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LAL Briefing Note:

The WSIB ends the Second Injury and Enhancement Fund Program as at June 16, 2026

July 27, 2026

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LAL Briefing Note: The WSIB ends the Second Injury and Enhancement Fund (SIEF) Program as at June 16, 2026

A. Executive summary

1. This briefing note follows my email to the CEC of July 17, 2026 (at 1:26 pm **- Appendix A**) which relayed the Board's July 16, 2026 announcement (via email) that the **Second Injury and Enhancement Fund** (SIEF) Program will end as at June 16, 2026. That email also set out my initial comments.

2. In this briefing note I will:

   a. Summarize the SIEF policy change/closure;

   b. Provide a brief history and description of the WSIB SIEF program and why it was initially implemented;

   c. How the closure will likely impact Ontario employers;

   d. Provide comment on the absence of WSIB outreach relating to this decision and to the Board's engagement of Deloitte to perform the value for money audit (VFMA) of the SIEF program. The Board advised that this SIEF VFMA Report (**Attached**) is the reason for the close of the program.

   e. Comment on the timing of the announcement in relation to the closure of the program

3. I suggest the CEC meet to discuss possible response/action of the CEC. I have set out some specific recommendations.

B. SIEF closure

1. The WSIB July 16, 2026 email served as notice that the SIEF policy closed as at June 16, 2026. The Board will continue to accept new requests submitted before July 16, 2026.

2. The Board's website advises that all businesses currently receiving SIEF relief will continue to receive relief for the duration of their existing applicable claims.

3. The amended WSIB Operational Policy Manual (OPM) Document No. 14-05-13 SIEF, Accident Cost Adjustments advises under the "SIEF wind-down" section:

SIEF wind-down

The SIEF is closing effective June 16, 2026. As a result, cost relief under SIEF will not be provided in claims where it has not already been provided, except as outlined in this section or as a result of an appeal. In addition, the amount of cost relief already provided under SIEF as of June 16, 2026 will not be adjusted, except as outlined in this section or as a result of an appeal.

The WSIB will determine entitlement to cost relief under SIEF, and adjustments to the amount of cost relief provided, for all requests received prior to June 16, 2026.

Cost relief provided under SIEF as of June 16, 2026 will continue to be applied and taken into consideration when determining employers' risk-adjusted premium rates.

Cost relief provided under SIEF or adjustments to the amount of cost relief provided on or after June 16, 2026, as a result of a request received before June 16, 2026, will be applied and taken into consideration when determining employers' risk-adjusted premium rates.

4. The Board policy announcement is a *de facto* retroactive policy change which triggers significant administrative law issues which should attract a comprehensive and separate legal analysis, not set out in this note.

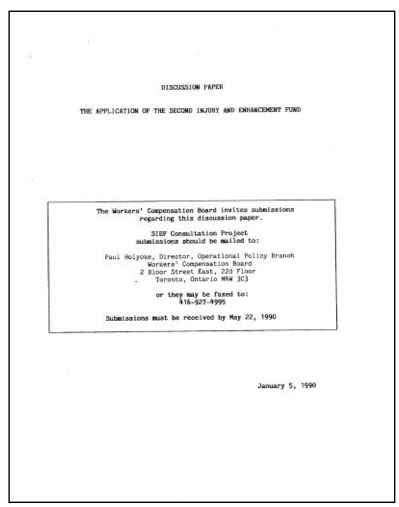
C. Brief history and description of the WSIB SIEF program and WSIB/WCB unsuccessful past efforts to dismantle SIEF

1. I will not set out a detailed history of the SIEF program - it is sufficient to note that SIEF has a long and storied history, with some elements dating back to 1915.

2. The "modern" SIEF policy attributes were established in 1970 to coincide with increased employer cost accountability (experience rating),[1] a design principle which survives under the current WSIB classification and premium scheme (Rate Framework).

3. Over the past 56 years, SIEF has been subjected to many high-level policy reviews.

4. The first commenced with the Board releasing a **January 5, 1990 discussion paper: The Application of the Second Injury and Enhancement Fund**.


