CEC Webinar Briefing

SIEF & Bill 105

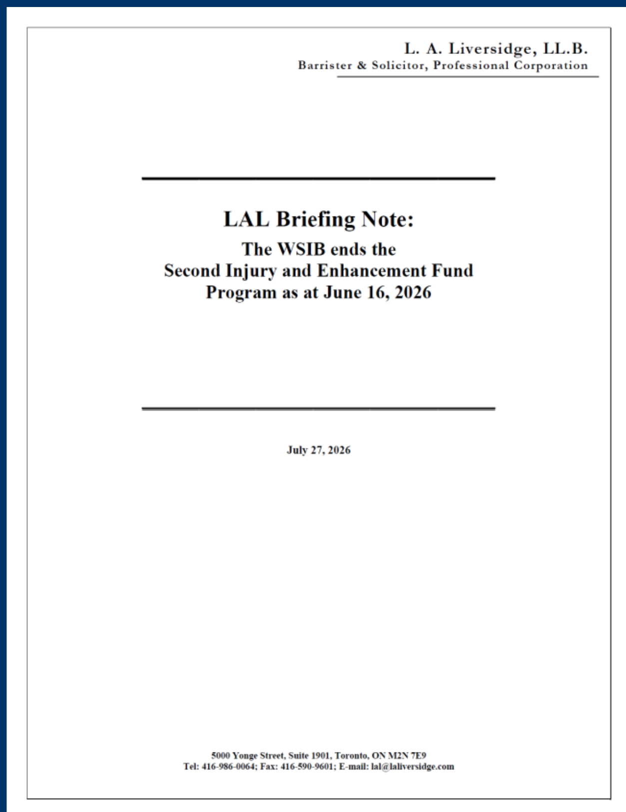
The Common Thread:

Diminishing Stakeholder Engagement

Agenda

- **Part 1: SIEF:**
  - Cancelled by WSIB; History; Impacts; Process; Employer reaction; CEC member action; WSIB response; Long term advocacy plan
- **Part 2: Bill 105:**
  - Omnibus bill; WSIA 1 of 9 Acts changed; WSIA – significant reforms – CEC focus: Retirement age changes; 85% net to 90% net; 72-month-lock-in; CEC recommendations re next-steps

SIEF



L. A. Liversidge, LL.B.
Barrister & Solicitor, Professional Corporation

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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Tel: 416-986-0064; Fax: 416-590-9601; E-mail: lal@laliversidge.com

- Review WSIB closure decision
- History SIEF – Why it existed
- Past WSIB efforts to cancel SIEF
- WSIB duty to consult
- Likely consequences

From WSIB Revised Policy 14-05-13

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.

SIEF Closure
Broad Comment

- This is a *de facto* retroactive policy change
- Triggers administrative law issues (which may well, attract a separate legal analysis)
- The absence of stakeholder consultation offends WSIB policy and convention
- A VFMA is **NOT** consultation

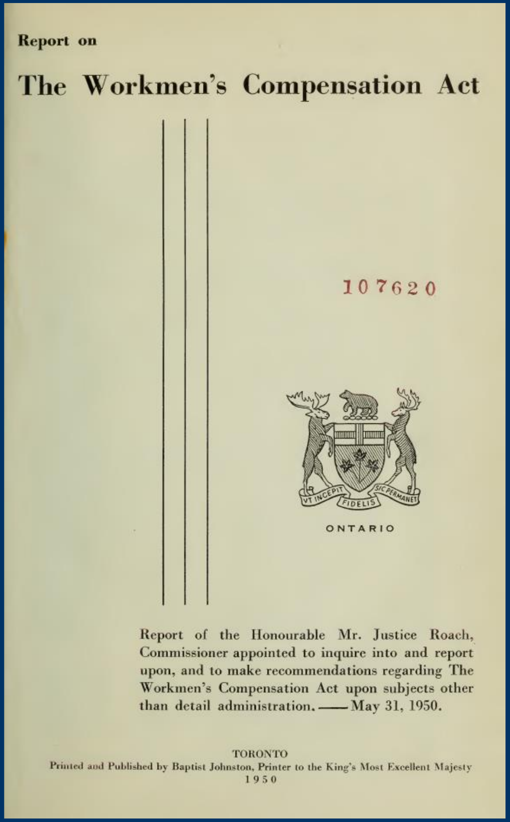
SIEF History
Why it exists in the 1st place

- Initially a program to encourage the hiring of disabled workers (1925 & 1944) - the purpose of SIEF evolved
- "Equity" has been officially recognized since a 1967 Royal Commission (McGillivray Commission)
- Experience Rating (ER) was introduced in the 1970s making <u>**equity the core purpose**</u>

SIEF History
Why it exists in the 1st place

- 1915 WCA amended to allow "Disaster Relief Fund"
- 1925 creation of SIEF as part of the Disaster Fund to counter discrimination
- 1945 separate SIEF created

SIEF History
1950 Roach Report


Report on

The Workmen's Compensation Act

107620

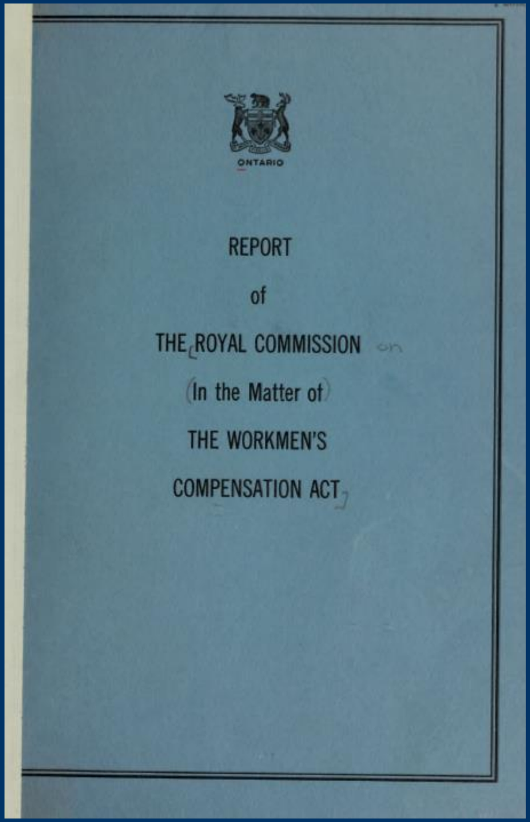
ONTARIO

Report of the Honourable Mr. Justice Roach, Commissioner appointed to inquire into and report upon, and to make recommendations regarding The Workmen's Compensation Act upon subjects other than detail administration.——May 31, 1950.

