



Mexican Employers May Soon Need To Adapt To New Teleworking Measures

Insights

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The Mexican Senate recently voted to approve an amendment to the Federal Labor Law that reforms its provisions on teleworking, which will require employers to enter into written contracts with each remote worker, among other things. Although Mexican President Andrés Manuel López Obrador has the power to return the bill to Congress with suggested changes, he is expected to sign it and send it to be published in the Official Gazette of the Federation. What do Mexican employers need to know about this development?

What Will the Proposed Bill Require?

If the law is passed, employers will be required to establish – in writing via individual labor contracts with each worker – the working conditions of those employees who qualify as teleworkers. They are defined as being those who spend more than 40% of their total time working from home or another location chosen by the employee. Specifically, those written agreements must include: (1) the nature and characteristics of the work, (2) the work equipment and supplies, including those related to health/safety obligations, (3) the description of what the employer will pay the teleworker for and the amount of the payment, and (4) procedures for communication and supervision and a description of work hours. These terms can be established either via an addendum to employees' existing agreements or by revising and entering into a new contract with each employee.

Employers with employees who telework must also:

- Provide, install, and maintain the computer and other equipment needed to complete the employee's job duties (including ergonomic furniture, as needed);
- Pay any costs related to teleworking, including electricity, internet/phone services, etc.;
- Maintain records of health/safety equipment provided to employees;
- Implement training and advisory policies to guarantee proper use of information and communications technologies, to protect company and personal data security and the workers' right to privacy, and to ensure compliance with health, safety, and labor laws; and,
- Respect an employee's decision to disconnect from the network and not require them to respond to calls/emails outside of work hours in order to avoid infringing upon leisure time and the employee's personal and family privacy.

The reforms also impose obligations on the teleworkers, who must:

- Care for and maintain the employer's computer and other equipment;
- Timely submit any requests for reimbursement of costs related to teleworking;
- Obey the employer's policies, including those relating to employee health/safety, data security, use, and storage; and
- Comply with the employer's supervisory mechanisms and protocols.

The bill provides that the worker must consent to the decision to change from in-person to telework, except in cases of *force majeure* – which currently exists during the COVID-19 pandemic. Parties must agree to the terms, processes, and timeframes if any changes are to be made to the teleworking framework.

Finally, within 18 months of its enactment, the bill will require the Ministry of Labor to issue an Official Mexican Standard that regulates ergonomic, psychosocial, and other health and safety risks related to the performance of telework.

What Should Employers Do?

If President López Obrador signs this bill as proposed, companies will need to revisit their current employees' contracts to ensure they comply with the new rules for teleworking as well as applicable wage and hour, tax, and other laws. To that end, companies with Mexican employees may want to begin reviewing their internal and other written policies and employment agreements to determine what changes, if any, need to be made.

If your organization does business in Mexico or employs individuals who are working remotely from Mexico, please contact a member of Fisher Phillips' [International Employment Practice Group](#) to learn more about the potential implications of this law and how your organization can mitigate risks associated with the new requirements.

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