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Congress Approves First Comprehensive Overhaul of Labor Code Since 1970

by Carlos Navarro

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After a few weeks of acrimony, the Mexican Congress approved the first overhaul of Mexico’s labor code (Ley Federal del Trabajo, LFT) in 42 years. The measure—considered generally friendly to employers and the business sector—was introduced by President Felipe Calderón and endorsed by President-elect Enrique Peña Nieto as an instrument to help Mexico become more competitive in the global market.

The initiative, which Calderón is widely expected to sign, contains several major changes that restrict the right of unions to strike, streamline the settlement of labor lawsuits, and ease the rules for employers to hire and fire workers. In effect, the changes simplify the cumbersome rules that analysts say discourage small businesses from hiring workers and instead push millions of Mexicans into the informal economy. The last time the LFT was modified was in 1970.

The measure drew unanimous support from business organizations such as the Confederación Patronal de la República Mexicana (COPARMEX), the Consejo Mexicano de Hombres de Negocios (CMHN), and the Consejo Coordinador Empresarial (CCE). Independent unions such as the Unión Nacional de Trabajadores (UNT) and the Sindicato Mexicano de Electricistas (SME) broadly denounced the entire package of reforms. The powerful labor organizations that have been affiliated with the soon-to-be-governing Partido Revolucionario Institucional (PRI)—such as the Confederación de Trabajadores de México (CTM), the Confederación Revolucionaria de Obreros y Campesinos (CROC), and the Sindicato de Trabajadores Petroleros de la República Mexicana (STPRM)—made their opposition known but agreed to accept the changes if the PRI would oppose moves by other parties to require more union transparency.

The disputed legislation went through four separate stages before gaining final approval in the Senate in mid-November. The PRI, the governing Partido Acción Nacional (PAN) and their allies, the Partido Nueva Alianza and the Partido Verde Ecologista de México (PVEM), had more than enough votes to ensure passage of the measures easing restrictions for employers and weakening the ability of unions to strike. The center-left parties—the Partido de la Revolución Democrática (PRD), the Partido del Trabajo (PT), and the Movimiento Ciudadano (MC)—presented a united front in voting against the overall package because of concerns that worker rights would be gutted. But the center-left parties collectively had only 130 votes in the lower house, not sufficient to prevail.

Parties overcome disagreements on union transparency

The one sticking point during the whole process was union transparency. In the lower house, the PAN sided with the center-left parties in the effort to force the CTM, CROC, and other unions to become more open and transparent by publicizing bylaws and presenting all internal rules, regulations, and procedures to its members; providing financial disclosures to members every six months, detailing how much they received in union dues and how they planned to spend the money; and holding secret-ballot elections. In addition, every union would have the responsibility to ensure internal transparency, fairness, democracy, and autonomy.
PRI legislators initially stripped out all language that would have required more democracy and transparency from union leaders during the first passage of the bill. This prompted the PAN to initially side with the center-left parties. The modified bill arrived at the Senate, where a majority—including many PRI members—supported reinstating the transparency provisions. This created the potential for a showdown between the two chambers and also between the PRI members in each legislative house. But conflict was averted because Peña Nieto made it clear that he supported the transparency provisions, and PRI members in the lower house agreed to reinstate many sections that dealt with union transparency.

Rather than accept the changes outright, PRI members in the Chamber of Deputies made some modifications during the third round of deliberations to make the transparency requirements more palatable to their union constituents. In a major modification, lawmakers voted to ensure that the elections of union leadership are conducted however individual unions see fit. This amounted to a rejection of an earlier proposal to mandate that all the unions hold a secret vote on representation and collective-bargaining rights.

Still, the final bill was approved in the Senate during the fourth and final round of deliberations with many of the transparency provisions, which many see primarily as a victory for Calderón and the PAN. The changes were sufficient to appease the PAN deputies who voted against the measure initially, prompting a strong rebuke from the center-left parties. "[The PAN position] has jeopardized the possibility that the PRD and the PAN will form a joint front in 14 states where elections are going to take place next year," said PRD president Jesús Zambrano Grijalva. The two parties formed alliances in 2011 that led to gubernatorial victories in the states of Puebla, Sinaloa, and Oaxaca (SourceMex, July 7, 2010).

Changes intended to boost business

The revisions by the Congress enact four major changes to the electoral code, including a provision allowing employers to subcontract and outsource some of their work. Additionally, companies would be able to pay employees hourly rates as long as minimum-wage levels are respected. The minimum wage was raised 4.2% this year to 62.33 pesos per day in the highest of three region-based brackets. For an eight-hour day, that comes to about 7.79 pesos per hour (about US$0.60). The revised labor law also allows employers to hire workers for trial periods and extends maternity leave to eight weeks.

For many analysts, the new legislation is an important step to improve the country’s productivity. "[These changes] will "have a positive impact on the quality of job creation," wrote analyst Luis Arcentales of Morgan Stanley Research. "By lowering the cost of hiring and firing workers, the labor reform could boost formalization."

"Mexico’s antiquated labor laws have forced many employers to hire less and rely more on informal employment arrangements. The system also discouraged creativity and encouraged the informal sector to grow," Juan Manuel Henao wrote in the Americas Quarterly blog.

By creating more jobs in the formal economy, said Henao, Mexico would be able to boost its tax collections and increase productivity. A recent World Bank report noted that 50% to 60% of Mexicans currently work in the informal sector.

"In my opinion, the most important aspect of this reform is the signal that Mexico is giving domestic and international investors," analyst Leo Zuckermann wrote in the Mexico City daily newspaper
Exélsior. "Our economy, in contrast to others, is growing well. This new reform, along with other needed structural changes, could lead to an investment boom in our country."

The Calderón government was also pleased with the passage of the new law. "This is a very complete legislative measure that contains 90% of what the president had proposed," said Labor Secretary Rosalinda Vélez. "I cannot recall any other reform as comprehensive as this one."

Vélez said the measure is beneficial to both workers and businesses but noted that other legislation, such as reforms to the tax code, are needed to promote growth in Mexico.

**Center-left parties, labor concerned about impact on wages**

The center-left parties strongly criticized the measure as regressive. "This law is an attack on social justice, and the only ones who will benefit are going to be business owners," said PT Sen. Manuel Bartlett Díaz.

Some union leaders raised concerns about the change that allows hourly wages. "They pay us so low, and they would pay us even lower by the hour," said Antonieta Torres, a member of the Sindicato de Telefonistas de la República Mexicana (STRM), in an interview with the Los Angeles Times shortly after the measure was first proposed in September.

"It's possible that there could be more jobs, but at miserable wages, with exploitation of workers," Torres said during a large rally attended by the STRM, the Asociación de Pilotos Aviadores de México (ASPA), and other unions in Mexico City. "It would hurt all of us."

Other critics took issue with the argument that the labor law would boost productivity. "What do you mean we want competition?" said Juan José Reyes, who was laid off from his job as an electrician when the Calderón administration dismantled the regional electric utility company Luz y Fuerza del Centro (LyFC) in 2009 (SourceMex, Oct. 21, 2009). "If there is no education, no work, and thus no money, what are we competing with?" Reyes said. "It's like going to war without a weapon."

The PRD, PT, and MC failed in their effort to push for the legislation to include broad unemployment insurance.

Still, Zambrano said the PRD was pleased that the unions traditionally affiliated with the PRI, some of which are wealthy, would become more transparent. "We are on the side of democracy and the growth of the country and against corruption," said the PRD leader.

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