TORONTO
Printed and Published by Baptist Johnston, Printer to the King's Most Excellent Majesty
1950

- "Thin Skull" doctrine first referenced in 1950 "Roach Report"
- Aggravation of pre-existing conditions to be *fully compensated*
- Before this, awards were discounted

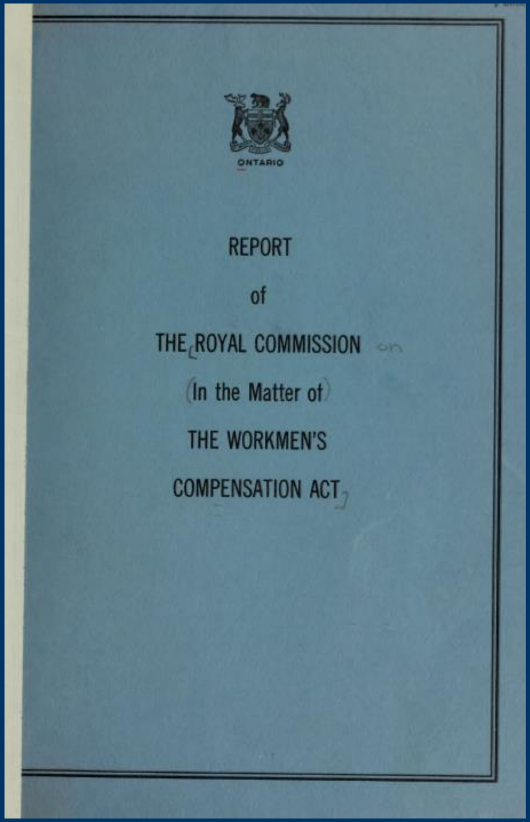
SIEF History
1967 McGillivray Report


REPORT
of
THE ROYAL COMMISSION
(In the Matter of
THE WORKMEN'S
COMPENSATION ACT)

- Link of SIEF to pre-existing condition compensation discussed in 1967 McGillivray Royal Commission
- Since 1964 SIEF applied as a matter of *employer fairness*

L.A. Liversidge, LL.B., Professional Corporation

SIEF History
1967 McGillivray Report



- Justice McGillivray:

"... *in all cases where compensation may involve activation or aggravation of a pre-existing condition a portion ... be paid from the SIEF*" (page 119)

SIEF History
Why it exists in the 1st place

- 1970: Major changes to SIEF by WCB
  - Version of "modern" SIEF policy
    - 50% SIEF for pre-existing injury claims – permanent and temporary disability
- 1978: Policy expanded
  - Introduction of pre-injury and accident severity concepts (25, 50, 75, 90 and 100% relief as circumstances warrant)

SIEF History
Why it exists in the 1st place

- "Modern" SIEF policy was linked with introduction of experience rating (ER)
- First ER program was the "Voluntary ER Program" (early 1970s) followed by NEER and CAD-7 in the 1980s
- This design principle (employer accountability) is the design bedrock of Rate Framework

SIEF History
Why it exists in the 1st place

- Employer equity is the core reason for SIEF
  - Over the past 40+ years, thousands of decisions of the Appeals Tribunal (11,000+) have held that employer equity and fairness is a core reason for the SIEF

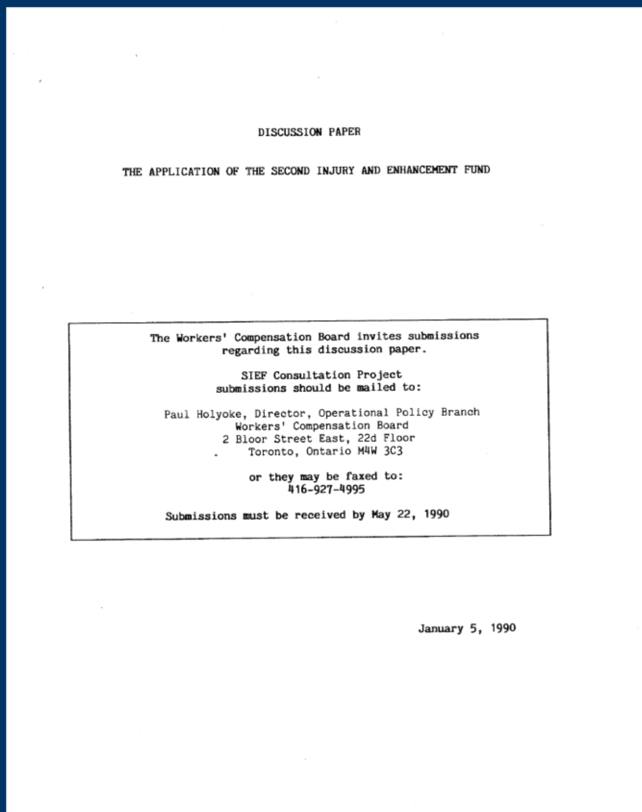
SIEF History
Why it exists in the 1st place

- Employer equity is the core reason for SIEF
- See for example the oft-cited ***Decisions 591/94 & 431/89*** (and many others) which stand for the proposition:
  - “. . . ***equity considerations are essential to any compensation system interested in striking a reasonable balance between the interests of workers and the interests of employers***.”

SIEF History
Why it exists in the 1st place

- SIEF is an **effective insurance mechanism** that mitigates the relationship of the thin-skull doctrine with employer accountability
- Simply put – a system that varies premiums with costs is rendered unfair without the SIEF insurance safety-valve

Past WSIB Efforts to Cancel SIEF



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

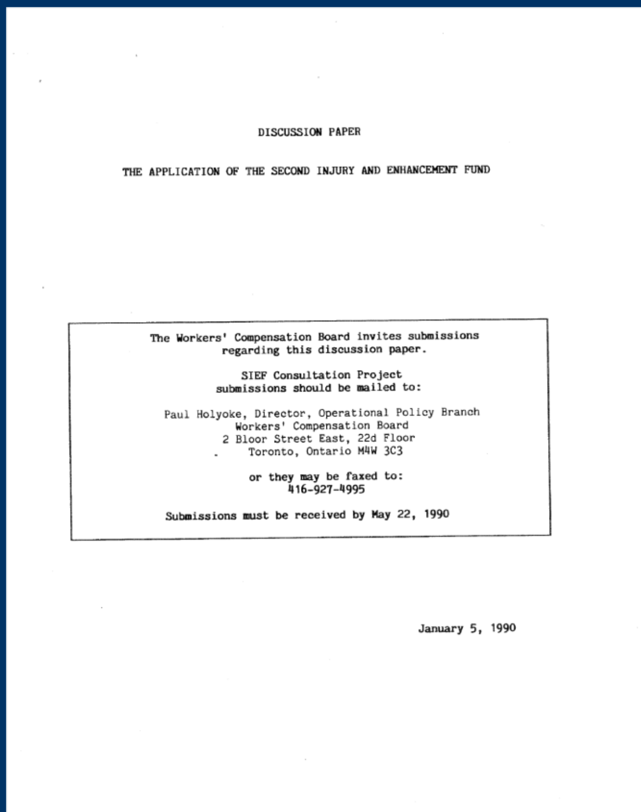
or they may be faxed to:
416-927-4995

Submissions must be received by May 22, 1990

January 5, 1990

- WCB/WSIB tried to cancel SIEF many times before
- **First time:**
  - **January 5, 1990 discussion paper: *The Application of the Second Injury and Enhancement Fund***

