



A Saskatchewan Employment Code: For What Purpose?



Response to Government by the Saskatchewan
Provincial Building and Construction Trades Council
July 2012

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Introduction

The Saskatchewan Provincial Building and Construction Trades Council (hereinafter the Building Trades) is submitting this brief in response to the Government of Saskatchewan's request for feedback on its proposals for a consolidated Saskatchewan Employment Code. On May 2, 2012, the government released "A Consultation Paper on the Renewal of Labour Legislation in Saskatchewan." The proposal states that 15 statutes and accompanying regulations are being considered for inclusion in the proposed code. Government has asked for written responses from stakeholders by July 31, 2012. The Building Trades also sit on the Minister's Advisory Committee on Labour Relations and Workplace Safety who have some role in commenting on the consultation paper.

The Building Trades have grave reservations about the consultation process and the content of the consultation paper.

The Building Trades appreciate the opportunity to be consulted and to participate in the Advisory Committee but, at the same time, have grave reservations about the consultation process and the content of the consultation paper. Our concerns will be outlined in this brief. Given the myriad of questions posed in the consultation paper, the nebulous nature of the discussion and Minister Morgan's statements that none of the paper represents a policy position by government, the Building Trades have chosen to respond to major concerns with the content of the paper. It is our hope that with careful, thoughtful reflection and deliberation, the government will decide not to proceed further with an employment code and will only fix the pressing labour issue before them, that being fixing the essential services legislation as directed by the Court of Queen's Bench court decision.

The consultation paper is very difficult to respond to; it raises numerous questions without providing a sense as to what policy goals or objectives the government wishes to achieve. As described by one of our affiliates, the paper raises "what if questions" with little or no context as to the policy direction of government. At the same time, the questions for discussion suggest specific issues or legislative options the government may be pursuing. It would be very helpful for the Government of Saskatchewan to outline its vision and objectives for the legislative framework governing labour relations law in Saskatchewan.

Therefore, we have decided to respond to the potential directions suggested in the paper. We will raise a number of broad concerns with what we see as potential directions. Some of these issues are related to process, some are related to policy and others are related to our worries with the content of what we think government is contemplating. The government should not interpret the Building Trades silence on any issue as approval of a particular direction, but simply as a choice about what issues to respond to at this stage of the discussion. Should the government decide to proceed further, we are committed to respond and provide the government with the benefit of our analysis and advice.



The Building Trades are concerned that government will use the opportunity to make fundamental change in labour legislation, without a full and early statement of government intent and policy and thorough consultation.

Our brief is organized into the following sections:

Who are the Building Trades?

The Building Trades and their affiliated unions represent approximately 7,000 skilled tradespeople across the province who construct major industrial projects. They are valuable partners in the province's economic development and play an intrinsically different role than do public sector unions.

Why Now?

The Building Trades are concerned about the timing of this consultation, in the middle of an economic boom when all of our efforts should be directed at ensuring labour supply to build Saskatchewan's economic infrastructure.

Why These Timelines?

The Building Trades are concerned about the rushed nature of the consultation when so much is contemplated in the proposal and such important issues are at stake. It would be better to take the necessary time to fully consider the issues and "get it right."

Why Consolidation?

The Building Trades are deeply worried that consolidation of all labour legislation is a "straw man" for government, and government will use the opportunity to make fundamental change to labour standards and labour relations, without a full and early statement of government intent and policy, and thorough consultation.

What is at Stake?

The Building Trades are committed to making the province work and to meeting the needs of Saskatchewan's unionized contractors. We understand unionized contractors must succeed in order for our members to succeed. Orderly, sustainable, predictable, and constructive labour relations are a critical element to the success of the economy, to the success of our contractors and to the success of our members.



Who are the Building Trades?

The Building Trades Council is the representative group for 13 affiliated construction unions in the province. We assist the affiliated unions in representing the interests of their members for fair wages and safe working conditions achieved through collective bargaining. The affiliated unions are organized by trade division or, as it is sometimes referred to, by their craft.

Before the government undertakes massive change to the current system of labour relations in the province, it is important to understand the unique characteristics of the industry and the unions who provide their workforce. Without this understanding, government runs the distinct risk of making mistakes that will have unintended harmful consequences for the sector.

The unique characteristics of the construction industry can make it vulnerable to instability and change. Some of the characteristics of the industry include:

- ▶ Employment is usually on a short-term basis. Construction jobs can last from more than a year to as little as a single day. Many tradespeople will work on two, three or more different projects in a year and for as many employers. The principal relationship for a tradesperson is with his or her craft-based union rather than with a particular employer.
- ▶ Substantial employment in the unionized construction industry is managed through the dispatch systems operated by the Building Trades unions. Unions provide employers with the skilled workers they need, fulfilling a valuable human resource function. This function is the core business of an affiliate and distinguishes us from public sector unions. Each affiliate keeps a ready for work list that is based on a worker's availability and not on his or her seniority. Workers are generally dispatched in the order in which they become available for work.
- ▶ In the event that out-of-province workers are needed to meet labour market demand, the Building Trades are able to access 500,000 Building Trades members Canada-wide through the travel card system that brings qualified journeypersons from other provinces to work in Saskatchewan. In addition, the Building Trades can quickly access unemployed skilled workers from American locals and bring them to Saskatchewan through the federal Temporary Foreign Workers program.
- ▶ The short term and geographically dispersed nature of industrial construction work means tradespeople are required to be highly mobile – thus the term “journeyperson.” The portability of standard benefits provided through provincially bargained agreements allows maximum labour mobility both within and across provincial jurisdictions.

Without understanding the unique nature of our industry and our unions, the government runs the risks of making mistakes that will have unintended consequences for the sector.



Some of the changes have the potential to destabilize and distract an industry already stretched to manage the province's current resource and construction boom.

- ▶ On the employer side, many employers are specialized by trade just like the craft unions they work with (plumbers, electricians, millwrights, boilermakers, carpenters, etc.). Many of the smaller employers who are a critical part of the Saskatchewan-based construction industry do not have “human resource departments” and so rely completely on the unions to manage their labour requirements. This includes finding and locating workers from other provinces and other countries.
- ▶ Unlike many other industries, there is a long-standing partnership in the construction industry between employer and unions in the delivery of skills training. Building Trades unions deliver significant training in Saskatchewan. Members and employers contribute to training funds each month, because we understand that ensuring a highly skilled workforce provides our employers with a competitive advantage.

The Building Trades are concerned the government fails to appreciate the unique characteristics of our industry and our workplaces. Some of the changes alluded to in the discussion paper have the potential to destabilize and distract an industry already stretched to manage the province's current resource and construction boom.



Why Now?

Saskatchewan is experiencing an unprecedented resource boom, which has only intensified in 2012. Expansion of the resource sector means work for skilled tradespeople. All of our affiliates are experiencing high demand for workers and are working hard to meet the labour force needs of our employers and owners. We are concerned a prolonged debate about an employment code and its contents will divert government from what we believe is its real priority – ensuring Saskatchewan employers have workers and ensuring Saskatchewan people are trained for work.

