
Third Session, Forty-second Parliament
71 Elizabeth II, 2022
Legislative Assembly of British Columbia

BILL 10

**LABOUR RELATIONS CODE
AMENDMENT ACT, 2022**

Honourable Harry Bains
Minister of Labour

Explanatory Notes

CLAUSE 1: *[Labour Relations Code, section 19]* restricts a trade union, in the case of construction, to applying to the board to be certified for a unit in July and August of each year of the collective agreement or any continuation, irrespective of the term of the collective agreement.

CLAUSE 2: *[Labour Relations Code, section 21]* adds references consequential to the addition by this Bill of sections 23 and 26 to the Code.

CLAUSE 3: *[Labour Relations Code, sections 22 and 22.1]*

- clarifies the power of the 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;
- revises the original section by separating it into 2 sections for clarity.

BILL 10 – 2022

**LABOUR RELATIONS CODE
AMENDMENT ACT, 2022**

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

1 *Section 19 (2) of the Labour Relations Code, R.S.B.C. 1996, c. 244, is repealed and the following substituted:*

- (2) In the case of construction, a trade union claiming to have as members in good standing a majority of employees in a unit appropriate for collective bargaining 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.

2 *Section 21 (1) and (2) is amended by striking out “sections 18, 19, 20, 24 and 25” and substituting “sections 18, 19, 20, 23, 24, 25 and 26”.*

3 *Section 22 is repealed and the following substituted:*

Process relating to application

- 22** (1) The board must, in respect of an application for certification under this Part,
- (a) make or cause to be made the examination of records and other inquiries, including the holding of hearings it considers necessary to determine the merits of the application for certification, and
 - (b) specify the nature of the evidence the applicant must furnish in support of the application and the manner of application.
- (2) In deciding whether a person is a member in good standing of a trade union, the board
- (a) must decide the question on the basis of membership requirements prescribed in the regulations, and
 - (b) may decide the question without regard to the constitution and bylaws of the trade union.

CLAUSE 3: *[Labour Relations Code, sections 22 and 22.1 – continued]*

CLAUSE 4: *[Labour Relations Code, section 23]* requires the board to certify a trade union if the board is satisfied that not less than 55% of the employees in the unit are members in good standing of the trade union and that the unit is appropriate for collective bargaining.

CLAUSE 5: *[Labour Relations Code, section 24]*

- authorizes the board to order that a representation vote be taken for the purpose of determining whether the employees in an appropriate bargaining unit wish to have a particular trade union represent them as their bargaining agent;
- requires the board to order that a representation vote be taken among the employees of a unit if the board is satisfied that at least 45% but less than 55% of the employees in the unit are members in good standing of the trade union;
- makes a housekeeping amendment.

CLAUSE 6: *[Labour Relations Code, section 26]*

- authorizes a trade union to request, on application for certification, that a representation vote be taken before the board's determination of the appropriate bargaining unit;
- authorizes the board to direct that a representation vote be taken if it appears to the board that on the date the board receives the application at least 45% of the employees in the unit are members in good standing of the trade union;
- provides for the board's authority on specified procedural matters related to the voting process and for the effect of a representation vote under section 26 of the Code, as added by this Bill.

Determination of appropriate unit

- 22.1** If a trade union applies for certification as the bargaining agent for a unit, the board
- (a) must determine if the unit is appropriate for collective bargaining, and
 - (b) may, before certification, include additional employees in or exclude employees from the unit.

4 *The following section is added:*

Certification

- 23** If the board is satisfied that
- (a) on the date the board receives an application for certification under this Part at least 55% of the employees in the unit are members in good standing of the trade union, and
 - (b) the unit is appropriate for collective bargaining,
- the board must certify the trade union as the bargaining agent for the employees in the unit.

5 *Section 24 is amended*

(a) by adding the following subsection:

- (0.1) For the purpose of determining whether the employees in an appropriate bargaining unit wish to have a particular trade union represent them as their bargaining agent, the board may order that a representation vote be taken, in accordance with the regulations, among the employees in the unit. ,

(b) in subsection (1) by adding “but less than 55%” after “at least 45%”, and

(c) in subsection (2.1) by striking out “The representation vote” and substituting “A representation vote”.

6 *The following section is added:*

Request for representation vote

- 26** (1) On an application for certification under this Part, a trade union may request that a representation vote be taken before the board’s determination of the appropriate bargaining unit.
- (2) If a request is made under subsection (1),
- (a) the board may determine the group of persons who may vote, and

CLAUSE 6: *[Labour Relations Code, section 26 – continued]*

CLAUSE 7: *[Labour Relations Code, section 28]* adds a reference consequential to the addition by this Bill of section 23 to the Code.

CLAUSE 8: *[Labour Relations Code, section 30]* adds a reference consequential to the addition by this Bill of section 23 to the Code.

CLAUSE 9: *[Labour Relations Code, section 42]* makes a housekeeping amendment.

CLAUSE 10: *[Fishing Collective Bargaining Act, section 9]* is consequential to amendments made by this Bill to the *Labour Relations Code*.

- (b) if it appears to the board on examining the records of the trade union and of the employer that on the date the board receives the application for certification at least 45% of the employees in the unit are members in good standing of the trade union, the board may order that a representation vote be taken, in accordance with the regulations, among the employees in the unit.
 - (3) The board may order that the ballot box containing the ballots from a representation vote under this section be sealed and the ballots not be counted until the parties have been given full opportunity to present evidence and make submissions.
 - (4) After a representation vote under this section, the board must determine the unit of employees appropriate for collective bargaining, and if it is satisfied that on the date the board receives the application for certification at least 45% of the employees in the unit are members in good standing of the trade union, the representation vote has the same effect as a representation vote under sections 24 and 25.
- 7 ***Section 28 (1) is amended by striking out “sections 24 and 25” and substituting “section 23 or sections 24 and 25, as applicable”.***
- 8 ***Section 30 is amended by striking out “section 25” and substituting “section 23 or 25”.***
- 9 ***Section 42 (3) is amended by striking out “90th day” and substituting “ninetieth day”.***

Consequential Amendments

Fishing Collective Bargaining Act

- 10 ***Section 9 of the Fishing Collective Bargaining Act, R.S.B.C. 1996, c. 150, is amended by striking out “section 22 (1)” and substituting “section 22.1 (a)”.***

Commencement

- 11 This Act comes into force on the date of Royal Assent.