

April 5, 2018

Labour Relations Code Review Committee  
Ministry of Labour

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Dear Committee Members;

My name is Andrea Craddock and on behalf of the Campbell River, Courtenay & District Labour Council, I am here to extend our recommendations to changes in the Labour Relations Code for your consideration.

It is our belief that in recent years, there has been a critical erosion of the Labour Relations Code. This has given significantly more rights to employers over the rights of workers, except where limited by applicable laws, regulations and collective agreements.

The Labour Relations Code should serve as a legal framework for the relationship between workers and their unions by bringing fairness and balance. Unfortunately, over the past sixteen years, British Columbia's labour laws and their application have served to increase and intensify an imbalance which largely serves employers.

Workers who attempt to exercise their constitutional right to form a union are regularly faced with captive audience communications and meetings, threats, bribes and any number of tactics aimed at stopping unionization efforts. A blatant example of this was the short-lived employer; Target, in Campbell River where employees were routinely showed anti-union propaganda videos and outwardly asked to resist any efforts to unionize their worksite.

It has become painfully clear that the Labour Relations Board has been starved of resources in recent years, making it difficult to help workers and unions in any meaningful way. This too, has given more power to employers without concern of enforcement for actions and has deterred workers from taking their concerns to the LRB.

Many of our union affiliates have also experienced contract flipping. Long term care facilities in Campbell River and Courtenay have undergone this tactic by employers to maximize profit while keeping wages low and preventing workers from fully exercising their constitutional rights to union representation and collective bargaining.

Our economy is changing, largely to the detriment of workers. The expedited addition of automation, significantly more precarious or part-time/casual jobs, contracting out, lower wages, and an attack on employment standards in recent years means unions are needed more than ever in the fight for fairness. Unions strive to create decent wages and working conditions not just for their members but to help raise the bar for all workers. We need a Labour Relations Code that upholds the rights of workers to obtain and maintain union representation and engage in collective bargaining.

It is an honour to submit our recommendations to you as part of your consultative process under Section 3 of the Labour Code. Our submission is respectfully made on behalf of our affiliated unions to our Labour Council.

Sincerely,

Andrea Craddock  
President  
CRDC Labour Council

**Campbell River, Courtenay & District Labour Council**  
**Labour Relations Code Review**  
**Submission**

The Campbell River, Courtenay & District Labour Council calls for a number of changes to the Labour Relations Code in order to strive for fairness and balance. They include the following:

- ✓ Enforceable consequences and remedies for unfair labour practices
- ✓ Improvements to the regulation of a worker's right to choose to join a union (including the repeal of employer speech provisions and automatic certification)
- ✓ Quicker timelines when a vote must be undertaken by the Labour Relations Board
- ✓ Stronger successorship language to deter contract flipping
- ✓ A continuation of the ban on replacement workers during labour disputes
- ✓ Allowing fair bargaining for education professionals and paraprofessionals by repealing "the provision of education as an essential service."
- ✓ Fairness during partial decertification

It is imperative that the Labour Relations Board be adequately funded in order for these changes to be successful. The Board needs to be consistent and transparent in enforcing these changes as well as already existing worker rights.

**Recommendations**

**1. Ongoing Review**

The Campbell River, Courtenay & District Labour Council is pleased to be participating in this Labour Relations Code review. The last review was conducted in 2003 when the governing BC Liberals tipped the balance of labour relations to largely favour employers. This allowed for unfair practices to rule while our economy significantly changed over the next 15 years.

Therefore, an ongoing, regular review of the Labour Code needs to occur to ensure relation improvements in a rapidly changing economy.

## 2. Adequate Funding

While good labour laws are important, enforcement is critical if those laws are going to be meaningful. Years of underfunding has created a serious access to justice. The use of mail-in ballots, delays in certification votes gives employers weeks or more to engage in anti-union activities, including unlawful interference to persuade the outcome. Adequate funding is required to ensure workers have timely access to justice and process for certification without the threat of unlawful interference.

## 3. The Chair of the Board should be Term-Limited

Prior to 2002, it would appear that no chair lasted longer than one term. For the past 15 years, the position has been held by an appointee. This is not healthy for the Board or Labour Relations in BC.

