



Business leaders working to create accessible employment

**Presidents Group Submission to the
BC Accessibility Legislation Consultation**

November 27, 2019

Submitted on behalf of the Presidents Group by:

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INTRODUCTORY COMMENTS FROM THE PRESIDENTS GROUP CO-CHAIRS

The Presidents Group is pleased to respond to call for formal comment on the BC Accessibility Legislative Framework. We applaud Premier John Horgan and Minister Shane Simpson for their leadership in calling this consultation and developing Accessibility Legislation for British Columbia.

The Presidents Group believes that greater accessibility will provide more opportunities for people with disabilities to access higher education, secure a job, as well as enjoy leisure and cultural activities. Greater accessibility will provide more opportunities for employment, solutions for employers, and stimulate economic growth.

The Presidents Group supports the intent of this legislation and wants to see it succeed. Among the 13 recommendations and feedback shared in this document, we wish to emphasize the following key recommendations:

- Lead by example, and demonstrate Government's willingness to be the first actor
- Create a central point of contact for questions regarding compliance and standards
- Take a phased, systems approach to roll out
- Focus on education, incentives and assistance, rather than compliance.

We thank you for this opportunity to share our perspective. We look forward to continuing dialogue on this important piece of legislation.



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ABOUT THE PRESIDENTS GROUP

In 2013, the Government of British Columbia appointed a Presidents Group, a network of business leaders in BC who champion improved employment outcomes for people with disabilities and enhanced consumer opportunities.

Co-chaired by Kirsten Sutton, Vice-President and Managing Director of SAP Labs Canada, and Craig Richmond, President and CEO of the Vancouver Airport Authority, the Presidents Group is engaging with employers in BC to increase employment opportunities for people with disabilities. Across our 25 member organizations, we employ over 60,000 people.

The Presidents Group has set a vision that by 2030, British Columbia will be the province with the highest employment for people with disabilities in Canada. Attaining this goal will require that 51,000 more British Columbians with disabilities be supported to find appropriate employment that fulfills their work potential and the needs of our labour market.

EXECUTIVE SUMMARY

The Presidents Group welcomes the provincial public consultation on planned accessibility legislation as an opportunity to raise awareness of disability employment and inclusion. This consultation shows a commitment to develop concrete measures to remove barriers faced by people with disabilities. It is our hope that the recommendations included in this submission, as well as the feedback we gathered from our broader business community, will help guide government in the design of not just the enabling legislation, but also regulations and standards to come.

The Presidents Group encourages the BC Government to look at constructive actions and initiatives that result in more inclusive workplaces and businesses, and to provide support in addressing accessibility challenges in the built environment, attitudinal barriers, and candidate pipeline development.

We feel strongly that for the legislation to be successful, the Provincial Government must be the first actor in implementation. We encourage the Provincial Government to seek out ways to model accessible built environments for retrofits and new construction, as well as leading with proactive hiring practices and procurement policies that support accessible employers. We believe this approach will help business see legislation and government itself as a resource and support.

The Presidents Group supports an approach to provincial accessibility legislation that provides clarity and consistency for businesses, while ensuring that businesses are supported to become great employers for people with disabilities. We caution that an approach to legislation that focuses more on compliance than successful employment for people with disabilities will fall short of creating the truly inclusive province we want.

On October 22nd, 2019, Presidents Group hosted a consultation to engage the business community on the topic of accessibility legislation. The feedback we gathered from the 60+ attendees has been included in the “What We Heard” portion of this document. This feedback will also be shared back with attendees and posted on our website. While we recognize that this lively discussion does not represent the opinions of the whole business community, we do see it as a strong indicator of interest by businesses to engage on this topic. We invite the

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Ministry of Social Development and Poverty Reduction to consult us and our broader network throughout the legislation’s development as an avenue to report progress on the part of Government in considering these recommendations.

