Submission to

Employment Standards Review

September, 2005

The Alberta Federation of Labour appreciates the opportunity to participate in the first full review of the Employment Standards system in 17 years. This review is long overdue, and we are hopeful that it will produce a more coherent Code and enforcement regime that will protect workers in the province while ensuring fairness in the workplace.

The AFL is Alberta's largest worker organization, representing over 115,000 workers and their families across all industries and most occupations. Our connection to workers of varying stripes, situations and working conditions places us well to comment on the provisions of the Code and how it is enforced. We will draw upon feedback we have received from workers who contact our office, and from formal positions taken by our member unions regarding employment standards.

To best fit the structure of the Discussion Guide, we will organize our comments along the same topic headings. We will attempt to directly answer the question in the guide, but will also add additional issues if necessary. At the end we will discuss any issues that were not discussed in the Guide.

Consultation Process

Before we begin our comments, we feel obliged to comment on the inadequate nature of the consultation process. A discussion booklet and questionnaire, distributed in the summer, and with a short timeline for response is not acceptable. There are no public hearings, no attempt to actively engage workers and smaller employers in the process, and no opportunity for direct discussion between stakeholders. We are disappointed and frustrated by the lack of commitment to truly consult with Albertans around a piece of legislation that has not been reviewed in almost 20 years.

The process set up is destined to receive the participation of only the most organized groups. Responding in time with a thoughtful response has taxed AFL resources, and our main purpose is to advocate on labour issues. Imagine how difficult it is for organizations for who this review is less directly relevant? Imagine how hard it is for an average worker to respond to these questions and have their voice heard?

We believe the government could have done better in this regard, and believe it is not too late to extend the deadline, convene public meetings and engage in a more active, vibrant dialogue with Albertans on these issues. It is the first review in 17 years – it deserves a more thorough debate and discussion.

1. Hours of Work and Overtime

A. Maximum Hours of Work and Rest Between Shifts

There are two parts to this issue, therefore we will take each separately.

First, we agree that the Code needs to include rules guaranteeing a minimum number of hours between shifts. This is beneficial both for health and safety and for the worker's quality of life.

WE PROPOSE: a minimum of 9 hours rest between each shift.

Second, there is strong reason to maintain the current daily maximum of 12-hours per shift. The studies cited in the Discussion Guide examined the effects of 12-hour shifts. There have been few studies into the health and safety effects of 16 hour shifts. Even a Worksafe Alberta Bulletin acknowledges this. "No studies examining the safety effects of 16-hour workdays have been published." (*Fatigue, Extended Work Hours and Safety*, p. 5)

Statistics Canada has done some research on sustained long working hours (*Health Reports*, Autumn 1999) which shows increases in behaviour that leads to poor health – smoking, drinking and poor diet. While the link may not be direct, there is evidence to suggest that longer hours DO have an impact on worker health.

By removing the daily maximum, we risk creating health and safety hazards.

A 15 or 16 hour shift should not become a part of anyone's regular work schedule. There may be times when a shift of that length is required, but it should remain the exception. To that end, the current exceptions in the Code – urgent work, unforeseeable circumstances, serious interference with business – are sufficient to provide appropriate flexibility.

We also believe the right of the Director to issue a permit extending hours of work should be removed. If there are additional circumstances when an exception is required – such as seasonal work or weather conditions – those should be explicitly added to the section as exceptions. Legislation by permit is not acceptable (we will discuss this issue more fully below).

WE PROPOSE: Maintain the 12 hour daily maximum and remove the Director's right to issue exemption permits.

B. Days of Rest

We believe there is no reason to alter the current provisions for days of rest. Too many work days in a row creates fatigue – and the associated health and safety risks – and reduces quality of life. The scenario of 7 or 8 weeks of work without a day off is one that few workers would appreciate, and we question the productivity impacts on such a scheduling arrangement.

WE PROPOSE: No change to days of rest provisions.

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C. Calculation of Overtime

Overtime is a key issue in employment standards because it governs a core element of the employer-employee relationship. It does it in two ways. First, it establishes the standard number of hours an employment relationship can encompass. It informs both the employer and the worker what they have a right to expect. Second, it places a premium on work demands that exceed this normal standard.

While the workplace has changed significantly –the classic 9 to 5 job has become less common – there is still a need for a definition of standard work week. Workers have a right to know how many hours in their week need to be devoted to employment. When the employer wishes to encroach upon the worker's remaining hours, they should be expected to pay a premium for that encroachment. The rationale behind this concept is that the worker is not the property of the employer, and that asking for something beyond the usual arrangement demands additional remuneration.

Six of Canada's provinces have defined the standard work week as 40 hours, and 8 hours per day. These numbers have long been seen informally as the "standard work hours" in Canada. Alberta's legislation lags behind by allowing 44 hours per week.

Employers will argue that the modern need for flexibility demands a loosening of overtime rules. While employment patterns clearly indicate that the standard work week is becoming less common, we must not exaggerate the trend. Over half of workers in Alberta hold "standard" jobs (Statistics Canada), and most industries continue to operate on a long-accepted "business day". The government needs to balance a concern for reflecting modern trends with protecting the bulk of workers who retain the standard employment pattern.

More importantly, if we scratch the call for flexibility a little, we find the concern is not with ensuring the work gets done (for overtime is not a barrier to production) – it is with wanting to avoid the premium that comes with working extra hours. In short, the call for looser overtime provisions is a call for the government to lower labour costs. We must examine this motivation very carefully before acceding to it.

An example may highlight the concern. The demand for averaging overtime hours over a period of weeks allows the employer to cover busy times by balancing with slower weeks and avoid overtime premium pay. Does this provision help the work get done? No. The work would have occurred anyway. What it accomplishes is to ensure the worker receives fewer wages over the time period than if weekly or daily overtime provisions were in place. The worker does not receive premium for the busy week, when the extra work may create home life burdens such as child care arrangements, missing activities, and a lack of rest and sleep. At the core, such requests are about lowering labour costs – not making workplaces more flexible.

By loosening overtime provisions, the government sides with employer interests at the expense of worker interests. The AFL opposes any effort to loosen current provisions, including averaging, increasing weekly hours before overtime applies and removing the daily hours maximum before overtime.

Instead, we believe our overtime provisions should be changed to reflect our provincial neighbours. It is often argued that we need to harmonize rules with other jurisdictions to allow for smoother trade and economic competitiveness. In that light we recommend Alberta lower our work week to 40 hours – as B.C., Saskatchewan and Manitoba have. We should ensure that double time is paid for work over 12 hours per day, as is the case in B.C.