DISCUSSION PAPER

THE APPLICATION OF THE SECOND INJURY AND ENHANCEMENT FUND

The Workers' Compensation Board invites submissions regarding this discussion paper.

SIEF Consultation Project submissions should be mailed to:

Paul Holyoke, Director, Operational Policy Branch
Workers' Compensation Board
2 Bloor Street East, 22d Floor
Toronto, Ontario M4W 3C3

or they may be faxed to:
416-927-4995

Submissions must be received by May 22, 1990

January 5, 1990

[1] The first experience rating program was known as the "Voluntary Experience Rating Program" (early 1970s) which was followed by NEER and CAD-7 in the 1980s.

5. This was a major policy review triggering a four-month consultation, involving submissions from all WCB/Board stakeholders.

6. I participated in that consultation.

7. It was clear that the policy objective of the WSIB in 1990 was to shut the SIEF down. That did not happen.

8. Employer associations and individual employers rallied behind the issue and after widespread employer engagement and strong support, the SIEF program was affirmed.

9. I drafted submissions on behalf of the (then named) *Employers' Council on Workers' Compensation* (a major employer coalition which also represented construction interests).

10. In addition, to ensure the voice of individual employers was heard, I struck and led an *ad hoc* group of individual employers and presented a comprehensive submission to the WCB May 1990.

11. This excerpt from the 1990 submission remains valid 36 years later and accurately sets out a succinct summary position of Ontario employers which survives to this day (next page):

Submission to the Workers' Compensation Board in Response to the Discussion Paper on the Second Injury and Enhancement Fund

We are a group of thirty-nine employers, of varying size, who have joined together through a mutual desire to provide the Board with the *individual employer's viewpoint* on the Second Injury and Enhancement Fund. Our input flows from a collective experience within the workers' compensation system crossing several industry sectors, and a total of 20 separate rating group classifications. Together, we contribute in excess of $53 million to the WCB through the payment of annual assessment, and have acquired in recent years a deep understanding of the operations of the workers' compensation system, along with an appreciation of its complex nature and the plethora of opposing interests.

While each firm is a member of various trade associations and supports the thrust of the positions put forward by our associations, most notably, the paper submitted by the *Employers' Council on Workers' Compensation*, **we wish impress upon the Board that the individual employer maintains a very strong position on the Second Injury and Enhancement.** We are confident that the viewpoints that we have expressed are indeed representative of all employers in the Province.

SIEF Plays a Vital Role

Without exception, we see the existence of the SIEF (Second Injury and Enhancement Fund) as a vital and increasingly important component of today's evolving workers' compensation system. We believe that it is currently predominantly based on general ***principles of equity*** and that **any attempts to abolish or significantly alter the present approach taken to SIEF would result in very significant, *avoidable* inequities**.

At the outset, we wish to convey some disappointment with respect to the discussion paper itself. We found that the paper was occasionally misleading, and strongly implied that the SIEF no longer serves a useful purpose in workers' compensation. ***We reject this outright.***

In this discussion, we wish to canvass not only the considerations present in the current policy, but to explore the function, purpose and usefulness of the SIEF. We have asked and answered three questions:

12. As then, the primary interest of employers for the SIEF was to promote equitable employer accountability.

13. Interestingly, at that time (1990), SIEF was not only supported by Ontario's employers, but by the **Ontario Federation of Labour**, which noted it served a useful role within the WCB system.

14. SIEF is an effective employer insurance mechanism designed to moderate cost exposure arising from medical factors unrelated to the accident itself.