Finally, the Presidents Group wishes to convey our desire and intention to work alongside Government in this journey to becoming a more accessible province. From these early days of the framework’s development through the design of legislation and the standards that will follow, we see ourselves as a deeply invested stakeholder.

SUMMARY OF OUR RECOMMENDATIONS:

The structure of the President’s Group’s submission to the BC Government Accessibility Legislation consultation mirrors the 10 key areas upon which the framework seeks input, with the following recommendations:

SUMMARY OF OUR RECOMMENDATIONS:
Model & Scope
#1: Government should ensure a systems perspective in developing legislation. #2: Legislation should draw upon government’s own successes. #3: Government should move forward with an enabling legislation model. #4: Government should balance a definition of disability that captures the ever-broadening scope of what is recognized as a disability, while recognizing that clarity will enable compliance.
Purposes & Principles
#5: Government should move forward with proposed purposes and principles.
Standards
#6: Legislation should be designed for the intended goal of accessibility, not solely compliance.
Timelines
#7: Government must lead by example and take the first steps in implementation. #8: Legislation should be implemented using a phased approach.
Governance
#9: Government should have a central point of contact for all accessibility work and compliance questions. #10: Government must expand on existing types of support to the business community. #11: Government should leverage the expertise of key stakeholders within government and in the broader community.
Incentives
#12: Government must incentivize and convey the benefits of accessibility to the business community.
Compliance & Enforcement
#13: Government must keep employers involved in defining and designing compliance.

Model & Scope

Recommendation #1: Government should ensure a systems perspective in developing legislation.

For full participation in society, people with disabilities do not simply need a job. They need an accessible transportation system, an accessible built environment, access to appropriate home supports and accommodations, and any number of other accessibility supports that remove barriers to participation in all aspects of society. Government needs to consider all aspects of life in the development of this legislation.

For this reason, the Presidents Group recommends ensuring a systems approach to accessibility and reduction of barriers, so each individual's full participation in community, employment, and society is supported.

Recommendation #2 Legislation should draw upon government's own successes

Government entities and Crown Corporations have pre-existing programs that encourage compliance, behavioural change, and the promotion of social good. Such programs offer best practices that could be mirrored in the development of Accessibility Legislation.

The Presidents Group recommends reviewing the models to emulate:

Seismic Mitigation Program

In 2015, changes to the National Building Code reflected high risk to buildings along the Cascadia fault line in the event of an earthquake. The changes were accompanied by a requirement to make upgrades to schools on Vancouver Island, as well as in Haida Gwaii and Richmond. Even when the necessary funding for upgrades was made available, there was not much initial uptake from school boards, largely due to the fact that seismic upgrading of buildings required a great deal of technical knowledge that was not a core competency of school boards. Government therefore had to redesign the process to ensure funding could cover hiring a consultant with the right technical knowledge.

Businesses and other entities aiming to comply with the upcoming Accessibility Legislation could have a similar knowledge gap and require additional funding for expert consultants.

BC Hydro and Fortis Rebate Programs

Both Hydro and Fortis offer rebate incentives for businesses to upgrade to more efficient operating equipment. Rebates are offered for particular pieces of equipment that have been tested and confirmed to have the intended energy savings. Businesses are connected with contractors who have experience working with the utility provider and these particular pieces of equipment, so that the process is simplified for the business owner.

These utility rebate programs offer turnkey solutions for businesses, and simplify the decision to adopt the new practice or make a change for the better, without requiring business owners to become subject matter experts.

Recommendation #3: Government should move forward with an enabling legislation model.

We support the BC Government's adoption of an enabling legislation model provided that it places emphasis on

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collaboration with a variety of stakeholders, especially those with lived experience of disabilities, in the development of standards and definitions of compliance.

Recommendation #4: Government should balance a definition of disability that captures the ever-broadening scope of what is recognized as a disability with recognition that clarity will enable compliance.

In recognition of the complexities and changing understandings of what constitutes a disability, we understand why Government would lean towards a broad definition. However, businesses will have concerns around any significant ambiguity. Clarity will be important to ensure compliance and informed risk management activities.