Past WSIB Efforts to Cancel SIEF



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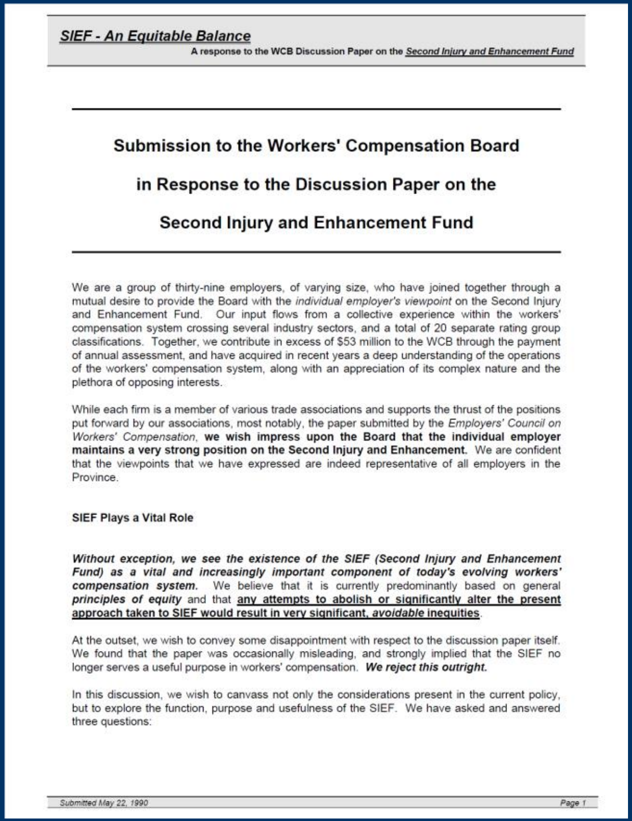
January 5, 1990

- This triggered a four-month consultation
- I participated
- Employers (and associations) rallied behind the issue
- SIEF survived intact

Past WSIB Efforts to Cancel SIEF



SIEF - An Equitable Balance
A response to the WCB Discussion Paper on the *Second Injury and Enhancement Fund*

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:

Submitted May 22, 1990 *Page 1*

- I was engaged with an *ad hoc* group of employers
- ← Excerpt from our 1990 submission remains valid 36 years later

Past WSIB Efforts to Cancel SIEF

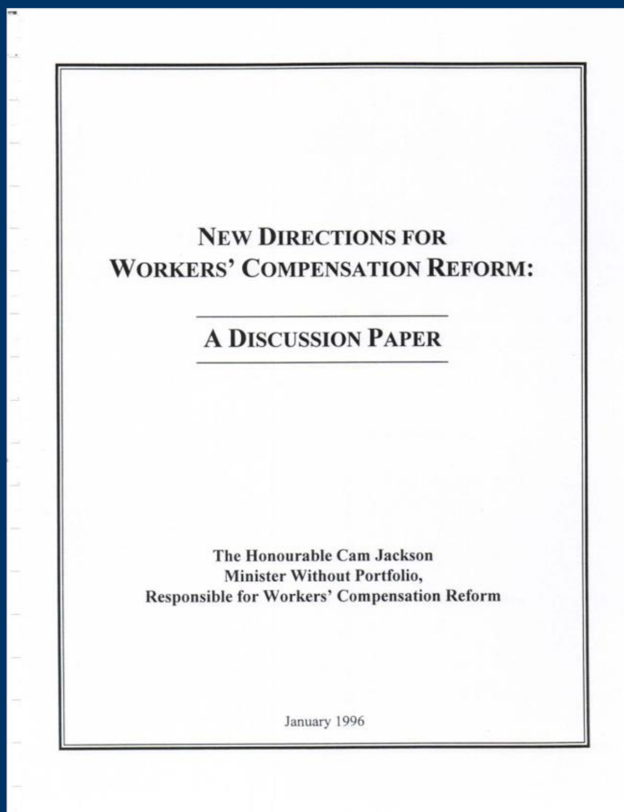
SIEF Plays a Vital Role

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**.

Past WSIB Efforts to Cancel SIEF

- **1994:**
  - **WCB "Financial Improvements Package"** consultation document pushed for the elimination of SIEF
  - Through the **Employers' Council on Workers' Compensation** (construction associations were founding members), employer push-back was comprehensive
  - **SIEF survived intact**

Past WSIB Efforts to Cancel SIEF



NEW DIRECTIONS FOR
WORKERS' COMPENSATION REFORM:

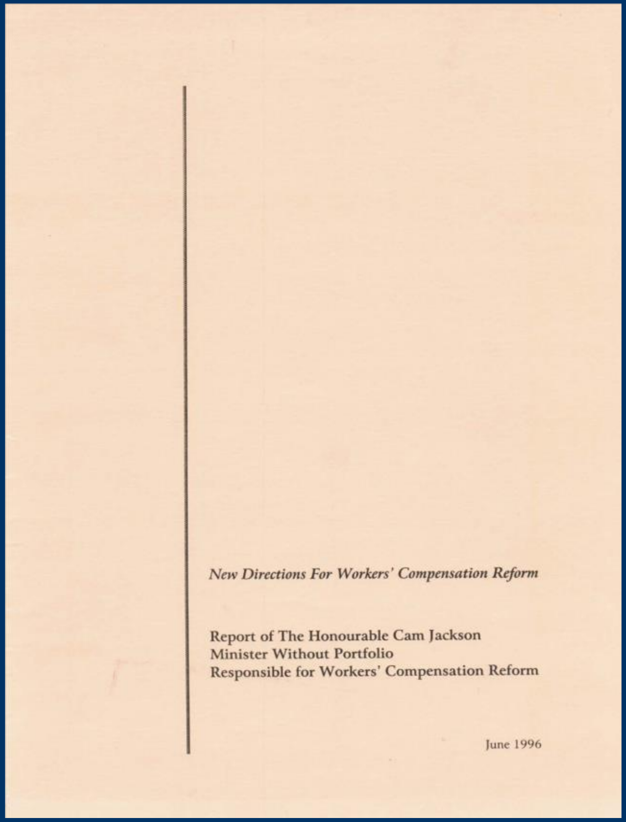
A DISCUSSION PAPER

The Honourable Cam Jackson
Minister Without Portfolio,
Responsible for Workers' Compensation Reform

