

COMPULSORY CERTIFICATION IN SELECTED TRADES

Where to from here in B.C.?

by

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SUMMARY

This paper examines the current state of compulsory trade certification in B.C., draws comparisons with selected other provinces, reviews the positions of various interested parties in respect of compulsory designations, and summarizes the effects of compulsory trades from a number of perspectives. The paper contains a number of detailed conclusions and recommendations for positive change to B.C.'s compulsory certification system.

FACTS AND VIEWS

Trade qualification requirements can be broadly classified as either compulsory or voluntary. Compulsory trades require that any and all work performed must be done by a properly certified journeyman or an indentured apprentice. A relatively small number of trades carry this requirement in British Columbia. The majority of trades in B.C. are voluntary, meaning that individual workers, employers, and consumers typically determine the level of training for specific assignments. There are some exceptions found in other regulatory enactments (e.g. the *Pressure Vessel Act* and the *Skills Development and Fair Wage Act*).

The degree to which provinces have adopted compulsory trade designations varies significantly. Automotive, electrical, and a few mechanical trades such as refrigeration, piping and sheet metal are compulsory in almost all provinces. Most of these designations date back to the middle of the twentieth century. Fewer compulsory designations have been made in the past several decades. There appear to have been no formal criteria for designating new compulsory trades until the B.C. Industry Training and Apprenticeship Commission (ITAC) developed some recently. In all, B.C. has designated eleven trades as compulsory.

The main proponents of compulsory certification are found in the organized segment of the construction industry. Governments have accepted the calls for more compulsory certification from these parties, often on the basis of a variety of "public interest" reasons. Considerable – though not universal – opposition exists to a broader expansion of compulsory certification across the full spectrum of business interests (large and small, new and old economy).

Proponents of compulsory trades designation believe the practice results in increased product and service quality, improved public and worker safety, more fulfilling career opportunities and enhanced business reputations. For their part, governments likely believe that by endorsing compulsory certification, they are exercising "due diligence" in the interests of consumer protection and public and worker safety.

Opponents of compulsory certification argue that requiring all work in a trade to be performed by certified journeymen is inefficient, restricts labour supply and mobility, raises aggregate labour costs, and excludes other forms of "learners". Since compulsory

designation sets rigid boundaries between trades, many manufacturers are hampered in their ability to pursue more flexible work practices. This is particularly problematic for small and light industries as well as resource industries.

Enforcement mechanisms for compulsory trades are generally very weak, except where there are parallel requirements within collective agreements. More stringent enforcement by relevant regulatory bodies would prove very costly and logistically difficult.

CONCLUSIONS

A blanket requirement that all work – regardless of the business endeavour – should fall under a uniform compulsory trade designation is unduly restrictive and is likely to be an inefficient means of allocating labour.

Companies argue for or against compulsory trades principally for competitive reasons. Craft union, industrial union and non-union workers also have an interest in this issue because it impacts the type and amount of work for which they are “qualified”. In short, all interests are motivated by their desire to capture market share.

The one-size-fits-all rules embedded in compulsory trades certification do not jibe with the diverse needs of business, and are likely not justifiable “public interest” grounds. The consequences of compulsory certification reach beyond government’s legitimate interest in the subject, and effectively benefit some sectors of the economy to the detriment of others. Whether contemplated or not, these deleterious consequences do not enhance aggregate economic performance.

ITAC – as the ‘keeper’ of the compulsory trade designation process – has become a focal point for the pursuit of sectoral labour relations objectives. The focus for ITAC should be on training – not labour relations. Nonetheless, it is the proper organization to administer compulsory trade matters moving forward.

The legitimate ‘public interest’ and an efficient functioning economy should be the primary criteria for determining how trades work is performed. Should changes to the compulsory certification system occur, policy makers must carefully consider possible impacts on established players in the marketplace.

RECOMMENDATIONS

A reconstituted ITAC should remain in charge of compulsory trades matters, reporting to a single ministry. In addition:

- The ministry should: provide better direction to ITAC in relation to its specific mandate to become *industry driven*; better define the “public interest”; and, require a re-examination of which trades should be compulsory as a matter of public interest.

- Work performed under compulsory trades should be restricted to “core components” that intersect with public interest. Certificates of competency should be considered for narrower ranges of work within and outside ‘core components’, where these make sense in the circumstances.
- Heavy industry or other parties with sophisticated internal maintenance and engineering competencies who routinely deal with well informed consumers should be exempt from compulsory trade designations.
- Multiple routes to proficiency, varying levels of proficiency and specific task proficiency through modular training should be investigated. Different skill sets that improve economic performance and are efficient, effective, and safe should be adopted.
- The current policy of limiting one apprentice per supervising journeyman should be made more flexible, depending upon the nature of the work being done. Both apprentices and other forms of learners should be included in a more flexible arrangement.
- Enforcement of matters to do with compulsory trades, apprenticeships, limited certificates, and learner ratios (among other things) should be enhanced through a combination of regulatory agency inspections and ‘nominated’ on-site persons with clear responsibilities.

Although the paper concludes that there should be multiple routes to various levels of proficiency, a note of caution is added. ‘Learners’ who are free to participate in the labour market at various levels of skill offering employment, should also understand the personal and career benefits of achieving progressively higher levels of proficiency.

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COMPULSORY CERTIFICATION IN SELECTED TRADES – Where to from here in B.C.?

I. INTRODUCTION

In August 2000, the Business Council of British Columbia and the Coalition of B.C. Businesses asked me to undertake a review of compulsory trades in B.C. Key interested parties were invited to offer their comments on compulsory certification including arguments for and against it, alternatives, and recommendations for change. Representatives of the following industries and interests contributed to the information and opinions gathered: Heavy industry, light manufacturing, technology, retail, B.C. and Alberta construction, trainers and training administrators, union leaders, business owners, workers, superintendents, human resource managers, and experts in the B.C. and Alberta apprenticeship systems.

