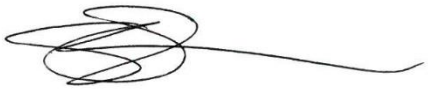
Submission to the Labour Relations Code Review Panel

BCFED Response to Labour Code Review

March 2024

Authority

This document is respectfully submitted on behalf of the Executive Officers of the BC Federation of Labour and represents the views of more than 500,000 affiliated members across the province of British Columbia.



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The BC Federation of Labour is pleased to submit its recommendations for improvements to BC's Labour Relations Code

In the five years since the previous review of the Labour Relations Code, our world and workplaces have changed significantly. In 2018, online platform work was just beginning in BC for food delivery services, and ride-hailing had not yet arrived in the province. The global COVID-19 pandemic necessitated the explosion of remote work. And more recently, artificial intelligence (AI) has significantly advanced and can take on tasks that were unimaginable just five years ago.

With many of the recommendations flowing out of the last Code review now implemented, we can assess whether they've achieved their stated goals. Many have brought welcome improvements to our workplaces and made a difference in workers' lives. We recommend that these improvements, such as successorship protections, be maintained and, in some cases, expanded to benefit more workers.

But workers continue to face considerable gaps in their ability to access unionization, and those who would benefit from collective bargaining the most too often find themselves without a path to representation. These workers are disproportionately women, racialized workers, workers with disabilities, 2SLGBTQIA+ workers, young workers, migrant workers, newcomers to our province and those from other marginalized groups.

It is time to look to new bargaining structures — sectoral and broader-based bargaining models — to ensure that precarious workers have a pathway to unionization. All workers must have access to their Charter-protected right to organize and have meaningful collective bargaining and should be able to exercise that right without fear of retaliation. Our labour relations system must provide workers with timely access to justice and the services and supports that are promised in the Code.

As well, the path to Reconciliation requires the Code to be reviewed and aligned with the UN Declaration on the Rights of Indigenous Peoples. While we understand this work may be beyond the scope of this review, the BC Federation of Labour supports this necessary and important work. We look forward to participating in the future.

As you consider amendments to the Code, we urge you to adopt one overriding lens: to ensure that they create equity, fairness and balance, giving working people a voice at the table in their workplaces. As BC businesses expand and proliferate, new structures emerge. Proposed amendments must put the needs of workers at the centre, protect their rights, and address the concerning growth of precarious work. And they must ensure all workers can exercise their Charter right to collectively organize.

Our submission makes recommendations in four key areas:

- Improving access to collective bargaining;
- Preserving and protecting workers' rights;
- Improving processes at the Labour Relations Board; and
- Acknowledging the requirements of the *Declaration of Indigenous Peoples Act*.

Executive Summary of recommendations:

A. Improving Access to Collective Bargaining:

1. Explore sectoral/broader-based bargaining

Establish a single-issue commission as soon as possible to consult on the implementation of sectoral bargaining to address changing workplaces structures, BC's high level of worker precarity and the barriers to unionization too many workers face. This commission should consult on a specific sectoral bargaining model or models to provide focus and narrow the scope of the feedback it receives.

2. Recognize the success of single-step certification

Maintain single-step certification as an effective and fair method for trade union certification.

3. Improve access to employee lists

Provide employee lists with contact information to organizers during a certification process once a trade union has signed cards from at least 20% of the eligible workers.

B. Preserving and Protecting Workers' Rights:

4. Expand successorship protection

Amend successorship provisions so the certification follows a transfer of workers and work to reflect the modern realities of contracting, subcontracting, contract flipping and modern forms of corporate transfer. Place the primary evidentiary burden on the employer where a successorship or common employer application is filed.

5. Ensure provincially regulated workers can honour the picket lines of workers who are regulated by the federal government or another provincial government.

Amend the definition of strike and person as set out in Bill 9, Miscellaneous Statutes Amendment Act, 2024.

6. Extend the freeze period for first collective agreements

Amend section 45 of the Code to have the statutory freeze apply until a first collective agreement is reached by eliminating the time limit.

7. Address remote work and virtual picket lines

Ensure that remote or digital workers have the right to establish virtual picket lines and communicate about the strike with the public. Confirm that a virtual picket line has the same standing as any other picket line.

8. **Protect the rights of online platform workers**

Affirm that online platform workers are covered by the definition of employee in the Code and have the right to organize.