January 1996

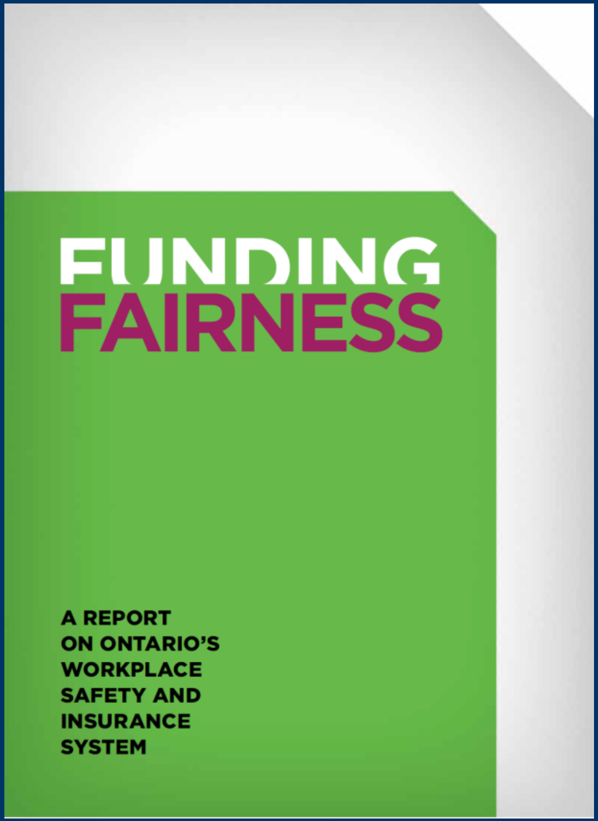
- 1996:
  - Minister (WCB Reform) Cam Jackson, released:
  - "**New Directions for Workers' Compensation Reform: A Discussion Paper**"
  - Paper criticized SIEF program (at p. 47)

Past WSIB Efforts to Cancel SIEF



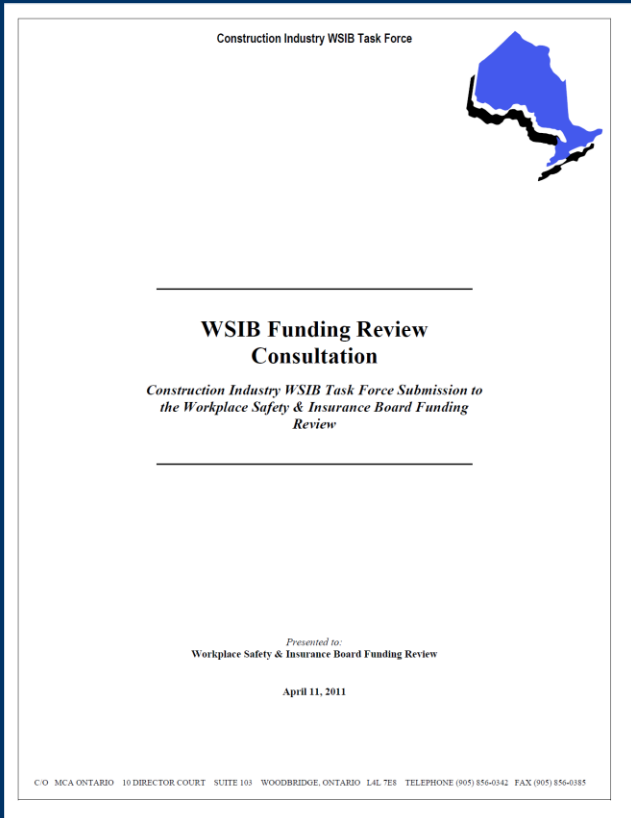
- Employers again defended SIEF, explaining the equity purposes of SIEF
- In Minister Jackson's final report, "***New Directions for Workers' Compensation Reform*,**" **June 1996**, Minister Jackson affirmed that SIEF retained strong employer support
- **SIEF survived intact**

Past WSIB Efforts to Cancel SIEF



- In the extensive **Funding Review** chaired by Prof. Harry Arthurs (2011 – 2012)
- SIEF was an active issue
- CEC played a leading stakeholder role

Past WSIB Efforts to Cancel SIEF


Construction Industry WSIB Task Force

WSIB Funding Review Consultation

Construction Industry WSIB Task Force Submission to the Workplace Safety & Insurance Board Funding Review

Presented to:
Workplace Safety & Insurance Board Funding Review

April 11, 2011

C/O MCA ONTARIO 10 DIRECTOR COURT SUITE 103 WOODBRIDGE, ONTARIO L4L 7E8 TELEPHONE (905) 856-0342 FAX (905) 856-0385

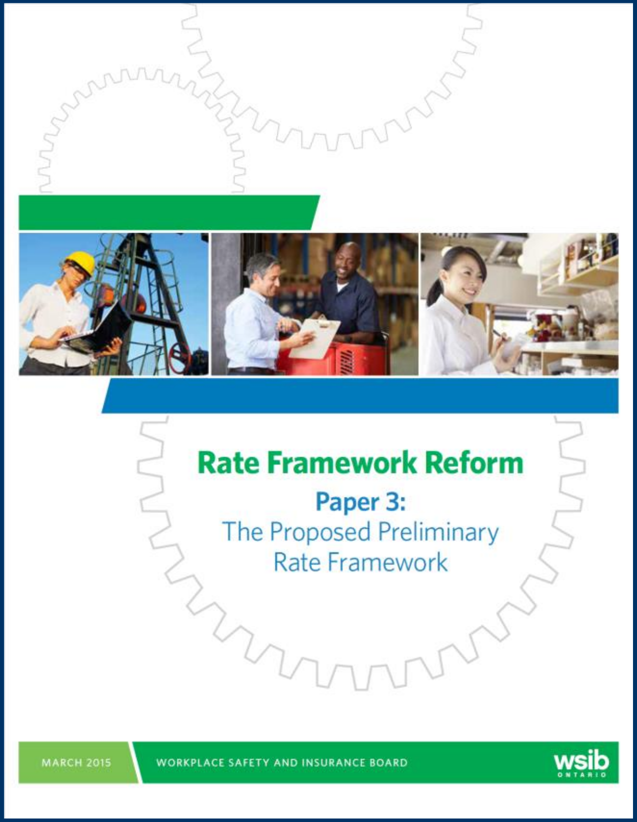
- SIEF received extensive comment from Ontario's employers
- The CEC/CITF presented a detailed and focused policy argument for the retention of the SIEF **(see page 26, and Appendix K, pp. 59 – 66)**

Past WSIB Efforts to Cancel SIEF

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.

