

October 25, 2021

The Honourable Harry Bains, Minister of Labour
Ministry of Labour
PO BOX 9064 Stn Prov Govt
Victoria, BC
V8W 0E2

Dear Minister Bains,

Thank you for the opportunity to provide input into the provincial government's consideration of requiring employers provide a minimum number of days of paid sick leave.

The Burnaby Board of Trade strongly recommends against implementing a new, paid sick leave requirement on employers this coming January. Given the economic challenges facing businesses during the pandemic, the potential undermining of the employer-employee relationship, and the broad, permanent nature of this potential policy decision, we cannot endorse this proposal at this time.

Included below is a detailed submission outlining our concerns with the proposed new paid sick leave requirement, as well as suggestions on ways to mitigate the negative impacts of any policy if it should proceed.

To inform this submission, the Burnaby Board of Trade proactively consulted with our member businesses in a variety of sectors and sizes, conducted a survey of our membership to gather on-the-ground input, and formed a working group comprised of Burnaby-based businesses to review, discussion and consider the government's proposed paid sick leave policy.

Recommending Against a New Paid Sick Leave Requirement

First, when considering this policy we must remember that businesses have had to endure nearly two years of unrelenting turbulence due to the pandemic. Health mitigation measures have meant businesses have had to spend thousands of dollars on PPE for staff and customers, physical alterations to their offices or stores, and remote-working equipment and software for their staff. Disruptions to international supply chains have caused shipping delays and dramatic increases in costs to businesses. Labour shortages have made it difficult to find workers and government policy around the minimum wage coupled with genuine market forces have pushed salaries and labour costs to unseen levels. Against this backdrop, businesses cannot bear a new, permanent, obligation such as paid sick leave.

Second, beyond the financial impacts of this policy, many of our members expressed concern with government being involved in this way in the employer-employee relationship. The decision whether to provide paid sick leave is made as just one part of complex employee compensation considerations, which are unique to each employer. If that compensation is not adequate, employers already must adjust it to meet the changing expectations of workers, a fact particularly true in today's labour market. We heard opposition from businesses of all kinds, including many which offer paid sick leave already, against government being involved in these employer-employee decisions. While, government may be needed from time to time to impose minimum

standards in our economy, this is a policy area where the marketplace is capable of addressing the issue itself.

Finally, we suggest this proposed policy is not addressing the real issue at hand. During the COVID-19 pandemic, governments implemented emergency policies to prevent transmission and mitigate the impacts of the pandemic, such as creating temporary job-protected leaves, offering temporary financial assistance to workers who couldn't work due to illness, and even implementing temporary paid sick policies. Importantly, these policies were all temporary to address the temporary impacts of the pandemic. However, the policy prescriptions now being considered will be permanent entitlements that persist long after the risk of the pandemic has faded. If the real problem to be addressed is ensuring employees do not go to work sick with COVID-19, we respectfully suggest focusing on targeted policies that address that acute problem as opposed to broad, permanent changes to employment law.

For all of these reasons, we again respectfully encourage the provincial government to rethink its proposed paid sick leave requirement.

Mitigating Negative Impacts of any Potential Policy

While acknowledging the above, we also understand the need to ensure employees can protect their health without sacrificing their livelihoods. Should the government decide to implement paid sick leave despite our recommendation, the Burnaby Board of Trade offers the below comments to ensure that such as a policy is implemented in a limited, considered way that mitigates as many negative impacts on our business community as possible, including:

- Limiting paid sick leave to 3 days
- Limiting inclusion of casual and part-time employees
- Limiting and offsetting the cost on businesses

Limiting Paid Sick Leave to 3 Days

The three models for the proposed paid sick leave requirement have been presented as either 3, 5, or 10 days in duration. Of these three options, the 3-day model would have the least economic impact on businesses and would be the most targeted and appropriate allotment available.

In the provincial government's own paid sick leave public survey, it was found that 50% of employers expect 3-5 days of mandated paid sick leave to have a major negative impact on their business, with that increasing to 75% for 6-10 days of mandated paid sick leave. This compares to only 25% for up to 3 days, making the 3-day model the option with the least negative impact on business.

The provincial government's survey also found that half of BC workers have paid sick leave already and that 90% of them get more than 3 days provided. However, the survey also revealed that already 70% of workers do not even use all of the paid sick days they have. This suggests that providing anything more than 3 days of paid sick leave would be an over-allotment and would not likely be fully utilized by workers anyways.