9. **Allow secondary site picketing**

Amend section 65(4) by adding a new item (b) to permit picketing at worksites where the employer is performing substantially similar work, and by deleting section 65(8).

10. **Prevent double breasting**

Amend the common employer provision to remove the discretionary nature of common employer applications in construction.

11. **Address the impact of AI and automation on BC's workplaces**

Establish a commission dedicated to examining the impact of artificial intelligence and automation on BC's workplaces.

12. **Better protect workers during restructuring**

Strengthen the adjustment plan language in section 54 to better protect workers by requiring negotiated adjustment plans.

C. Improving LRB processes:

13. **Increase LRB funding**

Provide a significant increase of at least $5 million to the operating funding for the Labour Relations Board. Provide the necessary capital funding to accommodate additional staff and meet technology requirements.

14. **Improve timely access to LRB services and decisions**

Ensure that the Board has sufficient personnel and resources to meet the timelines established in the Code and to make procedures, services and decisions available within a reasonable timeframe.

D. Indigenous Rights and Reconciliation

The BC Federation of Labour is committed to Reconciliation and to fully participate in future processes to align the Labour Relations Code with the UN Declaration on the Rights of Indigenous Peoples. BC's unions strongly believe that access to unionization and freedom of association is a tool for reconciliation and, from an intersectional perspective, to address the dignity of Indigenous workers.

Recommendations:

Improving Access to Collective Bargaining

Recommendation 1: Explore sectoral/broader-based bargaining

Establish a single-issue commission as soon as possible to consult on the implementation of sectoral bargaining to address changing workplaces structures, BC's high level of worker precarity and the barriers to unionization too many workers face. This commission should consult on a specific sectoral bargaining model or models to provide focus and narrow the scope of the feedback it receives.

The prevalent model of enterprise collective bargaining has left many workers behind, unable to exercise their Charter bargaining rights. The enterprise model is effective for midsize to large workplaces where workers convene at a single worksite. But more and more, this doesn't represent the structure of our modern workplaces. Workers in small (and very small) workplaces, franchises, contracted work, or dispersed workplaces have little ability to effectively unionize and use their collective power.

Here are some examples:

BC has thousands of **domestic workers:** individuals employed in a home, usually working alone and employed by a single family, and most of them are racialized, newcomers and often employed through the Temporary Foreign Worker Program (TFWP). Their isolation and vulnerable status make traditional organizing impossible.

Migrant farm workers come to BC to work on farms, ranches, orchards and other agricultural operations. They must navigate multiple enforcement and government bodies while facing language barriers and isolation from the broader community. They rely on their employers for both income and housing and often owe fees to recruitment agencies despite this practice being prohibited. Community groups that advocate for workers are given little standing by employers, and efforts to unionize this workforce have been largely unsuccessful.
BC's tens of thousands of **ride-hail and food delivery workers** — overwhelmingly racialized immigrants or newcomers to Canada — work for large, powerful multi-national corporations, with no central dispatch location and major if not insurmountable structural obstacles to unionizing and bargaining.

Certified dental assistants (CDAs) are predominantly women, working in dental offices for small businesses often owned by one or more dentists. With only a handful of workers in each office, wall-to-wall certification would provide little to no bargaining power, and the difficulties in organizing multiple very small offices are enormous.

Franchises employ generally small groups of workers — tending to be racialized, younger and, increasingly, employed through the TFWP — under structured employment conditions set by central corporate bodies, making the work virtually identical. Yet, each franchise must be unionized one by one, with turnover and the high degree of central corporate influence making organizing and bargaining extremely difficult.

Workers in industries like those described above face both structural challenges when unionizing and significant barriers to achieving a first collective agreement. Failing to address their needs increases experiences of precarity, drives down working conditions and entrenches systemic discrimination, making already-vulnerable workers even more vulnerable and at higher risk of economic insecurity.

Implementing a sectoral and/or broader-based bargaining model ensures workers can have a say in their pay and working conditions. BC's labour movement has significant experience with sectoral bargaining models, which continue to be used in several sectors including health care, education and community services. Other sectors like construction have used a sectoral model in the past. Jurisdictions such as New Zealand and the state of California have implemented sectoral models to improve working conditions in sectors with vulnerable workers.