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

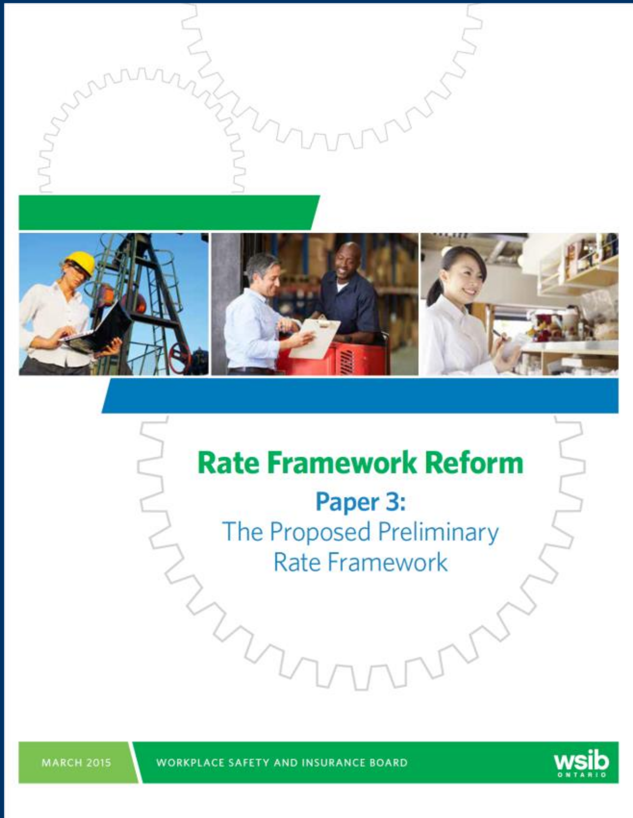
Past WSIB Efforts to Cancel SIEF



Proposed Preliminary Rate Framework

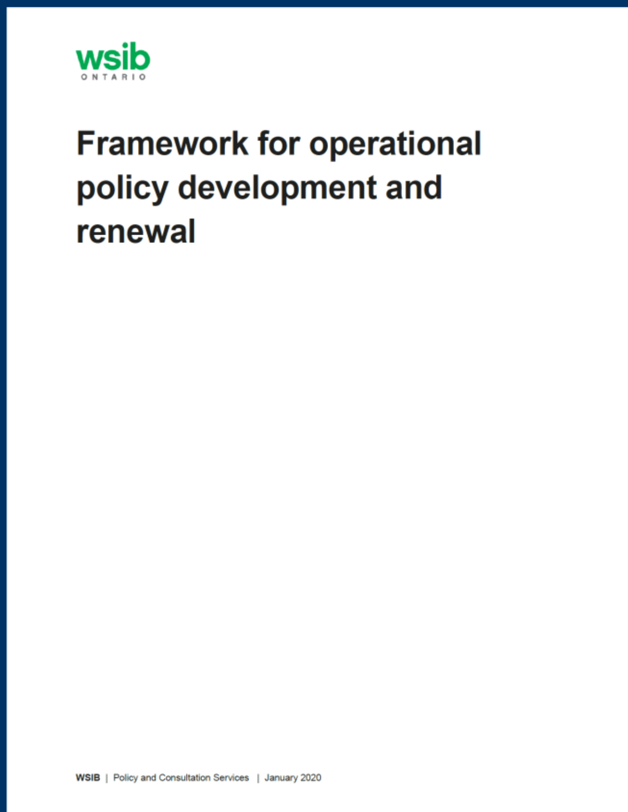
The proposed preliminary Rate Framework seeks to discontinue the SIEF program as part of a prospective premium rate setting approach.

Past WSIB Efforts to Cancel SIEF



- During the **Rate Framework Reform Project**, WSIB again expressed a preference to cancel the SIEF program
- Employers again rallied, and exploded at this proposed policy direction.
- **SIEF survived intact**

WSIB Breaches its Own Consultation Protocol


wsib
ONTARIO

Framework for operational policy development and renewal

WSIB | Policy and Consultation Services | January 2020

- This time the WSIB did not consult
- The WSIB moved unilaterally
- **This offends every modern WSIB convention and undercuts the Board's commitment to openness and transparency**

WSIB Breaches its Own Consultation Protocol

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.

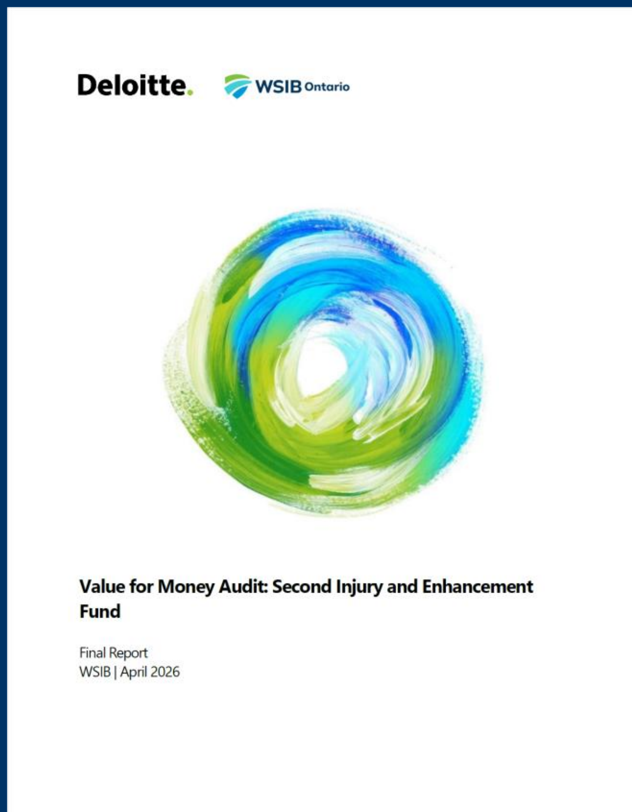
4.3.2. Broad public consultation

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.