Finally to remain consistent with the concept of overtime – that of a demand in addition to the usual employment contract – workers should possess the right to refuse overtime. The right to refuse overtime allows the worker to choose whether they wish to earn premium pay, or maintain those hours for family or personal pursuits.

No worker who is unwilling or unable to work overtime should be forced to work, except in emergencies. Saskatchewan and Manitoba have taken the step to encode a worker's right to refuse overtime. Saskatchewan's provisions are particularly effective, as they do four things:

- No employer can force a worker to work overtime, except in emergency situations
- No disciplinary action can be taken against a worker who refuses overtime
- Onus is on employer to prove "emergency situation"
- Defines emergency situation as "sudden or unusual occurrence or condition that could not, by the exercise of reasonable judgment, have been foreseen by the employer." (section 12(4))

Saskatchewan's provisions protect workers who attempt to maintain balance in their lives, but allow for the labour needed to address emergencies.

We believe this will not unduly inconvenience employers, as in any workplace there is a mixture of workers – those who take as much overtime as they can get, and those who value time away from work.

WE PROPOSE:

- ***Maintain daily work hour of 8 hours***
- ***Lower weekly hours to 40 hours***
- ***Provide for double time for work over 12 hours per day or 50 hours per week***
- ***Provisions allowing workers to refuse overtime, similar to Saskatchewan***

D. Overtime Agreements

In theory, overtime agreements provide a creative and flexible option for both employers and workers. Rather than paying premium pay, they can agree to time off in lieu of premium pay. We support flexibility of this nature.

However, in Alberta there is a flaw to the agreements. A worker is entitled to only 1 hour lieu time for every hour of overtime worked, while premium pay is 1.5 times the hourly rate. In effect, this steals from the worker their premium for working extra hours, and creates an uneven playing field. It builds in an incentive for employers to sign agreements to avoid the extra ½ hour commitment per hour of overtime.

WE PROPOSE: Harmonize overtime agreements with paid overtime provisions. Workers receive 1.5 hours lieu time for every 1 hour overtime worked.

E. Breaks

Rest breaks are a necessary protection for workers. It allows for meals and for a time when the worker can remove themselves from work to rest or do personal business. It improves productivity and allows for a crucial mental rest for workers.

However, the wording of the Code allows for a 30 minute break during each shift in excess of 5 hours. This is significantly looser than other provinces, and could see a worker working 8 or 9 hours in a row without a rest break.

We suspect the intent of the section was to limit the number of hours a worker must work without a break. Unfortunately the wording does not reflect this intent.

Alberta's language should be changed to a similar fashion as most other provinces, including Ontario, B.C., Saskatchewan and Nova Scotia. This would require a 30 minute rest break at intervals ensuring a worker works no longer than 5 consecutive hours. This wording would have two effects. First it ensures breaks occur in the middle of an ordinary 8 hour shift – and not near the end when it is less effective. Second, it guarantees a second break if the shift is 10 hours or longer. Thirty minutes rest for a 12 hour shift is inadequate. The second break would allow for a second meal or mental break that all workers need.

WE PROPOSE: A 30-minute rest break be required at intervals to prevent a worker working more than five hours consecutively without rest.

F. Employment for Less Than Three Hours

The minimum three hours rule is one that on the surface may appear to have little rationale. Why pay a worker for three hours if they only work one or two? This rule is often cited as a barrier to employing workers with disabilities, or workers with limited schedules.

We need to, again, recall the motivation for this provision. It is intended to acknowledge that a worker forgoes other activities – including other employment possibilities – to commit to a work shift. They must travel to and from work, possibly make child care and other arrangements, and must be rested and ready to work. To make these commitments for one or two hours of work is unreasonable. This provision is to prevent employers from making schedules with unreasonable shift lengths by creating a financial minimum. If an emergency or lack of business dictates a shift of less than 3 hours, the protection for the worker is to ensure three hours' wages.

If we loosen or remove this provision, the opportunity for unreasonable scheduling opens. What is to prevent an employer for creating a two hour shift, for the lunch rush or some other peak period? This is unfair to the person expected to work that shift – to make all the necessary arrangements for $15 or $30.

While the argument of creating an exception for workers "not able or willing" to work three hours is enticing, we believe it is a provision that is open to abuse. How will an enforcement officer determine "able"? How will we define "willing"? Is it "willing" when the worker's choice is between accept a 2-hour shift or receive no hours?

Our concern is that the power imbalance in the employment relationship will create opportunities to abuse the term "willing" to work in the employer's favour. There continue to be good reasons to guarantee three hours wages for a worker. Loosening those rules puts workers at risk of unreasonable demands.

WE PROPOSE: No change to three hours provisions.

2. Vacations and Vacation Pay

Much like rest breaks and days of rest, vacations are not just an employment frill – they are essential to maintaining a worker's mental health, productivity and wellbeing. It is the only time in the year where a worker can leave their work behind, go on a trip and spend extended time with family.

Alberta, like in other areas, lags behind other jurisdictions with the number of weeks offered for vacation. Currently, a worker can spend virtually their entire career – even with the same employer – never getting more than 3 weeks vacation. Our neighbour, Saskatchewan offers 3 weeks after one year, and 4 weeks after 10 years continual employment. Most European nations offer at least 4 weeks holidays – and studies show that productivity per worker does not suffer as a result.

Statistics Canada indicates that Albertans take fewer vacation days than any other province. We do not consider this a point of pride. It is an indication that – for whatever reason – our work-life balance has tipped too much toward work.

The government can play a role in addressing this imbalance. A person's life is not only about their job. As a prosperous province, we have the capacity to offer greater vacation time without hardship on employers – most of whom already provide more weeks than the Code requires. The government can increase the number of weeks a worker receives to send a strong signal that the employment year is a balance between hard work and well-deserved rest.

While we are tempted to recommend a significant increase in vacation time, to a level required in Europe, we will refrain from making such a bold proposal. We do so in the interests of gradualism. A small, reasoned increase now will help workers, and allow for adjustment by employers and workers. Another small increase can occur at the next review.

WE PROPOSE: After three years employment, workers be entitled to three weeks vacation. After seven years, increase vacation to four weeks.

3. Leaves from Work

A. Maternity and Parental Leave

Alberta recently updated its Code to reflect EI provisions around maternity and parental leave. We are pleased that Alberta offers the full 15 weeks and 37 weeks of leave, respectively.

However, there are three shortcomings in the current wording. First, the status of a worker's benefit plans when they go on leave is up in the air. Many find themselves ineligible for extended health or dental benefits during their leave – at a time when such benefits might be needed the most. Saskatchewan possesses language that prevents this legal difficulty by ensuring a worker can remain on their benefit plan if they choose and pay any associated costs. We support a clause that allows for this option.

