



## POLICY BRIEF 001—2021

**Re: Proposal to Amendment Section 117(3) of the Labour Act****PART I****Synopsis:**

The government's tendency to unilaterally enact unplanned and unbudgeted public holidays carries a sharp cost on payroll and productivity, a fact that is compounded during the current economic downturn. Nevertheless, despite the Belize Chamber of Commerce and Industry (BCCI) having communicated this concern to the relevant authorities over the years, this practice of bypassing the tripartite mechanism to implement such changes that impact payroll costs has continued unabated.

**The Problem:**

At issue, however, is not so much the matter of the holidays as much as it is the additional *unplanned* payroll costs incurred by employers. As pointed out in [Annex A](#), these costs could be substantial, especially for MSMEs.

**Proposed Solution:**

Given that the costs—and not necessarily the “Holidays”, per se—are the problem, then there is value in exploring the possibility of amending the Holiday Act so as to bring about the following effects:

- That no newly enacted public holiday can carry payroll implications on an employer until after a prescribed notice period of at least 365 days;
- That there be a ceiling set on the number of public holidays allowable in any given year;
- No new public holiday can be declared without the congruence of the tripartite partners via the Labour Advisory Board (LAB).
- To establish a “Fixed Date” by which announcement regarding non-emergency public holidays are to be declared.

The proposed language to help bring about the aforementioned effects is illustrated in Part II of this document.



Additionally, the Government's January 8<sup>th</sup> 2021 Parliamentary Motion on this matter speaks to the formation of a Committee that would serve as the principal forum via which these types of changes can be communicated. Nevertheless, given that this matter carries significant interest for employees, it remains advisable that the unions be first consulted.



**PART II**  
**Proposed Amendments to the Holiday Act**

The following serves as an illustration of the proposed amendments to the [Holiday Act](#) that is designed to bring about the following effects:

- a) That no newly enacted public holiday can carry payroll implications on an employer until after a prescribed notice period of 365 days;
- b) That no newly enacted *Special Day* can carry payroll implications on an employer; and/or
- c) No new public holiday can be declared without the congruence of the tripartite partners via the Labour Advisory Board (LAB).

**NOTE:** The texts **highlighted** throughout this document are the proposed NEW language to be inserted into the Holiday Act.

<b>Proposed Amendments to the Holiday Act, Revised 2011</b>	
<p>PART I</p> <p><i>Preliminary</i></p> <p><b>1.</b> This Act may be cited as the Holidays Act.</p> <p><b>2.</b> In this Act, unless the context otherwise requires,</p> <p>“bank holiday” means the days mentioned in the Second Schedule;</p> <p>“day next following a public holiday” means the next following day not being itself a public holiday;</p> <p>“day following a bank holiday” means the next following day not being itself a public or bank holiday;</p> <p>“public holiday” means the days mentioned in the First Schedule.</p>	



<i>Public and Bank Holidays and Public Office Hours</i>	
<p><b>3.—</b>(1) The several days mentioned in the First Schedule shall be kept, except as hereinafter provided, as public holidays in Belize and shall, in addition to Saturdays and Sundays, be <i>dies non</i>.</p>	Certain days to be public holidays. 27 of 1985
<p>(2) <b>—Subject to subsection 3(5),</b> if any of the holidays specified in the First or the Second Schedule falls on a Sunday, the following Monday shall be observed as a public and bank holiday in substitution for Sunday unless otherwise ordered by the Minister by Order published in the <i>Gazette</i>.</p>	20 of 1989
<p>(3) —If any of the holidays specified in subsection (4) of this section, falls on a Tuesday, Wednesday or Thursday, it shall be observed on the previous Monday in substitution for such day, and if any of the aforesaid holidays falls on a Friday, it shall be observed on the following Monday in substitution for such day, unless otherwise ordered by the Minister by Order published in the <i>Gazette</i>.</p>	
<p>(4) —The holidays to which subsection (3) of this section applies are the following,</p> <ul style="list-style-type: none"> <li>(a) the ninth of March - (Baron Bliss Day);</li> <li>(b) the twenty-fourth day of May - (Sovereign's Day);</li> <li>(c) the twelfth day of October - (Columbus Day or Day of the Americas)</li> </ul>	
<p>(5) <b>—The Minister shall, in consultation with the Labour Advisory Board established under section 19 of the Labour Act, endeavour, as much as reasonably possible, to ensure that in applying subsection 3(2) the number of public and bank holidays in any one calendar year shall not exceed <u>fourteen days</u>.</b></p>	
<p><b>4.</b> —Any act requiring to be done by or before any judge or officer of any court or by or before any public officer upon any day which is a public holiday may be lawfully done upon the day not being a public holiday next following such first-mentioned public holiday.</p>	



