

**SUBMISSION  
TO  
HONOURABLE KEVIN KRUEGER**

**SUBMITTED SEPTEMBER 16, 2008 TO  
HONOURABLE KEVIN KRUEGER,  
MINISTER OF SMALL BUSINESS AND REVENUE**

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## **Labour Code**

### ***Recognition for the Construction Industry in the Labour Code***

Disputes over construction labour law differ widely from public sector unions and other private sector unions. Effective and equitable resolution to foster industry stability requires recognition of the industry in the Labour Code. The unique nature of the construction industry; project by project employment, multi-employer organizations, the need for highly specialized trades, apprenticeship training, jurisdictional issues, subcontracting and bid shopping, etc.... has led several provinces to make mention and provide for specific reference to the construction industry in the Labour Code.

### ***Requirement for Construction Industry Expertise at the BCLRB***

Related to the issue of recognition for the industry in the Labour Code is a shortage of LRB Vice-Chairs with training, experience and background in the construction industry. LRB hearings that deal with construction industry labour relations requires Vice-Chairs who are well versed in the extensive jurisprudence unique to the industry. Delayed decisions, inappropriate and contradictory decisions and mistakes are commonplace when Vice-Chairs lack the background to build on existing precedents. These mistakes cost the BC LRB further delays and tie up tight resources as the process gets bogged down in appeal and counter-appeals. The problem of Vice Chairs without specific construction industry background has led to an overly litigious environment that slows the entire process at the LRB and contributes to the de-stabilization of our industry.

## **Project Labour Agreements**

Project labour agreements allow open bidding by all contractors; union and non-union. These agreements maintain fixed labour costs during the life of a project; have contractual obligations to prevent strikes and mechanisms to resolve labour disputes.

The agreements promote a level playing field for all tender bidders. Project labour agreements achieve important social objectives such as local hiring, job training and employment equity for First Nations youth, women and new Canadians.

Project Labour Agreements are in common features of legislation and public policy in Ontario, Quebec, Manitoba and Saskatchewan. Historically BC has used PLAs to facilitate the construction of major projects such as the WAC Bennett Dam, Colombia River Hydro Projects and some highways and bridges.

## **Foreign Worker Advocacy**

Construction employers are increasingly relying on temporary foreign workers. While most employers abide by the terms of the Labour Market Opinion and sponsorship requirements by Citizenship and Immigration there are numerous and growing examples of abuse.

The most common abuses include non-payment of promised wages, the job provided is not what was promised to the worker and in applications to the government, the job disappears upon arrival, threats of deportation, labour brokers who charge workers illegal placement fees, non-payment of overtime wages, illegal deductions from pay, excessive rents for substandard housing and the lack of monitoring and enforcement of basic employment standards.

Migrant workers are vulnerable. The vast majority of these workers don't speak English and are unaware of their employment rights. Even when the workers are aware of their rights they fear that a complaint will lead to employer retaliation, dismissal or deportation.

Numerous abused workers simply walk away from their exploitive employer finding work in the underground economy. Subcontractors in the underground economy cheat provincial and federal governments of taxes, WCB, EI and CPP deductions. Some subcontractors have turned to the black-market to launder cash from illegal sources.

Alberta has responded to the problem by establishing orientation and advocacy centres for temporary foreign workers. The Building Trades have called on the BC government to follow the Alberta example. Our earlier submission on this issue is attached.

## **Compulsory Trades**

In May, Ontario released findings of its review to expand compulsory trades requirements for some trades. Consultant Tim Armstrong concluded that requiring compulsory certification trades would increase apprenticeship completion rates and improve health and safety performance by workers. The review also found that consumers have added protection against inferior construction product as a result of compulsory trades.

The Armstrong review also proposed the establishment of a College of Trades. Similar to the College of Surgeons, Teachers, and other professional bodies such as Lawyers, Architects and Engineers, the College would enable industry to establish its own criteria for standards and requirements to practice in the industry. This proposal invites and includes both union and non-union stakeholders to open up a new avenue for engagement with government.

We call on the government to set up a review, with terms of reference similar to the Armstrong Review, of compulsory trades certification for BC.

### **Ethical Tendering**

See attached Ethical Tendering Proposal for the Province of BC.