



# Position Paper

## FINAL OFFER VOTE STATUTORY PROVISIONS IN NL

A METHOD OF DECREASING FREQUENCY AND DURATION OF STRIKES IN THE PROVINCE OF  
NEWFOUNDLAND AND LABRADOR

*Approved March 12, 2010*

## **Overview**

Most jurisdictions in Canada have provisions in their labour relations legislation that provide for the final offer of the employer in contract negotiations to be put to a vote by the workers. It is the position of the Newfoundland and Labrador Employers' Council that the employer should be able to apply for a vote of the workers on the final offer of the employer. The NLEC believes this would help reduce the frequency and duration of strikes in the province, as well as provide for an improved labour relations climate.

## **Why Final Offer Vote Provisions Work**

Legislation providing for a final offer vote allows the employer to request that the bargaining unit vote, in a secret ballot, on the Employer's final offer. Jurisdictions that have final offer vote provisions report that, while the provision is not used in every labour dispute or contract negotiation, it does provide another tool that can be exceedingly helpful in settling difficult negotiations.

Although collective agreements are negotiated by employers and unions, the employees whose terms and conditions of employment are reflected in these collective agreements, are most directly impacted by the outcome of negotiations.

Legislation providing for a final offer vote can prevent a work stoppage or a protracted strike and . It is one of a number of mechanisms that may allow parties to reach an agreement and, in some situations, prevent a work stoppage (for example, following a protracted strike or where a gap exists between expectations of the union leadership and bargaining unit members).

An employer's final offer may be significantly different from the employer's offer voted on by the members of the bargaining unit for a strike vote. This could be the case for a variety of reasons, including changing economic conditions. However, in the absence of

legislation providing for a final offer vote, there is no mechanism to ensure that bargaining unit members have an opportunity to vote on the Employer's last offer which has been modified since the strike vote.

Legislation providing for a strike vote and a final offer vote ensures that all members of the bargaining unit (whether or not they are union members) have a voice in these critical decisions.

Final offer vote provisions place the ultimate choice in the hands of those most impacted by the decision to strike after they have been fully informed of the employer's offer that is, the bargaining unit.

The inclusion of legislation providing for a final offer vote in most Canadian jurisdictions reflects the importance of a final offer vote as a valuable mechanism for resolving labour disputes in Canada.

## **Frequency of Final Offer Votes in Other Jurisdictions**

Over the last decade, work disruptions have been averted or shortened by virtue of a final offer vote. There are numerous examples of such occurrences across jurisdictions. For example, Alberta completed 18 Final Offer Votes between April 1, 2004 and May 13, 2009, 22% of which were accepted. In British Columbia, between January 1, 2007 and December 31, 2008, 36% of final offer votes were accepted. Finally, in Ontario, approximately 33% of final offer votes are accepted.

## **Recommendations for a final offer vote provision**

1. The NLEC recommends that Government amend the Labour Relations Act to include a provision for final offer votes.
2. The Employer may make an application to the Chair of the Labour Relations Board for a Final Offer Vote. The Employer's request to the Minister shall include the Employer's last offer. The Employer may make more than one request for a final offer vote during a labour dispute or negotiation.
3. The Employer shall be permitted to make a request to the Chair of the Labour Relations Board in each set of negotiations.
4. The Chair of the Labour Relations Board shall order a Final Offer Vote within five (5) business days from the time received by the Minister.
5. The Final Offer Vote shall be conducted by the Labour Relations Board, which shall be a secret vote supervised by the Labour Relations Board. The vote will be decided by the majority of votes cast.