Second, there are no provisions for complications during pregnancy. Many other provinces waive notice periods or allow extensions on leave timelines if there is a complication in the pregnancy, birth or post-partum. Allowing for maximum flexibility for a mother with medical complications is both humane and good business practice. The government should include language to protect women whose pregnancies suffer from complications.

Third, and more seriously, women are not eligible for maternity and neither parent eligible for parental leave unless they have completed one full year employment with that employer. This requirement is far too high. It can create the perverse situation where a woman is eligible for maternity benefits from EI, but not entitled to unpaid leave from her employer. This provision is also likely to be contrary to the Charter of Rights and Freedoms, and could be vulnerable to a challenge.

Other provinces range between no requirement (B.C., New Brunswick), 13 weeks (Ontario) and 20 weeks (Saskatchewan, Manitoba). Only one other province (Nova Scotia) requires a year.

Our first position is that there should be no minimum employment requirement for maternity or parental leave – as pregnancy and parenthood are fundamental, natural activities that should never put one's employment at risk. At minimum, the provision should approximate current EI rules, suggesting a requirement of 13 weeks work.

WE PROPOSE: Adjust maternity/parental leave rules to allow continuation of benefit plans, to waive restrictions for pregnancy and birth complications, and to lower the number of weeks required for eligibility – preferably to zero.

B. Other Employment Leaves

One of the evolving elements of employment standards in recent years, both in legislation and employer policy, is the recognition that the complex nature of life often creates conflicts between home and family commitments and work commitments. Parents have always struggled with the circus act of juggling child rearing and employment. And today more and more families are actively caring for sick or dying parents or other family members.

Legislation needs to catch up with these struggles. Just as legislation decades ago recognized the need to provide days of rest, we need to acknowledge that juggling family and work responsibilities is part of the modern employment reality.

Workers need protection to ensure that tending a sick child, or spending final days with a dying parent will not put their job in jeopardy. Just as we recognize that pregnancy should not force a woman to quit her job, neither should the care of family in emergency or crisis situations.

We recommend the addition of two new types of leave in the Code. First, there should be unpaid Emergency leave which allows a worker to take a number of hours or days to attend to family emergencies such as funerals, sick child, personal illness or medical appointments. We recommend providing 5 days of emergency leave per year, and allow emergency days to be carried over for a period of three years.

Second, Alberta needs a Compassionate Care leave, of up to 8 weeks per year, to attend to the care of a seriously ill family member. In part this new leave will reflect recent changes to EI, allowing for a 6 week compassionate care benefit. But it intentionally expands the purpose of the leave. Restricting the leave to only those whose family member is terminal within the next 26 weeks has two problems. First it creates the impossibility of needing to guess when the relative will die. Second, it ignores very real emergencies that are not necessarily terminal. Car accidents, serious acute illness (such as pneumonia, West Nile virus or other disease), serious medical procedures and other situations require short term caregiving and attention, but are often not terminal. These kind of situations are equally deserving of compassion, and therefore should be eligible for leave.

Both leaves should have the same eligibility requirements as parental leave. There should be no restrictions according to employer size.

WE PROPOSE: An Emergency Leave of five days per year, which can be accumulated for three years, for tending to family emergencies or illness. A Compassionate Leave of 8 weeks per year for the attending of an acutely ill or dying family member.

4. Special Situations

A. Exceptions – Farm and Ranch Employees

One of the enduring mysteries of provincial government legislation is the complete exclusion of farmworkers from labour law. In the Code, they are exempt from all but the most basic protections.

While this may have made sense 20 years ago, when the Code was last reviewed, the rationale for this exclusion has long since evaporated. Farming has changed. It is now dominated by feedlots, factory farms and large industrial-style operations. Yet, the law lags behind the times.

Alberta offers the weakest protection for agricultural workers in the country. Every other province has taken steps to include farm workers in some provisions, or include some farm workers in all provisions. It is time Alberta did the same.

We are unimpressed by those who continue to argue for exemption. Can they offer a reasonable explanation for why a farm worker does not deserve vacation pay? Or statutory holidays? Or a guarantee of the minimum wage? We can find no reason.

Agricultural workers perform difficult, physical work. The demanding nature of the work should increase government attention to those workplaces, not cause it to look away entirely.

We believe that the default position of the government should be that every worker automatically deserves all the basic employment protections, and that the burden of proof lies with anyone who wishes to exclude a group of workers. In the case of farm workers, there is no good reason.

Our position is that all exceptions should be removed for agricultural workers, regardless of where they work. Having said that, we have no interest in harming the small family farmer. We appreciate the past decade have not been easy on farmers, with drought, floods and low prices.

Our position regarding family farms is two-fold. First, we believe that including farm workers in Employment Standards does not add significantly to a family farm's financial or administrative burden. The number of workers they employ is small, and often for restricted periods of time. Much of the protection under the Code is about rest periods, days off and eligibility for unpaid leave. These are not hard costs, where the farmer pays out of pocket.

Second, if family farmers can make a case that they are unable to meet the requirements of the Code – and that in our mind is highly questionable – we would be open to discussions about finding an appropriate balance between protecting workers and protecting family farms. We would want to ensure that no corporate agricultural producer is able to use a loophole aimed at family farms to avoid providing work conditions they are more than capable of meeting.

WE PROPOSE: Elimination of all exceptions for farm and ranch workers regardless of where they work.

B. Exceptions – Domestic Employees

The situation for domestic workers is different, but we end up with the same position – eliminate all exceptions.

Domestic workers are the most vulnerable workers in the labour market. They are in private homes, usually working for single families with no human resources infrastructure. They are often newcomers to Canada, and are almost exclusively women.

This is a group of workers that is in dire need of government protection. We can think of no group of workers more in need of the rights and guarantees offered by the Employment Standards Code. Yet, currently they are left to fend for themselves.

The power imbalance between domestic worker and their employer is marked. The government has a responsibility to take active steps to protect these workers.

The argument that domestic employers cannot afford to abide by the Code carries no weight. If they have enough money to hire a nanny or housekeeper, then they are able to offer overtime pay, respect limits on work hours and other such basic measures. Such requirements are neither onerous nor difficult to achieve.

WE PROPOSE: Elimination of all exceptions for domestic workers.

C. Exceptions – Other Occupations

The discussion around the myriad other occupations that have exceptions under the Code and regulation can quickly become mired in confusion and detail. We do not wish to engage each and every exception individually. On the surface, we see little reason for any exception at any time. However we are unfamiliar with the specific conditions in some of the occupations and industries currently listed. In the interests of reasonableness, we instead offer a set of criteria upon which policymakers can assess the arguments for and against excepting certain occupations or industries.

