



**Merit Contractors Association of Saskatchewan**

**Submission to the**

**Standing Committee on Human Services**

**on**

**Bill No. 80 – The Construction Industry  
Labour Relations Amendment Act, 2009**

**June 17, 2009**

## **Introduction and Background on Merit Contractors Association:**

Bill 80 is a positive initiative for the Saskatchewan economy and for Saskatchewan residents because it expands freedom of choice for construction industry employees and employers.

Merit Contractors Association has arrived at its assessment based on the collective view of a membership that consists of 152 open shop construction companies. Today, approximately 80% of the construction companies in Saskatchewan fall into the open shop category.

The organization focuses on the human resource needs of contractors by assisting employers and employees through benefit plans, training, retirement programs, tuition refund programs and placement of field construction workers.

Merit's operations and governance are based on a core belief in freedom of choice and democratic principles.

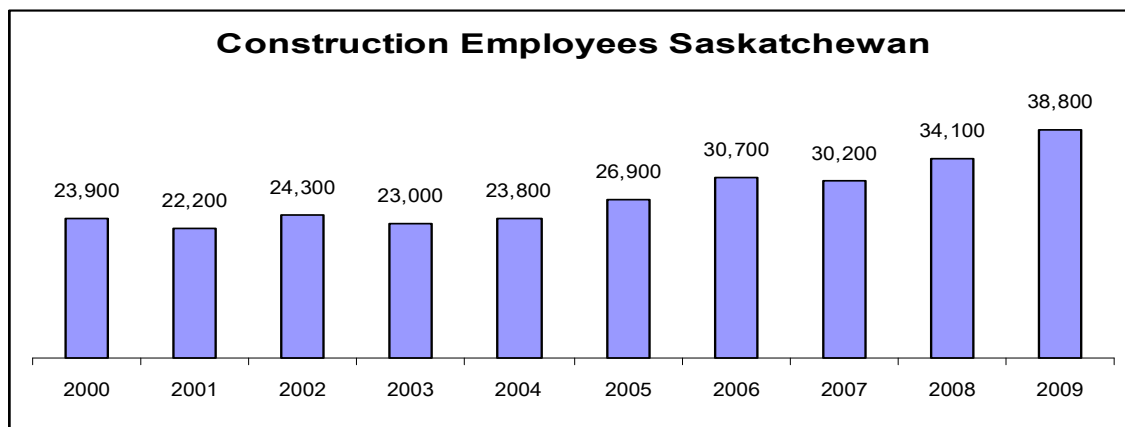
Merit Contractors Association and the types of construction companies it represents is a large sector, a large workforce and an industry that is vital to the economic well being of Saskatchewan.

We appreciate the opportunity to make this presentation today and outline why the construction sector is important to the Saskatchewan economy, why The Construction Industry Labour Relations Amendment Act is important, how Bill 80 delivers important changes and the positive outcomes we expect to accompany the passing of Bill 80.

## Construction Sector Impact on the Saskatchewan Economy:

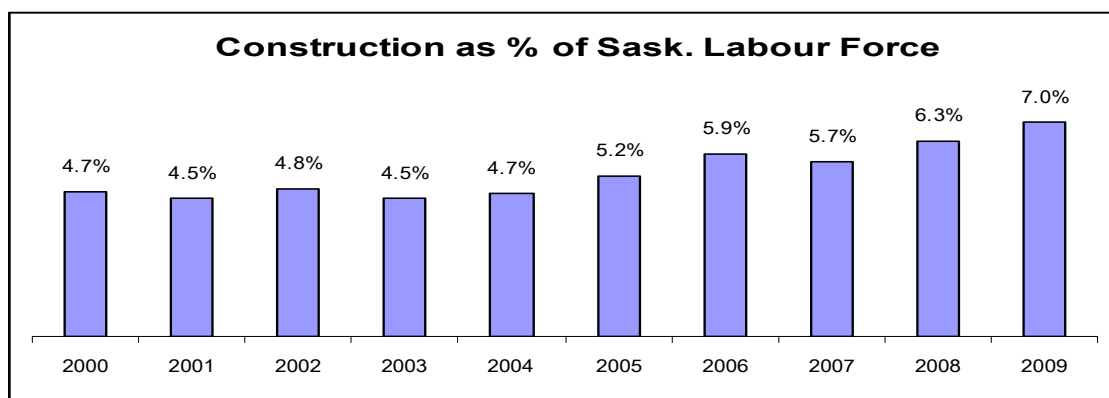
Today's construction sector in Saskatchewan is one of our province's key economic drivers. Rather than merely following the activity of primary industries, as some service sectors do, construction has become a source of economic wealth creation for the entire province.

