



Talking Union is a bi-monthly newsletter highlighting matters of interest to the labour relations community. We welcome your questions and comments.

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**CONSULTATION PROCESS ON THE MEGA TRIBUNAL**

On February 27, 2001, the Ministry of Labour released a consultation paper "Looking forward: A New Tribunal for Ontario's Workplaces", available at <http://www.gov.on.ca/lab/ann/majore.htm#arp>. The proposals suggest amalgamating up to 10 agencies, and will significantly alter 5 Ministries and 20 statutes. This SPECIAL EDITION of TALKING UNION provides brief highlights and warns trade unions wishing to participate in the consultation process to become active **immediately**. The Ministry is consulting only until April 16, 2001.

**1. HIGHLIGHTS of PROPOSED CHANGES**

- The following agencies and tribunals will be consolidated into a single, unified workplace tribunal ("the Mega Tribunal"):
  - Ontario Labour Relations Board
  - Pay Equity hearings Tribunal
  - Workplace Safety and Insurance Appeals Tribunal
  - Education Relations Commission
  - College Relations Commission
  - Board of Inquiry under the Human Rights Code.
- The Ministry will review the Grievance Settlement Board's status as a Crown Agency
- Other agencies and tribunals will be considered for potential restructuring, notably:
  - the Office of the Worker Adviser
  - the Office of the Employer Adviser
  - the Pay Equity Office
  - the Crown Employees Grievance Settlement Board.
- Stated objective of the change is to provide "single window access" for all disputes arising in the workplace, and to create efficient, effective and accessible processes for resolving workplace disputes and for delivering workplace-related services
- Mega Tribunal would have common rules, common procedure,

and common technological base for all workplace dispute processes

- Mega Tribunal may have the ability to award costs and may charge user fees
- Emphasis in the Mega Tribunal on mediation, possibly mandatory mediation
- Norm at the Mega Tribunal will be single person adjudication, not panels with siderspersons
- Minister of Labour will establish performance standards for Chairs and Vice Chairs
- Chair of the Mega Tribunal will be appointed by and report to the Minister
- Vice Chairs to be appointed by the Minister
- Power to dismiss cases as vexatious or frivolous
- Norm for the Chair and the Vice Chair to be full-time OIC appointments for fixed terms, and the terms may be lengthened
- Public interest in some cases, such as human rights, may be protected by third parties, such as Interveners or "friends" of the Mega Tribunal, or by the appointment of a Public Interest Panel
- Strong privative clause anticipated to protect the decisions of the Mega Tribunal from appeal or to limit judicial review.

## 2. PARTICIPATING IN THE CONSULTATIONS

The consultation paper raises many questions. The Ministry is seeking submissions in writing **by no later than April 16, 2001**.

The proposals raise grave concerns about adjudicative independence, impartiality, and expertise. Isn't a single Chair who reports directly to the Minister more vulnerable to government influence than the six or seven Chairs that one replaces? Approximately 150 adjudicators will be replaced by 35 - 50 hand-picked government appointments. Shouldn't there be some guarantees that those appointments will be made through a process which assures maximum neutrality and independence? How can the Mega Tribunal provide the same level of expertise? Do you want your workers' compensation case determined by a Vice Chair experienced only in pay equity? Will costs awards and user fees make the Mega Tribunal less rather than more accessible?

Perhaps most importantly, what is the rush? Fifty years of the development of workplace dispute agencies sensitive to particular concerns are about to be wiped out. Why is the consultation process only 6 weeks? Isn't the workplace worthy of a full inquiry, perhaps by a Royal Commission?

**Contact the editors of TALKING UNION should you wish our assistance in preparing submissions to the Minister:**

[emitchell@koskieminsky.com](mailto:emitchell@koskieminsky.com). Or find out what the Ontario Federation of Labour (attention: Chris Schenk, [cschenk@OFL-FTO.on.ca](mailto:cschenk@OFL-FTO.on.ca); tel: 416-441-2731), the Provincial Building and Constructions Trades Council, and other labour groups are doing to

ensure the consultation process being offered is a meaningful one,  
or, if it's not, that that deficit becomes public.