Further, where government must step in to the free market to provide minimum standards, its intervention

should seek to do so in as limited a fashion as possible. Currently, outside of the pandemic, BC businesses are not required to provide paid sick leave to employees. If the government wishes to regulate this, we suggest the focus should be on establishing a minimum, base standard only, and thus your government should opt for the least prescriptive model of 3-days.

Limiting Inclusion of Casual and Part-Time Employees

When the Burnaby Board of Trade surveyed our membership, 96% of respondents opposed making paid sick leave equal between full-time employees and part-time and casual employees, recognizing the financial and administrative challenges that would accompany paid sick leave for these workers. It would be unreasonable to create a paid sick leave obligation on employers for casual workers who may only work very occasionally for a business. It is important to note that when part-time or casual employees are unable to work, it is a direct financial hit for employers who either must cancel a job or hire replacement staff. For these businesses, adding the cost of paid sick time would be a further direct expense. Therefore, the Burnaby Board of Trade recommends part-time and casual employees not be included in any potential paid sick leave requirement at this time.

Should the government opt to include part-time employees in a potential paid sick leave program, we highly recommend implementing two eligibility criteria: an hours-worked requirement and a scheduled-shift requirement.

First, the paid sick leave program should require an employee to have worked a significant number of hours in a set period prior to the sick day in question. For example, to be eligible for a sick day to be paid, a part-time employee could be required to have worked at least 250 hours in the 90 days preceding the day in question. This would be aligned with the model already used by employers to gauge whether employees are entitled to vacation pay.

Second, a requirement should be established that the sick day is only paid if the part-time employee actually misses a scheduled shift. It would be unfair to require employers to pay for sick leave for a part-time employee who was not scheduled to work that day anyways. If the motive for this policy change is to ensure workers do not have to lose income because they get sick, surely a prerequisite must be that there was income to be had.

Limiting and Offsetting the Cost on Businesses

As outlined above, businesses have faced escalating costs due to the pandemic, and also due to rising labour, tax and input costs. Should any paid sick leave requirement be implemented, we urge the provincial government to explore ways of mitigating or offsetting the cost borne by employers such as lowering other taxes, preventing roll-over and pay-out of sick leave, offering partial sick leave pay only, or funding sick leave through existing programs.

First, the cost to the business community of full implementation of the proposed paid sick leave policy has been estimated at between \$670 million and \$1.2 billion dollars. That is simply too great of an expense to not be offset in other areas. One potential option could be a commensurate decrease in the revenue generated by the Employer Health Tax, currently paid by all employers with over \$500,000 in annual payroll. Either

significantly increasing that minimum threshold, or decreasing the actual rate of tax applied, could be a way of mitigating the economic hit of this policy on BC's business community. Another option could include a reduction in the provincial portion of municipal commercial property taxes to provide a reduction in those costs to businesses. These are imperfect solutions as the tax relief would not necessarily flow to the businesses most impacted by the paid sick leave requirement, but it would help offset some of the financial impact.

Another potential option for mitigating the cost on businesses would be to ensure any new paid sick leave policy does not require unused sick leave to be carried over into future years, or require the value of the unused sick days to be paid out to the employee at any time. Either of these options would create a continuing financial liability for businesses, and would seem to only incentivize employees to 'bank' sick days instead of using them for the stated goal of staying out of the workplace when ill.

A third recommendation is to consider limiting the amount of pay an employee receives as part of the required paid sick leave. Similar to the model used by the federal Employment Insurance system whereby individuals receive a replacement of only a percentage of their income, employees who require time off sick could receive only a base amount and not their full wage. Employers would be able to top-up this amount if they wished, but this partial payment would ensure workers do not forego income completely, it would limit the costs on businesses, and would disincentivize potential abuse of sick leave.

A final option for reducing the economic impact on businesses would be to look to fund a base level of paid sick leave through existing programs. This could include a permanent WorkSafeBC reimbursement program for the mandated minimum number of sick days. Alternatively, this could involve negotiations with the federal government to fund the minimum number of sick days for workers through the Employment Insurance program, which is already used for broader sickness benefits. Both of these programs are already funded by businesses and could be more appropriate vehicles for delivering the desired policy than burdening the business community.

The breadth of our above submission speaks to the involvement our business membership has had in these consultations, and the level of interest in the outcome of this consultation. We would welcome any further opportunities to engage with the provincial government on this file to ensure we can protect health without jeopardizing our vital business community.

Thank you for the opportunity to share our recommendations and input on this important policy decision.

Sincerely,



Paul Holden
President & CEO
Burnaby Board of Trade