

WHERE IS THE RESEARCH?

An Uneasy Case for Moving Trades from
Voluntary to Compulsory Certification

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PREFACE

Every industry has supporting infrastructure. This infrastructure is diverse, ranging from the hard physical infrastructure of roads, buildings and electricity to the soft social infrastructure of organizations, laws, knowledge and relationships. The construction industry is no different. It requires laws and regulations which guide its conduct, and a wide range of individuals and organizations which work together to create the hard infrastructure which the rest of Ontario needs to successfully thrive as a province.

Recent government legislation which aims at the creation of a thriving construction industry has resulted in some significant changes to the way trades will be governed and regulated. The government has, in some sense, done renovations on the infrastructure which provides a base for the construction industry. Some of these changes are for the better but, as explained in this report, it has become clear that some of these changes—especially the creation of bodies to determine which trades will require compulsory certification, and the criteria which these bodies will use in making their determinations—have yet to be tested as to whether they will help Ontario’s construction industry thrive, or whether they will leave the industry susceptible to crumbling under labour shortages, disputes and a lack of innovation.

This report demonstrates that from the outset, there was an acknowledgement that “there is a dearth of reliable data” that relates to the impacts of compulsory certification. Although there is some provision for data gathering capacity, there is little evidence that providing a research basis for the decisions to be made by the College has been a central consideration and in fact, the timelines and processes that have been followed lead one to the conclusion that the College could begin certifying trades as compulsory as early as January 2012 without the supporting research in answer of basic questions.

Much of the consultation over the past few years has been a process-driven effort more focused on the “how” than on the “whether”. Although various rationales for the move to compulsory certification have been offered—increasing health and safety, improving the labour supply, making the Ontario construction a better place to work—a survey of the various reports, submissions and news stories on this issue indicates that these arguments are based more on rhetoric than solid research. As we all know from financial advice, past performance is not necessarily a predictor of the future. It may be that steps will yet be taken to ensure that an appropriate data and research infrastructure will be in place to support future certification decisions. However, this report shows that to date, there has been a willingness to proceed to the next step without stopping to provide answers for these questions.

If this trend continues, the movement towards compulsory certification poses a significant risk to the construction industry in Ontario. The potential impact on the remainder of Ontario, including its roads, water and energy systems and a host of others, remains—because of a lack of research—to be seen.



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April 28, 2011

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1.0 INTRODUCTION

Various quarters of the construction industry are concerned about the ability of the Ontario College of Trades to increase the number of “compulsory trades.” A compulsory trade is one which requires workers to acquire a certificate of qualification from a government-accredited school in order to perform work in that trade. (For example, in the electrical industry, only those who have a government-issued certificate of qualification, or who are enrolled as apprentices in government-accredited apprenticeship programs, may perform electrical work. The performance of such work without proper accreditation is subject to provincial sanctions for companies and individuals, including fines.) Presently, there are many trades for which such certification is not required in order to perform work. Many people acquire such certifications voluntarily, but there is no government requirement that they do so in order to work in that trade.

Many in the construction industry fear that the move to wide-scale compulsory certification will have negative consequences for the construction industry as a whole. The *Ontario College of Trades and Apprenticeship Act* came into force and effect in 2009, and steps are underway toward full implementation of the Act in 2011. Among other provisions, the law mandates the formation of a Review Panel which will consider applications which seek to change certification in many trades from voluntary to compulsory. The arguments in support of this shifting requirement are summarized in a report made by Tim Armstrong, appointed by the Government of Ontario in 2007.¹ Submitted to the Government of Ontario in April 2008, “the Armstrong Report” is often cited as the basis for the Ontario Government’s proceeding with the Ontario College of Trades—a significant part of which is to examine the movement to compulsory trades. However, while the Armstrong report provides a summary of the arguments “pro” and “con” making more trades compulsory, the implications of expanding the range of trades that are compulsory have neither been fully analyzed nor adequately debated. Given the potential impact of compulsory certification for economic viability, labour supply, the apprenticeship system, and organization of work, including the potential for increased jurisdictional disputes among trades, and working conditions (including safety) of the construction industry, we believe a more careful look and discussion are merited and necessary before we proceed to the next stage of implementation.