Several measurements tell us this. First, the number of Saskatchewan people employed in construction has reached an all time high. In 2000, there were just under 24,000 employed in the construction sector. Nine years later, as of May 2009, the number of people employed in the construction sector in Saskatchewan reached almost 39,000. A 63% increase in the size of the construction workforce is an indication of the importance of the industry to the province.



Source: Saskatchewan Bureau of Statistics Economic Review – 2000 to 2008, Monthly Statistical Review May 2009

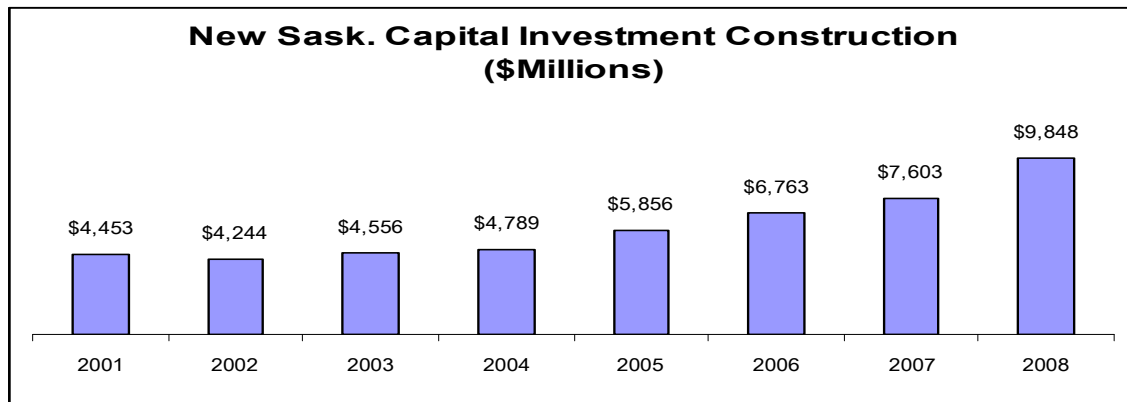
The second measurement of economic impact is the percentage of the provincial workforce that now earns its living in the construction field. In 2000, 4.7% of the provincial workforce earned a living in the construction industry. As at May 2009, that figure reached 7.0%. Again, that clearly shows the growing importance of the construction sector to the provincial economy.



Source: Saskatchewan Bureau of Statistics Economic Review – 2000 to 2008, Monthly Statistical Review May 2009

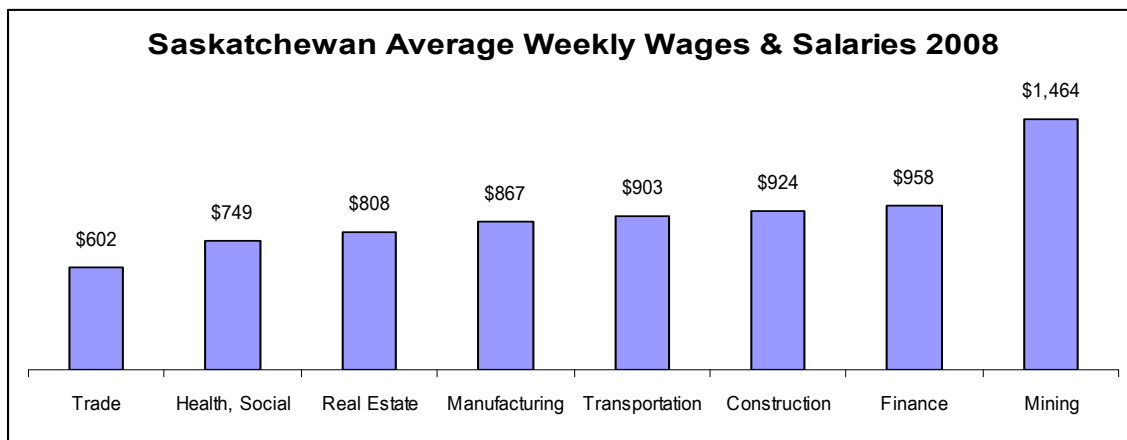
Indirect economic impact analysis also shows the significance of the sector. Using multiplier factors ranging from 1.0 to 2.0 per direct job, the common range in economic development practice, means the total impact of the construction sector in Saskatchewan is in the range of 75,000 to 100,000 jobs.

