

12:00 noon

4. Paul Vienneau
5. Lois Miller
6. Pat Gates
Barrier-free Nova Scotia and Canadian Council of the Blind
7. Gerry Post
8. Barry Abbott

Bill #61 - Construction Projects Labour Relations Act

1:00 p.m.

1. Joey MacLellan, *International Union of Operating Engineers*
~~Mel Gillis~~, *Cape Breton Island Building and Construction Trades Council*
Gordon Forsyth, Q.C., Counsel for above unions plus *UA Local 244*
2. Ben Chisholm

Bill #55 - Municipal and Other Authorities Pension Plan Transfer Act

1:30 p.m.

1. Corinne Carey, Pension and Benefits Officer
NSGEU

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Submissions to Law Amendments – Bill 61

International Union of Operating Engineers, Local 721 and United Association of Plumbers and Pipefitters of America, Local 244

Bill 61: s. 11

1. The International Union of Operating Engineers, Local 721, represents workers who operate cranes and heavy equipment such as bulldozers, excavators, and graders on construction sites on Mainland Nova Scotia and Cape Breton Island. The United Association of Plumbers and Pipefitters of America, Local 244, represents plumbers and pipefitters in the five Eastern Counties of Mainland Nova Scotia. The LNG project is within the geographical jurisdiction of Local 244. Given the nature of the LNG project, both the quality and number of plumbers and pipefitters available will be important to the project.
2. Local 721 and Local 244 have Collective Agreements with the Nova Scotia Construction Labour Relations Association (the “NSCLRA”) which applies to this type of industrial project. Local 244, in particular, has members who work on industrial projects with great success under the NSCLRA Collective Agreement.
3. In the construction industry, each union is responsible to its own members to negotiate and administer a Collective Agreement on their behalf. The unions always seek their members’ approval or ratification of any proposed collective agreement. Nowhere in the *Act* is a Collective Agreement imposed on a trade union without its consent.
4. This leads to the Unions’ concern with Section 11 in Bill 61. Under s. 8(4) of the Bill, if 85% or more of the Trade Unions agree with a proposed Project Agreement, the proposed Project Agreement is imposed on the trade unions that did not agree to the proposed Project Agreement. The only mechanism for the non-approving Union to challenge the terms of the Project Agreement as it applies to them is under s. 11. Section 11, however, limits the right of the non-approving Union to challenge just the total wages and benefits package. The non-approving Union is not permitted to challenge anything else in the imposed Collective Agreement, such as discipline or discharge, room and board, union security, referral of employees, stewards, health and safety, hours of work, overtime, reporting time, layoffs, trade jurisdiction, training costs, and older workers retirement assistance. If the project agreement placed the burden of training costs, for example, on a union against its will, the cost burden may cause a small union to cease to exist.
5. The Collective Agreement imposed on a non-approving Union may have completely different terms and conditions of employment from those in the normally negotiated Collective Agreement with the NSCLRA. The NSCLRA could negotiate a Project Agreement with highly favorable terms for twelve (12) of the thirteen (13) Unions. The NSCLRA could include very unfavorable terms for the thirteenth Union. If the twelve

Unions agree to their very favorable terms, the thirteenth Union would then be subject to the unfavorable terms imposed by the Collective Agreement on it. The thirteenth Union would have no recourse to challenge the unfavorable terms, except with the respect to the total wage package. This permits the NSCLRA to impose a completely new collective agreement in place of the NSCLRA ICI agreement.

6. The Government will say that s. 11 is similar to Section 163.1(9) in the Ontario *Labour Relations Act*. The Ontario special projects legislation also imposes a project Agreement on a non-approving Union against the Union's wishes. Ontario is, however, not the best model. It is the exception in the Special Project landscape. It is the only province that imposes a project agreement on unions if a majority agree; the other provinces make them voluntary. But the Ontario legislation provides important union protections to accompany the contract imposition. These protections are lacking in Bill 61.
7. In the Ontario legislation, the Project Agreement applies to *all* construction work on the project that is within the jurisdiction of a trade union. In Bill 61, a project agreement does not apply to all construction work on the project within the jurisdiction of a union. The NSCLRA has the power to pick and choose which construction aspects will be covered by the Project Agreement. Indeed, the proposed LNG project agreement *excludes* 80% of the trade work of Local 721 on the project! This would not be permitted in Ontario.
8. The Ontario legislation provides that each applicable NSCLRA-equivalent Collective Agreement with a construction trade union applies to the construction work on the project, subject to modification by the Project Agreement. In other words, it appears that the default is the NSCLRA-equivalent agreement, subject to modifications by the project agreement. The implication is that the modifications will be minimal and monetarily related. That is likely why Section 163.1 (9) limits challenges to a Project Agreement to the total monetary package, as that would likely be the main modification. Ontario does not permit the *replacement* of a collective agreement. In Bill 61, however, not only is the NSCLRA Agreement permitted to be modified, but Bill 61 contemplates that the NSCLRA Collective Agreement may be *superseded* entirely by a Project Agreement. In other words, Bill 61 could impose a completely new and unfavourable collective agreement on the thirteenth union, against the 13th union's wishes.
9. The Ontario legislation also provides that the applicable NSCLRA collective agreement applies to *all* contractors on site, even with respect to employers who would not otherwise be bound by the Collective Agreement. This means that all construction work must be performed under the provisions of the applicable Collective Agreement. A non-union contractor can bid upon and obtain work, but he or she has to follow the union collective agreement. In Bill 61, no such protection exists for unions. The work can be done by non-union contractors with non-union employees.
10. What does this mean? It is unfair to pick and choose certain provisions from the Ontario legislation that disadvantage unions, while leaving out those that favour unions. If the government wants Bill 61's s. 8 and s. 11 to apply, it should also apply the Ontario provisions that are favourable to unions. If the Government is unwilling to provide the