As criteria and the processes to be employed by the Review Panels—the body which will determine which trades are to be made compulsory—are established and rolled out, a public discussion on compulsory certification which engages the industry and all stakeholders is required. We believe this serves both the public interest and contributes to a better understanding of how decisions on compulsory certification will affect the industry and all stakeholders.

Mr. Armstrong’s report appropriately summarizes pros and cons and highlights some of the claims made during the consultation process, but does not adjudicate between competing data claims. In part, his recommendations regarding establishing processes to deal with specific applications makes such adjudication unnecessary. However, as we move towards the Review Panel process, it is incumbent to carefully identify the various data incongruencies and gaps with a view to highlighting the areas where further work needs to

¹ Tim Armstrong was the chair of the Ontario Labour Relations Board from 1974-1976 and Deputy Minister of Labour in Ontario from 1976-1986. He was appointed by Order-in-Council to study and report to the Ministry of Training, College and Universities on the apprenticeship system in Ontario. “The Armstrong Report” is the result of that study.

be done. In short, we propose to identify certain research gaps made apparent by the Armstrong report – gaps which remain even after subsequent work at the College of Trades.²

We first reviewed the Armstrong report and submissions from a strong majority of key industry stakeholders on which the report is based. Further, we reviewed the data support for arguments pro and con compulsory certification, highlighting areas of data support and divergence from expanding compulsory certification. We also reviewed the Whitaker Report (May 2009) and a series of news articles specifically related to matters of compulsory certification. This report highlights opportunities for further study which might provide insight to overcome competing data claims, looking at comparative data from other jurisdictions or alternative data sets.

² Kevin Whitaker’s report to Minister Milloy highlights that these research gaps remain a real problem: He suggests that “During the consultation, we repeatedly heard that the processes of determining applications for compulsory/restricted status and ratio disputes were unclear, opaque and overly politicized. These criticisms were consistent with the information provided to Tim Armstrong during the period of his earlier review and report.” Kevin Whitaker. College of Trades: Report of the Advisor to the Minister of Training, Colleges and Universities, May 1, 2009 available at http://www.tcu.gov.on.ca/eng/collegeoftrades/CollegeofTradesFinalReport_EN.pdf. Page 68

2.0 ANALYSIS OF SUBMISSIONS AND CONSISTENCY WITH ARMSTRONG REPORT'S RECOMMENDATIONS

2.1 OVERVIEW OF THE SUBMISSIONS RECEIVED

The samples which we reviewed vary widely. In length, they range from one-page letters thanking Mr. Armstrong for his query or indicating intention to engage in the process, to much longer submissions which appeared to include material originally developed for other purposes ("PowerPoint decks," legal briefs, *et al.*). The substance of content submitted varies widely as well, and its quality judged on the criteria of substantive argument versus assertion and anecdote, and anecdotal versus documentary support. Judging on these criteria, we find three classes of submissions.

Class One - Throughout the submissions, we find significant claims especially in respect of health and safety, quality of workmanship, and economic viability which are merely asserted and assumed to be true with little to no support by way of argument or any kind of substantive support.

Class Two - A second class of submission is those that, again, tend to assert claims without mounting arguments, but do offer anecdotal or specific case support. Among these is one submission for an Ottawa "local" that goes so far as to cite a specific legal case in support of the claims made in its submission to Mr. Armstrong.³

Class Three - The third class of submission includes those who do not merely assert claims, but who first offer a coherent argument in support of claims made, and then reference substantive anecdotes that support the arguments.

What is missing from virtually all the submissions is documented, data support. For example, there is almost nothing in the submissions as to the severe shortage of workers in the skilled trades in Canada relative to current and expected future demands for these in especially the construction and industrial trades. Yet significant data has been compiled and published by the Construction Sector Council as to the current and projected shortages of workers in the construction trades, trades from which the majority of the submissions come.

Overall, we found the submissions to be remarkably "thin" on substantively argued and documented input. Many, if not most of the submissions appear to be completely lacking in concrete data, leaving the reader to wonder about the rationale and motivations behind them.

In Appendix 3 to his report (pp. 131-134), Armstrong summarizes arguments in terms of "pros" and "cons" with respect to "health and safety," "registration of new apprentices," apprenticeship completion, "consumer protection," "economic impact," and "miscellaneous ramifications." But in the following, we focus our analysis in terms of the Report's "recommendations," for it is here that the nexus of the report is located, and it is these recommendations that have informed the Government of Ontario's new statute and the creation of the new College of Trades.

