

1975 Bill 71
(Second Session)

First Session, 18th Legislature, 24 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 71

THE ALBERTA LABOUR AMENDMENT ACT, 1975

THE MINISTER OF LABOUR

First Reading

Second Reading

Third Reading

BILL 71

1975

(Second Session)

THE ALBERTA LABOUR AMENDMENT ACT, 1975

(Assented to _____, 1975)

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

1. *The Alberta Labour Act, 1973 is hereby amended.*
2. *Section 6, subsection (2), clause (a) is amended by striking out the word "and" and by substituting the word "or".*
3. *Section 10 is amended*
 - (a) *by striking out the word "and" at the end of clause (b),*
 - (b) *by adding the word "and" to the end of clause (c) and adding the following clause:*
 - (d) *administer oaths and take affidavits.*
4. *Section 11 is struck out and the following sections are substituted:*
 11. (1) For the purposes of this Act the Board may
 - (a) summon and enforce the attendance of witnesses in the same manner as a court of record in civil cases;
 - (b) require any person to attend and produce such documents and things as it considers necessary for the purpose of any inquiry or consideration of any matter within its jurisdiction;
 - (c) administer oaths.
 - (2) The Board
 - (a) may accept such oral or written evidence as it, in its discretion, considers proper whether admissible in a court of law or not, and
 - (b) is not bound by the law of evidence applicable to judicial proceedings.

Explanatory Notes

1. This Bill will amend chapter 33 of the Statutes of Alberta, 1973.

2. Section 6 (2) presently reads:

- (2) At the direction of the Chairman, a vice-chairman shall
 - (a) act as Chairman of the Board, and
 - (b) act as Chairman of a division of the Board.

3. Section 10 presently reads:

10. For the purposes of this Act, each officer may, in the execution of his duties,

- (a) enter, inspect and examine at all reasonable times any premises or other place in which he has reason to believe that a person is employed;
- (b) make such examination and inquiry as are necessary to ascertain whether the provisions of this Act or any order, decision, permit, approval, directive, declaration or notice of the Board or a regulation made under this Act or any written instructions of the Chairman, a vice-chairman or an officer have been complied with, and
- (c) question any employee apart from his employer, during the employee's regular hours of employment or otherwise, to ascertain whether the provisions of this Act or of any order, decision, permit, approval, directive, declaration, notice or regulation made under this Act is being carried out.

4. Section 11 presently reads:

11. For the purposes of this Act

- (a) the Board and each member thereof has all the powers of a commissioner appointed under The Public Inquiries Act, and
- (b) each member of the Board and each officer has power to administer oaths and take affidavits and statutory declarations.

11.1 (1) Where, in the opinion of the Board,

(a) the attendance of a person is required, or

(b) the attendance of a person to produce a document or other thing is necessary,

the Board may cause to be served on the person concerned a notice to attend or a notice to attend and produce, as the case may be, signed by the Chairman or the secretary.

(2) Where a person fails or refuses to comply with

(a) a notice to attend, or

(b) a notice to attend and produce a document or other thing,

issued by the Board, a judge of the Supreme Court, on application of the Board, may issue a bench warrant requiring the attendance of the person or the attendance of the person to produce the document or other thing, as the case may be, before the Board.

11.2 A member of the Board, the Director, secretary, officer, a conciliation commissioner appointed pursuant to section 104, any person appointed pursuant to section 163 or 164 or any person designated by the Minister to endeavour to effect settlement of a dispute, is not a competent or compellable witness in proceedings before any court respecting any information, material or report obtained by him.

5. Section 16, subsection (1) is amended by striking out clause (g) and substituting the following clause:

(g) the amount of any sum of money paid in lieu of notice of termination of employment;

5. Section 16 (1) presently reads:

16. (1) An employer shall, at the end of each period of time in respect of which wages are paid, give to each employee for retention, a statement in writing setting out for that period in respect of the employee

- (a) the hours worked;
- (b) the amount of wages paid at a straight-time rate;
- (c) the amount of wages paid at an overtime rate;
- (d) the amount of any bonus or living allowance paid;
- (e) the amount of any vacation pay paid;
- (f) the amount of any general holiday pay paid;
- (g) the amount of any sum of money paid in lieu of termination of employment;
- (h) the amount of each deduction from the earnings of the employee and the purpose for which each deduction was made.

