

AGING WITH DIGNITY

Making Retirement a Matter of Choice

A Submission by the
B.C. Federation of Labour

February 2007



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1. INTRODUCTION

It's the dream of all working people to enjoy a long and productive retirement--their reward for decades of hard and often unfulfilling work. They believe as do BC's unions, that income security and the option to retire at age 65 or earlier are fundamental rights of older and retired workers.

For many, however, that dream is fading.

For these workers, growing older and working longer are the new realities of old age. They work longer, not by choice, but out of financial necessity.

Of the sixteen sweeping recommendations in *Aging Well in British Columbia*, the report of his Council on Aging and Seniors' Issues, Premier Gordon Campbell has only promised action on one: the proposal to prohibit mandatory retirement through amendments to the **Human Rights Code**.

The B.C. Federation of Labour does not support age discrimination at any age. Changes to the **B.C. Human Rights Act** to end the current exemption for discrimination against those over 65 should follow the lead of Alberta and the majority of other Canadian jurisdictions. These jurisdictions prohibit age discrimination, but may exempt certain occupations, negotiated pension plans and collective agreements. We note that the C.D. Howe Institute has also supported a similar approach in their 2004 submission to the Ontario government.

But this change alone will not produce dramatic changes in the labour force or in the average age of retirement. More importantly, it will make virtually no meaningful difference in the lives of seniors. Nor will it affect the vast majority of seniors and retired workers who have been forced to retire as the result of lay-off, injury or illness, or to care for a loved one.

If the provincial government is truly committed to ensuring British Columbians “age well,” it must take much stronger action.

The B.C. Federation of Labour challenges Premier Campbell to go much further. On behalf of the 500,000 members of our affiliated unions, we urge the government to implement key recommendations of his Council on Aging and Seniors’ Issues that increase pension security and expand retirement choices for all British Columbians.

This will require major financial investments in housing, home support, public transportation, health services and progressive reform of the public pension system as recommended by his Council on Aging and Seniors’ Issues. Only one other province has a larger share of its seniors living in poverty than British Columbia. Solving this inequity should be our government’s major focus for change.

Seniors have always had the option to work longer. To age with dignity, they must have the option to retire with real security at a time of their choosing – not the government’s or the employer’s.

2. THE RIGHT TO RETIRE

Given the choice, most older workers would prefer not to work. The steady decline in the average age of retirement, which has reversed only slightly in the last few years, shows what happens when working people have the freedom to vote with their feet. The pressure to extend working life has come from corporations and governments, not working people themselves.

The creation of a properly funded, national public pension plan is one of Canada's major post-war achievements. It liberated millions of seniors from work in their later years.

Thanks to the Canada Pension Plan (CPP), incomes rose and poverty declined sharply among Canadian seniors, particularly between 1970 and 1996. Old Age Security (OAS) and CPP became the main source of income for two-thirds of Canadians over 65.¹

The real incomes of elderly households increased by 50 percent between 1973 and 1996. Poverty rates fell for elderly couples and, less dramatically, for single seniors, who are overwhelmingly women.²

In recent years, however, our public pension system has come under fire.

During the 1990s, Canadians were treated to a national scare campaign about the financial stability of the CPP. Limited reforms have put the plan in excellent financial shape.

¹ Aging Well in British Columbia p. 44

² Baldwin, Pension Reform in Canada in the 1990s: What Was Accomplished, What Lies Ahead? April 2004, 14

The Organization for Economic Cooperation and Development (OECD) has lauded Canada's pension system as balanced and flexible. Our payroll taxes for pensions are the lowest in the OECD except for Iceland.³

Nonetheless, Canada has come under international pressure, including from the OECD and the International Monetary Fund (IMF), to make changes to our pension system to deter retirement at 65, raise the retirement age and to place more of the burden of pension saving on the individual.

Canadians rejected these kinds of changes in the past when previous Liberal and Conservative governments sought to claw back seniors' pension benefits. Now they have been brought back again, this time under the pretext that they are intended to offer choice and flexibility to seniors. Such benefits, if they occur, will be incidental.

The objective of employers and their allies in government is to reduce the cost of pension protection, to shift the burden to the individual and to maintain seniors as dependent and vulnerable members of the work force to provide an additional source of cheap, skilled labour.

