

Ministry of Labour

2008/09
Annual Service Plan Report



Ministry of Labour

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Message from the Minister and Accountability Statement



I am pleased to present the 2008/09 Annual Service Plan Report on behalf of the Ministry of Labour.

Our focus during 2008/09 was on promoting and encouraging effective labour relations in both the private and public sectors. This provided the foundation for a stable labour environment that fosters job creation and competitive and prosperous businesses.

In addition, the Ministry of Labour continues to focus on protecting vulnerable workers by providing proactive, educational and informational services pertaining to employment standards and workplace safety in multiple languages.

We remain committed to maintaining safe and healthy workplaces through WorkSafeBC, which continues to work with industry partners to promote safety. For example, the B.C. Trucking Safety Council, a joint program of B.C. Trucking Association and WorkSafeBC, was created to address the specific safety needs of the trucking sector.

WorkSafeBC is also a primary stakeholder in the development of one of the most comprehensive crane safety certification programs in North America. As of April 2009, approximately 540 operators have gone through the new CraneSafe Certificate system.

I am proud of the Ministry of Labour's many successes during the past year and extend my thanks to our committed and dedicated ministry staff throughout the province.

The *2008/09 Ministry of Labour Annual Service Plan Report* compares the actual results to the expected results identified in the Ministry's *2008/09 – 2010/11 Service Plan*. I am accountable for those results as reported.

A handwritten signature in black ink that reads "Murray Coell". The signature is written in a cursive, flowing style.

Honourable Murray Coell

Minister of Labour

July 31, 2009

Table of Contents

Message from the Minister and Accountability Statement	3
Purpose of the Ministry	5
Highlights of the Year	6
Strategic Context	8
Report on Performance.....	9
Report on Resources	15
Ministry Contact Information	17
Annual Service Plan Report Appendices	18

Purpose of Ministry

The Ministry of Labour provides services to employees, employers, unions and businesses in British Columbia to support a modern work environment.

The Ministry of Labour sets the framework within which effective, mutually beneficial, and healthy labour and employment relationships can flourish. In this context, the Ministry of Labour has overall responsibility for British Columbia's labour and employment statutes — including the *Labour Relations Code*, the *Employment Standards Act*, and the *Workers Compensation Act*. Three independent tribunals – the Labour Relations Board, the Employment Standards Tribunal and the Workers' Compensation Appeal Tribunal – also fall within the ministry's overall responsibility in the administration and enforcement of these statutes.

The Employment Standards Branch and the ministry's three administrative tribunals manage complaints and issues that have been brought before them. In all cases, timely and accurate disposition of those complaints or issues are essential components of a fair and balanced system.

The Ministry of Labour also actively promotes mutually beneficial relationships by seeking out alternatives to traditional adjudication and dispute resolution, where appropriate, to resolve complaints or disputes before they escalate into complex litigation or strikes and lockouts.

Educational services and initiatives, provided by the Employment Standards Branch and by the Employers' Advisers Office and Workers' Advisers Office, increase understanding of and compliance with the *Employment Standards Act* and *Workers Compensation Act* respectively.

Ministry Highlights of the Year

In 2008/2009, the Ministry of Labour continued to make great strides in its mandate to foster positive working relationships in safe and healthy workplaces.

The ministry is dedicated to:

- Improving workplace safety
- Ensuring fair treatment for employees and employers
- Encouraging a healthy and productive labour relations climate

The Ministry of Labour has also focused on protecting vulnerable workers, particularly with regard to safety, security, access to supports and information, supervision of children and youth, foreign workers, older workers and those working in key sectors, such as agriculture.

Achievements of the past year include:

- **Farm Workers** - Amended the *Employment Standards Act* to increase safety for the transportation of farm workers. Effective May 1, 2008, these amendments provide for the cancellation of a farm labour contractor's licence for WorkSafeBC or *Motor Vehicle Act* contraventions, and an administrative fee to recover farm worker transportation costs when unsafe vehicles are taken out of service in roadside inspections.



- **Crane Safety** - Together with the B.C. Association for Crane Safety, WorkSafeBC developed one of the most comprehensive crane safety certification programs in North America. As of April 2009, approximately 540 operators have gone through the new CraneSafe Certificate system.
- **Military Reservists** - The civilian jobs of Canadian Forces Reservists, who take leave to go into active service overseas or to train for these duties, are now protected by amendments to the *Employment Standards Act*, effective May 29, 2008. The amendments also protect those reservists called upon by the Canadian Forces during domestic emergencies.
- **Firefighters** - Amended the *Workers Compensation Act* and the Firefighters' Occupational Disease Regulation to allow a testicular cancer presumption and a lung cancer presumption

Ministry of Labour

for non-smokers. Effective May 27, 2008, this means there will no longer be a requirement to establish a causal work connection for firefighters suffering from these types of cancers before benefits are allowed.