³ Ronald Lebi, Minsky LLP, "Submission by the International Brotherhood of Electrical Workers Local 586 Ottawa," January 24, 2008.

It is significant to note that Mr. Armstrong specifically requested that those making submissions contribute available data that they might have. “I would appreciate receiving any survey or other research material which are you able to share with me. Your impressions are also welcome, but supporting research will undoubtedly carry greater weight in terms of the future policy development process.”⁴ It becomes clear throughout this report that there is little available information. In describing the process by which numerical goals for apprenticeship are set, Mr. Armstrong notes that these “may or may not be related to carefully researched and prioritized labour market requirements.”⁵ In connection with research establishing correlation between compulsory trades and health and safety records, Mr. Armstrong is quite direct in noting that it does not exist.

“The key issue on the health and safety impact questions turns, then, on whatever empirical evidence exists to support—or refute—the proposition that those trained under a compulsory/restricted regimen have superior health and safety records to those trained under voluntary/unrestricted systems. I have searched in vain for data that would enable me to provide a reliable, supportable response to this key question....There is a dearth of reliable data to answer this central question and there does not appear to be agreement on the appropriate methodologies for gathering the data and making required determinations.”⁶

In connection with apprenticeship data, Mr. Armstrong cites various studies conducted for the Canadian Apprenticeship Forum, noting the cost and benefits to employers, apprentices, training deliverers, governments, and unions as well as society at large that stem from investments in apprenticeship. But as he notes these studies are “not focused on the costs of compulsory versus voluntary apprenticeship.”⁷

It is clear that the lack of existing research is a primary premise of Mr. Armstrong’s conclusions, although he makes his recommendation to proceed based on “experiential evidence” that he believes “supports the general, non-trade-specific conclusion that there is a strong probability that compulsory certification results in net overall benefits.”⁸ He qualifies this conclusion by noting that “depending on the trade in question, there are other countervailing considerations that may be relevant.”⁹

Given the importance of this premise to Armstrong’s report, it is worthwhile to review his recommendations in a bit more detail. Of Mr. Armstrong’s six (6) recommendations, four (4) are concerned primarily with the process going forward (Recommendations ‘1,’ ‘2,’ ‘5,’ and ‘6’). Recommendation ‘4’ addresses the need for a working group regarding data collection and retrieval. These five recommendations are addressed at greater length, further down in Section 3.0 of this analysis, as they have been implemented with a new statute and the creation of the College of Trades.

Recommendation ‘3,’ however, points to key areas where more data is needed, and goes to the arguments which Armstrong highlights and which, therefore, appear to inform all of his recommendations.

⁴ Tim Armstrong, “Compulsory Certification Project,” Toronto: T. E. Armstrong Consulting, April 28, 2008, p. 121. As reported to the Hon. John Milloy, Minister of Training, Colleges and Universities for Ontario.

⁵ Ibid, p. 26

⁶ Ibid, p. 67

⁷ Ibid, p. 79

⁸ Ibid, p. 100

⁹ Ibid, p. 101

These key areas are:

- a) *the likely effect of compulsory status on health and safety, registrations, completions and consumer protection;*
- b) *the economic impact on employers, apprentices, training institutions and government;*
- c) *the journeyperson/apprentice ratio impact;*
- d) *the functional complexity of a trade for which compulsory status is sought;*
- e) *the safety hazards associated with the performance of the trade's functions;*
- f) *the environmental enhancement ramifications, if any, of conversion to compulsory status;*
- g) *the description of the elements of the trade and whether distinctions are warranted between core and peripheral elements in determining the appropriate contours of the trade's description;*
- h) *whether there are unique features of all or some of the sector(s) in which the trade operates which might affect the appropriateness of compulsory status for sector(s) or a portion(s) thereof;*
- i) *whether compulsory status would have a detrimental effect on cross-sector, inter- or intra-provincial labour mobility; and*
- j) *the nature of the grandparent provision for existing workers in the trade.¹⁰*

In the following we take the above, and offer comments and/or questions in respect of the data that should be considered, focusing especially on safety, the economic impacts, and “grandparenting.”

