

# HISTORY OF THE LABOUR RELATIONS BOARD

---

## INTRODUCTION

The history of the Labour Relations Board has been influenced primarily by legislative changes and a few administrative changes. This policy summarizes the legislative history and Board structure.

## LEGISLATIVE HISTORY

Alberta's first employment regulations were enacted in the *Coal Miners Act* of 1909. As early as 1888, however, an Ordinance was passed respecting masters and servants. This Ordinance gave some protection to the employee against wrongful dismissal, redress to the courts for non-payment of wages and a general protection against "ill-use" by the employer.

Originally it was believed that the authority to regulate labour relations rested with the federal government. As a consequence of the Lethbridge Coal Miners strike in 1907, the Federal *Industrial Conciliation and Arbitration Act* was passed. This was the chief mechanism for regulating labour relations in Canada until the mid-1930s. That Act relied almost exclusively on the conciliation mechanism to prevent labour strife. In 1928 the Privy Council ruled that labour relations fell mostly within provincial regulation. This resulted in a gradual change to our present system.

In 1936 the Minimum Wage Board was established to administer the new *Male Minimum Wage Act*. The same year saw the establishment of the Board of Industrial Relations (B.I.R.), which in 1981 became the Labour Relations Board (L.R.B.). The B.I.R. replaced the Minimum Wage Board and, when the Bureau of Labour was dissolved in 1937, most of its functions went to the B.I.R.

The first Alberta legislation developing the machinery for labour relations as we know it today was the *Industrial Conciliation and Arbitration Act* of 1938. It recognized the right of employees and employers to organize for any lawful purpose and employees were given the right to bargain collectively. Provisions were also made for the appointment of a Conciliation Commissioner to a dispute. If the Conciliation Commissioner was unable to effect settlement the dispute went to an arbitration board. The award of the arbitration board was voted on by the employer and the employees and no strike or lockout could occur until the conclusion of this process. In 1941 this Act was amended to include teachers as employees with the right to bargain collectively. They were among the first non-industrial workers able to do so.

During the Second World War, labour relations in Canada were once again regulated by the federal government by the *Wartime Labour Relations Regulation* under the provisions of the *War Measures*

*Act.* This regulation established a comprehensive scheme for collective bargaining modeled on the American *Wagner Act* passed in 1936. The regulation established the Wartime Labour Relations Board which was chaired by an Albertan, Mr. Justice O'Connor. The regulation was phased out after the war but became the model upon which most provincial labour acts were based.

The *Labour Welfare Act* of 1943 gave the B.I.R. the authority to make regulations concerning labour welfare. This legislation brought about the establishment of employment standards and of inspectors with the authority to ensure compliance with the regulations established by the B.I.R. The inspectors also enjoyed some independent powers such as the ability to order an employer to set up a lunch room separate from the work area.

In 1944, the B.I.R. was given the authority to formally grant representation rights, following an inquiry into the propriety of the organization seeking such rights. The Board also had the authority to direct representation votes. According to our records, the first certification was issued in May, 1944 to the Edmonton Flour Mill and Cereal Workers Union #71 for workers of the Ogilvie Flour Mills.

With the passage of the *Alberta Labour Act* in 1947, labour legislation, which was contained in several acts, was combined into one statute. This resulted in repeal of the *Hours of Work Act*, *Male Minimum Wage Act*, *Female Minimum Wage Act*, *Industrial Standards Act* and the *Industrial Conciliation and Arbitration Act*. The *Alberta Labour Act* brought all employers and employees under the jurisdiction of the B.I.R. except for farm and domestic workers. The Board had the authority to set employment standards, order votes, intervene in negotiations, arbitrate disputes and could prescribe a fair wage for any employee. Amendments to this Act in 1948 brought about a ban on soliciting union memberships during working hours and a requirement that a notice to bargain must be served not less than two months before the expiration of a collective agreement. The legality of strikes and lockouts was placed in the hands of the Supreme Court of Alberta.