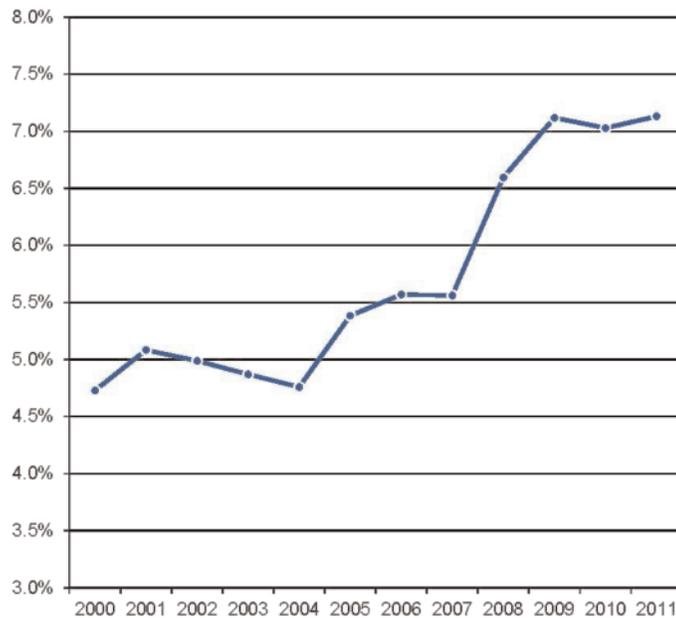
The Saskatchewan Mining Association and the Construction Sector Council are predicting significant labour shortfalls over the next decade.

Both the Saskatchewan Mining Association and the Construction Sector Council are predicting significant shortfalls in labour over the next decade. The Saskatchewan Mining Association is predicting over 15,000 new workers will be required in the mining industry alone in the next decade to manage growth and retirements. The Sector Council makes a similar point outlining the risk to Saskatchewan's economic growth if the province cannot meet the demand for labour.

The risk posed by not finding sufficient labour is significant. The construction industry is a growing part of Saskatchewan's Gross Domestic Product (GDP). According to SaskTrends Monitor, Saskatchewan's construction industry GDP was almost \$3 billion in 2011, compared to \$2 billion in 2005 and \$1.6 billion in 2000 (measured in 2002 dollars).

The construction industry's share of GDP has grown to just over seven percent in 2011, very close to manufacturing at 7.2 percent. In 2000, it represented just 4.7 percent of Saskatchewan's GDP; in 2005, it represented 5.4 percent of GDP.

GDP in \$2002, Construction Industry, Percentage of Saskatchewan GDP

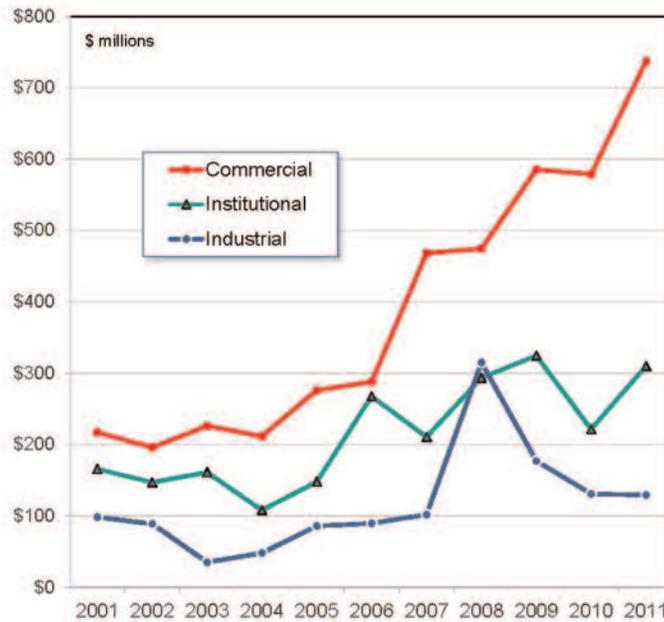


Source: SaskTrends Monitor; Statistics Canada



Building permits are another measure of the growth in the construction sector.

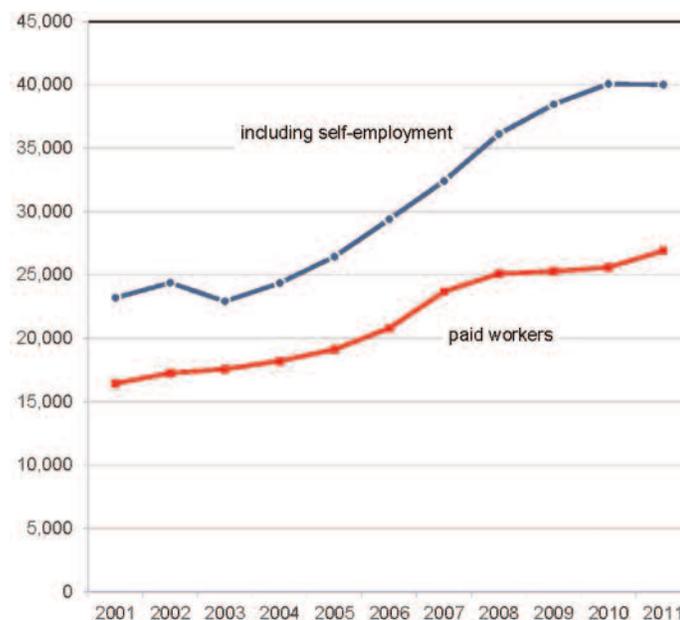
Value of Non-Residential Building Permits



Source: SaskTrends Monitor; Statistics Canada

In 2011, approximately 40,000 people (including self-employed) were earning their living in the construction sector, compared to just less than 25,000 in 2001. Paid employees also increased over this time period, but not at the same rate. In 2001, just over 15,000 paid employees were working in the construction sector and by 2011, well over 25,000 employees were working in the sector.

Employment in the Construction Industry



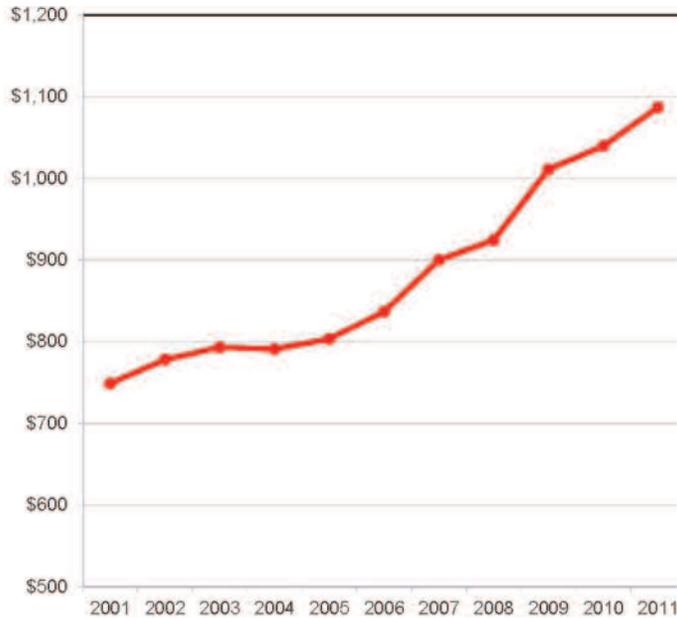
Source: SaskTrends Monitor; Statistics Canada



Minister Morgan's comments do not explain how the legislative changes will meet the needs of industry or address the shortage of workers. Government efforts to meet labour shortages are not meeting the mark.

Saskatchewan working people are profiting from construction activity. Earnings have increased steadily over the last 10 years. Increased earnings mean increased taxes for the Saskatchewan government.