<p><b>5.</b> —Subject to section 3 of this Act, the several days in the Second Schedule shall be kept as close holidays in all banks in Belize.</p>	
<p><b>6.</b> —All bills of exchange and promissory notes which are due and payable on any bank or public holiday shall be payable and in case of non-payment may be noted and protested on the next following day, and every such noting or protest shall be as valid as if made on the day on which the bill or note was made due and payable.</p>	<p>Bills due on bank or public holidays to be payable on the following day.</p>
<p><b>7.</b> —When the day on which any notice of dishonour of an unpaid bill of exchange or promissory note should be given or when the day on which a bill of exchange or promissory note should be presented or received for acceptance or accepted or forwarded to any referee or referees is a bank or public holiday, such notice of dishonour shall be given and such bill of exchange or promissory note shall be presented or forwarded on the day next following such bank or public holiday.</p>	<p>Provisions as to notice of dishonor and presentation for honour.</p>
<p><b>8.</b>—(1) No person shall be compelled to make any payment or to do any act upon such bank or public holiday which he would not be compellable to do or make on Sunday, and the obligation to make such payment and do such act shall apply to the day following such bank or public holiday.</p> <p>(2) The making of such payment and doing such act on such following day shall be equivalent to payment of the money or performance of the act on the holiday.</p>	<p>Payment on bank or public holidays.</p>
<p><b>9.</b> —(1) Subject to subsections (2) to (4), it shall be lawful for the Minister by Order published in the <i>Gazette</i> at any time to appoint either throughout Belize or in any part thereof or in any town or district therein a special day or any part of a day to be observed as a public and bank holiday in addition to or in substitution for any of the days mentioned in the First Schedule and thereupon the provisions of this Act shall be applicable to such day or part of such day in the same manner as if the said day or part of such day had been mentioned in the said Schedule.</p> <p>(2).—Before the introduction of any special day to be observed as a public and bank holiday in accordance with <i>section 9(1)</i>, the Minister <b>shall first</b> consult the Labour Advisory Board established under <i>section 19 of the Labour Act, Cap 297</i></p>	<p>Minister may appoint special days to be observed as bank and public holidays</p>



<p>(3)— The Minister shall, in consultation with the Labour Advisory Board established under <i>section 19 of the Labour Act</i>, ensure that the number of public and bank holidays in any one calendar year <b>shall not exceed fourteen days</b>.</p> <p>(4) —No special day, whether temporarily or permanently added to the First or Second Schedules of this Act, shall come into force until a minimum of <b>three hundred and sixty-five days</b> has passed since the Minister’s Order was published in the Gazette.</p> <p>(5)—Pursuant to subsections 2 to 4, the Minister shall endeavour, as much as reasonably possible, to publish in the Gazette the schedule of public and bank holidays for the upcoming calendar year by no later than the last day of the month of September.</p>	
<p><b>10</b> An absconding debtor shall not be exempt from arrest by warrant on either a public holiday or a bank holiday</p>	
<p><b>11.</b>—(1) The public offices, including the summary jurisdiction courts, shall be open daily throughout the year except on Saturdays, Sundays, public or bank holidays during such hours as the Minister may from time to time direct,</p>	
<p>Provided that the Minister may from time to time make regulations excluding in whole or in part from the operation of this Act any public office or any department thereof and thereupon all acts and things relating to such public office or department thereof may be done and performed on any public holiday notwithstanding the provisions of this Act.</p>	
<p>(2) Where by any Act or subsidiary legislation made under such Act, and which is not amended in any particular provision by this Act, any public office is required to be kept open on all days other than a Sunday or public holiday, the reference to a Sunday or public holiday shall include a Saturday, and any act or thing may be done on any day from Monday to Friday which is not a public holiday unless that act or thing is required to be done on a Saturday by any special directive of the Minister, by the Public Service Regulations or by an order of a superior officer in charge of the office</p>	





## CT

## Public Holidays

*[Sections 2, 3, and 9]*

- F  
I  
R  
S
1. The first day of January.
  2. The ninth day of March (Baron Bliss Day).
  3. Good Friday.