We see moving ahead on sectoral bargaining as critically important for our province's most vulnerable workers. Migrant workers, for example, would greatly benefit from sectoral bargaining as it would provide representation and day-to-day support by ensuring regularized wages, fair working conditions and a consistent standard of care across the workforce. Union representation would provide a clear path and faster remedies to unsatisfactory conditions. A sectoral model could also help to level the playing field by ensuring workers aren't unfairly targeted for attempting to organize or for speaking out about working conditions that are contrary to their Labour Market Impact Assessment Contract.

A model for sectoral bargaining directed at industries with traditionally low union density was proposed by the majority of the 1992 Labour Code Review panel. The issue was again raised in submissions in 2018, but the panel determined it hadn't received sufficient input to make specific recommendations. Instead, the panel proposed further study through a single-issue commission. Neither recommendation was implemented.

Our affiliated unions have reviewed several models of sectoral and broader bargaining, and we are continuing to discuss the key elements of a model that would address the needs of BC's modern workplaces. Due to the short timeline of this review, we do not have a specific model to recommend, but we hope to expand on our views at our oral presentation in March.

Our recommendation is to establish a panel to move ahead with consulting on and implementing sectoral bargaining in short order. Further, given the experience of the last panel in BC and Ontario's Changing Workplaces Review, we believe an open-ended process is unlikely to result in submissions that move the process meaningfully forward. We suggest instead that the proposed commission consult on a specific model or models of sectoral bargaining to get more focused and usable feedback for implementation.

Recommendation 2: Recognize the successes of single step certification

Maintain single-step certification as an effective and fair method for trade union certification.

In June of 2022, the provincial government reinstated single-step certification. How workers can unionize has been a contentious issue throughout the past few decades of labour relations in BC, but the results since the reinstatement should speak for themselves.

Single-step certification successfully and objectively removes barriers to unionization.

In 2023, the Board approved 195 applications for certification. This number is 36% increase over the 143 applications received in 2022. And in 2022 the number filings post Bill 10 was more than double those from the first half of the year.[1] Workers are organizing at an impressive rate because there are fewer structural barriers and fewer opportunities for employers to interfere and intimidate workers.

Single step also helped workers achieve collective bargaining rights in traditionally harder to unionize sectors like arts, entertainment and recreation; construction; real estate and rentals leasing; and retail. For example, in 2022 successful applications in retail jumped from only three before single-step was implemented to nine[2].

To ensure the integrity of the single step process, the LRB has implemented an extensive membership card audit process. That process has found very few issues with cards. In 2022, 74 certification applications were audited, and concerns were statistically insignificant. In all cases the Board "was able to satisfy itself there was no issue with the veracity of the union's application or the membership evidence submitted in support of it.[3]"

But it's not just about the numbers. It's about the difference joining a union makes in a workers' life. Sean McKenna, a worker who organized his workplace through single-step certification had this to say about single-step certification:

> *"The legislation changed partway through the union drive, and I honestly do believe it was the reason why were successful. After we had certified, we had some employees that might have been intimidated into not voting. Single-step certification allows a union to form more easily, more organically…Honestly, before, I didn't think there was anything that we could do. We were at the mercy of an owner that we had to beg for raises, beg for safety. I feel a lot more positive going to work, seeing everybody there and know that we're taking the steps to help them. This is exactly what unions are for."*[4]

We have asked our affiliates and their members to share more stories with you in their submissions and oral presentations.

Recommendation 3: Improve access to employee lists

Provide employee lists with contact information to organizers during a certification process once a trade union has signed cards from at least 20% of the eligible workers.

Access to accurate employee information allowing effective communication with workers is essential to fair organizing practices. Workers interested in unionizing in workplaces with a high number of remote workers, dispersed worksites, high turnover, shorter term employment contracts and those working through apps face unfair barriers. These new ways in which people are employed are now permanent

[1] https://thetyee.ca/News/2023/12/22/How-2023-Became-Year-Of-Unions/

[2] https://www.lrb.bc.ca/media/20791/download?inline

[3] https://www.lrb.bc.ca/media/20791/download?inline

[4] https://www.youtube.com/watch?v=PW23578Ig4k&t=4s&ab_channel=BritishColumbiaFederationofLabour

features in our economy and the Code must be adapted accordingly to provide workers with meaningful access to union certification and collective bargaining.

