KATY YOUNG.

Premier Bennett has misled the people of British Columbia as to the impact of his legislative package by saying that its effect will be to put public sector employees on the same footing as private sector employees.

This statement is untrue. The intent of this legislation is to deprive public sector employees of the power to bargain in the two areas which are of most concern to them - wages and job security.

The first thing to clarify is who is affected by the legislation? The employees who are affected by Bill 3, the Public Sector Restraint Act and Bill 11, the Compensation Stabilization Amendment Act include government employees, but it also applies to employees of municipalities and government corporations, employees of schools, hospitals, colleges and universities. 25% of the work force of British Columbia are directly affected by the legislation. Of the approximately 250,000 employees covered, 60,000 are public servants.

There are two ways in which the Government has taken away from public sector employees the right to bargain collectively. The first is by Bill 11, the Compensation Stabilization Amendment Act which deprives public sector employees of the right to negotiate with their employer for wages. Collective agreements negotiated by public sector unions must provide for wage settlements that are within guidelines set arbitrarily by the Provincial Government. The amendments make the Act permanent and deny public sector unions the right to freely negotiate a wage rate payable to employees for an indefinite period.

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The second way that public sector employees are stripped of their bargaining rights is by the Public Sector Restraint Act. Under what was Bill 3, public employees lose all security of employment. Under the Act employees can effectively be terminated from their employment without cause and without regard to standard collective agreement protection. The Act does away with seven basic rights that trade unions have negotiated on behalf of their members.

The first is that the Act does away with the right of public sector employees to bargain restrictions on an employer's power to lay-off employees. The Act provides that the employer can make a determination to terminate any employee where they consider there is (not where there are) insufficient current operating funds or where there is any change in the organizational structure. It is not necessary for the employer to prove that the organizational re-structuring saves money or is reasonable or consistent with efficient management.

The second basic right done away with in the Act is the trade union's right to bargain on how seniority is calculated. Seniority is a concept central to collective bargaining. Seniority recognises that long term employees have a greater stake in their employment and should be given greater protection from termination. The Act permits a public sector employer to divide employees into small units. An Employee's seniority with the employer or department of the employer is no longer relevant. Termination is on the basis of the amount of service that an employee has had within a particular designated unit. The Act provides no limitations,

guidelines or restrictions on the employer's right to select the scope of the designated unit. The method of calculating seniority that has been negotiated between the parties has no longer any relevance in the determination of which employees will be terminated.

Thirdly, the Act permits the employer to determine who will be terminated by considering "efficiency" and their "own requirements" and the relative ability of the employee. The employer may determine which employee is most efficient and which employee is most suited to meet their requirements and using these considerations they may make a determination as to who will be terminated. Although seniority is mentioned as a basis for making the determination, seniority even as defined in the Act is subject to the employer's subject consideration of their own needs. Standard collective agreements state that where a decision is made that there shall be lay-offs, lay-offs are on the basis of seniority as defined by the parties and not on the basis of the employer's assessment of his requirements and the employee's efficiency, knowledge, skill and ability.

Fourthly, standard collective agreement protection which the Government has done away with is what is known as bumping. The Act does away with the right of a senior employee to move into a position held by a junior employee in the event that an employer has made a decision that their initial position no longer needs to be filled.

The fifth way in which public service employees are put on a different footing than private sector employees by the Act

is that the scope of review for decisions of private sector employers is changed as well as the nature of the review. The private sector unions have the right to take a dispute to arbitration and the scope of review is to determine whether the employer has acted reasonably and correctly not simply in a manner that is discriminatory or in bad faith. Public sector employees must either go to the Government appointed review panel or to the Court and the scope of review is narrower.

The sixth way in which the new Act discriminates against public sector employees is in the Regulations which require employees to either select compensation or placement on the recall list upon their termination. The Act does not allow an employee to go on the revall list and then if they are not recalled, the right to compensation.

All employees who have a right to be put on a recall list have a right to claim compensation if they are not recalled during a specific period of time. The effect of the Regulations is to deny benefits to public sector employees that are provided as a minimum to all other employees.

The seventh way is that under the new Regulations, recall is not on the basis of seniority unless the employee can establish that they are the same or better than any other person who is qualified to perform the job. This is different than provisions than private sector employees regularly bargain for which is that recall is on the basis of seniority as agreed to between the parties and that an employee has a right to be recalled if they are capable of performing the job satisfactorily.

Also, an employee is only on the recall list for one month for every year of employment. This is less than provided in most collective agreements.

In conclusion, the legislation denies to public sector employees the right to bargain about the two most important concerns of these trade union people. The legislation does not put public sector employees on the same footing as private sector employees. As a result of the legislation, public sector employees are placed on the same footing as non-unionized private sector employees who are permanently denied the right to join a trade union with the ability to bargain for wages and job security.

Premier Bennett has said that the purpose of his legislative package is to down-size Government.

How do the amendments to the Employment Standards Amendment Act relate to this goal?

Why has the right to minimum employment standards for all unionized employees been taken away?

The major impact of the Employment Standards Amendment Act is that it states that where a collective agreement deals with a subject which is also dealt with in the Employment Standards Act, the minimum standards under the Act do not apply to that aspect of the employment relationship. Only if the collective agreement is completely silent on the subject area of hours of work, annual vacation or maternity leave do the minimum standards of the Act apply.

The subjects affected include :

- 24 hour notice of shift change;
- maximum 8 hours a day or 40 hours a week;
- overtime pay;
- eating periods and rest periods;
- minimum breaks between shifts;
- minimum call-in pay;
- 32 hours free from work per week;
- cleaning and repair of special apparel that an employee is required to wear;
- 2 weeks holiday per year and 1 additional week after 5 years;
- vacation period after the first full year's employment;
- 4% holiday pay;
- 2 weeks severancr pay per minimum after 6 months of employment;
- the right to a leave of absence for maternity leave;
- the right to at least 6 weeks maternity leave after birth;
- the obligation on employer to pay their share of pension, medical and other benefit plans during absence on maternity leave;
- the right to reinstatement to the same position or comparable position with all increments in wages and benefits that the employee would have been entitled to if she had not taken the leave;
- where there is a termination of a pregnant employee the onus is on the employer to prove that the termination is not because of pregnancy.

The problem facing many trade unions is that archaic sections have been retained in the collective agreement that provide for less protection than those provided under the Employment Standards Act. Many trade unions have been lax in removing sections which

provide for less than the minimum benefits on the basis that for the past 10 years they have been completely irrelevant.

This amendment is unfair in that it deprives trade unions of the right to negotiate in those areas where they should have required the employer to provide minimum protections.

Some trade unions are now locked into long term contracts of 2 or 3 years and during the term of that collective agreement they will not be receiving the minimum benefits under the Act and will not be given an opportunity to bargain for a better deal.

This amendment will have the greatest impact in the area of maternity leave where, in accordance with statistics provided by the B.C. Government, collective agreements that deal with maternity leave provide less maternity benefits than are provided in the Employment Standards Act.

The new legislation also enables collective agreements to undermine minimum labour standards and permits employers to now attempt to bargain contracts that provide for less than the minimum benefits. The group that will be most hard hit again will be women in trade unions. The employer will be in a position to pressure unions to sign agreements that diminish the employees' rights under the Employment Standards Act and many unions may be prepared to abandon those benefits that apply only to pregnant employees in exchange for some wage protection or other benefits for all employees.

In conclusion, the Government has not been honest with the people of British Columbia as to the purpose of their legislative package and its impact on working people. It is essential that the impact of the legislation be realized. A clear statement must be made to the Government that this legislation that undermines basic and long-held rights is unacceptable.

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