



# United Conservative Party Tables Modest Business-Friendly Amendments to Alberta's Labour and Employment Legislation

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**Alberta's Bill 2 begins to reopen Alberta for business, promising to spur job creation by reversing key anti-business and pro-labour policies enacted by the former NDP government. Pre-2017 holiday pay and overtime banking rules are restored. Secret ballots for unionization return as "card-check" procedure is repealed.**

On May 27, 2019, Alberta's newly-elected United Conservative Party government (the "UCP") introduced [Bill 2: An Act to Make Alberta Open for Business](#) (the "Bill"). The Bill is part of the new government's [multi-faceted job creation platform](#) and reverses some of the most onerous [anti-business and sweeping labour-friendly changes made by the defeated NDP government in 2017](#). Notably, the Bill reverts holiday and overtime pay, and a handful of union certification rules to their pre-2017 status.

## The Bill

The Bill's key proposed changes to Alberta's *Employment Standards Code* are as follows:

- banked overtime hour agreements at a 1:1 rate, instead of time-and-a-half, are restored; and
- reinstatement of a holiday pay qualifying period for employees, requiring them to work 30 days for the same employer in the 12 months preceding the general holiday. Employees who would not regularly work on the day a general holiday falls will not be eligible for holiday pay unless they have worked on the same weekday on which the general holiday falls for 5 out of 9 weeks immediately preceding the general holiday.

The Bill's key proposed changes to the *Labour Relations Code* are as follows:

- automatic union certification of a bargaining unit upon evidence that more than 65% of the employees support the union has been repealed, collapsed into the existing (and former) requirement that the Labour Relations Board (the "Board") order a secret ballot where the union can demonstrate that at least 40% of the employees support the union;
- unions applying for certification will now only have 90 days to demonstrate proof of support, down from 6 months;
- marshalling of legal proceedings concerning employment issues, first created in 2017 by the NDP government, has been maintained and strengthened as part of the government's push

- to reduce red tape. The Board was previously authorized to supervise and coordinate multiple duplicative or unnecessary proceedings before employment-related adjudicative bodies. The changes expressly state the Board can extend its marshalling powers to arbitrators under collective agreements, the Employment Standards appeal body, the Human Rights Commission and tribunals, the Workers' Compensation Board and Appeal Commission, the Privacy Commissioner, the School Board of Reference and any other body or person it determines. In addition, the definition of "proceedings" is expanded to include investigations and inquiries; and
- the Minister of Labour is authorized to introduce an employee assistance and support program, expected to be announced after October 1, 2019.

If passed into law, the Bill's proposed changes to the *Employment Standards Code* will be effective September 1, 2019. The changes to union certifications will be effective retroactively to May 27, 2019 but will not effect any application for certification filed prior to that date.

## The Regulation

The UCP also announced the [Employment Standards \(Minimum Wage\) Amendment Regulation](#) (the "Regulation") to spur youth job creation, which will reduce the minimum wage for students under 18 years of age to \$13 per hour as of June 26, 2019. Students must be paid the general minimum wage of \$15 per hour for any time they work over 28 hours in a week (except during school breaks, including the summer). While the [UCP has indicated that employers will be able to lower the wage of students under 18 years of age that were hired prior to the Regulation taking effect](#), unless a collective agreement with a fixed wage rate applies, the Regulation itself does not expressly state this. Accordingly, employers must be cautious they do not constructively dismiss an employee by unilaterally and substantially reducing their wages, placing themselves on the hook for the employee's termination entitlements.

## Takeaways for Employers

While Bill 2 and the Regulation are welcome changes for employers, signaling the opening of the door for business in Alberta, it is expected that further and more ambitious changes to address job creation and to ease employer administrative burdens will be introduced this fall. For example, the [UCP campaigned on reviewing employment standards, occupational health and safety, and workers compensation legislation, as well as protecting workers from being forced to fund causes and political parties without express opt-in approval](#). In addition, many labour specialists and employers were hopeful that the UCP would take this opportunity to address remedial certifications by making such a remedy again subject to a vote by employees. The NDP changes to the *Labour Relations Code* in 2017 permitted the Board to certify a workplace without a vote in the face of an unfair labour practice by the employer. The Board exercised this power for the first time in 2018, ordering a [remedial certification without a vote where it was of the view that employees could no longer voluntarily express their free will in respect of a certification vote](#). Remedial certification was also something that the UCP's former labour and employment critic, and now [Minister for Red Tape Reduction, Grant Hunter, had previously expressed concern about in the Legislature](#). We will keep readers posted on the progress of the Bill.

The author appreciates the assistance of Sebastian Maturana in preparing this post

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