Employers have all the control over employees – who they hire, where and when they work, and how they can be communicated with. Even in more traditional workplaces, technological change has made it more difficult for workers to identify and communicate with their colleagues. Workers must be provided with access to their colleagues if they are going to have any meaningful ability to freely associate and have a union in their workplace.

In 2016, Ontario's "Changing Workplaces Review" recognized the implications of new workplaces structures and the impact on workers' ability to communicate with each other about the conditions of their employment. That review recommended that employers be required to provide a list of employees where a union made application and had obtained the support of 20% of the workers in a proposed bargaining unit.

The sharing of this type of information is appropriate as union drives are not external or public processes. They are internal to the workplace and led by employees coming together to form or join a union for the purposes of accessing the rights set out in the Code. Collecting names, employment location and personal contact information is a routine part of an organizing drive.

We recommend that employers be required to provide employee lists, containing work location, job title and personal contact information, once the union has met a 20% threshold of cards signed. This strikes an appropriate balance of facilitating union organizing in the modern workplace while avoiding unwarranted dissemination of personal information.

Preserving and Protecting Workers' Rights

Recommendation 4: Expand successorship protection

Amend successorship provisions so that the certification follows a transfer of workers and work to reflect the modern realities of contracting, subcontracting, contract flipping and modern forms of corporate transfer. Place the primary evidentiary burden on the employer where a successorship or common employer application is filed.

One of the most impactful improvements arising from the 2018 Code review was the expansion of successorship protections to workers employed in building cleaning, security, bus transportation, food services, and non-clinical services in the heath sector. By ensuring the continuation of their collective agreement during a contract flip, thousands of workers were protected from losing their jobs, negotiated wages and benefits.

At a time when we have seen significant cost of living increases, workers cannot afford to lose ground. Providing successorship protections is also an important pay equity measure as it protects racialized, immigrant, and newcomer workers, who are overrepresented in the sectors where contract flips commonly occur.

Successor protections are needed for workers and their unions in every sector. No employer should be able to outsource, re-tender or flip a contract to undermine the democratic rights of workers to

unionization and collective bargaining. Workers must be equally protected in the transfer of work and in the sale of business regardless of the form taken.

The onus should be on employers to show successorship provisions do not apply, since they have access to pertinent information about the successorship or transfer of business. A similar requirement already exists in section 14(7) of the Code related to unfair labour practices.

Recommendation 5: Ensure provincially regulated workers can honour the picket lines of workers who are regulated by the federal government or another provincial government.

Amend the definition of strike and person as set out in Bill 9, Miscellaneous Statutes Amendment Act, 2024.

A 2022 reconsideration decision found that the refusal of poly party union members to cross the Canadian Merchant Services Guild's picket line at the Vancouver Shipyards amounted to an illegal strike.[5] The workers were ordered back to work. The panel found that the current language in the definition of strike, "permitted under this code" was insufficient to protect provincial picketing as the LRB does not have jurisdiction over strikes established under another code e.g. the *Canada Labour Code*.

Since that decision, the issue has arisen during several federal job actions where provincially regulated workers were directed to cross the picket lines. This caused significant confusion, frustration and disappointment amongst union members. The affiliates of the BC Federation of Labour strongly hold the view that protecting the right to honour picket lines regardless of the jurisdiction is a fundamental expression of worker solidarity. Further, allowing workers to honour picket line reduces worker-to-employer and worker-to-worker tension and resentment that can build during difficult and long job actions leading to violence or the destruction of property.

In March, the government tabled legislation as part of Bill 9 to amend the definition of person and strike in the Code as follows:

Section 1 of the Labour Relations Code, R.S.B.C. 1996, c. 244, is amended

> ***(a) in subsection (1) by repealing the definition of*** **"person"** ***and substituting the following:***
>
> **"person"** includes an employee, employer, employers' organization, trade union and council of trade unions, but does not include, except for the purposes set out in subsection (3), a person in respect of whom collective bargaining is regulated by the *Canada Labour Code*; ***,***
>
> ***(b) in subsection (1) by repealing paragraph (b) of the definition of*** **"strike"** ***and substituting the following:***
>
> (b) a cessation, refusal, omission or act of an employee that occurs as a direct result of, and for no other reason than,

[5] https://lrb.my.salesforce.com/sfc/p/#f40000022yYB/a/0A0000000qUu/QEgiy412pn2APH5hAsp06ikfrrPXV82xTMxzOx0oEcE

(i) picketing permitted under this Code, or
(ii) picketing conducted by employees in respect of whom collective bargaining is regulated by the laws of Canada or another province who are locked out or on strike ***, and***

(c) by adding the following subsection:

(3) For the purposes of paragraph (b) (ii) of the definition of "strike" in subsection (1), the definitions in subsection (1) are to be read as though the definition of "person" did not exclude a person in respect of whom collective bargaining is regulated by the *Canada Labour Code*.