We see the criteria as follows:

1. The default is that all workers are covered by all sections of the Code.
2. The onus for demonstrating the need for exception lies with the industry or employer group requesting the exception.
3. No request will be considered unless it contains a legitimate practical issue, such as safety, reasonableness or unavoidability. Cost implications for employers are not sufficient.
4. If a request is made, the government will initiate a multi-stakeholder process, including labour and representatives from industries not affected by the request, to discuss the merits of the request.
5. Before any decision to exempt workers is made, a full public notification and consultation will occur, so that every Albertan has the opportunity to comment.
6. Any exception will be legislated through the Code, so that it must be passed by the Legislature in a full and public debate. No Director's permits or quiet regulation changes.

This allows for the presumption that all workers deserve equal protection under the Code, but allows for a deliberative and open process for assessing whether selected provisions create more problems for both workers and employers.

The key to our position is that there needs to be a substantive and objective reason for any exception. This reason needs to be verified by workers in the industry as well as employers. Any employer can make an argument for an exception, but we must be careful to ensure it is not a thin veneer to lower labour costs.

WE PROPOSE: All exceptions to be removed from the Code and any exceptions are subject to an open and thorough process before being included in the legislation.

5. Employment of Persons Under 18

A. Adolescents

The recent controversy around rule changes for adolescents in restaurants offered some valuable clarity around this issue. First, it is clear most Albertans were unaware of the rules around the employment of 12-14 year olds. Second, once they became aware that 12-year olds were allowed to work in a number of workplaces, a clear majority expressed their opposition. The public reacted with a moral outrage that should make all of us take note. Rarely do Albertans speak with such clarity. This is one of those few times.

The AFL has placed itself clearly on record regarding this position. Our arguments are clear. We believe the system as it stands places young Albertans in vulnerable and potentially dangerous situations. We believe there are inadequate checks to ensure these children are not being exploited.

But Albertans go further. They believe 12-years old is too young to work in a restaurant or retail store. We believe the government has an obligation to hear that message.

There is a qualitative difference between a paper route and a 7-11. There is a difference between babysitting and waiting tables in a busy restaurant. The Code needs to ensure 12 to 14 year olds are not working in a mainstream workplace. The provisions allowing the employment of children under 15 in restaurants, offices and retail stores should be repealed.

The second lesson from this past summer's controversy is that Director's permits are an inappropriate mechanism for setting public policy. The Director's ability to issue permits around adolescent workers should be revoked.

WE PROPOSE: That no person under the age of 15 shall be allowed to work in a workplace in Alberta, with the exception of newspaper/flyer delivery and babysitting.

B. Young Persons

The provisions for young persons (age 15 to 17) offer an appropriate balance of allowing employment opportunity to high school aged young adults, but with restrictions to ensure their safety and to prevent undermining their education.

While the section can be tweaked to better reflect modern realities, we take the position that its main elements are appropriate.

WE PROPOSE: No change to current provisions.

6. Permits

A. General Permits

Over the past 17 years, many aspects of the Code have become outdated, supplanted by evolving workplace practices and convoluted by piecemeal amendments. One of the ways the government has tried to cope is to issue Director's permits to allow certain practices, even if they breach a specific section of the Code.

Two consequences have arisen from this practice – neither positive. First, it has led to a checkerboard of regulation, where certain industries, and even certain employers, play by different rules than others. It has made the employment standards regime harder to understand and undermined the purpose of codified legislation.

Second, permits allow policy-making in employment standards to occur without public scrutiny or debate. A department official signs a piece of paper, and only the officials and the employer directly affected are aware that regulations have been changed. This lack of transparency is troubling. It leads to the government losing touch with the desires of Albertans, and leads to such policies as paying certain workers less than the minimum wage, and allowing 12-year olds to work.

We believe there is no way to make a permit system work in Employment Standards. In health and safety, a director must evaluate if the request can achieve an equal standard of safety. In other words, they can ensure that the intent of the legislation – keeping workers safe – continues to be respected. There is no comparable criteria for employment standards. The maximum number of work hours is a firm number. Any deviation from that number is a loosening of the rules for a particular employer or industry. It is, by its very nature, an act of weakening worker protection.

A strong legal argument can be made that the practice of Director permits is contrary to law. Under the hierarchy of legislation, lower level regulation cannot contradict the intent of superior legislation. Permits contradict the intention of the Employment Standards Code.

WE PROPOSE: Eliminate the ability of the Director to issue permits. Any change to minimum standards must occur by changing legislation – guaranteeing a public debate.

B. Minimum Wage Exemption Permits

The core of our argument about general permits also applies to minimum wage exemptions. We wish to add only one additional point.

We believe it is fundamentally wrong to allow a certain group of workers – in this case workers with disabilities – to earn less than the minimum we set for all others. It is discriminatory and exploitative. It perpetuates the stereotype that people with disabilities are worth less than able-bodied workers. This myth is false and damaging.

We do not accept arguments by employers that they cannot afford to pay these workers the minimum wage. Alberta's minimum wage is $7 per hour – this is not a difficult wage to meet. Even if a person with a development disability has lower productivity, it is not justification for paying less than minimum wage.

WE PROPOSE: Eliminating the minimum wage exemption permits. The minimum wage must apply to all workers.

7. Payment of Earnings and Deductions

A. Payment of Earnings

Timelines for payment of earnings is one of those issues where small adjustments may improve the situation, but the overall impact will be minimal. Most employers meet the required timelines. Those that miss the deadline usually need to be reminded and pursued by the worker, an enforcement officer or lawyer. In these cases, small adjustments to the timelines will not help either the worker or the employer. Existing requirements are reasonable for employers – there is no reason to not meet them – and offer relative quickness for workers.

WE PROPOSE: No change to the payment of earnings.

B. Deductions from Earnings

The Code makes illegal any deductions for error, cash shortages and other losses. In theory this is appropriate. However, each week the AFL offices get another phone call from a worker whose employer is attempting to make an illegal deduction. And their choice is very stark. Pay it, or fight it and lose hours. Often, the employer finds creative ways to deduct wages – by reducing hours, changing shifts or other punishments.

Many restaurant employers require workers to contribute to a "dine-and-dash" fund, which is used to pay shortages. These acts are officially legal, but clearly their intent is the same as deducting amounts from a paycheque. A fund collected from workers for future losses is no different than retroactively deducting wages.

The language around deduction of earnings needs to be strengthened. First, it needs to outlaw both deductions and any reprisal directly attributable to the loss. While an employer has a right to discipline for lack of performance, reduction of working hours is just another way to recoup financial losses. Second, it must ensure that all forms of deductions – whether preceding or following the loss – are illegal. This language should ensure collective deductions (e.g. dine-and-dash funds) are also forbidden.

