

MINISTRY OF LABOUR

MEETING NOTE

Cliff #: 57245

Date: March 1, 2019

PREPARED FOR: Honourable Harry Bains, Minister of Labour

DATE AND TIME OF MEETING: March 7, 2019; 3:00pm

ATTENDEES: Joe Barrett, BC Building Trades (BCBT); others TBC

ISSUE(S): Discussion of a number of issues outlined in the BCBT's Provincial Lobbying submission.

BACKGROUND:

The BCBT was established in 1967 and is organized into regional councils. The regional councils initiate and oversee the BCBT's activities within their geographical boundaries. There are five regional councils in BC. The BCBT is an umbrella organization for construction unions in BC. Currently there are 17 unions in the province who are affiliated to the BCBT. Together, these unions represent 35,000 members and skilled craft workers throughout BC and the Yukon Territory.

DISCUSSION:

The following provides information on the issues presented by the BCBT in their submission entitled "Let's Build BC Together".

Expansion of Community Benefits

The BCBT notes in its submission that the 2019 BC Budget will increase capital investment in schools, hospitals and other public infrastructure. The BCBT would like to see the Community Benefits model applied to more of these projects.

The Province successfully negotiated a Community Benefits Agreement (CBA) in July 2018. Signatories to this agreement were BC Infrastructure Benefits Inc. (BCIB) and the Allied Infrastructure and Related Construction Council (AIRCC) which is a coalition of 19 Building Trade unions. BCIB is the Crown corporation responsible for executing the Province's CBA to provide the labour workforce for projects delivered under the CBA.

The CBA will support greater access for employment, training and apprentices on the construction of provincial infrastructure projects, including more trades opportunities for Indigenous peoples, women and youth around the province. The CBA will also provide predictable and aligned compensation, provide labour stability and certainty, and provide safe working conditions free of discrimination and harassment.

As announced in July 2018, initial projects to be delivered under the CBA include the new Pattullo Bridge replacement project and projects within the Trans-Canada Corridor (Kamloops to the Alberta border). In February 2019, it was announced that the Broadway Subway Project would also be delivered under the CBA. BCIB continues to work very closely with AIRCC as it gets ready for deployment of labour.

Government has stated it is considering future projects for CBA application where appropriate, and the achievement of community benefit objectives in procurements where the CBA is not applied.

Labour Code/Employment Standards

The BCBT notes that there is no new funding for the Labour Relations Board (LRB) in the 2019 budget and that, in its opinion, the LRB is challenged to prevent unfair employer labour practices or to provide workers with timely service.

Government has recently received a report and recommendations from a committee of special advisors who reviewed the *Labour Relations Code* and undertook consultations with stakeholders throughout the province. The BCBT has advocated for increased resources at the LRB (something the Section 3 committee recommended).

The LRB budget is under the responsibility of the Ministry of Attorney General. Although the 2019 budget for the LRB did not see an increase over the previous year, the Ministry of Attorney General has communicated a commitment to supporting increased resource requirements associated with changes flowing from the implementation of the special advisor's recommendations.

The BCBT also notes in its Provincial Lobbying submission that although they are encouraged by the \$14 million increase in funding for the Employment Standards Branch over three years, they believe a \$22 million funding increase would have been more appropriate.

The ESB budget has been relatively stable over the past few years, totalling between \$7.8-\$7.9 million per year from 2013/14 through 2017/18. In 2018/19 the ESB received a budget increase of \$750,000 to engage in planning activities for the modernization of the branch (and \$250,000 to support implementation of the *Temporary Foreign Worker Protection Act*).

The further increase of \$14 million over three years will be used to help ready the ESB for transformation and to develop modern business tools to assist in the overall modernization of employment standards in B.C.

Training and Compulsory Trades

The BCBT states that B.C. is facing a skilled trades shortage, noting that BuildForce Canada estimates B.C.'s construction workforce will need to expand by up to 23 per cent by 2021 to meet project requirements. BCBT also noted that in 2002, B.C. eliminated compulsory certification in a number of designated trades and stated that in February 2014, Jessica McDonald released her report, "The Industry Training Authority and Trades Training in BC: Recalibrating for High Performance." Recommendation 15 noted that sector advisory councils should be asked to advise government on the need for specific policy issues that: *"...may include the need for reintroduction of compulsory certification, apprentice quotas/ratios, expanded opportunities for challenging for trades credentials, etc."*

The Ministry of Advanced Education, Skills and Training is working with the Ministry of Municipal Affairs and Housing, the Ministry of Labour, and the Industry Training Authority to complete a review of trades occupations which could benefit from mandatory certification. This review will provide government with a better understanding of how B.C.'s regulatory system supports and protects workers, consumers and employers through information gathering, data collection and jurisdictional comparisons.