- **Truck Drivers** - WorkSafeBC helped create the B.C. Trucking Safety Council to address the specific safety needs of the trucking sector.
- **Forestry Safety** - WorkSafeBC has rewritten the Occupational Health and Safety Regulation to improve safety for workers in the forest industry. Effective May 1, 2008, these amendments address a number of the issues raised in the Office of the Auditor General report "Preventing Fatalities and Serious Injuries in B.C. Forests: Progress Needed". As of February 2009, 81 per cent of the responses to the recommendations have been fully or substantially completed.
- **Labour Relations Board Timelines** - Amended the Labour Relations Code to support timely decisions from the B.C. Labour Relations Board. Consultation with the labour relations community on appropriate timelines is ongoing.



Strategic Context

British Columbia's real GDP contracted by 0.3 per cent in 2008, following growth of 3.0 per cent in 2007 and 4.4 per cent in 2006. Private sector forecasters expect economic weakness in B.C. to continue well into 2009. In Budget 2009, B.C.'s Economic Forecast Council projected that B.C.'s annual real GDP will be 0.0 per cent in 2009 (or no growth) and then will grow by 2.8 per cent in 2010. Risks to B.C.'s economic outlook include a prolonged U.S. recession, continued turmoil in global financial markets, slower global demand for B.C. products, volatile commodity prices and further moderation of domestic demand in B.C.

The Ministry of Labour faced an environment that can be characterized as having both opportunities and challenges.

Opportunities

- Despite the economic downturn, there remained a strong demand for foreign workers, which resulted in the expansion of labour initiatives, including: improving service timeliness and responsiveness; providing workers' compensation and employment standards information in multiple languages; and continuing to focus on prevention, including education and enforcement efforts, to provide protection to those vulnerable workers who need it most.
- The Ministry of Labour continued to actively promote mutually beneficial relationships by seeking out alternatives to traditional adjudication and dispute resolution where appropriate. For example, the Employment Standards Branch received approximately 1,000 more complaints in 2008/09 than in 2007/08; however a greater percentage of those complaints were resolved prior to adjudication.

Challenges

- The continuing demand for foreign and younger, less experienced workers presented a challenge for the Employment Standards Branch and WorkSafeBC, both of which implemented initiatives designed to assist and protect these vulnerable workers.
- Workplace fatalities and serious injuries in high hazard sectors such as forestry and construction required a continued emphasis on accident prevention and occupational health and safety initiatives.

Report on Performance

Performance Plan Summary Table

Goal 1: Laws, regulations and processes that focus on promoting labour stability For greater detail see pages 10 to 11.	2008/09 Target	2008/09 Actual
1.1 Increased client and stakeholder awareness and satisfaction through enhanced prevention, early intervention functions and service orientation functions		
Percentage of employers whose employment practices resulted in no complaints being registered with the Employment Standards Branch	96.5 - 98.5%	97.2% ACHIEVED
Person-days lost due to strike/lockout activity in British Columbia relative to Canada as a whole (three-year moving average, 2005 - 2007)	.095 - 1.05	1.03% ACHIEVED
Goal 2: Timely and accurate case management and adjudication For greater detail see pages 12 to 13.	2008/09 Target	2008/09 Actual
2.1 Ensure accurate and timely decisions by administrative decision-makers		
Percentage of Employment Standards Branch determinations overturned by the Employment Standards Tribunal	<9%	2.6% EXCEEDED
Goal 3: Innovative dispute resolution processes For greater detail see pages 13 to 14.	2008/09 Target	2008/09 Actual
3.1 Effective and mutually beneficial alternatives to traditional adjudication and dispute resolution through self-help, mediation and alternative dispute resolution		
Proportion of Employment Standards Branch cases closed prior to adjudication	>79%	86% ACHIEVED

Goals, Objectives, Strategies and Performance Results

Goal 1: Laws, regulations and processes that focus on promoting labour stability

Objective 1.1: Increased client and stakeholder awareness and satisfaction through enhanced prevention, early intervention functions and service orientation functions

In order to achieve our goal of labour stability and safe work environments, it is imperative that employers, workers and other stakeholders are knowledgeable about workplace requirements, conflict resolution processes and how to access them.