It is not surprising that more and more people are working in construction. Two factors are at play. First, there is more and more available work. The value of new capital investment construction has risen from \$4.5 Billion in 2000 to over \$9.8 Billion as of this past year. It more than doubled in less than a decade. And there is every indication it can continue under the right circumstances.



Source: Saskatchewan Bureau of Statistics Economic Review – 2000 to 2008

The second key factor in attraction of people to the sector is the wage levels. Across eight general employment categories, as reported by the Saskatchewan Bureau of Statistics, the average weekly wage in the construction sector is in the third position. Leading five other categories in wage levels is a significant reason the sector has been able to attract new personnel, from inside and outside Saskatchewan.



Source: Saskatchewan Bureau of Statistics Economic Review – 2008

## **The Importance of Bill 80:**

This recent and very notable upturn in the provincial construction picture is welcome news to everyone in Saskatchewan. But it hasn't always been that way.

In 1992, the Government of Saskatchewan amended labour legislation, doing so with no industry consultation, leading to a reduction of employer rights and employee choices.

The resulting Construction Labour Relations Association of Saskatchewan was established by the provincial government as the exclusive bargaining agent for unionized contractors in sixteen trade divisions.

There are differing views on whether that may or may not have been a reasonable solution at the time. There were, however, issues that clearly concerned much of the construction industry, not the least of which was that CLR was a virtual monopoly. The very question as to whether the legislated structure was valid under the charter of rights was seriously debated. But that protectionist system, even with the certainty that it would create infringement on employee and employer choices, and even with the potential for it to drag the construction industry to a crawl, was implemented. In hindsight, it proved to be heavy handed legislation with negative side effects.

But that era has passed. At one point in history, approximately 80% of construction companies in Saskatchewan were unionized. Today, the reverse is true. Whereas monopoly structures were once viewed by some as having the capacity to protect, in today's fast paced environment they are more likely to be seen as restraints.

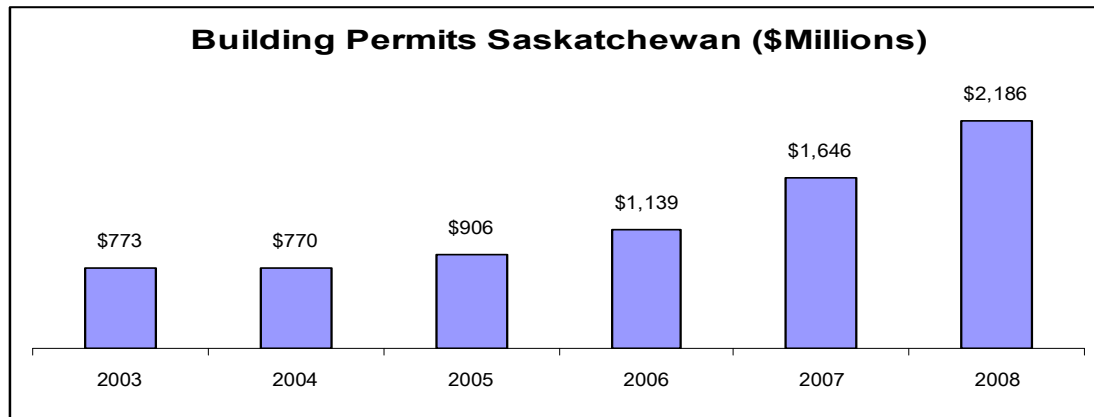
One area in which such restraint continues to exist is with union abandonment. The umbrella of uncertainty that hangs over companies that have had union agreements in place in the past, but where the union has not been active on behalf of employees, is not uncommon in our industry. The mere fact that the agreement and associated costs can be brought back into the picture, on a retroactive basis after years of inactivity, creates uncertainty for companies. This type of uncertainty causes them to hold back on some of the expansion they might otherwise pursue.