Average Weekly Earnings (including overtime), Construction Industry



Source: SaskTrends Monitor; Statistics Canada

Recent data from the first part of 2012 shows construction activity continues to grow. There is a significant increase in activity in the construction sector even over the same periods in 2011:

- ▶ Employment in the construction industry is up 6.6 percent in the first six months of 2012 compared with the same period a year ago.
- ▶ The value of commercial/industrial building permits is up 7.6 percent for the first five months of 2012 compared with the same period a year ago.
- ▶ Hourly wage rates in the construction industry are up 6.3 percent in the first four months of 2012 compared with the same period a year ago. (SaskTrends Monitor)

When introducing the consultation paper on May 2, 2012, Minister Morgan made the argument that modernizing labour legislation is critical to meeting the needs of the Saskatchewan economy. Neither his comments nor the consultation paper actually explain what legislative changes are necessary to meet the needs of the economy and how the topics described in the paper will improve the critical shortage of workers identified by the Saskatchewan Mining Association or the Construction Sector Council.



Until a better case is made, the Building Trades believe the government is pursuing the wrong priority in the Saskatchewan Employment Code and is distracting the industry from its real job.

Other government efforts to meet labour shortages are not meeting the mark. Our recent analysis of Saskatchewan's apprenticeship program tells us it is not ready to meet the demand for new tradespeople. Registrations of new apprentices have remained flat over the last three years, while SIAST is sounding the warning bells that it has run out of space to even respond to the training needs of the existing apprentices in the system.

The government is also looking to the Saskatchewan Immigrant Nominee program to recruit skilled tradespeople. The reality is that even with the success of the program, low numbers of certified journeypersons have been brought to the province.

Currently, our affiliates are recruiting labour from all across Canada. Certified journeypersons from other Canadian locals are bringing their skills to Saskatchewan to help respond to the resource and construction boom. Demand and competition for skilled journeypersons is high in western Canada, to the extent that some of our affiliates are now relying on the Temporary Foreign Workers program to recruit skilled journeypersons from the United States.

We believe that government does need to take sustained action to respond to the growing construction industry and to the risk to the economy posed by labour shortages. But until a better case is made that the creation of a Saskatchewan Employment Code will address this problem, the Building Trades believe government is pursuing the wrong priority and distracting owners, employers and unions from their real business.

Government needs to concentrate on funding apprenticeship, expanding SIAST's capacity to train apprentices, and preparing more Aboriginal young people for success in the trades.



Why These Timelines?

The Building Trades wrote to all political parties during the fall 2011 election campaign to ask each of the leaders what their plans for labour were should they be elected. The Building Trades asked what intentions each had with regard to labour relations in the construction industry and whether there was any intent to change legislation. Premier Wall responded saying the government “stands by its record” and that they support “a fair and balanced labour environment throughout Saskatchewan.”

It is this “record of government” that the Building Trades have significant concern with – both in regard to the timelines and the consultation process associated with this paper. Our confidence in the Government of Saskatchewan meeting its commitments with regard to consultation and really listening to organized labour is very low. Our experience with the government in relation to Bill 80, amending *The Construction Industry Labour Relations Act, 1992* (CILRA), taught us this government does not meet its commitments with regard to consultation and summarily dismisses any concern from organized labour.

Our confidence in the Government of Saskatchewan meeting its commitments with regard to consultation and really listening to organized labour is very low.

The government introduced Bill 80 on March 10, 2009, with no advance discussion with the construction unions. The only consultations Minister Norris (then responsible for Labour) admitted to holding were with the Christian Labour Association of Canada, widely considered an employer-friendly union, and a number of large Alberta contractors. The government agreed to public hearings led by the Human Services Committee of the Legislative Assembly and the production of a report by the committee. Hearings were held but no report was ever produced by the committee. Despite the work of the Building Trades and other stakeholders to show the government the problems with Bill 80, the government introduced and passed the legislation with no amendments from its original form. At the time, the Building Trades characterized this action as a failure to listen.

This government’s failure to listen and consult on labour issues is even more troubling than the attack contained in Bill 80. Essential services legislation was also declared unconstitutional partly because of the government’s failure to consult and listen to stakeholders. Despite the recent overtures by the current Minister of Labour to consult, the Building Trades remain worried that the Premier, his Cabinet and his caucus colleagues will remain unmoved by non-partisan and evidence-based arguments, merely because they are being made by organized labour.



During the election campaign, the Premier also failed to answer our specific questions on his agenda for labour. In our fall 2011 letter, we asked the Premier the following questions:

Will you or your government make any legislative or regulatory changes impacting the system of labour relations in the construction industry in the four-year period following the 2011 election?

Will you or your government introduce so called Right to Work legislation that will exempt workers on a unionized worksite from either joining the union or paying union dues?

Please describe how you propose to consult with the men and women of the Saskatchewan construction industry in the event that you intend to make policy changes impacting their industry.

Election campaigns are the time when important issues like how our workplaces are regulated should be debated.

We have debated whether there should be a new football stadium for five years, but government can only take 90 days to hear from working people.

In his response, Premier Brad Wall indicated he intended to increase Aboriginal employment, attract people to move back to Saskatchewan, increase immigration, and offer a Graduate Retention Rebate. No mention was made of undertaking the largest overhaul of labour legislation in Canadian history. We should expect more from our government and receive more. We expect transparency, accountability and honesty from all elected officials, especially during an election campaign.

While the Premier could not provide a clear answer to our questions on the direction his government would take post election, Minister Morgan made it clear in the news conference, announcing the consultation process, that many of the issues in the paper are as a result of views expressed by Saskatchewan Party supporters on the doorstep during the campaign. We believe governments are elected to represent and answer to all the people of Saskatchewan, not just those that support the political party who happens to form government. Election campaigns are the time when important issues like how our workplaces are regulated should be debated.

The timeline for this process is deeply worrying to the Building Trades. If the government is intent on pressing forward with this plan, they have not allowed sufficient time for the process to unfold. Many commentators have noted the scope of the consolidation is huge and the timelines are short. Too often, this undertaking is thought to only involve organized labour when, in fact, it involves all working people in Saskatchewan. Time is required for the 548,000 people working in the province to understand what is at stake and how they may be affected. We have debated whether there should be a new stadium in Regina for five years, but the government is only willing to take 90 days to hear from working people and their families on an issue of fundamental importance to their everyday lives.



We believe that government needs to only deal with the single issue that is time sensitive – essential services – and leave the balance of the labour legislation alone.

The Building Trades also reference the submission by the Canadian Association of Labour Lawyers (CALL) and their concerns with the consultation process. CALL notes the intensive process used by the federal government in 1995 to develop the Canada Labour Code. The federal government appointed a task force to conduct the review and provide the government with recommendations. The task force held public hearings and informal consultations, and received written submissions. The task force considered all submissions in full.

The Government of Saskatchewan plans to introduce the new labour legislation in the fall session of the Legislative Assembly. Given the scope of the undertaking and the plan to introduce legislation so quickly, it begs the question as to whether decisions have been made on the content of the legislation and work is already underway – all before the consultation period is completed.

The only pressing timeline before government is that imposed by the Court of Queen's Bench with regard to amending essential services legislation. Even there, the timeline is being adjusted; Minister Morgan acknowledged it is likely the government will apply to the court to have the timeline extended.

