

1987 BILL 53

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Second Session, 21st Legislature, 36 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 53**

## **CONSTRUCTION INDUSTRY COLLECTIVE BARGAINING ACT**

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THE MINISTER OF LABOUR

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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Bill 53

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1987

### CONSTRUCTION INDUSTRY COLLECTIVE BARGAINING ACT

(Assented to , 1987)

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

Interpretation

**1(1)** In this Act,

- (a) “bargaining federation” means a bargaining federation formed under section 4;
- (b) “collective agreement” means an agreement in writing between an employer or an employers’ organization and a bargaining agent containing terms or conditions of employment and may include 1 or more documents containing 1 or more agreements;
- (c) “construction” includes construction, alteration, decoration, repair or demolition of buildings, structures, roads, sewers, water or gas mains, pipelines, dams, tunnels, bridges, railways, canals or other works, but does not include
  - (i) supplying, shipping or otherwise transporting supplies and materials or other products to and delivery at a construction project, or
  - (ii) routine maintenance work;

(d) “construction industry disputes resolution tribunal” means the tribunal established under section 13;

(e) “dispute” means any disagreement between any of the parties to whom this Act applies with respect to the terms and conditions of employment to be included in the general part of, or in a subsidiary agreement to, the master construction agreement;

(f) “master construction agreement” means the agreement referred to in section 3;

(g) “settlement” means a settlement entered into pursuant to sections 108 to 110 of the *Labour Relations Act*;

(h) “subsidiary agreement” means a specific portion of the master construction agreement that relates to a designated trade group, region or sector or any of them containing terms and conditions of employment referred to in section 3(5).

(2) Except as provided in subsection (1), words or expressions defined in the *Labour Relations Act* have the same meaning in this Act.

(3) If there is a conflict between this Act or the regulations under this Act and the *Labour Relations Act*, this Act or the regulations under this Act prevail.

Application

**2(1)** This Act applies to the trade unions listed in the Schedule in respect of work in the construction industry.

(2) The Minister may, by regulation, add trade unions to or delete trade unions from the Schedule at any time up to the time the master construction agreement is concluded pursuant to section 3.

(3) This Act applies to all parties that are

(a) subject to an existing obligation to bargain collectively with a trade union listed in the Schedule in respect of terms and conditions of employment for employees employed in the construction industry, or

(b) subject to a collective agreement or to a settlement with a trade union listed in the Schedule that encompasses work within the construction industry.

(4) Notwithstanding subsections (1) to (3), this Act does not apply to

(a) any parties to the extent they are bound by the Project Labour Agreement for Capacity Addition Project — April 1985 with respect to the Syncrude plant site, or

(b) any portions of the construction industry exempted by the regulations.

Master  
construction  
agreement

**3(1)** There shall be a collective agreement called the “master construction agreement” that applies to all parties to whom this Act applies in respect of work carried out by those parties in the construction industry.

(2) The master construction agreement shall consist of a general part, containing terms and conditions of employment common to all em-

employees and employers in the construction industry to whom this Act applies, and specific parts, called subsidiary agreements, that apply to all employees and employers in designated trade groups, regions or sectors of the construction industry.

(3) The Minister may designate 1 or more trade groups and designate with respect to each trade group 1 or more regions or sectors to which the subsidiary agreements of the master construction agreement shall apply, and with respect to which bargaining federations shall be formed and collective bargaining carried out.

(4) The general part of the master construction agreement shall contain terms and conditions of employment that apply to all persons and parties bound by the master construction agreement, including

(a) terms and conditions with respect to

(i) jurisdiction,

(ii) hours of work and overtime,

(iii) recognition,

(iv) management rights,

(v) travel allowance, and

(vi) grievance procedure,

and

(b) any other terms and conditions to which the parties agree or that the Minister may prescribe for inclusion in the general part of the master construction agreement.

