being harassed or interrogated by public employees as to reasons for travel. We have a right to privacy. My recommendation is to take the ferry travel destination out of the jurisdiction of the labour relations board and give over authority to the ministry of transportation where it belongs. Thank you. Dave Lamothe.

From:
To: [LRC Review LBR:EX](#)
Subject: Kootenay Ferry strike
Date: September 16, 2025 1:47:46 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hello,

I was told we could leave feedback regarding the Kootenay Ferry strike and how we were affected.

We moved to Riondel BC in October of 2024. During that move we encountered staff shortages that caused ferry cancelations. We thought this would be resolved before strike action but it wasn't.

Because we could not rely on the services, it truly limited us going to Nelson for services we thought with the move we would be able to enjoy.
and we wanted more resources for him, the strike and unreliability of the ferry caused us to not set up anything in Nelson for us, this also affected employment prospects for my wife and it made life in Riondel really hard for us the first year.

I work up North and travel 2 weeks on 2 weeks off, I had to detour through Creston a total of 12 times and had to sleep at the Ferry terminal once.

The strike was not handled properly at all. Communication was limited and conflicting, the way some of the union members acted towards the public was horrible, our MLA was silent basically the whole time, ignoring countless emails, offering no updates and didn't seem like she even cared until the end of the strike was near.

The times the ferry ran during the strike were also so limited. 5 runs all day? That was a decision made by people who's lives dont depend on the ferry. It's a part of the highway system and the people were the only ones that truly suffered.

With the population of the Eastshore being predominantly being elderly, I know residents could not get medications, or cancer appointments ect with a medication delivery service even being denied passage.

The fallout for us is that we will be moving from the area to a place that we don't have to depend on this service.

This strike really hurt a lot of people! Every resident was affected. School busses having to take the pass in the winter, we were detoured through the pass, like I said, 12 times and being stuck in Avalanche control for 3 hours with a son on the spectrum was not fun. The strike forced residents to drive 3 hours in winter conditions. The whole thing was absolutely ridiculous.

We didn't feel heard until Harman Bhangu the MLA from Langley Abbotsford came and was a voice for us.

When these strikes happen, the tax payer should not have to be put out like this. It's not ok to block a highway or limit its use because of these disputes.

5 sailings a day was an insult and there were times when these ferrys were full and we had to detour. There should be at least 3 more sailings added to the 5 that they were allowed.

This needs to change now and a plan put in place for the future so residents are not used as the pawns in a disputes with the government and their contractors.

I hope things change in the future for the residents that rely on this service.

Thank you,

James MacDonald

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From:
To: [LRC Review LBR:EX](#)
Subject: Inland Ferry Labour Code Amendment
Date: September 16, 2025 3:57:26 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Francesca Cogorno
Kootenay Bay Resident

From:
To: [LRC Review LBR:EX](#)
Subject: Labour Code review
Date: September 16, 2025 6:31:37 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian I ask that you seek an amendment to the Labour Code which grants "automatic standing" to effected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, it's proceedings would be streamlinged and they would have accurate factual information about the impact on the health, safety and welfare of the effected communities.

Thankyou for your consideration.

Carol Frederiksen.

From:
To: [LRC Review LBR:EX](#)
Subject: Labour Code Review - input from East Shore resident
Date: September 17, 2025 5:36:33 PM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, specifically from the East Shore of Kootenay Lake, I ask that you seek an **amendment to the Labour Code that would grant “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).**

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

This change is essential to ensure rural communities such as mine have a voice when it comes to services available. The experience of the 2024/25 strike with the Kootenay Lake ferry demonstrated that change is needed. BC rural citizens around the lake, as well as businesses and travellers, were severely impacted as the strike went on too long. I am grateful that the situation has now ended - and implore you to make changes that ensure it doesn't happen again.

Thank you for your consideration.

Terry J. Taylor

Living and working on the traditional unceded territories of the Ktunaxa and Sinixt People.

From:
To: [LRC Review LBR:EX](#)
Subject: Our ferry matters
Date: September 17, 2025 9:41:36 PM

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[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

We have just lived through 5 months of very disruptive ferry service. This should never, ever be allowed to happen again.

Thank you for your consideration

--

Lorraine Burke
Kootenay Bay, BC

Gratefully acknowledging that I am living and working on the unceded traditional territories of the Ktunaxa and Sinixt Peoples.

Dear Minister Whiteside:

My name is Jacqueline Little. I am a Canadian citizen, retired, and live in the rural community of Procter in the West Kootenays of British Columbia.

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Sincerely,

Jacqueline Little

From:
To: [LRC Review LBR:EX](#)
Subject: LRC Review involving BC Inland Ferries including Procter ferry
Date: September 18, 2025 2:06:25 PM

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Dear Minister Whiteside:

Thank you and the BC Government for giving me this opportunity to express my thoughts and feelings about the inland ferry here in Procter. I have lived in Procter for 14 years and will be 75 years old next month. The recent BCGEU strike with Western Pacific Marine was very scary for me. I live alone and am dependent upon the Procter ferry to get me in and out of Nelson for most groceries and supplies, plus medical appointments. I have no alternative except to drive.

To my relief the Procter ferry continued service through the period of the strike. I wrote a letter last year to the Labour Board with my concerns.

I resent being a helpless pawn in a battle between a labour union and a private industry. The Procter ferry is an essential service. What if there is a medical emergency, or a bad fire, or need for RCMP assistance? There is no safe fast way in or out for vehicles or foot passengers if the ferry is not running.

Please consider making an amendment to the Labour Code which grants "automatic standing" to affected inland ferry communities in job actions before the Labour Relations Board (LRB). Thank you.