The results of the review will be available by late Spring 2019 and are intended to inform future recommendations including:

- Criteria for determining which trades could benefit from mandatory certification;
- A framework (legislation, regulation, policy, and implementation plan) for implementing mandatory certification for some trades if required; and
- Other relevant findings that could improve B.C.'s trades training system.

Underground Economy

The BCBT notes in its Provincial Lobby submission that in 2001, a team of officers from Employment Standards, WorkSafeBC, the Canada Revenue Agency and Human Resources and Social Development Canada formed a Joint Compliance Team (JCT) to investigate underground economy activity. The JCT visited over 400 residential construction sites and determined that 200 of 700 workers who identified themselves as employers were, in fact, "employees." Of the 700 who did identify themselves as employees, fully 50% failed to receive overtime pay, statutory holiday pay or vacation pay. The JCT concluded that if wages and benefits were brought into compliance, the

government would recover a minimum of \$44.5 million in unpaid taxes and \$40.2 million in unpaid WCB premiums.

WorkSafeBC has been working with the federal government to identify these employers since 2005 — and in 2016 they established dedicated compliance teams. Since 2016, WorkSafeBC's efforts have resulted in the registration of 800 previously unregistered employers and the recovery of more than \$11.5 million in unpaid premiums.

SUGGESTED RESPONSE/KEY MESSAGING:

Expansion of Community Benefits

- The Province and the BC Building Trades share the common goal to provide access to training and employment opportunities to local communities, prioritizing local hiring, improving access for First Nations, Indigenous peoples and other groups including women, through the delivery of public infrastructure projects.
- The Pattullo Bridge Replacement Project and upgrade projects on the Trans Canada Highway from Kamloops to the Alberta Border were announced as the initial CBA projects in July 2018.
- In February 2019, it was announced that the Broadway Subway Project would also be delivered under the CBA.
- Government will be considering future projects for CBA application where appropriate, and the achievement of community benefit objectives in procurements where the CBA is not applied.
- I understand that Infrastructure Benefits Inc will continue to work closely with the Allied Infrastructure and Related Construction Council to ensure success.

Labour Relations Board

- The Labour Relations Board budget is under the responsibility of the Ministry of Attorney General.
- Although the 2019 budget for the Labour Relations Board did not see an increase over the previous year, the Ministry of Attorney General has communicated a commitment to supporting increased resource requirements associated with changes flowing from the implementation of the special advisor's recommendations.

Employment Standards

- My Ministry Mandate Letter requires that I update employment standards to reflect the changing nature of workplaces and ensure they are applied evenly and enforced.
- The ESB budget has been relatively stable over the past few years, totalling between \$7.8-\$7.9 million per year from 2013/14 through 2017/18. In 2018/19 the branch received a budget increase of \$750,000 to engage in planning activities for the modernization of the branch.

- As the BCBT is aware, the 2019 provincial budget provides additional funding of \$14 million over three years. This important additional funding will be used to help ready the branch for transformation and to develop modern business tools to assist in the overall modernization of employment standards in B.C.

Training and Compulsory Trades

- Trades occupations play a critical and evolving role in building BC's economy.
- The Ministry of Advanced Education, Skills and Training is working with the Ministry of Municipal Affairs and Housing, the Ministry of Labour, and the Industry Training Authority to complete a review of trades occupations which could benefit from mandatory certification.
- This review will provide government with a better understanding of how B.C.'s regulatory system supports and protects workers, consumers and employers through information gathering, data collection and jurisdictional comparisons.
- The results of the review will be available by late Spring 2019.

Underground Economy

- Regarding the underground economy, in a perfect world, all workplaces would not only be safe, but fair as well. Unfortunately, we know that the underground economy is significant — especially in the trades — and this sometimes gives dishonest employers an unfair advantage over honest ones.
- By evading taxes and WorkSafeBC premiums, these employers are cheating workers and cheating our economy.
- Our government is working to level the playing field and ensure all employers are paying what they should.
- WorkSafeBC has also been working with the federal government to identify these employers since 2005.