Strategies:

- Continue the dialogue between the ministry and stakeholders in the labour relations community so that critical labour relations issues are addressed in a timely, effective and mutually beneficial manner.
- Ensure that options for dispute resolutions are applied to expiring collective agreements in a timely fashion where necessary and appropriate.
- Continue proactive educational initiatives that provide comprehensive information on employment standards.
- Continue with initiatives to provide services in other languages.
- Develop new initiatives and continue with existing initiatives aimed at maintaining and improving accessibility of Labour Relations Board services to all parties, and streamlining administrative requirements in order to be more responsive to the needs of employees, unions and employers.
- Continue with initiatives to provide direct workers' compensation assistance, guidance and service to workers and employers and to focus on ensuring the efficiency and responsiveness of the workers' compensation appeal system.
- Continue the biannual Employers' Advisers Office and Workers' Advisers Office surveys which measure overall client satisfaction.



Performance Result:

Performance Measure	2004/2005 Baseline	2007/08 Result	2008/09 Target	2008/09 Actual
Percentage of employers whose employment practices resulted in no complaints being registered with the Employment Standards Branch	97.7%	98.7%	96.5 - 98.5%	97.2% ACHIEVED

Data Source: Employment Standards Branch CASE Management System and BC STATS.

Discussion of Results:

This performance measure shows the percentage of employers whose practice does not result in complaints for noncompliance with the *Employment Standards Act*. The target for this measure as set out in the *2008/09 - 2010/11 Service Plan* has been achieved.

Employment Standards data was used to calculate this result. The measure shows the number of employers who were the subject of one or more complaints from April 1, 2008, as a proportion of BC STATS data on the total number of business establishments with employees for the 2008 calendar year. The expectation is that the percentage of employers whose practices do not result in complaints being registered with the Branch will continue at their current very high levels. It is also expected that this will allow the Branch to continue to focus its compliance initiatives and activities on those sectors of the economy where vulnerable workers are most likely to be employed.

Performance Result:

Performance Measure	2006/07 Actual	2007/08 Actual	2008/09 Target	2008/09 Actual
Person-days lost due to strike/lockout activity in British Columbia relative to Canada as a whole (three-year moving average, 2005-2007)	0.96	1.08	0.95 - 1.05	1.03 ACHIEVED

Data Source: Government of Canada.

Discussion of Results:

This measure is an indicator of the relative degree of labour peace and stability in British Columbia compared to Canada as a whole. It is calculated by dividing the number of person-days lost due to strikes and lockouts by the total size of the British Columbia labour force and comparing this figure with the same calculations across the entire country. A score of 1.0 suggests that the degree of labour stability in British Columbia is on par with Canada as a whole. A score of less than 1.0 indicates relative labour stability (fewer days lost per capita) compared with the rest of Canada and a score of greater than 1.0 indicating relative labour instability.

The target for this measure as set out in the *2008/09 - 2010/11 Service Plan* has been achieved.

Goal 2: Timely and accurate case management and adjudication

Objective 2.1: Ensure accurate and timely decisions by administrative decision-makers

Timely, accurate and high quality decisions are critical in ensuring that a fair and effective legislative process exists and the successful delivery of ministry services is achieved; however, meeting this objective is not without its challenges. Factors that may have an impact on the timeliness and accuracy of decisions can include evidentiary issues and legal challenges.

Strategies:

- Continue to improve the efficiency and effectiveness of the Employment Standards Branch decision-making process through access to clear policy direction, sharing of best practices, and the development and delivery of appropriate training.
- Ensure that the Employment Standards Branch continues to meet or exceed established timeline targets for cases.
- Ensure that systems are in place to track productivity and adherence to timeline targets for administrative tribunals.
- Establish timelines for the disposition of cases before the Labour Relations Board.
- Continue with initiatives focused on ensuring the efficiency and responsiveness of the workers' compensation appeal system.

Performance Result:

Performance Measure	2004/2005 Baseline	2007/08 Result	2008/09 Target	2008/09 Actual
Percentage of Employment Standards Branch determinations overturned by the Employment Standards Tribunal.	11%	4%	<9%	2.6% ¹ EXCEEDED

Data Source: Employment Standards Branch CASE Management System and Employment Standards Tribunal website.

¹ The reported percentage means the percentage of determinations that were appealed to the Employment Standards Tribunal.

Discussion of Results:

The Employment Standards Tribunal can cancel decisions issued by the Employment Standards Branch in cases involving an error in the application of law or, in some instances, where new information became available after the Employment Standards Branch's original proceeding.

The target for this measure as set out in the *2008/09 - 2010/11 Service Plan* has been exceeded.

The percentage of cancellations continues to decline. The decrease is a result of continuing improvements in Employment Standards Branch decision-making, and regulation and operational policy changes that ensure alignment with the *Employment Standards Act* and its Regulation.

Ministry Response:

The results of 2007/08 and 2008/09 demonstrate a trend in exceeding the stipulated target. Accordingly, the ministry will be reviewing the target for this performance measure.

