



Economy, Law & Politics

# Employers ready legal assault on construction hiring policy

Contractors, unions on opposite sides of an issue that could be heading to BC Supreme Court

By Hayley Woodin | February 19, 2019, 6:45am



**Next week, a coalition of contractors and associations will tell the BC Supreme Court that the province's new community benefits agreement (CBA) framework breaches workers' constitutional rights, and that the matter needs to be heard in court.**

B.C.'s attorney general and Ministry of Transportation and Infrastructure will argue that the BC Labour Relations Board is the appropriate venue for the petitioners'

complaints.

This is a debate about where to debate the main issue, which is whether a CBA on two publicly funded infrastructure projects expected to cost B.C. more than \$1.8 billion can fairly require workers to come from or join a select group of unions within 30 days of being on the job.

“This is a political decision, ultimately,” said Ryan Bruce, the B.C. manager of government relations for the Christian Labour Association of Canada (CLAC), an independent union that has signed on to the petition.

“The unions that were chosen have been donors to the [BC] NDP. They’ve been donors to the NDP party for a long time. In our view this is political payback.”

The province’s master CBA framework is a 336-page document that defines the relationship between BC Infrastructure Benefits Inc. – a Crown corporation created last year by government – and the Allied Infrastructure and Related Construction Council of British Columbia. The former will employ union workers represented by the latter on two projects: the \$1.38 billion Pattullo Bridge replacement and a Trans Canada Highway expansion between Kamloops and Alberta, earmarked to receive \$464 million.

Contractors without union relationships aren’t precluded from bidding on either project, but they must accept that labour will be supplied by BCIB under the CBA’s terms, which stipulate that workers up to a certain rank must come from or join one of 19 trades unions.

The union requirement is one part of an agreement billed by government as a way to deliver apprenticeship training, increase hires from underrepresented groups and ensure fair wages for workers.

BC Building Trades – an umbrella organization that represents, is affiliated with or is related to the 19 unions listed under the CBA – said the union requirement will help ensure that government achieves its broader training and hiring objectives.

“We’re in the business of supplying skilled labour and training labour,” said BC Building Trades executive director Tom Sigurdson.

“You have to compare our success with the lack of participation from the non-union side, and then take a look at why the government has come to us or worked with us to try and increase the skilled-trade level.”

That comparison has sparked a public debate about how best to support the development of skilled workers in B.C.

Sigurdson and union leaders believe industry has fallen short without a government mandate in place. “The track record’s pretty poor,” said Brian Cochrane, business manager with the International Union of Operating Engineers Local 115, which represents 11,000 members. “We’re the ones that have invested through good times and bad into the training institutions that do continue to train skilled trades people.”

Industry strongly disagrees, and those represented in the petition have argued that the CBA is not the most efficient way of achieving training and hiring objectives.

“We would have been able to reassure [government], had they asked, that industry today and for some time has had initiatives ongoing that help drive apprentice programs,” explained Fiona Famulak, president of the Vancouver Regional Construction Association (VRCA), which is petitioning government over the CBA.

“The public policy that they’ve created is a solution looking for a problem.”

Doug Parton, business manager of International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers Local 97, says his union is nearly fully responsible for training ironworker apprentices. When he asked the Industry Training Authority (ITA) for data, he said he realized 94% of the 315 indentured ironworker apprentices in B.C. had an attachment to his shop. He also said that 20-25% of his 1,600 actively working members are indigenous.

LMS Reinforcing Steel Group Inc., whose employees rejected a trade union model, says it employs more women, First Nations and new immigrant ironworkers in B.C. than the trade union on a percentage basis. The company has said its B.C. crews include 48 First Nations workers.

“The question comes down to: how is best to do it?” said Dan Baxter, director of policy development, government and stakeholder relations with the BC Chamber of Commerce, which has adopted the CBA as one of its key policy items, and is also one of the petitioners on the legal action.

“I think we can have the best of both worlds where we drive community benefit, as well as making sure that we don’t drive up cost through a restrictive project labour agreement.”

The “how-best” debate is far from settled.

Cardus, a faith-based think tank based in Hamilton, has argued that requirements in CBAs – also referred to as project labour agreements (PLAs) – can reduce the diversity of bidders on a project. The organization has released research that suggests fewer and

less diverse bids – particularly from contractors with non-unionized workforces – can add 8% to 25% to a project’s costs.

Research from Nicholas J. Marantz, an assistant professor at the University of California, Irvine’s department of planning, policy and design, found that CBAs in Los Angeles didn’t necessarily fulfil all of their objectives: targeted hiring outcomes for example were unknown due to a lack of information. It did find that such agreements can help direct public and private spending to underserved communities.

There is at least one point on which all sides appear to agree: B.C.’s looming skills shortage needs to be addressed. By 2021, industry employment group Buildforce Canada estimates, the province will need to recruit 14,600 workers to supply its construction and maintenance industry. Around 88% of that need will come from non-residential projects, including work on LNG Canada and Coastal GasLink infrastructure, highway improvements and Site C.

Both government and its petitioners are expected in court on February 27 to argue where legality of the CBA should be debated.

According to the Elections BC financial reports and political contributions system, the unions included in the CBA have donated more than \$2.3 million to the BC NDP over the last 15 years, and more than \$71,000 to the BC Liberals.

Collectively, the organizations and individuals petitioning the government over the CBA framework have donated around \$5,600 to the BC NDP, and more than \$586,000 to the official opposition.

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