(5) Each subsidiary agreement to the master construction agreement shall contain terms and conditions of employment that apply only to persons employed in construction work in the trade group and region designated by the Minister to which the subsidiary agreement applies, including

(a) terms and conditions with respect to wages and benefits, and

(b) any other terms and conditions to which the parties agree or that the Minister may prescribe for inclusion in the subsidiary agreement

other than matters that are to be included in the general part of the master construction agreement.

(6) The master construction agreement concluded under this Act, shall remain in effect

(a) with respect to the general part, for at least 5 years from the date on which it is concluded, and

(b) with respect to the subsidiary agreements, for 2 years from the date on which they are concluded.

Bargaining  
federations

**4** When directed to do so by the Minister, all parties to whom this Act applies shall, in accordance with this Act and the regulations,

- (a) form bargaining federations in the manner prescribed in the regulations, and
- (b) cause their bargaining federations to meet and commence to bargain in good faith and make every reasonable effort to conclude the master construction agreement.

Negotiation  
procedure

**5(1)** The Minister may, by regulation, establish a procedure for the negotiation and conclusion of a master construction agreement.

(2) The Minister may appoint any persons he considers necessary to mediate between the parties with respect to the general part of the master construction agreement or with respect to any subsidiary agreement.

(3) The Minister or a mediator appointed by the Minister may direct the bargaining federations to attend any meetings that in the opinion of the Minister or the mediator may be necessary to negotiate and conclude the master construction agreement.

(4) The Minister or a mediator appointed by the Minister may issue 1 or more recommendations on what, in his opinion, ought to be done by the parties to the dispute to conclude the master construction agreement, and the Minister may publish the recommendations in any manner he thinks fit.

Vote on  
proposals

**6(1)** Each bargaining federation representing a party to a dispute may request that a proposal stating its position be put to a vote of the other party to the dispute.

(2) Each bargaining federation is entitled to request a vote under this section

- (a) only once with respect to the general part of the master construction agreement, and
- (b) only once with respect to a subsidiary agreement.

(3) On receipt of a request under subsection (1), if the Minister is satisfied that

- (a) the bargaining federation requesting the vote has put forward a proposal that, if accepted, could form the basis for the general part of the master construction agreement or a subsidiary agreement, and
- (b) the bargaining federation for the other side has not accepted the proposal put forward,

the Minister shall direct the Board to conduct a secret ballot vote on the proposal.

(4) If a majority of the persons eligible to vote and voting vote to accept the proposal, the proposal shall forthwith be incorporated into the general part of, or as a subsidiary agreement to, the master construction agreement, as the case may be.

(5) The *Labour Relations Act* applies to a vote under this section.

Lockout and  
strike votes

**7** Subject to section 12, if a party to a dispute applies under section 87 of the *Labour Relations Act* for a lockout vote or a strike vote, the vote shall be deemed not to be in favour of a lockout or strike unless

(a) with respect to a lockout vote, at least 60% of the employers who are affected by the dispute who are eligible to vote and voting, and who collectively employ at least 60% of the employees calculated in accordance with the regulations, vote in favour of the lockout, and

(b) with respect to a strike vote,

(i) at least 60% of the trade unions that represent employees who are eligible to vote are in favour of the strike, and

(ii) at least 60% of the total number of persons eligible to vote and voting vote in favour of the strike.

Referral of  
dispute to  
tribunal

**8** If the bargaining federations, after meeting and bargaining in the manner prescribed by the Minister are unable to agree on the terms and conditions to be included in the master construction agreement by September 15, 1987 or any later date prescribed by the Minister, the Minister may refer the dispute to the construction industry disputes resolution tribunal.

Award of tribunal

**9(1)** If a dispute in respect of the terms and conditions to be included in the master construction agreement is submitted to the construction industry disputes resolution tribunal, the tribunal shall inquire into that dispute and endeavour to assist the parties to resolve the dispute.

(2) If the dispute is not settled by agreement, the construction industry disputes resolution tribunal shall

(a) make its award, and in its award shall deal with each item in dispute, and

(b) forward a copy of the award to the bargaining federations representing the parties to the dispute.

