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Briefs

BCFED Paid Sick Leave Proposal

A pdf of the complete submission can be found here.

Introduction

The COVID-19 crisis has demonstrated an urgent need for financial protection for workers who are ill, so they can stay home and get better before returning to work. Prior to the pandemic, BC was the only province with no protection for sick workers under employment law. On March 23, the BC government amended the ESA to provide unpaid protected leave for workers who contract COVID-19, need to self-isolate, or need to care for others as a result of the pandemic. It also permanently enshrined 3 days of unpaid job-protected leave.

While these changes offer some long-needed security to workers, they do not address a fundamental requirement: financial stability. Not providing paid sick leave requires workers to make an impossible choice: follow public health directives or pay the bills. This choice is especially magnified for low-wage workers, who are already struggling financially. Additionally, many workers fear retribution from their employers for calling in sick.

Leaving workers with no choice but to go to work sick puts us all at risk. It can prolong a worker's illness; reduce productivity; and jeopardize the health of colleagues and customers, especially for those with pre-existing medical conditions. During a pandemic, failing to provide paid sick leave can

result in the closure of a business, undermine public confidence in our economy, and ultimately put our whole public health system at risk by exacerbating the community spread of contagious diseases.

The solution is to provide workers with job-protected paid sick leave. While the BCFED asserts that ultimately paid sick leave must be employer funded, we acknowledge that the COVID-19 pandemic has had an unprecedented impact on many businesses. We've therefore, developed a proposal that takes the needs of both workers and our communities into account while providing short-term financial relief to employers. We believe this proposal strikes the right balance for the challenges of this moment and prepares our province to be in a better position in the future.

This is the moment to move ahead on paid sick leave. According to a recent poll conducted by the BCFED through Stratcom, permanent paid sick leave is a top priority. Over 75% of British Columbians support the BC government instituting permanent paid sick leave. The public also agrees a shared funding model between government and business is appropriate for the duration of the pandemic while employers get back on their feet. Workers health and safety has never received this level of daily attention from news media and the public: polling shows strong public support for 10 days of paid leave.

We do, however, want to outline one limitation to this proposal: thousands of workers in our province have been misclassified as independent contractors and their employers are not applying minimum employment standards. By taking action to end misclassification, government can ensure that these proposed changes benefit the greatest number of workers.

Guiding Principles

- The COVID-19 pandemic has demonstrated that our public health system and economy are vulnerable due to the lack of paid sick leave protection for workers.
- To address this gap BC needs a paid sick leave program in the short-, mid- and long-term.

- In the short- and mid-term, government should provide relief for employers who cannot afford to provide paid sick leave due to the economic impact of COVID-19. In the long-term employers should fully fund paid sick leave.
- Access to relief funding should be provided by employer application and should not put a financial or paperwork burden on workers.
- The program must provide workers with full pay for sick days.
- Paid sick leave should be available for all illnesses and not be restricted to COVID-19.
- In the short- and mid-term, a relief program to offset the cost of providing paid sick leave should be available to employers who can demonstrate a negative impact on their gross revenue due to COVID-19.
- The relief program must phase out as the economy strengthens and the employer can no longer demonstrate a business impact from the pandemic. This reflects that some sectors may have to access support for a longer period than others e.g. tourism.
- The program must apply to all workers including full-time, part-time, temporary, and casual.
- The right to paid sick leave must be permanently enshrined in the *Employment Standards Act (ESA*).
- For long-term sick leave, the ESA should additionally include 16 weeks of job-protected unpaid leave. Further, the province should work with the federal governmentto permanently remove the one-week waiting period for EI sickness leave to provide better support for those who need both short and longer-term access to sick leave.
- Paid sick leave must not be combined with other types of family-related leaves as this disadvantages women who remain more likely to provide primary care for children and elders.

Mechanism

1. Amend the *Employment Standards Act*
    - Permanently require all employers to provide workers, including full-time, part-time, temporary and casual, with 3 days of paid sick leave annually. Workers will accrue an

additional 1 hour of paid sick leave for every 35 hours worked, to a maximum of an additional 52 hours of paid sick leave annually. For a full-time worker, this combination will equate to 10 days of paid sick leave per year. Workers will start each new year with a minimum of 3 days of paid sick leave whether or not they have used their previous year's entitlement and will roll over any unused accrued sick leave hours to a maximum of 52 at any time.

- For the duration of the pandemic, require employers to provide up to 10 days of continuous paid sick leave for pandemic-related illness or required self-isolation. Access to these 10 days of leave does not require workers to have accrued it.
- Permanently require employers to provide a total of 16 weeks of job-protected leave for sick leave for long-term illness.
- Employers must not discriminate against casual and part-time workers who call in sick by offering fewer shifts or hours.
- A doctor's medical note should not be required to access sick leave, as Doctors of BC argues this places an unnecessary burden on the healthcare system.
- Employees rehired within 12 months will have their sick leave entitlement reinstated.

2. Develop a relief program to provide employers impacted by the COVID-19 pandemic with temporary financial assistance for paid sick leave.
    - When a worker is sick for any reason other than COVID-19, the employer continues to provide regular pay based on the above-noted formula.
    - When a worker is sick with symptoms of COVID-19 illness or required to self- isolate, the employer continues to provide regular pay for the duration of the illness or for the period of isolation up to ten days.
    - Employers who can demonstrate that their business has been significantly impacted by the pandemic can apply for paid sick leave relief.
    - Employers who qualify will be eligible to recoup a percentage of their paid sick leave expenditures based on the number of days paid out to their employees.

- This relief could be provided through a temporary change to payments to the federal Employment Insurance program or provincial Employer Health Tax. Alternatively, it could be provided through an income tax rebate or other suitable method.
- Employers must demonstrate that workers were paid their full regular pay for sick time.
- The amount of sick leave relief will depend on the degree of impact on the business. This can be assessed based on a comparison of gross revenue from the same month in the previous year or similar method. As revenues rebound, the percentage of relief will decrease. Additional support could be provided for new businesses who do not have the ability to measure the impact on their business. These payments could occur as follows:

Amount of revenue lost	**Percentage of paid sick leave relief**
New businesses (until Dec 31, 2020)	50%
More than 50%	75%
40-49%	55%
30-39%	45%
20-29%	35%
10-19%	25%

1-9%	15%

- This model will ensure that businesses in sectors that will take longer to recover (such as the performing arts, tourism and hospitality) will have support for a longer period. It acknowledges that the pandemic has not impacted all sectors equally. It also reinforces that the provision of paid sick leave relief is temporary and that businesses that can afford to pay, should pay.