In addition, the following organizations contributed their opinions and views: Construction Labour Relations Association; members and leaders of the B.C. and Yukon Building Trades; Canadian Apprenticeship Forum; Construction Information Technology Association; B.C. Automotive Dealers Association; Forest Industry Trade Advisory Coordinating Committee; Pulp and Paper Employee Relations Forum; and, Canadian Careers Consortium.

The views and experiences of these interests were supplemented with a number of other research papers that includes, but are not limited to the supporting reference material listed in Appendix A.

The following report summarizes the current state of matters, and the opinions and views of the contributors. The discussion, conclusions and recommendations are the views of the author alone.

II. BACKGROUND

Compulsory Certification Defined

In British Columbia, provincial law requires that certain workers must hold a valid *Certificate of Qualification (CQ)* in that trade or be registered as an apprentice. This is an exclusive right – no one else may perform work in that trade notwithstanding the worker's experience, knowledge, reputation earned over time, or any restriction placed on the worker limiting the complexity of his or her assignments. Following are some other aspects of the process of obtaining a certificate of qualification:

- Workers holding a valid CQ with an inter-provincial Red Seal obtained from another province must obtain a B.C. CQ in order to work in a compulsory trade, and will be awarded one without examination;

- Workers who have a CQ without a Red Seal from another province may write an exam to qualify in B.C. to work in a compulsory trade;
- Workers who have documented journeyman experience from another jurisdiction but no CQ may have a proportion of their experience credited toward a full apprenticeship in B.C. but will still need to complete the apprenticeship in B.C. in order to work in a compulsory trade.

Steamfitter\Pipefitter	January	1967
Sprinkler Fitting	January	1967
Plumbing	January	1967
Refrigeration	June	1967
Sheet Metal	June	1967
Roofing	July	1976
Auto Collision Repair	July	1996
Auto Painting & Refinishing	July	1996
Auto Service	July	1996
Electrician	July	1996
Powerline Electrician	July	1996

Table A lists the eleven trades in B.C. that are currently subject to compulsory certification, along with the dates they became compulsory:

There are about 126 apprenticeable occupations in B.C., although only about half this number would fall under the customary designation of “trade.” Forty-three are Red Seal trades, common across Canada.

Trades that are not subject to compulsory certification (the majority of all trades in B.C.) are known as voluntary trades. Although work in these trades may be restricted by collective agreements, the practices and policies of employers, and safety or other regulatory limitations, they are not subject to the blanket restriction of compulsory designation. However, it is common practice in voluntary trades for journeymen to undertake a formal apprenticeship and hold a CQ. Holders of a valid CQ from another province may also be issued a CQ in B.C. without an examination. Those without a CQ are eligible to write an exam only if they demonstrate sufficient and relevant experience. The minimum experience required is 1.5 times the length of the relevant full B.C. apprenticeship.

Designating a Trade Compulsory

The provincial government specifies which trades are compulsory through the Lieutenant Governor in Council (LGC) (i.e. Cabinet). Recommendations for Cabinet flow through the Industry Training and Apprenticeship Commission (ITAC), which has detailed internal procedures to evaluate proposals for compulsory designation. Industry sectors may bring recommendations to a Designations Committee, which will review an application under ITAC’s policies and procedures and make a recommendation to its 24 person, multipartite Board of Directors.

Criteria for Inclusion in Compulsory Certification

ITAC Bylaw 1998-14 requires evidence of industry support (undefined) for the proposal. This includes, but is not limited to: its implications to the community; the numbers impacted; advantages and disadvantages; practices in other jurisdictions; ‘public interest’ implications; cost; resource requirements; trade overlap; and, jurisdictional considerations. ITAC is responsible for canvassing advisory groups and the Committee is held accountable for its implementation plan. Bylaw 1998-15 specifies criteria for evaluation and overlays a general requirement that the *public interest must be served* in a successful application. “Public interest” is defined as protection from named consequences of incompetent work practices.

Prior to 1998, and during the time when all currently designated compulsory trades were introduced, there were no policies, procedures or criteria for designating a trade compulsory.

Comparable Practices Elsewhere in Canada

Table B			
Apprenticeship Compulsory Certification			
PROVINCE	TOTAL TRADES	RED SEAL	COMPULSORY TRADES
Newfoundland	29	22	3
Prince Edward Island	25	20	3
Nova Scotia	49	43	8
New Brunswick	65	43	9
Quebec	27	20	27
Ontario	69	32	19
Manitoba	47	35	4
Saskatchewan	44	34	4
Alberta	50	38	19
British Columbia	126	43	11
Northwest Territories	40	30	0
Yukon	28	24	0

Table B lists the number of “trades” in each province. This table should be treated as an approximation since it is difficult to make direct comparisons across provinces in part because of varying nomenclature (i.e. some categories are called “trades” while others are referred to as “occupations”). Included in the list is the number of Red Seal trades, and the number of compulsory trades in each province.

TABLE C (next page) lists all compulsory trades in all

provinces across Canada and the trades that each province has designated as compulsory (the territories have none).

Table D (page 5) outlines some history of when trades were made compulsory in some provinces where history is available.

Table C											
Compulsory Trades In Canada (none in Territories)											
Trade	B.C.	AB	SK	MN	ON	NS	QC	NB	NF	PE	TOTAL
Appliance service		♦									1
Auto collision	♦	♦			♦♦				♦		5
Auto painting	♦								♦		2
Auto service	♦	♦			♦♦	♦		♦♦		♦	8
Auto align/brake					♦			♦			2
Barber/stylist		♦		♦	♦			♦			4
Beautician				♦							1
Boilermaker		♦					♦				2
Bricklayer						♦	♦	♦			3
Crane operator		♦		♦	♦♦♦		♦				6
Electrician	♦	♦	♦		♦♦	♦	♦♦♦	♦		♦	11
Electronic tech.		♦									1
Elevator construction		♦					♦				2
Fuel mechanic					♦			♦			2
Gasfitter		♦					♦				2
H.D. mechanic		♦					♦		♦		3
Ironworker		♦					♦				2
Motorcycle mech.		♦			♦						2
Oil furnace repair						♦					1
Plumber	♦	♦	♦		♦	♦	♦	♦		♦	8
Powerline Tech.	♦										1
Refrigeration	♦	♦	♦	♦	♦	♦	♦	♦			8
R.V. mechanic		♦									1
Roofing	♦						♦				2
Sheet metal	♦	♦	♦		♦		♦				5
Sprinkler	♦						♦				2
Steam & pipe	♦	♦			♦		♦				4
Truck & coach					♦♦	♦					3
Power engineer						♦	♦				2
Welder		♦					♦				2
TOTAL	11	19	4	4	19	8	18*	9	3	3	
* plus others not listed.											

