

November 30, 2018

To: [LRCReview@gov.bc.ca](mailto:LRCReview@gov.bc.ca)

**Subject: Labour Code Review, CFIB Views on the Recommendations for Amendments to the Labour Relations Code**

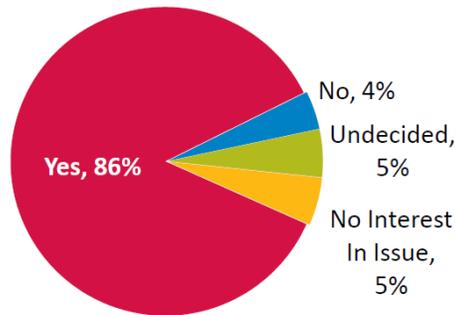
Thank you for the opportunity to provide additional feedback on possible amendments to the provincial Labour Code. The Canadian Federation of Independent Business (CFIB) is a non-profit, non-partisan business association. With 110,000 members across Canada including 10,000 in British Columbia, we are the largest organization exclusively representing the interests of small and medium-sized independent businesses to all levels of government.

CFIB participated in the initial Labour Code review independently ([see submission here](#)), and also signed on with other business groups in a joint submission. We will be doing the same with the recommendations presented in this new consultation on potential amendments to the Code. It is our understanding the government's intention is to further consult with "key stakeholders". We are uncertain which groups will be included in this consultation, but we hope that it is a balance of both employee and employer groups in order to ensure the process continues to be fair and balanced. CFIB would very much like to be part of any further consultations going forward.

We see the role of the Labour Code as creating certainty for employees and employers. Unfortunately, some of the amendments create less certainty for the employer. The first is the Section Three Review Process. We feel that setting a mandatory review will create uncertainty, not just for employees and employers, but for the Board itself. These reviews are protracted and very difficult for the Board to conduct independently from the government. It also causes uncertainty for both employees and employers as to what changes are coming in the labour code, changes which can have material effect on the employee-employer relationship. The current process is much preferred as it is fair and transparent: it lays the responsibility for ordering a review at the feet of the Minister. For these reasons, CFIB believes the review process should not be added to the responsibility of the Board.

Another area of our concern is the method for employees to form a union. The majority of the panel recommends the secret ballot be retained, as this offers a clear process with a clear method. However, the proposed language around enhanced measures does create an element of uncertainty and could lead to confusion or interpretation issues. Therefore, we would prefer that language not be put into the Labour Code. CFIB members strongly support keeping the current secret ballot method for unionization.

Should secret ballot votes be mandatory prior to any union certification?



Source: CFIB BC Mandate, March 2005. n=1310

An open, accountable and democratic working environment is crucial to healthy employer-employee relations. The current secret ballot provisions, which allow employees to indicate their true desire to form - or not to form - a union are integral to the legitimacy of any union organization effort. Card-based certification puts employees at too great a risk of intimidation and pressure tactics.

If the desire to organize is legitimate, it should certainly be able to pass the most basic and fundamental of democratic processes: a secret ballot vote. There is also concern from our membership about the safety and well-being of their employees during union organization efforts. The idea that small business owners might be compelled to hand over employee lists that contain employees' contact information, home addresses, and other personal information to facilitate organization is an alarming one.

Sectoral or Multi-Employer Certification also creates a lot of uncertainty. CFIB does not support this type of certification and believe it should not be implemented, especially for smaller businesses. Any additional review or consideration of this will create uncertainty and may prohibit investment.

Entrepreneurs who buy a franchise do not decide so to go into business to simply become an arm of the corporate brand. They are independent operators who invest their own time and capital into their business. These are small business owners, similar to any other small business in the province. It is unfair to put them under a larger umbrella for labour relations when they are independent owned and operated. We urge you to recognize the independence of franchisees.

The other area of concern is reducing the flexibility in the workplace. Evolving demands of younger employees are very different than those of previous generations. Young employees tend to place greater value on flexibility in the workplace, particularly when it comes to part-time work and scheduling. Small businesses often provide young people with their first job, giving them much-needed experience and training to excel in the workforce.

Studies indicate that young workers will, on average, seek out new challenges and move jobs every five years. This sort of employment flexibility becomes virtually impossible in a highly-unionized private sector. It is important to remember there is no greater asset to a small business than their employees. Unlike larger businesses, employers often work alongside their employees and the relationship dynamic is much more level than hierarchical. These important working relationships tends to be more flexible and informal. Unionized workplaces, which place high value on seniority and internal hiring and promotion, are extremely difficult for young workers to break into once, let alone every few years.

Our first submission presented data from a public opinion poll conducted for CFIB by Ipsos in August 2018 with a sample size of 2,001 employed Canadians, including self-employed and working students, which highlighted the importance of a maintaining a flexible workforce.

Small businesses are about relationships, not regulations. Any changes to the legislation that governs these relationships must be approached with care and context. The realities of running a small business in BC and the impact new rules and regulations would have on the small businesses across every sector should be critical considerations as you draft your final recommendations.

We appreciate you receiving our comments. If you have any questions, please don't hesitate to contact us at [ms.bc@cfib.ca](mailto:ms.bc@cfib.ca) or 604-684-5325

Sincerely,



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