

2008 Bill 26

First Session, 27th Legislature, 57 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 26

LABOUR RELATIONS AMENDMENT ACT, 2008

THE MINISTER OF EMPLOYMENT AND IMMIGRATION

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 26

2008

LABOUR RELATIONS AMENDMENT ACT, 2008

(Assented to _____, 2008)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000 cL-1

1 The *Labour Relations Code* is amended by this Act.

2 Section 12(3) is amended by striking out “or” at the end of clause (t), adding “or” at the end of clause (u) and adding the following after clause (u):

- (v) a majority of employees, or an employer and a majority of employees, have confirmed that they accept being bound by a collective agreement, and the date of that confirmation, for the purposes of section 52(4.1),

3 The following is added after section 34:

Certification representation vote in construction industry

34.1 A person is not eligible to vote in a representation vote referred to in section 34(1)(d) in respect of the certification of a trade union as bargaining agent with respect to employees and their employer who are engaged in work in the construction industry unless all of the following apply:

- (a) the person was an employee of that employer for at least the 30-day period immediately preceding the date of the application for certification;

Explanatory Notes

1 Amends chapter L-1 of the Revised Statutes of Alberta 2000.

2 Section 12(3) presently reads in part:

(3) The Board may decide for the purposes of this Act whether

(u) a lockout has occurred or is lawful under this Act,

and the Board's decision is final and binding.

3 Certification representation vote in construction industry.

- (b) the person has not quit or abandoned the person's employment between the date of the application for certification and the date of the vote;
- (c) the person meets any requirements with respect to eligibility to vote established in rules made by the Board pursuant to section 15(4)(a).

4 The following is added after section 35:

Ambulance attendant bargaining units

35.1(1) Notwithstanding any certificate to the contrary, a bargaining unit that includes ambulance attendants as defined in the *Ambulance Services Act* who are represented by a bargaining agent shall not include any other employees, other than employees to whom Division 16 applies.

(2) Subsection (1) does not apply in respect of a region-wide functional bargaining unit established under section 162.1 and the regulations under that section.

5 Section 52 is amended by adding the following after subsection (4):

(4.1) Where a trade union is certified as the bargaining agent for employees who are engaged in work in the construction industry, employees in the bargaining unit may make an application for revocation of the bargaining rights at any time before the earliest of the following:

- (a) the date of the expiry of the 90-day period immediately following the date of certification of the trade union;
- (b) if a collective agreement is entered into between the employer and the trade union after the date of certification, the date on which a majority of the employees in the bargaining unit confirm that they accept being bound by that collective agreement;
- (c) if the employer and the employees are bound by a collective agreement entered into under Part 3, Division 3, the date on which the employer and a majority of the

4 Ambulance attendants must be in separate bargaining units.

5 Section 52 presently reads in part:

(3) An application for revocation of bargaining rights may be made by the employees in the unit

- (a) if no collective agreement is in force in respect of any of the employees in the unit, at any time after the expiration of 10 months from the date of the certification of the trade union, and at any time if the trade union is not certified,*
- (b) if the certification of a bargaining agent in respect of any of the employees in the unit is questioned or reviewed by the Court, at any time after the expiration of 10 months from the date of the final disposition of the question or review, unless the Court quashes the decision of the Board to certify the bargaining agent,*
- (c) if a collective agreement for a term of 2 years or less is in force in respect of any of the employees in the unit, at any time in the 2 months immediately preceding the end of the term of the collective agreement, or*

employees in the bargaining unit confirm that they accept being bound by that collective agreement.

(4.2) The right to make an application for revocation of bargaining rights under subsection (4.1) is in addition to any right the employees have under subsection (3) to make an application for revocation of bargaining rights.