The words "notice of" are added to the clause.

6. Section 23 is struck out and the following section substituted:

23. (1) Subject to subsection (3) and other provisions to the contrary in or made pursuant to this Part, the hours of work of an employee shall not exceed eight hours in a day.

(2) Subject to subsection (3) and other provisions to the contrary in or made pursuant to this Part, the hours of work of an employee shall not exceed 44 hours in each consecutive period of seven days of which not more than six days shall be working days.

(3) The hours of work of an employee permitted under subsections (1) and (2) may be exceeded

- (a) where the Board approves employees working additional hours, or
- (b) where
 - (i) an accident occurs, or
 - (ii) urgent work is necessary to a plant or machinery, or
 - (iii) other unforeseeable or unpreventable circumstances occur,but only as necessary to avoid serious interference with the ordinary working of an undertaking.

7. Section 24 is amended

(a) *as to subsection (1) by adding the following clause after clause (g):*

(h) exempt an employer or employees or a class or type of employment from hours of work prescribed under section 23 and from recording hours of work under section 15.

(b) *by adding the following subsection after subsection (2):*

(3) The Lieutenant Governor in Council may delegate to the Board the power to exempt an employer or employees or a class or type of employment from an order under this section or from section 23.

8. The following section is added after section 25:

25.1 The Board, upon application of employees or an employer and after such inquiry as it considers necessary may, by permit

- (a) allow greater hours of work in a day than that prescribed under section 23 in respect of those employees, but the hours of work shall not exceed an average of 44 hours

6. Section 23 presently reads:

23. (1) Subject to subsection (2) and other provisions to the contrary in or made pursuant to this Part, the hours of work of an employee shall not exceed
- (a) eight hours in a day, or
 - (b) 44 hours in each consecutive period of seven days of which not more than six days shall be working days.
- (2) The hours of work of an employee permitted under subsection (1) may be exceeded where
- (a) an accident occurs, or
 - (b) urgent work is necessary to a plant or machinery, or
 - (c) other unforeseeable or unpreventable circumstances occur,
- but only as necessary to avoid serious interference with the ordinary working of an undertaking.

7. Section 24 (1) reads:

24. (1) The Board after such inquiry as it considers necessary may, with the approval of the Lieutenant Governor in Council, by order,
- (a) prescribe a maximum number of hours of work less than that prescribed under section 23;
 - (b) prescribe a maximum number of hours of work greater than that prescribed under section 23;
 - (c) reduce days of work in a week by permitting greater hours of work in a day than that prescribed under section 23;
 - (d) prescribe the periods of time which shall be allowed to employees for meal or rest periods;
 - (e) define what is and what is not a meal or rest period;
 - (f) specify that the hours of work be confined within hours immediately following commencement of work;
 - (g) prescribe the hours of the day at which work shall begin and end either
 - (i) generally, or
 - (ii) with respect to any employers or any employees in any type of employment,and prohibit the employment of those employees or any class or type of employees other than during the hours prescribed.

8. New. The section will allow for the issue of flextime permits.

- (i) in each consecutive period of seven days, or
 - (ii) such period in excess of seven days as the Board may prescribe,
- and
- (b) prescribe conditions under which the permit applies.

9. Section 33 is struck out and the following section substituted:

33. (1) Any order of the Board fixing the minimum wage for overtime applies to those hours of work

- (a) in excess of eight hours in a day, or
- (b) in excess of 44 hours in each consecutive period of seven days,

whichever is the greater number of hours.

(2) Any order of the Board fixing the minimum wage for overtime applies to those hours of work in excess of the hours of work prescribed by an order of the Board for the type or class of employment in which the employee is employed.