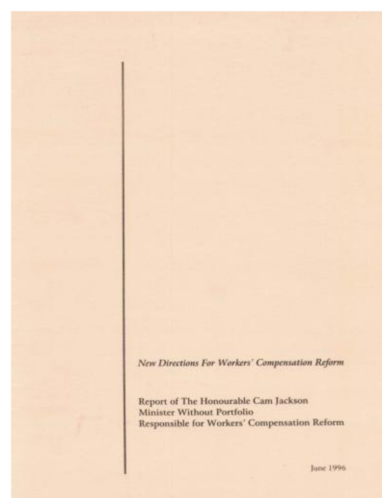
15. Without getting too technical, the SIEF mitigates the relationship of the thin-skull entitlement doctrine and employer accountability.

16. Simply, in cases where a pre-existing medical condition contributed to, or caused, an on-the-job injury and resulting disability, SIEF collectivized employers' costs assigning percentage-based cost relief (typically 25%, 50%, 75%, 90%, and 100% where a pre-existing medical condition directly caused the workplace accident) based on the nature of the pre-existing condition and the degree to which it enhanced the workplace injury (WSIB OPM Policy Document 14-05-03).


NEW DIRECTIONS FOR
WORKERS' COMPENSATION REFORM:
A DISCUSSION PAPER
The Honourable Cam Jackson
Minister Without Portfolio,
Responsible for Workers' Compensation Reform
January 1996

17. Aside from the significant 1990 consultation, SIEF has been subject to several subsequent reviews. It was clear that the WCB/WSIB maintained an institutional preference for program abandonment. At each review juncture however, employer engagement and support remained strong, and the program survived.

18. In 1994, the **WCB "Financial Improvements Package"** consultation document pushed for the elimination of SIEF, only to receive aggressive and comprehensive push-back from the **Employers' Council on Workers' Compensation**[2] (of which construction associations were founding members).


New Directions For Workers' Compensation Reform
Report of The Honourable Cam Jackson
Minister Without Portfolio
Responsible for Workers' Compensation Reform
June 1996

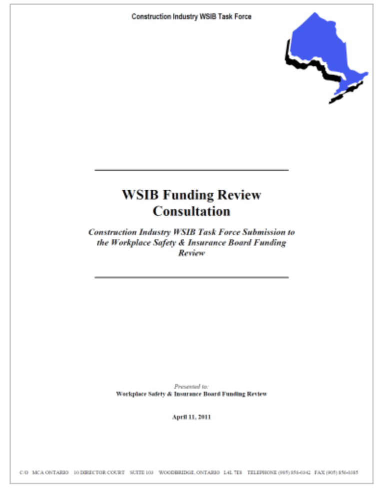
19. SIEF survived.

20. In 1996 The Hon. Cam Jackson,[3] released "**New Directions for Workers' Compensation Reform: A Discussion Paper**," presenting strong criticisms of the SIEF program (at p. 47). Employers again aggressively defended the program, explaining the employer equity purposes of SIEF and how the scheme would skew towards employer unfairness.

[2] See pages 26-33 of **ECWC** "***Response to WCB Financial Improvements Package***"
[3] Minister Without Portfolio for Workers' Compensation Reform

21. In Minister Jackson's final report, "***New Directions for Workers' Compensation Reform,***" **June 1996**, Minister Jackson affirmed that SIEF retained strong employer support (at page 18).

22. SIEF survived.



23. In the extensive **Funding Review** exercise initiated by WSIB President David Marshall and chaired by Prof. Harry Arthurs (2011 – 2012), in which the CEC played a leading stakeholder role, SIEF was an active issue.

24. SIEF received extensive comment from Ontario's employers, including the CEC (under the name of its predecessor organization, "**The Construction Industry Task Force**").

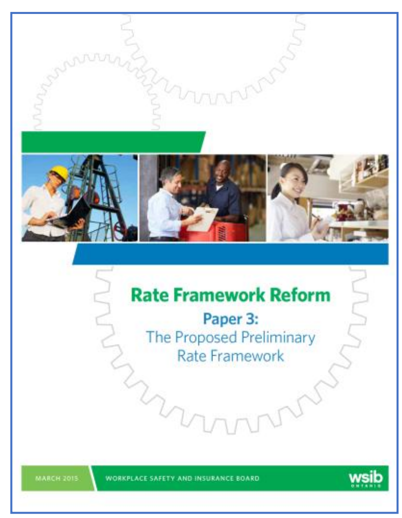
25. The CEC/CITF presented a detailed and focused policy argument for the retention of the SIEF (**see page 26, and Appendix K, pp. 59 – 66**).