From the preceding Tables, a number of observations can be made. The first note-worthy point is the existence of significant variation among the provinces in the number of trades that are designated as compulsory. Second, compulsory trades tend to occur most frequently within automotive service and repair, mechanical, and electrical trades. Some other observations on compulsory certification include:

- They tended to appear some time ago in a few specific years (the pipefitting trades appeared in most provinces in 1967). New designations have been few over the past several decades;

Table D

Key Dates for Compulsory Certification in Canada

British Columbia	Five construction trades in 1967 and one in 1976. Electrical and automotive repair in 1996 were the most recent.
Alberta	Eleven mostly construction trades in 1937, followed by end-use consumer trades over the next fifty years. Three in 1991 are most recent additions.
Saskatchewan	Four construction oriented trades - all designated in 1976.
Ontario	Seven in 1946, mostly related to retail consumers. Nine in 1967 related to construction. Truck trailer mechanic last addition in 1991.
Nova Scotia	All occurred prior to 1970.
Manitoba	Information not available.

- There is a significant scattering of isolated trades made compulsory in specific provinces only;
- Similar to B.C., there appears to be no essential criteria for where and when specific trades have been designated as compulsory in other provinces.

Inter-provincial information exchange and coordinated interest group activity may have worked over a long period of time to bring about some commonality of compulsory designations and timing between

provinces. It is also likely that specific intra-provincial interests have caused some separate and unique directions in compulsory designation among trades. In any case, it appears that specific national and local interest groups – rather than governments – have been the driver for adoption of compulsory trades.

Historic Role of the Construction Industry

The active involvement of construction industry employers and craft unions in trades training systems and apprenticeship governance is common in all provinces. The construction industry employs the largest number of tradespersons and apprentices among industry sectors. Their involvement in qualification matters – including compulsory certification – is a natural self-interest.

For decades, the building trades craft unions have championed apprenticeship training modeled along their organizational ideology. They have consistently advocated broad and full skill development within the tightly defined jurisdictions of each craft union. Compulsory certification, arising from an indentured apprenticeship, meshes well with the developmental philosophy and jurisdictional requirements of the building trade craft unions. Over time, the substantive outcome of this model has been to restrict the price and supply of labour, and has resulted in tight work silos along craft union jurisdictions. The employers of building trade labour have generally been supportive of these training and apprenticeship systems, and have assumed a form of co-ownership with their unions.

The building trade unions have been supporters of compulsory trades historically, and their employers tend to share this view, although by no means universally.

For the past ten plus years, “open shop” employers have trained more apprentices than the building trades unions and have employed more workers. They also own a larger share of the construction market in overall terms, although the building trades still dominate the industrial construction sector. Notwithstanding the important role of construction unions in apprenticeship matters, only 27% of construction-related apprenticeships today are indentured under a collective agreement.

Involvement of Manufacturing Industries

Manufacturers generally followed the leadership of the building trades in apprenticeship programs, craft jurisdictions, and work practices over the past 50 years, but with less involvement in the program and governance structures. Manufacturing by large companies in B.C. – particularly in the resource sector – is predominantly organized under industrial unions rather than craft unions. These employees retain an affinity for the building trades’ model of craft union work jurisdiction and training systems, with the outcome that work is generally undertaken and apprentices are trained in much the same manner as they are by the building trade unions.

In recent years, some manufacturers and the open shop construction segment have adopted new models of training and accreditation supportive of more efficient and flexible outcomes. This trend is also seen in many “new economy” enterprises that have a similar interest in promoting flexibility in training programs in order to meet the demands of ever changing market circumstances. Generally, trade unions have resisted these ‘new approaches’ to training.

III. VIEWS ON COMPULSORY CERTIFICATION BY KEY INTERESTED PARTIES

Over the past few months, the author of this paper met with those readily identifiable parties who have an interest or stake in compulsory trades certification. Following is a brief summary of their views, declared interest, and/or apparent interest in this topic.

Provincial Government

The Government has no clear policy position or criteria for including trades as compulsory and defers to ITAC for bringing proposals forward to Cabinet. The government’s role is to uphold the “public interest” in compulsory trades, including preservation and promotion of worker safety, quality public construction, asset preservation, and public protection from dangerous incompetence. The Government may also see compulsory certification as facilitative of increasing the number of indentured

apprentices and raising the general skill level of the workforce, both of which are continuing government objectives.

Contractors Certified to the Building Trades (CLRA members)

The Construction Labour Relations Association (CLRA) declared position favors compulsory certification for a greater number of construction-related trades than the seven current designations. A parallel preference is for stricter enforcement of the compulsory trade regulations. Member companies are bound to compliance by both the regulations and their collective agreements with the building trades unions. CLRA and its members tend to perceive those who do not always comply with the regulations or have no similar collective agreement impediment as having an unfair competitive advantage in the marketplace. CLRA also favors more compulsory trade designations as a matter of public interest, worker safety, quality assurance, career security and industry reputation.

B.C. & Yukon Building Trades Unions (BCYBT)

BCYBT holds a view of compulsory certification similar to CLRA. They also see compulsory trades as a means to retain and grow their membership base, to maintain labour compensation rates and to preserve individual craft jurisdiction. BCYBT unions are generally (but not universally) opposed to blending peripheral skills of various trades and creating semi-skilled specialists within individual trades. They prefer their members have a full apprenticeship and CQ certification for a number of reasons, particularly because it provides better and more stable employment prospects. Any introduction of flexible work practices also introduces considerable jurisdictional problems for individual craft unions.