Despite this history and these concerns, the Building Trades have committed to working with this government by sitting on the Minister's Advisory Committee. We understand that during the last meeting of the Advisory Committee, the Minister committed to provide us with all copies of papers submitted to the government in their entirety. Where papers have been submitted by individuals, we will receive the full paper with only the individual's name removed to respect privacy concerns. We appreciate the openness that the Minister has shown, but we believe that all papers should be posted on the government's website to ensure full transparency and accountability.

We believe government needs to reconsider its proposal and deal only with the single issue that is time sensitive – essential services – and leave the balance of the labour legislation alone.



The Building Trades are concerned consolidation is being presented as an opportunity to fundamentally rethink the nature of unions and their roles in Saskatchewan workplaces. That is government's real agenda.



Why Consolidation?

During his press conference, Minister Morgan stated that the main reason for proceeding with the consolidation plan was because two different sets of public servants (Ministry of Justice and Labour Relations and Workplace Safety) recommended it to him. Is that a sufficient reason for this government to take on this large a project? Or does the government have another agenda they are pursuing?

Consolidation poses many risks in getting things wrong. *The Trade Union Act*, alone, depends on the interpretation of its provisions by the Labour Relations Board (LRB) and the courts. Years of legal precedents have been set in countless decisions of the LRB and all levels of courts. Simple changes in language could result in the LRB re-interpreting provisions and upsetting or significantly changing the stability of the rules that have governed workplace relationships for years.

At the same time the government is making the case to consolidate 15 pieces of legislation, it is also raising serious policy questions with regard to the role of unions, including whether and how union dues can be collected, and whether and how provincial bargaining will take place in the construction and health sectors. These questions go far beyond “simplification” and “ease of understanding and use,” Minister Morgan’s stated reasons for consolidation. The Building Trades are concerned consolidation is being presented by the government as an opportunity to fundamentally rethink the nature of unions and their roles in Saskatchewan workplaces. That is their real agenda.

The government uses the example of the Canada Labour Code to show how consolidation can ease use for practitioners, unions and employers. In reality, the code is considered by some to be so large it is cumbersome and awkward. The proposed Saskatchewan Employment Code absolutely runs this risk and would not achieve the major simplification outcome sought by Minister Morgan. In addition, codifying all this legislation in one statute means governments in the future are going to be very loath to consider amendments. Debating legislative amendments always runs the risk that opposition parties will use the opportunity to have a broader debate about other provisions in the code.

The Saskatchewan construction industry needs stability right now, so that employers, owners and unions can concentrate on what is important – recruiting and retaining labour. Without these men and women, our province will struggle in an increasingly competitive environment to meet the Saskatchewan advantage.

The Building Trades do not support consolidation of all the legislation. If there are inconsistencies between the various Acts, the Building Trades believe the government should address the inconsistencies and amend individual Acts as required. This process is more transparent and allows working men and women an opportunity to provide feedback and advice on clear issues.

We believe that the proposals will weaken the provincial system of collective bargaining and labour relations in the construction industry.

This system has successfully managed labour relations without any disruptions, including strikes, since 1992.



What is at Stake?

The Building Trades believe the government, under the guise of consolidation and modernizing labour legislation, is taking further steps to weaken the system that has successfully managed labour relations in the construction industry since 1992 without a single strike. We believe that Bill 80 was the first step in this process and, if acted on, the proposals in this paper are a further step.

The Saskatchewan Building Trades have identified six areas of major concern in the part of the paper dealing with labour relations. These six areas are the sections dealing with:

- ▶ Province-Wide Collective Bargaining
- ▶ Certification and Decertification of Unions
- ▶ Transferring Certification
- ▶ Accountability and Union Dues
- ▶ Scope of *The Trade Union Act*
- ▶ Employment Standards

Embedded in these sections are the important issues of voluntary recognition and abandonment, both of which were major areas of concern for the Building Trades during the Bill 80 debates. When these parts of the paper are taken together, it is clear that the government is interested in further weakening the framework for construction labour relations that has served this province well. If acted upon, employers will have a new and strengthened basket of tools to diminish the rights and benefits of Saskatchewan workers.

Province-Wide Collective Bargaining

The construction industry in Canada and in Saskatchewan has had a long history. By the 1960s and 1970s, the construction industry was characterized by instability and fragmentation, with labour unrest, strikes and lockouts. Agreements were bargained one at a time, employer by employer. The results were chaotic.

Thirty years ago, it was recognized the labour relations framework in the industry was broken and in need of repair. The fix was found in strengthening the position of employers relative to unions to prevent employers from getting “whip-sawed” by unions. The solution was to bargain collective agreements provincially between employers and employees at one table so that all unionized employers had access to the same pool of skilled labour at the same wage and benefit cost.

In Saskatchewan, that solution was established through *CILRA* and it provided stability and prosperity for the construction industry. The construction industry, like the wider economy in which it functions, thrives on stability. Investment flows to stability and flees from instability.

It is this system of provincial collective bargaining that the government questions in the discussion paper.

The government's interest in labour relations is becoming an unhealthy obsession that is drawing energy and resources away from more pressing matters such as relieving labour market shortages.



In the 1980s, the government in Saskatchewan changed the rules in the construction industry to let companies “double-breast” or create non-union entities to get out of their union certifications. The provincial government of the day also repealed *CILRA* and, as a result, trade unions were decimated. Working men and women of Saskatchewan paid for the government’s missteps through lower wages and benefits, and an unstable construction industry.

In the 1990s, stability and fairness were restored through the simple mechanism of bargaining collective agreements at a provincial table. The system is inherently stable because one collective agreement governing the system acts as a powerful disincentive to labour disruption. In practice, strikes and lockouts do not occur as taking out the whole system is too great a price to pay for employees or employers. In addition, common employer provisions were enacted in section 18 of *CILRA* that prevented spin-off corporations from being formed by employers as a method of avoiding existing certifications (known as “double-breasting”). It should be noted that Bill 80 did not touch the “spin-off corporation” provisions in *CILRA*, which raises the question as to what the government intends in this review. Overall, the value of the system established by *CILRA* is proven by one simple fact – there has not been a construction strike or labour disturbance in 20 years.

It is this system of provincial collective bargaining the government questions in the discussion paper. Arguably, Bill 80 was the first step in breaking down the provincial bargaining structure established under *CILRA* by establishing two systems for construction bargaining, the craft-based unions regulated by *CILRA* and the new system of multi-employee unions regulated under *The Trade Union Act*.

The discussion paper appears to go further than Bill 80. The paper asks whether or not multi-employer, multi-employee bargaining should be included in legislation and whether province-wide collective bargaining should be permitted in particular sectors. It should be noted that the government has already allowed multi-employer and multi-employee bargaining in *CILRA*. If the government continues to answer the first question in the affirmative and answers “no” to the second question, the foundation of *CILRA* is destroyed and we will return to the 1980s.

On November 27, 2009, in response to Building Trades concerns about Bill 80, then Minister of Labour Rob Norris wrote to us that:

In drafting the amendments [to CILRA], this government has clearly articulated that the current collective bargaining structure was not to be changed. Instead, the intent was to enable other unions and unionized employees to operate in Saskatchewan and have their relationship recognized.

