

Redford's Bill 46 Likely Unconstitutional. Alberta Unions Will Fight it in the Courts...And Win.

Wages and working conditions for Alberta's public sector workers are set out in collective agreements. These agreements are negotiated, in good faith, between the government and the affected unions.

If either party tears up those agreements after they've been signed, they are breaking the law.

It's one thing for governments to obtain a wage freeze through negotiations, such as what the Alberta Teachers' Association (ATA) negotiated earlier this year, but entirely another thing to force it on workers through legislation.

Collective Bargaining is Constitutionally Protected: Overview of Supreme Court Decisions

The Supreme Court's more recent cases have established that some form of collective bargaining is constitutionally protected under s. 2(d).

2001: *Dunmore v. Ontario (Attorney General)*, the Supreme Court held that s. 2(d) protects the freedom of employees to establish independent associations for the purpose of making collective representations to their employer.

2007: *Health Services and Support – Facilities Subsector Bargaining Assn. v. British Columbia*, the Court partially reversed its decision in the *Alberta Reference* and held that s. 2(d) protects "the right of employees to join together in a union to negotiate with employers on workplace issues or terms of employment — a process described broadly as collective bargaining."

2011: in *Ontario (Attorney General) v. Fraser*, the Court explained that in order to make collective bargaining meaningful, s. 2(d) requires "a good faith process of consideration by the employer of employee representations and of discussion with their representatives."

The 2007 Precedent in B.C. Is Very Similar to Redford's Unlawful Bill 46 Gambit. The Government of B.C. Lost That Case...Badly.

In a case that pitted B.C. health unions against the Government of B.C., the Supreme Court of Canada ruled in 2007 that the collective bargaining process is protected by the Charter of Rights and Freedoms.

In a 6-1 decision, the high court threw out sections of British Columbia's Bill 29, saying they interfere with that process "either by disregarding past processes of collective bargaining, by pre-emptively undermining future processes of collective bargaining, or both."

The law, passed by Gordon Campbell's Liberal government in 2002, allowed the province to tear up the B.C. Hospital Employees Union contract and led to the layoff of more than 8,000 unionized health-care workers. Two years later, under Bill 37, the government imposed a 15 per cent pay cut on HEU members.

Bill 46 is Unlawful and Reckless

Bill 46 is unlawful and reckless. Premier Redford should think twice before dragging Alberta's unions through the courts, because the law is on our side.

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