



HEALTH WEALTH CAREER

LABOUR LAW REFORM

On May 1, the Decree amending, adding to and repealing various provisions of the Federal Labor Law, the Organic Law of the Judicial Branch of the Federation, the Federal Public Defense Law, the Law of the National Workers' Housing Fund Institute and the Social Security Law was published in the Official Gazette of the Federation.

MAKE TOMORROW, TODAY



BACKGROUNDS

The previous Federal Labor Law contained minimum requirements for the registration of labor unions and collective agreements, which led to the fact that they did not always genuinely represent the interests of workers.

The process of electing representatives had proved to be inefficient and undemocratic. Protection contracts were used to avoid strike summonses by a hostile union. This also led to the workers not being able to exercise the right to strike by signing a collective bargaining agreement, derived from the existence of one previously signed and registered with the Conciliation Board.

The labor reform regulates the amendments made to Article 123 of the Constitution that came into effect in February 2017, which are obligations assumed by Mexico as a result of negotiations to participate in the Trans-Pacific Economic Cooperation Agreement (TPP), as well as the signing and ratification of Convention 98 of the Labor Organization (ILO) on Freedom of Collective Hiring.

After the constitutional reform, Mexico entered into negotiations for the renewal of the North American Free Trade Agreement, which resulted in a new treaty known as T-MEC. Negotiations that coincided with the discussions related to the reform of the Federal Labor Law.

The new trade agreement included an Article 23 and an Annex 23-A. which established a commitment for Mexico to make very important adjustments to its labor legislation aimed at ensuring freedom of association, the right to collective recruitment and the establishment of a labor justice independent of the executive authority.



SUMMARY

The protection of freedom of association and collective bargaining are paramount in labor reform, establishing the bases of operation to ensure the representativeness of labor organizations, through the exercise of direct, free and secret vote, as well as participation in collective bargaining, which translates into a transformation of collective labor relations.

In the area of labor justice, conciliation is introduced as a mandatory and expeditious pre-trial instance that seeks to reduce conflicts before labor courts, creating new labor courts that will replace the current Conciliation and Arbitration Boards, thus modifying the procedural provisions.

Likewise, obligations are established with the purpose of preserving a work environment free from discriminatory conduct in the life cycle of employees, including participation in union management.

In the area of occupational safety and health, the characteristics of the beneficiaries of compensation for occupational risks that led to death or disappearance as a result of a delinquent act are defined, eliminating any criterion of economic dependence.

Equally important are the modifications that address situations such as the social security system for domestic workers; the use of digital tax vouchers for payroll; the termination of labor relations, sanctions and updating of reference values, among others.



ELEMENTS OF THE LABOUR REFORM INITIATIVE

Modification to the Collective Labour Law

- Right to Freedom of Association and Participation.
 - ➔ It is recognised that workers who are members of trade unions shall have the right to freedom of association and participation in labour organisations.

Thus, workers may:

- ▶ To decide whether or not to belong to a trade union, without reprisals of any kind.
 - ▶ Elect to be democratically elected as members of a union's board of directors by personal, free and secret vote.
- Collective Labor Agreement.
 - ➔ The union that requests the signature of a CCT must obtain the Proof of Representation, through the vote of at least 30% of the workers and that they expressed their support. The certificate is valid for 6 months.
 - ➔ Within a period of no more than 4 years following the entry into force of the Reform, all CCTs must be reviewed in accordance with the established procedure. Contracts that have not been reviewed during this period will be terminated.
 - ➔ Strike Summons Notices.
 - ➔ The notifications that have as object the celebration of a CCT, its integral or salary revision, must always be presented together with the Proof of Union Representation. Without this, the strike notification will not proceed.