2.2 SAFETY

First, in respect of ‘3(a)’ and ‘3(e)’ on “safety,” it might be helpful to compare the safety records of compulsory trades versus voluntary trades, generally, and specifically, the safety record of a voluntary trade under consideration to be made compulsory compared with already compulsory trades. How do compulsory trades and voluntary trades measure up in respect of safety training, enforcement of safety regulations and guidelines on job sites, and accident rates on the job site? Is there compelling data that suggests that workers in comparable compulsory trades are safer than workers in related voluntary trades? Further, is there compelling data that suggests that the work product delivered to a customer is safer when it comes from a compulsory trade than from a voluntary trade? We found very little in the submissions that would be helpful on these questions. We found mostly assertions, unsubstantiated anecdotes, or specific cases that did not even describe the “global” situation on these questions within a single trade, let alone the broad range of trades across the board. [Furthermore, Armstrong plainly admits in his report that the WSIB and

¹⁰ Tim Armstrong, “Compulsory Certification Project,” Toronto: T. E. Armstrong Consulting, April 28, 2008, pp. 6-7 and 107-108. available on-line at http://www.tcu.gov.on.ca/eng/collegeoftrades/CollegeofTradesFinalReport_EN.pdf

the Construction Safety Association of Ontario both advised Armstrong that no such data correlations could be drawn from their respective data holdings.]

Further, how do jurisdictions stack up on safety where a particular trade is “voluntary” versus safety in jurisdictions where the same trade is “compulsory?” Province-by-province comparisons might well elucidate the situation in Ontario.

2.3 ECONOMIC INTERESTS AND IMPACTS

Here, we look at ‘3(b),’ ‘3(c),’ ‘3(d),’ ‘3(g),’ ‘3(i),’ and ‘3(j),’ since these affect the economic interests of various stakeholders and potentially make impacts on each. These go to:

1. The ability of employers to find workers given Canada’s severe shortage of personnel in especially the construction and industrial trades;
2. The additional strain on employers’ ability to find workers if workers are not permitted to work across trades on job sites without certification;
3. The potential to favour certain labour organizations over others, based on flexibility versus inflexibility of working across trades on job sites;
4. Labour mobility, and the ability of workers with significant experience and expertise obtained in other jurisdictions to work in Ontario job sites, and the ability of employers to employ them even where there are severe shortages of workers qualified with experience and expertise; and
5. The ability of Ontario workers with long experience and significant expertise in the voluntary trades to qualify under a “grandparent provision” for certification, and to continue working actively in their trade in Ontario.

In wide consultations with contractors, owners, and labour organizations across Canada, as well as with Statistics Canada, significant reports have been issued on Canada’s severe shortages in the construction trades, now, and going forward, under “Labour Market Information.”¹¹ Updated on an ongoing basis, this includes development of a “Profile of the Labour Supply” and “Workforce Demand Forecasting Capability” as well as a “Regional LMI Network” and a “National Owners’ Committee.”

What these and other studies suggest is a cross-Canada labour shortage that diminished yet continued even during the economic downturn of 2008 and 2009. With the recovery of the Canadian economy in 2010, and the revival of mega-construction projects that were put on hold or whose announcements were delayed, the shortage of workers can only sharpen in the short, medium, and long terms.

One finding of the Construction Sector Council is that “across the scenario, key resource, industrial and utility projects drive labour requirements above local availability”¹². For major industrial and commercial

¹¹ Found at: http://www.csc-ca.org/english/whatwedo_1.html, December, 2010. See also *Construction Looking Forward, An Assessment of Construction Labour Markets from 2010 to 2018* (<http://www.csc-ca.org/pdf/CSC-LookingForward10Report-NAT-EN.pdf>).

¹² *Construction Looking Forward*, p. 1.

construction projects across Canada, the importance of employers' and labour organizations' ability to recruit and bring workers to job sites by way of labour mobility cannot be underestimated. Ontario is not immune to this, particularly as the province looks very seriously at expanding its electricity generation capacity, as well as the challenges in finding construction workers for commercial construction in Ontario's large cities.

Among the voluntary trades, the ratios of journeypersons to apprentices tend to be higher than the ratios prescribed in the compulsory trades. Expanding compulsory certification to voluntary trades will tend to diminish the potential pool of workers available to employers at any given job site. That is, employers will be permitted fewer apprentices and will be required to have more journeypersons on site.