We are concerned that the government has – after a very divisive and unproductive debate with Bill 80 – decided to further change the bargaining structure in the construction industry. It is also disturbing that after making such substantial changes to *CILRA* only three years ago that it now appears the Government of Saskatchewan wants to again fundamentally reconsider the legislative environment for the construction industry.

The government's interest in labour legislation is becoming an unhealthy obsession that is drawing energy and resources away from more pressing matters such as relieving labour market shortages.

Clearly, the Building Trades support the continuation of *CILRA*. The construction industry is too important to Saskatchewan's current and future well-being to create the level of instability and turmoil that would result with abolishing provincial bargaining. The Building Trades believe the government is out of touch with the needs of construction employers – issues of labour supply will not be resolved by removing provincial bargaining and decimating the unions who are best positioned to find workers.

Certification and Decertification of Unions

The Building Trades believe the proposals dealing with certification and decertification will also weaken the position of construction unions and the framework for labour relations in our industry. In this discussion, the concepts of voluntary recognition of a union and abandonment are important to understand. They will be explained in this section, along with decertification orders. The implications for the construction industry will be outlined.

Voluntary Recognition

Voluntary recognition allows the employer to choose the union representing employees and allows employer-friendly unions or unions of convenience, like the Christian Labour Association of Canada (CLAC), to enter the workplace. An employer, rather than the workers, chooses these unions because the union's collective agreement typically provides for terms and conditions significantly below prevailing rates.

The possibility of an employer voluntarily recognizing a union was contemplated in *CILRA* prior to the Bill 80 changes but, because of the provincial bargaining structure, only craft-based unions and employers approved under *CILRA* could use the provision. Under this system, whether as a result of a certification order or voluntary recognition, a craft-based union bargained with approved unionized employers and reached one provincial agreement that applied to all unionized worksites and tradespeople in that trade across the province.

Bill 80 changed that bargaining structure by giving access to multi-employee unions (which represent multiple trades) and large non-unionized employers from outside Saskatchewan. Importantly, these new relationships are not governed by the provisions of *CILRA* but are governed by *The Trade Union Act*.

While Bill 80 fundamentally changed the provincial bargaining structure, it did not make clear the relationship between voluntary recognition of a union and a certification of a union under *The Trade Union Act*. The current *Trade Union Act* does not give any legal status to voluntary recognition by an employer of a union.

In other words, a subsequent certification application by a craft-based union and order by the LRB could overrule an employer's voluntary recognition of a multi-employee union.

Saskatchewan employers will be able to use voluntary recognition to avoid legitimate attempts by craft-based unions to certify a workplace. In essence, such a change would further remove from workers the right to choose who will represent them.



The Building Trades believe the extension of voluntary recognition is evidence the government is “shoring up” its plan to allow CLAC continued access to Saskatchewan workplaces.



By including voluntary recognition in *The Trade Union Act* as suggested in the discussion paper, the government has the opportunity to clarify the relationship between the two concepts and to ensure voluntary recognition has the same legal status as a certification order. The effect is to cut off any subsequent attempt by a craft-based union to certify the workplace. The workers caught by a voluntary recognition of an employer-friendly union have little to no recourse. If the government proceeds as suggested by the paper, Saskatchewan employers can use voluntary recognition to avoid legitimate attempts by a craft-based union to certify a workplace, a very powerful tool. In essence, such a change would further remove from workers the right to choose who will represent them.

In addition, *The Trade Union Act* as currently drafted does not allow for an employee who is part of a voluntarily recognized union to file a “Duty of Fair Representation” complaint (hereinafter a DFR complaint) against his or her union as the DFR section only applies to unions that are certified under *The Trade Union Act*. Interestingly, the discussion paper does not raise the question as to whether employees should have this right. Unions subject to voluntary recognition and certification orders should be held to the same standard to represent the interests of their members.

The Building Trades also believe the extension of voluntary recognition to *The Trade Union Act* is evidence the government is “shoring up” its plan to allow CLAC continued access to Saskatchewan workplaces. By inclusion in *The Trade Union Act*, voluntary recognition applies to all industries in the province, although the Building Trades believe construction is the prime target given the cyclical and project nature of this work. The only other industry similar to ours is the film industry, in that it is cyclical and project-based, although the government has dealt with it by eliminating the film tax credit.

In addition, unions must apply to the LRB for a certification order and the LRB must conduct a secret ballot vote to determine representation. The government notes in some cases it is impractical to conduct a secret ballot vote because the work being done is short term in nature. On this basis, the government argues that voluntary recognition should be included in *The Trade Union Act*. It should be remembered that during its first term, this government implemented the more cumbersome requirement of a secret ballot vote and did away with the previous simpler card system. Now the government is using its own time-consuming secret ballot vote as an excuse to introduce voluntary recognition in *The Trade Union Act*.

Abandonment

Generally, abandonment refers to the notion that a union has abandoned its right to represent workers and bargain collective agreements on their behalf through either inaction or inattention. The concept of abandonment was included in Bill 80 despite strong arguments against it put forward by the Building Trades.

The government significantly changed the law of abandonment as it had been applied by the LRB and approved by the Saskatchewan Court of Appeal in the previous 20 years. It turned the law of abandonment on its head and allowed employers significant leeway in shedding unions. Prior to Bill 80, it was not

The proposal dealing with abandonment strengthens the changes from Bill 80 and is a clear signal to the Labour Relations Board and the courts that there is a new law of abandonment in Saskatchewan.

possible to equate abandonment with simple inactivity by a union – the employers also had to have some employees in the craft-based bargaining unit and thus were considered active.

Under the Bill 80 rules, employers are given much more leeway to prove they are active during the period of the abandonment. They need only prove they had some employees to be considered active; it no longer needs to be employees of the craft union in question. In addition, an employer can be considered to be active even if they are only subcontracting work or are acting as a labour broker. Further, any period of union inactivity may qualify for abandonment; the provisions are retroactive, so an employer can reach back to a time when the construction industry was not busy (like the 1980s), when the company had no employees belonging to the union and there was no role for the union. It is now possible for the employer to argue that it was active, perhaps through subcontracting, and even though there were no employees for the union to represent at the time, the union can be decertified.

Prior to Bill 80, abandonment was typically used by an employer as a defense in an application dealing with successorship rights or common employer provisions. Under the Bill 80 changes, the employer can make the application for abandonment to the LRB and have a union decertified.

The wording of the last two questions on page 15 of the discussion paper seem to suggest the government is willing to consider an even broader understanding of abandonment, one which includes the clear permission for an employer to apply for decertification where the employer no longer employs workers for a period of time. The questions read as follows:

Should an employer and/or a union member be able to apply to the Labour Relations Board to rescind a certification order? For example, should this occur where a union is not representing its employees, either through meetings with members or collective bargaining on their behalf with the employer?

Under what other circumstances should an employer and/or union members be able to apply to the Labour Relations Board to rescind a certification order? For example, should this be available where the employer no longer employs workers? And, if so, should there be a minimum time period before an application can be brought forward? Are there other issues to be considered?

The first question appears to contemplate the Bill 80 version of abandonment. The second question does not make mention of the union failing to represent the interests of its members, but simply allows the employer to make an application if there are no workers. Arguably, this would allow unionized companies to create new corporate entities that might be subject to an existing certification (because of the spin-off provisions in *CILRA* or the common employer provisions in *The Trade Union Act*) to not hire employees, wait for a period of time and then apply to decertify the union.