WSIB Breaches its Own Consultation Protocol

- The 2020 "***Framework for operational policy development and renewal***" (January 2020) is clear
- SIEF, based on the significance of the issue, WSIB past practice and the Board's specific historic approach to SIEF policy review, is the exact type of issue that warrants a "*broad public consultation*"

WSIB Breaches its Own Consultation Protocol


Deloitte. WSIB Ontario

Value for Money Audit: Second Injury and Enhancement Fund

Final Report
WSIB | April 2026

- An outsourced 3rd party value-for-money-audit (VFMA), does not supplant the WSIB's duty to consult
- A focus group discussion is not consultation

WSIB Breaches its Own Consultation Protocol

- 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 understanding of the true employer equity purposes behind the SIEF policy
- This reasoning does not correctly reflect the foundational purpose of the SIEF policy

CEC and Member Actions

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

Via Email

August 10, 2026

Mr. Jeffery Lang, President & CEO
Workplace Safety & Insurance Board
200 Front Street West
Toronto ON M5V 3J1

and

The Hon. David Piccini, Minister of Labour, Immigration, Training and Skills Development
Ministry of Labour, Immigration, Training and Skills Development
400 University Avenue, 14th Floor
Toronto, ON M7A 1T7

Dear Mr. Lang & Minister Piccini:

Re: The WSIB's decision to end the Second Injury and Enhancement Fund policy as at June 16, 2026

The Construction Employers Coalition (for WSIB and Health & Safety and Prevention) (CEC) (see **Appendix A** for who the CEC is) is writing to express CEC's concern about the Board's surprise, retroactive notice that the WSIB Second Injury and Enhancement Fund (SIEF) policy is no longer active effective June 16, 2026. For the reasons we set out, we are requesting that the Board vacate this decision and instead, initiate a broad-based formal stakeholder consultation exercise in accordance with longstanding established WSIB protocol. Fairness to Ontario's employers requires nothing less.

A thumbnail sketch of SIEF

SIEF has a long and storied history with the WCB/WSIB, with some elements dating back to 1915. The "modern" SIEF policy attributes were established in 1970 to coincide with increased employer cost accountability (experience rating), a design principle which survives under the current WSIB classification and premium scheme.

SIEF is an effective employer insurance mechanism designed to moderate cost exposure arising from medical factors unrelated to the accident itself. Without getting too technical, the SIEF fairly mitigates the relationship of the thin-skull entitlement doctrine and employer accountability, a long-standing employer position, supported by innumerable decisions of the Appeals Tribunal.[1]

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

[1] See for example **W.S.I.A.T. *Decision No. 2970/18* (July 3, 2019)**

Construction Employers Coalition c/o RESCON 25 North Rivermede Road, Unit 13, Vaughan, Ontario L4K 5V4

- CEC **August 10, 2026 letter** to Minister and WSIB CEO:
  - History
  - Duty and need to consult
  - SIEF is about employer equity

CEC and Member Actions

4

CEC request

For these reasons, CEC respectfully requests that the notice of SIEF cancellation be forthwith revoked and 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).

Yours truly,

Andrew Pariser, CEC Chair

WSIB Response

WSIB Ontario

200 Front Street West
Toronto, Ontario
M5V 3J1

200, rue Front Ouest
Toronto (Ontario)
M5V 3J1

1-800-387-0750
TTY: Use 711 | ATS : Utilisez le 711
wsib.ca

August 6, 2026

Dear [redacted],

The WSIB is here to help anyone who has been injured or becomes ill at work. We regularly review our programs to ensure we deliver value, meet the needs of people with claims, and deliver support in a clear, consistent and fiscally responsible way.

To help with this, each year an external firm reviews one or more WSIB programs through a value-for-money audit (VFMA). The latest audit focused on our Second Injury and Enhancement Fund (SIEF).

The VFMA drew on input from more than 200 stakeholders invited to take part in 12 consultations held between October 22 and December 12, 2025. Participants included businesses who had used the SIEF program previously, businesses with no previous use of SIEF, employer representatives, labour groups and individuals who had provided feedback on SIEF during our rate setting model update consultations.

The Second Injury and Enhancement Fund value-for-money audit found that the program delivers "no or little value".

The audit concluded that the program, first set up in 1945 to help break down barriers for wounded war veterans looking for work, is severely outdated. It no longer supports its intended purpose of removing employment barriers and does nothing to help people recover and return to work after an injury or illness.

The audit also found the program does not provide meaningful or equitable cost relief to businesses and that it is no longer tied directly to the premium rate setting model. SIEF 'awards' show up as a line item on Schedule 1 businesses' detailed claim statements, but businesses continue to pay their assessed premium rates, not individual claim costs.

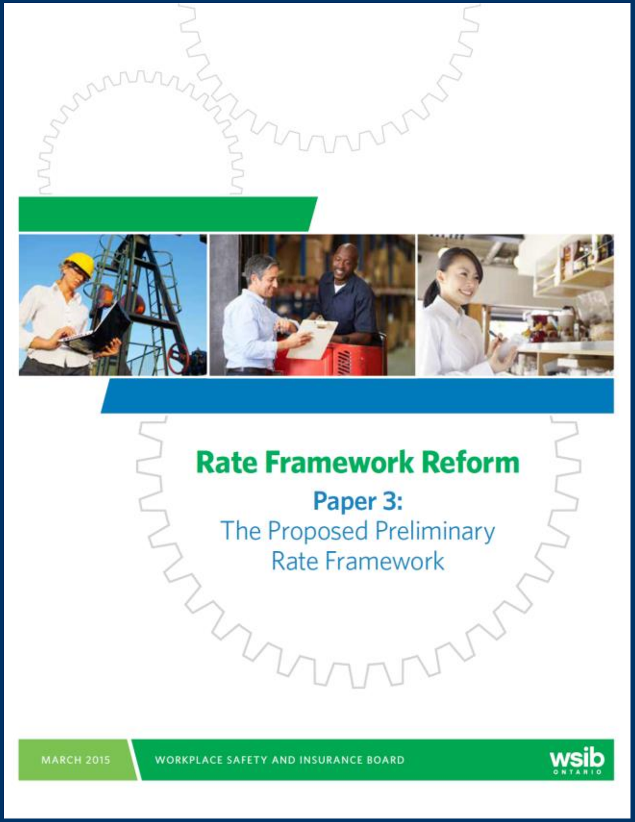
We'll continue to support people with a current or past claim through our standard claims process, with the same access to health care, benefits, and return-to-work planning they have today. And all businesses currently receiving SIEF (less than 1 per cent of businesses covered by the WSIB) will continue to see that reflected in their account statements for the duration of their existing applicable claims.