Manufacturing and “Heavy” Industries

Employers in heavy industries, (e.g. pulp and paper, forest and mill, mining, smelting and milling, waterfront, rail repair, chemicals, ship yards) are opposed to compulsory trades because they seek flexible work practices and work assignment efficiency through use of other categories of workers for low skill trade work. They also blend the peripheral work of various trades together in a practice called multi-skilling. They further claim that they do not intersect with the “public interest” and that they deal with sophisticated consumers of their products and services. Many of these businesses share common features, including intense foreign and domestic competition, production of commodity-based products or services; many are “price takers” on world markets (meaning that the price of their good or service is externally determined); and, most have limited areas for controlling operational costs. In this context, efficient and effective use of capital and labour are critical to ensuring ongoing business success.

Manufacturing and heavy industry operate under multiple legislated authorities regarding worker training and safety. In matters of employee qualification, they deal with compulsory trade restrictions, the WCB, *Electrical Safety Act*, *Pressure Vessel Act*, and perhaps a new *Safety Standards Regulation Act*. These industries are highly critical of overlapping, overly prescriptive, competing, and sometimes conflicting jurisdictional involvement.

Light Manufacturing

Relatively low entry costs make light industry highly competitive. Generally, manufacturing businesses which continually strive to move higher up the value chain encounter greater proportions of labour cost to capital cost (e.g. furniture, European windows, chopsticks) as more hands touch the assembly process. At some point, quite often more cost is added than value. In this connection, regulating the use of labour is crippling to the very businesses (small, entrepreneurial, value added) that government claims to champion. Light manufacturing appears – for the most part – to be opposed to compulsory trades and is competitively dependent on workers with diverse skill sets who can be flexibly deployed within the workplace.

New Economy Enterprises

The traditional trades and learning systems are in low demand among smaller, entrepreneurial firms. In larger firms, some aspects of the current training systems continue to find some favor, although skill sets required remain somewhat different and diverse among various enterprises in this sector.

These new and emerging economy enterprises thrive on in-house led skill development. Older habits of rigid trade jurisdiction silos and work allocations, together with related regulatory structures and constraints, are complete anathema to these firms. These firms seek out people with broad based entry level skills in both technical and “soft” areas to further develop through a largely “modular format”. Typically, they do not see any role for compulsory designations, since the required skill content tends to change frequently and varies significantly from firm to firm.

Open or Merit Shop Contractors

Merit Shop contractors are generally opposed to compulsory designations because they prefer to employ a broader range of skills and qualifications suited to the specific work at hand. They recognize that some specific tasks within a trade need to be performed by a fully skilled worker. This model is seen as a highly efficient use of labour, and provides work opportunities for a full range of skill levels. They use qualified tradespersons, supervision, engineers, owners, and public inspectors to ensure safety and quality assurance. Like heavy industry and new economy companies, a more “eclectic

approach” to training and workforce utilization is seen by “open” or merit shop contractors as necessary for market entry and growth, and to simply remain competitive.

Automotive Repair

The automotive trades became compulsory in 1996. The key force behind the move was the automotive industry itself. The industry believed that compulsory certification ensured that candidates for employment would be reasonably qualified, and that no undue advantage would accrue to small shops that might be tempted to employ less qualified people. In the process of advancing the case for compulsory certification, insufficient consultation caused several missteps. For example, the inadvertent inclusion of “heavy duty mechanics” and “fleet mechanics” from other industries or businesses needed to be remedied. In addition, it is apparent that lack of enforcement has resulted in continuing competitive advantages for non-complying small shops. The industry wanted bridging and laddering courses for allied trades to meet compulsory trade requirements more quickly than complete apprenticeships. To this extent, the current model failed to meet their needs.

The five-year old experience with the compulsory designation of automotive trades raises a couple of matters:

Would the reasons for including the automotive trades in 1996 meet the criteria for inclusion set out by ITAC today? Would the public interest be served as ITAC prescribes it, or were the original motivations based in self-interest?

IV. SOME FURTHER ISSUES AND DISCUSSION

The Best Direction for Trades and Training

Is the current system of trades designations, accreditation, jurisdiction, and skills development wholly appropriate for work in the new economy? Do we understand the needs of the new economy, the new needs of the old economy, and how these needs may differ from today’s training and accreditation systems? Is there a useful place for intermediate skill levels, modular training and multi-skill training? Who is not served well even now? Are we capable of undertaking and managing change as quickly as the need for change becomes apparent? Are the structures we have designed to manage these affairs capable of responding appropriately?

If these are issues that will earn a seat at future discussions about our near-term training and accreditation needs, should we not avoid directions and rules for which there is no evidence that they fit with a good strategic plan for the future?

Dealing With the Public Interest

There is a lively debate as to whether the public interest is served by expanding compulsory certification. Some construction contractors believe that the “public interest” argument is tenuous, particularly where they deal with sophisticated purchasers of construction services. They argue further that unsophisticated consumers are protected by a variety of other “checks and balances”, including: inspectors, Building Codes and Regulations, warranties, work supervision, and the contractor’s need to maintain a good reputation.

On the other side of the debate, some contractors claim that only a CQ can provide assurance of basic on-the-job competence – especially among new hires. They believe that those employers who do not hire CQ holders exclusively cannot be similarly assured. If all trades were compulsory and all contractors adhered to these requirements, the public would be uniformly well served and all contractors would enjoy a “level playing field”.

Those employers who see compulsory certification as beneficial to ensure a “level playing field” for the public and the contractors themselves, are sometimes those who also have a collective agreement impediment to any choice in the matter. Their agreements also call for employment of certified tradespersons or apprentices exclusively.

The public, if asked, would likely agree that a gas fitter, pressure welder or vehicle brake installer should have the right badges of competency. The public would assume that regulatory bodies have looked after their interests in the matter. At point of purchase, these matters are not likely conscious thoughts so much as the general reputation of the supplier.

