

# **A Historical Perspective: Collective Bargaining and Privatization**

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## Bio



**David Vipond** – Director of Negotiations, B.C. Government and Service Employees' Union (BCGEU), a component of the National Union of Provincial and General Employees (NUPGE).

David Vipond has been employed by the BCGEU for 33 years, in various capacities; currently responsible for Negotiations and Human Resources. The BCGEU has 67,000 members in 463 certifications, covered by 256 collective agreements. Many of these certifications are in multi-union sectoral agreements, covering as many as 230 employers. He is the chief negotiator for the government bargaining unit and has negotiated the last 10 public service agreements with the province of BC.

David has served as the Chair of the Surrey Memorial Hospital Board, as a member of the Business Task Force to reduce the regulatory burden in BC, as a member of the BC Labour Relations Board and as a National Industrial Officer in Australia with the Community and Public Sector Union, where he was responsible for employees of the federal Attorney General's department.

David currently serves as Vice Chair of the BC Public Service Pension Plan, as Chair of the Interplan Investment Committee for three pension plans and as a Director with the BC Pension Corporation

## **(1) Historical**

Public Private Partnerships (P3s) have been part of the public service landscape for a long time. Examples include Providence Health Care, which is composed of health care facilities provided by the Catholic Church throughout the 20<sup>th</sup> century. These are culturally accepted facilities with union coverage and mature agreements. When the Fraser Health Authority tore down St. Mary's Hospital a few years ago, the Hospital Employees' Union and other unions mounted significant campaigns to try and save it. Providence Health Care includes the following facilities:

- St. Paul's Hospital
- Mount Saint Joseph Hospital
- Holy Family Hospital
- Youville Residence
- St. Vincent's: Langara
- St. Vincent's: Honoraria Conway-Heather
- St Vincent's: Brock Fahrni
- Providence Crosstown Clinic
- Community Dialysis Unite

Catholic School Boards are another version of culturally accepted P3s with extensive union coverage.

## (2) Liquor Distribution Branch

Another example of accepted partnership is the BC Liquor Distribution Branch (LDB). It has been a favoured target for privatization since 1988. The LDB is a government business enterprise, selling private products in private facilities with public employees to produce public revenue. The BCGEU went on strike in 1988 to protect 3,600 jobs and a lucrative revenue stream. We were successful but the Liberals came at us twice again.

There was a sustained effort in 2002 to privatize it once again but the union would not settle if members were at risk. Government insisted it was not core government business but it does generate over \$1 billion per year of revenue. Our public campaign showed that:

- government revenue was at risk;
- prices would increase; and
- service was at risk.

We were able to retain what we had but the government still proceeded with establishing almost 700 private stores in the province, resulting in a hybrid model of retailing liquor in BC which continues to this day.

In 2012, the Liberals took another run at the LDB and issued a request for proposals (RFP) to purchase two large warehouses and the distribution system. This is the spine of the LDB and would have resulted in significant job loss. It would also have left 197 public stores at increased risk of sale or closure as the government sought to reward their friends in the private liquor stores, many of whom were generous donors in the election.



Bargaining drew to a standstill for two weeks while we hammered out a deal to protect jobs and terms of employment in the event that the sale proceeded. The memorandum can be found at <http://www.bcgeu.ca/moa-sale-ldb-warehouses-and-distribution-system>. It provided job offers, successorship, continued pension coverage, the right to stay with government in another job, voluntary severance entitlements and a voluntary early retirement incentive program.

Prior to concluding bargaining in 2012, we were able to have the RFP withdrawn, just days before the deadline for bids to be submitted. The government realized that our campaign was valid and we had garnered significant public support for retaining the warehouses and even opening stores on

Sundays for greater shopping convenience and increased revenue.

In Ontario, Premier McGuinty and Conservatives were considering something similar in Ontario. This approach was debunked by Don Drummond in his 2012 report on the Reform of Ontario's Public Services<sup>1</sup>. Of note, he made two recommendations concerning the LCBO:

***Recommendation 17-1:*** Do not partially or fully divest any or all of the province's government business enterprises — Ontario Lottery and Gaming Corporation, Liquor Control Board of Ontario, Ontario Power Generation and Hydro One — unless the net, long-term benefit to Ontario is considerable and can be clearly demonstrated through comprehensive analysis.