Carmela Mary Clare

From:
To: [LRC Review LBR:EX](#)
Subject: Inland ferry communities affected by job actions
Date: September 19, 2025 6:21:53 AM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural person living in British Columbia, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Sincerely
Charlotte Mustard

Living in gratitude on the traditional unceded territory of Ktunaxa and Sinixt peoples.

From:
To: [LRC Review LBR:EX](#)
Date: September 19, 2025 9:28:28 AM

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Dear Minister Whiteside,

It has been brought to our community's attention by The Harrop Procter Ferry Committee Society that you have requested public comment on changes to the Labour Code. As an interested and affected party, I thank you for the opportunity to give you input regarding the need for changes to the Labour Code.

Are you aware of the fact that because of the recent ferry strike, we, as a community had to raise and spend tens of thousands of dollars to hire lawyers just to get our voices heard by the Labour Relations Board (LRB)? Personally, as a retired, senior citizen, I dipped into my savings to be able to contribute. Surely, you must realize that this is not right and that the law has to be changed.

As a resident of British Columbia, residing in the rural Procter-Harrop area, COMPLETELY dependent on our Harrop Procter Ferry to get across the lake to access ANY kind of service, I am asking that you seek an amendment to the Labour Code which grants "automatic standing" to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

This change is necessary in order to give ALL affected parties the right to be a part of the process before the Labour Relations Board. Presently only the private companies operating our inland ferries present factual information before the LRB. Their focus is on safe operation and maintenance of the vessels but they do not address the needs of the communities who actually use those same vessels.

Our inability to present factual information before the same LRB forced our community to seek a voice that would be heard via media coverage that reached across Canada and past International Borders, as well as residents to spend countless hours working to get our voices heard by government entities. Affected communities were put into the position of fighting for rights such as the right to access to medical, education, and social services, our public road system to get to work, school and buy food. Users had to live with physical and social isolation. People lost their jobs because of either very reduced service, as in the case of the Kootenay Main Lake Ferry users, or were threatened by employers of potential job termination because the employee might not have been able to get to work.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Elaine Van Staalduin
Permanent Resident in Harrop-Procter area.

From:
To: [LRC Review LBR:EX](#)
Subject: Inland ferry communities standing
Date: September 19, 2025 11:45:31 AM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Truly,
D. Bruce Lane
Procter, BC

From:
To: [LRC Review LBR:EX](#)
Subject: Inland Ferry Communities
Date: September 19, 2025 11:49:50 AM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Melinda Foot

From:
To: [LRC Review LBR:EX](#)
Subject: LRC Rvwview
Date: September 19, 2025 1:30:47 PM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on making money and the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries. Some of these communities are completely isolated without the use of the ferries. This a threat to the whole community’s health, safety and well-being.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Richard L. Morley
Procter

From:
To: [LRC Review LBR:EX](#)
Subject: Input to the Review of BC Labour Code
Date: September 19, 2025 2:39:28 PM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the BC Labour Code. As a rural British Columbian who was recently severely impacted by inland ferry disruptions, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB). The action our community to secure legal support cost over \$100k which was raised primarily by and from residents in the Harrop-Procter and Glade communities. However, the dispute process didn’t proceed to the point where a decision on impacted community standing was made.

A change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. I assure you they are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities and families served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate, factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Val and Don Miller
Harrop, BC

From:
To: [LRC Review LBR:EX](#)
Subject: We need an automatic voice in job actions effecting our ferry!
Date: September 19, 2025 4:14:50 PM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants "automatic standing" to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Sincerely,

Susan LeFebour & Joern Wingender

From:
To: [LRC Review LBR:EX](#)
Subject: Inland Ferries & Labour Code
Date: September 19, 2025 4:18:55 PM

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Dear Minister Whiteside:

I am writing to lend my full support to the inland ferry users and their push to maintain the access and schedule as it stands at a very minimum. Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian and inland ferry user for the last 35 years, I ask that you seek an amendment to the Labour Code which grants "automatic standing" to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Before the 2002 privatization of the inland ferry fleet none of our communities had to worry about a labour dispute shutting down the free access to our homes and our jobs. Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities. If anyone in the province of British Columbia was told the road to their house was going to be shut down during a labour dispute and they could not get home or to work people would say "no way". Thank you for your time and we look forward to this change to protect our freedom of movement. I did not move to a place, buy property, help start multiple businesses, raise a family and pay a fair share of taxes to be told the road to my house may get shut down because of a labour dispute. I moved to a place where the ferry runs 24 hours a day, 7 days a week and 365 days per year.

Thank you for your consideration.

Ken Foot
Procter, B.C.

From:
To: [LRC Review LBR:EX](#)
Subject: Inland Ferries
Date: September 20, 2025 8:10:51 AM

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Dear Minister Whiteside:

Thank you for asking for input from the public regarding needed changes to the Labour Code. As a rural British Columbian, I ask that you seek an amendment to the Labour Code which grants “automatic standing” to affected inland ferry communities in job actions before the Labour Relations Board (LRB).

Such a change is necessary because the current state of the law wrongly assumes that private companies operating inland ferries are in the best position to present this factual information to the LRB. They are not because their focus is on the safe operation and maintenance of the vessels, not the unique needs of the communities served by inland ferries.

Small, rural communities are prejudiced by the current state of the law. If the LRB is allowed to hear directly from affected communities when making essential service designations, its proceedings would be streamlined and they would have accurate factual information about the impact on the health, safety and welfare of the affected communities.

Thank you for your consideration.

Janet Gaston
Eastshore