C  
H

  4. The day after Good Friday.

E  
D

  5. Easter Monday.
  6. The first day of May (Labour Day).

L  
E

  7. The twenty-fourth day of May (Sovereign's Day)
  8. The tenth day of September.

H  
D

  9. The twenty-first day of September (Independence Day).

L  
I

  10. The twelfth day of October (Columbus day or Day of the Americas).

A  
Y

  11. The nineteenth day of November (Garifuna Settlement Day).
  12. Christmas Day.
  13. The twenty-sixth day of December.





**THE SUBSTANTIVE LAWS OF BELIZE  
2011**

**REVISED EDITION**

Printed by Authority of the  
Government of Belize



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*Holidays***[CAP. 289]**

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**SECOND SCHEDULE****HOLIDAYS ACT****Bank Holidays***[Sections 2 and 5]*24 of 1976.  
10 of 1982.  
27 of 1985.

1. The first day of January.
2. The ninth day of March (Baron Bliss Day).
3. Good Friday.
4. The day after Good Friday.
5. Easter Monday.
6. The first day of May (Labour Day).
7. The twenty-fourth day of May (Sovereign's Day).
8. The tenth day of September.
9. The twenty-first day of September (Independence Day).
10. The twelfth day of October (Columbus Day or Day of the Americas).
11. The nineteenth day of November (Garifuna Settlement Day).
12. Christmas Day.
13. The twenty-sixth day of December.



**ANNEX A:** Discussion Paper on Unplanned public holiday Expenditure

**Discussion Paper:**  
Unplanned Expenses Incurred Due to “Unplanned” Public Holidays

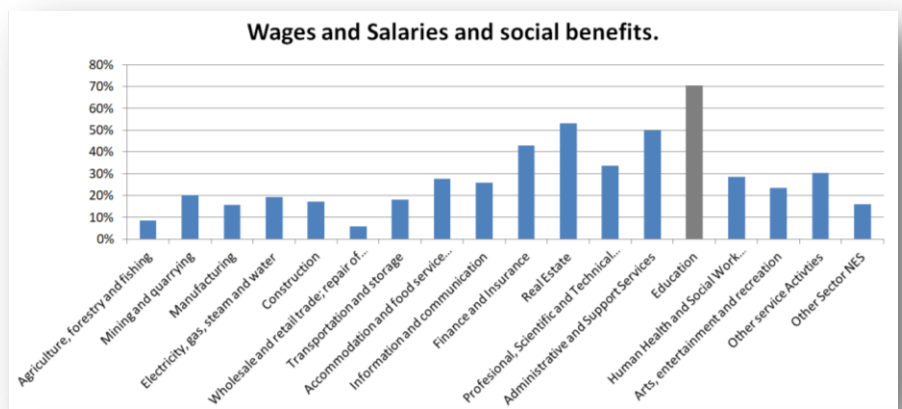


## I—Report on Average Payroll Cost

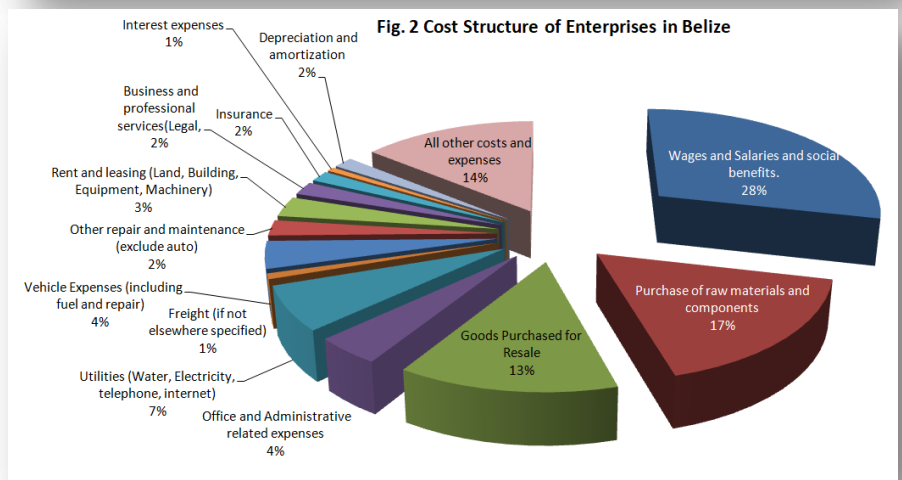
### Introduction

1. The Belize Chamber of Commerce and Industry (BCCI), the largest Business Support Organization in Belize and the International Labour Organizations (ILO)’s Employers representative, serves as the leading private sector advocacy body on behalf of the Belizean private sector. This function is executed in various ways, including direct negotiations with relevant stakeholders and policymakers.