ELEMENTS OF THE LABOUR REFORM INITIATIVE

Transforming labour justice

- Conciliation and Arbitration Boards (JCA) disappear
 - ➔ The Executive Authority will no longer be involved in labor disputes. Instead, Labor Law Courts will be created, which will depend on the Federal and Local Judicial Branches.
 - ➔ The federal and local ACMs, as well as the STyPS, will continue to hear individual, collective and registry proceedings that begin after the entry into force of this law and until the Courts and Conciliation Centers become operational.
- Sentences. The matters presented before these Courts will be decided in the presence of a Judge and the resolutions that these dictate to solve the conflicts, will be sentences.
- Modifications to Labour Procedural Law:
 - ➔ It introduces the instance of conciliation prior to the judicial procedure and obligatory for the parties.
 - ➔ An ordinary labour procedure is created, predominantly oral, with a written phase.
- Observation of Principles in the Courts. A more efficient and expeditious procedure is expected, as during the conduct of the new procedure the labour courts will observe the principles of:
 - ▶ Orality
 - ▶ Immediation
 - ▶ Continuity
 - ▶ Concentration
 - ▶ Advertising
- System of Notifications and Communication. In order to speed up the judicial procedure, there will be an information technology system between the authorities and the parties.

ELEMENTS OF THE LABOUR REFORM INITIATIVE

Creation of the Federal Center for Labor Conciliation and Registration

- At the federal level it will be in charge of the following functions
 - A. Conciliator.
 - B. Registration of collective labour contracts, internal labour regulations and those of trade unions and their directives.
- At the local level, Conciliation Centers will be established that will only perform the conciliatory function, not the arbitration function.
- The Conciliation Centres and the Local Labour Courts will begin their functions within 3 years of the entry into force of the reform.
- A term of 6 months is established to issue the CFCRL Law and 2 years for the CFCRL to begin its functions of registration of unions and contracts, and a term of 4 years for conciliation.

OTHER AMENDMENTS

- A number of provisions are included aimed at preventing discriminatory practices, harassment, including sexual harassment.
- Many provisions refer to gender equity and attempts are made to ensure that employers' and trade union bodies comply with gender equity in proportion to the number of workers.
- "Household workers" are those who provide cleaning services, assistance and other services inherent in the home of a person or family. Employers are also required to register with the Mexican Social Security Institute (IMSS).
- Maternity protection is extended and it is established that if the employer decides to terminate a pregnant woman's employment relationship, she must maintain social security for up to six months after giving birth.
- It is established that in the event of death or disappearance resulting from a delinquent act, children under 18 years of age and those over that age will receive compensation if they have a disability of 50 per cent or more, as well as children up to 25 years of age who are studying in a national educational system; in no case will the investigation of economic dependency be carried out, given that these claimants have the presumption in their favor of economic dependence.

WHAT THE REFORM DOES NOT INCLUDE

Outsourcing or Subcontracting regime.

- Articles 15A, 15B and 15C of the Labor Law remain unchanged until the new legislative period, something that is at the top of the agenda of Senator Napoleón Gómez Urrutia, president of the Labor Commission.
- For now, the gaps in the legislation allow the interests of both the worker and the government to be affected by the under-registration of workers.

Other issues on the agenda of the Senate Labor Committee

- Articles General Minimum Wage
- Avoid or dissolve illegal strikes
- Avoid the proliferation of new unions by limiting the registration form

END-TO-END JOB SOLUTIONS

The reform to the Federal Labor Law begins a moment of change and conjuncture in our country, which we have begun to live since the beginning of 2019, characterized by a labor movement of openness, in general a free game that allows unions and employers to negotiate their working conditions without restrictions or bumps.

Without a doubt, in collective labor relations there is a large area of work for a healthy, transparent and professional implementation, with a policy of prevention and compliance with rules and labor relations; being key for organizations to identify their strengths and areas of opportunity in their labor management model.

Mercer launches its new practice of Integral Labor Solutions in Mexico, which aims to make available to our customers capabilities to make decisions according to the national reality and keep them with advantage in the international market to have committed and productive employees.

This strategy consists of products and services focused on decision making around the unionized personnel of our clients to achieve a true Job Transformation.

CONTACT US

MARTHA CANO

martha.cano@mercer.com

+52 (55) 9628 7450

ROGELIO SALCEDO

rogelio.salcedo@mercer.com

+52 (55) 9628 74356



MERCER

MAKE TOMORROW, TODAY