There is a clear danger that these changes will lead not only to later retirement, but also to later eligibility for pension benefits, as it has in the United Kingdom for women. As the Trade Union Congress has pointed out, the proposal to raise the age of eligibility for public pensions to 70 would be certain to save money because so many would die before they could collect.

Such measures would hit hardest at those low-income seniors least able to support themselves.

³ Monica Townson, *Growing Older, Working Longer, The New Face of Retirement*, p.41

Even without such drastic changes, Canadian workers with access to retirement benefits or savings can face an uncertain future.

Employers are seeking to convert pension plans from defined benefits--which protect seniors' earnings in retirement--to defined contribution plans, which limits their contributions, and transfers all investment risks to individual workers.

Other seniors find themselves extending their working years because layoff, injury or time off to care for children or another loved one have eroded their pension benefits. Still others are among the hundreds of thousands unable to save enough money to purchase Registered Retirement Savings Plans (RRSPs).

For all these reasons, the provincial government needs to reinforce its commitment to a national, universally accessible public pension plan supplemented by mandatory private employer pension plans as the key to "aging well" or "aging with dignity."

The B.C. Federation of Labour urges the provincial government to endorse and implement the Council on Aging's recommendation to "ensure sufficient incomes for older people" by working with the federal government to enhance income security programs, improve OAS and CPP, and protect low-income renters from spending more than 30 percent of their income on housing.

In addition, we call on the Premier to:

- endorse 65 as the age of retirement;
- reject any shift to higher ages for pension eligibility; and
- safeguard and maintain early retirement opportunities.

To be clear, the Federation does not advocate a situation in which age discrimination would be possible against workers in unionized pension plans. Pension trustees, employers and unions will have to review their plans to ensure compliance

with the **Act**. They will be balancing a number of factors: the act, the strength of the plan, and the need to maximize benefits and choices for retirees.

If any worker believes the solution is discriminatory, he or she will have access to the Human Rights Commission to seek redress. Ideally, however, this will not be necessary and workers who wish to work longer will have access to negotiated solutions.

3. MAKE A REAL COMMITMENT TO SECURITY AND CHOICE FOR SENIORS

Although CPP and OAS have produced major improvements for Canada's seniors, the situation among B.C. seniors is worse than the Canadian norm.

In 2004, eight percent of British Columbians over the age of 65 were living below the poverty line, the second highest tally of all Canadian provinces. Twenty-one percent of single elderly people – overwhelmingly women – live in poverty.⁴ As the B.C. Progress Board has pointed out, B.C. ranked ninth of the 10 provinces in 2004 in social conditions. This was due in part to the high percentage of households with low incomes.

The Premier's Council on Aging is correctly critical of the government's 2006 housing strategy, which the Council concluded "does not substantially address the housing situation of low income older people."

Almost 10 percent of B.C. seniors in a 2001 survey were in core housing need, meaning they lived in housing that was inadequate, too expensive, or both.

⁴ Aging Well in British Columbia, p. 44

Given the subsequent cuts to housing investment, the situation cannot have improved. The Council concluded “our provincial government must show greater leadership on housing.”⁵

The story is the same on public transit, a critical service for seniors. The Premier’s Council concluded that expansion of transit services has been “hampered by limits in provincial funding, which has not kept up with population growth and increasing demand for transit.”

The Council urged “strong ongoing funding to ensure that we continue to have Canada’s best public transit systems.”⁶

The Premier’s Council is particularly critical of the government’s health care policy. The cost of home support has been transferred to individuals, even though research indicates this approach is more costly in the long term.

“The support services currently available to older British Columbians in their communities fall well short of meeting the needs of many older people,” the Council concludes.

“The program we are proposing would cost in the region of an additional \$120 million a year” or about one percent increase over the current Health budget.

By focusing on mandatory retirement at the expense of every other recommendation in his Council’s Report, the Premier risks signaling that his real interest is to keep seniors on the job, not to expand their choices and income security.

4. SOLUTIONS TO EXPAND CHOICE, INCOME SECURITY

For this reason, the Federation urges the Premier to endorse and implement three other key recommendations of the Council Report, including:

⁵ Aging Well in British Columbia, p. 30

⁶ Aging Well in British Columbia, p. 32

- more public investment in affordable housing, including funding for new units and conversion of existing units to meet the needs of seniors;
- expanded investment in public transit; and
- a \$120 million funding boost for home support and related services to deliver necessary health care to seniors.