2. To help in that process, data is always an indispensable commodity as it helps to inform the BCCI’s conversations and advocacy positions. It is with this objective in mind that the BCCI conducts regular surveys, including the recent Labour Cost Survey, the results for which are presented below. This data is deemed useful especially when it pertains to the BCCI’s advocacy efforts on matters associated with any public policy that is likely to increase such expenditures.



3. Generally, industry benchmarks indicate that payroll-related costs amount between 15% and 30% of total expenditure is acceptable for most businesses<sup>1</sup>. For the Business Establishment Survey (BES) conducted by the Statistical Institute of Belize, this was estimated at an **average of 28%** of total expenditure.



4. Of course, as can be seen from the **Figure 1**, the

<sup>1</sup> See here: <https://smallbusiness.chron.com/much-gross-revenue-should-payroll-18985.html>



magnitude of this particular expense item varies by sector, with the *Real Estate* sector reporting payroll expenditure above 50% of total expenditure. Wholesale and Retail sectors (along with motor vehicle repair) come in the lowest at 6%. **Figure 2** informs on the averages for other expenditure areas.

5. Possibly most useful, however, is the *Expenditure-Revenue Ratio* provided by the BES.

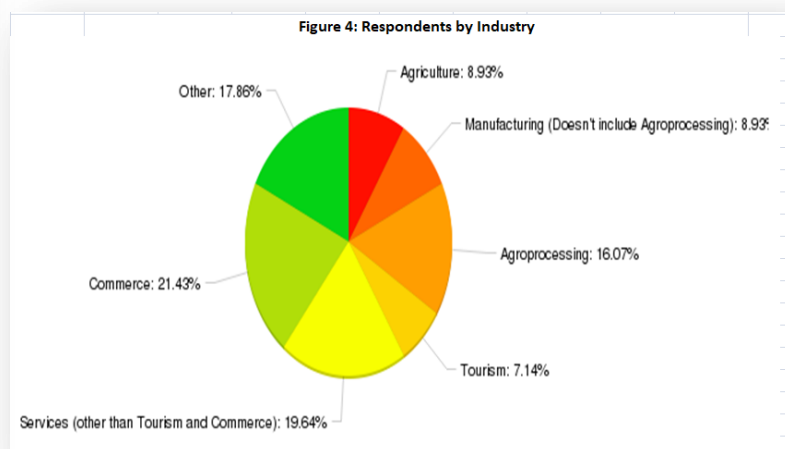
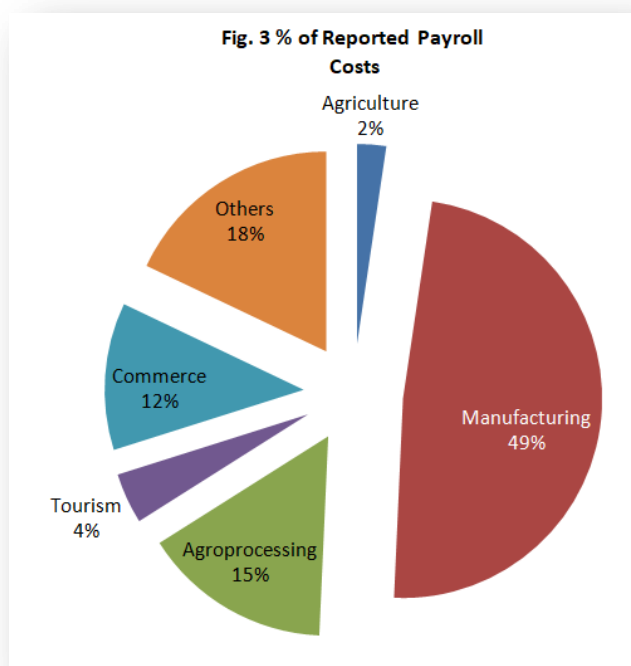
Table 1: Total Revenue and Expenditure by Industry (Millions of Dollars)			
	Total Revenue	Total Expenses	Expense/Revenue Ratio
Agriculture, forestry and fishing	865	606	0.70
Mining and quarrying	123	70	0.57
Manufacturing	733	480	0.65
Electricity, gas, steam and water	264	70	0.27
Construction	254	183	0.72
Wholesale and retail trade; repair of motor vehicles and mot	3,123	2,365	0.76
Transportation and storage	58	42	0.73
Accommodation and food service activities	195	131	0.67
Information and communication	238	153	0.65
Finance and Insurance	29	18	0.63
Real Estate	7	5	0.71
Professional, Scientific and Technical Services	163	109	0.67
Administrative and Support Services	53	36	0.68
Education	114	99	0.87
Human Health and Social Work Activities	88	50	0.56
Arts, entertainment and recreation	3	2	0.79
Other service Activities	23	16	0.69
Other Sector NES	16	14	0.88
<b>Total</b>	<b>6,348</b>	<b>4,449</b>	<b>0.70</b>
<b>Source: SIB's Business Establishment Survey, 2016</b>			



