

BC Makes It Easier for Unions to Get Certified



The 2 things HR managers need to know about Bill 10

On June 2, 2022, BC passed Bill 10 making significant changes to the *Labour Relations Code* that make it easier for unions to get certified. Here's a briefing of the 2 things HR managers in BC need to know about the new law.

1. The Simplified Union Certification Process

The most important changes in Bill 10 affect the process a union must follow to get certified as the official bargaining unit for a particular workplace.

The Old 2-Step Certification Process

Under the old rules, which had been in effect since 2001, certification was a 2-step process:

- **Step 1:** The union had to get at 45% of the workers in the proposed bargaining unit to sign membership cards showing their support for the union; upon reaching the card-check threshold, the union had to file a certification application to hold a vote by secret ballot; and
- **Step 2:** If a majority of employees in the union voted in favour of certification, the union would be certified, unless the BC Labour Relations Board determined that the proposed bargaining unit was inappropriate.

The New 1-Step Certification Process

Bill 10 makes certification a one-step process. All a union has to do now to win certification is get 55% of the employees in the proposed bargaining unit to sign union cards. It can then apply for Board certification without having to hold a ratification vote. However, it can request that such a secret ballot vote to be held before the Board determines the appropriate bargaining unit. There's also a fallback: The Board will still order a ratification vote if the union gets over the 45% threshold but falls short of 55% card-check target.

Practical Impact

It will now be easier for unions to achieve certification. How much easier? According

to a 2018 BC Ministry of Labour report, union success rate in card-check systems is about 9% higher than it is under a secret ballot vote. Combined with the union's right to request a representation vote before the Board determines the appropriate bargaining unit, Bill 10 is also expected to dramatically increase the speed at which unionization can occur.

Whether this is a good thing remains to be seen. Opponents of the Bill contend that the card-check system can be used to exert undue pressure on employees due to its lack of anonymity. By contrast, the secret ballot allows employees to express their true feelings about the union. However, defenders of the Bill 10 card-check system claim that the secret ballot system is subject to employer intervention and manipulation.

2. Construction Sector Annual "Raid" Rules

The other big change in Bill 10 involves a process called "raiding" in which one union in a workplace replaces another. Under current rules, raiding is allowed during the "open period," which occurs every 3 years. Bill 10 provides for "open periods" to occur every July and August for unions in the construction sector, with secret ballot to determine which union will represent the workers in the raided workplace.

Impact: Raids can be very disruptive to a workplace. So, the prospects of their occurring every year—and during the summer months of July and August, no less—can have a significant impact on construction employers and projects.