26. The CEC/CITF recommendation presented to the Funding Review was:

> 6. ***Recommendation No. 26:*** SIEF must continue. The current design of SIEF is fair. SIEF is purely redistributive and does not add to system costs. Class variables are to be permitted. If the Board is eager to proceed with an SIEF review, the development and release of a policy options paper akin to the paper released in January 1990 must be a precursor to any reform initiative. Focused stakeholder engagement outside the scope of a large review project such as the Funding Review is essential.

27. SIEF survived the **Funding Review** and subsequent WSIB consideration of Dr. Arthurs' report.

28. During the extensive **Rate Frame Review** consultation, commencing in 2013 and continuing until 2018, reaching its peak in 2015, SIEF again became a policy consideration.



29. In the WSIB consultation document, "**Rate Framework Reform, Paper 3: The Proposed Preliminary Rate Framework**," the WSIB again expressed a policy preference to cancel the SIEF program (at p. 33):

> ***Proposed Preliminary Rate Framework***
>
> The proposed preliminary Rate Framework seeks to discontinue the SIEF program as part of a prospective premium rate setting approach.

30. Employers again rallied, and exploded at the WSIB's proposed policy direction.

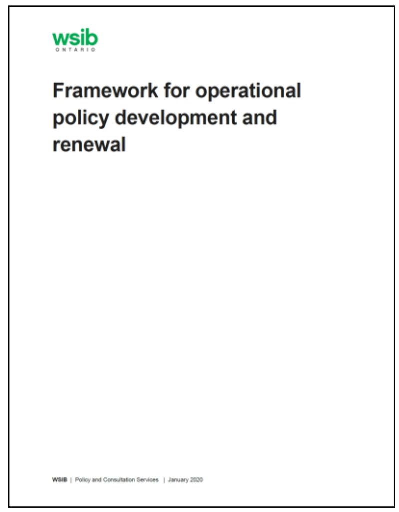
31. One CEC member[4] built on the CEC's previous position presented to the **Funding Review** and aggressively argued for SIEF retention, as did many employers.

32. SIEF survived.

D. The cancellation of SIEF

1. This time there was no employer outreach. The WSIB moved unilaterally. This offends every modern WSIB convention and undercuts the Board's commitment to openness and transparency, undermining the Board's undertaking and duty to consult.

2. In the Board's 2020 document, "***Framework for operational policy development and renewal***" (January 2020), the Board presents this commitment (at page 8):


wsib
ONTARIO

Framework for operational policy development and renewal

WSIB | Policy and Consultation Services | January 2020

> **4.3. Consultation**
>
> When necessary, consultation will form part of the policy development process at the WSIB, contributing to transparent, evidence-based decision-making. Obtaining and considering a range of views enables the development of policies that are effective, responsive and viewed as legitimate by those they impact. This in turn contributes to better understanding and acceptance of and compliance with policies.

3. While the Board attaches several caveats to that commitment, the Board does not possess an unfettered discretion on consultation.

4. Beyond question, a policy such as the SIEF demands a comprehensive policy outreach process – the Board's gold-standard approach if you will – and anything less is an affront to sound administrative practice.

5. The SIEF issue, based on the significance of the issue, WSIB broad past practice, and most importantly, the Board's specific historic approach to SIEF policy review, is the exact type of issue that warrants a "broad public consultation":

> **4.3.2. Broad public consultation**
>
> In some cases, the WSIB may decide to conduct a broad public consultation. Generally, during broad consultations, the WSIB will publish a consultation document (e.g., explanatory note, discussion paper) to identify and explain the policy issue and to guide feedback, which may be provided in writing and/or through planned outreach sessions.

