

THE SASKATCHEWAN EMPLOYMENT ACT

Overview

December 4, 2012



**Saskatchewan
Ministry of
Labour Relations and
Workplace Safety**

OVERVIEW

- ▶ Over 3800 submissions were received on the content of the consultation paper.
- ▶ The feedback received, alongside input received from the Minister's Advisory Committee, was carefully considered in determining the scope of the recommended legislative changes.
- ▶ The result is *The Saskatchewan Employment Act*, which is a consolidation of 12 Acts:
 - ▶ *The Assignment of Wages Act*
 - ▶ *The Building Trades Protection Act*
 - ▶ *The Construction Industry Labour Relations Act, 1992*
 - ▶ *The Employment Agencies Act*
 - ▶ *The Fire Departments Platoon Act*
 - ▶ *The Health Labour Relations Reorganization Act*
 - ▶ *The Labour-Management Dispute (Temporary Provisions) Act*
 - ▶ *The Labour Standards Act*
 - ▶ *The Occupational Health and Safety Act, 1993*
 - ▶ *The Radiation Health and Safety Act, 1985*
 - ▶ *The Trade Union Act*
 - ▶ *The Wages Recovery Act*



OVERVIEW continued

- ▶ The Bill is organized as follows:
 - PART I Preliminary Matters
 - PART II Employment Standards
 - PART III Occupational Health and Safety
 - PART IV Appeals and Hearings re: Parts II and III
 - PART V Radiation Health and Safety
 - PART VI Labour Relations
 - PART VII Public Service Essential Services (Place Holder)
 - PART VIII Labour-Management Actions (Temporary Measures During an Election)
 - PART IX Assignment of Wages
 - PART X Repeal and Consequential Amendments



PART II - EMPLOYMENT STANDARDS

SCOPE

- Maintain exemption for agriculture workers in the Act, but move all other exemptions to regulations.

EMPLOYMENT AGENCIES

- Ensure job seekers are not charged a fee by employment agencies for finding a job.
- The penalty for charging a fee is equivalent to the amount of the fee.

HOURS OF WORK

- Overtime is to be paid after 8 hours in a day and 40 hours in a week unless a modified work arrangement exists or a permit has been issued.
- Maintain the employees ability to refuse to work more than 44 hours per week, unless agreed to by the employee.
- Two work arrangements are permitted in the legislation: (1) 8 hour per day - 5 days per week; and (2) 10 hours per day – 4 days per week.
- Permits continue to be required for longer work periods without a day of rest.
- Incorporate fire fighter hours of work provisions in Part and regulations but maintain current existing provisions.



PART II - EMPLOYMENT STANDARDS

LEAVE PROVISIONS

- Add two new leaves – organ donation (max. 26 weeks) and leave to attend citizenship ceremonies (1 day).
- Lower the qualifying period for maternity, parental and adoption leave from 20 weeks to 13 weeks.
- Require 4-weeks notice to commence or return from all leaves.
- Allow the accruing of service, to a maximum of 52 weeks, for nomination/election leave (currently exists for maternity, parental and adoption leaves).

ANNUAL HOLIDAYS – No change

- Maintained current 3 weeks per year for first 9 years and 4 weeks after completing 10 years of service or more with an employer.
- Allow employer to create a common date for calculating vacation entitlement as long as it does not reduce entitlements.

PUBLIC HOLIDAY PROVISIONS – No change

- Maintained at 10.
- Continue to allow a public holiday to be moved if approved by the Director of Employment Standards.

NOTICE PROVISIONS – No change

- Continue the individual notice requirement which increases from 1 week notice for 13 weeks to 1 year of service to 8 weeks notice for 10 or more years of service.
- Continue the group termination requirement in the Act with the specific requirements in regulation.



PART II - EMPLOYMENT STANDARDS

MINIMUM WAGE

- Index the minimum wage based on a formula that gives equal weight to the annual change in the average hourly wage and the Consumer Price Index. All increases will be subject to Cabinet approval.
- Remove the Minimum Wage Board.
- Remove the ability for the Director to approve a lower minimum wage for persons with a disability.

PAYMENT OF WAGES

- Allow for electronic payment of wages.
- Enable the payment of wages by other means in regulations (e.g. pre-paid cards).
- Continue the requirement to provide a statement of earnings and deductions.

COLLECTION OF WAGES

- New provisions to modernize wage collection include creating a legislated payment priority for wage debts owed and introduce enhanced enforcement tools to assist in recovery of outstanding wage debts.