Similar to voluntary recognition, including abandonment in *The Trade Union Act* gives the government the opportunity to apply the concept to more



The Wisconsin right to work legislation included mandatory annual certification votes. What is contemplated in the proposal is more radical, in that a union may be subject to multiple decertification applications in a year.

This proposal has the potential to divert attention from the real issue of finding labour and getting the job done.



industries (including the multi-employee unions operating outside of *CILRA*) but also gives it the ability to clarify its relationship to certification and decertification and, more importantly, to successorship rights. It strengthens the intent of the Bill 80 changes and is a clear signal to the LRB and the courts that these rules are now the new law of abandonment in Saskatchewan.

Decertification

The paper also raises the issue of decertification of a union and when an application to decertify a union can be made. Currently, union members can only make a decertification application within the open period of the contract (not less than 30 days or more than 60 days before the anniversary of the effective date of the agreement). The paper notes union members do not always know the rules with regard to the open period and so can miss the time to apply. The paper asks the question as to whether applications for changing union representation or decertification should be limited to the open period. The paper also raises the question as to whether the opportunity to hold decertification votes should be increased to some maximum number in a 12-month period.

The Building Trades believe the current rules governing decertification applications and open periods are sufficient. Allowing multiple opportunities to apply to decertify a union during the course of a contract will only create the risk of instability and chaos. The LRB and other labour relations boards across the country have decided that there must be good reasons to allow no more than one decertification application in one year. Unions must be allowed the opportunity to demonstrate their ability to represent their members and to make decisions without the constant threat of rescission applications.

It should be noted that the Wisconsin right to work legislation included mandatory annual certification votes. What is being considered in the paper is arguably more radical. A union could be subject to multiple decertification applications in any year.

Skilled tradespeople have the opportunity to work anywhere in western Canada at the moment; if they believe there is any instability in the terms of their contract, they will choose to work elsewhere, particularly Alberta where wages are higher.

Again, this proposal has the potential to divert attention from the real issues of finding labour and getting the job done.

Transferring Certification

Currently, *The Trade Union Act* allows an existing certification order and collective agreement to be transferred when all or part of a business is sold to a new owner. The Act also allows for the LRB to determine there is a common employer, where more than one corporate entity is under common control or direction. *CILRA* also has provisions with regard to spin-off companies. These provisions are intended to prevent employers from creating new corporations for the purpose of defeating an existing certification, a practice common in the 1980s called “double-breasting.” Bill 80 did not deal with the sections of *CILRA* dealing with spin-offs.

*Double-breasting
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shedding unions.*



The paper asks the following questions on page 17:

Is the successorship and common employer declaration appropriate?

Are there conditions that should apply and others that should be negotiated in the new employer-employee relationship? Please identify conditions that should transfer to a new employer.

The Building Trades are very concerned with the direction of the questions. It appears that after making a point of not changing these concepts in Bill 80, the government is now going to deal with successorship and spin-offs, as well as common employers. If the government chooses to believe the successorship provisions and common employer declaration are not appropriate and should be weakened or done away with, employers have another powerful opportunity to shed unions. Double-breasting will occur by those companies interested in shedding their union certifications. Voluntarily recognizing employer-friendly unions will inoculate them from subsequent certification applications.

The Cumulative Impact

The cumulative impact of the changes under discussion is deeply worrying to the Building Trades. The suggested direction of the successorship and common employer questions, combined with expanded opportunities to argue abandonment, gives employers a significant opportunity to rid themselves of unions selected and supported by workers. Once rid of inconvenient certifications, the voluntary recognition concept allows employers to choose who will represent workers and close off subsequent certification applications. Under this scenario, workers lose existing contracts and agreements, employers choose their new union and agreement, and workers do not have any ability to challenge their employer-dominated union for a failure to represent their interests.

Allowing repeated decertification applications by employers as suggested in the proposals will do nothing to address the issues identified by the Minister and will only add chaos and instability to the construction industry. It is another example of the government loading the deck in favour of employers and failing to understand what is really needed by the industry – hardworking unions operating in a stable labour relations environment finding good, skilled tradespeople. It is the very opposite of fair and balanced.

In addition, if provincial bargaining is done away with, the stability of *CILRA* is gone and the construction industry is thrown into chaos at a time when it can ill afford any interruptions.

Needless to say, the Building Trades are strongly opposed to any changes in policy or legislation that weakens or does away with provincial bargaining. We remain opposed to any legislative changes incorporating in *The Trade Union Act* voluntary recognition giving it the same status as certification orders and to the Bill 80 version of abandonment. We do not support any changes to the legislation dealing with decertification.

Government does not either understand the nature of the relationship between a union and its members as described by the Supreme Court of Canada, or does not believe in, or have faith in, the democratic processes outlined in union constitutions or bylaws.



We recommend the retroactive provisions relating to abandonment in *CILRA* be repealed. If the government persists in its plan to consolidate legislation, despite good advice to the contrary, the Building Trades recommend *CILRA* is included in the consolidation, in its totality and in its current form, subject to our above comments.

Accountability and Union Dues

The discussion paper introduces a series of questions with regard to union accountability. The first set of questions deals with how unions are accountable and to whom. The questions are as follows:

Are trades unions sufficiently accountable? For example, do you believe that unions should be required to provide annual audited financial statements to its members, the government and the public?

If so, what should be included in these financial statements?

Should union members be able to vote on how their union dues can be used in a secret ballot vote?

The second set of questions deals with the important area of opting out of the payment of union dues. The questions are as follows:

Should union members be able to stipulate what their union dues are used for?

Should union members be able to opt out of paying that portion of union dues that is not used for labour relations purposes?

From the tone of these questions, it appears to the Building Trades that the government either does not understand the nature of the relationship between a union and its members as described by the Supreme Court of Canada, or does not believe in, or have faith in, the democratic processes outlined in union constitutions or bylaws.

As described by Michael Lynk in his article on union democracy, Canadian unions are characterized by the following attributes:

- ▶ Canadian unions have “historically encouraged a culture of democratic practices, and they have been able to give voice to both the employment and the social aspirations of their membership” (Lynk: 16).
- ▶ There has never been a sustained political or populist demand that legislatures intervene in internal union affairs. In fact, he notes that in the past, provinces and the federal government have been loath to intervene in the internal workings of unions (Lynk: 16).
- ▶ Canadian unions have avoided both the accusations of corruption that have marked American unions and the militancy of British unions (Lynk: 16).

- ▶ Unions are generally considered to be voluntary membership organizations and as such the common law principle of allowing self-regulation or self-government has applied to them (Lynk: 17).
- ▶ The courts view the relationship between the union and its members as contractual. This contractual relationship is governed by the constitution and bylaws of the union. Therefore, each member is seen to have entered into a contractual relationship with each other member (Lynk: 18).

In addition, Lynk notes a number of questions that are pertinent to this discussion:

While there are a number of significant aspects concerning the relationship between trade unions, politics, and the law in Canada, a burning issue respecting union democracy has been the use of membership dues for social purposes beyond the confines of collective bargaining and internal union administration. This issue raises controversies that are at the heart of the law and the union democracy debate: What is the nature of freedom of association? What is the appropriate role of the law in regulating internal trade union affairs? What is the social role of unions, and how is that balanced with the right of individual union members to abstain from involvement in selected union causes? (Lynk: 26).

