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Ottawa's omnibus bill to face legal fight from public-sector unions

By BILL CURRY

Wide-ranging piece of omnibus legislation contains restrictions on the right to strike for federal public servants

Federal unions are preparing a legal challenge to the Conservative government's latest budget bill, which is heading for a final Senate vote this week.

Bill C-4, wide-ranging omnibus legislation, contains restrictions on federal public servants' right to strike. It also narrows the definition of dangerous work that government employees can refuse.

The major unions representing federal public servants – including the Public Service Alliance of Canada, the Professional Institute of the Public Service of Canada and the Canadian Association of Professional Employees – are financing the challenge.

Claude Poirier, president of CAPE, said he believes the Conservatives are setting the stage for a major confrontation with the public service before the 2015 election campaign.

"It's not a matter of balance. It's a matter of ideology. They have an election that they're trying to win in 2015," he said. "If they've got a general strike of the entire public service, it's going to serve them because then they can adopt back-to-work legislation and tell their voter base: 'Look, we've shown that we were strong and were resisting those big union bosses.' "

Robyn Benson, president of PSAC, said the Conservatives are clearly preparing for confrontation when several federal contracts come up for negotiation in 2014. She insists public servants will not give up rights and benefits.

"We're not entering into negotiations in concession bargaining," she said.

The Conservative government says it wants to contain federal spending, and personnel costs account for \$40.7-billion of the \$227.8-billion departments spent last year.

The budget bill gives the cabinet the power to designate up to 80 per cent of a bargaining unit as an essential service, which unions say would allow the government to force a strike without a full civil service shutdown.

The federal unions are expected to start their legal action with a complaint to the United Nations International Labour Organization and then a domestic court. While court challenges can take years, the Supreme Court of Canada is set to hear arguments in early 2014 based on labour opposition to a similar essential services law passed by the Saskatchewan government.

The unions are hoping the Supreme Court will set clear national guidelines. The Saskatchewan case that outlines the right to strike in the public service.

Kevin Banks, a former senior federal public servant and director of Queen's University's Centre for Law in the Contemporary Workplace, said provincial courts have offered wide-ranging interpretations of the right to strike. He hopes the Supreme Court will bring clarity to the issue.

"My own view is the law in this area is extremely unclear," he said. Mr. Banks said the Supreme Court decision will likely be far more politically significant than any challenge to the International Labour Organization, which he said Canadian governments often ignore.

"It has called upon various Canadian governments – provincial and federal – not to do this sort of thing. Sometimes they listen, sometimes they don't," he said. "ILO decisions tend not to be front page news."

Bill C-4, which was introduced on Oct. 22, is the second of two omnibus bills implementing parts of the 2013 federal budget. It was passed by the House of Commons on Monday and is expected to be passed by the Senate later this week. The bill continues a Conservative practice of using budget bills to include measures that have little connection to the budget and that would have historically been stand-alone legislation.

A statement from Treasury Board President Tony Clement's office said the government is setting public service pay and benefit levels that are "reasonable, responsible and in the public interest."

"Our government will sit at a bargaining table on behalf of the taxpayer where the rules are fair and balanced," the statement said.

Unions point out that in the past, Ottawa has consulted labour groups on major collective bargaining reforms, but not this time.

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