

Mexico's Overhaul of Federal Labor Laws: Updates, Timelines for Employers

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Substantially overhauling its labor law, Mexico has enacted legislation that prohibits employer interference with workers' rights, protects employees' right to join or not join a union, and requires unions to secure employee support. In order to implement these changes, Mexico must create new courts, a new federal agency, and even more regulations in a short time.

(For details of the legislation, see our article, [Revamp of Mexico's Federal Labor Laws: What U.S. Employers Need to Know.](#))

Background

For at least 50 years, a company in Mexico could recognize a union and sign a contract with the union without any input or approval from workers. These agreements, referred to as "Protection Agreements," often set employer-friendly contract terms before the company even hires workers at its worksite. With limited accountability, transparency, and no democratic elections, most unions in Mexico accommodated the needs of the companies. As a result, while foreign direct investment in Mexico skyrocketed, employee wages remained low. Unions were present in workplaces, but often in name only. While there were independent unions in Mexico in some industries (such as in the mining and airline industries), most unions were non-confrontational and did not provide consistent democratic processes to their members.

What's in the New Law?

The law requires democratic unions and overhauls the investigation — and enforcement — of Mexico's labor laws. Under the new law, a union in Mexico may be recognized as the exclusive bargaining representative with just 30 percent of employee support. However, ratification of a collective bargaining agreement (CBA) requires majority support of all represented workers. The intent behind this is to ensure the eradication of Protection Agreements.

The law creates the Federal Center of Conciliation and Labor Registry, a new administrative body to oversee union elections and contract ratification. Inspectors from the Registry have authority to verify that employees work at the covered site and support the CBA. Over the next four years, all CBAs must be ratified before the Registry.

The law also contains provisions that aim to increase employee awareness of their new rights. Previously, many employees did not realize a CBA was in effect. The new law requires all CBAs be scanned and transmitted to the Registry, and unions must make physical or electronic copies available to its members. A designated office at the Federal Center for Conciliation and Labor Registry will provide free information to workers about their rights.

Before any labor lawsuit may be filed, the parties must attend mandatory conciliation. Employers that fail to attend will be subject to fines. These new requirements likely will increase the number of labor disputes as employees begin to understand their rights and have their grievances promptly addressed.

The law also overhauls adjudication of labor disputes. Previously, disputes were resolved by a tripartite commission comprised of employers, the employer-dominated union, and administrative governmental officials. Under the new law, all labor disputes will be transferred to new state and federal labor courts that are part of Mexico's judiciary branch, which are expected to be more impartial (and inherently less employer-friendly) than the tripartite commissions. The new law abolishes formal requirements for service of pleadings, which caused significant delay in litigation. After the initial summons, service will be completed through e-filing. Impartial adjudicatory bodies and streamlined litigation are likely to increase litigation risks for employers.

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Increased Independent Union Activity Coming

Passing the law is only the beginning of Mexico's labor reform. The new Federal Center for Conciliation and Labor Registry and labor courts require more guidance, staffing, training, administration, and, most important, money.

The law sets the following critical deadlines (measured from the law's effective date):

- Publish regulations to verify CBAs have majority support – 90 days (July 31, 2019);
- Publish transition plan to transfer lawsuits to new labor courts – 120 days (August 30, 2019);
- Publication of the Federal Center for Conciliation and Labor Registry procedures and operations (the "Organic Laws" of the Registry) – 180 days (October 29, 2019);
- Secretary of Labor publishes audit procedures and regulations for union bylaws and democratic elections of union leaders – 240 days (December 28, 2019);
- Secretary of Labor publishes auditing regulations for collective bargaining elections – one year;
- Federal Center for Conciliation and Labor Registry starts CBA registration – two years;
- All CBAs must be transferred to the Federal Center – three years;
- State labor tribunals begin operations – three years;
- Federal Center for Conciliation and Registration begins conciliation operations – four years; and
- All existing CBAs must be ratified (or extinguished) – four years.

Independent union activity is expected to surge once the regulations governing the Federal Center are published, which must occur by October 29, 2019.

The successful implementation of the reforms (and the actual effects on employers) will depend on the budget approved by the Mexican government and the resources allocated to the Federal Center and the labor courts.

U.S. Unions Paying Attention, Working to Ensure Labor Reforms Take Place

The United States is by far Mexico's largest trading partner, and Mexico must secure ratification of the United States-Mexico-Canada Trade Agreement (USMCA) to protect this critical trade relationship. In the United States, Democrats and the AFL-CIO have made Mexico's labor reform, and enforcement, a main impediment to ratifying the USMCA. House Democrats are using the USMCA to ensure labor reform within Mexico. Pressure from the U.S. could ensure Mexico's labor reforms succeed.

What This Means for Employers

The changes in Mexico's law likely will spur greater, and more meaningful, independent unionization than Mexican employers have experienced in the past. Companies seeking to maintain the flexibility necessary to respond to a changing global marketplace should evaluate their labor relations strategy and seek legal counsel on how to comply with Mexico's new labor laws.

Jackson Lewis is collaborating with its Mexican counterpart in its international alliance of labor and employment firms, L&E Global, to assist clients in navigating this big change in the law. We will continue to provide updates and articles and webinars as the law is implemented.

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