Finally, we urge the government to undertake a comprehensive program to ensure decent pension protection along the lines advocated by the Canadian Union of Public Employees (CUPE), including:

- increases to provincial low-income supplements, sufficient to eliminate poverty in retirement;
- the requirement that all large employers provide secure defined benefit pension plans to all employees – including part-time employees;
- establishing full indexation and improved survivor benefits as a requirement of provincial pension law;
- improving the recognition of international education and employment credentials so that immigrant workers can more easily obtain employment;
- amendment of all employment standards legislation to require just cause for any dismissal; and
- commit to the principles of decent minimum labour standards and pay equity to ensure that retirement income (which is based on earnings) is adequate.

5. PRIVATE RETIREMENT ARRANGEMENTS NOT THE ANSWER

Private pension savings will never provide adequate support for seniors.

Not surprisingly, most low income Canadians cannot afford to purchase RRSPs at any level. A recent report by Canadian Imperial Bank of Commerce (CIBC) found that the median retirement savings of Canadian households in 2005

was only \$30,000. For those aged 55 to 65, the median savings were only \$60,000, enough to generate only a few thousand dollars a year in income.⁷

In 2001, Statistics Canada reported that three out of 10 Canadian families had no private pension assets, the Premier's Council noted, but 25 percent of Canadian families held 84 percent of all retirement savings.⁸

More recent figures show that Canadians aren't saving for their retirement through registered plans. Only 38 percent of 25 to 64 years old Canadians actually contributed to their RRSPs in the 2005 tax year. And trends show that younger Canadians have reduced their overall contribution levels. A sure sign of the inadequacy of private retirement arrangements is that as of 2005, Canadians have nearly \$500 billion in unused RSP contribution room.

While the Federation does not oppose programs to encourage private retirement savings, we do not believe they are any substitute for an appropriate mix of publicly-funded and employer-financed defined benefit pension programs.

6. ENDING MANDATORY RETIREMENT

The B.C. Federation of Labour favours changes to the definition of age in Section 1 of the **Human Rights Code**, and to Section 8 of the **Code** that would include age as a protected ground with respect to facilities and services available to the general public. It is clearly unfair to exclude seniors from any protection under the **Code**.

We urge the government, however, to follow the Alberta model, where the legislation still allows for contractual mandatory retirement. Alberta's **Act** declares that the prohibition on age discrimination "does not affect the operation of any bona fide retirement or pension plan or the terms or conditions of any bona fide group or employee insurance plan."

⁷ Too little put into RRSPs by too few, Vancouver Sun, Feb. 7, 2007, p. D5

⁸ Aging Well in BC, p. 44

This is in line with the approach in Nova Scotia, New Brunswick, P.E.I., the Territories and for federally regulated employees. The Alberta model strikes the appropriate balance between the human rights of seniors and the ability of employers, unions and pension funds to find contractual solutions that extend income security. We believe there will be negotiated solutions available, as well, for workers who wish to continue working after 65 even where retirement would otherwise be required by a pension plan or collective agreement. We reject outright the Ontario model, which purports to end discrimination, but then denies benefits to those who elect to work after 65.

We also reject outright the Premier's Council proposal to implement disincentives to early retirement. The existence of this recommendation betrays the real objective of the change – to force a longer work life, not to increase worker choice.

In addition, the Federation believes that the provincial government should take the lead in coordinating a dialogue among employers, unions and pension trustees to review the safeguards required to protect plans from the impact of individual workers who retire and collect pension benefits without actually retiring. If these individuals use pension benefits to work at lower rates in the non-union side of the same sector where they earned their pension, they are undermining the plan in that sector. The elimination of age discrimination should operate to increase choice and security for seniors, not to undermine existing plans that have taken years to grow.

7. THE CONSEQUENCES OF ENDING MANDATORY RETIREMENT

It is important to be clear what a ban on mandatory retirement will accomplish and what it will not.

It will end discrimination for employees who don't wish to retire or can't because of financial reasons.

It will not provide significant relief to solve labour shortages.

It will impose significant new responsibilities on employers to accommodate elderly workers in the workplace.

It will not reduce poverty among the elderly, nor increase the supply of skilled workers. The Premier's Council on Aging acknowledges that eliminating mandatory retirement at age 65 "will have a cascade of consequences for pension plans, collective agreements, workers' compensation and other workplace provisions."