From 1948 to 1960, there were no major changes in legislation which affected the operations of the Board and the few changes which did occur dealt with employment standards matters. In 1954, employers were required to maintain employment records and the Board was given the authority to fix the maximum number of overtime hours. Amendments in 1957 provided for one week of vacation after the first year of employment and two weeks thereafter. In addition, females had to be paid the same as males for the same work.

During the 1960s, more attention was paid to labour issues and this resulted in several important changes. In 1960, municipal police were excluded from the Act, picketing to obtain representation rights was prohibited and disputes could be stopped by Order-in-Council, if the dispute threatened injury to people or property. The 1964 amendments provided for written notice of strike or lockout and provide for the extension of collective agreements while bargaining continued. The changes in

1968 gave the Board the authority to require the production of documents and to include or exclude persons from units. Employers' organizations could now bargain on behalf of all employers who authorized them to do so and bargaining and collective agreements required a method for the settlement of grievances during the lifetime of the agreement. The position of Board Registrar was established in 1966.

The 1970s brought about continued changes such as Alberta Government Telephones becoming the first crown corporation to be included in the Act (more recently found to be a federal employer), as well as the advent of the construction industry registration provisions in 1970. Also in 1970, picketing was restricted to the place of business of the striking employees and the "hot cargo" provisions were enacted. Provision was made for the establishment of a representative council to deal with jurisdictional disputes in the construction industry. This provision was never used and the settlement of jurisdictional disputes was left to the parties. The 1970s also saw the Board given the jurisdiction to rule on unfair labour practice complaints. Until this change, an unfair labour practice complaint, such as a failure to bargain in good faith, was dealt with in the Provincial Court, as a prosecution which could only be conducted with the consent of the Minister of Labour. In 1974 provisions relating specifically to the construction of oil sands plants were passed and in 1975 amendments provided that Board members and officers were not compellable as witnesses. This was also the year maternity leave was introduced in legislation.

The *Public Service Employee Relations Act* was passed in 1977 with all government employees coming under its jurisdiction. This year also saw the establishment of province-wide construction bargaining provisions in the *Alberta Labour Act* and the designation of organizations to coordinate construction collective bargaining. These designated organizations had the ability to participate in bargaining but had no authority to bind anyone to a collective agreement.

In 1977, with the introduction of the standard hospital industry bargaining units, the Board took a major step in structuring and restricting bargaining units in the hospital industry. This move, unprecedented in Canada, was met with mixed reaction from those in the industry, but through the years has proved to have been very successful. This was followed in 1978 with the structuring of standardized bargaining units in the construction industry, following public hearings.

Employment standards matters were removed from the jurisdiction of the Board in 1980. Labour legislation outside of the public service was split into two acts; namely the *Employment Standards Act* and the *Labour Relations Act*. This resulted in a new mandate and a change to the Board's present name. Amendments to the *Labour Relations Act* in 1981 provided for petitions for certification without the previous necessity of membership or applications for membership in the applicant trade union.

In 1983, several significant amendments to the Act were passed. A complaint could be filed alleging a failure to comply with any section of the Act and the Board was given the ability to issue interim directives. A provision was introduced preventing a trade union from negotiating a collective agreement or applying for certification for 6 months following the revocation of a certification. The firefighters were brought under the *Labour Relations Act* and the Board was given authority under a new *Police Officers Collective Bargaining Act*. In November 1983, Bill 110 was assented to which was intended to effect some major changes in the construction industry, but this legislation was not proclaimed and was repealed in 1984. Further changes in the construction industry labour legislation took place in 1987 with the *Construction Industry Collective Bargaining Act*.

In 1987 the Minister of Labour constituted a Labour Legislation Review Committee which issued a comprehensive report and paved the way for a new *Labour Relations Code*, which became law on November 28, 1988. The Code added several new features to the legislation including the need for only 40% initial support for a certification or revocation application; mandatory representation votes on applications for certification or revocation; an opportunity for a party to obtain one proposal vote on their last offer presented in collective bargaining; and consolidation of construction bargaining into a system of province-wide, trade-by-trade bargaining subject to coordinated strike or lockout action. The Code also provided for an exemption from payment of trade union dues based on religious beliefs; enhanced mediation and a cooling off period before strike or lockout; a two year limit on strikes or lockouts; and enhanced Board supervisory authority over picketing.