What the construction industry needs today and what the province needs today are new rules for a new Saskatchewan economy.

The Bill 80 initiative has the capacity to attract new workers, new residents, new projects, and new economic activity to Saskatchewan. Accomplishing that will go a considerable distance in avoiding the economic downturn that is occurring almost everywhere else in the world today.

Saskatchewan likely has, at present, the most vibrant economy in North America. This is our chance to capture and retain it. In the midst of global economic pressures, Saskatchewan is succeeding because it has the resources the world wants. As a result building and construction continue.

By way of example, building permits remain strong in all categories: residential, industrial, commercial, and institutional. Infrastructure projects are underway across the province. The list of upcoming projects for Saskatchewan is unparalleled almost anywhere in North America.



Source: Saskatchewan Bureau of Statistics Economic Review – 2003 to 2008

With this opportunity sitting in front of us, it is an appropriate time to ask a few questions:

- “Does anyone in Saskatchewan want to see these infrastructure projects delayed when the outcome of a delay may well be lost funding for the project?”
- “Does anyone in Saskatchewan want to see new job creating capital projects put on hold due to a shortage of qualified contractors, when the outcome of project delays may well be missed economic opportunities?”
- “Does anyone in Saskatchewan want to see a cap on the growth of our construction capacity when doing so could mean a delay or shortage of amenities, services or new infrastructure for residents of the province?”

There are billions of dollars of investment in projects, infrastructure and amenities planned right across Saskatchewan over the next few years. Our challenge will be to ensure the resources are available to construct these on time and on budget. Bill 80 addresses this issue.

A recent report from the Construction Sector Council indicates that employment in the construction sector will increase by seven percent in each of 2009 and 2010. That will continue with an expected peak in demand by 2014.

It is imperative the framework be put in place that will draw more and more people to work in the construction sector. Our industry needs the increased capacity. The province needs more companies and employees to increase the tax base. Taxpayers need the maximum degree of competition for projects to ensure the best possible value.

That, in turn, means that archaic, rigid processes that have operated in a monopolistic fashion must give way to a system that is fair and flexible. Bill 80 addresses this issue.

## **Issues Outside the Scope of Bill 80:**

While the focus of this review process is the set of proposed changes to “The Construction Industry Labour Relations Act, 1992”, the usual pattern is for those who oppose change to deliver, alongside views that are germane to the topic at hand, other non-related topics. We would hope the Standing Committee on Human Services will deal with these side issues appropriately.

The issue of safety will undoubtedly be raised by a few alongside the assertion that only union environments are safe working environments. The fact that this is unabashedly untrue appears not to deter those who reiterate this notion.

This is an industry that is constantly focused on safety. Safety training and a safety focus show up everywhere, day in and day out. This is provided through many sources – Occupational Health and Safety, safety inspections by government regulators, safety programs provided by companies, and through the industry via the provincial Construction Safety Association.

Some of the commentary will infer that union worksites are safer than others. This allegation denigrates the integrity of government officials who are committed to safety in all worksites and deserves no credence whatsoever.

Similarly, the issue of comparative wages between union and non-union environments is often tossed into the conversation. Anyone who lives and works in Saskatchewan certainly understands that the market for skilled, qualified employees has driven salaries and wages upward. Again, the “union vs. non-union” wage argument is a complete “red herring” given the labour shortage environment in which we operate and in which we will operate going forward.

Salaries, wages and benefits in the construction sector are such that this is an industry in which people make a very good living. These days, with constant upward pressure on wages because of the North America-wide shortage of skilled labour, the labour shortage is an issue that simply won’t disappear. But that is a function of a strong provincial economy – a status our association would like to see continued.

Similarly, the claim that the apprenticeship process will be disrupted or damaged is yet another unsubstantiated comment meant to shift the discussion away from what Bill 80 actually says. Apprenticeship is the responsibility of the Apprenticeship and Trade Certification Commission. Apprenticeship and the Commission are vitally important and remain in place. Finally, the entire issue of “union vs. non-union”, although often inserted into the commentary on the subject, is facetious at best. Bill 80 is not about changing the capacity to certify or decertify. It does not contemplate shifting that playing field.

Merit Contractors Association hopes the deliberations of the review panel will be allowed to remain on target, with a full and healthy discussion about the actual content of this proposed legislation.

