

November 30, 2018

British Columbia Ministry of Labour

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

Progressive Contractors Association of Canada  
submission to the Minister of Labour  
in response to:

## **LABOUR RELATIONS CODE REVIEW COMMITTEE RECOMMENDATIONS FOR CHANGES TO THE BC LABOUR RELATIONS CODE**

In response to your request of October 25<sup>th</sup> for public feedback, the Progressive Contractors Association of Canada (PCA) wishes to provide comment on the August 31<sup>st</sup> report of the Labour Relations Code Review Panel entitled “Recommendations for Amendments to the Labour Relations Code.” We thank the ministry for the opportunity to participate. We also thank the members of the Panel, Mr. Michael Fleming, Ms. Sandra Banister Q.C. and Mr. Barry Dong, for their report, and for their extensive efforts in consulting with interested stakeholders and the broader public across the province.

### Introduction to PCA

PCA member companies are leaders in non-residential construction and employ more than 25,000 skilled construction workers across Canada. In British Columbia our nearly 100 member companies employ over 9,000 skilled workers and have contributed to many of the province’s major public infrastructure projects including the Port Mann bridge, the Sea-to-Sky highway, Site C, as well as numerous water and sewage treatment facilities, hospitals and schools throughout the province.

PCA members, therefore, have significant experience working with the BC Labour Code and a deep interest in ensuring that, as the Review Committee’s terms of reference stated, changes to the code “...support a growing, sustainable economy with fair laws for workers and business’ and promote certainty as well as harmonious and stable labour/management relations.” PCA members employ about one-third of unionized construction workers in BC, We believe in a strong union voice and fair wages for workers through a level playing field for all construction industry participants without coercion, favouritism or artificial advantage on the basis of union affiliation.

### Principles for Labour Code Reform

As we wrote in our March 20, 2018 submission to the Panel, we believe that the BC Labour Code has, overall, served the province well, and that, by striking an appropriate balance between employer and labour rights, it has contributed to the province’s current prosperity. Therefore, we advised that maintaining economic stability be considered a critical objective in any recommendations.

We have studied the Report of the Panel and assessed its recommendations against the following principles:

- In order to avoid unintended consequences, change should not be made for its own sake;
- Recommendations should be balanced between employer and labour perspectives, and should not favour any particular union, association or employer;
- Changes should minimize disruption and uncertainty and prioritize stability.

### Assessment of Recommendations

We note that the Panel held extensive consultations, including 10 regional meetings across the province, and received extensive input: 83 oral presentations; 108 written submissions, as well as 94 emails and 19 replies from 26 organizations. Further, after receiving this extensive public comment, the Panel then met with additional labour relations stakeholders, including BC Federation of Labour, the BC Business Council, the Arbitrators Association of B.C., the Labour Relations Board (the “Board”) and the Labour Subsection of the Canadian Bar Association, to receive additional perspective. We appreciate the Panel’s dedication to hearing from all interested parties in British Columbia and for their thoughtful evaluation of the evidence before them.

We strongly agree with the Panel’s conviction that “it is essential to avoid pendulum swings by implementing balanced changes that are sustainable” (Report: 7). We have our own perspective on several of the Report’s recommendations, and would respond in detail were it to be revised or rejected by the Government. But the larger issue here is that, on balance, we believe that the Panel report succeeds in striking a careful balance between the interests of employers and those of employees.

Therefore, **PCA is pleased to endorse them as a package, and we recommend that the Government introduce into the legislature the draft bill provided by the Panel to implement the report.** In our view, such legislation would help to ensure a stable labour environment going forward for the benefit of all British Columbians.

While we support the Panel’s recommendations as a package, we wish to underscore our strong concurrence with one of the Panel’s conclusions related specifically to the construction industry: namely, that **no further review** of the construction industry is warranted. We strongly agree that these questions have been decided many times before and that no compelling reason exists for changes.

PCA represents a group of companies who have built major parts of BC’s infrastructure deploying their workforce from the alternative, or progressive, labour models. BC’s vibrant economy has benefited directly from its diverse, creative and productive construction labour environment, and efforts to constrain labour choice for owners and builders by governments or through “additional consultations with key stakeholders” will ultimately be to the detriment of all British Columbians.

### Duty to Consult: Satisfied

Given the extensive consultation undertaken by the Panel, PCA is confident that all interested parties have had opportunity to participate and that the Panel had access to the entire range of evidence and perspectives in coming to their recommendations which, as noted, strike an appropriate balance taken together as a package.

PCA is concerned, therefore, that, by holding an additional public consultation exercise in response

to the committee report, the government is effectively piling consultation on consultation. We worry that the government may have less than whole-hearted support for the Panel's recommendations and may be tempted to use this final stage in order to justify replacing the conclusions of the expert Panel with its own policy preferences. While we acknowledge that this is the government's prerogative, we believe that it would undermine the integrity of the Panel's recommendations and upset the well-crafted balance between competing interests.

As emphasized above, PCA's support for the recommendations depends on them being taken altogether as a package. If eventual legislation departs from the Panel's recommendations, or if it is evident that non-transparent, backroom "additional consultations with key stakeholders" are going to change the report's findings materially, will need to reassess our support for the individual proposals at that time. If any changes occur, then the government ought to hold full consultations on their bill, and PCA would seek an opportunity to intervene again at that time.

#### Summary: PCA's Principal Recommendations

1. We endorse the Panel Report as is, and urge the Government to introduce implementing legislation at the earliest possible time;
2. We agree and support the Panel's recommendation that there be no further review of the construction industry;
3. If the vague allusions to "additional consultations with key stakeholders" result in modifications or change the report's recommendations to the point where they are no longer "balanced", PCA reserves the right to withdraw its support and re-assess all the Report's recommendations in light of the new information.