Until September, 1993, the Public Service Employee Relations Board supervised the operation of the *Public Service Employee Relations Act* (PSERA) governing public-sector employers and employees. On September 1, 1994 the *Labour Boards Amalgamation Act* (the "Amalgamation Act ") amended the PSERA to give the Labour Relations Board jurisdiction over the public sector as well. The Amalgamation Act also provided for the creation of divisions of the Board and gave it consistent powers and hearing procedures under both statutes. This Act also provided for the discretion of the Board to refuse to accept complaints filed over 90 days after the events complained about.

In June, 1994 the *Regional Health Authorities Act* amended PSERA to transfer hospitals previously under the PSERA to the *Labour Relations Code*. The most recent change in labour legislation occurred in 1995 with the *Managerial Exclusions Act*. This Act excluded managerial firefighters and clarified the Board's power to determine who was in and out of a firefighter bargaining unit.

## **STRUCTURE OF THE BOARD**

When the Board of Industrial Relations came into being in 1936 it was, by legislation, composed of a Chair and two members. The first Chair was Clayton Adams of Edmonton and the members were W.D. King, who was the Deputy Minister of Trade and Industry, and Dr. Victor Wright, who was the

Chair of the Workmans' Compensation Board. It was not until 1943 that the position of Chair became a full-time position and not until 1947 that the members were chosen from the public. Prior to that they were all members of the civil service. The following are the Chairs and Vice-Chairs that have served the Board since its inception:

***Chair***

1936 - 1948	Clayton Adams
1948 - 1969	Ken Pugh
1969 - 1977	R.B. d'Esterre
1977 - 1981	Alex Dubensky, Q.C.
1981 - 1984	Ross McBain, Q.C.
1984 - 1985	Alex Dubensky, Q.C.
1985 - 1994	Andrew C.L. Sims, Q.C.
1994 - 1999	J. Robert W. Blair
1999 - Present	Mark L. Asbell, Q.C.

***VICE-CHAIR***

1957 - 1958	Harold Bendickson
1958 - 1962	Fred Cope
1962 - 1963	E. Oberholtzer
1963 - 1970	Don Gardner
1970 - 1973	Harold French
1973 - 1976	C. Brian Williams
1976 - 1978	Anton Melnyk, Q.C. (P.T.)
1976	David Laird, Q.C.
1976 - 1977	Alex Dubensky, Q.C. (P.T.)
1977 - 1978	Jed Hawco, Q.C. (P.T.)
1977	D. Blair Mason, Q.C. (P.T.)
1978 - 1991	W. (Bill) Canning
1978 - 1981	Newcombe Bloomer
1981 - 1983	Clint Mellors
1983 - 1985	Leo Chikinda (P.T.)
1984 - 1985	Andrew C.L. Sims
1984 - present	Gerry Lucas, Q.C. (P.T.)
1986 - 1992	Keith Aldridge
1991 - 2002	Deborah M. Howes (F.T. from 1992)
1991 - 1997	Mark L. Asbell (F.T. from 1992)
1994 - present	Andrew C.L. Sims Q.C. (P.T.)
1996 - 2009	J. Leslie Wallace
1999 - 2002	Sarah Fitzgerald
1999 - present	James Casey
2002 - present	Nancy E. Schlesinger

2007 - 2008	Sean Day
2008 - present	Lyle Kanee

The administrative arm of the Board has seen many changes from the early days. Originally the Board Secretary was the only administrative person, with investigations being carried out by staff from other areas of the department. It was not until the mid-1960s that the first Registrar was appointed and full-time Board officers came into being.

The second Registrar position was created in 1972 but it was not until 1977 that the Calgary Board office was established with its own resident Registrar. In 1988 the Board changed the title of the Registrar to the Director of Settlement and again to Executive Director in 2001. A Manager of Settlement now carries out the functions of the Executive Director in the Calgary office.