



Submitted to the  
Labour Relations  
Code Review  
Committee  
Spring 2024

# Proposed Changes to the BC Labour Relations Code

## **BC BUILDING TRADES**

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## **AUTHORITY**

This submission is respectfully submitted on behalf of the 20 local craft construction unions that represent more than 40,000 highly skilled unionized construction workers in B.C.



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The BC Building Trades provides coordination and support to affiliated construction unions.

By working together, organized construction workers achieve a powerful voice in government, in bargaining and in their communities.

On behalf of the BC Building Trades, I welcome this opportunity to provide feedback to the Labour Relations Code Review Committee.

The construction industry is unique. Workers' relationships with their workplaces and with their employers is vastly different in construction than in most typical industrial, commercial and institutional settings. The construction industry requires access to a highly skilled and mobile workforce that can adapt to the unique challenges presented at each project. Workers need to be trained and skilled in the full scope of each construction trade in order to ensure timely, quality and safe production.

It is important that the Labour Code Review Committee understands the unique nature of our industry and how that shapes our call for changes to the labour code in the following areas:

- Virtual picketing;
- Access to employee lists;
- Improving labour relations board processes;
- Amending the common employer provision;
- Enacting provisions that allow the Board to deal with employer-dominated unions;
- Extending successorship protections to all workplaces;
- Reviewing Section 2 of the Code;
- Expanding the Raid Window in construction to include September; and
- Allowing craft unions to raid out their craft from a wall-to-wall bargaining unit

We welcome this opportunity to make the following recommendations to the Committee.

Sincerely,



**BRYNN BOURKE**  
Executive Director  
BC Building Trades

## **About the BC Building Trades**

The BC Building Trades is the umbrella organization for 20 local unions that work in British Columbia's building, construction and maintenance sectors. We represent more than 40,000 highly skilled unionized construction workers in B.C.

The BC Building Trades advocates for the training, recruitment and retention of a highly skilled and qualified workforce that can meet BC's labour force demands. We are the leading provider of training in the province with more than 5,000 registered apprentices and nearly 10,000 learners in our system.

The BC Building Trades works with over 400 contractor partners in the institutional, commercial and industrial construction sector to build our communities; ensuring both prosperity and sustainability for future generations.

### **Recommendation #1**

#### **Virtual Picketing**

With recent technological advances, many workers are now dispatched from home instead of a local muster point. While the BC Labour Relations Board (the Board) has yet to rule on this, the Code's definition of "picketing" could be read to require the physical presence of picketers.

#### *Recommendation:*

The definition of picketing should be amended to make it clear that "virtual" picket lines amount to picketing under the Code as well.

### **Recommendation #2**

#### **Access to Employee Lists**

Access to worksite lists is especially difficult in the construction industry where employees may work across many different sites. Employers have a history of manipulating these lists to prevent workers from reaching certification thresholds.

#### *Recommendation:*

Where a union is able to demonstrate a threshold of 20% support from employees in the proposed unit, the employee list should be disclosed.

### **Recommendation #3**

#### **Improve Labour Relations Board Processes**

Years of underfunding have resulted in the dysfunction of the Labour Relations Board. Affiliates frequently report delays at the Board.

#### *Recommendation:*

Proper funding must be established for the Board so it can administer the Code fairly and appropriately. This should include a return to having members of the Board with expertise in

construction to ensure that workers and employers in the industry are being treated appropriately. The Board also undertake systemic improvements to modernize procedures and shorten turnaround time on decisions.

#### Recommendation #4

##### **Amend the Common Employer Provision**

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. And yet, it can be very difficult or impossible to prove to the Board's satisfaction that bargaining rights have been undermined. This allows construction employers to spin off or buy non-union companies and slowly transfer their unionised business to that non-union entity.

*Recommendation:*

The Code must be amended to remove the discretionary nature of common employer applications in construction.

