

THE
NATIONAL LAW REVIEW

Major Changes Proposed to Ontario's Labor and Employment Laws

Friday, June 30, 2017

On June 1, 2017, the Ontario government introduced the Fair Workplaces, Better Jobs Act (Bill 148). Bill 148 is not yet the law of the province but, if enacted, it contemplates sweeping changes to both traditional labor and employment law in Ontario. Broadly, the proposed Bill would raise the minimum wage in Ontario, change employee scheduling requirements, increase vacation time, make it easier for certain employees to unionize, and expand the use of arbitration during the negotiations for a first contract.

Proposed Employment Law Changes

Bill 148 proposes six broad changes to Ontario employment law:

- **Minimum Wage:** Raises the minimum wage to CD\$14 per hour by 2018, and CD\$15 per hour by 2019.
- **Part-Time:** Prohibits employers from enacting a pay differential based on a "difference in employment status." This means that employers would be required to pay part-time, casual and temporary employees the same as full-time employees who perform the same job.
- **Scheduling:** The Bill would amend scheduling requirements, allowing employees to more easily request schedule changes and refuse shifts that are given with less than 4 days' notice. The bill would also mandate 3 hours' worth of pay if an employee is required to report for any shift, be on call, or a shift is cancelled with less than 48 hours' notice.
- **Vacations:** Employees who have five years of service would now be entitled to three weeks' vacation and vacation pay of at least 6% of their years' salary.
- **Personal Emergency Leave:** Mandates that the first two days of personal emergency leave are given with pay. The bill does not change the 10 day personal emergency leave entitlement, and the remaining eight days would still be given without pay.
- **Family Medical Leave:** Family medical leave would be increased to 27 weeks in a 52 week period, the bill would create a new leave for the death of a child.

Proposed Labor Law Changes

Bill 148 also proposes ten broad changes to Ontario labor law:

- **Expanded Scope:** The Ministry of Labour will review whether employees working in agricultural, horticultural, architectural, legal, dental, medical and surveying professions should continue to be excluded from coverage of the Ontario Labour Relations Act (LRA).
- **Employee List:** Employers would be required to provide the union with a list of employees in an appropriate proposed unit, so long as the Ontario Labor Relations Board (OLRB) determines that at least 20 percent of the employees in the proposed unit are members of the union. This is a broader right of access to a list of employees as compared to the analogous *Excelsior* list provided before an election



Article By [Yonatan Grossman-Boder](#)
[Erika C. Collins](#) Proskauer Rose LLP
[International Labor and Employment Law](#)

[Election Law / Legislative News](#)
[Global](#)
[Labor & Employment](#)
[Canada](#)
[Ontario](#)

under United States labor law.

- **Remedial Certification:** The proposed changes significantly expand the right to remedial certification and would require the OLRB to certify a union as a bargaining representative if the agency is satisfied that the employer's breach of the LRA resulted in the union being unable to reach 40 percent support. This is a much broader protection than the bargaining orders (also known as *Gissel* orders) issued under United States labor law.
- **Card-Check Certification:** In the building services, home care, community services, and temp-agency industries the LRA would now allow unions to be certified based on a card-check of members of the proposed unit. This has been on the wish list of unions in the United States for many years and represents a major boon for unions in Ontario. Under this proposal, the OLRB will dismiss an application if fewer than 40 percent of the employees in the proposed unit are members of the union but will certify the union if it is satisfied that more than 55 percent of employees are members of the union. If the OLRB finds that more than 40 percent, but less than 55 percent, of employees are members of the union, then the OLRB will hold a representation election.
- **First-Contract Arbitration:** The bill would expand use of arbitration during negotiations for a first contract, and either party would be able to apply for a mediator. The appointment of a mediator would prevent any lockouts or strikes for a period of 20 days, after which time either party may apply to the OLRB for mediation-arbitration.
- **Successor Employer:** The bill would expand successor rights to apply to any services provided by or to a building owner. This would mean that any purchaser of a building, or building services work, would likely be considered a successor employer.
- **Appropriate Bargaining Units:** The bill would give the OLRB expanded powers to review, amend or consolidate bargaining units in order to promote collective bargaining.
- **Employee Return from Strikes:** The bill proposes to remove the six month limit during which an employee on strike must apply to return to work. Instead there would be no time limit, and an employee will have the right to request reinstatement at the end of a strike or lockout, whenever that occurs.
- **Just Cause:** The bill would expand the right to only be disciplined or terminated for "just cause" from the date of certification until the date of the first contract. Considering the length of time a first contract may take, this significantly expands the right to employees to be protected by a just cause standard, even before it is enshrined in an agreement.
- **Elections:** Voting would be permitted electronically or by phone.

© 2019 Proskauer Rose LLP.

Source URL: <https://www.natlawreview.com/article/major-changes-proposed-to-ontario-s-labor-and-employment-laws>