

#7 TRADE UNION FILINGS, NAME CHANGES AND SUCCESSORSHIPS

I. INTRODUCTION

The *Labour Relations Code* and the *Public Service Employee Relations Act* require that trade unions file basic information affecting their status as a bargaining agent. *See: Sections 24, 169(3), 179; PSERA Section 4.*

This Bulletin describes the documents which trade unions should file and when they should file them. A union must file information with the Labour Relations Board:

- when there is a change in the union's officers;
- when there is a change in the constitution or bylaws of a union;
- before applying for certification;
- when the union receives voluntary recognition from an employer affected by registration;
- when the union changes its name; or
- when the union merges or transfers jurisdiction.

Certain other situations involve filing with the Department of Labour when required by other sections of the Code or the Act. *See: Section 132.*

The Board uses the information filed by the parties in proceedings that involve them. Parties may be bound by the latest information filed. *See: Rules of Procedure, Rule 38.*

This Bulletin also describes the procedures for trade union name changes or successorships and how the Board processes those applications.

II. FILING DOCUMENTS WITH THE LABOUR RELATIONS BOARD

Section 24 Filings

Section 24 of the *Labour Relations Code* states:

24(1) In accordance with the rules and procedures established by the Board, a trade union shall file with the Board

- (a) a copy of its constitution, bylaws or other constitutional documents, and*
- (b) the names and addresses of its president, secretary, officers and other organizers and the name of its officers who are authorized to sign collective agreements.*

(2) The trade union shall send to the Board any changes to the information supplied under subsection (1) as soon as possible after the change is made and in any event when required to do so by the Board.

Section 4 of the PSERA contains similar requirements.

The Board has a form available that trade unions can use when filing. *See: Trade Union Filing Form.*

The Code and PSERA require filing of documents whenever a union is established and wants to apply to become certified. A trade union cannot apply for certification until 60 days after complying with Section 24(1)(a), unless the Board consents in advance. This rule also applies to new locals of an established trade union. Charters establishing locals should be filed as part of the constitutional documents. *See: Section 37(1); Bulletin 8.*

Unions must file any changes to their constitution and officers as soon as possible after they occur. While these changes will not normally affect any certificates, they will keep the Board's records accurate. *See: Section 24(2); PSERA Section 4.*

Section 169(3) Filings

Trade unions in the construction industry must notify the Board of any bargaining relationship with an employer affected by registration.

Section 169(3) reads:

169(3) When required to do so by the Board, a trade union shall notify the Board in writing of any bargaining relationship with an employer who is affected by a registration certificate or an application for registration whether that relationship is created by the signing by the trade union of

- (a) a collective agreement,*
- (b) an agreement providing for voluntary recognition of the trade union, or*
- (c) an agreement to be bound by the terms and conditions of a collective agreement.*

In any event, Section 179 of the Code requires a trade union in any of these three situations to notify the Board of any such occurrence within 30 days. *See: Section 179.*

Trade Union Name Changes

A name change on the part of a union usually means changes to all certificates held by that union. A union should advise the Board of any change as soon as possible. The Board maintains a record of all outstanding certificates.

The Board processes name changes affecting unions as applications for reconsideration of certificates under section 12(4). *See: Section 12(4); Bulletin 6; UFCW 1118P v. Fletchers Ltd. [1985] Alta. L.R.B. 85-021.*

Successor Trade Unions

Unions can merge or transfer jurisdictions. Unions should advise the Board of any change to the identity of a bargaining agent that exercises bargaining rights under the Code and the Act. The

successor union should apply to the Board for a declaration that it has acquired the bargaining rights of the previous union.

III. TRADE UNION SUCCESSORSHIPS

Trade unions are organizations that may form, dissolve, merge, divide, affiliate, disaffiliate, and transfer their rights. They do so often and for a host of reasons. Often such a change results in the trade union becoming a different legal entity. *See: Section 49; PSERA Section 66, AUSE 100 v. Edm. Roman Cath. Sep. School Board Div. 7 [1996] Alta. L.R.B.R. 115.*

Unless changed by statute, certificates, collective agreements and Board proceedings bind only the original parties. A trade union that ceases to exist does not pass its rights to any successor union. To prevent this loss of representation, Alberta has *union successorship* provisions that allow one union to pass its rights to its successor. This relieves the successor union of any need to re-certify the employees in the bargaining unit or renegotiate any collective agreement. *See: IWA Canada 1-207 v. Zeidler Forest Industries [1988] Alta. L.R.B.R. 182.*

