

BCFED

SUBMISSION

BUDGET 2019

Level the Playing Field: Investing in Workers to Build a Strong Economy

Submission to the Select Standing Committee on
Finance and Government Services

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BC Federation of Labour





Level the Playing Field: Investing in Workers to Build a Strong Economy

Please accept the following submission by the BC Federation of Labour to the Select Standing Committee on Finance and Government Services.

The BC Federation of Labour (BCFED) represents over 500,000 members from affiliated unions, representing working people in every corner of the province and every sector of the economy.

OVERVIEW

The legacy of the former BC Liberal government is one of inequality, poverty and insecurity. We know that the affordability crisis, the rise of precarious work, and deep cuts to the services and programs people rely on have taken a toll on families and communities.

The social and economic fabric of our province was hurt by the policies of the former government. Working people were left behind.

We welcomed a change in government and applaud many of the early efforts the BC NDP government has made to address the challenges facing working people. This includes steps to increase the minimum wage to \$15 per hour, the elimination of the discriminatory liquor server wage, the elimination of MSP premiums, the creation of an affordable childcare program, and the establishment of Community Benefit Agreements for all public infrastructure projects.

We also look forward to the outcome of the consultation program regarding a poverty reduction plan for BC. Many community organizations, including the BCFED, have been active on this critical topic. We support the recommendations community groups, including labour, are advancing to address growing rates of poverty in our communities, including increasing social assistance rates, addressing access to transit, and advancing an aggressive plan to address housing. Many of these ideas will have budget implications, and we encourage you to give those ideas serious consideration.

We are calling on the BC government to champion a budget that levels the playing field for working people. For our submission we will focus on the core building blocks of a healthy economy: strong employment standards laws, a balanced Labour Code that protects all working people, and fair compensation for workers injured or made ill on the job.

STRENGTHEN AND ENFORCE EMPLOYMENT STANDARDS

Between 2001 and 2017, the BC Liberal government made major changes to employment standards in British Columbia that significantly lowered the minimum protections for workers.

It is time to undo a decade and a half of weak employment standards and turn the tide on growing precarity and exploitation. Simply put, the current *Employment Standards Act* (ESA) fails to provide vulnerable workers with necessary rights and protections, yet it is critical to protecting non-unionized workers.

Staffing levels of the Employment Standards Branch (ESB) have been severely reduced, going from a staff of 151 in 2001, to a current total of 74, reflecting a 51% reduction. The expenditures on

employment standards administration and enforcement have declined while the number of businesses with employees has increased by 25% and the number of employees has increased by 24%.

Currently there are 74 ESB officers to cover over two million workers in the province. And the number of ESB offices across the province was cut almost in half, from 17 to 9.

These budget and staffing cuts have reduced the ESB to an ineffectual service of the government at a time when the need for pro-active enforcement has increased with the growth of precarious employment across all sectors of the economy.

Instead of receiving effective and efficient enforcement, workers are told to download a “self-help kit” to lodge their complaint. Random worksite inspections by ESB officers have been eliminated.

As a result, the few rights afforded to workers are nearly impossible to enforce.

And to add insult to injury, employers are no longer required to inform employees of their rights under the ESA, meaning many workers may not even be aware when their employers are breaking the law.

The chilling effect of these changes resulted in a 60% reduction in the number of complaints coming into the ESB. This should be of great concern to the government.

In light of the changing nature of work, other jurisdictions in Canada have undergone extensive reforms and updates to employment standards laws, including the Province of Ontario. BC needs to follow suit.

The BC ESA is simply not adequate in its current form to protect workers. Now is the time to for rapid re-investment in the ESB with emphasis on enforcement and compliance, and education.

To ensure workers rights are protected, the BC Federation of Labour calls on the government to undertake an extensive review of the *Employment Standards Act* to address the following deficiencies:

- improve the conditions of employment for children, including increasing the minimum work age from 12 to 16 years old;
- increase the wage recovery period from six months to 36 months, so that workers can make claims on unpaid wages;
- restore and improve hours of work provisions by increasing the minimum shift call-out time to four (4) hours, from two (2) hours;
- introduce seven days of paid sick leave for all workers;
- introduce paid leave for victims of domestic and intimate partner violence;
- restore the ESA as the minimum standard for workers – no exemptions – including those with provisions covered by a union collective bargaining agreement;
- address wage theft in its various forms, including but not limited to unpaid overtime, not paying for training time, forcing employees to end their shift early, no breaks, taking tips, and not giving proper holiday pay;



- provide sufficient notices of shifts (currently there is no notice of shift requirement);
- increase and expand the penalties for employers who break the law;
- through enforcement and broader application, end the misclassification of employees as independent contractors so that employers cannot skirt responsibility for meeting the minimum standards of the *Employment Standards Act*; and
- establish an employer registry for the Temporary Foreign Worker Program that protects workers from exploitive recruitment agencies and targets enforcement to ensure employers are following the law.

Along with a review of the *Employment Standards Act*, there must be a substantial budget increase for the Employment Standards Branch that would enable the branch to once again proactively enforce basic workplace standards.