- As illustrated in *Table 1*, this ratio—which is fairly heterogeneous across the various sectors—averages at 70% of revenues, according to the BES (2016). Naturally, it is prudent to assume that revenues have been reduced significantly for several sectors, so has certain variable costs.

## II—Results of BCCI’s Average Daily Labour Cost Survey

- With the foregoing providing a type of “business as usual” context, the rest of this Discussion Paper outlines the results of the BCCI’s Daily Average Labour Cost Survey (“The Survey”). The Survey specifically sought to glean from employers the daily payroll cost for which they must budget and plan throughout the year. Thus far, however, there have only been 56 respondents<sup>2</sup>.



8. Nevertheless, based on the presently available results, single-day, average payroll costs amount to **\$209,042.73**. Given the number of respondents this amounts to an **average daily payroll cost** of (sample mean=) **\$3,733**. *Figure 3* shows that the manufacturing sector, which, as shown in *Figure 4*, only accounts for less than 9% of the responses given, is responsible for just about half of the total reported payroll costs reported.

<sup>2</sup> **Note:** This is clearly not the most representative of samples, as the margin of error would need to be above ±10.9% to satisfy a confidence level of 90%.



### III—Implied Labour and Opportunity Costs of Unplanned Closures

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9. As stated earlier, the data gathered is useful for advocacy purposes. One such purpose is as it pertains to unplanned declarations of public and bank holidays. For example, both in 2019 and 2020 there have been instances in which the Government has declared an “unplanned” public and bank holidays either by shifting the day of observance or by creating such a holiday anew.
10. There are two immediate costs incurred whenever this is done: The lost daily **average** revenue due to the closure (which also impairs productivity), and the overtime costs that employers are mandated by law to pay in the event they remain open on the said public and bank holiday. A third cost would be the fact that standard payroll costs are incurred for a day of zero productivity.
11. In terms of the lost revenue, this is clearly challenging to pin down due to several factors, not least of which has to do with the reality **that businesses do not necessarily earn the same average revenue each working day**. It is very possible, for example, that some entities may only earn income one day out of the week that covers the remaining weekdays. It is also possible that some business models—such as that utilized by food processors—do not rely on factory-door sales, but rather could be closed for the day and still earn revenue due to sales at convenience stores located throughout the country.
12. Nevertheless, it is possible to derive a “shadow” estimate of the average revenue lost by using the data from the BES discussed in *Section I*. Specifically, if it is accepted that payroll expense averages at 28% of expenditure, and total expenditure is 70% of revenue, then it is possible to suggest that under “normal” circumstances payroll cost is 19.6% of Revenue on average. Consequently, given that the average daily payroll is estimated at **\$3,733**, it is possible to estimate average daily revenue as **\$19,045<sup>3</sup>**.
13. Looked at from a different perspective, it is possible to say that the potential revenue is roughly **5 times more than the payroll costs incurred**. Additionally, based on the survey results, only twelve employers answered the “optional” question regarding average daily revenues. This yields average daily revenue of **\$24,300**. However, considering that 12 responses is an even smaller response rate out of the total BCCI membership, the estimated revenue figure from *paragraph 12* is preferred. *That having been said, it is worth noting that those 12 respondents represent about 3.4% of BCCI’s membership, a fact that shall be revisited at paragraph 16 below.*