ASSIGNMENT OF WAGES

- Continue to restrict what an employer can deduct from an employee's wages.



PART II - EMPLOYMENT STANDARDS

EQUAL PAY

- Stipulate that no two people can be paid a different wage based upon a prohibited ground found in *The Saskatchewan Human Rights Code*.

DISCRIMINATORY ACTIONS

- Continue to prohibit an employer from taking any discriminatory action against an employee for reporting an offence to a lawful authority.
- Prohibit discrimination for requesting or taking maternity, parental, adoption, nomination and reservist leaves, or requesting modified duties or reassignment due to disability, illness or maternity.

FINES

- Increase the maximum fine from \$10,000 to \$50,000.

TIME BANKS

- Allow for the establishment of time banks for overtime hours worked on agreement of employer and employee.

THE WAGES RECOVERY ACT

- Ensure employees employed under a contract of employment are paid their wages, and where this has not occurred enable the collection of wages through the processes provided for in Part II.



PART III & V - OCCUPATIONAL HEALTH SAFETY/RADIATION HEALTH & SAFETY

PRIME CONTRACTORS

- Require the designation of a prime contractor on certain multiple-employer worksites. Regulations will detail what sectors of the economy this will apply to as well as project size (e.g. oil & gas, forestry, construction).

PENALTIES

- Increase penalties and establish differential maximum penalties for individuals (\$500,000) and corporations (\$1.5 million).
- Under Radiation Health and Safety (Part V), the maximum penalties are increased from \$15,000 to \$100,000.

REIMBURSEMENT

- Remove requirement for Order in Council approval for reimbursement from WCB of expenditures on the Industrial Safety programs.

RADIATION HEALTH AND SAFETY

- Modernizing and establishing consistency with provisions of Part III - Occupational Health and Safety.



PART IV- APPEALS

APPEALS

- Create a single avenue for appeals of employment standards and occupational health and safety complaints.
- Appeals from employment standards and occupational health and safety will continue to be heard by adjudicators appointed under Part II and Part III.
- The powers and duties of the adjudicators are maintained.
- The LRB will be responsible for assigning adjudicators to hearings.
- Decisions of adjudicators can be appealed to the Labour Relations Board.
- Decisions of the Labour Relations Board can be appealed to the Court of Appeal.
- Adjudicators are to consider mitigation when rendering a decision related to lost wages.



PART VI - LABOUR RELATIONS

SCOPE

- Clarify the definition of employee to exclude managerial and confidential duties in matters relating to labour relations, business strategic planning, policy advice and budget implementation and planning.
- Include definition of “supervisory employee” that would restrict a supervisor from belonging to the same bargaining unit as those they supervise.
- Enable the employer and union to agree to maintain supervisors in the same union as those employees they supervise.
- Restrict the application of the creation of supervisory exclusions for 2 years, to provide the parties with time to prepare for the change.

ACCOUNTABILITY

- Unions must provide audited financial statements to their members. Applications can be made to LRB to compel disclosure.
- Require the union to disclose the results of all votes to its members.
- Unions are to commence ratification votes within 14 days of concluding a collective agreement.
- Clarify that employers are to remit union dues to the local unions rather than national or international head offices.

CERTIFICATION

- Continue to require at least 45% support of the employees before a certification vote can be ordered.



PART VI - LABOUR RELATIONS

DECERTIFICATION

- Continue the current grounds for seeking to decertify a union - loss of support and unfair labour practice.
- Add new grounds for seeking to decertify a union - union ceases to be a union.
- Expand the ability to seek a decertification on the grounds of abandonment beyond the construction sector (abandonment - union has been inactive in representing members for a period of 3 or more years).
- Applications to decertify can be made anytime after the first 24 months of a certification order and 12 months after an unsuccessful application, thereafter.

VOLUNTARY RECOGNITION

- Allow an employer to voluntarily recognize a union in specific situations in specific industries which will be prescribed in regulations (i.e. short-term projects where a highly skilled, captive labour pool is to be provided by the union).
- All voluntary recognition agreements are to be filed with the Ministry.

SUCCESSORSHIP/TRANSFER OF OBLIGATION

- Remove the provision requiring the transfer of a certification order and collective agreement when a business successfully bids on a contract to provide cafeteria, janitorial or security services in a government-owned building (section 37.1 of *The Trade Union Act*).
- Maintain all other successorship provisions.

VOTES

- Continuation of secret ballot votes.



