BILL 66, RESTORING ONTARIO'S COMPETITIVENESS ACT, 2018

April 26th, 2019

On April 3rd, 2019 Bill 66, Restoring Ontario's Competitiveness Act, 2018 received Royal Assent. This new bill will introduce new changes to statutory labour and employment in the province. The amendments included in Bill 66 are intended to make it easier for businesses to operate in Ontario and are additions to the changes introduced through Bill 47, Making Ontario Open for Business Act, 2018.

What is Bill 66?

A new legislation that amends several of Ontario's workplace laws, including both the Employment Standards Act, 2000 (ESA) and the Labour Relations Act, 1995 (LRA).

Employment Standards Act, 2000

- Posting ESA Posters: Employers are no longer required to post a poster providing information about the Employment Standards Act and its associated regulations. Instead, employers would only be required to provide each employee with a copy of the most recent version of the poster.
- Eliminating Requirement to Obtain Approval: Employers would no longer be required to seek the approval of the Director of Employment Standards in order to enter into overtime agreements with their employees designed to average overtime over several weeks or to exceed 48 hours of work in a work week
- Duration of Overtime Averaging Agreements: Under the current terms of the ESA, averaging agreements applicable to unionized employees cannot be valid for more than one year after they take effect. Under Bill 66, these agreements will continue to be effective until a subsequent collective agreement applicable to the employees comes into operation.
- Existing Averaging Agreements: Existing averaging agreements would be deemed to have met the requirements set out in the ESA, and would continue to be valid until the employer and employee agree to revoke it, the Director revokes it, or the Director's approval expires.

Labour Relations Act, 1995

- Deeming Non-Construction Employers: Amend the LRA to deem municipalities and certain local boards, school boards, hospitals, colleges, universities, and public bodies to be non-construction employers. As a result, these entities would no longer be bound to construction industry collective agreements, and any existing agreements would be terminated.
- Amending the Bargaining Unit: Some of the entities affected by the proposed amendments regarding non-construction employers may currently have bargaining units that include construction and non-construction employees. These entities would be able to apply to the Ontario Labour Relations Board to have the composition of such bargaining units redefined.
- The new legislation also impacts other areas of workplace law, including:
- Pension Benefits Act: Remove restrictions on the ability of private-sector employers to merge their single-employer pension plans with jointly sponsored pension plans.
- Agriculture: Apply the Agriculture Employees Protection Act (AEPA) to ornamental horticultural workers, except those employed by a municipality or employed in silviculture.
- Employees covered by AEPA are not permitted to unionize, but they have the right to form associations for the purposes of making representations to their employer regarding working terms and conditions.

What could this mean for you?

All Ontario employers should be familiar with the components of Bill 66 and how it may impact their business operations and workers. Employers should be aware of the changes to the **Health and Safety Boards** within their organizations. Employers no longer need to post a copy of the ESA poster, instead they are required to provide each employee with the latest information regarding ESA regulations.

Also rules regarding work hours have changed, if you have an existing Averaging Agreement, ensure your current employment contract contains this information and new hires are aware of the work hours. The passing of Bill 66 has removed the Director's approval requirement from the ESA for employers to make agreements that allow them to average their employee's hours of work for the purpose of determining the employee's entitlement to overtime pay. The employee's hours may be averaged in accordance with the terms of an averaging agreement between the employee and the employer over a period that does not exceed four weeks.

Consult your Employment Lawyer for the most up to date information or best practices for employment contracts

For additional questions in regards to the legislation and available resources please don't hesitate to contact the WSPS Customer Care department at customercare@wsps.ca. We have a number of experts that can offer guidance and help answer your questions.

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