

LEGISLATIVE BRIEFING

A Regional Employers Services Publication

Vol. 41, June 7, 2022

metrovancover

RES | REGIONAL
EMPLOYERS
SERVICES

BC LABOUR RELATIONS CODE – UNION CERTIFICATION AMENDMENTS RECEIVE ROYAL ASSENT

Further to the *Legislative Briefing* titled “[BC Labour Relations Code – Union Certification Amendments Introduced](#)”, published on April 8, 2022, [Bill 10 – 2022: Labour Relations Code Amendment Act, 2022](#) (Bill 10) received Royal Assent on June 2, 2022. The amendments came into effect on the date of Royal Assent.

KEY AMENDMENTS

Union Certification

The new certification process under Bill 10 allows for two options to certify once a union files an application for certification.

Option 1 - Card Only Certification: There is now a single-step certification process when a clear majority of employees indicate they want to join a union. If 55% or more of employees in a workplace indicate their intent to unionize by signing union membership cards, the requirement for a secret ballot vote has been eliminated and the Labour Relations Board is required to certify the union as the bargaining agent in the bargaining unit.

Option 2 - Secret Ballot Vote: If between 45% and 55% of employees sign union membership cards, a second step consisting of a secret ballot vote is required for certification.

Historically, the province has alternated between the single and two-step certification processes. Prior to the two-step process coming into place in 2001, BC operated under the single-step process.

The single-step certification streamlines the process making it easier for unions to be certified.



Union Raids in Construction Industry

Bill 10 has amended the period of raids as follows:

- Allow construction workers annual opportunities to switch unions if they are unhappy with their current representation. This change recognizes that individual construction projects may only be one or two years in duration, preventing some workers from ever being able to change unions under the current system.
- A trade union may apply to the board to be certified for the unit in July and August of each year of the collective agreement or any continuation.

Member in Good Standing:

Bill 10 clarifies the power of the Labour Relations Board to decide the question of whether a person is a member in good standing of a trade union without regard to the constitution and bylaws of the trade union.

LABOUR RELATIONS BOARD – PROCESS CHANGES

On June 3, 2022, the Labour Relations Board (LRB) issued an email to its subscribers outlining the changes to the LRB's processes due to Bill 10 changes.

The following is the content of that email:

“Notice of Change to the Certification Process

As you know, the Labour Relations Code Amendment Act, 2022 (Bill 10) received royal assent on June 2, 2022.

In response to these amendments, effective immediately, the Labour Relations Board is implementing a new procedure of frequent, random audits in the investigation of certification applications. The audits will be conducted by an Officer of the Board and will be carried out in addition to the duties the Officer would normally carry out on applications for certification.

Union membership evidence

An Officer will conduct a membership inquiry which will give employees in the proposed bargaining unit an opportunity to confidentially disclose whether they signed a membership card. The Officer may also:

- *conduct a follow-up interview (by phone, in person, or by videoconference), with individuals who responded to the Board's membership inquiry*
- *verify employees' signatures against employer payroll or other records, and/or*
- *audit membership evidence using any other method which the Board considers appropriate in the circumstances*

Where membership inquiry responses appear to disclose an irregularity, the Officer will conduct a further investigation, using one of the methods described above.

Payroll inspection

An Officer will inspect the employer's payroll records to assist the Board in resolving a dispute about the constituency of the proposed bargaining unit or to verify employee signatures against those on the membership evidence provided. The employer will be asked to provide payroll or other records for the Officer to review. If the Officer is not satisfied with the records the employer produces or if the employer fails to produce records as requested, the Officer will attend the employer's premises to conduct its payroll inspection.

If either the membership audit or the payroll inspection appears to disclose any irregularities, the Officer will conduct further enquiries or investigations as it determines are necessary. The Officer will report their findings to the panel assigned to the file. The panel will determine next steps, which may include the involvement of one of the Board's Special Investigating Officers (SIOs).

This new investigation procedure will not be conducted in all cases, but will be conducted on a random and frequent basis, as determined by the Board.

The Board will monitor this new investigation procedure to assess its viability and effectiveness. We expect trade unions and employers to fully cooperate with the Board's staff and the Officer in carrying out their responsibilities in this regard.

The Board encourages its stakeholders to provide its feedback with respect to the operation of this new procedure. Please reach out to any one of us in that regard.

Jennifer Glougie, Chair

Brett Matthews, Associate Chair

J. Najeeb Hassan, Registrar and Vice-Chair"

QUESTIONS?

If you have any comments or questions about this update, please e-mail RES360@metrovancover.org or call 604-451-6558.

SOURCES

"Bill 10 – 2022 Labour Relations Code Amendment Act, 2022", June 2, 2022

[Bill 10 – 2022: Labour Relations Code Amendment Act, 2022 \(leg.bc.ca\)](https://leg.bc.ca)

BC Labour Relations Board – Bargaining Rights. June 6, 2022

<https://lrb.bc.ca/bargaining-rights>