

Labour Law Reform.

Background: Bill 77 & 79

Bill 77: *Fairness for Employees Act*

➤ http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&Intranet=&BillID=2624
Tabled by: NDP Labour Critic Taras Natyshak, MPP (Essex)
First Reading: April 30 Second Reading: May 3

Referred to the Standing Committee on Finance and Economic Affairs, subsequently bumped by Ontario Budget deliberations and referred to the Standing Committee on Regulations and Private Bills

Committee Hearings took place on June 7, 2012

1. Successor Rights in the Contract

Currently, the Act includes provisions governing successor rights when a business is sold. This Bill amends the Act to extend the rules more fairly to especially vulnerable workers in the contract services sector who may lose all collective agreement protections when contracts are retendered.

2. Interest Arbitration for a First Contract

Currently, parties who are unable to effect a first collective agreement may apply to the Ontario Labour Relations Board to direct the settlement of a first collective agreement by arbitration. Such an application may be made after the Minister has released a notice that it is not considered advisable to appoint a conciliation board or after the Minister has released the report of a conciliation board. This Bill amends the Act to provide an additional route to binding arbitration: that either party may obtain first agreement arbitration if no collective agreement has been entered into 30 days after the day on which it became lawful for the employees to strike and for the employer to lock out employees, by applying to the Minister.

3. Reinstatement During Organizing Campaign

Employees who are terminated or have their hours of work changed during an organizing campaign will be reinstated to their original terms and conditions, pending a hearing. This will ensure that employers cannot unduly influence the course of an organizing campaign by terminating employees who support the union, would better protect part-time employees and would be in keeping with general principles of law that presumes innocence until proven guilty.

4. Early Disclosure of Employee Lists

The Act is amended to permit a trade union to ask the Ontario Labour Relations Board to direct an employer to provide the trade union with a list of employees in a bargaining unit that could be appropriate for collective bargaining, when the Board is convinced that a threshold of 20 percent of employees have expressed a desire to form a union.

This provision would bring the voting procedure in line (though with a much higher threshold) with general democratic procedures for provincial and federal elections, where a registered political party may request and receive voters' lists, and be obligated to comply with the privacy provisions of the *Ontario Elections Act* (see section 17 of the Act).

5. Neutral and Off-Site Voting and Telephone / Electronic Voting

Currently, the Act sets out procedures for representation votes when a trade union applies for certification as a bargaining agent. This Bill amends the Act to provide that the Board may direct that representation votes be held at a neutral site (that could still be in or near a workplace) or be conducted electronically or by telephone at the request of the union.

This is to ensure that the voting process is neutral and free of potential employer intimidation during the vote and that all employees have an opportunity to vote.

Bill 79: *Equal Rights for Employees in Ontario Act*



http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&Intranet=&BillID=2627

Tabled by: NDP Labour Critic Taras Natyshak, MPP (Essex)

First Reading: May 1

Second Reading: To be announced (sometime next year)

1. Card-based certification

The Board shall direct that a representation vote be taken if it is satisfied that at least 40 percent and not more than 55 percent of the employees in the bargaining unit are members of the trade union on the certification application date or have applied to become members on or before that date.

The Board shall certify the trade union as the bargaining agent of the employees in the bargaining unit if it is satisfied that more than 55 percent of the employees are members of the trade union on the certification application date or have applied to become members.

2. Just cause prior to first agreement

The Act is amended to provide that employers shall not discharge or discipline employees without just cause during an organizing campaign pending a hearing.

3. Reemployment after strike

Section 80 of the Act currently governs reinstatement of employees during a lawful strike. The Bill amends the reinstatement provisions when a union requests that employees be reinstated and the employer and the trade union do not agree about the terms for reinstating employees. The biggest change here is to make it clear that members of the bargaining unit shall be reinstated to a position filled by a “scab” during a strike or lock-out.

4. Employee bill of rights poster in the workplace

The Act is amended to require the Minister to prepare and publish a poster providing information about labour relations in Ontario. Employers are required to post the poster in conspicuous places in the workplace.