(3) Any order of the Board fixing the minimum wage for overtime in respect of a shift schedule approved by the Board applies to those hours of work in excess of the hours of work fixed by the shift schedule.

(4) Any order of the Board fixing the minimum wage for overtime in respect of an application under section 25 or section 25.1 applies to those hours of work in excess of the hours of work permitted by the Board pursuant to a permit issued under section 25 or 25.1.

10. The following section is added after section 33:

33.1 (1) Notwithstanding *The Individual's Rights Protection Act*, the Board after such inquiry as it considers necessary may, with the approval of the Lieutenant Governor in Council, make an order

- (a) requiring an employer to grant to a pregnant employee maternity leave without pay for any period between
 - (i) 12 weeks before the estimated date of delivery of the child, and
 - (ii) six weeks after the actual date of delivery of the child,subject to such conditions as are considered necessary;
- (b) governing the conditions under which maternity leave referred to in clause (a) may be shortened or extended;

9. Section 33 presently reads:

33. Any order of the Board fixing the minimum wage for overtime applies to all hours of work

- (a) in a day, in excess of eight hours or in excess of the hours of work in a day prescribed by an order of the Board for the nature, type or class of employment in which the employee is employed, or
- (b) in each consecutive period of seven days, in excess of 44 hours or in excess of the hours of work prescribed by an order of the Board for the nature, type or class of employment in which the employee is employed, or
- (c) in excess of the hours of work fixed by a shift schedule approved by the Board, or
- (d) in excess of the hours of work permitted by the Board under section 25.

10. New.

- (c) governing the conditions whereby an employer may, by notice in writing, require a pregnant employee to commence maternity leave without pay during all or any part of that period referred to in clause (a) when the pregnancy is interfering with the performance of the employee's work;
- (d) governing the manner in which an employee who has commenced maternity leave is to be reinstated by an employer;
- (e) prohibiting an employer from terminating the employment of or laying off a pregnant employee within the period referred to in clause (a) for any reason specified in the order;
- (f) specifying the length of any notice in writing required to be given by a pregnant employee or by an employer;
- (g) providing for any other matter or thing, including the imposition of restrictions or conditions on pregnant employees and employers or either of them, to establish a means of providing that a pregnant employee is not prejudiced by reason of the pregnancy with respect to employment or with respect to the wages and other benefits that had accrued to the employee to the date that the employee commenced maternity leave without pay.

(2) An order under subsection (1) does not apply to an employer and his employees insofar as there is a custom, practice or agreement providing for maternity leave on conditions or with benefits more favourable to the employee than those contained in the order.

11. Section 43 is amended by striking out the words "or this Part" and substituting the words ", this Part or any regulations under this Part".

12. Section 45 is amended

(a) by adding the following subsection after subsection (2):

(2.1) Where an employer, director, officer or other person is guilty of an offence under section 42 by reason of failing to comply with any provision of an order made under section 33.1, the judge of the court may, in addition to any other penalty imposed or order made,

- (a) order the employer to reinstate the employee in accordance with the order made under section 33.1, and
- (b) order the employer to pay to the Board on behalf of the employee any sum that the em-

11. Section 43 presently reads:

43. Any employer, employee or other person who contravenes or fails to comply with any of the provisions of Part 1 or 2 or this Part for which no offence is specifically provided, is guilty of an offence.

12. Section 45 (3) presently reads:

(3) The Board or an employee named in an order of the court under subsection (2) may file the order with the clerk of the Supreme Court of Alberta in the judicial district in which the order was made and thereupon the order is enforceable as a judgment or order of the Supreme Court.

ployee would have earned if the employee had been reinstated in employment in accordance with the order made under section 33.1 and which the judge considers should be paid to the employee

or either of them.