Although the Council urged a consultation with employers and unions to discuss the changes, no substantive consultations occurred before or after the Premier's December 1 vow to proceed.

i) How many are affected?

Despite the emphasis placed on mandatory retirement by the Premier's Council, the Council makes no estimate of the number of people affected by mandatory retirement provisions nor the number that might elect to work longer if that is possible. The Council notes, with dismay, that mandatory retirement is prevalent in the public service where the average age of retirement is 59.

The Council does not acknowledge that the vast majority of early retirements in the public service since 2001 have been the result of government cuts--mandatory retirements, even if accompanied by severance packages.

Recent Statistics Canada data reviewed by pension specialist Monica Townson indicated only 10.3 percent of those aged 55 and older indicated they retired because of mandatory retirement provisions. (This does not mean all who were forced to retirement were angry about it – many may have welcomed it.)

More than 23 percent cited personal or family responsibilities, 22.8 percent cited personal health and 19.6 percent retired because they had the necessary years of service. Financial security was cited by 17 percent and 8.4 percent had exercised early retirement options.

The analysis of those 17 percent of retirees who returned to work after retirement is equally revealing. Forty-eight percent said they did so for financial reasons, and only 38 percent because they found the work interesting.⁹

ii) Negligible impact on the labour force

There is no evidence that changing mandatory retirement will increase the labour supply. As Kelowna lawyer Robert Smith noted in the magazine *HR Voice*, that “so-called mandatory retirement does not serve to push anyone out of the job market. It simply is inaccurate to suggest there is a pool of workers sitting around idle because they are barred, by the law, from working.

“There is a finite pool of willing workers in this country at any given time,” Smith notes. “Absent an injection of labour from outside Canada’s borders, government legislation is not going to magically create (or locate) a larger labour pool.”

In 2005, there were 42,700 workers over 65 in BC, about 7.8 percent of the over 65 population, but only about 2 percent of the total workforce. If 10 percent of the over-65 BC population is working in 2031, they will number only 112,500 or about 3.5 percent of a projected 3.6 million person workforce.¹⁰ It is striking to note that Quebec, which has banned mandatory retirement for many years, has only 1.47 percent of its over-65 workers on the job. The average retirement age in Quebec is only 59.8 years.

⁹ Monica Townson, presentation to BCFL Ranking Officers Meeting, Feb. 6, 2007

¹⁰ David Schreck, *Mandatory Retirement and the Baird Report*, p. 3

iii) New regulatory issues for employers

Employers are anticipating significant new regulatory issues as a result of a ban on mandatory retirement. These reinforce the argument in favour of an Alberta model, which allows negotiated solutions to be exempted from the operation of the **Act**, as the most flexible and practical approach. Among the problem areas identified by one prominent employer-side law firm are:

- greater scrutiny of hiring to detect age discrimination;
- closer oversight of performance evaluations of older employees;
- more requirements to accommodate older employees who otherwise would retire;
- a new requirement to train and upgrade older employees who will have the right to continue in the workforce;
- a wide range of impacts on benefits costs and long-term disability (LTD) plans; and
- an end to reliance on mandatory retirement as a simple way to move older or “under-performing” employees.¹¹

To achieve earlier retirements, if that is the objective, employers will have to develop non-discriminatory incentive plans.

iv) No solution to poverty

Although those who advocate eliminating mandatory retirement often suggest longer employment will assist in reducing poverty, Statistics Canada data suggest that seniors continue to derive most of their earnings from government transfers.

A 2003 Statistic Canada survey found that government transfers of all types accounted for 47.7 percent of the average senior’s income, while employment income contributed only 6.4 percent. Even with significant changes

¹¹ Gowling Lafleur Henderson LLP, Fall 2004 Employment and Labour Law Newsletter

to Employment Standards, including new measures to protect seniors from discrimination on the job, wage income will be insufficient to do any more than sustain seniors at their existing low-income levels.

8. SUMMARY OF RECOMMENDATIONS

The B.C. Federation of Labour urges the provincial government to endorse and implement the Council on Aging's recommendation to "ensure sufficient incomes for older people" by working with the federal government to enhance income security programs, improve OAS and CPP and protect low-income renters from spending more than 30 percent of their income on housing.

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