The Supreme Court of Canada dealt with these issues in *Lavigne v. O.P.S.E.U.* [1991] 2 S.C.R. 211. Justice Gerald La Forest wrote the decision of the majority and confirmed the Rand Formula previously established by the Supreme Court of Canada. The Rand Formula ensured unions “have sufficient resources to participate in shaping the political, economic, and social context of labour relations, and to contribute to democracy in the workplace” (Lynk: 27).

La Forest made a number of comments that are relevant to the questions posed by the government. He outlines two valid objectives for compelling the payment of dues:

The first [objective] is to ensure that unions have both the resources and the mandate necessary to enable them to play a role in shaping the political, economic and social context within which particular collective agreements and labour relations disputes will be negotiated or resolved. The balance of power between management and labour at any given time or in any particular industry or workplace is a product of many factors. It is, in part, clearly a product of factors specific to the industry or workplace in question, such as productivity, and the existence or non-existence of a history of bitter strikes and sharp practices. But it is also in part a product of more general factors, such as the prevailing public sentiment as to the importance of unions or the state of the economy. It is also a product of the state of government legislation and policy, most obviously in the area of labour relations itself, but also in regard to social and economic policy, generally (147).



“The integrity and status of unions as democracies would be jeopardized if the government’s policy was, in effect, that unions can spend their funds according to majority vote provided the majority chooses to make expenditures the government thinks are in the interest of the union’s membership.”
La Forest, SCC

This then is one of the principal objectives that lies behind the government’s willingness to force contributions to union coffers, knowing that it will be spent on things not immediately related to collective bargaining on behalf of the workers making the contributions (147-148).

He goes on to describe the second objective:

The second objective I have alluded to explains why government puts no limits on the uses to which contributed funds can be put. This objective is that of contributing to democracy in the workplace. The integrity and status of unions as democracies would be jeopardized if the government’s policy was, in effect, that unions can spend their funds as they choose according to majority vote provided the majority chooses to make expenditures the government thinks are in the interest of the union’s membership. It is, therefore, for the union itself to decide, by majority vote, which causes or organizations it will support in the interests of favourably influencing the political, social and economic environment in which particular instances of collective bargaining and labour-management dispute resolution will take place. The old slogan that self-government entails the right to be wrong may be a good way of summing up the government’s objective of fostering genuine and meaningful democracy in the workplace (148).

La Forest connects the payment of dues and the concept of union democracy and solidarity as follows:

Compelling contributions by all represented by the union, all who benefit from the union’s attempt to push the general political, social and economic environment in a direction favourable to unions and their members, provides the union with the stable financial base needed to underwrite political, economic and social activism. The fact that no restriction is put on the manner in which contributed money is expended leaves the decision as to what is and what is not in the interests of the union and its members in the hands of the union membership. It, therefore, clearly has the effect of promoting democratic unionism. I would add that the ability to opt out would undermine the spirit of solidarity which is so important to the emotional and symbolic underpinnings of unionism (148-149).

The Building Trades believe *Lavigne* settles the law in this area. It not only supports the right of unions to collect dues, it allows unions to use those dues to engage in social, political and economic activism in the interests of its members. The principle of government respecting the self-governing nature of unions is affirmed in the decision. The Saskatchewan Party government may not agree with how some unions choose to spend union dues, but clearly *Lavigne* gives unions and their membership the right to make those choices.



We spend hundreds of thousands of dollars every year providing training to young apprentices and journeypersons working to build our resource sectors.

If the government is concerned with the circumstances of Saskatchewan young people, we recommend they spend more money on apprenticeship and Aboriginal education.



The Building Trades observe that opting out of union dues, the central issue of *Lavigne*, was one of the questions posed to the Premier in their fall election letter. Opting out of union dues is an important characteristic of right to work legislation in the United States. The Premier mused initially about the possibility of opting out but then tweeted “could have been clearer, no opting out of unions or dues.” He later tried to parse his language in comments to the media, stating that he was concerned not about individuals but classes of individuals, like 16-year-olds and cases of financial hardship.

During his press conference, the Minister of Labour also used financial hardship as an instance where a union member may be able to opt out of paying union dues. He used the specific examples of students or persons with disabilities as classes of individuals who might be exempt from the payment of dues. The Building Trades submit that should the government proceed to define financial hardship as a basis on which individuals can opt out of the payment of dues, it will be contrary to the principles established in *Lavigne*. As a practical matter, it would be almost impossible for government to implement.

The Building Trades are not opposed to supporting Saskatchewan young people; we spend hundreds of thousands of dollars every year providing training to young apprentices and journeypersons working to build our resource and commercial sectors. If the government is concerned with the circumstances of young people in this province, we recommend they spend more money on apprenticeship and Aboriginal education.

The Building Trades take accountability to our members as a serious matter. Affiliate bylaws and practices have established the accountability structures and mechanisms to our memberships. Generally, each affiliate holds monthly meetings with its members; notices of meetings are posted on websites; financial reports are provided at each meeting and voted on; members may ask questions from the floor and are answered by the elected business manager; business managers are elected at regular intervals; public education and advocacy efforts are taken in accordance with the union’s bylaws; and audited financial statements are provided annually. The Building Trades believe that, by current standards, we are accountable to our members and that the accountability relationship needs to stay between the members, and between the members and the officials they elect. While additional reporting to the public and to government may appear desirable to general members of the public in quick surveys, adding additional requirements, like reporting to the general public, fundamentally changes the nature of the contract between union members and suggests they are not capable of managing their affairs democratically.

It is important to distinguish the difference between private sector unions and public sector unions.



The final question is as follows:

Should union members have a mechanism to bring to the Labour Relations Board questions regarding whether their union has complied with the union's constitution and bylaws?

Again, the Building Trades believes the current law that allows the courts the final supervision of their internal workings is sufficient.

The Building Trades believe the current law as stated by the Supreme Court of Canada in the Rand Formula and in *Lavigne* should be followed by the government. Government should respect the internal constitution and bylaws of unions and allow them the right to govern their own affairs. We do not need to have government enact further legislation like essential services that does not pass the basic test of constitutionality.

Scope of The Trade Union Act

The discussion paper raises the potential for changing the scope line in *The Trade Union Act* so that individuals whose job responsibilities are of a managerial character would belong to a different union from those they supervise.

The Building Trades believe this is another area where their operations differ significantly from public sector unions. Because unions dispatch workers to jobs based on their position on the ready for work rotation, an individual member may be a foreman or general foreman on one job, but on the next job may be a regular member of a crew and not be in a supervisory position. Unlike public sector unions, our workforce is highly mobile and will work a number of jobs in a given year. A worker may be the best choice to be a foreman on one job, but on the next job another worker is the better choice.

It is important to distinguish the differences between the public and private sector unions in this area. In public sector unions, seniority will determine the candidate for a supervisory role and that candidate carries the role permanently. In private sector unions, seniority is not used; journeymen are assigned the job and the supervisory role based on their place on a ready for work list which is based on availability and not on seniority. The government needs to be careful to ensure that any policy changes or legislative amendments do not unnecessarily capture private sector unions.

Currently, the Building Trades negotiate the ratios for lead hands, foremen and general foremen as part of the collective agreement. We believe this is the best way to manage our worksites and is most effective for our employers. Our affiliates find the labour, including those that are acting in any kind of supervisory role. Access to the hiring halls to staff these positions ensures employers have the right people to manage worksites and to ensure projects come in on time and on budget.