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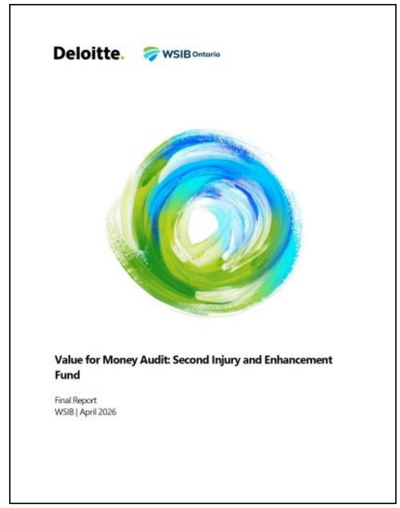
[4] Mechanical Contractors Association of Ontario, **WSIB Rate Framework Consultation, Submission to the WSIB, October 2, 2015**; SIEF arguments set out at p. 37-38, and **Appendix A**, at pp. 42-49.

6. Employers must demand no less a treatment for the SIEF issue.

7. An outsourced third party value-for-money-audit (VFMA), the **Deloitte Value for Money Audit: Second Injury and Enhancement Fund, Full Report, April, 2026**, ("Deloitte Report"), does not supplant the WSIB's duty to consult. A focus group discussion is not consultation.



8. A conclusion that SIEF no longer meets its intended purpose of reducing employment barriers for workers with pre-existing disabilities (**Deloitte Report, pp. 5, 14, 24, 25**), presents an incomplete and frankly unsound understanding of the true employer equity purposes behind the SIEF policy.

9. This reasoning does not correctly reflect the foundational purpose of the SIEF policy.

10. Past employer submissions presented over decades, and notably those of the CEC, have correctly and successfully argued that SIEF is an essential program to promote employer equity.

11. Simply put the Ontario workers' compensation system is rendered unfair to employers absent SIEF.

12. While there are innumerable WSIAT decisions that advance this argument (many set out in past CEC submissions), ***W.S.I.A.T. Decision No. 2970/18* (July 3, 2019)**, a relatively recent decision affirms the foundational purpose of SIEF: the program exists to protect employers from the financial consequences of pre-existing conditions that make a workplace injury worse. In essence, SIEF is an employer-protection mechanism designed to prevent cost exposure arising from medical factors unrelated to the accident itself.

E. Likely consequences of the elimination of SIEF

1. I expect the closure of the SIEF program will have many impacts for Ontario employers:

   a. *First*, it will increase individual employer's cost exposure and increase individual employer premium rates in accidents where an underlying condition caused or enhanced the disability. This is unfair as the employer is unable to mitigate against the effects of pre-existing medical conditions, other than after the fact through the SIEF.

   b. *Second*, this will likely increase employer focus on individual claim entitlement for cases involving pre-existing conditions with the expected effect of increasing employer-initiated entitlement litigation.

   c. *Third*, following the second point, this will have an impact on Ontario injured workers who will likely be subjected to less stable entitlement decisions through increased employer claim litigation.

F. The timing of the announcement

1. The Board's July 16, 2026, announcement via a WSIB policy update alert email of "*phasing out of the Second Injury and Enhancement Fund (SIEF) - effective June 16, 2026*" was distributed well after the end of the program.

2. The WSIB's handling of the SIEF wind-down raises significant procedural fairness concerns. This is a significant administrative law question which warrants and independent legal analysis beyond the scope of this note.

G. Next Steps

1. I suggest the CEC meet as is practicable to discuss possible response/action of the CEC.

2. Specific recommendations to the CEC:

   a. That the CEC demand that the SIEF cancellation be forthwith revoked;

   b. That the WSIB engage in a full-fledged stakeholder consultation preceded by a WSIB authored policy options paper, with ample opportunity to respond (deploying at least the four-month consultation period granted in the 1990 consultation);

   c. That the CEC present these demands in a comprehensive letter to the WSIB President and Minister;

   d. That the CEC members consider canvassing their respective members to assess member interest (I suspect it will be high);

   e. As this issue impacts all Schedule 1 employers, that the CEC determine the depth of broader employer interest in this issue and assess whether a coalition style advocacy approach should be adopted.

