

MINISTRY OF LABOUR  
**MEETING NOTE**

Cliff #: 55971

Date: September 26, 2018

**PREPARED FOR:** Honourable Harry Bains, Minister

**DATE AND TIME OF MEETING:** October 2, 2018, 4:30 pm – 5:00 pm.

**ATTENDEES:** TBD.

**ISSUE:** Minister Bains is scheduled to meet with officials of the United Steelworkers (USW), District 3.

**BACKGROUND:**

The USW is one of the largest private sector unions in North America, with 13 Districts across the continent. There are three Districts of the USW in Canada. District 3 covers Western Canada and the Territories. Stephen Hunt has been the District 3 Director since 2004 after 20 years as a union representative.

Mr. Hunt has been a Director on the Board of the Workers' Compensation Board (WorkSafeBC) and is very engaged on worker health and safety.

The USW represents approximately 225,000 workers in Canada (approximately 30,000 in BC) in both the public and private sector. Most notably, they represent forest and sawmill workers across the province after a merger with the International Woodworkers of America (IWA) in 2004. They also represent workers in call centres, credit unions, mines, manufacturing plants, offices, oil refineries, restaurants, rubber plants, steel mills, security companies, nursing homes, and universities.

The USW is an active member of the B.C. Federation of Labour (BCFed) but does not always take the same position as the BCFed on issues.

From October 1 to 3, the United Steelworkers will be conducting a "Steelworkers Lobby Day" at the BC Legislature. In addition to meeting with the Minister of Labour, the USW will be meeting the Premier and likely several other ministers.

**DISCUSSION:**

The USW has indicated it wishes to raise the following issues with Minister Bains:

**Labour Relations Code**

The USW has been an advocate for a wide variety of legislative changes to the *Labour Relations Code*. The USW views the current Code as being balanced against the interests of workers, primarily due to changes made by the previous government in 2001 and 2002.

Changes advocated by the USW include, among others: returning to card check certification; restricting employer anti-union speech; “restoring the full application of the *Labour Relations Code* to health services workers”; and amending the *Code* to address the growing problems of contracting out and contract flipping.

*Suggested Response:*

*Government has recently received the report and recommendations from the committee of special advisors who reviewed the Labour Relations Code and undertook consultations with stakeholders throughout the province. I know the USW made an important submission to the review. The report is currently under consideration and we intend to release it to the public sometime in October.*

**Worker Health and Safety Issues**

The USW met with Premier Horgan in February, 2018. At that time they indicated they wished to discuss the following issues. The USW may intend to raise these issues again when they meet with the Minister.

It should be noted that Premier Horgan was advised in <sup>s.14</sup>  
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**1. Prosecution of Employers Under Bill C-45 (Westray Law Enforcement):**

Following the 1992 Westray disaster (an explosion in a Nova Scotia mine which killed 26 workers), Mr. Hunt championed changes to federal legislation that resulted in the passing of Bill C-45 in 2004. This Bill amended the Canadian *Criminal Code* to establish new legal duties on organizations, their representatives and those who direct the work of others for workplace health and safety, and imposes serious criminal penalties, including jail time, for violations that result in injuries or death.

Since C-45 came into effect in 2004, there have only been a small handful of prosecutions across Canada that have been pursued successfully against an employer.

It is the view of the USW that the province is failing to apply C-45 to prosecute employers when a worker dies on the job. The USW argues that the province should establish a dedicated police investigator and dedicated Crown Counsel to prosecute employers.

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s.13,s.17

*Suggested response:*

- *I appreciate the USW's passion and dedication to this important issue.*
- *Premier Horgan has mandated the me to review and develop options with WorkSafeBC to increase compliance with health and safety laws. I am committed to making sure BC workers are the safest in the country.*
- *With respect to your specific proposals for dedicated positions focused on prosecuting employers, I know that the Ministry of Attorney General is alive to this issue and has developed staff with specialized legal expertise and experience in this area.*
- s.13,s.17

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## **2. Public Inquiry into sawmill explosions:**

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The USW continues to advocate for a public inquiry into the tragic sawmill explosions that occurred in Burns Lake and Prince George in 2012. The focus of the inquiry would be to determine and address systemic failures that led to the explosions.

