The Liverside *e*-Letter

An *Executive Briefing* on Emerging Workplace Safety and Insurance Issues

October 4, 2007 An *Electronic Letter* for the Clients of L.A. Liverside, LL.B. 2 pages

"Budget Reforms" & WSIB Premium Rates
Are premium rates destined to increase as a result of the *Budget Reforms*?

Budget Reforms **add big pressures to an already stressed system**
Meeting funding targets with no premium hikes is possible, but a long-shot
Something may have to give

The story so far

Budget Reforms add costs and damage accountability

Over the last eight issues of **The Liverside *e*-Letter** (since September 6th), I have argued that the *Budget Reforms* add significant costs (present and future) to the Ontario workplace safety and insurance ["WSI"] system and damage basic accountability structures.

A strike out is possible

On September 6, I suggested that just like "*Casey at Bat*" a strike out is possible.

The omnibus bill approach is wrong-headed

On September 10, I introduced my quarrel with the *Budget Reform* process itself, arguing that an omnibus bill approach ill-fits WSI and sticks out like a sore thumb when viewed alongside major reforms over the past 25 years.

Budget Reforms introduce de facto full indexing

On September 12, I suggested that the *Budget Reforms* introduced *de facto* full benefit indexing without the accountabilities expected in the *Workplace Safety and Insurance Act* [the "WSIA"]. I argued that: "***Anything less than full ad hoc indexing will be political hara-kiri***".

The problem is the lack of accountability not full indexing

On September 14, I explained that I do not oppose the principle of full indexing, just the usurping of accountability and governance expectations carefully set out in the WSIA. I contended that if full indexing is the policy preference, it should be prescribed in the WSIA.

WSI funding is still a problem and accountability is less clear

On September 17, I suggested that the *Budget Reforms* make accountabilities less clear, allowing the Board and the government to work at cross-purposes. I suggested that if the unfunded liability ["UFL"] was no longer a problem, the *Budget Reforms* stood a better chance of being absorbed with no premium hikes. *Alas*, I noted the UFL is still a pressing problem, and while funding levels have improved, the teeth still have not been pulled out of the UFL tiger.

Other than investment performance, not much has changed

On September 19, I suggested that the problems the Board itself identified just a few years ago (increasing long-term claim duration; increasing benefits; expenses outpacing revenues to name a few) continue. Moreover, the *Budget Reforms* add more challenges. Other than recent exceptional investment performance not much has really changed.

Budget Reforms will increase time on claim

On September 24, I pointed out the paradox between the *Budget Reforms* and the Board's already identified challenges of 12 month+ claims. I noted that the Board was already fretting about increasing claim durations and the *Budget Reforms* will boost that pool of claims even more.

The Board is playing a long-shot

Again on September 24, I suggested that while the Board held the line on 2008 premiums (leaving them the same as 2007 rates, which were unchanged over 2006), not too much should be read into that – *the Board could have justified a rate hike*. I suggested that the WSI system is still financially fragile. I expressed my opinion that the Board is gambling on big-time reductions in claim durations (along with other indicators). I expressed hope that the Board pulls it off but suggested it is a long-shot.

The foundation of the WSI system is worker equity

On October 1, I made the case that worker equity is rightly a powerful trump card, unless increasing premiums start to be translated into employment losses. This delicate balance has been front and center since the early 1980s when the long term funding strategy was devised (zero UFL by 2014). I argued that employment erosion, not profit erosion, regulates premium levels. I suggested that the UFL remains an albatross on the necks of workers and employers, and eliminating the UFL should be priority #1 for both groups.

***Now the question of the hour is this*: Are employer premiums destined to increase as a result of the *Budget Reforms*?**

50 Acadia Ave., Suite 101, Markham, ON L3R 0B3 Tel: 905-477-2039 Fax: 905-477-4659 E-mail: lal@laliversidge.com **ISSN 1710-5757**

At the end of the day – will premiums go up?

So, at the end of the day, *hopes and wishes aside*, what is likely going to happen? *Are employer premiums destined to increase*? ***My opinion*:** If the rules of the game stay as they are, *unless the Board meets most of its targets* ***the likelihood of future premium hikes is very real***.

But remember the *rabbit in the hat*

But, as I said in the April 4th issue of **The Liversidge *e*-Letter** when I advanced a similar prognosis**:** "***There just might be a rabbit in the Board's hat after all***". That "rabbit" is a massive rule change - a retrenchment of the commitment to wrestle the UFL to zero by 2014.