Any evolution in the definition should be aligned with the federal definition used by the Canadian Survey on Disability (Statistics Canada), and support better data collection.

Purposes & Principles

Recommendation #5: Government should move forward with proposed purposes and principles

We support the purposes and principles laid out in the British Columbia Framework for Accessibility Legislation, including the ratification of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and the centring of people with experiential knowledge of disability with the principle of “nothing about us without us”.

We encourage Government to pursue an inclusive process with private, non-profit, and community engagement as well as direct consultation with people from the disability community.

Standards

Recommendation #6: Legislation should be designed for the intended goal of accessibility, not solely compliance

We see alignment with Government’s goal of equipping businesses to be better able to employ and serve more people with disabilities. We strongly encourage Government to keep the intended outcome in mind, and avoid creating an onerous compliance exercise. As seen in the Ontario example, as well as with other regulatory schemes, reporting can draw significant staff time and budget away from core activities. The legislative framework should be developed in a way that achieves results and minimizes red tape, confusion, and overlapping processes.

When developing and using standards, remember that achieving full accessibility and inclusion requires a cultural shift and not a “tick the box” system. The BC Government should inspire as well as legislate, so the outcome, not the solution, should come first. Overall, encouragement and enforcement must be balanced. The legislation must not be too rigid, as accessibility is an ongoing process; people's expectations change and enabling technologies evolve over time. Strict standards, while easier to enforce, can reduce or even eradicate businesses' interest in developing new products and services making them barriers to innovation.

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Another related danger of a compliance-focused model is unique to larger organizations. In larger organizations, reporting is typically delegated to risk management or legal departments, which are distant and often disconnected from the departments responsible for organizational culture and education, such as Human Resources or the leadership team. As shifting mindsets and organizational culture are essential to a more accessible and inclusive workplace, legislation should consider models that support accessibility compliance being delivered by the departments that lead this work.

We recommend developing standards that support culture change in work environments and the broader community while providing a clear framework for businesses.

Timelines

Recommendation #7- Government must lead by example and take the first steps in implementation

Other actors will be most likely to accept and engage with the new accessibility regulations if Government is the first actor. Taking leadership in this way would not only lend credibility to the Government, but would give Government valuable insights about what it takes to operationalize accessibility regulations. These learnings could be shared with stakeholders like business, and further inform government support programs. For example, Government experience revamping public sector hiring processes or retrofitting the legislature would offer useful lessons in the real costs and required practices to enable accessibility. We also see powerful opportunities in government procurement, where including accessibility in eligibility criteria could support scaling of small and medium-sized enterprises, as well as influence policy at larger organizations.

The Presidents Group understands that Crown Corporations and the Public Service Agency are valuable contributors to growing employment for people with disabilities and encourages the Province to take leadership here by committing to increase its number of employees with disabilities and shifting hiring practices to reduce barriers for qualified candidates.

The consequences of not leading by example could include diminished credibility for Government, which would undermine opportunities to offer recognition to businesses taking leadership in accessibility. If the Province fails to lead on accessibility, there could be escalated or inflamed reaction to any punitive measures like fines.

We wonder if Government could explore matching the labour demands created by the legislation, for example retrofits to built environment and other aspects of compliance, with the untapped talent pool of people with disabilities, thereby offering meaningful opportunities for the disability community to contribute and drive improved accessibility.

We recommend Government commit itself to being a leader in accessibility, modelling the successes and challenges encountered on the way to a barrier-free province to build credibility and community with stakeholders.

Recommendation 8: Legislation should be implemented using a phased approach.

We understand and recognize the urgency for people with disabilities to live and work in a fully accessible and inclusive environment, as well as the capacity of businesses, especially smaller businesses, to implement the necessary changes. As such, we support a timely, phased adoption process that reflects the needs and realities

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of all relevant stakeholders.

