

# ONTARIO LABOUR RELATIONS BOARD INFORMATION BULLETIN NO. 8

## Vote Arrangements in the Construction Industry

~~Note: For information on electronic voting, please refer to the Board's Notice Regarding Electronic Voting, available on the Board's website.~~

All parties to construction industry certification applications and termination applications made under section 63 or 132 of the Labour Relations Act are required to file proposals for vote arrangements as part of their application, response, or intervention. The purpose of this Information Bulletin is to assist these parties in completing their proposals.

~~The Board typically accommodates~~Except in extraordinary circumstances the Board will conduct the vote by way of electronic and telephone voting, with the poll usually being open for a 24-hour period. The Board will consider vote arrangements agreed upon by all parties. However, if it is determined that the vote arrangements agreed to by the parties are not suitable ~~because they are too costly or do not adequately allow employees the opportunity to vote, or if the parties do not agree on vote arrangements~~, the Board normally sets the vote arrangements without further consultation with the parties. As such, it is important for the parties to clearly set out all of their reasons for their proposed arrangements when completing their form.

Please read the following before completing the vote arrangements portion of your form.

### 1) **DATE OF VOTE**

In certification applications, the date ~~of~~ the vote ~~is~~ usually commences ~~is~~ the fifth day (excluding weekends and holidays on which the Board is closed) after the Application Filing Date or the date the application is delivered to the employer, whichever is later. (The Application Filing Date is the date the application is received by the Board, except where the application is sent by Canada Post's Priority Courier Service, in which case the Application Filing Date is the date the application was accepted by Canada Post.) Where the application for certification is pursuant to s. 128.1, the date ~~of~~ the vote usually commences, if necessary, is usually the fifth day after the date the Board directs that a representation vote be taken. The identification of an affected trade union by the employer (as opposed to being identified by the applicant union) may result in the postponement of the vote by two or more days.

In termination applications, the date ~~of~~ the vote commences will usually be five to eight days after the Application Filing Date or the date the application is delivered to the union and employer, whichever is later.

If there is a specific date or dates close to the date on which the vote may reasonably be expected to be held that would not be appropriate for a vote to be held, you should identify such dates and state why they are not appropriate.

The Board does not conduct advance polls or allow voting by proxy. ~~Only in very unusual circumstances is mail-in balloting allowed. The Board does not use mail-in balloting to accommodate employees who are absent from the workplace on the day of the vote because of illness, vacation, or any other reason.~~

## 2) **HOURS OF VOTE**

### **a) ~~When~~ Electronic Vote**

Except in extraordinary circumstances, the Board will conduct the vote by way of electronic and telephone voting. Generally, the poll will be open for a 24-hour period. The Board will consider the parties' submissions regarding the duration of the vote. The Co-ordinator will consider any agreed upon arrangements, but if it is determined that they are unsuitable, the Co-ordinator normally sets the arrangements without further consultation with the parties.

### **b) In-Person Vote**

If requesting an in-person vote, when proposing the hours for the vote, parties should balance ~~the need to economically use~~ the Board's resources with the general rule that the vote should be arranged so that most employees have the opportunity to vote during regular working hours.

Generally, not more than one hour should be allowed for each ~~sixty~~ (60) eligible voters. If multiple polling locations are necessary, parties should make every effort to allow for one ~~Officer~~ Mediator to travel to different locations rather than requiring more than one ~~Officer~~ Mediator at simultaneous polls.

## 3) **LOCATION OF POLL(S)**

~~The~~In the event that an in-person vote is ordered, the vote takes place on the employer's premises and/or the job site(s) in all but the most unusual circumstances. The polling place should be as free from noise as circumstances permit, readily recognizable by name or description, and easily accessible to all employees.

The polling place should be equipped with a table and chairs for the Board Officer and each party's Scrutineer. A second table that is large enough to accommodate a voter's screen and ballot box (both provided by the Board Officer), and allows for privacy while voters cast their ballots, should also be available.

#### 4) **CONTACT PERSON**

Each party must provide the Board with the name, phone number and ~~facsimile number~~email address of an individual who is regularly available by phone during the period of time leading up to the vote to discuss the application (excluding weekends and holidays on which the Board is closed). This individual should have authority to act for the party ~~he or she represents~~they represent and to bind it ~~with his or her to~~any agreements reached.

#### 5) **FORM OF BALLOT**

Generic ballots that do not identify the union or employer by name are typically used when there is only one union involved in the application. Instead, the names of the union and employer listed above the electronic ballot (or in an in-person vote are set out in a Notice that is on display in every voting booth~~).~~. In certification applications where the applicant is applying to displace an incumbent union, both unions' names appear on or above the ballot. The name of the incumbent union appears at the top of the ballot with the name of the applicant union below it.

In both Applications for Certification and Applications to Terminate Bargaining Rights the union(s) is asked to indicate its name as it wishes it to appear on the Notice in the voting booth or on or above the ballot. The name that appears on the Notice or on the ballot is usually the union's correct legal name. If a union's correct legal name is long and/or cumbersome, and it is known by a shorter name, the union may ask to have the shorter name used.

#### 6) **NAMES OF SCRUTINEERS TO ATTEND AT THE POLLING PLACE AGENT FOR VOTE ARRANGEMENTS AND COUNTING OF BALLOTS IN:**

##### **a) — Each ELECTRONIC VOTES**

For electronic votes each party must select one representative to act as their agent who must be available before, during and after the vote to receive the voters' list, vote updates, and post-vote teleconference and vote counts.

Parties should select as their agent a person who is familiar with the individuals who will be voting and who is available to act during the voting period.

### **b) In-Person Votes**

In the event that an in-person vote is ordered, each party must select one Scrutineer for each polling place. ~~One individual~~Individuals may act as Scrutineer at more than one polling place as long as the polling places are not open simultaneously. Scrutineers have the following duties and privileges:

- (a) to assist in the identification of voters;
- (b) to mark voters' attendance on the Voters List;
- (c) to challenge prospective voters on the basis of identity, or to challenge any person whose right to vote appears doubtful; and
- (d) to otherwise assist in the conduct of the vote as required by the ~~Board Officer~~Mediator.

—Parties should select as their Scrutineer a person who is familiar with the individuals who will be voting and who is available to act during the entire time the poll is open. Scrutineers should report to the ~~Board Officer~~Mediator at least 15 minutes before the poll opens to receive instructions, examine the ballot box and assist in the preparations for the opening of the poll.

## **7) NAMES OF REPRESENTATIVES TO ACT AS AGENTS AT THE COUNTING OF THE BALLOTS**

Each party must select a representative to act as its agent at the counting and tabulation of the ballots. The person you select to act as your representative will be presumed to have your authority to participate in discussions with the Board Officer and enter into agreements on your behalf. Following the vote, the Board Officer will attempt to resolve any outstanding issues, including the bargaining unit description, any challenges to whether persons/employees are in or out of the bargaining unit, and spoiled ballots. The appropriate worksheet confirming any agreements reached will be updated to reflect these discussions. Each party will be provided with a copy of the worksheet for their records.

### **IMPORTANT NOTE**

IN ACCORDANCE WITH THE *ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005*, THE BOARD MAKES EVERY EFFORT TO ENSURE THAT ITS SERVICES ARE PROVIDED IN A MANNER THAT RESPECTS THE DIGNITY AND INDEPENDENCE OF PERSONS WITH DISABILITIES. PLEASE TELL THE BOARD IF YOU REQUIRE ANY ACCOMMODATION TO MEET YOUR INDIVIDUAL NEEDS.