

**Manitoba Employers Council**  
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Via Email - [minli@manitoba.ca](mailto:minli@manitoba.ca)

Honourable Malaya Marcelino  
Minister of Labour and Immigration  
156 Legislative Building  
450 Broadway  
Winnipeg, MB R3C 0V8

Dear Madam Minister,

**Re: Concerns Regarding Recently Passed Labour Legislation**

We are writing to express our concerns regarding the recent passage of significant pieces of labour legislation which have been proclaimed in force with little or no meaningful consultation with Business. We, as the representatives of the "Economic Horse", are disappointed, both with the effect of the legislation and the process. Our specific concerns are as follows:

**50% +1 Card Check System**

The change to the Labour Relations Act introducing a 50% +1 Card Check System is, in a word, undemocratic. In every other situation where we choose representatives and give them power, the standard means of testing support is the secret ballot vote. Manitoba citizens may hold membership in the NDP, the Progressive Conservative Party or the Liberals. However, when it comes to election time, evidence of membership in a political party is not accepted; you have to vote. Only in the Labour Relations Act is this now done differently, with a card check system being taken as conclusive evidence of support for a Union. To make matters worse, most other provincial jurisdictions, particularly including our closest neighbours, Alberta, Saskatchewan and Ontario, have the secret ballot vote as the primary means of testing union support. Labour has stated that having a secret ballot vote gives management an opportunity to intimidate employees. This ignores the robust provisions in *The Labour Relations Act* preventing such acts. However there is little or no effective protection against the "hard sell" to which employees often are subjected by Union organizers. At a minimum some attention should be paid to ensuring that employees are not pressured to sign a Union card. Further, evidence of support in the form of membership in good standing with the Union (through employment elsewhere) should not be accepted. Employees may have been required as a condition of employment to become a Union member with another organization. That does not indicate support for unionization of their current Employer.

**Ban on Replacement Workers**

The new provisions banning replacement workers, at least in the private sector, are a solution to a problem that does not exist. When this matter was studied at the Labour Management Review Committee (LMRC), Management asked Labour to give examples of recent use of replacement workers in the private sector. Labour was able to name three. One was a small garment manufacturer. A second was a Tim Horton's outlet. A third was a Stella's restaurant

location which ultimately closed (thus the use or non-use of replacement workers was irrelevant in protecting workers' jobs). Again, most other provincial jurisdictions, excepting only BC and Quebec, do not have this legislation. This makes Manitoba appear unfavourable by comparison. Even companies that have no intention of using replacement workers still have to bear the burden of this legislation. This is so because all legislation carries an administrative cost, if only in terms of figuring out what the legislation permits and what it prohibits. There is also the possibility of a complaint lodged against an Employer who is innocent. That complaint still has to be fought before the Manitoba Labour Board, with all the resulting time, effort and expense. This is clearly a burden the "Economic Horse" does not need to carry. It provides no benefit for workers, but it does act as a disincentive to business to locate, expand or stay in Manitoba.

At LMRC the Management Caucus offered an alternative which would have had the effect, if an Employer used replacement workers, of giving the Union an option to apply to the Manitoba Labour Board under Section 87.1 for an order ending the work stoppage and imposing a collective agreement with the 60-day time period being reduced to zero. This would end the work stoppage immediately and achieve a collective agreement imposed by the Manitoba Labour Board (unless the parties negotiated an agreement on their own prior to the date of imposition). This would be beneficial to workers. The current legislation only calls for a cease and desist with a possibility of monetary penalties. It does not end the strike or set the parties on a path to a negotiated collective agreement. That is not beneficial to workers and it certainly is not beneficial to business.

#### **Committee Hearings Circumvented by BITSA, Bill 37**

We very much regret that the process by which the legislation regarding a 50% +1 card check system and banning replacement workers was pushed through without giving business the opportunity in Committee to speak to this pending legislation prior to it being proclaimed in force. When the PCs objected to the inclusion of the labour legislation in the omnibus bill (BITSA), your government responded, correctly, that the PCs had done exactly the same thing. This misses the most important point; it is not the PCs or even the NDP who suffer as a result of this tactic; it is the public.

#### **Repeal of the Public Sector Construction Projects (Tendering Act), Bill 7**

This is of particular concern to the Construction Sector and runs the risk of increasing costs of construction which already are prohibitively high. It suggests a preference for unionized contractors which obviously is unfair to workers who have chosen to be employed with a non-union company. A further concern is that, if the tendering process requires employees to actually *join* a Union, as opposed to just paying dues, the combination of that requirement and the 50% +1 card check system could result in employees, against their will and without having the right to choose, being subjected to mandatory representation by a particular union. This is contrary to the preamble of *The Labour Relations Act* which endorses the right of employees to "freely designate" a union to represent them.

#### **Change in Ratio of Apprentices to Journeypersons**

A further concern in the Construction Sector is the change in ratio of apprentices to journeypersons from 2:1 to 1:1. Simple math indicates this will reduce the number of apprentices who can be engaged at any one time. Given the critical shortage in the construction sector of

qualified journeypersons, this again appears not to be in the interests of Manitoba workers, business or the province in general.

**Economic Climate**

These changes come in the context of an economic climate which is challenging to say the least. Manitoba businesses still are attempting to recover from the effects of the COVID pandemic and consequential inflation. Many businesses also have been hit with recent significant increases to the minimum wage. All of these burdens are stressing many of the "Economic Horses" to the breaking point.

We request a meeting with you at your early convenience to discuss these matters and how the government might take actions to support business so that the "Economic Horse" is better able to pull the "Social Cart".

Yours very truly,

**Manitoba Employers Council**

Per:

  
**William S. Gardner, K.C.  
Chairperson**

**Manitoba Chambers of Commerce**

Per:

  
**Chuck Davidson**

**Winnipeg Chamber of Commerce**

Per:

  
**Loren Remillard**

**Canadian Federation of Independent Business**

Per:

  
**Brianna Solberg**

**Merit Contractors Association of Manitoba**

Per:

  
**Yvette Milner**

**Winnipeg Construction Association**

Per:

  
**Ron Hambley**