L.A. Liversidge
July 27, 2026

Appendix A

From: L.A. Liversidge <lal@laliversidge.com>
Sent: Friday, July 17, 2026 1:25 PM
To: 'Andrew Pariser'; 'Andrew Sampogna'; 'Bart Kanters'; 'Dennis Cancian'; 'Dylan Knight'; 'Giovanni Cautillo'; 'Jeff Spitzig'; 'Jennifer Miller'; 'John Pilat'; 'Karen Renkema'; 'Kirstin Jensen'; 'Les Liversidge'; 'Meredith Greaves'; 'Mike Gallardo'; 'Patrick McManus'; 'Peter J. Smith'; 'lyall@rescon.com'; 'Robert Celsi'; 'Ross Savatti'; 'Sandro Zoppi'; 'Stephanie Bellotto'; 'Stephen Hamilton'; 'Steven Crombie'; 'walid@orba.org'; 'Zlatko Maric'
Subject: Message from L.A. Liversidge - WSIB policy update alert re SIEF Program closure
Attachments: 202604 Deloitte VFMA - SIEF Report.pdf

Andrew, *et al*,

See below the notice from the WSIB concerning cancelling the Second Injury and Enhancement Fund (SIEF) program effective June 16, 2026.

This email is simply providing notice to the CEC of this WSIB policy decision. I will be providing more detailed comment in the coming days.

At first blush this policy change is concerning at many levels:

1) The WSIB does not address the core of the policy focus of employer equity.

2) The absence of any WSIB formal employer outreach or consultation to a significant employer issue. This is unconscionable institutional behaviour but not at all inconsistent with troubling and growing trends we have observed.

3) This will have many impacts for Ontario employers.
   First, it will increase individual employer's cost exposure and influence individual employer premium rates. The SIEF does not influence the aggregate employer premium rate and never has.
   Second, this will likely increase employer focus on individual claim entitlement for cases involving pre-existing conditions with the expected effect of increasing employer initiated litigation.
   Third, following the second point, this will have an impact on Ontario injured workers who will likely be subjected to less stable entitlement decisions through increased employer claim activation on the substantive entitlement decision.

Attached is the Deloitte Value for Money Audit: Second Injury and Enhancement Fund Report (SIEF VFMA Report) which the Board advises led to the decision to terminate the SIEF program. That a major policy change with significant employer implications flows directly from a VFMA, absent the essential, and in the past, routine step of employer consultation should shake the foundation of employer confidence.

Two other points of interest:

1) The WSIB Policy Consultation page references past consultations, including the Serious injury Program Value for money audit consultation, communicable illnesses policy consultation, temporary employment agency consultation, occupational disease policy framework consultation and rate framework policy consultation. This page provides a link to a consultation page for each issue noted above which outlines the consultation process (and dates) and posts the submissions of the stakeholders that participated in the consultation (see for example: the Independent Living policy consultation webpage). While the SIEF VFMA report indicates stakeholder engagement (at pages 5, 14 & 16 of the report - see **excerpt below**), the SIEF VFMA report it is not supported by publicly posted consultation announcements and materials. This stands in marked contrast with other prior VFMA reports and consultations.

1

2) The de facto retroactive policy application. The Board's July 16, 2026, announcement via a WSIB policy update alert email of *"phasing out of the Second Injury and Enhancement Fund (SIEF) - effective June 16, 2026"* was distributed well after the noted end of the program. The Board's email (below), which was received at 3:15pm July 16, 2026, advises "*We will review all Second Injury and Enhancement Fund requests received before July 16, 2026 and follow our streamlined process to make relief eligibility decisions.*"

As noted, I will provide a more detailed report in the coming days, following which I suggest the CEC meet to discuss.

Regards,

LAL

Excerpts from the April 2026 SIEF VFMA report:
Page 5:
Consultation: engagement through 12 consultations with representation from employers, labour groups and employer representatives.

