

MEDIA RELEASE

**GOVERNMENT CHANGING THE RULES IN ITS FAVOUR
MIDWAY THROUGH THE GAME**

**WITH AN LRB HEARING ALREADY UNDERWAY, PROVINCE SIGNALS POSSIBLE RUSH
LEGISLATION TO PREVENT GOVERNMENT'S IN-HOUSE LAWYERS ORGANIZING**

BCGLA refuses business meeting called by the employer, because a confidentiality agreement was demanded in advance that muzzles everyone about whatever is being pitched

Victoria, B.C. (January 30, 2023): Lawyers working for the provincial government have gone to the BC Labour Relations Board (LRB) to be recognized as a union. But is the government going to respect the LRB's process? Or is it going to do what no other employer can do and change the rules in the middle of the game by legislating its own victory?

These are the questions members of the BC Government Lawyers Association (BCGLA) want answered after their president was told the government is planning a mysterious policy "project" that will affect the BCGLA and its members. More details would only be available if the president agreed to a non-disclosure agreement, which would prevent him from discussing the "policy initiative" with BCGLA members or the broader public.

BCGLA's President, Gareth Morley, believes the "policy project" is really legislation to interfere with the recognition application at the LRB. He has called on Premier David Eby and Attorney General Niki Sharma to confirm a commitment made under the Horgan administration that the government would not legislate to affect government lawyer bargaining rights without the employees' consent.

In November, BCGLA filed cards of support representing over 70 per cent of 350 in-house government lawyers (not including Crown Counsel, who have their own union). This is well above the 55% threshold provincial law sets for unionization. The government opposed the application, saying it is contrary to a 1973 law. The BCGLA submitted its argument for why it should be certified at the beginning of January. The government's response is due February 6, the first day of the new session of the Legislature.

"A secret meeting would mean I could not talk to the BCGLA executive, its members or the broader public about what the government is planning. The government clearly knew there was no way we could agree with that", Morley said.

"When I asked for details about the scope of the "project" and why secrecy was needed, the government's representative quickly wrote me saying the meeting was off and the 'project' would go forward with no notice to us. I have been in government for 23 years. This is what happens when government wants to tick a box called 'consultation' in case they are sued, not when it actually wants to negotiate."

“Back during the Horgan government, the government told us they wouldn’t accept a union for government civil lawyers, but they also said they would not bring in new legislation without our consent. Now they are saying they might do anything, and there will be ‘no further notice to us.’ This looks like a rush to introduce legislation this session to interfere with our LRB application, which is supposed to wrap up in February,” Morley added.

Morley said that legislation interfering with the LRB’s process for recognizing unions should be of concern to all British Columbians. It interferes with basic labour rights and with the rule of law.

“If you or I are in a legal process, we can’t change the rules if we don’t like where things are heading. But as Dave Zirnelt, a Minister of Forests back in the 1990s used to say, government can do ‘anything.’ Or at least it thinks it can. All citizens should be concerned if the government just legislates a different answer when they decide they don’t like their chances at an independent tribunal like the LRB. It’s ‘heads we win, tails we legislate’”, said Morley.

“We have all seen the struggles that legislation taking away collective agreement rights have sparked, here and in other provinces. But as far as we have been able to find, no government in Canadian history has passed legislation to deprive a specific group of employees of the ability to go to a labour board for recognition while they were doing just that. It offends every conception of fairness. We are calling on the government to make its argument to the LRB and accept the result. If it legislates instead, we will look at all our options to resist.”

(see Timeline Backgrounder attached)

About the BCGLA

The BC Government Lawyers Association advocates for 350 government civil lawyers in matters of remuneration, benefits, conditions of employment and matters of professional interest relating to employment.

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BACKGROUND – TIMELINE

The BC Government Lawyers Association (BCGLA) has gone to the BC Labour Relations Board (LRB) after obtaining the support of more than 70 per cent of civil lawyers working in government in a card sign-up campaign. The result is well above the 55 per cent threshold for automatic certification as spelled out in Bill 10, which was passed by the NDP government last year in order to make it easier for workers to unionize.

But the government is arguing before the LRB that the civil lawyers - including those who advised on and wrote Bill 10 itself - cannot take advantage of it, citing the *Public Service Labour Relations Act* passed in 1973. The matter has evolved as follows, and presently remains before the LRB, with government arguments expected to be submitted soon.

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1973 - *Public Service Labour Relations Act (PSLRA)* is passed by the NDP government under Premier Dave Barrett. **The legislation prohibits the government's own civil lawyers (but not Crown prosecutors) from joining a union.**

(Fast forward to today: **this is being challenged at the LRB by BCGLA as unconstitutional** – a denial of their right to freedom of association, as guaranteed by the *Charter of Rights and Freedoms*.)

1991 – BCGLA is formed. Over the following years, the BCGLA's repeated overtures to government to be the collective bargaining agent for the civil lawyers are consistently rejected by the Attorney General.

2013 – **The BCGLA begins legal action against the employer which takes nearly a decade to be scheduled in court (late 2022).**

2017 – NDP government replaces BC Liberal government in the general election

2018 - **Ongoing discussions with the employer lead to an assurance that the government has no intention of imposing any legislation against the will of its civil lawyers.**

The employer did offer to loosen the PSLRA enough to **allow BCGLA members be represented by the Professional Employees Association** – a bargaining unit of the employer's choice, not the BCGLA's. **The civil lawyers refuse. They want their own association to bargain for them.**

SUMMER 2022 – **The NDP government passes Bill 10** which makes it easier for groups of employees in BC **to join a union by simply collecting support cards from 55 per cent or more of the workforce.**

NOVEMBER 2022 – **BCGLA collects cards of support from more than 70 per cent of its members and submits them to the BC Labour Relations Board (LRB)** as part of an action challenging the 1973 PSLRA as unconstitutional.

JANUARY 2023 – **Lawyers for the BCGLA formally submit arguments to the LRB.** Lawyers for the BC government must respond by February 6, 2023 and are expected to oppose the BCGLA's arguments. Meanwhile, a February 2023 court hearing scheduled for the separate legal action, almost 10 years in the making, is stayed as the matter is now before the LRB.

MID-JANUARY 2023 – Three other government unions announce their support for the BCGLA in its bid to bargain for themselves: BCGEU, BC Crown Counsel Association and the Professional Employees Association (PEA) itself.

LATE JANUARY 2023 – The BCGLA receives correspondence suggesting the employer is about to change the rules of the game, possibly with new rush legislation while the LRB hearing is underway. If so, it would be an unprecedented legal move.

The employer invited the BCGLA president to a special meeting on January 27th where a “project” that may affect BCGLA members will be discussed. The employer insists that a confidentiality agreement be signed preventing the BCGLA president from discussing the meeting's subject matter with anyone else, including BCGLA executive and members.

This is a highly unusual level of confidentiality which is wholly inappropriate for discussions about collective bargaining and signals that confidential information from cabinet, **possibly leading to immediate legislation** may be on the meeting agenda.

The **BCGLA has refused to sign the confidentiality agreement**, stating the BCGLA executive and members deserve to know what the employer (the Attorney-General's ministry) is proposing.

As a result, the employer confirmed it will proceed with the meeting without any BCGLA representation.