- (b) *as to subsection (3) by striking out the words "subsection (2)" and substituting the words "subsection (2) or (2.1)",*

13. Section 51, subsection (3) is amended by striking out the word "issue" and by substituting the word "date".

14. Section 55 is amended

- (a) *as to subsection (1) by striking out clause (a) and substituting the following clause:*

(a) unless otherwise filed with the Board

(i) a true copy of its constitution, or

(ii) its rules or by-laws, or

(iii) where a trade union has both a constitution and rules or by-laws, two copies of both of them,

- (b) *as to subsection (3), clause (b) by striking out the words "clauses (c) and (d)" and substituting the words "clause (c)".*

15. Section 83, subsection (2), clause (b) is amended by striking out the word "sixth" and by substituting the word "six".

16. Section 108, subsection (2) is amended as to clause (a) by striking out the word "appointed" and substituting the word "established".

17. Section 136 is amended by adding the following subsection after subsection (4):

(5) Where a vacancy occurs in the membership of a collective bargaining arbitration board, it shall be filled in the same manner as provided for the appointment of the member or chairman.

13. Section 51 (3) presently reads:

(3) Notwithstanding subsections (1) and (2), a decision, order, directive, declaration, ruling or proceeding of the Board may be questioned or reviewed by way of an application for certiorari or mandamus if an application therefor is filed with the Court and served on the Board no later than 30 days after the issue of the Board's decision, order, directive, declaration or ruling or reasons in respect thereof, whichever is later.

The effect of the amendment will be to start the 30-day time limit for appeals running from the date on which a decision is made rather than the date upon which it is served.

14. Section 55 (1) (a) and (3) presently read:

55. (1) A trade union shall file with the Board
- (a) unless otherwise filed with the Board, either
 - (i) a true copy of its constitution or the constitution of the organization from which it received its charter, or
 - (ii) its rules or by-laws,
 - or where a trade union has both a constitution and rules or by-laws it shall file both of them,
 - (3) Any changes to the information supplied under subsection (1) shall
 - (a) with respect to changes to the matters filed pursuant to subsection (1), clauses (a) and (b), be sent to the Board as soon as possible after the change is made, and
 - (b) with respect to changes to the names filed pursuant to subsection (1), clauses (c) and (d), be sent to the Board within 30 days of the date the change is made.

15. Section 83 (2) (b) presently reads:

- (2) An application for registration may be made by an employers' organization at any time except
- (b) in the sixth month period preceding the date the majority of employers named in the application become entitled to require the trade union to commence collective bargaining.

Corrects printing error.

16. Section 108 (2) presently reads:

- (2) The conciliation commissioner may propose
- (a) that a conciliation board be appointed by the Minister, or
 - (b) that his recommendations, attached to the proposal, be referred to the parties to the dispute for them to accept or reject, or
 - (c) that the parties to the dispute decide whether to strike or lockout.

17. Self-explanatory.

18. Section 138 is amended by striking out subsection (2) and substituting the following subsection:

(2) The matters to be covered under the provisions of arbitration or other method shall be all differences as to the interpretation, application or operation of the collective agreement and with respect to any contravention or alleged contravention thereof and any question as to whether the differences are arbitrable, without stoppage of work or refusal to perform work.

19. Section 145 is amended by striking out the words "by the board" and by substituting the words "by the award".

20. Section 153, subsection (3) is amended

(a) as to clause (a) by striking out subclause (i) and substituting the following:

(i) is a member of a trade union or an applicant for membership in a trade union, or

(b) as to clause (d),

(i) by striking out the words "or to refrain from", and

(ii) by striking out subclauses (i), (ii) and (iii),

(c) by adding after clause (g) the following:

(h) seek by intimidation, threat of dismissal or any other kind of threat, by the imposition of a pecuniary or other penalty or by any other means, to compel a person to refrain from

(i) testifying or otherwise participating in a proceeding under this Part, or

(ii) making a disclosure that he may be required to make in a proceeding under this Part, or

(iii) making an application or filing a complaint under this Part.

21. Section 156, clause (a) is amended by striking out the word "and" and substituting the word "or".

18. Section 138 (2) presently reads:

(2) The matters to be covered under the provisions of arbitration or other method shall be all differences as to the interpretation, application, operation of the collective agreement and with respect to any contravention or alleged contravention thereof and any question as to whether the differences are arbitrable without stoppage of work or refusal to perform work.