Reality will set in likely by 2010

I predict that reality will set in very soon. For 2009 premiums (to be set next summer), employers may be given another pass (no increase). But, by the time 2010 premiums are up for review (in the summer of 2009), the impacts of the *Budget Reforms* will better known, as will the Board's progress on its targets.

If the Board misses its targets, premiums will increase

I predict that unless the Board hits most of its targets, by 2010 employers will either have to "bite the bullet" and pony up some serious cash through premium hikes, or the Board's *Funding Framework* (including the 2014 full funding commitment) will have to be re-drafted afresh.

But, in my opinion, raising premiums is a non-starter

Any suggestion to hike premiums, in my view, is a non-starter. While the Board was beating the war-drums on the need to hike premiums just a few years ago (in 2005 and before), all of that was before the *Budget Reforms*. ***The Budget Reforms changed everything***.

Employers will buck like a wild horse if the Board tries to increase premiums

Just two years ago the Board painstakingly set out the case for rate hikes – two years before the *Budget Reforms*. In a July 21, 2005 open letter to all Ontario employers announcing a 3% increase in the average premium, the Board noted "*premiums have failed to keep up with rising costs, and the unfunded liability has risen to where it is now the highest among all Canadian jurisdictions*" [***ed.* note: *premiums still have failed to keep pace and the UFL is still the highest***]. Forcefully, the Board noted, "*It would be fiscally irresponsible to allow this debt load to continue*".

Employers will likely hold the Board to its more recent forecasts – *no rate hikes*

Since then of course, the government brought in the *Budget Reforms* which the Board has said can be implemented with no rate hikes (with a few caveats). ***My guess is that employers will hold the Board to the "no rate hike commitment***". A lot of "goodwill capital" was spent with the *Budget Reforms*, by the Board and the government. On premium rates, the Board has lost the high ground. As I suggested in the April 4th issue of **The Liversidge *e*-Letter**, "*the argument that employer performance is the culprit for future premium hikes is irreparably undermined*".

Employers usually give the Board a long leash; premiums are the litmus test

Employers as a group, tend to give the Board a very long leash to administer the WSI system, and don't complain or raise issues so long as the Board does not raise premium rates. ***Premium rates are the proverbial "pointed stick"***. Once rates start to move up, employers mobilize fast, and start asking the "hard questions". And, the first "hard question" will be this one:

> **Since premium rates were frozen for 2007 and 2008 *before* the *Budget Reforms*, and since both times the Board knew that better performance was just a projection and several performance indicators were not in reality improving, why in the world did the Board advise the government that the *Budget Reforms* could be brought in with no hike in premium rates?**

If the Board seeks higher premiums anytime soon, it will have a colossal selling job

At the end of the day, employers will resist premium rate hikes with everything they have. But, employers already opened the "back door" a crack in 2005 (before the *Budget Reforms*) when employers collectively demanded that the Board extend the 2014 deadline for the UFL instead of raising rates. *The Board didn't listen then*. I predict the Board will be more attentive next time.

Except next time I suspect employers will be less forthcoming – they will first want some hard answers and firm commitments. In 2005, *employers* had to sell the idea (except no one was buying). If it comes up again, it will be the Board going "door-to-door".

At the end of the day, the "*rabbit in the hat*" is the more likely outcome

So, the "*rabbit in the hat*" approach that I introduced April 4th is the more likely outcome. This is what I said in the April 4, 2007 issue of **The Liversidge *e*-Letter**:

> ***Just wait a sec – maybe there is a back door out of this***. *How about this* – the Board changes the terms of the entire funding strategy. After all, some were asking for this even before these announcements, *so why not agree*? **Present premiums are based on a 100% funding target to be achieved by 2014**. . . . . . What if the Board is then able to pay for these amendments and not increase premiums? *Will employers go along with that*? Possibly, but reluctantly. ***There just might be a rabbit in that hat after all***.

I predict this will be addressed under the guise of a planned review of the *Funding Framework* starting soon (perhaps by year-end or early next). Employers may well get stuck between the classic "*rock and a hard place*", and may grudgingly go along with a delayed funding target. And, as I suggested in the October 1, 2007 issue of **The Liversidge *e*-Letter**, this will keep the UFL hanging like deadweight around the collective necks of the Board, employers and workers for some time yet. If this comes to pass, progress on the WSI file will be stalled for perhaps a decade or more. *Too bad*. A golden opportunity lost.

On Tuesday (*the last of the series*): How the *Budget Reforms* should have approached WSI reform. And, what can now be done to restore accountability.