Ending the SIEF program 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

1

- WSIB Reply (to CEC Members):
  - VFMA found "*no or little value*" in SIEF
  - No equitable cost relief
  - ***No longer tied to premiums***
  - ***No impact on rates***

WSIB Response: What It Really Means



- If WSIB correct – SIEF has no impact on rates – WSIB has a bigger problem than SIEF
- The entire organizing thesis of **Rate Framework** is demolished

WSIB Response: What It Really Means

Its key features are:

- A simplified, transparent and modernized classification system, aligned to an accepted national standard;
- A fair process that prospectively sets premium rates, reflecting individual employers' claims experience relative to their industry; and
- Considerations for a reasonable transition path to ensure employers can gradually adjust to the new premium rate setting process.

WSIB Response: What It Really Means

Proposed Preliminary Rate Framework's **Key Goals**

Clear and Consistent

A new streamlined and simpler classification structure that is clear and consistent in its application as a foundation.

Fairly Allocated Premiums

An approach that ensures a fair premium for workplace coverage, based on each employer's risk and claims experience to ensure occupational health and safety is top of mind for employers as it relates to their premiums.

Balanced Rate Responsiveness

A reasonable consideration for premium rate stability, while also ensuring responsiveness to risk and claims experience attained through occupational health and safety efforts to reduce workplace injuries and return workers to productive work.

Transparent and Understandable

A Rate Framework that stakeholders can easily understand, and promotes active and informed participation.

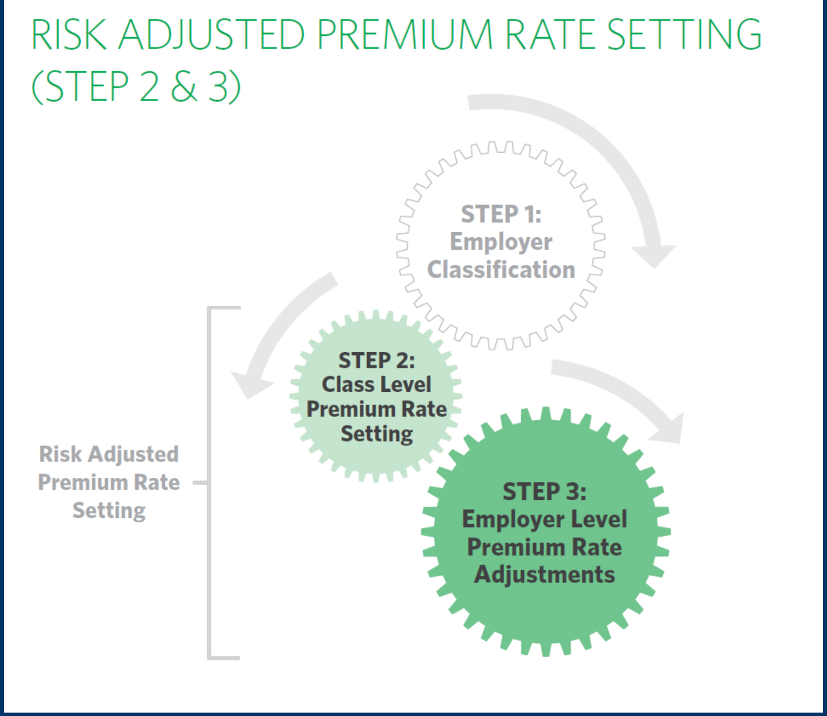
Collective Liability

A risk sharing arrangement exists among employers who collectively pay premiums to maintain the insurance fund.

Ease of Administration

Efficient and effective for the employer community and for the WSIB to administer and maintain.

WSIB Response: What It Really Means



As employers familiarize themselves with the proposed preliminary Rate Framework, it is important to understand that it may not be easy for them to compare what they may recognize as their premium rate, that is the premium rate associated with the Rate Group in the current system, with the proposed approach.

The proposed preliminary Rate Framework uses a methodology that is seeking to set employer centric premium rates that considers an employer's claims experience in setting a premium rate for the upcoming year, and gradually moves employers towards a premium rate that is truly reflective of their own experience.

Simply explained, the proposed preliminary Rate Framework would see individual employers more fairly assessed based on their own claims experience, moving away from the current system where, regardless of their own experience, all employers pay the same premium rate within their rate group.

In order to ensure that the proposed preliminary Rate Framework could improve workplace health and safety and create outcomes that are reasonable and fair to all employers, the WSIB developed a working model that utilized enough data to determine the premium rate impacts to employers.

In the coming sections, the WSIB presents information on a working model that is based on 13 years of claims and insurable earnings experience. Using the proposed preliminary Rate Framework methodology, the WSIB generated 2014 employer premium rates so that employers would be able to relate to the premium rates that were created at the class level.

WSIB Response: What It Really Means

- The Rate Framework math is a “black-box”
- RTW and SIEF impacts not as predictable as under NEER or CAD-7
- **However, the RF organizing principle is simple: Lower Costs = Lower Premiums**
- **If the WSIB is correct and lower costs ≠ lower rates, RF is discredited**

L.A. Liversidge, LL.B., Professional Corporation

WSIB Response: What It Really Means

Low predictability is considered to be anywhere from 2.5% to 40%
High predictability is considered to be anywhere from 50% to 100%

Predictability	Influence	Cost limit per claim
2.5% - 5%	Small influence from a claim	0.25x to 0.5x the annual maximum insurable earnings
10% - 40%	Moderate influence from a claim	1x to 2x the annual maximum insurable earnings
50% - 100%	High influence based on the company's own safety record	4x to 7x the annual maximum insurable earnings

At 50% and above predictability the firm's own safety and claims performance heavily influences whether the firm's premium will go up or down.

Likely Impacts of SIEF Cancellation (CEC letter)

Likely consequences of the elimination of SIEF

The closure of the SIEF program will have many impacts for Ontario employers and workers alike:

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.

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.

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.

SIEF Advocacy: Will We Win?

- The current administration has turned its back on stakeholder engagement
- In the eyes of the WSIB – elimination of SIEF seems less about employer equity and more about administrative savings
- Is there a linkage?:
  - recent elimination of Northern Ontario offices
  - and the recently announced agency review

SIEF Advocacy: Will We Win?

Ontario

Newsroom

NEWS RELEASE

Ontario Launches Reviews of Key Agencies to Support Long-Term Sustainability and Protect Taxpayers

Reviews will help provincial agencies continue to deliver world-class frontline services

August 05, 2026
Treasury Board Secretariat

TORONTO — The Ontario government is strengthening oversight of key provincial agencies by launching a series of reviews to ensure they are sustainable and that the vital frontline services that families and businesses rely on are protected and continuously improved. The reviews will focus on efficiency, governance and productivity to ensure value for taxpayer dollars and to allocate more resources to improving core services.

