Significant Amendments to the British Columbia Labour Relations Code Now in Force

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This article will outline significant amendments to the *Labour Relations Code* proposed by Bill 30.

The provincial government has passed the most significant changes to the *Employment Standards Act* and *Labour Relations Code* in years.

This article outlines important amendments to the *Labour Relations Code* implemented via Bill 30, which received royal assent on May 30, 2019. To read more about the amendments to the *Employment Standards Act*, read **"Significant Amendments to the British Columbia *Employment Standards Act* Now in Force"**

Bill 30 — The *Labour Relations Code Amendment Act, 2019*

1. **New Restrictions on the Employer's Right to Communicate**

   Previously, section 8 of the *Labour Relations Code* (the Code) provided that employers (and any persons) had the freedom to express views on any matter, including matters relating to an employer, a trade union or the representation of employees by a trade union, provided that the employer did not use intimidation or coercion. Bill 30 repeals section 8 and substitutes a narrower right to "communicate to an employee a statement of fact or opinion reasonably held with respect to the employer's business".

2. **Protections on Consumer Leafleting are codified**

   Bill 30 amends the definition of picketing to clarify that picketing (which is prohibited by the Code except where specifically permitted) does not include lawful consumer leafleting that does not unduly restrict access to or egress from the place of business, operations or employment, or prevent employees from working at the place of employment. This is not a change in the law so to speak, but brings the Code in line with existing law from the Supreme Court of Canada.

3. **Faster Representation Votes**

Bill 30 shortens the time period between the Labour Relations Board (the Board) receiving an application for certification and holding the representation vote under section 24 of the Code from ten business days to five. An equivalent change is also proposed for decertification votes under section 33 of the Code.

4. **Expansion of Remedial Certification**

   Bill 30 provides the Board with expanded authority under section 14 of the Code to order remedial certifications (*i.e.,* without a vote in favour of certification) where the employer has committed an unfair labour practice during organizing and the Board considers that it is "just and equitable" to do so. Previously, a union seeking a remedial certification had to surpass a higher threshold by demonstrating that the union would likely have obtained the requisite support had it not been for the unfair labour practice.

5. **Longer "Statutory Freeze" Periods**

   Previously, following the certification of a union, employers were prohibited under section 45 of the Code from increasing or decreasing wages or altering terms and conditions of employment for four months after the application for certification was granted, if a first collective agreement had not yet been reached. Bill 30 significantly extends this statutory freeze period from four months to 12 months.

6. **Changes to Raiding Periods**

   Bill 30 amends section 19 of the Code to restrict union raiding to the seventh and eighth month of the third year in the term of a collective agreement and every year thereafter, if the term is for more than three years. For collective agreements with a term of three years or less, raiding may only occur during the final year of the term. In the construction industry, these raids may only occur in July and August (rather than the seventh and eighth month of the term), in order to account for the higher employment rates for construction workers in the summer. It is also noteworthy that, in cases of a successful raid, Bill 30 adds a new section 27.1 which allows the raiding union to apply to the Board to have an existing collective agreement with two or more years of term remaining cancelled by the Board.

7. **Successorships for Contract Re-tendering**

   Bill 30 amends section 35 of the Code to expand the successorship provisions of the Code to apply to certain service contracts that have been re-tendered and bid on by new contractors, including building cleaning services, security services, bus transportation services, food services and non-clinical services in the health sector. In order for the successorship provisions in the Code to apply, the contract for services must be for substantially the same services as were previously provided. Critically, unlike the other sections of Bill 30, which came into force on May 30, this amendment comes into force retroactively on the date of first reading (April 30).

8. **Increased Fines**

Bill 30 increases the fines for a failure to comply with orders of the Board from $1,000 to $5,000 for individuals, and from $10,000 to $50,000 for corporations.

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