*Previous Government Response to the Explosions.*

In the wake of the explosions, the government first appointed then Deputy Minister John Dyble to conduct an internal review of the crown's decision not to lay criminal charges against the employers. The findings of that report led to improved processes at WorkSafeBC to ensure that investigations and evidence gathering would not be done in a manner that could jeopardize subsequent prosecution through the independent Criminal Justice Branch.

Following a subsequent review, on July 15, 2014, government released Gordon Macatee's *WorkSafeBC Review and Action Plan*, which contained 43 recommendations for making B.C. workplaces safer, particularly sawmills, and for improving the inspection and investigation regime at WorkSafeBC. WorkSafeBC and government accepted and adopted all of the recommendations, including legislative changes to the *Workers Compensation Act*.

In addition, on May 14, 2015, the coroner's jury issued the formal verdict respecting the tragic deaths that occurred in the Lakeland sawmill explosion. On July 31, 2015, a second inquest jury issued its verdict into the Babine sawmill explosion.

In November 2015, the previous government passed Bill 35 which addressed five key recommendations from the Coroner Inquests calling for amendments to the *Workers Compensation Act*.

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*Suggested response:*

- *I appreciate your input on this matter and I understand that, ultimately, you were not satisfied with the previous government's response to the mill explosions.*
- *While a public inquiry into the specific instances of 2012 is not on government's agenda at this time, I can assure you that government is committed to*

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*uncovering and remedying systemic problems in our health and safety regime that continue to threaten the safety of workers.*

- *That is why Premier Horgan mandated me to review and develop options with WorkSafeBC to increase compliance with health and safety laws. I can assure you that this is a high priority for me as Minister of Labour and that this work is in progress.*

### **3. Regulation of Mining Industry:**

The USW has advocated for the separation of promotion and regulatory responsibilities within the ministry responsible for mines.

One of the regulatory functions of the ministry responsible for mines is to establish and enforce the occupational health and safety requirements for workers in the mining sector. As such, the Chief Inspector of Mines, rather than WorkSafeBC, oversees workplace safety in BC mines. This has been the case for over 100 years.

In the wake of the 2014 Mount Polley mine tailings dam failure, the USW advocated for this regulatory role to be placed within WorkSafeBC.

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*Suggested response:*

- *Thank you for input on this matter. I understand that, historically, the regulation of worker health and safety in the mining sector has always been under the jurisdiction of the Chief Inspector of Mines.*
- *While government has no immediate plans to formally review this issue, I will continue to keep your concerns in mind.*

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MINISTRY OF LABOUR  
**INFORMATION NOTE**

Cliff #: 55946

Date: September 20, 2018

**PREPARED FOR:** Honourable John Horgan, Premier

**ISSUE:** Meeting with BC Federation of Labour (BCFED).

**DISCUSSION:** Premier Horgan is scheduled to meet with the BCFED to discuss the following issues:

**Labour Relations Code**

The BCFED is a strong advocate for a wide variety of legislative changes to the *Labour Relations Code*. The BCFED views the current Code as being balanced against the interests of workers, primarily due to changes made by the previous government in 2001 and 2002.

Changes advocated by the BCFED include, among others: returning to card check certification; restricting employer anti-union speech; allowing the Labour Relations Board to issue more “remedial certifications” where employers have engaged in unfair labour practices.

*Suggested Response:*

*Government has recently received the report and recommendations from the committee of special advisors who reviewed the Labour Relations Code and undertook consultations with stakeholders throughout the province. I know the BCFED made an important submission to the review. The report is currently under consideration and we intend to release it to the public sometime in October.*

**Successorship**

Another area of labour relations law that concerns the BCFED relates to union “successor rights” which only apply when a business is sold or transferred to another owner. Contracting situations are not subject to the laws around successorship.

