

DRAFT
Backgrounder:
The Public Service Essential Services Act

The Public Service Essential Services Act will balance the rights of workers with the need for essential services to ensure public safety. It also sets out and defines essential services.

The proposed legislation:

- Provides a mechanism to determine which activities are essential, and which employees are needed to maintain those activities during a work stoppage.
- Defines public employers whose services are essential, including the government, Crown corporations, universities and SIAST, health employers and municipalities.
- Describes essential services as those that are necessary to prevent:
 - Danger to life, health or safety;
 - The destruction or serious deterioration of machinery, equipment or premises;
 - Serious environmental damage;
 - Disruption of the courts;
 - Or any other event or circumstance that is prescribed in the regulations.
- Provides for regulations to outline government essential services, which meet the criteria to be an essential service. These regulations will be passed at a later date.
- Requires the union and employer, at least 90 days before the expiry of a collective agreement, to begin to negotiate an essential services agreement that determines which services are essential, and what employees will be necessary to maintain those services.
- Provides that if there are fewer than 90 days to the expiry of a collective agreement by the time the legislation is passed, the employer and union must begin negotiations to conclude an essential services agreement immediately.
- Sets out a process for determining the employees who must work to maintain essential services during a work stoppage:
 - To facilitate the negotiations, the employer may create a list of services that the employer believes to be essential, along with a list of the classifications of employees that it considers necessary, a list of the numbers of employees within each classification and a list of the actual employees who must work during a work stoppage. In the case of the government the list will be determined in the regulations.
 - If there is no essential services agreement by the time a work stoppage begins, the employer must provide the above-mentioned list to the union, and unless the union objects, those employees must work during the work stoppage.
 - If the union believes that essential services could be maintained with fewer employees, the union applies to the Labour Relations Board for an order varying the number of employees in any classification that must work during the work stoppage.
 - The Labour Relations Board conducts an investigation and/or a hearing and makes an order within 14 days determining which employees must work during the work stoppage.
 - Enables the employer to vary the number of employees required to provide essential services
- Requires those employees who are determined to be essential to work in the event of a work stoppage, and neither the union, the employer or any other person is permitted to keep them from working or discipline them for being at work. Their wages and benefits continue as they were under the recently expired collective agreement, if any.
- Provides for fines of up to \$50,000 for an employer or a trade union that contravenes the Act, with additional fines of \$10,000 per day for every day that the contravention continues.
- Provides for are fines of up to \$2,000 for an individual that contravenes the Act, with additional fines of \$400 per day for every day that the contravention continues.