

**BILL 148: PROPOSED CHANGES
TO THE ONTARIO LABOUR RELATIONS ACT**

By Sheryl L. Johnson

If Bill 148 passes in a form similar to that which is before the Legislature, the following amendments would apply to the Ontario Labour Relations Act ("OLRA") six months after it comes into force:



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- **Section 6.1 - New access rights of unions to employers' employee lists:** Under this proposal, unions would be able to apply to the Ontario Labour Relations Board ("**OLRB**") for an order directing an affected non-union employer to provide the applying union with a list of its employees (i.e., prospective bargaining unit members) for a proposed appropriate collective bargaining unit where it demonstrates that it has at least 20% support of said unit. This proposal contains: (i) the process for applying, obtaining and using such a list during an organizational campaign; (ii) rules for the OLRB to follow in determining whether to grant such an order; and (iii) deemed compliance with freedom of information legislation provisions.
- **Section 11 - Increasing unions' access to remedial certifications:** This proposal would require automatic certification of a union as the only (i.e., one size fits all) remedy available where the employer has engaged in conduct contrary to the OLRA during an organizing drive where the result is either that any vote would be unrepresentative of the affected employees' true wishes or the union is unable to obtain the requisite 40% support necessary for the ordering of a vote. Lesser remedies would be eliminated as would consideration of current indicators of actual union support in determining on the appropriate remedy applicable to the circumstances.
- **Sections 12.1 and 80.1 - Addition of "just cause" protection for union workers during bargaining periods:** These additions would result in employers being unable to terminate or discipline employees in an affected bargaining unit without "just cause" from the date a certification (where a first collective agreement) or the date of a legal strike or lockout (where a renewal of an existing collective agreement) to the earlier of the date when the collective agreement is entered or the union no longer represents the employees (i.e., decertified).
- **Section 15.1 - New OLRB power to review the structure of a bargaining unit(s):** Three preconditions must be met before this power could apply.
- **Section 15.3 - Card-based applications for certification in 3 new industries:** Currently, only under the construction industry provisions of the OLRA provide an applying union with the election of a card-based application for certifications - where no: (i) certification votes; or (ii) employer informational campaigns (employer free speech) to inform employees of the other side of

the unionization argument, are available. All that is required under this certification option is that the union obtain the requisite number of signed union membership cards. This means an affected employer may be unionized without notice. The 3 new industries are: Building Services Sector, Temporary Help Agencies and Home Care and Community industries.

- **Changes to Section 43 and addition of Section 43.1:** Addition of alternative dispute remedy of first collective agreement mediation-arbitration.
- **Sections 69.1 and 69.2 – Addition of new successor employer rights:** Would apply to employees working under building service contracts whether employed by building owner or manager.
- **Changes to Section 80 - Increased return to work rights at the conclusion of a lawful strike or lockout:** This includes the right to displace other workers performing the work as of the commencement date of the lawful strike or lock-out.
- **Amendment to Section 98: Broadening of the OLRB's powers to make interim orders:** Proposal would eliminate prior preconditions and considerations for the granting of such orders and replace them same with open-ended powers. No checks and balances of current provision would remain.