We support the intent of this amendment. We understand its intent is to capture all federally regulated picketing including workers covered by the *Federal Public Sector Labour Relations Act* and picketing conducted under other provincial legislation. As of the date of this submission Bill 9 has not received Royal Assent.

Recommendation 6: Extend the freeze period for first collective agreements

Amend section 45 of the Code to have the statutory freeze apply until a first collective agreement is reached by eliminating the time limit.

A successful certification doesn't result in immediate improvements for workers; a first agreement is necessary. Negotiating a first agreement, and doing so within a reasonable timeframe, continues to be very difficult, especially in sectors with traditionally low density. Because the freeze period can end before a first agreement is reached, delays at the table are a tactical advantage for employers. Running out the time clock gives employers a chance to change pay and working conditions to undermine negotiating efforts. It remains very difficult to achieve a first agreement without taking strike action -- resulting in more workplace disruptions.

Flowing from the 2018 panel's recommendations, the government made some improvements to the first agreement processes by providing the option of mediation prior to a strike vote and increasing the freeze period from four to twelve months. Our affiliates welcomed both these changes, but they report they are continuing to experience significant challenges in getting first agreements due to intentionally long delays as employers try to run out the clock.

The freeze period in section 45, which prohibits an employer from changing the terms and conditions of employment after certification for twelve months, continues to be the biggest barrier. A time-limited freeze period incentives employers to drag their heels in negotiations. Removing the time limit would encourage employers to quickly reach a negotiated agreement or trigger section 55 at the end of the one-year period.

Recommendation 7: Address remote work and virtual picket lines

Ensure that remote or digital workers have the right to establish virtual picket lines and communicate about the strike with the public. Confirm that a virtual picket line has the same standing as any other picket line.

Though some workers engaged in remote work prior to the COVID-19 pandemic, the number of workers who work remotely on a full or part-time basis has substantially increased. Remote work has given greater flexibility to both workers and employers. It is no longer uncommon for businesses to employ many if not all their workers on a full-time remote basis. Many collective agreements include negotiated language establishing the terms and conditions of remote work.

The current definition of picketing does not reflect this change in workplace structure. Remote workers must have the ability to establish and communicate about virtual picket lines. Workers have already established the power of virtual pickets in practice by using social media and websites to communicate about their struck work. But without guidance from the Code, we see this as an area of potential friction between workers and their union and employers.

We encourage the panel to review and recommend any necessary amendments to the definition of picketing in section 1(1) and sections 65 and 66 to ensure remote workers can establish, communicate about and honour virtual pickets.

Recommendation 8: Protect the rights of online platform workers

Affirm that online platform workers are covered by the definition of employee in the Code and have the right to organize.

In November of 2023, bill 48, the *Labour Statutes Amendment Act* expressly included online platform workers (those employed in food delivery and ride-hailing) as employees for the purposes of the *Employment Standards Act* and as workers for the purposes of the *Workers' Compensation Act*.

In speaking to the Bill, Labour Minister Harry Bains outlined his intention that these workers have access to their constitutional right to association. He said,

> *"But workers, as I said before — regardless of where they are from, what they do and how they do it — deserve appropriate employment standards and protections like minimum wage, tip protection, wage transparency, health and safety standards and access to workers compensation coverage if injured or become sick on the job.*
>
> *They can exercise their constitutional right to association under the Charter of Rights and Freedoms, so they could join a union and collectively bargain for better benefits and wages. Those are standards that workers should be entitled to. Those are the minimum standards that any company should provide to workers, who are the key to their success.*[6]

[6] https://www.leg.bc.ca/documents-data/debate-transcripts/42nd-parliament/4th-session/20231121pm-Hansard-n365#bill48-2R

It is our view that inclusion in the ESA and WCA are sufficient to provide coverage under the Labour Relation Code, but the large multi-national companies who employ these workers have a long history of engaging in extensive litigation to limit workers' rights. We do not believe these workers should have to litigate to determine if they have the right to bargain collectively, especially given their precarity and the other obstacles they face in organizing a large and distributed workplace.

