

The Liversidge e-Letter

An Executive Briefing on Emerging Workplace Safety and Insurance Issues

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An Electronic Letter for the Clients of L.A. Liversidge, LL.B.

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Liberal Majority Government and the WSIB: *What can we expect?*

The Premier appointed her Cabinet yesterday – What can we expect on the WSIB file over the next four years?

With the election of a Liberal majority government, and the reappointment of the **Hon. Kevin Flynn** (MPP for Oakville since 2003) as Minister of Labour, what can stakeholders expect on the WSIB file over the next four years? *Here's my prediction.* At first, expect pretty much of the same as we have seen since 2010. Certainly through to the Fall, I don't think we will see anything too dramatic.

Later this summer, the Board will likely announce the premium rates for 2015. Don't expect anything too earth-shattering there. I suspect that the 2015 rates will be exactly the same as they were for 2014, with no premiums going up and no premiums going down. There will be more on rates in an upcoming issue of **The Liversidge e-Letter** but I predict this - *employers won't be all that receptive this time around for an across the board rate freeze.* It won't sell as it once did. Since 2010 no rate group has been allowed earned premium rate declines. 2015 would make this the 6th year of that approach. Many rate groups are very likely quite over-taxed, meaning that funding targets can be met even with a much lower premium rate, while others may be under-taxed. The Board has been very reluctant to publish target rates so who knows for sure who's-who? I suspect there's method in this approach. Interestingly, for 2013 the overall **Average Premium Rate** ["APR"] was expected to come in at \$2.46. However, the APR was actually \$2.53 bringing in an *additional* \$117 million more than planned (see WSIB 2013 Q4 Report to Stakeholders, p. 15). I predict that employers will start to demand an end to what was an emergency policy starting in 2010, and expect some dividends for their funding munificence. While employers have been quite willing and fairly silent funding partners since 2010, starting this year I expect a return to a "more traditional" relationship. For starters, expect employers to demand target rates before any conversation starts on revamping the premium setting model.

Starting in the Fall, expect to see the kick-off of a preliminary consultation on the Board's **Rate Framework Review** project and a more focused look at some of Doug Stanley's recommendations from his report *Pricing Fairness*. So far the Board has been pretty coy as to what it

will or won't do on the Stanley report. But, just because the Board has been keeping its cards close to its vest (perhaps awaiting for the election results before proceeding one way or the other) this project is far from dead. It has more life yet. Within two years it is my bet we will be witness to some pretty dramatic changes on classification, premium setting and experience rating, the *trifecta* of the Board's revenue operations. Don't expect employers to be complacent. While some employer groups will offer some support, others will dig in their heels. Once the Board starts making and implementing decisions that change the taxation rules, this will likely heat up pretty fast. This will be controversial and could potentially be the Board's Waterloo.

On the political front, I don't expect anything too dramatic right away. **Bill 146, the Stronger Workplaces for a Stronger Economy Act, 2013**, introduced December 4, 2013 might be re-introduced (see the December 20, 2013 issue of **The Liversidge e-Letter**). **Bill 146**, among other things, changes how the Board's experience rating programs will work when a company contracts with a temporary-help agency. I was very critical of the workers' compensation elements of that bill (they just won't work – *period*), so if it is introduced, hopefully the WSIB portion will be expunged.

Minister Flynn was appointed to the labour portfolio just before the election in March 2014. While he really didn't get a chance to get his teeth into the file before the writ was dropped, he did serve as Parliamentary Assistant to the Labour Minister from 2004 to 2006. This then is not a "newbie" Minister. He likely has many well-formed ideas and eager to get them in motion. He will be able to, and likely will, hit the ground running. There are many latent issues, such as the benefit indexation question, which must be dealt with one way or the other. Five of the nine members of the WSIB Board of Directors terms expire within 24 months and all are up by 2017, including Chair Witmer (May 2017) and CEO Marshall (January 2015). Over four years I expect changes in some of the WSIB senior staff slots as well. While things are not likely to get too lively this year, *I predict that by the end of this legislative term, the Board won't be recognizable.* Over the next four years, a lot is going to happen. *Buckle-up.*