#### Recommendation #5

##### **Enact Provisions for the Board to Deal with Employer-Dominated Unions**

There are many organizations in British Columbia that meet the minimal definition of being a trade union but do not act in the interest of working people. Some of these organizations do little more than provide a convenient shield for employers against legitimate trade unions.

*Recommendation:*

The Labour Relations Board should be empowered to receive complaints, conduct investigations and audit the bona fides of so-called alternative unions.

#### Recommendation #6

##### **Extend Successorship Protections**

The last Labour Relations Code Review committee recommended successorship protections for workers affected by a change to contract service providers in vulnerable sectors including:

- a. building cleaning, security or bus transportation
- b. health care workers, including food, housekeeping, security, care aides and long term or seniors care.

Workers in all sectors need and deserve successorship protections.

*Recommendation:*

Extend successorship protections to all workers affected by a change in contract service providers including construction workers.

## Recommendation #7

### **Review Section 2 of the Code**

We ask the BC Labour Relations Code Review Panel to review Section 2 of the Code to increase the focus on access to collective bargaining, including the removal of Section 2(b). Duty to ensure the Code “fosters the employment of workers in economically viable businesses.” This section of the Code has been used by employers to justify interference with workers’ rights (to strike, to organize, to decertify) and deny worker rights.

## Recommendation #8

### **Expand Construction Raid Window to September**

The summer raid window in construction has provided certainty as to when the raid window is open and ensures a representative group of construction workers is employed during that period. July and August are busy months in the construction industry and so is September. Many employers hire more workers in September to complete projects before the fall. Increasing the window from two to three months would allow construction workers employed under alternative “union” collective agreements more time to join the labour movement.

*Recommendation:*

Expand Raid Window in construction to include September.

## Recommendation #9

### **Allowing craft unions to raid out their craft from a wall-to-wall bargaining unit**

Craft Unionism is premised on the ability of a group of workers with a strong and unique community of interest (workers who share similar training and skills) to bargaining together with the various employers who employ them. For this system to operate as intended, a Union must be able to represent most or all of the members of its craft.

When most or all of the members of a construction craft are able to work through their craft union, they are able to:

- advocate for safe working practices and regulations;
- provide initial and ongoing training as technologies change;
- provide guidance and mentorship to young workers or people new to the craft;
- ensure that people dispatched to perform work within their craft are properly qualified to work safely; and
- provide pension and health and welfare benefits that carry on past any particular project.

In British Columbia we have a fragmented construction industry. Construction employees work through their craft union, for non-union employers or in wall-to-wall bargaining units.

In some segments of the construction industry, most work is performed by large integrated companies which often have wall-to-wall bargaining relationships. When a construction worker



with an enduring connection to a trade union obtains employment with such an employer, their pension and health and welfare benefits are not maintained. These employees often have no real representation and the Labour Relations Board effectively bars craft unions from raiding their craft from an all employee bargaining unit<sup>1</sup>. This policy ignores the role played by craft unions in providing pension and health and welfare benefits and ignores the role played in training and advocating for safety standards in different sectors of the construction industry.

Allowing building trade unions to raid out their craft from a wall-to-wall bargaining unit would rectify this problem and would allow craft construction workers to enjoy the benefits of effective trade union representation.

*Recommendation:*

Allows craft unions to raid out their craft from a wall-to-wall bargaining unit.

## **Conclusion**

The construction industry is the economic engine driving growth in our province. Construction contributes more than \$22 billion to B.C.'s GDP. But, labour relations practices have not been modernized to address the unique and dynamic challenges of the industry.

The Government of British Columbia has an opportunity through this review to make necessary changes to the Code. We welcome this opportunity to work alongside government in addressing these important issues.

/MoveUP

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<sup>1</sup> *Cicuto & Sons Contractors Ltd.*, IRC No. C271/88 (Reconsideration of BCLRB No. 52/87), 1 C.L.R.B.R. (2d) 63 at page 103