

Construction Employers Coalition
(for WSIB and Health & Safety and Prevention)



October 16, 2020

The Honourable Rod Phillips
Minister of Finance
c/o Budget Secretariat
Frost Building North, 3rd Floor
95 Grosvenor Street
Toronto, Ontario M7A 1Z1

Submission: Re-calculation of WSIB Earnings Ceiling for 2021

Dear Hon. Rod Phillips:

On behalf of the Construction Employers Coalition (CEC), I am writing to formally submit that a solution to the substantial increase in the WSIB's Maximum Insurable Earnings Ceiling for 2021 needs be included in the 2020 Ontario Budget.

The CEC was formed in 2011 to study and respond to issues related to construction workers and employers in Ontario. Together we represent more than 2,000 firms employing approximately 80,000 workers in the province. Many CEC members are also members of the Construction Industry Chairs Advisory Committee, where we were first alerted of the Maximum Earning Ceiling issue.

We all know that the COVID-19 pandemic has caused a significant economic impact on our economy. The full construction industry has yet to start operating at full capacity. An unrelated and unexpected increase in the Maximum Insurable Earnings Ceiling could be detrimental for the construction industry as well as other high-wage sectors like forestry, fishing, mining, quarrying, and oil and gas. As construction is a high-wage industry, the ceiling increase will artificially raise our premiums by over \$50,000,000. We believe that this is not sustainable for our industry and that immediate action is required from the government.

The problem:

Based on a "black-letter" application of s. 54 of the WSIA, the Board, advised that for 2021 the earnings ceiling will increase 7.8% from \$95,400 to \$102,800. Annual increases in the earnings ceiling counter inflation erosion of the maximum earnings ceiling. Put simply, as wages rise, so should the ceiling. WSIA s. 54(1) sets the earnings ceiling at "175 percent of the average industrial wage for Ontario," and s. 54(2) directs that "the calculation of the average industrial wage . . . is based upon the most recent published material that is available on July 1 of the preceding year . . . as published by Statistics Canada." Therefore, the report the WSIB must apply for the 2021 ceiling is the Statistics Canada Report of June 25, 2020, "Payroll employment, earnings and hours."

The June 25, 2020 report explains that the COVID-19 triggered collapse in employment had a disproportionate and higher impact on lower wages. As lower wages are removed, the earnings average increases. It is important to note here that the average wage did not increase because wages rose (the purpose of s. 54), but because lower wages fell off a cliff due to the pandemic. This one-time anomalous influence of the COVID-19 crisis over the average wage calculation cannot be permitted to set the ceiling for 2021 and is contrary to policy intent. It will result in a de facto \$50 million premium hike for construction.

The problem is further compounded by the fact that the WSIB Board of Directors has no authority to correct the issue without a legislative amendment to the WSIA. By informing the government of the problem, which we understand the Board has done, places the responsibility to address Section 159(2)(b) on the

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government. The existing calculation of Earnings adjustment will be implemented effective January 1 2021, unless legislation makes the required adjustment.

The solution:

There are two viable policy choices available:

Solution 1: As a premium rate freeze will be implemented, a one-year freeze in the ceiling would be appropriate under these emergency circumstances.

Solution 2: The WSIA adopts a general annual indexing factor tied to CPI (WSIA, s. 49(1)). This could be applied to the ceiling for 2021 and could become the adjustment formula moving forward.

At their AGM on October 1, 2020, the WSIB explained their rate framework, as outlined in the *Workplace Safety and Insurance Act, 1997* (WSIA), that will calculate premium rates for the incoming year. This year, the WSIB declared "employer rate increases (are) not possible in (the) current environment" (WSIB presentation, Slide 5). The Board's rationale is that the economic environment caused by the COVID-19 pandemic unfairly impacts specific industries and that it should hold all 2021 employer premium rates at 2020 levels. We are in full support of the premium rate freeze that the WSIB has proposed and thank the Ministry of Labour, Training and Skills Development for their ongoing support of the construction sector. The CEC understands that employers are struggling due to COVID-19, and many businesses, especially those in higher-wage groups, are under real threat. Now is the time to support these businesses, and not increase the cost of doing business.

Please don't hesitate to contact me directly at david@ogca.ca if there is anything members of the CEC can do to support the legislative change needed.

Regards,



David Frame
Chair
Construction Employers Coalition

CC: Hon. Monte McNaughton, Minister of Labour, Training and Skills Development