These changes merely ensure the intent of the current provisions are met by closing loopholes found by employers intent on making workers pay for honest mistakes or customer action.

There should also be specific penalties stipulated for attempting to make illegal deductions.

The other shortcoming is that the Code allows employers to charge workers for their uniform, and only prohibits profit-making. There are two difficulties with this language. First, many clothing retail employers require their workers to wear clothing sold at the store. It is unclear whether this practice contravenes the current provisions. The employer is making a profit on the clothes, even if an employee discount is offered, and they require the use of such clothes. However, it is uncertain if these clothes are "uniforms" or "special clothing". The Code provisions need to be clarified to ensure that any form of clothing required by the employer are included in deduction provisions.

The second concern is that under current provisions, the worker continues to pay out of pocket for something that is a job requirement. We consider this unfair. The employer has the right to impose clothing rules for safety or other reasons (including universality of appearance), but should be expected cover the cost of this requirement.

The B.C. Code contains a provision that ensures that no worker pays for the purchase, cleaning or maintenance of special clothing required to be worn at work. This provision properly reflects the balance of employer right to set dress codes with the obligation to pick up the expense of such policies.

WE PROPOSE: Adopt the B.C. Code provisions on special clothing, and ensure that all forms of required clothing are covered by the provisions.

8. General Holiday Pay

General holidays and who is eligible for pay has become one of the least understood and most confused sections in the Code. Each time a statutory holiday comes around, both employers and workers end up scratching their heads about the rules. These provisions are in great need of revision and, in particular, simplification.

First, these days should be referred to as "statutory holidays", rather than general holidays to reflect what most people call them. For most Albertans, the list of mandated holidays are referred to as "stat holidays", and the legislation should reflect it.

As we grappled with how to make the section more user-friendly, we continually bumped up against complications. Every system for determining eligibility possesses a layer of complication that confuses the situation. Whether we use a definition of "usual work day", or some arbitrary selection of minimum number of work days worked, or some combination of criteria, the system quickly gets complicated. And when it is too complicated, there is room for abuse by those who wish to take advantage, and, more prevalently, honest mistakes due to misunderstanding.

The only solution we can find that seems to allow for simplicity and clarity is the model used by Saskatchewan. It entitles all workers to statutory holiday pay if they are on the payroll of the employer, at a proportion of their usual wages ($1/20^{th}$ of their monthly wages – equal to one day). This system is simple, easy to understand and administratively straightforward.

It also reflects what most employers do anyway – pay all their workers for the day. While some may complain about cost, we believe it is of marginal impact, given that there are only 9 statutory holidays, and the percentage of workers who are in a grey zone of eligibility is very small.

We also believe workers should be entitled to statutory holiday pay regardless of which day of the week it falls on. It seems grinch-like to deny Christmas stat pay because it happens to fall on a Sunday. Again the small cost to the employer is exceeded by the ill-will created by being stingy.

WE PROPOSE: Make all workers on the payroll eligible to receive statutory holiday pay, and regardless of the day of the week upon which it falls.

9. Termination of Employment

A. By the Employer

The provisions for termination are in need of reform. They are among the stingiest in the country, and offer too many loopholes for unscrupulous employers to avoid notice or severance pay.

The number of weeks notice required is out of step with other provinces, and with established common law regarding termination. Someone who has worked for an employer for almost two years is entitled to more than one week's notice. The table is also difficult to understand, as there is no consistent association of years to weeks notice. A cleaner calculation of one week for every year worked, to a maximum of 10 weeks is fairer, simpler and more reflective of our provincial neighbours and the courts.

We also believe enhanced notice should be required for group termination (layoffs). The disruption of a large group of workers being laid off is significant. With a group layoff, not just one family is affected, but an entire community – people who work together and often share social time together are all affected. The extra human cost of group layoffs necessitates more notice to allow for planning, preparation and response. We suggest eight weeks for 50 to 100 workers, 12 weeks for 101 to 300 workers and 16 weeks for layoffs of over 300 workers.

The second area of concern is the stated exceptions to notice provisions. These are the loopholes that leave thousands of workers each year without proper notice, or right to wages in lieu of notice.

In particular, the exception for workers employed less than three months has earned a notorious reputation. It is the tool used by many employers to avoid any responsibility. They hire a worker (especially in low skill jobs) for 3 months, and then let them go just before the three month mark, and thus prevent paying a week's wages. This is often used in conjunction with efforts to avoid adding workers to benefit plans and other obligations. However, its

common use to prevent a worker becoming established and building some rights to the position needs to be condemned by the government. And the best way to make that statement is to remove the exception altogether.

In fact, the AFL is of the position that none of the exceptions are sufficient to warrant waiving the notice period. Remember, this is not about the employer's right to terminate a worker, but merely how much notice (or wages in lieu of notice) they are required to give. Just because a worker agrees to a term contract of, for example six months, should not mean they lose the right to notice of termination.

The phrase "just cause" is rife with opportunity for abuse, and the employment standards system is not adequately positioned to assess when such a term is being used appropriately.

Our suggestion is to remove all exceptions, and allow the waiver of notice periods in emergency situations only.

WE PROPOSE: Altering the notice period requirements to one week per year, adding additional notice for group terminations and removing all exceptions but emergencies.

B. By the Employee

In contrast, worker obligations for notice are relatively simple, with only two thresholds. We find the current notice periods to be sufficient to meet both the worker's and the employer's needs.

We do believe the list of exceptions for workers could use some review as well. Some exceptions, such as endangerment of health and safety are crucial to allow a worker to protect themselves. Others, such as industry custom or practice, are too loose to be beneficial. On the whole we support keeping most exceptions. We recommend removing: established industry custom, when worker is laid off after refusing alternative work. The first for the reason stated above, the second because the worker has already been laid off – notice is a formality.

Some may argue to be consistent we should advocate removing exceptions for workers as well as employers. We disagree. Inherent in the employment relationship is a power imbalance. Employers control the availability of work, the nature of that work and the remuneration of that work. If any of those circumstances changes, the worker needs the legal protection to be able to walk away – at times without proper notice. Allowing a greater number of exceptions for workers acknowledges the power differential. Giving notice when your wages have been cut is tantamount to forcing a worker to accept wages below the initial agreed rate for the one or two weeks of the notice period. Requiring notice in cases of health and safety risk puts the worker's life in danger. These are examples of how the power imbalance affects how legislation should address termination.

WE PROPOSE: No change to worker notice of termination. Retention of most exceptions.