Expansion of the compulsory trades could well make it even more difficult for both Ontario employers and Ontario labour organizations to bring to job sites qualified workers who have significant experience and expertise obtained in other jurisdictions, even within Canada, let alone outside the country.¹³ That is, expanding compulsory certification may well erect barriers to labour mobility inflows to Ontario.

Further, it is often difficult for apprentices in the compulsory trades to obtain credit for their on-the-job-site experience across jurisdictions. This, too, should give both employers and labour organizations pause.

Ontario's labour organizations are neither identical nor homogeneous. While certain construction work forces are organized along craft lines, other work forces have chosen to organize themselves along different lines. The organizational structure of the latter of these workforces pursues greater cooperation among trades with a view to the reducing jurisdictional disputes and the increase of both production and worker satisfaction.

Expanding compulsory certification, and how it is implemented, could endanger the heterogeneity and variety of workplace organizational structures and approaches to employer-worker relations represented in various labour organizations. For example, if craft unions were given an effective veto on the requirements of compulsory certification, this could well crowd out other approaches from Ontario job sites. This entails the possibility of stifling innovation in workplace organization and employer/employee relations in the Ontario construction industry, and might endanger the "environmental enhancement" that comes as a result of some of these alternative approaches.

2.4 "GRANDPARENTING"

Finally, a word or two on "grandparenting provisions." This will present challenges enough on granting certification to Ontario workers with long experience in heretofore voluntary trades. A worker near the end of a career may not want to submit to testing or application requirements leading to "grandparenting," and may decide, instead, to retire from working actively in the trade. This would only exacerbate severe shortages of workers in many, if not most construction trades. It could also bring financial hardship to workers nearing retirement, in the very years where they may well be working in order to "top up" funding of their future retirement income.

¹³ See *Working Mobile: A Study of Labour Mobility in Canada's Industrial Construction Sector*. Ottawa: Construction Sector Council, 2006.

Further, as one submission noted, in the past, “grandparenting provisions” have been subject to “wide abuse.”¹⁴ There is the potential for workers in the voluntary trades who have less-than-admirable records of safety or quality of workmanship to be “grandparented” into certification. Such certification could grant unscrupulous workers a reputational benefit with potential customers that they should not be given.

Additionally, “grandparenting” can only go so far. As soon as a formerly voluntary trade is made compulsory, that places a further burden on those “grandparented in,” in respect of what is expected of them in mentoring apprentices. Will a “grandparented in” tradesperson want to assume that burden? How will an apprentice in a voluntary trade make the shift to becoming an apprentice in that trade when it becomes compulsory? Will job site experience transfer straight across from the voluntary status to compulsory status? How will this affect completion rates? These are questions that must be addressed.

¹⁴ Joe Keyes, “Submission—Compulsory Certification Review.” Construction Labour Relations Association of Ontario, Mississauga, January 22, 2008.

3.0 REVIEW OF WHITAKER REPORT

Following the receipt of the Armstrong report, the Ontario government proceeded relatively quickly (within four months) and announced its intention to establish a College of Trades. It appointed Mr. Kevin Whitaker as an “implementation advisor” and after a period of consultation, he provided his report to the government in May 2009.¹⁵ Whitaker in a letter to the Minister makes the following note:

This report sets out a number of recommendations to support the creation of a College of Trades which, if adopted by the government will, in my view, contribute to the modernization of the apprenticeship and certification system in Ontario to make it more responsive to economic needs while enhancing the status and effectiveness of apprenticeship trades in the province.¹⁶

This report makes numerous references to the need for research on matters related to the College and to the importance of building research capability into the organizational structure of the College of Trades. The need for research takes organization shape in Recommendation 15—Staffing Structure:

The College of Trades shall initially consist of the following departments; Enforcement, Education, Training, **Research**, Discipline, Complaints, and Government Relations.¹⁷

Recommendation 11 deals with the matters of compulsory certification. It notes the following:

Review Panels may request assistance and information from the Research Department and may commission economic or other expert reports to assist in adjudication.¹⁸

This analysis indicates that stronger language may be required here. If we desire evidence-based decisions, the Review Panels “*should* request assistance” and “*should* commission economic or other expert reports to assist in adjudication.” Recommendation 18 sets out a three-phase staging process. Deliberations related to compulsory certification would start in phase two, beginning after a twelve-month phase one period and prior to the formal commencement of the College of Trades.

