

[Bill-10: Unbalanced Changes To The BC Labour Relations Code – A Step Backwards For BC](#)



Introduction

On April 6, 2022, the BC Government tabled [Bill 10](#), the *Labour Relations Code Amendment Act*, introducing changes to the certification process. The Bill passed Third Reading on May 17, 2022, and the amendments will take effect on the date of Royal Assent. Bill 10 will likely receive Royal Assent on or before June 2, 2022.

These changes create a new card-check certification process, similar to the process currently used in federally regulated workplaces and jurisdictions such as Quebec, New Brunswick and Prince Edward Island.

Previous Process in British Columbia

Since 2001, the certification process in British Columbia required two steps. First, a minimum of 45% of workers at a job site were required to sign membership cards. Once that threshold was achieved, then workers were required to restate their preference for a union by way of an additional secret ballot vote. The second secret ballot vote acted as a safeguard, enabling employees to express their true preference with respect to union membership, without pressure or fear of reprisal. This two-step process was required even if the union had obtained membership cards from a majority of workers.

The Amendments

The amendments create a single-step certification process, depending on the threshold of membership cards signed. If 55% or more of employees in a workplace indicate their intent to unionize by signing union membership cards, a union will be automatically certified and no further vote will be required. This process removes the secret ballot representation vote.

If between 45% and 55% of employees sign union membership cards, a second step consisting of a secret ballot vote will be required for certification. If the majority of employees who cast ballots vote in favour of the union, the Labour Relations Board would certify the union.

The card-based support of 55% of employees is one of the lowest requirements in the country, trailing only Quebec and Prince Edward Island, which require 50% support for certification.

2019 Labour Relations Code Review Panel Recommendations

In 2018, the current Ministry of Labour appointed a panel of special advisers to review the *Labour Relations Code*. From February 19, 2018, to August 31, 2018, the panel conducted research, received written submissions, and held public hearings throughout the province. The panel effectively concluded the single-step certification process was not necessary, and instead recommended shortening the time between the signing of membership cards and the certification vote. That amendment was introduced by Bill 30 in 2019, reducing the time from application to vote from 10 calendar days to five business days. Despite the panel considering the issue of card-check, and rejecting it, the BC Government has proposed this change.

Construction Industry Raids

The amendments introduced by Bill-10 will also impact construction sector unions as workers will now have annual opportunities to switch unions if they are unhappy with their current representation. The previous rules effectively prevented workers from changing unions for three years. Raiding, whereby one union replaces another union, was only permissible during an “open period”, which occurred once every three years, subject to the length of the collective agreement. The amendments introduced by Bill-10 permit “open periods” every July and August. This effectively enables annual raids by rival unions, exposing construction projects to disruption.

Impacts

BC has alternated several times between the card-check and secret ballot vote certification system. During 1973-1984 and 1993-2001, when the card-check certification system was in place, BC had higher union certification rates, and much more litigation related to union organizing and employee responses.

As a result of these amendments, the certification process will be much more subject to peer pressure and unaccountable practices by union organizers. Employers may also overreact to union campaigns, given the new unbalanced option. The removal of the second-step secret ballot vote could result in employees feeling pressured or coerced by the union or other employees into signing a union membership card in order to obtain the necessary threshold support, and avoid the second step vote.

Employers in British Columbia can expect to see an increasing number of union drives.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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