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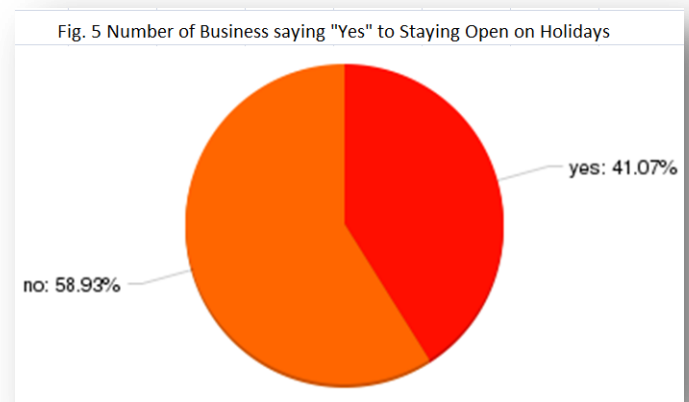
<sup>3</sup> Note: IF payroll is 28% of Total Expenditure on average. And Total Expenditure is 70% of Revenue, then payroll is 19.6% of Revenue ( $=.28*70$ ).



14. At this juncture, it is imperative that the reader be reminded that the foregoing averages in *paragraph 12* are based on only a **16% response rate** among BCCI three hundred fifty (350) members and an even lower response rate among the entire private sector, which estimates place anywhere between 9,000 and 13,000 businesses. Furthermore, a probability sampling method was *not* employed. The results above are largely derived from a non-probability sampling method that could loosely be described as being either *purposive* or convenience sample. These factors demand that all averages be used judiciously.
15. With that caveat having been reiterated in the preceding paragraph, it is possible to argue (at least for discussion purposes) that the total average economic cost is **\$22,778** (i.e. \$3733 + **\$19,045**). For discussion purposes, it is also possible to say that if the total average<sup>4</sup> economic cost is almost \$23,000 **per individual business**, then multiplied 350 BCCI members, that figure could represent an actual aggregate loss of approximately **\$8 million**. (See footnote 4 below).
16. As a type of robustness test, it is useful to return to total revenue reported by those 12 respondents who answered the optional question. The *actual* total revenue reported per day for this group amounts to \$243,000. As was mentioned at *paragraph 13*, this group represents only 3% of the BCCI membership; therefore, it is worth noting that 3.4% of the total estimated revenue loss (i.e \$6.7 million) is about \$230,000.
17. As a final note regarding the revenue, it must be underscored that due to the fact that not all businesses are closing, then it is inappropriate to say that 100% of revenue would be forgone. As stated earlier, close to 40% of the firms indicate that they're likely to remain open. As a result, it possibly more accurate to say that revenue lost is closer to \$4 million among this group.

### The Matter of Overtime

18. The foregoing, of course, does not account for the fact that not all companies will be closed during a Public and Bank Holiday. As shown in **Figure 5**, roughly **41%** of the responding employers say that they tend to remain open on Public and Bank Holidays.
19. Isolating only those respondents' average



<sup>4</sup> **Note:** This average is a "simple average". It is possible to have employed a weighted average. Additionally, there is scope to argue that the large firm whose payroll costs account for close to 30% of reported amount to have been treated as an outlier and omitted.





daily payroll cost, we obtain the figure **\$6349**. One would note that this figure is higher than average presented above (i.e. **\$3733**). This is due to the fact that the 41% remaining open reflect the group with higher payroll obligations. Many of the smaller firms whose payroll costs were significantly lower have indicated that they will most likely be closed on a public holiday.

20. Assuming that there is no Collective Bargaining Agreement (CBA) that provides even more favorable conditions than those laid out in the Labour Act, these employers shall pay their overtime workers at *a time and a half* rate. Consequently, the abovementioned average will climb by more than just about \$3,175 to \$9,523. Again, considering that this is treated as a per-company average, it is possible to suggest that the actual, **overtime** out-of-pocket cost incurred by this group could amount to about **\$455,600**<sup>5</sup>.
21. That additional Overtime cost (**\$455,600**) could be added to the \$8 million from paragraph 12 to yield a total estimated economic loss of approximately **\$8.5 million**.