It is difficult to believe that provincial governments have made a thoughtful link between compulsory certification and the public interest given the curious mix of compulsory trades across Canada. Barbers and hair stylists are covered in Alberta, reportedly because incompetence can burn the scalp. Incompetent chefs and cooks can do greater harm to their clients but are not covered. Sheet metal was likely introduced in B.C. as a result of the vigorous efforts of a few persons with an interest in compulsory certification.

There does not seem to be a clear purpose or identifiable criteria for addressing the public interest through compulsory certification across Canada. It seems more probable that those who are involved with employment matters found a self-interest in compulsory certification from time to time, made a case for it, and legislators made it happen.

Assuring Quality of Work

The majority opinion appears to be that a CQ does not guarantee a deep base of knowledge and skill across a given trade. It is a valuable indicator that a worker has the ability to commence work in the trade and, perhaps, to learn further. The newly certified journeyman who has undertaken a mandated apprenticeship in his compulsory trade may have a broad but shallow comprehension of the trade, or may have an unbalanced knowledge, deeper in some aspects than others. At best, enforced compulsory certification may assure the consumer that a completely unqualified person is not performing the service. There is no guarantee in the absence of enforcement or if an unsophisticated consumer does not ask for proof of qualification.

Some newly certified journeymen do not have the opportunity to learn a broad range of skills deeply, and some are content to perform the narrow range of work they have learned well. Good work opportunities may cause them to enter a ready market for their narrow range of highly efficient skills and defer any further broadening of their skill set. Niche companies may be highly successful at what they do, such that the worker becomes a master at his employer's narrow range of work. In residential construction, boarders and framers might never use the broader skills they paid for in time and cost.

Perhaps they would have been content to learn only the skills they are now employing so well. A modularized form of training might have been their preference, which would have limited their cost and the public expense incurred for a whole apprenticeship. Is this alternative to be viewed as an undesirable outcome or a natural evolution of the market that we have not fully explored or understood? How do we judge if we do not have a relevant vision of the future?

Raising the Skill Levels of the Workforce

A much repeated mantra of governments, labour force development boards and public learning institutions is that a general increase in workforce skill levels is *per se*, a good thing. The implicit goal is more people with both broadly based and higher skill levels. There is evidence that this translates to higher incomes and better employment security, *on an individual basis*. There is a parallel mantra, supported by less evidence, that a homogenous workforce of broadly based skills will lead to a higher performing economy than a mix of skills from low to high and narrow to broad.

From a purely intuitive viewpoint, it is not easy to reconcile the deconstruction of very large businesses into smaller niche players, with the practice of training all apprentices exclusively in broadly based skills, rather than more specific skills sets to meet the needs of niche businesses. The varied requirements of employers, short-term job seekers, and long-term career players may not be well served by defining exactly when specialized training can commence. Some degree of modular or specialized training will eventually supplant broader-based training for many workers, even for example, in the case of a molecular physicist.

Compulsory trade designations essentially mandate that modularity can not occur earlier than the CQ level. *Why? Para-legals and para-medics are involved in licensed professions and have found a valued role. BCIT forestry technicians relieve Registered Professional Foresters of semi-skilled work, as do teaching assistants. No one doubts their value in a hierarchy of skills.*

Duty to be Efficient and Effective in the Market

Sophisticated consumers will move to efficient suppliers whenever choice is available. Availability of choice leads to winners and losers, encourages competitive ideas, and advances the efficiency of suppliers. Legislative restrictions may hamper the evolution of further efficiencies within the marketplace. As such, very careful attention must be given to the costs and benefits of any new regulatory measures. In a similar vein, compulsory trades (with only CQ certified journeypersons or registered apprentices) may limit efficiency and short-term labour supply while increasing the cost of labour.

The “One-to-One” Ratio

Although there is no written regulation, B.C. maintains a policy or procedure that there must be at least one journeyperson for each apprentice. It is not clear and certainly not understood whether this applies to a jobsite or to an employer in some overall fashion, but industry participants, observers, some unions, and inspectors appear to favor a flexible approach. For compulsory trades, the overseeing journeyman must be CQ certified. Alberta requires the same minimum ratio.

The appropriateness of the one-to-one ratio and the unclear authority for it is a matter of considerable interest within the construction industry. All trades have a significant proportion of semi-skilled work – perhaps even unskilled. The electrical trade might be seen as a logical trade for compulsory certification, and for obvious reasons requires skilled workers for high voltage work. However, there are some tasks that may not require significant training. It might be reasonably safe and efficient to employ a higher ratio of apprentices within the electrical trade, or together with “other learners” in such work. This work might include supervised installation of cover plates, lighting, placing of cable, sorting and preparation of materials, among other things. Where labour shortages exist, these “other categories of learners” might be redeployed to keep labour costs stable in the short term. When oversupply in the labour market develops, these “other learners” with less training and commitment to the industry might be the least costly choice (in societal terms) to exit the industry.

What impact does the regulation of numbers of apprentices have on labour efficiency, apprenticeship finishing rates, balance of supply and demand, safety and quality of training? What was the rationale for establishing the policy and have the goals been met?

Inter-provincial Mobility

Some have expressed concern that compulsory trades may limit inter-provincial labour mobility to the point where it offends the mobility rights provisions of the Charter of Rights and Freedoms. Varying provincial requirements for qualification coupled with recertification requirements may potentially give rise to a mobility rights challenge under the Charter. The Forum of Labour Market Ministers believe that even Red Seal certification may not meet the mobility requirements, even though it was originally designed with a similar purpose in mind.

Supply Control and Market Share

There is broad agreement that where compulsory certification exists, the supply of available workers will be more limited than otherwise would be the case since uncertified journeypersons and non-apprentice forms of learners are excluded from the marketplace. Furthermore, work performed is often performed less efficiently than would otherwise be the case, since higher than necessary skill levels will be used for the work at hand. Supply control and inefficiency benefit some segments of society, while placing a cost on others. Here, the benefit will accrue to labour in the form of higher wages, while the cost will be borne by the consumer in the form of higher priced services. On the basis of these measures, the “public interest” does not appear to be well served.