Recently, the BCFED has been publicly advocating in support of members of the Service Employees International Union Local 2 – who were notified on August 20 by their employer GDI Integrated Facilities Services that it is no longer the company cleaning the Canada Line. In addition to cleaning services, health care (care aides, seniors’ care, long term care), security, food, and transportation services have all been identified as vulnerable to contract re-tendering.

Many worker advocates, including the BCFED, have argued that this type of “contract flipping” is a way of undercutting important advances achieved by vulnerable workers through collective bargaining. Currently, when a contract is retendered (as opposed to the transfer of business ownership), the existing collective agreement ends, the 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. The BCFED argues that successor rights should be extended to situations where services are contracted out or where contracts are re-tendered. s.13

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*Suggested Response:*

*Government has recently received the report and recommendations from the committee of special advisors who reviewed the Labour Relations Code. I know the BCFED made an important submission to the review, including on the issue of successorship. The report is currently under consideration and we intend to release it to the public sometime in October.*

**Workers' Compensation**

The BCFED has recently advocated for a formal review of the *Workers Compensation Act*. In addition, the BCFED has called for implementation of recommendations on WorkSafeBC policies issued in a report by Paul Petrie early this year. Further, the BCFED continues to advocate for further changes to the WorkSafeBC Board of Directors.

As set out in the Premier's mandate letter of July 18, 2017, the Minister of Labour is fully engaged in the process of reviewing and developing options with WorkSafeBC to increase compliance with legislation and standards that are in place to protect the lives and safety of workers and to make BC the safest workplace jurisdiction in Canada.

In this regard, in January, 2018, the WorkSafeBC Board of Directors retained Paul Petrie to review the Rehabilitation and Claims Services policies. The purpose of the review was to determine whether any policies could be amended to ensure a worker-centred approach wherever practical. His report contains 41 recommendations to improve WorkSafeBC's policy framework. WorkSafeBC is currently reviewing the recommendations. Any resulting policy development will follow WorkSafeBC's established consultation protocols.

Regarding the composition of the WorkSafeBC Board of Directors, in 2017, the Minister made a number of appointments to the Board of Directors. These new appointments ensured that the WorkSafeBC Board is aligned with government's priorities and key commitments to British Columbians. The four new appointees are:

- Ralph Wayne McGinn was appointed the new Chair of the WorkSafeBC Board of Directors and as a representative of the public interest. Mr. McGinn was WorkSafeBC's President and CEO from 1998 to 2003 and was WorkSafeBC's Vice-President, Prevention, from 1993 to 1998.

- Katherine Elizabeth Teschke was appointed as a director, representative of the public interest.
- Baltej Singh Dhillon was appointed as a director, as a professional in the area of law or law enforcement.
- Lee James Loftus was appointed as a director, as a professional in the area of occupational health and safety.

Two other appointments will expire on December 1, 2018 and the Minister of Labour will be considering those appointments in due course.

*Suggested Response:*

*Government is aware of the BCFED's position that a comprehensive review of the Workers Compensation Act should be undertaken – including a review of the make-up and structure of the Board. No decisions have been made at this point about the timing and content for the review.*

*In accordance with his mandate letter, the Minister of Labour is engaged in a process to ensure that BC has the safest workplace jurisdiction in Canada and the the workers' compensation system is fair, effective and respectful. Government is committed to ensuring that injured workers and surviving dependents are the central focus and that they receive fair and timely compensation.*

*WorkSafeBC is currently reviewing the recommendations of Mr. Petrie's report on Rehabilitation and Claims Services policies. Any resulting policy development will follow WorkSafeBC's established consultation protocols.*

*Regarding the composition of the WorkSafeBC Board of Directors, in 2017, government made a number of appointments to the Board of Directors. These new appointments ensured that the WorkSafeBC Board is aligned with government's priorities and key commitments to British Columbians, especially to ensure that workers are treated with respect and dignity and that WorkSafeBC's processes are worker-centric. Two other appointments will expire on December 1, 2018 and government will be considering those appointments in due course.*

*The Workers Compensation Act sets out the number of directors and the composition of the board, and government's appointments are in accordance with these legislated requirements.*

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