Ontario provisions that are favourable to unions, then the Government should remove s. 11 and replace it with a provision that permits the disapproving union to challenge the fairness of the applicable provisions before the Labour Board. The Labour Board should be permitted to amend the project agreement to substitute fair terms for a disapproving union. Keep in mind this will be infrequent, because, at most, only two unions can be “disapproving”.

Bill 61: s. 2(i)(ii)

11. Sec. 2(i)(ii) should be clarified by insertion of the word, “similar”:

“A similar industrial construction project designated by the regulations.”

It was never the intent that project agreements could be used for any size industrial project.

Bill 61: s. 8(4)

The word, “trades,” in s. 8(4) is ambiguous. It should read “trade unions”.

All of which is respectfully submitted this 7th day of November, 2016.

Bill 61

Submissions of the Cape Breton Island Building and Construction Trades Council to Law Amendments

1. In the construction industry in Nova Scotia, the province is divided into two accreditation zones: Mainland Nova Scotia and Cape Breton Island. The NSCLRA is the accredited employers' organization for both zones. For almost fifty years, the Cape Breton Island Building and Construction Trades Council has represented the fifteen building trades on Cape Breton Island. The Council's member unions represent all unionized construction trades people on Cape Breton Island, which is approximately 3500.
2. On the Mainland, the various construction trade unions negotiate their collective agreements individually with the NSCLRA. On Cape Breton Island, the NSCLRA is also the accredited bargaining agency for employers, but bargaining on the union side is very different.
3. The unions negotiate together as a council. It is perhaps the only construction multi-trade bargaining council in Canada. The Council bargains a single collective agreement for each of Commercial and Industrial work. The collective agreement is reached through consensus among all of the Locals. The tradition is one of co-operation. The focus has always been to work together toward a single multi-trade collective agreement. This has worked well. The Council has a good relationship with its contractors on small and large industrial and commercial contracts. The system has worked well for over forty years and has provided labour peace and stability.
4. Project agreements are no different. The member unions negotiate as a Council with project proponents to reach a voluntary project agreement. The project agreement will include all construction work and the work will be done by union members. During the last year, the Council is negotiating a project agreement under the Council's existing Industrial Collective Agreement language for work at Bear Head in Richmond County. It is progressing well.
5. Bill 61 affects the Council, the union locals, and each union's members. It may adversely affect the current negotiations at Bear Head and future project agreements. Bill 61's structure is at cross-purposes with our tradition of multi-trade voluntary bargaining in which 100% unanimity is required to approve a collective agreement.
6. The Council was not consulted about the wording of Bill 61. The introduction of such a regime may adversely affect negotiations. As Bill 61 is presently worded, the proponent of the LNG project at Bear Head could give notice that it wants to have a project agreement, and the unions would be obliged to negotiate under the Bill's structure.
7. The lack of consultation about the wording of Bill 61 means that the Bill must be amended to exclude Cape Breton Island. To pass this Bill without consultation with the

Council would be to break years of tradition in the passage of labour legislation in Nova Scotia. It is the norm that major players in the industry have input into legislation that directly affects them.

8. Section 2 should be amended to exclude Richmond County. Section 1 should be amended to state:

This Act does not apply to Cape Breton Island.

All of which is respectfully submitted by the Cape Breton Island Building and Construction Trades Council.

LAW AMENDMENTS COMMITTEE

Red Chamber, Province House

Tuesday, November 8, 2016

10:00 a.m.

Bill #52 - Halifax Regional Municipality Charter (amended)

Deferred from previous meeting

Bill #61 - Construction Projects Labour Relations Act

Deferred from previous meeting



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