6 The following is added after section 53:

Revocation representation vote in construction industry

53.1 A person is not eligible to vote in a representation vote referred to in section 53(1)(b) in respect of the revocation of the bargaining rights of a trade union with respect to employees and their employer who are engaged in work in the construction industry unless all of the following apply:

- (a) the person was an employee of that employer for at least the 30-day period immediately preceding the date of the application for revocation;
- (b) the person has not quit or abandoned the person's employment between the date of the application for revocation and the date of the vote;
- (c) the person meets any requirements with respect to eligibility to vote established in rules made by the Board pursuant to section 15(4)(a).

7 Section 96(1) is amended by adding the following after clause (c):

- (d) operators as defined in the *Ambulance Services Act* and their employees who act as ambulance attendants as defined in that Act to whom neither clause (b) nor clause (c) applies.

(d) if a collective agreement for a term of more than 2 years is in force in respect of any of the employees in the unit, at any time

(i) in the 11th or 12th month of the 2nd or any subsequent year of the term, or

(ii) in the 2 months immediately preceding the end of the term.

(4) Notwithstanding subsection (3), no application may be made under clause (d)(i) of that subsection unless the application is made at least 10 months prior to the end of the term of the collective agreement.

6 Revocation representation vote in construction industry.

7 Section 96(1) presently reads:

96(1) This Division applies to the following:

(a) firefighters and, to the extent that they bargain collectively with firefighters, municipalities and Metis settlements;

(b) employers who operate approved hospitals as defined in the Hospitals Act, and all the employees of those employers;

8 The following is added after section 148:

Prohibited practices regarding subsidization of construction contractors

148.1(1) In this section and section 148.2,

- (a) “construction contractor” means a corporation, partnership, person or association of persons engaged in the construction industry in respect of work in that industry;
- (b) “market enhancement recovery fund” means a fund that is established or maintained for the purpose of assisting, by either or both of the following means, one or more construction contractors to obtain work in the construction industry:
 - (i) subsidizing the bids, tenders, fees or prices of a construction contractor;
 - (ii) subsidizing the wages paid to the employees of a construction contractor;
- (c) “trade union trust” means a trust established and maintained in whole or in part for the benefit of a trade union or its members.

(2) No construction contractor or person acting on behalf of a construction contractor shall contribute funds, regardless of the source of the funds, to any trade union or trade union trust or any person acting on behalf of a trade union or trade union trust for the purpose of establishing or maintaining a market enhancement recovery fund.

(3) Nothing in subsection (2) prohibits a construction contractor who is an employer from deducting, in accordance with subsection (4), dues, assessments or other fees from the wages of an employee and remitting those amounts to a trade union or trade union trust or any person acting on behalf of a trade union or trade union trust for the purpose of establishing or maintaining a market enhancement recovery fund.

(c) employers that are regional health authorities and all of their employees to whom clause (b) does not apply.

8 Prohibits practices regarding subsidization of construction contractors; Distribution of non-compliant market enhancement recovery funds.

(4) No construction contractor who is an employer shall make a deduction referred to in subsection (3) unless

- (a) the employee gives prior authorization in writing for the deduction, and
- (b) the amount of the deduction and the purpose of it are clearly shown, separate from other deductions,
 - (i) in the records of the employer, and
 - (ii) in a written statement that is made available to the employee at the end of the pay period in which the deduction is made.

(5) No trade union or trade union trust, and no person acting on behalf of a trade union or trade union trust, shall

- (a) subsidize the bids, tenders, fees or prices of a construction contractor, or
- (b) subsidize the wages paid to the employees of a construction contractor

by contributing funds to the construction contractor or any person acting on behalf of the construction contractor.

Distribution of non-compliant market enhancement recovery funds

148.2(1) Subject to subsection (2), if, on or after the coming into force of this section, a market enhancement recovery fund contains any amounts of funds that were contributed to a trade union or trade union trust, or any person acting on behalf of a trade union or trade union trust, by a construction contractor or a person acting on behalf of a construction contractor for the purpose of establishing or maintaining a market enhancement recovery fund, the trade union or the trustee of the trade union trust shall distribute those amounts in accordance with subsection (3) and the regulations made under subsection (4).