Minor drafting changes.

19. Section 145 presently reads:

145. The award of an arbitrator, arbitration board or other body is binding

- (a) upon the employers and the bargaining agent,
- (b) in the case of a collective agreement between a bargaining agent and an employers' organization, upon the bargaining agent, employers' organization and employers bound by the agreement who are affected by the award, and
- (c) upon the employees bound by the agreement who are affected by the award,

and the employers, employers' organization, bargaining agent and employees shall do or abstain from doing any thing required of them by the board.

20. Section 153 (3) (a), (d) and (g) presently read:

(3) No employer or employers' organization and no person acting on behalf of an employer or employers' organization shall

- (a) refuse to employ or continue to employ any person or discriminate against any person in regard to employment or any term or condition of employment because the person
 - (i) is a member of a trade union, or
 - (ii) has been expelled or suspended from membership in a trade union for a reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union, or
 - (iii) has testified or otherwise participated or may testify or otherwise participate in a proceeding under this Part, or
 - (iv) has made or is about to make a disclosure that he may be required to make in a proceeding under this Part, or
 - (v) has made an application or filed a complaint under this Part, or
 - (vi) has participated in a strike that is permitted by this Part or exercised any right under this Part;
- (d) seek by intimidation, threat of dismissal or any other kind of threat, by the imposition of a pecuniary or other penalty or by any other means, to compel a person to refrain from becoming or to cease to be a member, officer or representative of a trade union or to refrain from
 - (i) testifying or otherwise participating in a proceeding under this Part, or
 - (ii) making a disclosure that he may be required to make in a proceeding under this Part, or
 - (iii) making an application or filing a complaint under this Part;
- (g) suspend, discharge or impose any financial or other penalty on an employee, or take any other disciplinary action against an employee, by reason of his refusal to perform all or some of the duties and responsibilities of another employee who is participating in a strike that is permitted under section 126.

21. Section 156 presently reads:

156. No employee shall

- (a) refuse to perform work for his employer for the reason that other work was or will be performed or was not or will not be performed by any person or class of persons who were or are not members of a trade union or a particular trade union, and
- (b) refuse to take delivery of goods from a carrier or refuse to assist in the loading of a carrier of goods for shipment except where the carrier and his employees are engaged in a strike or lockout permitted by this Part.

22. *Section 158, subsection (5), clause (b) is amended*

- (a) *as to subclause (iii) by striking out the words "an employee" and by substituting the words "a person",*
- (b) *as to subclause (v) by striking out the words "an employee" wherever they occur and in each case substituting the words "a person".*

23. *Section 163 is amended*

- (a) *by striking out subsection (1) and substituting the following subsection:*

163. (1) Where in the opinion of the Lieutenant Governor in Council an emergency exists or may occur arising out of a dispute, in such circumstances that

(a) damage to health or property is being caused or is likely to be caused because

(i) a sewage system, plant or equipment or a water, heating, electrical or gas system, plant or equipment has ceased to operate or is likely to cease to operate, or

(ii) health services have been reduced, have ceased or are likely to be reduced or cease,

or

(b) unreasonable hardship is being caused or is likely to be caused to persons who are not parties to the dispute,

the Lieutenant Governor in Council may, by order, declare that on and after a date fixed in the order all further action and procedures in the dispute are to be replaced by the emergency procedures under this section.

- (b) *as to subsection (3) by striking out the word "labour" wherever it occurs,*

- (c) *by adding the following subsection after subsection (4):*

(4.1) Where the Minister appoints one or more persons as a procedure or part of a procedure to assist the parties to the dispute pursuant to subsection (4), that person or persons have the powers of a commissioner under *The Public Inquiries Act*.

