

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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2009 to be a year of extreme challenge *Is the Board up to the task?*

WSIB's Mahoney faces pressing challenges 2009 will define "the Mahoney era"

WSIB unfunded liability likely at historic levels; WSIB benefit demand will be up as revenues decline

As I have been reporting in the last several issues of **The Liversidge e-Letter**, the world-wide market melt down, followed by a recession, will be a triple whammy for the Workplace Safety & Insurance Board ["WSIB" or "Board"].

#1: WSIB investments have tanked

First, like every other pension fund, the Board's investments have tanked. Even before the melt-down, the Board did poorly, having had a negative return in 2007. As I noted in the October 16, 2008 issue of **The Liversidge e-Letter**, "*Stay the Course or Change Direction?*", the WSIB Unfunded Liability ["UFL"] shot up 35% *before* the melt-down, skyrocketing from just under \$6 billion in 2006 to over \$8 billion in 2007. As I suggested on November 21, 2008, the Board's funding ratio could have slipped to the 30-40 percentile range, from a recent peak of 73%, placing it within range of an all time low.

#2: Declining employment will impact injured workers

Second, as jobs disappear, not only is the capacity for employers to return disabled workers to meaningful employment impaired, it is expected that many workers who have returned to accommodated employment will be subject to layoffs. This is rendered all the more significant as the current *Workplace Safety and Insurance Act* ["WSIA"] and WSIB policy has a difficult time distinguishing between loss of earnings ["LOE"] arising from an injury versus employment circumstances. Claims will be re-opened more and last longer, a trend recognized by the Board since at least the early 1980s (see the Board's **1982 Annual Report**).

#3: WSIB revenues will likely decline

Third, job cutbacks also means a reduction in WSIB revenues (WSIB premiums are based on worker payroll). For *November alone*, according to the Canadian Press, Ontario shed 66,000 jobs, 42,000 in the manufacturing sector. Based on averages set out in the Board's 2008 Premium Rate Manual, 66,000 fewer jobs will amount to an approximate premium loss of \$54 million.

The Board faces a "perfect storm"

The Board's investment implosion, coupled with increasing claim demands and declining revenues create a "perfect storm". I have advised that recent events are a game-changer, that the Board must act immediately, and develop a new long-term funding plan. Readers are aware that I have been promoting a 10 point "action list", the most important plank of which is:

The WSIB must organize an **urgent Funding Summit** no later than mid-January, 2009 with Ontario's business leaders and senior government officials, to develop a new long-term funding strategy - a newly conceived 20 or 30 year plan.

Is the Board up to the Task?

As readers are aware, I remain an ardent supporter of the current Chair of the WSIB, the Hon. Steve Mahoney. My support remains solid despite strong disagreements registered on these pages over this past year (notably with respect to the Board's handling of the experience rating issue).

WSIB Chair Mahoney is well placed to lead the Board to a stronger future

It has been said that the greater the challenge, the greater the opportunity for strong leadership. It remains my unwavering view that Steve Mahoney will rise to this challenge, seize this opportunity, and through this crisis reshape the Ontario workplace safety and insurance system to ensure its long-term viability. There is no alternative to success. Failure is simply untenable.

For 2009 expect an invigorated Steve Mahoney to hit the ground running, personally taking the leadership steps necessary to forge a renewed plan, and working with all stakeholder groups, business and labour, to construct a firmer foundation for the future. In Mahoney's first term he painstakingly acquired his credentials and built broad based support. In his second term, I predict that he will build utility into those credentials as he banks on that support for ideas and collaborative problem solving, building a renewed partnership with the Board's stakeholders.

2009 will be difficult, and while I am not bullish on the state of the WSIB a year from now, I have confidence that the Board's future prospects will start to brighten by the end of next year and that Mahoney's leadership is key.