In the absence of compulsory trade designations, employers who have similar constraints in their collective agreements (restricting all work to CQ certified journeypersons and registered apprentices, working in tight jurisdictional silos) face a severe competitive disadvantage relative to those employers who do not have these restrictions. Those facing trade restrictions inevitably deal with a smaller labour pool (which places upward pressure on wage costs), complex jurisdictional issues, inefficient deployment of scarce labour resources, and customers reluctant to conduct business because of in-built labour relations complexities (project agreements reduce all of this).

Compulsory certification acts to level this playing field by imposing these very significant inefficiencies on all players in the market. By constraining everyone, the inefficient are allowed to capture market share they would be otherwise excluded from in a more open marketplace. There are obviously other competitive advantages and disadvantages among firms, but compulsory certification levels the playing field significantly for those having collective agreement restrictions, ultimately at some increased cost to the consumer.

The B.C. *Fair Wage and Skill Development Act* – enacted initially in policy in 1992, then subsequently codified in law in 1995 – operates much like compulsory certification for all public construction. In theory and practice, the intent of this *Act* is aimed more at broader “social objectives” such as raising the general level of construction trades skills, advancing the involvement of under represented groups, and/or creating a level playing field between the efficient and the inefficient suppliers, than preservation or protection of

the “public interest” (as defined earlier in this paper). An independent observation of the “Fair Wage Policy” suggested that leveling the playing field may have been the primary objective of the policy.

In matters to do with compulsory trades, as with the Fair Wage policy, there is a proclivity to view the burden imposed as a fair price for “noble” objectives. These noble objectives would include public safety, consumer confidence, the preservation and advancement of broad-based skills and historic trade jurisdictions, among others. However, industry players generally agree that competitive self-interest for work and market share is a key factor, if not the heart of the matter.

Preserving the Trade and Jurisdiction

CLRA and BCYBT deal with over twenty individual craft unions, seven of which involve trades that are compulsory. Friction occurs at the edge of the individual trades, and these disputes are adjudicated by a job assignment plan. Designating a trade compulsory helps keep work in each trade tightly defined and, as a process, enjoys the support of parties to these collective agreements.

In heavy industry where industrial unions are more common, employers have sought to blur trade jurisdictions, introduce flexibility and share (at least some) work among the trades. In some cases, industry has also made efforts to introduce elements of trades work to operators who are usually highly trained in safety aspects associated with the new skills they learn. Union opposition to both these practices is generally quite intense in heavy industry. The reaction of unions is somewhat variable and more responsive elsewhere, particularly in light manufacturing. In light industries, the need for workers to be flexible and to avoid tight jurisdictional silos is often fundamental to maintaining regular employment and indeed survival of the business, particularly when product demand is variable.

The cornerstone of compulsory trade designation is now defined as the public interest by ITAC. However, work under compulsory certification requires that the entire scope of a trade be determined, and the boundaries of each trade need to be defined. This is helpful to the interests of those who want tight jurisdictional silos, and extremely harmful to those who need and want flexibility. This seems to be a contest of labour relations goals, and little to do with the “public interest”.

Enforcement and Penalties

B.C. has not attempted to seriously enforce the requirement for CQ or apprentice certified work in compulsory trades. Alberta does inspections among larger firms working in the Institutional Commercial and Industrial (ICI) sector, but does not elsewhere because of the expense, difficulty and fairness of doing sample enforcement. Quebec is also active in enforcement. There is some discomfort within the B.C. construction industry about the

degree of non-conforming behavior and a reluctance to deal with it as well. Although CLRA has recommended strong enforcement in B.C., there is some ambivalence among its members, particularly with respect to penalties.

Unintended Consequences

As discussed elsewhere in this paper, there are a number of categories of unintended consequences arising from compulsory trades. These include limited inter-provincial labour mobility, supporting inefficient work practices, inflating labour costs, restricting labour supply, and conflicts and confusion with other regulatory measures. Some other unintended consequences of compulsory trade certification include (but may not be limited to):

- There may be an increase in the level of activity in the underground economy, wherein uncertified tradespersons perform services in the compulsory trades but do not wish to leave a paper trail of this activity;
- There has not been a complete or useful definition of all the work belonging to any trade, and there is no agreement whether this would even be useful. Trying to precisely define the boundaries of each trade invites even more disagreement than already exists, and essentially assumes a static model of each trade;
- Employers must indenture apprentices immediately upon employment, meaning that there is no reasonable ability to observe them through a probationary period;
- The manufacturing sector continues to be frustrated where compulsory trades impede the introduction of work practice flexibility among trades and operating employees;
- Similarly, those who advocate some degree of craft unions merging find compulsory certification very unhelpful. It is of course helpful to those who would preserve or harden the boundaries between trades; and,
- Hardening the boundaries of trade jurisdiction may work directly contrary to the needs of new economy enterprises which typically require significant variations from existing silos of skill development.

V. CONCLUSIONS

The Players in the Economy are More Diverse Than The Rules

Union and open shop construction, heavy and light industry, new and old economy businesses, sophisticated and ignorant consumers are all very different players dealing with common rules that fit almost all of them badly. The rules need to consider the

diverse needs of all interests much better than they do today. Rules that assume differences do not exist and that lead to more rules with tighter restrictions will cause poor economic performance and less efficiency.

The Rules are Complicated, not Well Understood and the Players Survive Through Flexible Adherence and Little Enforcement

The route to obtaining a CQ for in-migrating tradespersons in both compulsory and voluntary trades is a complex mess. Enforcement of who performs compulsory trades work is essentially left to interest groups. There seems to be a collective avoidance of active enforcement. The one-to-one apprentice ratio appears to be a policy directive which is unproven in its appropriateness and unclear in its application. Although ITAC has made a good attempt to define the public interest, it is difficult to interpret.

There are Some Common Interests

Opposition to compulsory certification has a significant following, including: Open shop construction; heavy and light industry in a variety of manufacturing and service businesses; many technology-based new economy businesses; and, other “niche players”. In all cases, these enterprises are motivated by the dynamics of their businesses or intense competition causing them to continually seek more efficient and effective work methods.

