Bill 10 – B.C. Labour Relations Code Amendment Act, 2022 passes third reading*

May 25, 2022

On April 6, 2022, the Government of British Columbia introduced significant and union friendly amendments to the B.C. *Labour Relations Code* (the Code). The changes could result in increased unionization efforts in the province and increased raids in the construction industry.

Bill 10 passed second reading on May 5, 2022. The amendments passed committee and report stage on May 16, 2022. On May 17, 2022, the legislation passed third reading without any changes to the legislative text as presented at first reading, with 50 members of the legislature voting "yea" and 25 members voting "nay.[1]"

The Bill is expected to receive Royal Assent in the very near future.

Single step certification

Bill 10 establishes a single-step union certification system.

Under the current regime, there are two steps for a union to be certified:

1. **Card check** - Employees must first sign union membership cards to show their support for unionization. A 45 per cent threshold of the proposed bargaining unit must be met. Once the threshold is met, the union then files a certification application, which if successful, leads to a secret ballot vote.
2. **Secret ballot (ratification) vote** - During the secret ballot vote, if a majority of employees vote for certification then the union will be certified, unless the Labour Relations Board (the Board) finds that the proposed bargaining unit is inappropriate.

Under the Bill 10 amendments, if 55 per cent or more of employees in a proposed bargaining unit sign union cards, the union will be certified by the Board upon application without the need for a ratification vote. Notably, the union may still request that a secret ballot vote be taken before the Board determination of the appropriate bargaining unit.

Where less than 55 per cent but at least 45 per cent of employees in a proposed bargaining unit have signed a membership card, the Board will still order a ratification vote.

Raids in the construction industry

Put simply, a raid is an opportunity for one union to take over the bargaining unit of another union that already represents that membership during what is referred to as an "open period."

Currently, under section 24 of the Code, employees in the construction industry are only allowed to change union representation every three years. Under the Bill 10 amendments, annual raids will be permitted and can occur in July or August of each year, regardless of the length of the collective agreement.

Comments about Bill 10

When introducing Bill 10 in the Legislature on April 6, 2022, the Honourable Minister of Labour Harry Bains said, "These changes recognize the importance of ensuring that the workers across B.C. have a say in their working conditions and can exercise their constitutional right to make a choice about union representation."

The Government of British Columbia's own expert panel acknowledged in its report that British Columbia has swung back and forth between the card check system and the secret vote system, "depending on which political party formed the government of the day."[2] However, despite being appointed by the current NDP government, the panel's fifth recommendation in its report was that, "the secret ballot vote be retained providing there are sufficient measures to ensure the exercise of employee choice is fully protected and fully remediated in the event of unlawful interference."

To the extent that the measures in place were insufficient and necessitated a change away from the secret ballot vote to a card check certification system, such insufficiencies were not discussed with members of the business community.

In a joint statement released by a number of business associations on the same day, the B.C. Chamber of Commerce, the Surrey Board of Trade, the Canadian Federation of Independent Business, the Business Council of British Columbia and the Greater Vancouver Board of Trade expressed collective surprise by the introduction of the amendments, "without any meaningful consultation with employers" particularly, "at a time when many businesses are still reeling from the pandemic." The associations then called on the Government of British Columbia to pause the legislative process and "engage in a fulsome and proper consultation with employers."

Despite this plea from the business community, the Government of British Columbia has chosen to ignore this call to consult and has passed these amendments into law.

Questions?

If you have any questions regarding the amendments to the B.C. *Labour Relations Code*, please contact your BLG Labour and Employment lawyer, the author, or one of the contacts listed below.

** This legislation received Royal Assent on June 2, 2022.*

[1] Parliament of British Columbia, Hansard (Draft), May 17, 2022 (Afternoon), online.

[2] Labour Relations Code Review Panel (Michael Fleming, Sandra Banister Q.C., and Barry Dong), "A Report to The Honourable Harry Bains, Minister of Labour, Recommendations for Amendments to the Labour Relations Code," August 31, 2018 at 10.

By

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