C. Temporary Layoff

Temporary layoffs are a special subset of termination. It is in both the worker's and employer's interests to allow a period of time when the employment relationship is maintained, despite a layoff, so that recall is easier and smoother. We believe 60 days is an appropriate length of time before termination pay must be paid.

WE PROPOSE: No change to temporary layoff provisions.

10. Fines and Ticketing

A. Fines

Fines always become a controversial topic. Their appropriate level is a constant matter for debate and disagreement. We believe this arises from a misunderstanding of their purpose in legislation. Fines accomplish three functions in an enforcement regime. First, they are a direct penalty to the offender – an economic charge for willfully ignoring the law of the province. Second, they serve as a deterrent to other potential offenders. Fines are intended to make a person or organization think more carefully about the consequences of contravening law, and to consider the contravention less beneficial.

Third, and this is the piece often forgotten, fines are a symbolic statement about the importance of the set of rules to be enforced. The reason a penalty for murder is higher than property theft is because it reflects society's belief that a human life carries more importance than a stereo. The same logic applies to non-criminal enforcement. The level of the fines in employment standards is a symbolic reflection of the importance we place on protecting workers and ensuring minimum standards in the workplace.

On all three levels, the current levels of fines fail. They are simply too low to serve as an effective economic penalty, a deterrent or a strong symbolic statement. To correct this failure, we need to raise the maximum fine that can be assessed, to establish a minimum fine and to build in an element of progressivity (i.e. increased fines for subsequent offences). We recommend a maximum fine of $1 million for a first offence, and doubling the maximum for each subsequent offence. We also believe a minimum fine of $100,000 is required to send a strong signal.

At first blush, these figures may raise eyebrows. Some may charge they are far too high. We believe that upon closer examination of the enforcement regime, these figures are appropriate.

First, we need to remember that only the most serious offenders are taken to court under employment standards. They will either be single offences that affect many workers, have a particularly damaging impact or are notably unethical, or they will be serial offenders who intentionally flout the law for economic benefit. This means any fines imposed will only be for serious breaches of the Code.

Second, employment standards offences are by their nature economic offences. The person or organization is attempting to achieve an illegitimate economic gain through ignoring legal obligations – for example, they are shortchanging paycheques, making illegal deductions, not paying overtime or employing workers that are too young to be employed. These have an economic motivation, which requires a sufficient economic deterrent and penalty. A serial offender can pocket tens of thousands of dollars very quickly by breaking certain provisions of the Code. A fine of $30,000 or $50,000 may not be sufficient to prevent the offence from being economically beneficial.

Third, judges always have discretion to assess a fine level they deem appropriate. While $1 million may seem excessive for a small store owner (and we would agree it might be), a fine of that level may be the only way to catch the attention of Wal-Mart. A $100,000 fine will not impact such a large corporation. We need to trust that judges will balance the seriousness of the offence with the circumstances of the offender.

In our mind, more important than the level of fines is the rigour in which prosecution is pursued. Currently, the fines in the Code are little more than theoretical. Almost no one has been prosecuted in years in Alberta. This is the quintessential "paper tiger". We need look no further than recent cases. Buffet World had over of dozens of employment standards infractions a few years ago and nothing came of it. This year, the contractor for the Klondike Days midway was found repeatedly in violation of the Code, and no action taken.

This is a disgrace. Employers can thumb their nose at the rules laid out in legislation, and no one makes them accountable for their actions. We need a more stringent set of rules for when cases are forwarded to prosecution, and more cases need to be prosecuted each year to show both the public and those involved in work that the Code has significance.

A practical reform would be to follow the lead of Workplace Health and Safety in appointing prosecutors dedicated exclusively to employment standards cases. It has proven highly effective in health and safety. It built a level of expertise and the focus needed to effectively prosecute cases.

WE PROPOSE: Dramatically increased fine levels, including minimum fines and progressive fines for subsequent offences. We also call for greater prosecution of offenders.

B. Ticketing

The AFL is supportive of the concept of administrative fines, more commonly known as ticketing. While prosecution and stiff fines are effective methods of enforcement, they are only practical for the more serious offences – either in frequency or impact. The cost of taking a case to court, the level of due diligence to persuade a judge and then the difficulty of collecting the fine make pursuing this avenue against an employer that didn't give proper termination notice unfeasible.

For these cases, an administrative fine is the perfect vehicle. It allows for direct, immediate enforcement of the law, and in a manner that is cost effective. It can be done with existing infrastructure, in the same manner of a traffic ticket.

The key to making it effective is to ensure the penalty is sufficient to achieve the enforcement goal. We recommend linking the penalty to a percentage of payroll for employers. This way a small company is not overly burdened by a fine for a relatively minor infraction, while a large employer cannot laugh away the fine.

We also argue tickets should only be issued to employers. This is not to be unfair or biased. Our rationale is based upon the nature of provisions in the Code. The vast majority of requirements are obligations for an employer. The only measures aimed at workers are notice provisions (for termination or leaves), and failure to return to work after layoff. Neither of these items seems particularly well-suited for a ticket.

More pointedly, each of these provisions allows the employer an effective remedy should the worker breach the provision. They lose their right to pay in lieu of notice, or can be denied their request for leave. We fail to see how penalizing a worker further with a ticket will enhance any of the three purposes of fines – penalty, deterrence or symbolism.

The bulk of employment standards work is ensuring the employer – the party with the bulk of power – abides by its legal responsibilities to meet a minimum standard of employment. We should not get sidetracked by a theoretical debate about being "even-handed". It is a fruitless discussion, for enforcement in employment standards is, in effect, about dealing with employers who wish to avoid their basic obligations. The ticketing program should reflect that reality.

WE PROPOSE: Establishing a system of administrative fines (ticketing), that is proportionate to size of payroll.

11. Other Issues

There are a number of issues and problem areas not addressed in the Discussion Guide. We wish to briefly discuss some other areas of concern so that they can be added to the package for consideration by decision-makers. In the interests of brevity, we will only summarize the issue, but we are willing to expand upon any specific issue upon request. We discuss the items in no particular order.

A. Prohibition of Gender-based Wage Discrimination

Alberta is one of only 4 provinces (B.C., P.E.I., Newfoundland) that does not contain language that prohibits gender-based wage discrimination in the Code. This is an oversight that needs to be corrected. It is a longstanding and universally regarded principle that men and women should be paid the same wages for doing the same job. Unfortunately, in too many workplaces, we continue to see an unjustified wage gap between male and female workers. We need provisions

to explicitly make such discrepancies illegal and empowering enforcement officers to order remedies.

Current provisions in the Human Rights Code are not sufficient to address the issue of discriminatory wages. The complaint process is cumbersome and time consuming. The need for a worker to single themselves out through the complaint process is too much to ask when addressing a topic such as unfair wage gaps. Our position is that the Employment Standards Code is the ideal place to enforce rules regarding wage discrimination.