Preservation or expansion of compulsory certification also has a mixture of proponents. Craft unions, their employers, and industrial unions that follow the craft union form of internal organization seek preservation of rules that have worked well for them in the past. Change is difficult and new solutions produce tensions. Some tradespersons own a justifiable pride in their trade and are opposed to limited training in specialized areas, semi-skilled workers or learning new skills to become more flexible. The BCYBT is genuinely seeking to look after the welfare of its members by advocating a preference for fully indentured apprentices and certified journeypersons. In support of this position, BCYBT states that there is better labour mobility (within the province), fuller and more rewarding employment, and greater prospects for keeping up with advances in trades technology if workers are already broadly skilled.

On the provincial government front, there is no coherence in the long evolution of compulsory certification. For the most part provincial governments have neither led nor owned a vision of the value or relevance of compulsory certification. Typically they have responded to interest group initiatives and become the stewards of compulsory certification as a matter of ‘due diligence’ in the public interest. Most provincial governments acquiesced to a strange patchwork of compulsory trades thirty, forty, fifty years ago and even earlier for reasons long lost (See Tables C & D on page 3 & 4).

It's About Share of the Market

In the unionized segment of the construction industry, CLRA members seek to extend the effect of their collective agreement impediments to less constrained open shop competitors. They favor compulsory certification for this end. The BCYBT want work preserved for their craft unions and the craft system carefully preserved. They too favor compulsory certification. Open shop firms are not impeded by compulsory certification in their collective agreements, and do not want it imposed by legislation – at least in the all-inclusive and comprehensive form it is today. Open shop industrial unions do not have tightly defined craft jurisdictions, and typically seek additional work available by being more competitive.

In heavy industry, employers want a loosening of the craft system, greater cooperation among trades, and more flexible work habits as part of their effort to simply survive in the global marketplace. Their industrial unions prefer retention of tight jurisdictional silos along with as much of the craft system as possible for reasons of job security.

In new economy enterprises – which are based largely on high knowledge content and the deployment of advanced technology – competition for employees and market share is global. Skill needs are somewhat different and evolve rapidly. The sector has low levels of unionization. Compulsory trades – with their jurisdictional boundaries – are an unthinkable anachronism for all but a few large companies in a manufacturing environment who also seek flexibility as other manufacturers do. Otherwise, they favor rapidly evolving modular training with in-house leadership to select highly responsive outside agencies for program delivery. Prospective employees know that standard trade certificates – in and of themselves – are not the “ticket” to employment opportunities. Rather, they require “bundles of skills” currently demanded by the marketplace.

Businesses close to unsophisticated consumers may or may not embrace compulsory trades. If they do, they usually are not motivated by “public interest” considerations. More likely their interest in compulsory certification is motivated by “enlightened self-interest” in maintaining high standards in recruitment practices, overall workforce skills, product and service quality, market reputation, and a level playing field.

Efficiency and Effectiveness Must be Industry Driven

Compulsory trade designation likely carries with it significant inefficiencies. However, an absence of compulsory trades in some situations means that highly qualified supervision will have to exercise considerable caution in order to ensure that efficient use of labour is also effective. The most obvious efficiency/effectiveness combination is the uncertified learner who has mastered part of a trade and chooses to stay within a specific area of competence (framer, boarder, architectural sheet metal, door or window installer). Effectiveness may be hampered when a learner does not comprehend the impact of his work on other parts of a larger assembly, or when he is unable to judge the acceptability of work performed prior to his accepting it. This is a legitimate concern of those who do

not see a role for non-certified workers. There is, however, an equally valid concern that certification does not guarantee competence. In either situation, effectiveness may be best assured by employing effective supervision and holding them accountable for competent work performance.

The Public Interest Case Needs Work

There is no discernable evidence that compulsory trade designation, *by itself*, has demonstrably acted in the public interest as defined by ITAC. By being overly restrictive in its present form, it is unclear to this point how practical and effective restrictions might reasonably function in the legitimate public interest.

The recent Commission into the Quality of Condominium Construction produced passionate but anecdotal evidence that inadequately trained workers were a factor in substandard construction. This might have been a place for a more forensic look for direct evidence of any connection between worker credentialing and construction quality, or the adequacy of effective supervision and inspection. In some cases where a clear case could be made in favour of compulsory certification or licensing, regulations exist elsewhere which are free from other ancillary objectives, such as labour relations goals of parties at interest.

Compulsory certification may or may not provide the public with adequate comfort that a tradesman is what he or she purports to be, at the most elementary level of inquiry. However, “Are you a certified tradesperson?” may not be a better question than “Can you guarantee that you will do a competent job for me?” Compulsory certification may also provide the government with real or imagined comfort that it has acted with due diligence in the public interest

The Unintended Consequences are Varied and Significant

It is very doubtful that well researched, publicly debated legislation, intended to achieve worthwhile societal goals could possibly produce *unintended consequences* of the magnitude detailed in this paper. It is probable that some of the unintended consequences reflect the acceptable costs of higher order goals of interests that brought compulsory certification proposals forward. In other words, in many cases the “end justified the means”. These objectives would not meet the criteria for inclusion today.

Effective Enforcement Has Limited Appeal

Alberta has a more effective enforcement program than B.C. It is focused on sampling the Institutional, Commercial and Industrial (ICI) sector and does not have any meaningful effect on others. In B.C., some proponents of compulsory certification are, conversely, opponents of penalty measures for a wide variety of infractions, including

those involving certification. Although CLRA is a proponent of enforcement, some members balk at penalties. It is unlikely that the cost and effort of enforcement is practical across industries of all size in B.C.

No Place for Sectoral Labour Relations Goals in Skill Development Policy

Along with ‘share of market’ issues, it is clear that labour relations goals – labour supply control, wage and benefit pressures, preservation of jurisdiction, and work opportunities to name a few – are imbedded in the current compulsory certification process. These disparate goals will impair reasoned progress on exploring future models of skill development, building consensus, and reaching and implementing optimum public policy decisions. As much as practically possible, labour relations objectives should be removed from the decision making process.

