

Sweeping, Pro-Employer Labour Law Changes Take Effect This Fall in Alberta

written by vickyp | August 19, 2020



Bill 32 and the 9 changes HR directors in Alberta need to know about.

Good news for employers of unionized workplaces in Alberta. Important new, management-friendly labour relations rules under Bill 32, *Restoring Balance in Alberta's Workplace Act*, take effect on a date yet to be determined but which will probably be some time in the fall of 2020. Here are the 9 most notable changes HR directors of unionized companies in Alberta need to know about.

1. Limit on Reverse Onus Rules

Previous Liberal labour reform legislation imposed a reverse onus on employers, i.e., a burden to prove that certain allegations were not true rather than requiring the union to prove that they were true. Bill 32 limits these reverse onus rules to cases of dismissal or discharge only. It also saddles unions with a reverse onus in cases where they used intimidation or coercion in organization campaigns or violated provisions relating to opt-in.

2. Board Approval for Secondary Picketing

Unions will have to apply for and obtain Alberta Labour Relations Board (Board) approval to engage in secondary picketing activity at any location aside from the employees' workplace. The Board will also have authority to make declarations within the order governing secondary picketing activity.

3. Longer Certification Penalties for Unions

Under Bill 32, unions that engage in wrongful actions that have the effect of interfering with a certification campaign may be denied certification for 6 months, as opposed to 90 days under current law.

4. New Limits on Remedial Certification

Under current rules, the Board may certify a trade union as a remedy when an employer engages in a prohibited practice resulting in an improper representation vote. But under Bill 32, remedial certification will be allowed only in circumstances where no other remedy is sufficient.

5. New Limits on Refusal to Certify

Similarly, the Board will still be able to refuse to certify a trade union where a prohibited practice by the trade union results in an improper representation vote; however, under Bill 32, it will be able to exercise that authority only where no other remedy is sufficient.

6. New Restrictions on Use of Union Dues for Political Activities

Union will now have to disclose the amount or percentage of union dues used for political activities, charities or non-governmental organizations, or general social causes or issues. And employees won't be required to pay the portion of union dues used for political activities, unless they elect to do so—although they will still have to pay union dues used for core union activities.

7. New Rules on Paying Dues During Illegal Strikes or Lockouts

Bill 32 authorizes the Board to let the employer suspend union dues during an illegal strike; however, the Board can also order the employer to continue to pay union dues during an illegal lockout.

8. New Union Financial Disclosure Rules

Bill 32 also requires unions to make their financial statements available to their members after the end of each fiscal year.

9. New Rules for First Contract Arbitration

Under current rules, the Board may order a first contract dispute to be resolved by arbitration if its efforts to provide assistance are unsuccessful and the Board is satisfied that arbitration is otherwise appropriate. In making its decision, the Board must consider whether any extreme bargaining positions have been taken by one or both parties, any unfair labour practices have occurred or the whether the employer failed to recognize and negotiate with the bargaining agent.

Under Bill 32, the Board will have authority to declare such a dispute be resolved by arbitration instead of as an option of last resort where the Board is satisfied that:

- Arbitration is necessary;
- The employer or trade union has failed to comply with the *Labour Relations Code* via: (i) a refusal to meet to bargain collectively; (ii) a refusal to recognize the authority of the other party to bargain collectively; or (iii) a failure to make a reasonable effort to conclude a collective agreement; and
- No other remedy would be sufficient to counteract the effects of the above failure to comply.