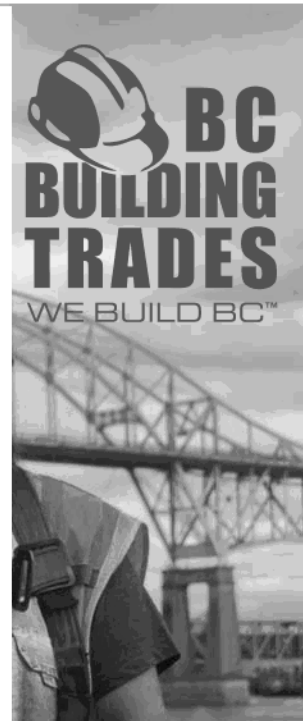
ATTACHMENTS: BCBT submission: "Let's Build BC Together".

Contact: Trevor Hughes, Deputy Minister, 778-974-2189

Prepared by: Peter Rogers, Senior Policy Advisor, Policy and Legislation Branch



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Let's Build B.C. Together

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MINISTRY OF LABOUR

MEETING NOTE

Cliff #: 57246

Date: March 4, 2019

PREPARED FOR: Honourable Harry Bains, Minister of Labour

DATE AND TIME OF MEETING: March 7, 2019; 2:00pm.

ATTENDEES: Mike McKenna, Executive Director and Tammy Oliver, Senior Director, BC Construction Safety Alliance (BCCSA)

ISSUE(S):

The BCCSA has developed an on-line Silica Control Tool (SCT) to assist employers, to develop exposure control plans for silica dust in the construction workplace. The BCCSA wishes to meet with Minister to inform him of these efforts and seek the Minister's advice on whether he wishes to participate in this effort, including a program launch and public event. The BCCSA may also take this opportunity to inform the Minister about developments relating to the Concrete Pump Competency Certification Program and to the Certificate of Recognition Program.

BACKGROUND:

The BCCSA is a not-for-profit association that provides services to over 40,000 construction companies employing over 200,000 workers. Employers in the construction industry along with select employers in the aggregate and ready-mixed industry fund the BCCSA through a portion of their WorkSafeBC annual assessments.

As a safety association recognized by WorkSafeBC, the BCCSA promotes and develops workplace health and safety in compliance with WorkSafeBC's regulations and guidelines. BCCSA offers several programs and services including: the Certificate of Recognition Program; Provincial Traffic Control Program; Technical High Angle Rope Rescue Program; and Regional Safety Advisory Program. The BCCSA acts as the construction industry's spokesperson on construction health and safety issues. The BCCSA is part of the Canadian Federation of Construction Safety Associations.

DISCUSSION:

Silica Control Tool (SCT)

Silicosis is a deadly disease caused by breathing silica dust. There is no cure for silicosis. Through the compilation of data relating to silica dust exposures pertaining to various materials, tools and tasks in construction, the SCT can predict expected exposure to workers under similar conditions. The BCCSA SCT is currently the only on-line tool that meets regulatory requirements.

WorkSafeBC has advised that the BCCSA worked with WorkSafeBC and the University of British Columbia to develop the SCT as a resource for the construction industry in BC. The *Occupational Health and Safety Regulation* (OHSR) requires employers to develop an Exposure Control Plan (ECP) when workers may be exposed to silica or other hazardous substances, such as asbestos and lead. When job task information is entered properly into the tool, it generates an ECP that sets controls to protect workers from hazardous exposure. The SCT was launched in May 2017 and access to the tool has increased steadily since that time. As of September 2018, the tool had over 1200 registered users, with over 1400 ECPs having been completed.

WorkSafeBC has advised that the SCT is a valuable aid to qualified persons in conducting risk assessments, selecting and implementing controls, and developing ECPs. The tool is not a replacement for professional advice or jobsite air monitoring tests. Jobsites can be highly complex with unique variables, and the tool does not purport to provide a conclusive output for every possible work process.

s.13,s.16,s.17

Concrete Pump Competency Certification Program

The BCCSA has worked with Concrete BC and with funding from WorkSafeBC to develop a voluntary certified concrete pump operator program. The program will consist of a written and practical test and is expected to be ready to launch in June 2019.

There is currently no regulatory requirement in BC for concrete pump operators to be certified^{s.13}

s.13

Certificate of Recognition Program (COR)

WorkSafeBC's COR is a voluntary program that recognizes and financially rewards employers who implement health and safety management systems. Internal reviews found there was a need to establish a policy for the COR Program. A draft interim policy was developed and consultations took place with stakeholders in 2017. Many stakeholders told WorkSafeBC they found it difficult to provide constructive feedback on the policy without an opportunity to review the draft practices at the same time. As a result, draft policy and practice materials for the COR Program were developed in 2018 with consultations ending on October 1, 2018.