We note that careful consideration is required to determine the order of standards development, to balance quick wins that can demonstrate progress and build everyone's trust in the new system. In both cases, a realistic approach that acknowledges the capacity of small and medium sized businesses will be a key factor to success.

Governance

Recommendation #9: Government should have a central point of contact for all accessibility work and compliance questions.

As the standards will likely fall under the jurisdiction of multiple ministries and be impacted by existing regulations, the Province should create a single touchpoint within Government to field questions on accessibility. Businesses looking to comply with all accessibility related standards should have one point of contact within government to limit the confusion and inefficiencies caused by an approach that relies upon departmental jurisdiction.

We firmly believe that a central body must be designed for optimal user experience and better implementation.

Recommendation #10: Government must expand on existing types of support to the business community.

Small businesses often do not have specialized positions for HR or legal compliance, which is important to consider during the standards development process. Legislation should be designed to support small businesses in acquiring the capacity to take on the right practices. For instance, members of the Presidents Group with fewer than 500 employees often rely on partnerships with disability employment service organizations or WorkBC itself to fill any gaps in capacity, funding, accommodations support, or to receive coaching and training for employees with disabilities.

Government will need to develop additional supports for small businesses, including but not limited to researching and bundling solutions to accessibility, and offering technical support, such as WorkBC coaching for employers, and bolster services like job coaching and training for employees with disabilities. The small business solutions should also include financial support, such as tax rebates, free support services, and grants for retrofitting. For example, the Province could refer to the example of Bologna, Italy, where inclusive hiring is rewarded by government taking over federal portion of employee payroll taxes once compliance is reached.

Even some of our larger member organizations function in industries that have very low profit margins, such as food retail and hospitality. As a result, these organizations do not have the resources in-house to design new hiring practices or manage new compliance regimes. In reality, supports will be required by many employers of a variety of sizes, depending on their capacity, and their current depth of accessibility knowledge.

We recommend that the vision for an accessible province include robust supports for employers, that build on the expertise and relationships of existing supports, to fill in the gaps businesses may have in specialized knowledge needed to be truly inclusive and the human capital required to run accessible HR programs.

Recommendation #11: Government should leverage the expertise of key stakeholders within government and in the broader community.

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The Government of BC has an opportunity to leverage the expertise of key stakeholders across the province both in the development of standards and in the creation of a governance or advisory body.

For standard areas such as employment, the Ministry of Social Development and Poverty Reduction could expand existing channels, such as WorkBC to hone support to business. We also recommend consulting with existing invested stakeholders, such as the Presidents Group and the Small Business Roundtable. For built environment standards, we recommend leaning on the expertise of community organizations like the Rick Hansen Foundation. Other community organizations with existing program delivery relationships with Government, for example WorkBC contractors, have vast knowledge about which interventions and assistive technologies enable successful job placements for candidates with disabilities. Further, policymakers should consider what existing government programs or interventions can support change in the other Standards areas that will impact business, including Communications and Information, Service Delivery, Education, and Justice.

We advise Government to take a thorough inventory of the partnerships and subject matter expertise available to them within the related Ministry programs to design cohesive, strengths-based governance for this legislation.

Incentives

Recommendation #12: Government must incentivize and convey the benefits of accessibility to the business community.

Government must have a clear business case and be able to articulate the benefits of improved accessibility. The business case should include results such as reduced employee turnover, increased innovation, and improved decision making, as well as the significant branding and marketing opportunities that result when a business becomes a destination for a customer base that wants accessibility.

Given the labour market projection for BC over the coming decades and the anticipated labour shortage, the need to tap into unconventional labour pools is obvious to most employers. Government could make the case that this legislation will help ease the labour shortage by removing barriers to hiring people with diverse abilities and experiences.

Many of the employers at the Presidents Group table are part of broad networks, associations, and supply chains, where they are seen as credible peers and leaders. We encourage Government to consider ways to support early adopters in accessibility to engage their networks and bring along their peers. This could be a grant program for network engagement, support for province wide or local gatherings, or conventions.