## **Important Changes in Bill 80:**

*Bill 80 provides freedom of choice to employees.*

Current regulations dictate to employees which unions they have permission to join and exclude all other choices. It is difficult to fathom how this restrictive approach fits with the current employment market.

Additionally, the current system divides the construction labour force along craft jurisdictional boundaries. Who is served by this model? It certainly would not be employees who might wish to cross over into alternative disciplines. This restrictiveness constrains anyone who might want to move into a different field of construction work. It also restricts unionized employees who might feel that another union would better serve their interests as they are locked in by legislation that creates monopoly control. This current level of restrictiveness is hardly consistent with democratic choice.

Freedom of choice means that employees who wish to do so can join any union that they feel represents their interests. That includes the freedom to continue with the current system if they see fit. Why should an act of the Legislature take away that freedom of choice? There is simply no logical explanation aside from the fact that this is the way things have been done in the past. Bill 80 addresses that fundamental issue.

*Bill 80 provides freedom of choice to employers:*

The current legislative model is out of date and restrictive. It completely diminishes freedom of choice for employers, just as it does to employees.

In what other Saskatchewan sectors are employers forced to belong to only one employer association? Or forced to bargain collective agreements through only one employer association? The answer is none. This inappropriate and unwarranted restriction does not exist in other sectors. Nor should it.

Freedom of choice says employers should be able to enter into agreements with other employer representative groups if they are of the view that the current association is not serving their needs effectively. To restrict employer choice in this area is, again, unwarranted. Bill 80 also addresses this fundamental issue.

*Bill 80 deals with the union abandonment issue:*

Bill 80 addresses the issue of union abandonment in a manner that is reasonable and rational. It also brings Saskatchewan's legislative environment in to line with into line with other provinces.

The issue is significant because, under the current system, historical labour agreements can be brought back to the table after years or decades of inactivity. The threat of that type of disruption is significant. In numerous situations, construction companies had union agreements in place decades ago, but the employees had not been actively represented by that particular union for many years. Recent judgments such as the Saunders Electric case, where it was ruled that a decades old labour agreement was still

in effect, place undue financial penalties on companies whose employees have been unrepresented by that particular union for years and years.

It is completely unreasonable that that any company, union, government agency or organization should be able to ignore their customers or constituents for years, sometimes for decades, and suddenly turn around and demand back pay. In no other arena is there such latitude for neglecting duties on one hand, and then have a legislated mechanism for collecting fees for work not done on the other hand.

The Bill 80 clause that places a three year limitation on enforcement of labour agreements when a union has abandoned its representative responsibility is a reasonable compromise. Bill 80 is worthy of support because it addresses this issue.

## **Recommendations of Merit Contractors Association on Bill 80:**

Bill 80 is a measured, responsible step, headed in a reasonable direction. It reflects today's economic environment.

Members of the review panel will undoubtedly be warned it represents everything from the destruction of the labour relations environment to the end of civilization as we know it. Such is the nature of review processes and the accompanying statements of hyperbola that are designed to capture attention and headlines. Unfortunately, creating more heat than light does not solve legislated quagmires.

Merit Contractors Association firmly believes Bill 80 is worthy of support for several reasons:

- Bill 80 replaces an archaic, rigid process with a democratic and flexible framework.
- Bill 80 replaces monopolies, perhaps inadvertently created by previous legislation, with fair and open competition.
- Bill 80 significantly expands freedom of choice to both employers and employees.
- Bill 80 is focused on removing yesterday's restrictive, overbearing legislation in favour of a framework that looks at the broader picture and creates expanded opportunities.

But the positive impact of Bill 80 goes even further. It supports economic growth in Saskatchewan. This legislative initiative has the ability to create increased competition and, in the process, attract new companies, new members of the workforce and new residents to the province.

Saskatchewan people clearly want services, amenities and employment opportunities sooner, rather than at some distant point in the future. Vital to the achievement of all these positive outcomes is ensuring that the construction industry and construction jobs continue to grow.

The best path to the expansion of the sector is to ensure the industry is fundamentally competitive by operating in a legislative environment that features freedom of choice.

Bill 80 will be positive for the provincial economy and to the interests of Saskatchewan residents by building on freedom of choice at a time when our opportunities have never been greater.

Merit Contractors Association is completely supportive of Bill 80. We believe the time for this constructive change is now.