

BILL 32 AND ARBITRATION

Background

Bill 32, the so-called Restoring Balance in Alberta’s Workplaces Act, was passed into law on July 29, 2020. It makes subtle changes to the Labour Code that restrict arbitrators’ power and gives more power to the UCP-appointed Labour Board.

Before Bill 32	After Bill 32
Newly unionized workplaces can use arbitration as a solution to employers resisting bargaining.	When an employer resists a first contract at all costs, arbitration was a reasonable option. Now it will only be a “final remedy” and will encourage employers to resist a fair contract even more.
If a time limit in the grievance and arbitration process was missed, arbitrators could make an extension.	Local unions trying to win member grievances will have more cases rejected on narrow technical grounds, even if the arbitrator agrees that an extension would otherwise be reasonable.
Arbitrators bound by “the principles of Canadian labour arbitration,” leading to an emphasis on fairness and reasonable outcomes.	The “principles” reference is removed and these changes allow arbitrators to issue decisions that would not be seen in other provinces, stacking the deck for employers even more.
The Labour Board may review awards only in special circumstances.	These U.S. type changes allow a politicized Labour Board to intervene in normal labour relations and employer lawyers will be urging them to review and set aside awards, without the existing reference to grounds of fair hearing denial, or unreasonableness.
Each party in an arbitration pays for their own legal costs.	The Board is given a new power to award costs to a losing party. This will place additional burdens and costs on local unions who must defend members and follow the duty of fair representation.