***Recommendation 17-2:*** While continuing to promote socially responsible consumption, undertake initiatives to enhance the Liquor Control Board of Ontario's profits, including:

- *Direct it to use its purchasing power more effectively and improve its markup structure for setting retail prices;*
- *Continually compare the merits of providing supports to Ontario producers against desired policy outcomes; and*
- *More aggressively pursue store expansion.*

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<sup>1</sup> <http://www.fin.gov.on.ca/en/reformcommission/chapters/report.pdf>

### (3) Community Social Services

The BCGEU provided care to people with developmental disabilities until the '90s in two large institutions, Woodlands and Tranquille. We even occupied the Tranquille site during the 1983 Solidarity strike in an effort to retain the facility. The government eventually closed both sites, promising to find community placements, often group homes set up by a society or a for-profit operation.

It was difficult organizing each individual provider but the BCGEU now represents two-thirds of the unionized providers for (a) community living, (b) general services and (c) aboriginal services. The employers in community living and general services are private employers providing a public service with public funding.

In 2003, the government enacted the *Community Services Labour Relations Act* consolidating 230 certifications into three subsectors. The unions created a bargaining association and now bargain jointly for three sectoral agreements at one table. Section 7 of this Act stipulated that no arbitrator or labour relations board can designate a person working in this sector to be an employee of the government even though a wage proposal cannot be tabled without government approval and an employer cannot ratify a collective agreement unless it is ratified separately by the government through the Public Sector Employer's Council.

link to Community Living certifications:

<http://www.bcgeu.ca/sites/default/files/page/attachments/cls-certifications.pdf>

link to General Services certifications:

<http://www.bcgeu.ca/sites/default/files/page/attachments/gc-certifications.pdf>

link to Community Services Labour Relations Act:

[http://www.bclaws.ca/civix/document/id/complete/statreg/03027\\_01](http://www.bclaws.ca/civix/document/id/complete/statreg/03027_01)

## **(4) Independent Health Care and Contracted Out Health Care**

Independent health care providers are now the norm for the provision of health care to the elderly. Most provincial governments are struggling with debt and want to avoid any risk to credit ratings by assuming new debt. They turn to private providers, both non-profit and for-profit to absorb the capital cost for new facilities to accommodate the ever increasing number of baby boomers now going into retirement. Private health care introduces new costs, including a return on investment, tax exposure, multiple employer administrations and a loss of economy of scale. Governments do not pay these higher costs if they can avoid them. This results in reduced compensation to our members doing the work. These providers usually pay lower rates than are common in public health care facilities, with reduced benefits and no pensions. As a result, our members are absorbing these transferred costs with reduced compensation. These units are a priority for us in organizing. Our strategy is to try and organize a majority of this sector and then attempt sectoral bargaining.

On occasion, we face the risk of a contract being retendered without any provision for successorship. We do not yet have any modified successorship or continuity of service provisions in this sector. Much work remains to be done.

### **INDEPENDENT HEALTH CARE CERTIFICATIONS - BCGEU**

Amica at Beechwood Village  
Amica at Mayfair  
Amica at Somerset House  
Baybridge-Baltic (Cascades) Inc  
Baybridge-Baltic (Lake Country) Inc.  
Beacon Community Services  
Broadmead Care Society  
Burquitlam Seniors Housing Society (LJ Christmas Manor)  
Creekside Landing Ltd  
CSH Lynnwood Inc  
Dorchester Retirement Residence  
Eagle Valley Senior Citizens Housing Society  
Elim Christian Care Society  
Fleetwood Villa  
Good Samaritan Society – Mountainview Village  
Halcyon Assisted Living Society  
HCN – Revera Lessee (Whitecliff)  
Healing Spirit BC – Aboriginal HIV/Aids Society  
Insite Housing, Hospitality & Health  
JST Holdings Ltd (Westsyde)  
Langley Lions Senior Citizens Housing Society  
Lifelabs BC LP  
Niagara Care Community Ltd  
Optum Health Services (Canada) Ltd  
PPC Worldwide Canada