Some revisions to the policy were made based on the feedback received through the consultation process. The revised policy was brought to WorkSafeBC's Board of Directors on November 22, 2018 and was approved with an effective date of January 1, 2019. With a policy in place for 2019, WorkSafeBC will be working in consultation with stakeholders to finalize practices related to the COR Program, including introducing improvements to audit tools and auditor qualification and training processes.

The BCCSA is asking the Minister to be aware of the success of the COR and support a measured approach to any proposed changes.

SUGGESTED RESPONSE/KEY MESSAGING:

- I very much appreciate the important work that the BC Construction Safety Alliance is doing to promote and develop workplace health and safety in compliance with WorkSafeBC's regulations and guidelines.
- As Minister of Labour, it is my intention to do everything I can to insure that BC becomes the safest workplace jurisdiction in Canada and I welcome your organization's objective to make BC workplaces safe.
- Regarding the serious issue of contracting silicosis, I understand that WorkSafeBC believes that the Silica Control Tool the BCCSA has developed is a valuable aid to qualified persons in conducting risk assessments, selecting and implementing controls, and developing appropriate Exposure Control Plans.
- I certainly hope that the BCCSA will be successful in securing licensing agreements for the Silica Control Tool in other Canadian and American jurisdictions.
- I appreciate you taking the opportunity to inform me of all of these efforts and raising the possibility of my participation in these efforts, including a program launch and public event. I would certainly like to participate if my schedule permits.
- I understand that WorkSafeBC has worked with your organization in developing the Concrete Pump Competency Certification Program.
- Regarding the Certificate of Recognition Program, I am advised that WorkSafeBC's revised COR policy became effective on a January 1, 2019.

- I understand WorkSafeBC will be working in consultation with stakeholders to finalize practices related to the COR Program, including introducing improvements to audit tools and auditor qualification and training processes.

ATTACHMENTS:

Contact: Trevor Hughes, Deputy Minister, 778-974-2189

Prepared by: Peter Rogers, Senior Policy Advisor, Policy and Legislation Branch

MINISTRY OF LABOUR

MEETING NOTE

Cliff #: 57368

Date: March 28, 2019

PREPARED FOR: Honourable Harry Bains, Minister of Labour

DATE AND TIME OF MEETING: April 2, 2019; 11:30am

ATTENDEES: TBD

ISSUE(S): Minister Bains is scheduled to meet with representatives of Unifor.

BACKGROUND:

Unifor is Canada's largest private sector union, with more than 315,000 members across the country, working in every major sector of the Canadian economy. Unifor's western region is home to nearly 70,000 Unifor members, and covers British Columbia, Alberta, Saskatchewan and Manitoba.

Unifor was officially formed on August 31, 2013, with the coming together of the Canadian Auto Workers union (CAW) and the Communications, Energy and Paperworkers Union of Canada (CEP). Jerry Dias was elected as Unifor's first National President at the union's founding convention during the Labour Day weekend of 2013.

DISCUSSION:

The following topics are likely to be raised at the meeting:

Labour Relations Code

Unifor is a strong advocate for a wide variety of legislative changes to the *Labour Relations Code*. Unifor 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 Unifor include, among others: returning to card check certification; increased union access to employee information to facilitate organizing; extending union "successorship" rights to contract retendering – including in the forest sector; and, new provisions in the Code to require collective agreements to address gender wage gaps.

Suggested Response:

As you know, Government has 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. The report was made available to the public in October 2018 and government received follow-up submissions from stakeholders – including the submission from Unifor. Government is now considering the report, as well as the follow-up submissions, and we expect to act on the recommendations as early as in the Spring 2019 legislative session.

Employment Standards

Unifor has indicated it may raise issues related to “employment standards”. This will likely involve advocating for raising the minimum standards established in the *Employment Standards Act*.