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PART VI - LABOUR RELATIONS

NEGOTIATION OF AGREEMENTS

- Increase the time period in which notice to bargain is to be given from a period 60 days to 30 days prior to the expiry of a collective agreement to a period 120 days to 60 days before the expiration of a collective agreement.
- Parties must negotiate in good faith. Failure to comply constitutes an unfair labour practice.
- Parties must provide the Minister with a Notice of Impasse when an impasse has been reached; and they must participate in a mandatory conciliation process.
- Once notified, the Minister will have a variety of tools to assist the parties to reach a resolution including mediation, conciliation and arbitration.
- If unable to conclude an agreement, the parties must observe a 14-day cooling off period before a strike or lockout can occur.
- The requirement to provide 48-hour strike or lock-out notice is maintained.
- The Act will enable the Minister to establish an industrial inquiry commission to consider any impasse in collective bargaining that may exist.

FIRST COLLECTIVE AGREEMENT

- Continue the requirement for the Labour Relations Board or single arbitrator to consider the position of the parties on issues in dispute and the arguments advanced when imposing a first collective agreement.
- A first collective agreement has a mandatory length of 2 years.



PART VI - LABOUR RELATIONS

LAST OFFER VOTE

- Streamline the last offer vote process by removing the requirement for a strike to have taken place for 30 days. Instead, a vote can occur anytime after notice to bargain has been given.
- Continue the ability of employees to request a last offer vote but increase the threshold evidence of support from 25% to 45% of employees in the bargaining unit.
- Remove the requirement for the appointment of a special mediator.
- Clarify that all employees of the bargaining unit at the time of the notice to bargain will be eligible to vote.
- Enable the Minister to request a vote if determined to be in the public interest.

UNION SECURITY/DEDUCTION OF UNION DUES – No change

- Maintain the requirement for a union security clause to be included in a collective agreement if requested by the union.
- Continue to require the employer to collect and remit dues to the union when requested in writing by the employee and union.

TECHNOLOGICAL CHANGE

- Clarify the definitions of “technological change” and “organizational change”.
- Maintain the current requirement to provide notice and to bargain a workplace adjustment plan.
- 90 days to implement changes.



PART VI - LABOUR RELATIONS

DUTY OF FAIR REPRESENTATION

- Require unions to fairly represent current and former employees in the employer-union relationship.
- Enable the Board to extend time period for grievance proceedings if union found to have not represented employee appropriately.

FINES OF UNION MEMBERS

- Remove the legislative authority of the union's right to fine its members for crossing a picket line. Unions may fine members in accordance with their constitutions but collection of any fines levied must be by an order of the Court upon a member.

UNFAIR LABOUR PRACTICES – No change

- Maintain the current unfair labour practice provisions.

PROVINCE-WIDE BARGAINING

- Maintain current province -wide bargaining in construction and health care sectors.

PICKETING/STRIKE AND LOCKOUT ACTIVITY – No change

- Provisions respecting picketing have not been included in the Act.
- Strike and lockout provisions have been maintained, which includes holding a strike vote where majority support a strike and providing 48 hours notice of a strike or lockout.

FILING OF COLLECTIVE AGREEMENTS – No change

- Maintain the requirement to file a copy of a collective agreement with the Minister.



PART VI - LABOUR RELATIONS

CONSTRUCTION INDUSTRY LABOUR RELATIONS – No change

- Modernized the provisions of the current Act.

HEALTH SECTOR

- New provisions establish the designated employer representatives and allow the LRB to recognize current multi-employer bargaining structure.

FIRE DEPARTMENTS

- Increased the city population threshold for requiring binding arbitration from 10,000 to 15,000.
- Maintain existing binding arbitration process following an impasse in bargaining.

LABOUR RELATIONS BOARD

- Maintain current LRB structure and powers.
- Increase penalties for violations from a maximum of \$10,000 to \$100,000 for union or employers and from \$1,000 to \$5,000 for individuals.

TRANSFERRING BENEFITS

- Allow the transfer of union administered benefit plans if a union is decertified or replaced by another union.



PART VI - LABOUR RELATIONS

PART VII - ESSENTIAL SERVICES

- Maintain current Act and create a placeholder in *The Saskatchewan Employment Act*.
- Await guidance from the Court of Appeal.

LABOUR-MANAGEMENT DISPUTES (DURING ELECTION)

- Expand the current provision established in 1982 to enable the Government to end any work stoppage or withdrawal of services during the writ period (e.g. doctors and teachers).

EDUCATION AND POLICE SECTOR

- No change to current Acts, although all labour relations procedures will be applicable at the point of impasse in collective bargaining and all resolution tools will be available to the parties and the Minister.