Additionally, these workers must have a path to collective bargaining because they will receive only limited rights under the *Employment Standards Act*. It would be unfair to offer them inferior rights and simultaneously deny them an avenue to collectively bargain better working conditions. Providing limited rights to a predominately racialized and immigrant workforce is in and of itself deeply problematic. Refusing these workers collective bargaining as an avenue of relief amounts to systemic oppression.

We recommend that the panel review the definition of employee and propose amendments if needed to provide online platform workers clear access to the right to organize and collectively bargain.

Recommendation 9: Allow secondary site picketing

Amend section 65(4) by adding a new item (b) to permit picketing at worksites where the employer is performing substantially similar work and by deleting section 65(8).

Section 65 of the Code unnecessarily restricts secondary picketing. The BC ban hampers workers' free expression and allows employers to mitigate the economic impact of a strike by redistributing their goods and services to other substantially similar worksites.

The Supreme Court has ruled that secondary picketing is a constitutional right. Secondary picketing is legal under common law and protected by the freedom of expression guaranteed in section 2(b) of the Charter of Rights and Freedom. Over 70 years ago, the Supreme Court of Canda approved secondary picketing as a necessary consequence of allowing picketing under the Trade Union Act, predecessor of the Labour Relations Code.

In *Williams v. Aristocratic Restaurants*, [1951] S.C.R. 762 the Court noted, "The fact that two of the restaurants were not within the unit of employees for which the union was authorized to act does not affect the question; the owner's economic strength is derived from his total business; and it is against that that the influence of information is being exerted."

The majority of other jurisdictions do not restrict picketing in this manner. There is no suggestion that allowing secondary picketing has caused any difficulty for industry or led to widespread labour unrest. Unfair restrictions on secondary picketing relieve economic pressure on employers and may very well result in longer disputes.

We suggest an amendment to section 65 as follows:

> *65 (4) The board may, on application and after making the inquiries it requires, permit picketing (a)at or near another site or place that the employer causing a lockout or whose employees are lawfully on strike is using to perform work, supply goods or furnish services for the employer's own benefit that, except for the lockout or strike, would be performed, supplied or furnished at the site or place where picketing is permitted by subsection (3),*

(b) at or near another site or place that the employer causing a lockout or whose employees are lawfully on strike is using to perform work, supply goods or furnish services that are substantially similar to the "work" noted at subsection 3 and, in all the circumstances, would provide a reasonable substitute for the public, *or*

(c)at or near the place where an ally performs work, supplies goods or furnishes services for the benefit of a struck employer, or for the benefit of an employer who has locked out…
~~***65 (8)For the purpose of this section, divisions or other parts of a corporation or firm, if they are separate and distinct operations, must be treated as separate employers.***~~

Recommendation 10: Prevent double breasting

Amend the Code to remove the discretionary nature of common employer applications in construction.

The *Code* should be amended to remove the discretionary nature of common employer applications. In construction, double breasting inherently undermines a union's bargaining rights but it can be very difficult or impossible to prove to the Board's satisfaction that bargaining rights have been undermined. This allows construction employers a broad scope for spinning off or buying a non-union company and slowly transferring their unionised business to that non-union entity.

Recommendation 11: Address the impact of AI and automation on BC's workplaces

Establish a single-issue commission to examine the impact of artificial intelligence and automation on BC's workplaces.

AI and automation are progressing at an incredibly rapid pace. This will have an impact on industries across the board and have significant effects on the workforce. We believe there should be a worker-centered process to examine the impacts and to make recommendations on how to ensure equitable and sustainable employment.

Take, for instance, the film industry, where AI-driven technologies are increasingly used for tasks including writing, special effects, and voice acting. These changes raise significant concerns about job displacement in creative roles.

The potential impact of automation was a major issue at the table in the recent Port of Vancouver strike sending more than 7,400 International Longshore and Warehouse Union (ILWU) members out on the picket line.

