Passage of Bill 89: Giving greater consideration to the public's needs during strikes and lock-outs

September 11, 2025

On May 29, 2025, the National Assembly passed Bill 89, *An Act to give greater consideration to the needs of the population in the event of a strike or a lock-out* (Bill 89 or the Bill), which aims to provide a framework to lessen the impact of labour disputes on the population.

The Bill introduces new provisions for Québec employers and unions whose labour relations are regulated by the *Labour Code*.

New labour conflict resolution mechanisms

Bill 89 has two main components. First, it seeks to maintain certain services ensuring the well-being of the population – the services minimally required to prevent Québec's social, economic or environmental security from being disproportionately affected, in particular for persons in vulnerable situations. Second, it gives the Minister of Labour discretionary power to intervene in labour disputes by referring them to an arbitrator to determine the employment conditions of the employees in the striking or locked out bargaining unit.

These components can be summarized by the following roles, powers and rights:

The Administrative Labour Tribunal 's role in maintaining services ensuring the well-being of the population

- The Bill empowers the government to order the Administrative Labour Tribunal (the Tribunal) to determine whether services ensuring the well-being of the population must be maintained in the event of a strike or a lock-out involving a union and employer designated by the order. This order remains in effect until a collective agreement or an arbitration award is filed.
- From the time the right to strike or to a lock-out is acquired, the designated union or employer may request that the Tribunal order the parties to maintain services ensuring the well-being of the population in the event of a labour dispute. Before

rendering a decision, it must give the parties the opportunity to submit their views. It defines “services ensuring the well-being of the population” as “the services minimally required to prevent the population’s social, economic or environmental security from being disproportionally affected, in particular that of persons in vulnerable situations.”

- A decision ordering the maintenance of services ensuring the well-being of the population in the event of a strike or lock-out only applies to the negotiation stage in progress.
- Within 7 clear working days after this decision is notified, the union and the employer must negotiate the services ensuring the well-being of the population that must be maintained in the event of a strike or lock-out. On receiving the parties’ agreement, the Tribunal will assess whether the services are sufficient. Failing an agreement, or if the Tribunal considers the agreed-upon services to be insufficient, it will determine which services to maintain and how.
- The strike or lock-out in progress continues despite the Tribunal’s decision ordering the maintenance of services ensuring the well-being of the population unless it considers that exceptional circumstances warrant a suspension of the exercise of the right to strike or to a lock-out, until it has rendered a decision on whether the services to be maintained in the event of a labour dispute are sufficient.
- The Bill specifies that any union or employer that contravenes an agreement or a Tribunal decision on the services ensuring the well-being of the population to maintain in the event of a strike or lock-out is liable to a fine of $1,000 to $10,000 for each day or part of a day during which the offence continues.

Power of the Minister of Labour

- The Minister of Labour may, if he considers that a strike or a lock-out causes or threatens to cause irreparable injury to the population, refer the dispute to an arbitrator for the latter to determine the conditions of employment of the employees included in the bargaining unit on strike or locked out. The Minister can only refer the dispute to an arbitrator if the intervention of a conciliator or a mediator has not been successful.
- The strike or lock-out in progress ends as soon as the dispute is referred to arbitration.

The right to lock-out in public services

- Under the Bill, a lock-out can now be declared in a public service provided that this right has been acquired and that the employer has given the Minister and the union written notice of at least seven clear working days indicating the time when it intends to resort to a lock-out. “Public service” means municipalities, land transportation enterprises, enterprises that produce, transport, distribute or sell gas, water or electricity, ambulance services, etc.
- Despite this amendment introduced by the Bill, lock outs remain prohibited in public services subject to a Tribunal decision ordering that essential services be maintained in the event of a strike when it considers that a strike could endanger public health or safety.

A reform inspired by the powers of the federal Minister of Labour

It is interesting to note that Bill 89 draws inspiration from the powers granted to the federal Minister of Labour under the *Canada Labour Code*. The federal Minister recently exercised those powers by ordering arbitration in a major dispute between the Teamsters Canada Rail Conference and the Canadian National Railway Company (CN) and Canadian Pacific Kansas City (CPKC) railway companies to avert a rail transportation shutdown. This move was challenged before the Canadian Industrial Relations Board and federal courts on the grounds that it infringes on the freedom of association guaranteed by Section 2(d) of the *Charter of Rights and Freedoms* (the Charter).

It is worth noting that in 2015, in *Saskatchewan Federation of Labour v. Saskatchewan*, the Supreme Court of Canada recognized that the right to strike is an integral part of the freedom of association guaranteed by the Charter. The highest court in the land made clear that any excessive restriction could be a constitutional violation.

However, there are a number of important distinctions between the federal mechanism and the Bill. Under the *Canada Labour Code*, the Minister of Labour, where they deem it expedient or needed to maintain or secure industrial peace, can refer any question to the Canada Industrial Relations Board or direct the Board to do such things as the Minister deems necessary, such as referring the dispute to arbitration.

In Québec, the Bill makes no such provision. Instead, it allows the Tribunal, after the Minister of Labour has designated by order a union and an employer, to determine, at the request of one of the designated parties, whether certain services should be maintained in the event of a strike or a lock-out. Furthermore, the Minister may only order arbitration if they consider that a strike or a lock-out causes or threatens to cause serious or irreparable injury to the population, and only if conciliation or mediation has failed.

Lingering concerns

By introducing a mechanism for maintaining services ensuring the well-being of the population in the event of a strike or a lock-out, Bill 89 is expected to face intense legal challenges, particularly regarding its potential impact on the Charter-protected freedom of association. Specifically – as seen at the federal level – unions could contest the provisions for suspending the right to strike, especially if the restrictions on the right to strike are determined to be excessive.

In addition, the Bill's lack of definitions for some key concepts – like "social security of the population," "economic security of the population," "environmental security of the population," and "persons in vulnerable situations" – opens the door to interpretation and creates significant uncertainty about which services might be subject to a maintenance order from the Tribunal in a labour dispute. This also holds true for the concepts of "exceptional circumstances" and "serious or irreparable injury," which respectively can be used by the Tribunal and the Minister to suspend the exercise of the right to strike or to a lock-out. The courts will need to define the scope of these terms.

Key takeaways

The Bill was assented to on May 30, 2025, and will come into force six months later, on Nov. 30, 2025. Its effects on labour dispute management in Québec have yet to be assessed, but they could be significant. Prudent employers will want to closely monitor how it is interpreted and implemented to better gauge its potential operational impacts and adjust their approaches to labour relations and dispute management as needed.

BLG's Labour and Employment group can help you analyze how the *Act to give greater consideration to the needs of the population in the event of a strike or a lock-out* might affect your business. For more information, reach out to the key contacts below.

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