Several features of this type of application are noteworthy:

- A successorship declaration is retrospective and confirmatory. It recognizes the validity of a transaction that has already taken place. Prior approval is not necessary. Any business transacted by the "new" bargaining agent pending the declaration is valid. *See: UA Local 488 v. Gateway Refrigeration Ltd. [1984] Alta. L.R.B. 84-079A; Int'l Assoc. of Heat & Frost Insulators and Asbestos Workers v. CLRa et al. [1986] Alta. L.R.B.R. 508.*
- The Board may grant a declaration in response to a free-standing application under Section 49, or, it may grant it in the context of another application. For example, the Board may declare a successorship in an unfair labour practice complaint if a party objects that the successor union is not a proper complainant.
- A declaration of successorship is only for the purposes of the *Labour Relations Code*. The Board decides whether a purported transfer is effective to pass a certificate, a voluntary recognition, a collective agreement, or other rights under the Code to the successor. The Board may not rule on the purely internal effects of the transaction, such as whether the parent union or its disaffiliated local owns the funds in the local's hands. This is a matter of contract law for the Courts to decide.

The Importance of Union Constitutions

A union constitution is a contract between union members. Members are free to bind themselves in advance to a procedure for transferring the organization's rights to another entity. They may do so even for such a fundamental reason like the organization ceases to exist which extinguishes the contract among members. *See: Banff Centre [1997] Alta. L.R.B.R. 267; SNAA et al. v. Rivercrest Lodge Nursing Home Ltd. [1995] Alta. L.R.B.R. 83.*

Votes In Successorship Cases

Section 49(2) gives the Board the power to conduct a vote in disposing of a union successorship application. While a Board conducted vote may not create a power to merge where no constitutional power to merge exists, it is available to correct defects in a constitutional merger process. It might be used where deception or misinformation taints an apparently valid merger vote. It might be used to overcome meeting or voting irregularities that call the validity of the merger motion into question. *See: Rivercrest Lodge Nursing Home Ltd. [1995] Alta. L.R.B.R. 83; USWA 5885 et al. v. Home Hardware Stores*

IV. PROCEDURES GOVERNING NAME CHANGES AND SUCCESSORSHIP

Applications

Name changes and successorships (mergers and transfers of jurisdiction) require an application under the Code and the Act if they affect existing certificates. These applications may involve changes affecting only a local trade union. They can also result from any action by a parent union. The action could be a merger, amalgamation, or other action that impacts on the affiliated local union operating in Alberta. The parent union may be a provincial, national or international body.
See: Sections 12(4), 49.

Unions should apply in writing using the format specified by the Board. The format is available from the Board offices or can be downloaded from the Board's website at: <http://alrb.gov.ab.ca/forms.html>. Applications should include:

- full name, address and phone number of the applicant;
- former name of the applicant, if applicable;
- full name, address and phone number of the respondent(s);
- a description of the change(s) made to the organization, with applicable dates;
- a description of the constitutional steps followed to effect the change;
- a description of how the trade union's jurisdiction changed in the process, if a transfer of jurisdiction is claimed;
- a list of affected bargaining relationships, by employer name and certificate number, if applicable; and
- a statement in a form prescribed by the Board, confirming the application has been served in a manner approved by the Board, on any parties known to be affected by the proceeding or subsequently added by the Board.

See: Trade Union Filing Form; Rules of Procedure, Rules 5.1, 6; Bulletin 2; UA 488 v. Fish Int'l Canada Ltd. [1985] Alta. L.R.B. 85-073.

The applicant should specify the constitutional changes so that the Board knows what kind of change the applicant claims to have occurred, and a broad outline of the process by which the transfer took place.

Supporting Information

The applicant should also include any relevant supporting documents, such as:

- The constitutions or bylaws of the unions involved in the transaction. This includes the "recipient" union in a merger or transfer of jurisdiction.
- The constitutions of any parent union or intermediate union body, such as a District Council, that appears to have had a part in the transaction. Parent and intermediate body constitutions are usually made part of the union local's constitution. They may contain important procedural requirements to govern a transfer of bargaining rights or other fundamental change.
- Copies of any Notice of Meetings sent to employees, and signed copies of any motions or resolutions passed to effect the transfer of bargaining rights. Such motions may be motions of an executive board authorizing the taking of a preparatory step in the merger process. They may be

resolutions of the entire membership authorizing a transfer. The motions required include any applicable motion of the recipient union accepting employees into membership or accepting the transfer of bargaining rights.

