

FTR Now

Amendments to the *Colleges Collective Bargaining Act*

Date: June 11, 2008

The government introduced the proposed amendments to the CCBA yesterday afternoon. It is anticipated that it will go to committee in the summer and be passed sometime in the fall.

PART TIME BARGAINING UNITS

- In addition to maintaining the existing full time bargaining units, The Act creates two new province wide bargaining units, one for academic part time and sessional employees, and a second for part time support employees and employees employed on non recurring projects. The support unit would include all students employed by the colleges on a part time basis except if they are employed in a cooperative training program or are a graduate of a college and are engaged in a certification or registration process (these are the same student exclusions that currently exist in the full time bargaining units).

CERTIFICATION PROCESS

For a union to obtain bargaining rights for one of the new units it must follow a certification process similar to the Ontario *Labour Relations Act* (LRA).

- A union which appears to have cards signed for 35% of employees in one of the units can request the Board order a vote (The LRA requires 40%).
- The Colleges will have only two days to provide the Board a list of the employees in the in the bargaining unit. Signatures of employees will not be required.
- If the Colleges object to the number of employees the union claims are in the unit, and believes that the union does not have signed cards for at least 35% of the unit, the colleges must make that objection within the two days following the application being filed
- The Board has discretion to determine when the vote will take place (The 5 day expectation set out in the LRA is not specified).
- The Board must hold the vote at a time when it considers that a representative constituency of those who may be entitled to vote are present in the workplace (this is relevant if an application was brought during the summer months).
- Once the vote is held, the Labour Board will deal with any objections concerning whether the union has met the 35% threshold. The Act stipulates that the Board order the ballot box be sealed, and only counted if the threshold is met.
- If the Board concludes that the application is proper and 50% of those people who vote, vote in favour of the union, the Board will certify the union as the bargaining agent.
- If the Board determines that less than 50% voted for the union it will dismiss the application. If an unsuccessful vote has occurred, no union can apply for certification of that unit for a year from the date that the application was dismissed.
- The Board may certify a union without a vote if the employer contravenes the Act in such a manner that the true wishes of the members of the bargaining unit can not be determined and no other remedy could resolve the breach effectively.
- Where employees reside on the property of a college, the Board can order that the college provide a union access to the property where the employees reside for the purpose of organizing. This could affect student residences.
- The Act also allows the new employer agency to voluntarily recognize a union as a bargaining agent.

POWER TO CHANGE BARGAINING UNITS

- The Labour Board has been granted the power to amend the bargaining units established by the Act if a joint application is made by the Council and the bargaining agent. This can only be done if both the employer and the bargaining agent agree to the changes and only after collective agreements have been negotiated for part time units. This is intended to allow the parties to consider consolidation of bargaining units to streamline the bargaining process if in the future that makes sense.

CHANGES TO THE COLLECTIVE BARGAINING PROCESS

These changes apply to all bargaining units, both full time and part time (if part time units are certified).

- Notice to bargain is given 90 days prior to the collective agreement expiring (currently notice is given in January of the year the collective agreement expires).
- The parties can decide in bargaining when the contract should expire (currently the agreement must expire on August 31st). Provided an agreement is for a minimum of one year the parties can establish its duration. For example, they may determine it should be 18 months.
- The fact finding process is eliminated. Either party may request that the Minister of labour appoint a conciliation officer to assist the parties in bargaining. This is a mandatory process prior to a legal strike or lockout being held. The parties can also jointly request a mediator be appointed to assist with negotiations.
- Before a legal strike can occur the Minister of Labour must provide notice that conciliation has not been successful. Sixteen days must pass after the date of that notice and the union must also give 5 days notice of a strike. There is no longer a requirement that the union hold a vote on the Colleges last offer received prior to a strike taking place.
- However, the employer may require that a vote be taken of its last offer, no earlier than 15 days prior to the expiry of the collective agreement. This request can only be made once in a round of bargaining.
- While the statute is currently somewhat unclear, the Colleges may have the option of implementing their last offer, if the union is delaying bargaining. This has been possible under the LRA. It is sometimes used to better control the timing of collective bargaining or work stoppages.
- The “deemed strike” provision has been eliminated. This had required that all employees be on strike once a strike has commenced. This is a significant change. It means that employees who wish to work during a strike may do so if the college is operating. It also allows the union to hold rotating strikes or work slowdowns.
- Pensions (superannuation remains excluded from bargaining.
- None of these changes will effect the support staff bargaining which has already commenced.

A NEW EMPLOYER BARGAINING AGENCY

- A new employer bargaining agency called the College Employer Council will be established. It is controlled directly by the colleges. It will have similar authority to the existing Council over collective bargaining, and establishing terms and conditions of employment for college employees. The Board of Directors of this new Council will include all College Board Chairs and Presidents. The benefit plans currently held by the existing Council will be transferred to this new entity.

OTHER CHANGES TO THE ACT

A significant change has been made to the powers of arbitrators who hear grievances. They will now have the power to extend time limits in the grievance procedure where there are reasonable reasons to do so. The mandatory time limits in the collective agreements will now be subject to this discretion. This is similar to the LRA.



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