Page 14:
Consultation: engagement through a maximum of 12 consultations with representation from employers, labour groups and employer representatives.

Page 16:
As part of the external stakeholder engagement process, virtual focus groups were conducted with three key stakeholder groups: employers, employer representatives and labour groups. The target focus group size was 7-10 participants.

The initial round of outreach resulted in eight focus groups. Focus groups ranged from one to seven participants. In response to stakeholder feedback regarding compressed timelines, a second round of focus groups was organized to provide additional opportunities to register for focus groups. The second outreach resulted in four focus groups. Focus groups ranged from one to two participants.

To support broader participation and accommodate those who were unable to join the second session; participants were informed that they could request a feedback survey if they were unable to join any of the focus group sessions. Deloitte did not receive any requests from participants to complete an online feedback survey.

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From: Workplace Safety and Insurance Board <polpub@wsib.on.ca>
Sent: Thursday, July 16, 2026 3:15 PM
To: lal@laliversidge.com
Subject: WSIB policy update alert

Policy update

We recently made changes to the Operational Policy Manual (OPM) on our website.

- **Policy updates to reflect phasing out of the Second Injury and Enhancement Fund (SIEF)** - effective June 16, 2026

You can find more information about the changes on our policy updates and clarifications page.

Please email us at polpub@wsib.on.ca if you no longer want to receive updates.

Please note if you unsubscribe from WSIB updates using this email, you'll automatically be unsubscribed from all email updates we send, including your premium reminders.

Vous pouvez obtenir la version française de ce message en envoyant un courriel à communications@wsib.on.ca.

The Workplace Safety and Insurance Board (WSIB) is here to help. When an injury or illness happens on the job, we move quickly to provide wage-loss benefits, medical coverage and support to help people get back to work. Funded by businesses, we also provide no-fault collective liability insurance and access to industry-specific health and safety information. We are one of the largest insurance organizations in North America covering over five million people in more than 300,000 workplaces across Ontario.

Visit us at wsib.ca

Appendix B

WSIB Ontario

Second Injury and Enhancement Fund value-for-money audit

Each year, we are required under the Workplace Safety and Insurance Act (WSIA) to have an external firm review the cost, efficiency, and effectiveness of one or more WSIB programs through a value-for-money audit (VFMA). The latest audit focused on our Second Injury and Enhancement Fund.

Findings

The Second Injury and Enhancement Fund value-for-money audit (PDF) found that the program no longer supports it's intended purpose of removing employment barriers for people with pre-existing disabilities or supporting the return-to-work and recovery outcomes injured people need.

The audit also found the program no longer provides meaningful or equitable cost relief to businesses as it has not kept pace with changes to how claims and premiums are managed as it has not been meaningfully updated since its introduction in 1945.

For these reasons, we are phasing out the Second Injury and Enhancement Fund and have amended the Second Injury and Enhancement Fund (SIEF) policy as of June 16, however, we will continue to accept new requests **submitted before** July 16, 2026.

All businesses currently receiving Second Injury and Enhancement Fund will continue to receive relief for the duration of their existing applicable claims. We will review all Second Injury and Enhancement Fund requests received before July 16, 2026 and follow our streamlined process to make relief eligibility decisions.

What this means for people

People with a current or past claim will continue to be supported through WSIB's standard claims process, with the same access to health care, benefits, and return-to-work planning they have today.

Ending the Second Injury and Enhancement Fund will enable us to provide more value for the premiums businesses pay by focusing on activities that deliver the best return-to-work and recovery outcomes for people who need us.

This includes working with businesses to identify suitable and sustainable modified work for people as part of the return-to-work process, as well as finding the right resources to help them make lasting changes to make their workplace safer, such as joining our Health and Safety Excellence program. Through the program, businesses can build health and safety habits that can help reduce risks and strengthen their business, while earning rebates on their premiums.

Help us improve this website. Was this page helpful?

Yes No

Updated: July 16, 2026