- Sometimes the donor union must first amend its constitution to permit the merger. In such case, the officer requires copies of any notices of meeting called for that purpose, together with the resulting motion and the amendments adopted.
- Copies of any merger, amalgamation or transfer agreement between the unions involved. Such agreements typically make arrangements about affiliation, the status of the donor unit in the recipient's organization, granting of membership in the recipient union, the role of the donor union's officers in the new organization, and disposition of the donor union's funds and other assets. The merger agreement may give the officer a clear understanding of how the transaction affects the character and day-to-day operations of the donor local.
- Copies of any Declaration of Vote or other official record of vote results, signed by the union's presiding officer, if a vote or votes were taken in the merger process.
- Any charter or other constitutional document issued to the members of the donor union by the merged or amalgamated union that results from the transaction.
- Lists of officers, organizers and authorized persons for signing collective agreements (if applicable).

The applicant must serve a copy of the application on all affected parties and provide proof to the Board of that service. The Board will direct how employees will be notified, usually by posting of a notice at the worksite. *See: Rules of Procedure, Rules 5.1, 6; Bulletin 2.*

Processing the Application

When the Board receives an application for a name change or a successorship declaration, the Director of Settlement sets the time for each of the affected parties to file a written reply setting out any objections to the application. The Director of Settlement may appoint an officer to investigate. *See: Section 13; Rules of Procedure, Rule 22(1)(g); Bulletins 2, 3.*

Disposition

If no one objects to the application, the Board will examine the documents filed to satisfy itself that the change has occurred within the constitutional authority and process of the applicant trade union. If the Board finds that a change has properly occurred on the basis of the documents submitted, it may issue an amended certificate or certificates. *See: Bulletin 4.*

If a party objects, an officer attempts to resolve any outstanding issues. If the parties are unable to resolve the issues, the Director of Settlement may refer the matter to a panel to decide on the materials submitted or after a hearing. *See: Rules of Procedure, Rules 22(1)(h), 23, Bulletin 4.*

Impact on Other Issues

An application for change, brought by a trade union, often raises issues concerning some other aspect of the bargaining relationship. Examples include a change in the employer's name or the scope of the bargaining unit.

The Board may entertain any application to update the certificate. The Board does not treat these issues as objections to the original application for successorship brought by the trade union. The Board will treat such objections as separate applications. *See: Sections 12(4), 45.*

V. ACCESS TO FILED INFORMATION

A party can view the record of current certificates on the Internet at <http://alrb.gov.ab.ca/activecertificates.html>. This record shows the employer name, union name, bargaining unit description and certificate number. The list is for convenience and is not a definitive statement of what bargaining rights may or may not exist.

All filed constitutional trade union information is available for public inspection. The *Freedom of Information and Privacy Act* prohibits the Board from releasing any personal information (address or phone numbers) of the union officers, other than their names without their consent.

VI. FILING REQUIREMENTS WITH LABOUR

The Department of Labour is a separate body and is not the Labour Relations Board. The Code also requires that parties file documents with the Department of Labour. Parties must file and update the following information with the Director of Mediation Services:

- collective agreements between parties covered by the Code and the PSERA (including agreements between parties negotiated through voluntary recognition); *See: Section 132.* and
- lists of bargaining committees. *See: Sections 61(8), 62(3).*

Mediation Services' address is:

Mediation Services
Alberta Labour
702, 10808 99 Avenue
Edmonton, AB T5K 0G5
Telephone: (780) 427-8301

Trust agreements and trust instruments involving health and welfare or pension benefits are sent to Employment Pensions, whose address is: *See: Section 156.*

Employment Pensions
Alberta Finance
402 Terrace Building
9515 107 Street
Edmonton, AB T5K 2C3
Telephone: (780) 427-8322

See also:

Section 179
Information Bulletins 2, 3 and 4
Rules of Procedure
Voting Rules

For further information or answers to any questions regarding this or any other Information Bulletin please contact:

Director of Settlement
Labour Relations Board
501, 10808 99 Avenue
Edmonton, AB T5K 0G5
Telephone: (780) 422-5926

Manager of Settlement
Labour Relations Board
308, 1212 31 Avenue NE
Calgary, AB T2E 7S8
Telephone: (403) 297-4334

Email: alrb.info@gov.ab.ca
Website: alrb.gov.ab.ca