ITAC’s Organization Hinders a Critical Role

ITAC manages the current state of compulsory certification and the single path to certification. ITAC claims to be “industry driven” and “arms length”. The meaning of this is unclear from ongoing procedural and decision-making standpoints. It is also clear that the composition of the ITAC Board and its decision-making procedures can impact ‘share of market’ for employers and create an opportunity for pursuing labour relations objectives outside the free collective bargaining process.

ITAC’s Board composition is similar to those of the labour force development boards, whose mandates were frustrated by too many people deciding too little business and marketing the output to no listening audience. Its decisions must also be run past the priorities of public training institutions, government and fringe interests. This is a recipe for creating impractical decisions trying to minimally satisfy everyone. ITAC – unlike labour force development boards of the past – is a mainstream player with the capacity to meaningfully contribute to a positive skill development agenda. In this connection, it is crucial that ITAC has a clear, unimpeded, non-political vision for skill development and the necessary organizational tools to be responsive to constantly changing demands within the marketplace.

To sum up, as the keeper of a key part of the province’s learning systems, ITAC will be deemed a failure if it becomes a preserver of yesterdays’ solutions rather than a visionary designer, builder and deliverer of highly needed skill development programs for the future.

The Priority is the Economy, but ...

If there are solutions to the shortcomings of compulsory trade designation and the inefficiencies they generate, the resultant fallout needs to be carefully considered. The government's need to ensure due diligence in the public interest is a valid public policy purpose. The BCYBT has owned a position of leadership in trades training for many years and would face intensified competitive pressure if change weakens another pillar of their support (e.g. tight jurisdictional silos). They and their employers need imaginative – yet practical – solutions to the intractable dilemma of their organizational rigidity.

VI. RECOMMENDATIONS

ITAC should decline to endorse proposals for the addition of any further trades as compulsory until the matter of compulsory trades can be reviewed and changes to the existing provisions of Section 13 of the *Industry Training and Apprenticeship Act* and accompanying regulations can be reviewed and amended.

- 1) ITAC should remain the sole administrator of the compulsory certification process.
- 2) ITAC should be responsible to a single Ministry. An amendment to Section 2 of the *Industry Training and Apprenticeship Act* should be made to give effect to this recommendation. The Ministry should determine what changes are required in ITAC's mandate to make it **industry driven** as it was appropriately required to be and should examine (at least) Alberta for its structures and outcomes in this respect. The Ministry should further examine what specific criteria in the **public interest** are required to designate a trade compulsory.
- 3) The Ministry should amend the regulations to limit the work restrictions under compulsory trade designation to core components of the trade. It should examine whether a CQ is necessary in each and every work environment involving a core component, or whether some other certificate of competency in the core component might be acceptable in some circumstances. A reconstructed ITAC board and mandate should be in place before this is done.
- 4) Those trades designated as compulsory should be reviewed for continuing compulsory designation under the new or amended public interest criteria developed by the Ministry.
- 5) Heavy industries and manufacturers with sophisticated processing facilities, internal maintenance organizations, and engineering support functions that do not deal with unsophisticated consumers or the newly defined “public interest” should be exempt from compulsory trade designations.

- 6) The Ministry should investigate and permit more than one route to varying levels of proficiency for voluntary trades and occupations. The Ministry should investigate and permit several levels of recognized proficiency under the compulsory trades, achieved through indentured apprenticeship, or possibly in some specific circumstances, a proficiency certificate for a limited core component.
- 7) The Ministry should direct a reconstituted ITAC to develop pilot programs in selected voluntary trades and occupations which provide instruction in modules for learners who wish to specialize in a sub-trade or occupation, where journeypersons are doing so today.
- 8) The Ministry should review and amend the current policy limiting one apprentice per journeyperson. A more flexible regulation would permit (for example) a maximum of one registered apprentice and one pre-apprentice and/or one other learner to work with a journeyperson in most trades and some work situations. The ratio should relate to the nature of the work at hand and the need for close or loose supervision.
- 9) The Ministry should review whether changed compulsory trade requirements and related matters may or may not need accompanying enforcement, and the nature of such enforcement. Enforcement might be by inspection under Section 19 of the *Act* together with nominated persons or positions on-site. Regulatory inspection would focus on the performance of the on-site person responsible. Recommendations under 6), 7), 8) and 9), in particular, require a reasonable level of assurance that the benefits are realized and unintended consequences are avoided.

Some other considerations:

In its look at ITAC for changes that might make it more “industry driven”, the Ministry should look at a smaller Board with a composition that limits opportunity for pursuit of labour relations, partisan or business objectives. The Board should be comprised of senior people who work at levels beyond daily technical involvement, free of accountability to anyone with a labour relations goal sought through ITAC. The Board must demand and be given technical briefings by managers, technicians and parties at interest in a regular fashion. The Board should concentrate on policy matters and pay close attention to how each recommendation brought to it advances goals and vision. The vision itself needs constant verification of its ongoing relevance and careful amendment before events overtake it. Identification of new needs or problems must be timely and tied quickly to the right decision, action, measured results and feedback. Industry feedback (meaning business) should be the Chairman’s test of the performance of the organization and evaluation of its leadership. The board should number no more than eighteen.

The Ministry should seek the agreement of the BCYBT and its employers to investigate opportunities to improve their market share if any of the foregoing recommendations reduce a current pillar of support for their participation in the market. A study funded by

the Ministry might look into ways for the BCYBT to reorganize and reduce the number of craft unions in their membership for maximum competitive impact, while ensuring minimum worker dislocation. This might involve new skills training; worker re-certification; grandfathering, pension amalgamation and supplementary funding; interim measures, business opportunities for successful results; and, further identification of other issues. This is beyond the scope of this paper, but an essential issue to address if those affected want it.

The Ministry, ITAC, employers and unions should counsel and encourage workers who have successfully completed modular training to proceed on to higher levels of qualification. While the decision to do so or not rests with the worker, more secure employment, better earnings, intra-provincial mobility, career satisfaction, and ease of retraining are all benefits and opportunities that should be reinforced.

Appendix A

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