Salvation Army – Cordova Detox  
Salvation Army – Harbour Lights  
Salvation Army Southview Heights and Terrace  
Sherwood House  
Slizek Investments Inc  
Sodexo Inc @ George Pearson  
The Royal Pacifica Resort Retirement Living  
The Royale Peninsula  
Thompson View Manor Society  
Tla'Amin Community Health Board Society  
Valleyhaven Retirement Community Ltd  
Well Being Services (Comox Valley Seniors Village)  
Well Being Services (Guildford Seniors Village)  
Well Being Services (Nanaimo Seniors Village)  
Well Being Services (Peace Portal Lodge)  
Well Being Services (Renfrew Care Centre)  
Well Being Services (Rosemary Heights Seniors Village)  
Well Being Services (Wellesley of Victoria)  
Westbank Indian Band (Pine Acres)  
Western Community Seniors Low Cost Housing  
Westminster House HRC Care Society  
Willow Manor  
Windsor Manor Care Centre Ltd.

## **(5) Highways Road & Bridge Maintenance**

Although we beat back the attempts to privatize liquor stores in 1988, we were not successful in stopping the privatization of highways road and bridge maintenance. This major group in the Ministry of Highways was put out to tender. The BCGEU had an agreement in principle with a major bank to finance a bid by the union to obtain the contract but the premier could not accept the notion of the BCGEU running road and bridge maintenance throughout the province. Instead, they broke the provincial system into 28 contract areas and the union was successful in obtaining successorship in 26 out of 28 areas.

In 1997, the province went to retender these services, putting 2,000 members at risk of unemployment if a competing bid based on lower wages won the RFP. We subsequently negotiated the modified successorship agreement which would require a successful bidder to honour the existing collective agreement and offer jobs to our members. This did not occur without some sacrifice. The ministry wanted a 10% reduction in labour costs and was successful in reducing costs in the collective agreement by 8% in exchange for job protection.

Later, in 2012, the province notified us that all contracts would be retendered in the next two years without successorship provisions. Both the BCGEU and the contract employers knew there were contractors in Alberta ready to bid on the basis of lower wages. Both parties wanted to retain their contracts so we made a joint bid to the province for seven to eight year contract extensions. The province said okay, but at a price – they wanted three years with no wage increase and got two years on the settlement.

Highways, road and bridge maintenance is a sector that lost their Public Service Pension Plan and currently has a simple defined contribution plan.

## (6) Public Private Partnerships (P3s) –

by Simon Kelly

Planning, delivery and oversight for Public-Private Partnerships (P3s) in BC is facilitated by Partnerships BC, which coordinates between ministries, agencies and the private sector to deliver partnership solutions for public infrastructure projects. Partnerships BC was created in 2002 (registered under the *Business Corporations Act*), and is owned by the province of BC through the Ministry of Finance. The corporation operates using a pay-for-performance model that transfers public sector risk to private contractors who manage the delivery of major construction projects. In addition to specific proposals determined by Partnerships BC and the Ministry of Finance, government infrastructure grants exceeding \$20 million are also currently subject to consideration for P3 procurement and delivery.

Partnerships BC considers proposals with a clear “public interest” meeting core value objectives of:

- (1) Effective Risk Transfer;
- (2) Scheduled Cost Certainty;
- (3) Integration of key service functions (for example, design and construction, long-term operations, maintenance and/or rehabilitation of the asset); and
- (4) Innovation.

Partnerships BC’s “Methodology for Quantitative Procurement Options Analysis” establishes practices and guidelines for evaluating potential projects. These include:

### A. Investment Decision

- Multiple Criteria Analysis (MCA)
- Net Present Cost (NPC) Analysis
- Operational Efficiencies
- Sensitivity Analysis (MCA)

### B. Procurement Decision

- Multiple Criteria Analysis (MCA)
- Comprehensive Risk Analysis (includes Monte Carlo analysis)
- Financial Analysis (PSC and Shadow Bid)
- Sensitivity Analysis (Financial Model)

### C. Recommended Option Affordability

- Accounting Analysis
- Funding Analysis
- Budgeting

Partnerships BC currently has 19 projects in active procurement and/or construction. Examples include, Kitsilano Secondary School Renewal Project, Evergreen Line Rapid Transit Project, and Penticton Regional Hospital Patient Care Tower Project.