WE PROPOSE: Following the path led by Saskatchewan, Manitoba and Ontario by implementing provisions prohibiting gender-based wage discrimination and implementing capacity to enforce remedies.

B. Employment Agencies

Manitoba and Saskatchewan have both passed imaginative legislation regulating the Employment Agency industry. In both provinces, an employment or temporary labour agency must be licensed before it can operate. There are also clear prohibitions on charging workers for linking the worker with an employer. Manitoba also prohibits employment agencies from providing replacement workers during a strike or lockout.

In Alberta, temporary labour is a growing industry. We have seen a proliferation of agencies setting up shop and servicing employers looking for temporary workers. With this growth has come abuse and questionable practices. It is not uncommon for agencies to charge both the employer and the worker for their services. Some of these agencies are shady operations, shortchanging workers and taking advantage of lax rules to make a fast buck and disappear.

There is a great need to regulate these agencies. The workers who utilize agencies to find work are among the most vulnerable workers in the labour market. Their connection to the labour market is tenuous, and often their skill levels are lower than many workers. These workers need added protection from preying agencies who find ways to nickel and dime them out of fair wages.

While in Saskatchewan and Manitoba, there is separate legislation to address this issue, we believe language can be incorporated into the Code to offer equal protection to these vulnerable workers.

WE PROPOSE: requiring employment agencies to obtain a license, and prohibition of charging workers for providing agency services.

C. Prohibition on Reprisals, Unfair Actions

Most employment standards acts across the country contain language protecting a worker from employer reprisal, punishment or discrimination when they make a complaint to the Employment Standards branch, or provide evidence at an inquiry, or request something to which they are entitled under the Code. Alberta is no different on this matter (section 125).

However, here in Alberta it is simply a theoretical right – as the section has no avenue for a worker to pursue this protection, and there is no specific penalty applied to this provision. It also does not address what happens if a worker requests a right under the Code, and is refused.

The language in this section needs to be toughened, to ensure it is able to protect workers in real life situations.

WE PROPOSE: Providing an explicit set of penalties for contravention of section 125, and allowing a worker to act to protect a right provided under the Code.

D. Minimum Wage Board

One of the most disastrous elements of Alberta's employment standards regime is the process for setting the minimum wage. It is a regulation change made periodically by Cabinet. This has two consequences.

First, it politicizes the decision to increase the minimum wage. The decision of what Alberta's lowest paid workers will earn is left to the whims of political calculation. Consequently, the minimum wage is increased when it suits the re-election needs of the government of the day, rather than the needs of low wage workers and conditions in the labour market.

Second, it moves the decision behind closed doors. The public is given no opportunity for input into the decision, and can only react once the announcement is made.

This is a poor model for public policy.

We argue the minimum wage should be taken out of the hands of Cabinet, and placed in a body established to assess the economic and social factors related to the minimum wage. This body can make a rational, reasoned decision about how and when the minimum wage will be raised.

WE PROPOSE: establishment of a Minimum Wage Review Board whose mandate will be to annually review economic conditions, social conditions (including poverty rates) and cost of living to determine the minimum wage for the year.

E. Living Wage

The AFL also believes this legislative review is the ideal time for Alberta to take a leadership role in Canada by incorporating into its Employment Standards Code the concept of a Living Wage. According to Vibrant Communities Calgary, "a Living Wage is the amount of income a family needs to meet their basic needs, to maintain a safe, adequate standard of living in their community, and to save for future needs and goals."

Encoding a commitment to the living wage in the Employment Standards Code achieves three outcomes. First, it offers a symbolic statement that the Alberta government values fair wages and the ability of families to support themselves through work. Second, it adds a consideration for policy makers when setting the minimum wage – to ensure the minimum wage achieves the goal of a living wage for all families. Third, it sends a strong signal to employers, to other

provinces and the world that Alberta is serious about maximizing our prosperity, and ensuring all Albertans receive a fair share of our economic good fortune.

WE PROPOSE: Incorporating language into the Code committing the Alberta government to the concept of a living wage.

F. Advance Payment for Floats

A recent trend in the restaurant industry is to require servers to provide their own float at the beginning of their shift. A float is a medium amount of money that serves as the basis for providing change to customers when they pay their bill. Traditionally, employers would provide the server with a set amount of money for their float – returnable at the end of the shift.

The shift to "self-floating" – where servers use their own money to provide change – may seem insignificant at first. But it sets up a crucial difference regarding the relationship to floats, cash shortages and financial responsibility.

First, it is an unreasonable financial burden on a server to have access to a certain amount of cash to provide for the float. Many servers work few shifts, have multiple employers or do not have ready access to cash. The employer is in a much better position to provide float money.

Second, it is a subtle shift of responsibility for shortages (customers leaving without paying, etc.). Now, any lack of balance that results in the float not being fully funded comes directly out of the servers pocket. Before, while there were often disputes about float shortages, at least it was the employer's money that was short. Now, if a server wants to be repaid for a shortage (to which they have a legal right), they need to persuade the employer to provide them with cash to make up the difference. This rarely happens. The AFL has received numerous phone calls from servers complaining about t his practice. All of them report that self-floating results in the worker paying for shortages.

It is a way for employers to avoid complying with the provisions around wage deductions.

WE PROPOSE: Language to prohibit the practice of self-floating, ensuring restaurant employers provide servers with a necessary float at the beginning of their shift.

G. Safe Transportation to and from Work

The recent tragedy of the murder of the young Wendy's worker walking home after a late shift brings to light the need to extend protection to workers during transportation to and from work. This is an omission in the current Code, and this review is an excellent opportunity to correct it.

The rationale for ensuring a worker has safe transportation home is straight forward. The worker would not be in that area of town, on that street, etc. if they had not needed to be at work. If their walk or transport home (or to work) places them in danger, then there is an obligation on the part of the employer to help prevent those dangers.

The Code should include provisions ensuring that workers who travel to or from work at dangerous times (e.g. late at night), must travel through hazardous areas (e.g. high crime area), or who are particularly vulnerable (e.g. young women) are provided with appropriate safe transportation to or from work (e.g. cab) at no cost to the worker.

WE PROPOSE: Provisions ensuring the safe transport of workers to and from work, at no cost to the worker, during late shifts, high crime areas or if the worker feels their safety is at risk

H. Review of the Enforcement Regime

The greatest omission in the Discussion Guide was the failure to discuss how the Code should be enforced. This is probably a more important topic for discussion than many provisions in the code.