(3) The award of the construction industry disputes resolution tribunal shall be incorporated into the master construction agreement, which shall be binding on

(a) those employers to whom this Act applies,

(b) those employers who voluntarily recognize, or with respect to whom a trade union listed in the Schedule is certified in respect of, employees engaged in the construction industry to the extent of that recognition or certification,

(c) those employees of the employers referred to in clause (a) or (b) employed during the term of the collective agreement in the construction industry, and

(d) those trade unions listed in the Schedule,

with respect to employment in the construction industry.

(4) The master construction agreement shall be deemed to be a collective agreement for the purposes of the *Labour Relations Act* between each trade union and each employer that are subject to a bargaining relationship to the extent of that bargaining relationship.

Methods of  
arbitration

**10(1)** The construction industry disputes resolution tribunal shall implement any method or combination of methods of arbitration that the Minister directs it to implement to resolve any or all of the items in dispute.

(2) Without restricting the generality of subsection (1), the method or combination of methods of arbitration determined under that subsection may include the method of arbitration known as “final offer selection”.

Questions for  
submission  
to Labour  
Relations Board

**11(1)** If a dispute arises as to whether

- (a) an employer is engaged in the construction industry,
- (b) an employer is a party to a bargaining relationship, a collective agreement or a settlement,
- (c) an employer has employed employees within any period specified in this Act or the regulations,
- (d) any person or party is entitled to vote in respect of any vote conducted under this Act, or
- (e) the general part of the master construction agreement or a subsidiary agreement has been concluded,

the matter shall be submitted to the Board for determination.

(2) Any failure to comply with this Act may form the basis of a complaint of an unfair labour practice and may be received and determined by the Board as if it was a complaint of a failure to comply with the *Labour Relations Act*.

(3) The Board when deciding any matter under this Act has the same powers, rights and protections as if the matter had arisen pursuant to the *Labour Relations Act*.

(4) From the date this Act comes into force until 2 years after the master construction agreement is concluded, no declaration shall be made under section 133 of the *Labour Relations Act* with respect to any employer in the construction industry who, immediately prior to the date on which this Act comes into force, was not

(a) subject to an existing obligation to bargain collectively with a trade union listed in the Schedule in respect of terms and conditions of employment for employees employed in the construction industry, or

(b) subject to a collective agreement or to a settlement with a trade union listed in the Schedule that encompasses work within the construction industry.

(5) Notwithstanding subsection (4), the Board may make declarations under section 133 of the *Labour Relations Act* with respect to an employer who becomes subject to an obligation to bargain collec-

tively with a trade union listed in the Schedule, in respect of terms and conditions of employment for employees employed in the construction industry, after this Act comes into force.

Lockouts and strikes to cease on referral to tribunal

**12(1)** If the Minister refers a dispute to the construction industry disputes resolution tribunal, any lockout, strike or other action in the dispute otherwise permitted or authorized under the *Labour Relations Act* becomes illegal and an offence under that Act and

(a) no employer or employers' organization who is a party to the dispute shall lock out or cause a lockout;

(b) no employees or trade union who are parties to the dispute shall strike or cause a strike;

(c) any lockout or strike that is in effect shall terminate.

(2) No party to whom this Act applies shall alter any of the terms and conditions of employment that existed as of June 5, 1987 without the consent of the bargaining agent.

(3) Notwithstanding subsection (2), where a collective agreement or a settlement is in force with respect to employment in the construction industry, the terms of that collective agreement or settlement shall continue to apply according to its terms until the master construction agreement is concluded, whereupon that collective agreement or settlement becomes void.

(4) Subsection (3) does not preclude the determination of all outstanding grievances and claims arising out of any collective agreement or settlement in relation to matters that arose prior to the conclusion of the master construction agreement.

Construction industry disputes resolution tribunal

**13(1)** The Minister may establish a construction industry disputes resolution tribunal.

(2) The Minister may, with respect to the construction industry disputes resolution tribunal,

(a) appoint or provide for the appointment of 1 or more persons as its members, and

(b) if more than 1 person is appointed, designate a chairman.

