

Approval of the Mexican Labor Reform

Following up on our prior news flash with respect to the labor reform bill approved by the Chamber of Deputies on April 11 of this year, allow us to inform you that the Senate of the Republic passed the version sent by said Chamber on April 29 and today the decree was published in the Official Federal Gazette amending various provisions of the Federal Labor Law, the Organizational Law of the Federal Judicial Branch, the Federal Law for the Public Defense, the National Workers Housing Fund Institute Law and the Social Security Law, in matters of labor justice, freedom of association and collective bargaining negotiations.

As we indicated previously, the most relevant aspects of the reform are the following:

- A single-instance ordinary labor proceeding is established under the Federal and Local Judicial Power, thus eliminating the Conciliation and Arbitration Boards. In this new procedure, the parties must include their evidence with the claim and answer briefs.
- The conciliatory function is established as a pre-judicial requirement which will be processed before the Conciliatory Authority (this authority should be understood as the Federal Conciliation and Labor Registry Center or the Conciliation Centers of the states).
- The Federal Conciliation and Labor Registry Center (Center) will be responsible for the registration of the collective bargaining agreements, the unions, the internal work regulations, as well as the conciliatory function at the federal level. At the local level, the Conciliation Centers will only have the conciliatory function.
- The use of information technology for notification and processing of official actions is regulated.
- It is established that, in the judicial proceeding, the strategy of the employer to offer the job to the employee will not reverse the burden of proof.
- The failure to deliver the notice of rescission to the worker or its filing before the Court will only result in the presumption that the dismissal was unjustified. A procedure is also established to deposit the indemnity in the case of confidential workers (certain white-collar employees), temporary workers and other types.
- The employment termination agreements may be ratified before the Conciliatory Authority or the Labor Court.

- New labor obligations are established such as to include in the employment agreements the beneficiaries of the workers; issue to the workers their printed receipts if they request them (however, it is established that the digital tax receipts (CFDI) may substitute the printed receipts); deliver to the workers a printed copy of the collective bargaining agreement; implement a protocol for preventing discrimination for reasons of gender and attention to cases of sexual violence and harassment; register domestic workers in the mandatory social security regime (first the necessary regulatory adjustments must be approved).
- It is established that actions for which fines could be imposed or other types of liabilities in the case of public officials, will be considered notoriously invalid actions for both public officials and the parties in the process.
- It is established that for the execution of the collective bargaining agreements the union must obtain the “Record of Representation”, which will be obtained through a personal, free and secret vote of the workers of the company.
- Similarly, having the “Record of Representation” is established as a requirement to call a strike.
- It is established that the existing collective bargaining agreements must be reviewed at least once during the four years after the entrance into force of the law, in order to verify that such agreements represent the interests of the workers of the company and are in line with the guidelines of the reform.
- Regarding the matter of union leadership, it is established that they will be elected through a personal, free and secret vote; that there will be no lifetime leadership positions; and that their members will be held accountable to the workers for their management.

It should be noted that according to the transitory articles of the reform, the decree will enter into force tomorrow. However, the transitory articles also establish a series of time periods and procedures for their material application. We share the most relevant information established in the transitory articles:

- In the next 180 days the Congress of the Union must issue the Organizational Law of the Federal Conciliation and Labor Registry Center.
- In a period of no more than two years the Federal Conciliation and Labor Registry Center must begin its operations with respect to the registration of collective bargaining agreements and union organizations.
- The local Conciliation Centers and the Local Courts must begin their activities within the next three years.
- The Federal Conciliation and Labor Registry Center with respect to the conciliatory function and the Federal Courts must initiate their operations within the next four years.

- The proceedings that are currently in process before the Ministry of Labor and the Conciliation and Arbitration Boards will be concluded by them according to the provisions of the prior law. Similarly, the proceedings initiated after the entrance into force of this Decree will be processed before such authorities until the Courts and Conciliation Centers begin operations.
- The union organizations will have a period of one year to adjust to the procedure for consultation of the workers for the execution of collective bargaining agreements and their review.
- In a period of 245 days the unions must adjust their bylaws regarding the matter of union management.

We share the link to the publication today in the Official Federal Gazette:

https://www.dof.gob.mx/nota_detalle.php?codigo=5559130&fecha=01/05/2019

Please let us know if you have any questions regarding the reform and we are at your disposal for the adjustments that will be necessary in terms of this new labor justice framework.

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Sincerely,

Von Wobeser y Sierra, S.C.

Mexico City, May 1, 2019.