This is because the enforcement regime is the anchor of the entire system. The province could have the strongest, most forward-looking legislation in the country, but if there is no one to enforce it, the rules become a mockery. If the enforcement system is not designed to achieve specific goals, it will undermine and erode the legislative structure.

You can build the sturdiest boat, but if you do not waterproof it properly, it will still sink. That is the importance of the enforcement regime.

And right now, Alberta's enforcement arrangements are woeful. They are underfunded, passive and skeletal. The end result is that few offenders are found, and even fewer suffer any real consequences for their actions.

The AFL identifies four key shortcomings (the fifth – funding – will be discussed in the last point below). First, the current regime is complaint-driven. The only time an enforcement officer enters a workplace is when a formal complaint has been received. There are no pro-active inspections or audits of employers, even in industries with poor track records. Waiting for complaints to come to you is a method to ensure very little gets found. It is as ineffective as it is passive.

Second, there are almost no prosecutions, and very few cases where specific remedies have been applied for contraventions of the Act. In most cases, the remedy is direct – repayment of wages, correction of scheduling, etc. Often this is appropriate, as the goal is to prevent unfair practices. However, the system is not set up to differentiate between an occasional honest mistake and an intentional flouting of the rules. Serial offenders, such as Buffet World a few years back, receive the same treatment as the mom and pop shop which made a sincere error. This is confusing, confounding and counterproductive. There needs to be a method for addressing contraventions in a manner that is correlated to its severity, frequency and intent. Currently, no method exists.

Third, the AFL hears frequently from workers of situations where the enforcement officer has negotiated a partial payment for wages owing (or other owed money) to a worker. These negotiations have the effect of paying a worker a percentage of what is legally owed to them.

We have two concerns about this practice. First, in strict terms, the settlement remains in contravention of the Code. If a worker is owed $1000 in unpaid wages, and the officer negotiates a payment of $500, then the worker is out $500 of wages – money they worked hours to earn but now must go without. This is contrary to the intent of the legislation.

Second, workers often express the sentiment that they felt pressured by the enforcement officer to accept the negotiated deal, even if they did not want to. This is of particular concern. An enforcement officer is in a position of authority and respect. They are seen as the person protecting the worker's interest. If they tell a worker this is what has been negotiated, the worker is likely to accept, even if they feel they have a right to the full amount. From the government perspective, we believe this puts the enforcement officer in an awkward position – of mediator rather than enforcer.

We appreciate situations regarding lost wages can be complicated – and often a partial payment is the only option (or preferable to months of fighting over the residual). However, the government needs clear guidelines for how an enforcement officer will conduct themselves, and clear policy regarding when negotiated settlements are appropriate. At all times the final decision must clearly rest with the worker (both in legal terms, and in worker perception). We believe the default position must be full payment and only in a specific set of limited circumstances are partial payments even to be considered.

Fourth, the appeal system is confusing and unbalanced. Few workers know how the appeal system works, and fewer access it. Stranger still is that an employer has a different appeal system than a worker. The employer system allows for more avenues of appeal, and for an external appeal body. This is not the case for the worker. The appeal structure is one of those examples where both justice and the appearance of justice is not being done.

WE PROPOSE: the following reforms to the enforcement regime:

1. ***Implement a programme of "targeted industry" inspections for employers with a poor record of compliance with the Code.***
2. ***A system for routine pro-active inspections of workplaces (not waiting for complaints.)***
3. ***Constraints to the conflict resolution system, restricting opportunities for negotiated settlements for owed money, and guaranteeing the final decision remains with the worker.***
4. ***Clearer appeal system applied equally to workers and employers.***

I. Funding

We leave for the end what may be the most fundamental question in the Employment Standards Review – and it is one not mentioned a single time in the review documents.

Since 1992, funding for employment standards has consistently fallen behind. Funding today is 25% less, in real dollar terms, than it was in 1992 (not factoring in the growth of the workforce). At the height of the cutbacks in the 1990s, funding for employment standards enforcement was reduced by over 40%. This is one of the largest reductions in all areas of the

provincial government. And the division has not benefited from the re-investment seen in other areas such as health, education or workplace health and safety.

The current funding level has proven inadequate for the challenges facing the division. It has resulted in a passive, spotty enforcement regime, almost no prosecutions, minimal education efforts, low profile and damaged credibility. In short, the funding levels for the employment standards branch are embarrassing.

If the new reformed Employment Standards Code is to have any significance, if it is to have an impact on workplaces in Alberta, then a noticeable increase in funding is a mandatory accompaniment.

Just to bring the branch back to its real funding levels of 1992, an immediate 32% increase is needed. But even this figure does not bring employment standards back to its previous level, as the workforce has grown 60% in that time. A regular increase, greater than the inflation rate is required for the next few years to re-establish the Branch as an effective public policy tool.

To put a real price tag on this recommendation, a 32% increase amounts to about $1.8 million. This is a tiny drop in the bucket, given the multi-billion dollar surpluses our government currently possesses.

Funding should increase to ensure three outcomes:

1. Increase the number of enforcement officers to a level where pro-active and targeted inspections can occur alongside complaint-driven investigations.
2. Greater education capacity, including enhanced information for workers and employers, workshops and courses for workers and new employers, including in Alberta high schools.
3. Dedicated funds for prosecutions, to increase the number of serious infractions and repeat offences that can be pursued in the courts.

WE PROPOSE: A significant increase in funding for employment standards activities, including enforcement. A minimum increase of 32% immediately, and guaranteed increases of 7 to 10% for the next five years.

Conclusion

Seventeen years is a long time for a piece of legislation to go without review. And it shows. The current Code is a mish-mash of rules, exceptions, permits and obsolescence. This review is long overdue, and we are pleased for a formal opportunity to address the many pressing issues.

Our preference is for a wide ranging review, with public hearings and extensive public debate about the vision and direction of Employment Standards. However, that was not provided to Albertans, and we have responded accordingly.

The document you have just read is not a vision for work in Alberta. It is merely a catalogue of positions in each of the many areas needing revision. In many cases, the recommendation we adopt is not what we consider the ideal outcome for Alberta workers. We have, at times, tempered our proposals to reflect the margins of the debate offered in the Discussion Guide.

That we were required to be so narrow in our discussion is unfortunate. We believe a broader debate about work, minimum standards and the role of government in addressing modern work realities would have served the legislation, and all Albertans, in superior fashion.

We would relish the opportunity to offer a grander vision for employment standards. We are disappointed that opportunity was not provided.

We continue to be willing to engage the employment standards branch and other groups in a more encompassing discussion about the Code and the regime it anchors. We hope that opportunity may come along soon.

Respectfully submitted by,

ALBERTA FEDERATION OF LABOUR

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