Goal 3: Innovative dispute resolution processes

Objective 3.1: Effective and mutually beneficial alternatives to traditional adjudication and dispute resolution through self-help, mediation and alternative dispute resolution

Early intervention and the use of alternative dispute resolution processes support the timely, effective and fair resolution of complaints and disputes, which promotes overall compliance with labour legislation.

Strategies:

- Encourage the use of early intervention and alternative dispute resolution methods such as self-help, mediation and relationship building.
- Ensure that sector-specific initiatives undertaken by the Employment Standards Branch, such as the Memorandum of Understanding with the agriculture sector, foster mutual cooperation between government, industry and employees, particularly as they relate to vulnerable workers.
- Use education and proactive measures to facilitate and promote the use of early intervention and alternative dispute resolution in support of the complaint resolution model for employment standards (self-help materials and mediation prior to adjudication).
- Expand access to, and distribution of, informational material electronically and through ethnic media sources.
- Promote use of early intervention and early dispute resolution in the workers' compensation system (including self-help materials and merit assessments).



Performance Result:

Performance Measure	2006/07 Actual	2007/08 Actual	2008/09 Target	2008/09 Actual
Proportion of Employment Standards Branch cases closed prior to adjudication.	78%	93%	>79%	86% ACHIEVED

Data Source: Employment Standards Branch CASE Management System.

Discussion of Results:

This performance measure demonstrates the extent to which early intervention and mediation have been used to resolve complaints without having to resort to formal adjudication.

The target for this measure as set out in the *2007/08 - 2009/10 Service Plan* has been achieved.

The expectation is that the Employment Standards Branch will continue its focus on early intervention and alternative dispute resolution where appropriate, in order to ensure that complaints will be resolved in a timely, fair and effective manner.

Ministry Response:

The results of 2007/08 and 2008/09 demonstrate a trend in exceeding the stipulated target for early dispute resolution. Accordingly, the ministry will be reviewing the target for this performance measure.

Report on Resources

Resource Summary Table

Core Business Area	Estimated	Other Authorizations	Total Estimated	Actual	Variance
Operating Expenses (\$000)					
Labour Programs	17,538		17,538	18,519	981
Executive and Support Services	5,238		5,238	3,624	(1,614)
Total	22,776		22,776	22,143	(633)
Full-time Equivalents (FTEs)					
Labour Programs	367		367	356	(11)
Executive and Support Services	19		19	23	4
Total	386		386	379	(7)

Core Business Area	Estimated	Other Authorizations	Total Estimated	Actual	Variance
Ministry Capital Expenditures (Consolidated Revenue Fund) (\$000)					
Labour Programs	3,161		3,161	1,826	(1,335)
Executive and Support Services	0		0	0	0
Total	3,161		3,161	1,826	(1,335)

Ministry Contact Information

Department	Telephone	Website
Labour Relations Board	604 660-1300	www.lrb.bc.ca
Employment Standards Office	General Inquiries: 1 800 663-3316* General Inquiries in Prince George: 250 612-4100	www.labour.gov.bc.ca/esb/
Employment Standards Tribunal	604 775-3512	www.bcest.bc.ca
Workers' Compensation Appeal Tribunal	604 664-7800	www.wcat.bc.ca
	1 800 663-2782*	
WorkSafeBC	1 888 621-SAFE (7233)*	www.worksafebc.com
	1 866 WCB-HELP (922-4357) after hours*	

Location	Employment Standards Branches	Employers' Advisers Offices	Workers' Advisers Offices
Abbotsford		604 870-5492	604 870-5488
		1 866 870-5492*	1 888 295-7781*
Burnaby	604 660-4946		
Campbell River			250 830-6526
Dawson Creek	250 784-2390		1 888 643-0013*
Kamloops		250 828-4397	250 371-3860
		1 866 301-6688**	1 800 663-6695*
Kelowna	250 861-7404	250 717-2050	250 717-2096
		1 866 855-7575**	1 866 881-1188*
Langley	604 513-4635		
Nanaimo	250 390-6186	250 741-5500	250 741-5504
		1 866 827-2277**	1 800 668-2117*
Nelson	250 354-6550	250 354-6139	250 354-6933
		1 877 877-5524**	1 866 354-6933*
Prince George	250 565-6120	250 565-4285	250 565-4280
		1 888 608-8882**	1 800 263-6066*
Richmond		604 713-0303	604 713-0360
		1 800 925-2233**	1 800 663-4261*
Terrace	250 638-6525		
Victoria	250 952-0469	250 952-4821	250 952-4393
		1 800 663-8783**	1 800 661-4066*

* Toll-Free in B.C.

**Toll-Free in B.C. and Alberta

Annual Service Plan Report Appendices

Please visit our website at: www.labour.gov.bc.ca/pubs/service_plan.htm to view the following appendices:

- List of Crowns, Agencies, Boards and Commissions
- List of Legislation Administered by the Ministry