

COALITION OF BC BUSINESSES

LABOUR POLICY POSITION PAPER

BOMA BC – April 2002

The Coalition of BC Businesses, representing small and medium-sized business across British Columbia, has been fighting for fair and balanced labour laws in our province since its creation in 1992. We want businesses to be able to create the kind of opportunities that allow individuals in our workforce to advance their education, skills and training levels. And we want to encourage innovation because new ideas and new ways of doing things are the driving forces behind economic and social progress. While the BC Liberal government has made significant strides towards bringing balance back to British Columbia, there are key changes that are still required:

The Purpose of the Labour Relations Code

As British Columbia strives to become economically competitive so that we can generate wealth, employment, and encourage people to invest in the future, we must integrate our Labour Relations Code into this new vision. Labour Relations must acknowledge the fundamental changes in our economy, both locally and globally and it must address flexibility, productivity, competitiveness and investment.

Free Speech

To ensure that the recently reinstated secret ballot vote achieves its purpose of allowing employees to express their true wishes with respect to union representation, employees should be allowed to ask questions about the impact of union representation on their workplace and employment relationship, in a safe and secure environment.

The free speech provisions of the Labour Relations Code should be amended to make it clear that an employer's freedom of expression is protected except where it is coercive or intimidating. The free speech rights of both trade union representatives and employers must be equally respected. This is the only way to correct the double standard that is currently being applied by the Board.

Two-year Decertification

If a company has not employed any persons in the bargaining unit for over two years, the collective bargaining relationship should be terminated. The purpose of the Code is to protect the right of workers to have trade union representation if they want it. It is not to confer perpetual collective bargaining rights on unions.

Therefore, if an operation has been shut down for two years, and the laid off employees no longer have any recall rights, a union's certification should end. In the event that the operation begins hiring employees after two years, it should be up to the employees who are hired to decide whether they want trade union representation. The Code should also be amended to allow parties in the construction industry, certified to craft unions that include hiring hall provisions, to terminate their relationship upon the expiry of a collective agreement. This is necessary to correct the inequality of bargaining power that exists in the construction industry, given the nature of craft trade unions as akin to labour brokers referring workers for specific projects, and the fact that union members can, and do, freely work with non-union firms.

Definition of Manager

The definition of a "manager", for the purposes of identifying persons who are excluded from bargaining units should be expanded to include members of the "management team". This expanded definition is important because this will more realistically reflect the way businesses are actually organized and the distribution of decision-making authority within them. Further, it will better reflect the reasonable perceptions of participants in the workplace, both management and employees, as to who is a "manager". Not only would this change better reflect reality in the structure of employment relationships, but it would also hopefully reduce the amount of litigation that takes place under the current definition of "manager".

Successorship After Bankruptcy

The Coalition supports the elimination of successorship after the bankruptcy of a business. To require entrepreneurs who endeavour to renew or revive failed businesses to carry with them the collective bargaining obligations of the failed business imposes an unwarranted and often unbearable burden on the new business. The elimination of successorship after bankruptcy would not impose any hardship on employees. If the new employees wish to have trade union representation and negotiate a new collective agreement, they are free to do so.

For more detailed information on the Coalition of BC Businesses' policy statements including a detailed discussion of these points, please see www.labourpolicies.com.