Partnerships BC: <http://www.partnershipsbc.ca/index.php>

Projects Overview: <http://www.partnershipsbc.ca/files-4/projects.php>

Quantitative Procurement Options Analysis (Updated April 2014): [http://www.partnershipsbc.ca/files-4/documents/conference-board-of-canada\\_canadaemergesp3leader.pdf](http://www.partnershipsbc.ca/files-4/documents/conference-board-of-canada_canadaemergesp3leader.pdf)

## (7) P3 Developers

P3 developments often involve pension funds in both the public and private sectors. For instance, the link below will take you to Concert Infrastructure Ltd., a popular investment for BC building trades pension plans because of good returns and the provision of work to building trades during construction. Concert only uses organized labour in its construction projects. Infrastructure is an attractive asset class for many pension plans with long term investment horizons. Recent and ongoing infrastructure projects by Concert include:

- Alberta Schools Alternative Procurement, Phases II and III
- OMERS Investment
- Ontario Forensic Services and Coroner's Complex
- Ontario Provincial Police Modernization Project

### Continuum of Privatization

<b>Design Build</b>	<b>Design Build Finance</b>	<b>Design Build Finance Maintain</b>	<b>Design Build Finance Maintain Operate</b>
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<http://www.concertproperties.com/infrastructure>

In Ontario, OMERS has its own P3 developer as well, Borealis, with an extensive P3 portfolio which can be found at the link below.

<http://www.borealis.ca/>

## **(8) Social Impact Bonds**

by Simon Kelly

Social Impact Bonds (SIBs) are being promoted by governments in the United Kingdom, United States and most recently, Canada, as a new method for financing public objectives, projects and services. The discussion of SIBs has attracted both vocal support as well as significant controversy across Canada, highlighting the risks and opportunities for social service delivery, and in particular, the potential impacts for public employees and agencies.

BCGEU's report summarizes the structural logic of SIBs as a new social financing instrument, the proposed benefits as well as risks and concerns (for example, the erosion of public responsibility and accountability), current status information in BC and Canada, and the possible consequences for public employees and services in BC.

This report concludes that while there may be valuable (and appropriate) opportunities for the use of SIBs in Canada and BC—assuming strong evidence and adequate testing—their development and promotion, politically, as a new model for meeting social objectives warrants continued monitoring and scrutiny.

Report link: <http://www.bcgeu.ca/bcgeu-brief-social-impact-bonds>

## (9) Union response to privatization

### PROTECT YOUR WORK AND YOUR MEMBERS

The BCGEU has been battling contracting out, privatization and alternative service delivery for 26 years.

There is a great deal of language in the public service agreement to provide this protection, which can be found at:

17<sup>th</sup> Public Service Agreement: <http://www.bcgeu.ca/collective-agreement/bcgeu-master-agreement>

- Article 13: Layoff and Recall
- Article 24: Contracting Out
- Article 36: Limited Employment and Privatization
  - Clause 36.2: Privatization
  - Clause 36.3: Referral of Disputes
- MOU 1: Employment Security
- MOU 2: Authority of the Article 13 Joint Committee
- MOU 4: Alternative Service Delivery (ASD) and Privatization Initiatives
- MOU 5: Privatization and Alternative Service Delivery
- MOU 6: Alternative Service Delivery (ASD)
- MOU 7: Early Retirement Incentive Plan (ERIP) and Voluntary Departure Program (VDP) for Privatization
- MOU 9: Clause 32.10, Article 36 and MOU 6
- MOU 11: Devolution/Transfer of Ministry of Children & Family Development Programs
- MOU 37: Liquor Distribution Branch – Letter of Commitment
- MOU 38: Store Closures & Signature Store Openings & Impact on employees
- MOU 39: Sunday Openings & Store Consolidation Protocol