Recognizing a) the repeated lack of evidence and research related to compulsory certification (Armstrong); b) the articulated need for research capability in the College of Trades (Whitaker); c) no historic body of research literature (including academic) on this subject; and d) the staging timelines for deliberations regarding compulsory certification, it is difficult to see how the decisions of the College of Trades related to compulsory certification will be conducted independently through well-founded evidence.

¹⁵ Kevin Whitaker. “College of Trades: Report of the Advisor to the Minister of Training, Colleges and Universities”, May 1, 2009 available at http://www.tcu.gov.on.ca/eng/collegeoftrades/CollegeofTradesFinalReport_EN.pdf

¹⁶ Ibid, p. 2

¹⁷ Ibid, p. 72. Emphasis added.

¹⁸ Ibid, p. 68.

4.0 REVIEW OF NEWS ARTICLES

It was beyond the capacity of this study to conduct an in-depth review of all external commentary on this subject but we did conduct a review of the 28 news stories referencing this issue that were published in the *Daily Commercial News*, Ontario's leading construction industry journal, between May 23, 2007 and March 1, 2011.

These are the observations from an analysis of these news reports:

1. There is no reference to any research studies that would inform the debate around compulsory certification and the related reports of the provincial government (Armstrong, Whitaker). There is one reference to a study on safety¹⁹ in a letter referencing the Ontario Construction Secretariat. Ironically, the research was related to a non-union and union comparison on safety rather than a comparison based on trade certification.
2. The primary advocates of the College of Trades and its move to compulsory certification consideration are largely related to the building trades union/employer representatives. This conclusion is based on accumulated citations and references to individuals/organizations and representatives in the 28 reports).
3. The *Daily Commercial News* reports do not suggest any significant industry-wide sustained opposition to the College of Trades developments, but has suggested opposition from key industry stakeholders to the move toward compulsory certification. Interestingly, concerns expressed by major sectors of the construction industry in submissions to the Armstrong report (i.e. home builders groups) have gone unreported.
4. Following the development of the College of Trades as reported in the *Daily Commercial News*, we detect an increasing hesitancy regarding the design and implementation of the College.

¹⁹ June 11, 2007—Wayne Peppard, Executive Director, British Columbia & Yukon Territory Building and Trades Council.

5.0 “COLLEGE OF TRADES TRANSITION BOARD COMPULSORY CERTIFICATION”: AN ANALYSIS

Following on the Armstrong Report’s recommendations, the Ontario Government created a College of Trades under the *Ontario College of Trades and Apprenticeship Act, 2009*.²⁰ In its “consultation paper,”²¹ Ontario’s newly created College of Trades, proposes “criteria” in the form of “seven key factors that should be considered by the Review Panel in making its determination of certification status” (7).

The criteria circulated include:

- “scope of practice” which focuses on the nature of the trade related to ‘3(d),’ ‘3(g),’ ‘3(h),’ and ‘3(i)’ from the Armstrong Report;
- “health and safety of workers, the public and the environment,” as in the Armstrong Report. Here, on the face of it, there appears to be a concern with bringing hard data and data comparisons across trades and jurisdictions;
- “registrations & completion rates” which is focused on the impacts for apprentices of compulsory certification;
- “economic impact,” including the impacts to “employers, apprentices, training providers and government,” “cost of goods and services,” “quality of consumer items and services,” and “comparison to other jurisdictions”;
- “potential impact on ratios”—that is ratios of journeypersons to apprentices, and “comparison to other jurisdictions”;
- “labour mobility” and how compulsory expansion could have dilatory effects on “cross-sector, inter- or intra-provincial labour mobility”; and
- “implementation”—that is “grandparenting,” announcement of the new regime, and the timing of the transition to compulsory.

These criteria tend to address most of the concerns we highlight from our analysis of the Armstrong Report and submissions to it. But the crux of these is not so much in the criteria *prima facie* as it is in:

1. How the criteria are implemented;
2. Who implements the criteria; and
3. Time tested research to give the criteria meaning and measure their impact.

