

Remedial Certification

The Bill, as drafted, will permit the Ontario Labour Relations Board to order union certification, regardless of the wishes of employees, if it judges that an employer has broken a rule. Public messaging by the government regarding the legislation has stated that remedial certification would be used only as a last resort, but the legislation does not clarify last resort.

If the government is determined to allow the Ontario Labour Relations Board to make the decision on certification in place of employees, we recommend that this section of the Bill be amended to:

- **set out the types of conduct that can trigger remedial certification, specifically:**
 - **repetitive acts or threats of physical violence against employees,**
 - **termination of two or more employees known by the employer to be authorized and acting as inside organizers on behalf of the trade union where the terminations are determined by the Board to be contrary to the Act, and**
 - **repeated breaches of an order of the Board;**
- **place the onus of proof on the applicant to prove that no other remedy exists;**
- **provide that a full, three-person panel of the Board must agree to remedial certification before it can be ordered; and,**
- **ensure in every case that employees are given at least one opportunity to cast a ballot, and exercise the democratic right to express their views.**

Decertification Posters

The Bill, as drafted, requires that posters explaining the union decertification process, which the Act currently requires be posted in workplaces, must be taken down. The Coalition's concern is not so much that the poster be removed, but that an employer can be found to have committed an illegal act, simply by informing its employees about their rights under the Act.

The Coalition proposes that this section of the legislation be amended by removing the provision of the Bill creating an offense for failing to remove "How to Decertify" posters, and that language be added to clarify that the employer retains the same rights to communicate with its employees as it has always had.