We recommend limiting the term of the Chair to no more than 5 years.

## 4. Timely Decisions (ss. 91, 1278, 159.1)

There are often significant delays in arbitrator's decisions and this can create access to justice concerns. It can increase the impact on workers and unnecessarily extend workplace tensions. We would like to see timelines set in the Labour Relations Code to cover decisions from vice-chairs to arbitrators.

## 5. Unfair Labour Practices and Remedial Certification (s.14)

When an employer unduly interferes in the Charter rights of workers to form a union, a vote will not fairly reflect the wishes of the workers. The fairest way to make workers whole under unfair labour practices is through remedial certification. This would serve to undo the unfair labour practice(s) and also werve as a deterrent.

## 6. Acquisition of Bargaining Rights – Employer Speech (s. 8)

The BC Liberal addition of Section 8 to the Labour Relations Code must be repealed. This gives employers ample time to talk workers out of forming a union. The same access to workers is not given to unions. Section 8 is an infringement of worker's Charter right to choose and should be struck from the Code.

## 7. Acquisition of Bargaining Rights – Membership Cards (s. 24)

The BC Liberals changed the rules for certification by requiring a certification vote. Unfair labour practices ensued and certifications dropped by about 50%. Workers became subject to an employer campaigning period leading up to the vote including tactics outlined in 4 and 5 above to change the vote outcome.

We recommend membership cards alone for union certification be restored.

#### 8. Acquisition of Bargaining rights – Threshold for Certification and Faster Vote (s. 24)

We recommend 50% +1 as the threshold for automatic certification based on membership cards alone. In situations where this threshold is not met, we recommend that a vote be held within 2 working days, rather than the current 10 day requirement. We further recommend that the vote be held in person rather than by mail-in ballot unless mutually agreed to by all parties. These changes will mean a more timely decision on certification applications and avoid the employer campaigning period as outlined in 5 above.

#### 9. Successorship Rights (s. 35, Bill 29, and Bill 94)

The successorship provisions of the BC Labour Relations Code state that if an employer sells, leases, or transfers, all or part of their business, then the new owner is bound by any existing collective agreement at the date of sale.

The existing successorship protections were undermined by the BC Liberals with Bills 29 and 94, which limited the application of successorship in the health sector. Current successorship legislation does not apply to contracting out or contract flipping and does not address changes in private service providers.

Consequently, certifications and collective agreements cease to exist through contracting out. This has caused precarity and instability for workers, as well as decreased wages and working conditions.

We recommend the application of Section 35 be widened to prevent subverting collective agreements through contract flipping. We also recommend the repeal of Section 6 of Bill 29, and Sections 4 and 5 of Bill 94.

#### 10. Replacement Workers (Scabs) (s. 67)

The Campbell River Courtenay & District Labour Council supports BC's continuation of the ban on the use of replacement workers. In places where no such ban exists, a union's power is greatly diminished in trying to exert economic pressure. Conversely, no such tactic exists for unions in the case of a lockout. We recommend no change to this section of the Labour Relations Code.

#### 11. Essential Services (s. 72)

On rare occasions, there may be a need for essential services designations as some services (typically in the medical field) are essential for the preservation of life. However, in recent years, essential services have been mis-used to weaken the rights of working people and their unions. A prime example is in education for teachers and teaching-assistants.

We recommend education be removed as an essential service and that the designation of essential services be limited to those services which are absolutely necessary for the preservation of life.

#### 12. Variations of Certification – Partial Decertification Applications (s. 142)

The Campbell River, Courtenay & District Labour Council is concerned about the existing process for partial decertification applications that fall under Section 142. These applications are not expedited in the same way that full decertification applications are and the rules are not clear. We recommend these applications be resolved using the same rules outlined by Division 2 of the Code.

In conclusion, we thank the Committee for a much needed review of BC's Labour Code. We are hopeful that through gathering information from around the province it will become clear that ongoing changes are necessary to reflect the shifting landscape for workers if we are to continue to strive for balance and fairness.

Respectfully submitted.