(2) Subsection (1) does not apply to amounts contained in a market enhancement recovery fund that were contributed, either before or after the coming into force of section 148.1, by a construction contractor or a person acting on behalf of a construction contractor if those amounts consist of dues,

assessments or other fees that were deducted from the wages of employees in a manner that meets the requirements of section 148.1(3) and (4).

(3) Amounts required to be distributed under subsection (1) shall be distributed

- (a) if a collective agreement or trade union trust so provides, in accordance with the collective agreement or trade union trust, or
- (b) if the amounts cannot be distributed in accordance with clause (a), in accordance with the regulations made under subsection (4).

(4) The Lieutenant Governor in Council may make regulations that the Lieutenant Governor in Council considers are necessary to carry out the purpose and intent of this section, including, but not limited to, regulations

- (a) respecting the disclosure of information respecting market enhancement recovery funds by trade unions, trustees of trade union trusts and other persons;
- (b) respecting the manner, or the process for determining the manner, of determining whether amounts contained in a market enhancement recovery fund are amounts that must be distributed under this section;
- (c) respecting the manner, or the process for determining the manner, in which amounts contained in market enhancement recovery funds are to be distributed, including regulations respecting to whom amounts should be distributed for the purpose of subsection (3)(b);
- (d) respecting the power to make inquiries, investigations and inspections and to compel disclosure of information respecting market enhancement recovery funds for the purpose of this section, including, without limitation, regulations authorizing persons
 - (i) to make any inspection, investigation or inquiry that the person considers necessary,

- (ii) at any reasonable time to enter any place, other than a private dwelling, containing records that relate to a market enhancement recovery fund and to inspect those records, and
- (iii) to make copies of any records described in subclause (ii).

(5) Subsection (1) and the regulations under subsection (4) operate notwithstanding the provisions of any collective agreement or trade union trust.

9 Section 151 is amended by adding the following after clause (h):

- (h.1) expel or suspend a person from membership in a trade union or take disciplinary action against or impose any form of penalty on a person by reason of the person having refused to authorize a deduction referred to in section 148.1(3);

10 Section 161(a) is amended by striking out “\$10 000” and substituting “\$100 000”.

11(1) Where, on the coming into force of section 4 of this Act, a bargaining unit to which section 35.1(1) of the *Labour Relations Code* applies includes both employees who are permitted by that section to be included and employees who are not permitted to be included, the Labour Relations Board, in order to give effect to section 35.1(1),

9 Section 151 presently reads in part:

151 No trade union and no person acting on behalf of a trade union shall

- (h) expel or suspend a person from membership in the trade union or take disciplinary action against or impose any form of penalty on a person by reason of the person having refused to perform an act that is contrary to this Act;*

10 Section 161 presently reads:

161 Subject to sections 159 and 160, a person, employee, employer, employers' organization or trade union that contravenes or fails to comply with any provision of this Act or of any decision, order, directive, declaration or ruling made by the Board under this Act is guilty of an offence and liable

- (a) in the case of a corporation, employers' organization or trade union, to a fine not exceeding \$10 000, or*
- (b) in the case of an individual, to a fine not exceeding \$5000.*

11 Transitional re existing collective agreements.

- (a) shall on its own motion issue, amend or cancel certificates as the Board considers necessary,
- (b) may on application by an employer, trade union or person affected make any amendments to collective agreements that the Board considers necessary, and
- (c) may on its own motion or on application by an employer, trade union or person affected make any orders and issue any directives that the Board considers necessary.

(2) The Board may issue any certificates, make any amendments to certificates or collective agreements, make any orders and issue any directives under subsection (1) effective on the coming into force of section 4 of this Act.

(3) Nothing in this section shall be construed as abrogating, modifying, limiting or replacing the powers of the Board under the *Labour Relations Code*.

12 This Act comes into force on Proclamation.

12 Coming into force.

