Alberta Government Introduces The Fair And Family-Friendly Workplaces Act To Amend Provincial Labour And Employment Legislation

May 26, 2017

On May 24, 2017, the Alberta government introduced Bill 17, the *Fair and Family-Friendly Workplaces Act*, which, if passed, will substantially amend the Alberta *Employment Standards Code,* RSA 2000, c E-9 and the Alberta *Labour Relations Code,* RSA 2000, c L-1. The government's stated reason for introducing Bill 17 is to modernize Alberta's workplace legislation, which has seen few amendments in the past 30 years, to be more in line with labour and employment legislation in other provinces, and to better align with the federal government's recent and proposed changes to Employment Insurance benefits.

Bill 17 contains many significant proposed changes to both employment and labour laws in Alberta, the contents of which will be subject to debate and amendment as Bill 17 progresses through the legislative process. Some of the highlights of the proposed amendments to Bill 17 in its current form Bill 17 are set out below.

Proposed amendments to the Alberta *Employment Standards Code* include:

Leaves of Absence

- Employees would be eligible to go on leave after 90 days of employment, rather than 1 year.
- Compassionate care leave extended to 27 weeks from the current 8 weeks, and would be available to non-primary caregivers. Notice to return to work following compassionate care leave would be reduced to 48 hours from the current 2 weeks.
- Maternity leave extended to 16 weeks from 15 weeks, and parental leave extended to 52 weeks from 37 weeks. Employment of an employee on maternity or parental leave could not be terminated unless the business is closed or suspended.
- New Long-Term Illness and Injury Leave of up to 16 weeks unpaid leave for personal sickness or injury.
- New Personal and Family Responsibility Leave of up to 5 days unpaid leave for personal sickness or short-term care of an immediate family member.

- New Bereavement Leave of up to 3 days of unpaid leave for bereavement of an immediate family member.
- New Domestic Violence Leave of up to 10 days unpaid leave to address a situation of domestic violence.
- New Citizen Ceremony Leave of up to ½ day unpaid leave to attend a citizenship ceremony.
- New Critical Illness of a Child would provide up to 36 weeks of unpaid leave for parents of critically ill or injured children.
- New Death or disappearance of a Child would provide up to 52 weeks unpaid leave for an employee whose child disappeared as a result of a crime, or up to 104 weeks unpaid leave if the child died as a result of a crime.

Compressed Work Weeks

- Compressed work weeks would be renamed “Averaging Agreements”, and would require the support of the majority of affected employees.

Overtime Entitlements

- Overtime agreements would allow time to be banked for 6 months rather than 3 months.
- Banked overtime would be calculated as 1.5x for all hours worked, rather than straight time.

Deductions allowed from wages

- Includes specific prohibition against deductions for faulty work or cash shortages (such as dine-and-dash situations)

Holiday and Vacation Pay

- General holiday pay would be calculated as 5% of wages for previous 4 weeks worked, and distinction between regular and non-regular day of work would be eliminated.
- Vacation pay entitlements clarified as 4% or 2 weeks of employee’s total wages, and 6% after 5 years of employment.

Termination of Employment

- Increased notice requirements for termination of employment of 50 or more employees: 50-100 employees would require 8 weeks’ notice; 101-300 employees would require 12 weeks’ notice; 301 or more employees would require 16 weeks’ notice.

Minimum Wage

- Repeal of the ability for employers to pay employees with disabilities less than minimum wage.

Youth Employment

- Increase of the minimum age for youth employment from 12 to 13.

Enforcement and Administration

- Imposition an administrative penalty on employers found in contravention of the Code.
- Time limit to commence prosecution increased to 2 years from 1 year.
- Employment Standards Officers given authority to direct employers to conduct self-audits.

Highlights of the proposed amendments to the Alberta *Labour Relations Code* include:

- Reverse the onus to showing an unfair labour practice has occurred from the employee, to the employer.
- Change the definition of employee to include dependent contractors who only work for one employer, to allow dependent contractors to unionize and bargain collectively.
- Restrictions on secondary picketing would be replaced with new powers to regulate.
- Eliminate the need for a representation vote for certification of a trade union if at the time of application for certification more than 65% of the employees have verified membership in the trade union.
- Eliminate the restriction requiring employees in the construction industry to have worked for an employer for 30 days in order to participate in a union certification vote.
- Include continuing care facilities (include those operated by the private sector), health care laboratories and blood supply services, within essential services provisions of the *Labour Relations Code*, so as to require an essential agreement to be in place to continue provision of services in the event of a strike.
- The Labour Relations Board would be given new and additional powers for managing proceedings that come before it.

There are likely to be changes to Bill 17 following the Second Reading and the meeting of the Committee as a Whole. Watch this space for further updates.

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BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

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