Suggested Response:

Government has already taken a number of important steps to updating employment standards in this province, including:

- Establishing a pathway to a minimum wage of at least \$15.20 per hour by 2021. This includes another scheduled increase to \$13.85 per hour in June of this year. In addition, the Fair Wages Commission will continue its role in providing government impartial advice about how to bridge the gap between minimum wage and living wages.*
- Passing the Temporary Foreign Worker Protection Act to help ensure that vulnerable workers are protected from exploitation and abuse. The Act introduces a new requirement for foreign worker recruiters to be licensed and for employers who hire TFWs to be registered, and also sets a framework for identifying and investigating abuses of TFWs. The Ministry of Labour is planning the implementation of the new registry program and anticipates that it will begin bringing this Act into force sometime this Spring.*
- Providing a substantial budget increase of \$14 million over three years for the Employment Standards Branch (ESB) to allow for improved enforcement. The Ministry is currently engaged in planning activities for ESB modernization, including looking at ways to increase the timeliness of the ESB's services and to ensure that employment standards are applied evenly and fully enforced.*
- I am also currently reviewing the British Columbia Law Institute's recently released “Report on the Employment Standards Act” (Report). The Report includes a number of recommendations for reform of the ESA. I am looking at these recommendations, as well as those already received from the Employment*

Standards Coalition and the BC Federation of Labour, when considering changes to the Employment Standards Act.

- *Throughout March 2019, the Ministry has been consulting with the public, receiving online submissions, regarding six priority areas for future changes to the Employment Standards Act.*

[see attached consultation information]

Domestic Violence Leave

Unifor may advocate for the introduction of job protected “domestic violence leave” similar to what is in place in several other provinces.

Suggested Response:

- *I appreciate the importance of this issue and I can tell you that we are looking at it very closely as we consider options for improving the Employment Standards Act.*
- *Throughout March 2019, the Ministry has been consulting with the public, receiving online submissions, regarding six priority areas for future changes to the Employment Standards Act. One of these priority areas is:*

“Supporting families through difficult times with job-protected leaves of absence”

[see attached consultation information]

Hospitality Industry

Unifor indicated it may raise issues related to the hospitality industry. However, it did not indicate what specific issues it will raise.

Suggested Response:

- *Many of the initiatives this Ministry has taken, or is undertaking currently, have a significant impact on workers in the hospitality sector.*
- *This includes, for example, the increases to the minimum wage and the phasing out of the liquor server rate.*
- *I note that in its review of the Employment Standards Act the British Columbia Law Institute proposed new provisions, similar to what is in Ontario, that would better protect gratuities that rightfully belong to hospitality workers. The Ministry is carefully considering that recommendation.*

- *Government is also considering the hospitality sector as it develops proposed changes to the Labour Relations Code, including those extending collective bargaining rights (successorship) to contract retendering in specified sectors.*
- *Throughout March 2019, the Ministry has been consulting with the public, receiving online submissions, regarding six priority areas for future changes to the Employment Standards Act. One of these priority areas is:*

“Strengthening workers’ ability to recover wages/monies owed”

[see attached consultation information]

Attached: Web Page for Consultations on Modernizing the *Employment Standards Act*

Contact: Trevor Hughes, Deputy Minister, 778-974-2189

Prepared by: Jake Ayers , Assistant Director, Labour Policy and Legislation



Modernizing the Employment Standards Act

February 28, 2019

What is this engagement about?

The Employment Standards Act is important legislation that sets minimum standards for workplaces in B.C. However, it has been 15 years since any major changes were made to the Act and 25 years since government's last comprehensive review.

Workplaces have changed significantly in the last quarter-century. The introduction of new technology and mobile workplaces have changed how work gets done. The structure of work has changed, for example, with more part-time employment. The place of work has changed, with more people working remotely, from home or in virtual teams.

To reflect modern workplaces and to ensure that employment standards are evenly applied and enforced, the Ministry of Labour is making changes to the Act. In anticipation of these changes, the BC Law Institute carried out the Employment Standards Reform Project, which included a public consultation process and produced a Final Report which outlines a set of recommendations.

Along with this report, the Ministry of Labour has heard from workers, employers and groups such as the BC Employment Standards Coalition and BC Federation of Labour. Through this feedback, as well as a review of what's in place in other jurisdictions, there are several areas where improvements to the Act are under consideration.

Now, the Ministry of Labour wishes to hear from the public on the first areas of focus for future changes to the Act. Please read this [proposal paper](#) that outlines six themes for potentially modernizing the Act as early as this spring:

- Theme 1 – Increasing protection of child workers
- Theme 2 – Transforming the Employment Standards Branch
- Theme 3 – Supporting families through difficult times with job-protected leaves of absence
- Theme 4 – Strengthening workers' ability to recover wages/monies owed
- Theme 5 – Clarifying hours of work and overtime standards
- Theme 6 – Improving fairness for terminated workers

Please email your feedback on the report to ESARReview@gov.bc.ca by **March 31, 2019**.