This should include, but not be limited to:

- the elimination of the Self-Help Kit process that requires workers to first attempt to enforce their rights with their employer before they are allowed to submit a complaint;
- the implementation of a proactive system of enforcement to increase compliance through the use of compliance teams in sectors where workers are likely to be particularly vulnerable;
- the restoration of offices in remote and rural communities in the province and relocate the Lower Mainland office to a central location accessible by transit;
- strategically targetting emerging employer practices, including the misclassification of employees as independent contractors;
- the implementation of a deterrence model of enforcement that compels employers to comply with the ESA; and
- providing funding to non-profit advocacy organizations to play a role in providing workers with information about their rights, and to support workers who require assistance in filing ESA complaints.

RESTORE FAIRNESS TO THE LABOUR CODE AND THE LABOUR RELATIONS BOARD

Increased rates of unionization are part of a poverty reduction strategy. There has been much research in this area, and we know we can draw a clear line between rates of unionization and the income gap. We see this clearly in BC - as rates of unionization have decreased, the income gap between the rich and poor has grown.

Declining unionization is the direct effect of government action to weaken the Labour Code and starve the Labour Relations Board of funding to carry out its mandate. The outcome is that it is harder than ever to form or join a union in this province.

The *BC Labour Relations Code* is one of the most important pieces of legislation in BC - it is the backbone of workers' rights and ensures a power balance between employers and employees. And while not often top of mind for people, the erosion of the Labour Code has had an impact on every person who goes to work each day.

The Labour Code and the Labour Relations Board are also important to a labour movement that depends on a fair and balanced approach to union organizing.

The BCFED has made a full submission to the Labour Code Review Panel, and we look forward to the recommendations coming from that consultation process.

Through that submission we made the case for legislative changes required to protect a worker's constitutional right to form or join a union - including ending the practice of employer interference in union drives, returning to a card check certification process, and ending the practice of contract flipping in both the public and private sectors.

While legislative reforms to the Labour Code are critical, funding for the Labour Relations Board to fulfill its mandate is equally important.

Since 2001, financial starvation of the Labour Relations Board has deprived workers and employers of labour justice in numerous ways. Further, years of underinvestment and cuts put it dangerously close to not fulfilling its mandate, including not having accessible services, functioning offices with Wi-Fi, and employees who are fairly compensated for the work they do.

To restore balance and fairness to the Labour Code and the Labour Relations Board, the BC Federation of Labour calls on the provincial government to increase funding to:

- adequately train staff on how to handle certification applications;
- increase the number of Industrial Relations Officers (IROs) to deal with certification applications swiftly, and if a vote is necessary, limit the voting timeline to two working days;
- reduce reliance on mail-in ballots, and return to in-person votes for when workers are voting to join a union (note: this will also result in reduced delays and will provide more certainty for workers, unions and employers);
- adequately investigate employer-provided employee lists required in certification drives (note: this will reduce the time and money spent by employers and unions in costly hearings);
- return to three-member panels (union representative, employers' representative, LRB vice-chair) for all hearings, as opposed to the current practice of hearing by only vice-chairs (note: this will help avoid unnecessary reconsideration applications);
- ensure effective and relevant outreach tools and services, i.e., website, to share critical information with workers and employers; and
- return responsibility for funding the Labour Relations Board to the Ministry of Labour.



RESTORING FAIRNESS TO INJURED WORKERS AND THEIR FAMILIES

The historic compromise that led to the development of the *Workers Compensation Act* is based on trust – while the Act provides protection for employers from litigation, it must also ensure that injured workers and surviving dependents are made whole with full compensation regardless of fault.

In 2002, the BC Liberal government made major changes to the system resulting in a significant negative impact on the fair compensation of injured workers and their surviving dependents. The erosion of these rights and protections continued throughout 16 years of BC Liberal governance.

The sweeping changes made to the compensation side of the system were so extreme that many seriously disabled workers are now living in poverty. The consequences of these changes on the working people of BC and their families have been devastating, but the province has also paid a price. The failure to provide fair and adequate compensation has shifted the burden of workplace disability and death from the employers' pockets—where it properly belongs—onto the public system.

Research has shown a steady increase in the number of injured workers seeking the support of the public system, including public health care, employment insurance sick-leave benefits, income and disability assistance, housing assistance, food banks, disability and low-income tax credits, Registered Disability Savings Plan, and Canada Pension Plan disability.

This government has an opportunity to restore equity and fairness to the system by taking bold action on workplace health and safety and compensation by:

- making significant improvements to workers' compensation so that injured workers and their surviving dependents are fairly compensated and can be assured they will live above the poverty line; and
- increasing funding to the Workers' Advisers Office to support unrepresented injured workers in navigating the complex and legalistic claims process at the WCB.

CONCLUSION

The priorities set out in the budget are a critical roadmap to the kind of province we want. We are grateful for the opportunity to help shape that roadmap to ensure we are building a province and an economy where no one is left behind.

After 16 years of a BC Liberal government, there is a lot of work to do to level the playing field in BC – and many areas that are desperately in need of re-investment. In your deliberations, we urge you to remember that at the core of a strong economy are workers – and the government has an obligation to ensure they are treated fairly and that their rights are protected.

The BC Federation of Labour looks forward to working with the provincial government on these, and other critical initiatives, going forward.



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The British Columbia Federation of Labour represents over 500,000 members working in every corner of the province, and in every sector of the economy.

The BCFED has a long and proud history of fighting for the rights of all working people.

The goals of the BCFED are best exemplified by its slogan: “What we desire for ourselves, we wish for all.”

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