The Presidents Group members believe that recognition opportunities can be strong incentives to encourage businesses to prioritize positive behaviours like accessibility.

We recommend Government consider a provincial recognition program to galvanize the many regional, ad hoc awards programs, into a powerful branding opportunity for employers making positive steps as accessible employers.

Compliance & Enforcement

Recommendation #13: Government must keep employers involved in defining and designing compliance.

The process of drafting Accessibility Legislation and standards development requires ongoing consultation with businesses and people with disabilities to ensure successful implementation.

The Presidents Group would recommend pursuing a flexible compliance scheme. A flexible compliance scheme could be based on a points system, be customized to business size, or mirror the LEED certification program in which there is a passing level and further recognition for exemplars.

Rather than require businesses to become compliant in built environment, employment practices, and all other areas of standards, Government could consider a system where strong performance in some areas can compensate for less progress in others. For example, a small business employing people with cognitive or mental health related disabilities may be able to prioritize soft accommodations like remote working and noise cancelling headsets, but not have operational control over a leased space to make building upgrades, and yet still provide good employment for people with some kinds of disabilities.

We hope Government will collaborate with us to design compliance requirements that meet employers where they are at, and credit employers for their innovation.

What We Heard

On October 22nd, 2019, the Presidents Group hosted a consultation to engage the local business community in the consultation process. Sam Turcott, Executive Lead for the Accessibility Secretariat, presented to the room of over 60 attendees. After the presentation, all participated in table discussions.

Tables were given four key questions to discuss:

1. What benefits and challenges do you see for your business?
2. What do you think will be effective in terms of enforcement and incentives?
3. How do you want to be engaged in the next phase, standards development?
4. What other initiatives or actions would you recommend to promote a culture of accessibility?

Their feedback was compiled by the Presidents Group and has been sorted into the following categories:

- Benefits of Legislation
- Challenges of Legislation
- Enforcement Concerns
- Engagement
- Inspiring ideas and approaches

Benefits of Legislation

Participants named 21 unique benefits to legislation. Amongst the eight tables, half noted that legislation was likely to lead to better employment outcomes for people with disabilities. Also repeated across multiple tables

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was an acknowledgment that an Accessibility Act would result in an increased recognition of the purchasing power of people with disabilities and their families. Several tables acknowledged that legislation would level the playing field and improve awareness of diverse abilities and the normalization of this type of diversity.

Amongst the more unique perceived benefits, we heard that legislation would mean employees with disabilities would no longer need to raise issues of discrimination on a case by case basis and it would lower the risk for those who self-disclose their status. Several expressed a hope that legislation would ensure all disabilities are equally welcomed and accommodated.

It was also acknowledged that legislation would provide clarity, with simplified planning for businesses. There was optimism that there would be adequate guidance for employers.

Participants looked forward to more accessibility in new buildings, more innovation amongst employers, and the reward of more loyal customers and employees.

Challenges of Legislation

30 unique challenges were identified in the table discussions. Many groups recognized that accessibility legislation will need to be complex and comprehensive; the response from business will need to match the complexity in turn. Potential barriers that were often noted included the cost of implementation and the lack of knowledge across hiring managers and business owners. While smaller businesses may struggle with the cost of implementation, larger organizations worried that the timeline for compliance for upgrading the built environment may conflict with internal planning cycles and require a reworking. Companies with unionized workforces may have unique challenges. Companies with multiple locations, possibly even across provincial jurisdictional lines, will also need to manage competing timelines for compliance. Generations of inaccessible buildings and indifferent commercial landlords rounded out the notes on complexity of this undertaking.

Many participants flagged potential challenges that relate to implementation. It was noted that the order of the adoption of the standards is important, because some standards will build a foundation for others. Some attendees cautioned that businesses already conducting reporting on other standards and regulations know that reporting can be onerous.