We want to preserve all options to negotiate variations and improvements to employment standards in collective agreements, so that we can continue to meet the needs of our employers and protect the interests of our members.



Employment Standards

This section of our submission will deal with the Building Trades position on the issues outlined in the employment standards section of the discussion paper. Most of the issues discussed are dealt with in the collective agreements our affiliates enter into with their employers. Some of the provisions of the collective agreements, like those dealing with vacation leave, are unique to the project, cyclical nature of our industry. We want to preserve all options to negotiate variations and improvements to employment standards in collective agreements, so that we can continue to meet the needs of our employers and protect the interests of our members. We strongly recommend that collective agreements continue to take precedence, generally and specifically, over the provisions of *The Labour Standards Act*.

Generally, with a few exceptions, we believe the current set of standards in *The Labour Standard Act* set a suitable minimum. The Building Trades are interested in labour standards being maintained or improved for Saskatchewan workers even though those workers may not be our members or members of any union. Again, we will not comment on all parts of the discussion paper, but reserve the right to provide commentary and advice at a later point in the process.

Employment Agencies

The Building Trades are concerned with employment agencies taking advantage of vulnerable workers and would generally be supportive of efforts to further regulate this industry. However, the Building Trades want to be sure that any legislation dealing with this area clearly exempts our work through hiring halls from the application of the legislation. We do not charge employers for our services in finding labour; the hiring hall is fundamental to the operation of our unions, our members and our employers. Our members pay union dues but in exchange receive a range of services, including operation of the hiring halls, management of pension and health and welfare benefit programs and protection of their rights through collective bargaining. The Building Trades made the same request in the May 2012 consultation on legislation regulating immigration consultants. The construction trade unions should be exempted from the definition of an employment agency.

Hours of Work

Collective agreements provide for variations in hours of work. We are satisfied with the current rules. Where a union agrees to variations in a collective agreement, we do not see the need to receive a permit for the variation from the Director of Labour Standards. We can regulate whether the employer is not complying with the collective agreement.

We do not support the application of the hours of work under *The Fire Departments Platoon Act* to our industry. Those hours of work have been developed to suit the nature of that work and, as such, has little relevance to the work in the construction industry. Our collective agreements determine work hours, work week schedules, overtime, showing up time, shifts, and rest breaks. Any legislation that would limit the hours that our members might choose to work within the context of our agreements would be problematic. Our industry is already short of labour; any rules that would limit hours of work over a 16-week period would exacerbate the situation.

Leave Provisions, Annual Holiday Provisions, Public Holiday Provisions

Again, our collective agreements provide for leave and annual holiday provisions. As our work is cyclical, workers do not take vacation leave in the same way as do most other workers in the province. Because we are subject to the length of any project, our workers will work for the length of the project. When a project is finished, the individual journey person will decide if he or she wishes to proceed to another project. If they do, the hiring hall of the union assigns them to another worksite. If we do not work, we do not get paid. Our workers receive a percentage on their benefits package in lieu of vacation leave. The legislation has to permit this kind of flexibility to negotiate terms that meet the needs of our industry.

Notice Provisions

The Building Trades support the continuation of the existing notice provisions. Our industry depends on a mobile workforce where workers are free to make the determination on where they can work to best meet their needs. Where workers leave, the union will find someone to replace the departing worker who meets the interests of the employer.

Payment and Collection of Wages

Our agreements manage the payment of wages. We are satisfied with the current tools to collect outstanding wages.

Equal Pay

We support the principle of equal pay. Our collective agreements ensure male and female journeypersons and apprentices are paid equally according to the established wage rates.



Conclusions

The Building Trades have significant concern with both the process and the content of the labour legislation proposal, particularly those sections dealing with labour relations. It appears the proposals or questions in the paper are weighted in favour of employers and do not consider the needs or interests of working men and women. We are concerned the proposals are not grounded in good policy that is evidence-based, but are grounded in the Saskatchewan Party's government ideology that governs their relationship with organized labour. Elements of right to work legislation from the United States and the recently released white paper from Tim Hudak's Progressive Conservative Party can be found in the paper. Examples include the questions on opting out of union dues and potentially intervening in the constitutionally supported right to manage union operations. We find this deeply concerning as the government had an express opportunity to put forward their plans and objectives during the last election and the Premier provided a non-response.

In this paper, we have provided ample analysis and arguments for the government to rethink its entire proposal. In summary, we believe:

- ▶ The government must appreciate the unique operations of the construction industry and take that into account as it considers its next step. Construction unions serve some very different purposes than public sector unions, particularly with respect to their role as labour brokers supplying much needed skilled workers to private sector employers, and have very different relationships with their employers. Government must recognize those differences during consideration of its next steps.
- ▶ The government does need to take sustained action to respond to the growth of the construction industry and the economic risk posed by labour shortages. Government has not made the case that these proposals will do anything to address the very real labour shortages being faced by the construction industry. We believe government is pursuing the wrong priority and distracting owners, employers and unions from their real business of attracting and developing skilled workers.
- ▶ The consultation process is deeply flawed and far too short for the scope of the job. This process clearly suggests decisions have already been made and work is going on right now before the conclusion of the 90-day consultation period.
- ▶ All submissions received during the consultation process should be posted on the government's website to ensure transparency and accountability to the 548,000 working men and women in Saskatchewan.
- ▶ The government needs to reconsider its proposal and deal only with the single issue that is time sensitive – essential services – and leave the balance of the labour legislation alone.

The proposals or questions in the paper are weighted in favour of employers and do not consider the needs or interests of working men and women.



- ▶ Consolidation of labour legislation is being presented as a red herring by government. The real agenda is to use consolidation as an opportunity to fundamentally rethink the nature of unions and their roles in Saskatchewan's workplaces, all without a clear statement of government's policy objectives or intent.
- ▶ Consolidation is not the priority government should be pursuing. If there are inconsistencies between the various Acts, we believe that government should address the inconsistencies and amend individual Acts as required. This process is more transparent and allows time for working men and women to provide feedback.
- ▶ *CILRA* must continue to be the law governing construction labour relations in Saskatchewan. If the government continues with its ill-advised plan to consolidate legislation, *CILRA* in its current form and in its totality (subject to our comments below) must be part of the consolidation.
- ▶ The intent of the changes dealing with provincial bargaining, voluntary recognition, abandonment, successorship and common employers, and decertification are wildly imbalanced, all in favour of employers. Therefore, we are opposed to any changes in policy or legislation that weakens or does away with provincial bargaining. We are opposed to any changes in *The Trade Union Act* that gives voluntary recognition the same status as a certification. We do not support any changes to the legislation dealing with decertification.
- ▶ The retroactive provisions relating to abandonment in *CILRA* should be repealed.
- ▶ The government should follow the current law relating to union accountability as stated by the Supreme Court of Canada in *Lavigne*. Government should respect the internal constitution and bylaws of unions and allow them the right to govern their own affairs.
- ▶ The current legislative base for employment standards should remain as is and collective agreements fairly bargained between unions and employers should govern our workplaces.

We believe our brief provides a multitude of reasons for the government to reconsider its objectives and priorities. The Government of Saskatchewan should deal with the pressing issue of essential services and work with unions and the construction industry to develop plans to address the current labour crunch, a real risk to the province and its economic well-being.

