

Merit's proposed changes



to Alberta's Labour Code

Over the next while, Albertans will be hearing about possible changes to the Labour Code—the main law dealing with how employees join unions, how unions negotiate with or strike against employers and how employees working for unionized employers can remove a union from their workplace.

Why Should I Care About Labour Law?

According to a recent survey, the overwhelming majority of Merit member employees are satisfied with their current union-free situation. Many will undoubtedly ask: "unions don't affect me, so why should I worry about labour law?"

The fact is, Alberta's law hasn't been amended since 1988. Yet, a lot has changed since then. Free trade is but one example. As well, labour relations rules can be a key factor for companies deciding where to invest in a plant or office building. Governments in other provinces such as B.C. and Ontario which we compete with for construction investment have recently updated their labour laws to reduce costly rules and procedures and promote competition.

Present loopholes in our laws mean some construction purchasers may pay higher costs for their plants and buildings than they might face elsewhere. Without investment there simply would be no construction. How important is that to you? Think back to the early '80s when construction employment fell from 125,000 to about 70,000 in one year. Everyone is affected in one way or another by labour law because of its impact on investment, productivity, costs and industry

competitiveness. That's why Merit recently submitted a proposal to the Alberta government suggesting changes to the Labour Code.

It's All About Choice and Balance

Most Albertans have many choices about where they can shop or buy different goods and services. Choice, and the opportunity to exercise it, is fundamental to a democratic society and healthy economy. That's why Merit supports the idea that, so long as it is fair, both companies and employees should be able to choose who they wish to do business with and how they wish to operate.

The Labour Code is the legal basis by which this happens in the workplace. Unlike provinces such as Quebec and Saskatchewan, Alberta gives employees and employers three choices: union-free, independent union or employee association and traditional international building craft trade union. A separate set of rules applies in each situation.

For the most part, the system works well. Having competitive choices has meant the industry has not had to deal with the kind of labour chaos that almost shut it down in the late '70s and led to its virtual collapse in the early '80s. Yet, there are some unions that remain opposed to fair competition and allowing employees to democratically choose whether or not they want a union. Merit hopes the Alberta government will take care of some of the outdated and archaic rules that go along with this thinking.

Revocation of Certification

A good example is the case of an Edmonton electrical contracting company with four electricians. The company was once unionized. After being sold and re-sold the company operated successfully without any union involvement whatsoever for over 25 years. After 25 years, the union for some reason felt the company was still legally unionized. Without asking the employees, the Labour Board agreed and ruled in the union's favour.

By coincidence, the legal decision happened just when the union and employers' organization were concluding a new collective agreement. Alberta's Labour Code only allows employees to vote a construction union out in either the 22nd or 23rd month of a collective agreement. So, even though the employees had enough support by petition to revoke the union as their agent, the union challenged them because the petition form was outdated. The union also argued that the time frame for the employees to file their petition had lapsed. When the Board ruled in favour of the employees, the union again challenged the decision. Considering there were only four employees involved, and the amount of legal expenses incurred, you might wonder what the union hoped to gain. As far as we can see, nothing. The sad part is this process has gone on for over two years and the employees still aren't sure what their status is. To deal with these types of situations, Merit proposes that unionized employees have the right to review their union relationship any time after 90 days of becoming unionized.

Prohibit 'Salting' and 'Stripping'

"Salting" happens when a union targets a non-union company for organizing. Knowing it is illegal for a company to deliberately refuse to hire a union member, the union directs or encourages its unemployed members or "salts" to hire on with the company when it is crewing up. Once sufficient salts are hired, an application to have the company unionized is filed. Depending on the work situation at the hall, the union may then pull or "strip" the union members from the company to go work on another union project or with another targeted non-union company. Alberta's Labour Code has upheld salting as legal and even allows salts to vote after they have abandoned working for the company!

This practice has resulted in some companies becoming unionized. The employees left at the company are then bound by the collective agreement that the union has already negotiated with other unionized employers in the trade and are forced to join the union. In some cases, this has resulted in employees having to accept wages, benefits and working conditions that are inferior to those they had when the company was operating on an open shop basis. Presently, the employees that are left with a ongoing employment interest in the company must wait for the last two months of the collective agreement to even apply to have a vote. If Merit's proposals are successful, "salting" will be illegal and unionization that happens as a result will be rescinded.

Prohibit Job Targeting Funds

Another issue of concern revolves around union job targeting funds, sometimes referred to as Market Enhancement Recovery Funds or "MERFs".

Job targeting funds are essentially a tax on heavy industrial construction projects which is then used to subsidize unionized contractor bids on commercial, institutional and light industrial jobs. The funds are negotiated during collective bargaining. Unions and contractors are allowed to set up these funds through their collective agreements because of the special legal status unions have. Non-union contractors are legally prohibited from doing the same thing.

These funds are then used to subsidize union contractors' bids on smaller projects in the commercial and institutional sector. The construction tendering system is based on awarding contracts to the qualified contractor with the lowest bid. Yet with these funds, union contractors may have their bids subsidized by up to \$15 an hour by the union. Is this fair? Especially when it means open shop employers lose work that under normal circumstances they would have received based on the merit of their bid and the productivity of their workforce. Merit is asking the provincial government to prohibit these funds.

Get Involved

These are only a few of the Labour Code issues you may hear about in the coming months. If you would like to obtain a copy of Merit's Labour Code submission to the government, or would like to get involved by talking about salting, MERFing or other Labour Code issues with your MLA, please contact either Merit office for more information. ■