A dedicated commission can explore these potential impacts through consultation with stakeholders to better understand the impact of AI and automation and make recommendations from a worker-centered perspective.

Recommendation 12: Better protect workers during restructuring

Strengthen the adjustment plan language in section 54 to better protect workers by requiring negotiated adjustment plans.

The current language in section 54 includes weak language requiring only that the employer and trade union "endeavour to" develop an adjustment plan. Though mediation is available to assist the parties, stronger language requiring a negotiated plan or allowing a mediator to impose one if one is not agreed would better protect workers facing job loss or other significant changes in the workplace.

Improving LRB processes:

Recommendation 13 and 14: Increase funding for the LRB and improve timely access to LRB services and decisions

Provide a significant increase of at least $5 million to the operating funding for the Labour Relations Board. And provide the necessary capital funding to accommodate additional staff and meet technology requirements.

Ensure that the Board has sufficient personnel and resources to meet the timelines established in the Code, to ensure that procedures, services and that decisions are available within a reasonable timeframe.

Despite small operating increases over the past few years, the Board continues to face a shortfall in both operating and capital funding. Managing this through contingency funding does not allow for long-term planning.

The Board has been making positive steps to modernize its services. Major improvements have been made to the Board's website and searchable database of decisions. Improvements have also been made to the Board's office which now offers more reliable basics – like wifi. This is a great start, but more is needed including additional improvements to the case management system.

The Board also needs more staff at every level – vice chairs, mediators and support staff. There are strict timeline requirements in the Act that must be met. When staff are pulled away to adhere to these requirements, other work is delayed. Staffing levels must be sufficient to meet emergent and ongoing needs. Delays in decisions impact both workers and employers. Our affiliates continue to report unacceptable delays when awaiting decisions on critical workplace matters.

Further, the Board needs to lead on equity, diversity and inclusion. It needs to have the capacity to implement equity, diversity, and inclusion strategies at the LRB itself and within the arbitrators' roster. Establishing an arbitration practice continues to be accessible to a limited number of people, systemically excluding those from marginalized groups and those with lower incomes. There are innovative ways the board could support this work, such as developing a mentorship program. Time spent at the Board, gives prospective arbitrators an opportunity to gain experience as a neutral and to get exposure to employer and union representatives. Other strategies to improve representation must be considered and funded.

The Board needs to consider barriers workers accessing its services may face such as language barriers. The Board should consider providing translated materials in the languages spoken by workers in BC. This could include fact sheets and information on its website about workers' rights, services offered and key decisions. Bringing on staff with different language skills would also better support workers who might have language barriers. Services and web content should also include accessible content for people with vision, hearing, or cognitive impairment who may need to access the services provided at the LRB.

Indigenous Rights and Reconciliation

The BC Federation of Labour is committed to Reconciliation and to fully participate in future processes to align the Labour Relations Code with the UN Declaration. Labour strongly believes that access to unionization and freedom of association is a tool for reconciliation and, from an intersectional perspective, to address the dignity of Indigenous workers.

The BC Federation of Labour and its affiliates are engaged in and support the ongoing and important work of Reconciliation with Indigenous peoples. The *Declaration on the Rights of Indigenous People's Act* passed in BC will require the government to "bring provincial laws into alignment with the UN Declaration and to develop and implement an action plan to achieve the objectives of the UN Declaration in consultation and co-operation with Indigenous Peoples."

We understand this is beyond this review's scope, and a separate process will be required to undertake this work. We look forward to participating in that process and supporting the participation of Indigenous workers.

Our affiliated unions represent thousands of Indigenous workers in every sector of our economy. We know that Indigenous workers are one of the fastest growing demographics in the workforce in BC. We strongly believe that access to unionization and freedom of association is a tool for Indigenous workers to have meaningful input into their wages and working conditions and that collective agreements can provide clear avenues to address bullying, harassment, systemic and structural racism, cultural safety, pay inequity and other forms of oppression too often faced by Indigenous people in our workplaces.

Conclusion:

The BC Federation of Labour appreciates the opportunity to put forward recommendations for improvements to BC's Labour Relations Code.

The regular review of the Code is essential to ensure that it continues to meet the needs of working people in our province, and that it can serve as a tool to level the playing field for some of the most marginalized workers in BC.

We look forward to discussing our recommendations further with you at an in-person presentation.