With a lens on organizational behaviour, it was flagged that sometimes regulation can demand compliance ahead of cultural acceptance. The resistance that arises can take many forms. If employees with disabilities are perceived to receive privileged treatment, there may be backlash or resistance from colleagues. Conversely, legislation could lead to tokenism. Education was recognized as the antidote to such tensions, but it was also acknowledged that education on the scale required is a daunting task. Ultimately, a key objective of legislation is ensuring that employees with disabilities are protected.

A participant asked how legislation might interfere with existing innovations. For example, can businesses that successfully employ people with specific disabilities be assured they will not be penalized for their more focused mandate?

Capacity of the system was also a theme of potential barriers that emerged. Capacity concerns ranged from the lack of ASL interpreters to the limited access to appropriate transportation that would enable employees with

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disabilities to commute to and from work. One participant encouraged Government to look at soft adaptations, for example, a remote working policy compared to a fully accessible office.

The bandwidth of the disability community to maintain active engagement through what will likely be a multiyear process was also flagged as a potential burden.

Enforcement Concerns

Groups contributed 23 unique comments about how to approach enforcement. Five out of the eight table discussions emphasized that legislation should provide clarity and that the rules should provide clear and consistent parameters. The second most common theme in commentary was that penalties and requirements should be calibrated to the size and capacity of the business.

While several comments supported the idea of fines or other means of accountability to ensure compliance, there were an equal number of thoughtful comments requesting that enforcement be meaningful. Amongst these, we heard suggestions that fines be re-invested in accessibility grants or culture exchange work and to use a system of enforcement to create job opportunities for people with disabilities.

Even at such an early stage in the legislation's development, business is already primed to discuss the design of the enforcement system. Businesses suggested designing a system that inspires action and that balances some teeth with avoiding being so punitive that businesses will find compliance discouraging. From experience with other regulatory regimes, it was also flagged that the attitude and demeanor of enforcement makes a huge difference in terms of engagement. A collaborative, enthusiastic tone will support compliance.

Participants also had important questions such as:

- In what ways will accessibility legislation impact existing regulations like Employment Standards?
- What avenues will employees have to report noncompliance?

Engagement

There were many suggestions around engagement tactics going forward, which included engaging one-on-one with companies exhibiting best practices, taking a sectoral approach, and looking at the unique needs of small business. The extant approach of offering online, in-person, and more formal opportunities to engage was encouraged. Participants also supported Government to continue offering multi-channel opportunities like forums, focus groups, and online feedback options.

A few participants flagged that behaviour change takes time and so, engaging businesses often and early was seen as not simply a tool to ensure compliance, but also to change mindsets. There were many comments upholding the importance of including the voices of people with lived experience of disability in the process. There seemed to be great energy behind being engaged by government on a continuous basis through the development of standards and regulations.

Inspiring ideas and approaches

Our final discussion topic asked what inspiring ideas or approaches business could offer. We received over 30 unique ideas, yet several strong themes also emerged. Most tables identified in some way the importance of

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sharing case studies or best practices in a peer-to-peer discussion about improving accessibility. Half of the tables expressed support for Sam Turcott's reference to the Manitoba government's positioning itself as a first actor in timelines. There were also multiple mentions of pledges and awards, as well as more training. In addition, we heard mentions of the need for a public campaign and for an expansion of services to support employees with disabilities.

Of the more unique suggestions, we heard a suggested approach of designating "wards of inclusion" to approach the public conversation on a community by community level, the establishment of a Diversity Day to galvanize support, and echoing of the point that holding out for perfection can stall progress. There was also a suggestion to work with Canada Summer Jobs Grants program to extend contracts and create more sustained employment. Finally, there was a suggestion to look at extending probationary periods in the Employment Standards Act to give employees with disabilities and their employers more time to ensure fit.

Conclusion

The Presidents Group appreciates the opportunity to share our recommendations and what we heard from our peers. We look forward to working with the Ministry of Social Development and Poverty Reduction in the coming phases of the legislation's development.

To receive a copy of the detailed consultation feedback, or for any clarifications, please email info@accessibleemployers.ca.