The latter—“who”—is especially crucial to the former—“how.” Who sits on the “Trade Board,” on the “Divisional Board,” the “Board of Governors,” and the “Review Panel,” will determine in large part how, and how well, these criteria are implemented. Will they adequately represent and fairly treat the various interests, be they of:

- employers (contractors and owners as well as labour),

²⁰ Found at: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_09o22_e.htm, December 2010.

²¹ “Consultation Paper, College of Trades Transition Board, Compulsory Certification,” College of Trades, 2010, 7 pages.

- labour organizations (non-craft and non-union as well as craft),
- voluntary trades workers (as well as compulsory trades workers),
- apprentices (as well as journeypersons), and
- the consumer market and pricing (as well as regulators and government)?

For this concern—*Who?*—there are available benchmark models that include labour organizations, contractors, and owners. Much could be learned both in terms of data collection and dissemination, as well as how the new Ontario College of Trades could function going forward. It is crucial that the College of Trades be seen to be representative of—and fair to—all stakeholders. Without an established body of independent research to support decisions, the College of Trades and its review panels will be driven by political and interest group dynamics rather than sound, reasoned judgement.

6.0 CONCLUSION

At base, our core concern with the movement towards compulsory certification is adequate and substantive stakeholder representation, consideration, fairness, and “buy-in.” In particular, this buy-in needs to allow for a transparent process of research and data collection to inform compulsory certification decisions made by the College. Currently, it is our contention that key stakeholders—those potentially most directly affected by the recommendations as they have been carried forward in statute and in the College of Trades—and their concerns as enumerated above are not adequately represented in the implementation. The questions as to the extent in which there will be a solid research base to support any decisions made on compulsory certification seem valid.²²

It is crucial that the various Boards concerned, the College of Trades, the Review Panel, and the Government of Ontario solicit data sets that substantiate moves toward forcing any voluntary trade into compulsory certification. Each of those enumerated for solicitation of data, above, must be given serious consideration.

But the two that may be most important on the “macro” level are “safety” and “economic impact.” These are crucial in respect of Ontario’s industries, labour organizations, and consumer markets.

We think it is especially worthy of testing in the field as to whether or not compulsory certification affects safety on job sites. What may be called for, here, is not “global,” quantitative data, but careful, qualitative research by way of interviews and focus groups conducted across Canada among participants in the voluntary and compulsory trades.

On the axis of fairness alone, no group or set of groups whose interest it is to expand the list of compulsory trades should be determinative in this over and against those whose interest it is to have voluntary trades remain voluntary. In particular, the Review Panel should fairly represent this divergence of “compulsory” versus “voluntary” trade interests. If it does, this will guarantee the best of all possible outcomes for all stakeholders, including consumers.

²² For instance, the interaction between unionization, compulsory certification and labour supply has not yet been raised as a research question, despite being highlighted in “Training for Ontario’s Future: Report of the Task Force on Industrial Training” (Dymond Report), 1973, pp. 144-14. This document is cited in Tim Armstrong, “Compulsory Certification Project,” Toronto: T. E. Armstrong Consulting, April 28, 2008, p. 178. available on-line at http://www.tcu.gov.on.ca/eng/collegeoftrades/CollegeofTradesFinalReport_EN.pdf

7.0 SUMMARY OF FINDINGS

1. The consultation process involving the establishment of the College of Trades and the movement towards compulsory certification documented that reliable data concerning basic questions did not exist.
2. The Government of Ontario took only 36 months to consult, research and design the Ontario College of Trades—what will be the largest and most complicated “College” in Canada.
3. The College of Trades has been set up and, based on current timelines, will be able to begin considering applications for making trades compulsory as early as January 2012. At present, there is no independent research available that will assist the Review Panels to measure and evaluate the seven criteria set out as the framework for making a voluntary trade compulsory.
4. The expectation created by the timelines and the anticipation that panels will begin considering applications for making trades compulsory in the short-term provides warrant for the concern that decisions will be made on criteria other than that provided by independent research.

The fear is that the rapid movement towards compulsory certification by the College of Trades is being done in a research vacuum. In short a significant piece of infrastructure which regulates the work of a wide swath of construction workers in Ontario is being built before the design stage is complete.

REPORTS CITED

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