22. Section 158 (5) (b) presently reads:

- (5) Where the Board is satisfied after an inquiry that an employer, employers' organization, employee, trade union or other person has failed to comply with sections 153 to 156 or any provision thereof, the Board
- (b) may in the same or a subsequent directive require the employer, employers' organization, employee, trade union or other person
- (i) to reinstate any employee suspended or discharged contrary to those sections;
 - (ii) to pay to any employee or former employee suspended or discharged contrary to those sections compensation not exceeding such sum as, in the opinion of the Board would have been paid by the employer to the employee;
 - (iii) to reinstate or admit an employee as a member of a trade union;
 - (iv) to rescind any disciplinary action or pecuniary or other penalty taken or imposed contrary to those sections;
 - (v) to pay to an employee compensation not exceeding such sum as in the opinion of the Board is equivalent to the pecuniary or other penalty imposed on an employee contrary to those sections;
 - (vi) to pay to an employee in respect of a failure to comply with section 153 compensation not exceeding such sum as, in the opinion of the Board, is equivalent to the remuneration that would have been paid to the employee by the employer if the employer had complied with that section.

23. Section 163 presently reads:

163. (1) Where at any time in the opinion of the Lieutenant Governor in Council a state of emergency exists in Alberta arising out of a labour dispute in such circumstances that

- (a) life or property would be in serious jeopardy by reason of
- (i) any breakdown or stoppage or impending breakdown or stoppage of any sewage system or plant, equipment or system for furnishing or supplying water, heat, electricity or gas to the public or any part of the public, or
 - (ii) a stoppage or impending stoppage of hospital services in any part of Alberta,

or

- (b) extreme privation or human suffering has been caused by any stoppage of services or work over an extended period of time,

the Lieutenant Governor in Council may by order declare that on and after a date fixed in the order all further action and procedures in the dispute are to be replaced by the emergency procedures under this section.

(2) Before an order is made under subsection (1), the Minister may give the parties to the dispute an opportunity to meet with him and he may report his findings relating to the dispute and the effect of the stoppage or impending stoppage of work to the Lieutenant Governor in Council.

(3) After the date fixed in the order, any strike or lockout or other action in the labour dispute otherwise authorized or permitted under this Act in a labour dispute becomes illegal and an offence under this Act.

(4) Upon the order being made, the Minister shall forthwith establish a procedure to assist the parties to the dispute in respect of which the order issued to reach a settlement, and the Minister is hereby empowered to do all such things as may be necessary to settle the dispute.

(5) Notwithstanding any other provision of this Act, where the Minister establishes a procedure for settlement of a dispute under this section

- (a) no employer who is a party to the dispute shall lockout;
- (b) no employees who are parties to the dispute shall strike;
- (c) none of the parties to the dispute shall alter any of the conditions of employment except that the employer, with the consent of the bargaining agent, may give effect to a proposed change in wages or hours;
- (d) any strike or lockout that may be in effect shall terminate,

and the relationship of employer and employee continues uninterrupted by the dispute or anything arising out of the dispute.

(6) The Regulations Act does not apply to an order or procedure established under this section.

24. Section 164 is amended by striking out subsection (1) and substituting the following:

164. (1) As a procedure to settle a dispute under section 163, the Minister may establish a Public Emergency Tribunal consisting of one or more persons and where more than one person is appointed, designating one person as chairman.

25. Section 171 is amended by striking out the words "Subject to sections 168 and 169," and by substituting the words "Subject to sections 168, 169 and 170,".

26. This Act comes into force on the day upon which it is assented to.

24. Section 164 (1) presently reads:

164. (1) As a procedure to settle a dispute under section 163, the Minister may establish a Public Emergency Tribunal consisting of three or more persons, one of whom shall be designated chairman.

25. Section 171 presently reads:

171. Subject to sections 168 and 169, any person, employee, employer, employers' organization or trade union who contravenes or fails to comply with any provision of Part 4 or of the regulations made pursuant to Part 5 or of any decision, order, directive, declaration or ruling made by the Board under Part 4, is guilty of an offence and liable on summary conviction

- (a) in the case of a corporation, employers' organization or trade union, to a fine not exceeding \$10,000, or
- (b) in the case of an individual, to a fine not exceeding \$5,000.