## IV—Concluding Remarks and COVID 19's impact

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22. The foregoing, as mentioned before, is plagued by a low sample size that challenges the statistical power of the results of the survey. That fact notwithstanding, this Discussion Paper was designed to serve as a tool to illustrate the potential costs faced by employers when there are sudden changes in scheduled public holidays.
23. One salient point that was not raised in the preceding sections is the fact that the Coronavirus pandemic has eroded revenues. Therefore, even while it is possible to employ the idea that the average payroll accounts for 19.6% of revenue, it is very likely that this ratio has increased as revenues have plummeted. As a result, the impacts of a 'sudden' addition of labour costs would be all the more challenging for the private sector to withstand. That said, the total economic loss **among BCCI members** may be as follows:

- a. Total Out of Pocket Standard and lost Revenue – **\$8 million**;
- b. Total Overtime Costs (at time and a half) – **\$455,600**;

This yields a potential one-day economic loss of close to **\$8.5 million**, at minimum.

## V—the Social Cost of COVID 19

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<sup>5</sup> **Note:** The \$3175 is multiplied by 144 (i.e. 41% of 350).



24. While this Discussion Paper looks at “unplanned” labour costs in general, it however cannot be overlooked that the most immediate example is associated with the November 11<sup>th</sup> 2020 General Election that has been declared a holiday. The issue is found at the nexus between weighing the social costs of a potential acceleration of the transmission rate due to the super-spreader-event nature of a non-holiday General Election Day and the costs to the Employers as discussed in earlier sections.
25. As outlined in [ANNEX A](#) of the BCCI’s Private-Public Sector COVID 19 Response Strategy (“The Strategy”), Belize’s healthcare system is fast approaching its “surge capacity” threshold, with the current trajectory estimating that there will be a shortage of Intensive Care Unit (ICU) facilities for COVID 19 positive patients that require hospitalization. **This public policy matter must similarly be weighed next to the economic costs.**
26. The policymakers may indeed rejoin with an observation that if there is an acceleration of the spread of the disease (beyond what has been occurring thus far), there would be need to increase the public health restrictions akin to what had occurred earlier this year when non-essential businesses were ordered closed. As things presently stand, Belize is operating under what the Centre for Disease Control (CDC) describes as “Medium Intensity” restrictions. However, an augmented *transmission rate* may force “High Intensity” restrictions, which would cause more than one day’s worth of economic losses.
27. Fundamentally, it is impossible to easily separate the “social and health” policy considerations from this matter. The BCCI’s recommendation to hold the General Elections on a Sunday was a rational proposal; however, it was unfortunately rejected as a very influential group of stakeholders (the Church) “informally” objected. This type of scenario may undoubtedly recur and it would be advisable to first negotiate with high-influence stakeholders so as to garner their support before approaching the policymakers.
28. Of course, even that strategy of reaching out to the clergy could have failed, thereby, leading to an alternative route: A compromise wherein the government could have enacted an amendment to the Labour Act that would have excused employers from having to take responsibility for the “unplanned” labour costs. That is to say, an amendment could have been added after *section 117(3)* of the Labour Act that reads:
- (3) All work done on public holidays other than Christmas Day, Good Friday and Easter Monday, which fall on a scheduled work day on which a worker would have worked but for the public holiday, shall be paid for at one and one-half times his ordinary rate of pay.



***(4) Subsection (3) shall not apply to any public holiday declared due to a state of emergency, or in an effort to reduce the spread of any infectious disease.***

29. Less than 30 words could have alleviated the disquiet of the business community as it pertains to **the overtime** out-of-pocket costs<sup>6</sup>, satisfied the churches, and at the same time effectuated the plan to minimize the spread of COVID 19 on Election Day.

30. It must be noted that Parliament was not officially dissolved until October 6<sup>th</sup>, 2020. Consequently, there remained sufficient time to have made such an amendment to the legislation for this purpose.

31. As shown in the accompanying image, the Prime Minister's September 30<sup>th</sup> letter spoke to being unable to "get Cabinet's approval for holding this year's General Election on a Sunday"; however, it is silent to whether or not Cabinet discussed any legal alternative as the one outlined above.



32. Naturally, any such amendment may have been met by opposition from the workers' representatives (the unions); however, it would suffice to point out that their workers would not have been placed in any position that they otherwise would not have been in already. Additionally, the economic case could be made.

33. Similar to the recommendation to consult with the churches, it would have nevertheless been ideal to negotiate the language of such an amendment with the likes of the *National Trade Union Congress of Belize* to ensure that they were supportive of the measure *prior to* any communication with the Government of Belize. The entire discussion could be premised on the inescapable socio-economic realities brought about by the pandemic-induced "Great Lockdown" Recession.

<sup>6</sup> **Note:** Such an amendment would not address the forgone revenue.