(3) The persons appointed as members of the construction industry disputes resolution tribunal have the powers, duties and immunities of a commissioner under the *Public Inquiries Act*.

(4) The Minister may prescribe the remuneration and expenses to be paid to the members of the construction industry disputes resolution tribunal.

Regulations

**14(1)** The Minister may make regulations

(a) prescribing a method of electing bargaining federations to represent the interests of trade unions and employees, and of employers and employers' organizations;



- (b) if regulations are not made under clause (a) or if bargaining federations are not elected under that clause, designating bargaining federations for the purposes of this Act;
- (c) establishing any voting or ratification procedure the Minister considers necessary to enable the bargaining federations to bargain collectively on behalf of the parties to whom this Act applies;
- (d) governing the negotiation and conclusion of the master construction agreement;
- (e) governing the method of calculating the number of employees for the purpose of section 7(a);
- (f) exempting certain portions of the construction industry from the application of this Act.

(2) Except for the regulations under section 2(2), the *Regulations Act* does not apply to a regulation, order or procedure made or established under this Act.

(3) The regulations under subsection (1) may if they so provide be effective with reference to a period before they are made, but that period shall not commence prior to the date on which this Act comes into force.

Commencement	<b>15</b> <i>This Act shall be deemed to have come into force on June 5, 1987.</i>
Expiry	<b>16</b> <i>This Act expires on the date the Labour Relations Act is repealed.</i>

## **SCHEDULE**

International Brotherhood of Boilermakers, Iron Ship Builders,  
Blacksmiths, Forgers & Helpers, Local Lodge 146

United Association of Journeymen and Apprentices of the  
Plumbing and Pipefitting Industry of the United States and  
Canada, Local 488

United Association of Journeymen and Apprentices of the  
Plumbing and Pipefitting Industry of the United States and  
Canada, Local 496

United Association of Journeymen and Apprentices of the  
Plumbing and Pipefitting Industry of the United States and  
Canada, Local 179

Construction and General Workers Union, Local 92

Construction and General Workers Union Local 1111

International Brotherhood of Teamsters, Chauffeurs,  
Warehousemen and Helpers of America, Local Union #362

International Association of Bridge, Structural and Ornamental Iron  
Workers, Local Union #725

International Union of Bricklayers and Allied Craftsmen, Local #2

United Brotherhood of Carpenters and Joiners of America Local  
Union 1569

United Brotherhood of Carpenters and Joiners of America Local  
Union 846

United Brotherhood of Carpenters and Joiners of America Local  
Union 2103

United Brotherhood of Carpenters and Joiners of America Local  
Union 1322

United Brotherhood of Carpenters and Joiners of America Local  
Union 2410

United Brotherhood of Carpenters and Joiners of America Local  
Union 1325

International Union of Elevator Constructors, Local 130

International Union of Elevator Constructors, Local 122

International Brotherhood of Painters and Allied Trades, Local 583

International Association of Bridge, Structural and Ornamental  
Ironworkers Local Union 720

International Union of Bricklayers and Allied Craftsmen Local #3

International Union of Bricklayers and Allied Craftsmen, Local #1

Operative Plasterers & Cement Masons International Association,  
Local 924

Operative Plasterers & Cement Masons International Association  
Local 139

International Association of Heat and Frost Insulators and Asbestos  
Workers Local 110

International Association of Heat and Frost Insulators and Asbestos  
Workers, Local 126  
United Brotherhood of Carpenters and Joiners of America, Local  
Union 1975 — Millwrights  
United Brotherhood of Carpenters and Joiners of America, Local  
Union 1460 — Millwrights  
International Union of Operating Engineers Local 955  
International Brotherhood of Electrical Workers, Local Union 254  
International Brotherhood of Electrical Workers, Local Union 424  
Christian Labour Association of Canada  
Sheet Metal Workers International Association, Local 8  
International Moulders & Allied Trades Local 583  
Labbe Interiors Employees Association