

COALITION OF BC BUSINESSES

News Release

June 9, 2004

Employee rights suffer from Labour Board rulings

Board decisions fail to uphold key BC labour law amendments

Vancouver—A report released today by the Coalition of BC Businesses finds that the decisions of the BC Labour Relations Board (LRB) failed to uphold the spirit and intent of some key government amendments to the *Labour Relations Code*. As a result, employee rights enshrined in the amended *Code* were not always protected by LRB rulings.

“Employee rights should be protected in all Labour Relations Board decisions,” said Philip Hochstein, Chair of the Coalition of BC Businesses. “Accountability to government and the public requires every single Board ruling to be in agreement with the province’s labour laws, including those protecting employee rights.”

The Coalition’s report—*BC’s Labour Code Changes: Assessing the Impact*—shows that LRB decisions on partial decertification and fair representation complaints were inconsistent with recent government amendments to the *Code*.

“Labour Relations Board decisions that frustrated employee complaints against unions, and applications for partial decertification are inconsistent with government amendments to the *Labour Code* protecting individual employee rights and promoting employees’ free choice about unionization,” said Hochstein.

The report also found that the LRB did not give priority to the “duties” section of the amended *Labour Code* that emphasizes the economic viability of BC businesses.

“Without economically viable businesses, labour relations are of little value to employees,” said Hochstein. “It is critically important to employees and the province’s economic recovery that the Labour Relations Board consider how its decisions may affect BC businesses.”

LRB decisions were consistent with government amendments to the *Labour Code* in so far as they allowed employees to access labour relations information from employers on union-related matters. The labour movement’s hostile reaction to the LRB’s approach culminated in a recent union threat to boycott the LRB over the original RMH Teleservices decision.

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“The business community is encouraged that the Labour Relations Board confirmed government amendments to the *Labour Code* protecting employee rights to access information in the face of attacks and threats of so-called boycotts by the labour movement,” said Hochstein. “Unfortunately, the LRB has since second guessed its original decision by granting the labour movement’s demand for an appeal.”

The report also made recommendations to the LRB to ensure that the *Labour Code* is properly used as an economic tool for the province and an instrument to uphold employee rights. (See attached Backgrounder).

The Coalition’s report is designed to assist the LRB in examining its recent rulings. The Coalition’s business members respect the LRB’s authority to interpret the *Labour Code* and are committed to abide by the LRB’s decisions.

The Coalition of BC Businesses represents over 50,000 small and medium-sized businesses active in all sectors of BC’s economy.

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Backgrounder

Select findings of the report:

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- Labour Relations Board (LRB) decisions advanced union interests ahead of individual employee interests by consistently recognizing union interests over employee rights.
- LRB decisions on employee complaints against unions and applications for partial decertifications were inconsistent with the purposes and rationale behind government amendments to the *Labour Code* protecting individual employee rights and promoting employee free choice about unionization.
- Individual employee rights were undermined as the LRB imposed difficult conditions on employees filing complaints against their union. Complaints would now have to be established from an evidentiary basis before proceeding to a hearing, essentially requiring employees to retain legal counsel before approaching the LRB.
- The LRB has frustrated employee applications for partial decertifications by placing very complex legal and evidentiary burdens on applicants and by taking the approach that any employer funding for employees' legal fees in these measures is *per se* illegal.
- Despite the government's legislative amendment to the *Labour Code* promoting "viable businesses" and the LRB's emphasis on competitiveness and investment, a recent decision suggests that the LRB has not made this goal a priority.
- The LRB illuminated the employees' right to receive information from all available sources, noting that employer communications critical of the union would not constitute an unfair labour practice, even during certification drives, provided the messages were expressed as a "view."
- The LRB came under fire from the labour movement for doing its job by interpreting legislative amendments to the *Labour Code* that protect employees' right to access employer communications.

Recommendations to Labour Relations Board

- LRB decisions should continue to reflect the *Labour Code*'s emphasis on employee rights by ensuring employees have access to information and opinions on union-related matters, including communications from employers.
- The LRB should carry out government amendments to the *Labour Code* that empower employee rights by relaxing some of the rigid standards and requirements for employees who seek to decertify part of a larger bargaining unit.