“Ontario’s agencies are central to our government’s plan to protect Ontario, delivering vital services that millions of families, workers and businesses rely on every day,” said Peter Bethlenfalvy, President of the Treasury Board. “By launching these reviews, our government is ensuring agencies have the strong financial footing needed to improve operations while respecting taxpayer money.”

As laid out in the 2026 provincial budget, *A Plan to Protect Ontario*, the Ontario government is building on the responsible management that has seen the Ontario Public Service grow at a rate substantially lower than that of the federal government and other provinces and territories, while at the same time redirecting the ratio of front-office staff to back-office staff from 50:50 in 2019-20 to 60:40 in 2025-26. The actions announced today will expand on this proven approach by strengthening the oversight of key provincial agencies, with the goal of improving front-line service delivery and supporting these agencies’ long-term financial sustainability.

Despite reducing the number of agencies from 191 to 137 since 2018, taxpayer spending continues to increase at provincial agencies. As a result, the government implemented an agency hiring freeze in 2025 that has avoided nearly $300 million in costs to the public and cut consultant usage by 20 per cent. Starting this summer, the province will review Metrolinx, Workplace Safety and Insurance Board,

SIEF Advocacy: Will We Win?

- Will we win?
  - Not right away
  - WSIB:
    - entrenched
    - not listening
    - not interested

SIEF Advocacy: Will We Win?

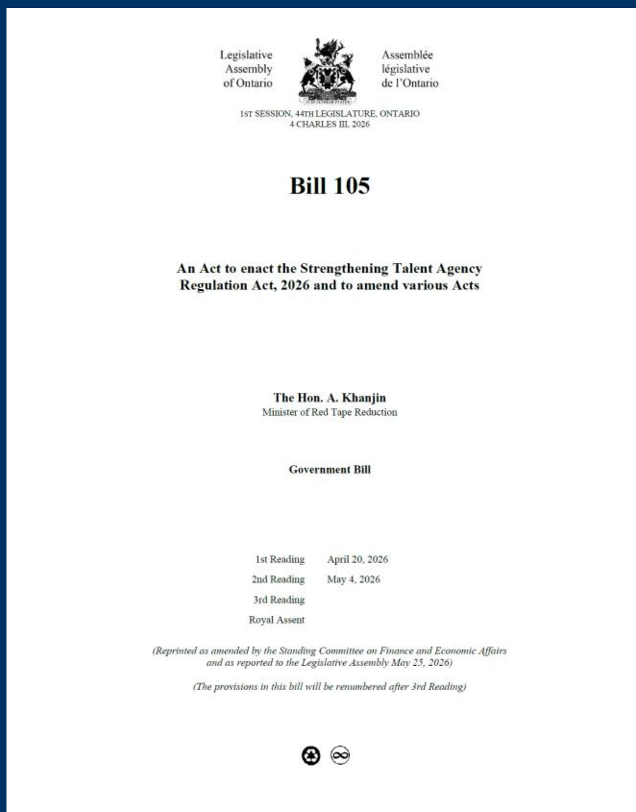
- Foundational justice issues (equity and fair process), that drove the system from the 1970s to the 2020s, are not driving the bus at the moment
- **They will again**
- Push-back is starting
- **The latent political potency of WSIB is not to be under-estimated**

SIEF Advocacy: My Advice

- Continue to advocate:
  - Fair Process; Fair Premiums; Fair Accountability
- One absolute I have learned over 5 decades:
  - New incoming WSIB administrations undo errors of the last administration (with unfettered zeal)
  - *Especially those with a special focus on fairness*
- Equity and fair process will return
- **Be patient. Be vigilant.**

SIEF Advocacy:

Schedule 9, Bill 105


Legislative Assembly of Ontario
Assemblée législative de l'Ontario

1st SESSION, 44th LEGISLATURE, ONTARIO
4 CHARLES III, 2026

Bill 105

An Act to enact the Strengthening Talent Agency Regulation Act, 2026 and to amend various Acts

The Hon. A. Khanjin
Minister of Red Tape Reduction

Government Bill

1st Reading	April 20, 2026
2nd Reading	May 4, 2026
3rd Reading	
Royal Assent	

(Reprinted as amended by the Standing Committee on Finance and Economic Affairs and as reported to the Legislative Assembly May 25, 2026)

(The provisions in this bill will be renumbered after 3rd Reading)

Bill 105, Protecting Ontario's Workers and Economic Resilience Act, 2026

aka

An Act to enact the Strengthening Talent Agency Regulation Act, 2026 and to amend various Acts

Schedule 9, Bill 105

An Act to enact the Strengthening Talent Agency Regulation Act, 2026 and to amend various Acts

CONTENTS

SCHEDULE 9
WORKPLACE SAFETY AND INSURANCE ACT, 1997

The Schedule amends the *Workplace Safety and Insurance Act, 1997*. Some of the amendments allow the Workplace Safety and Insurance Board to pay benefits to a worker after the worker reaches the age of 65. The new subsection 43 (1.1) allows certain workers to request that the Board determine whether the worker is likely to be working in suitable and available employment or business past 65 years of age and, if so, the day on which the worker is likely to cease this work. The new subsection 43 (1.2) similarly allows certain workers that were 63 years of age or older on the date of injury to request that the Board determine whether the worker is likely to be working in suitable and available employment or business past the day that is two years after the date of the injury and, if so, the day on which the worker is likely to cease this work. Clauses 43 (1) (b) and (c) are repealed and replaced so that if the Board determines a day with respect to a worker under the new subsections 43 (1.1) and (1.2), the worker is entitled to payments under section 43 until the earlier of when their loss of earnings ceases and that day. Consequential amendments are made to other sections that reference payment of benefits until 65 years of age.

Other amendments to section 43 of the Act prospectively increase the loss of earnings benefit rate from 85 per cent to 90 per cent of the difference between the worker's pre-injury net average earnings and post-injury net average earnings. Similar amendments are made with respect to survivor's benefits under section 48 of the Act. Consequential amendments are made to section 45 of the Act, which governs payments for loss of retirement income.

Currently, section 44 of the Act provides that the Board may not review payments to a worker for loss of earnings more than 72 months after the date of the worker's injury. That section is amended to apply to workers whose date of injury is more than 72 months before the amendment comes into force. The new section 44.1 applies to workers whose date of injury is 72 months before the amendment comes into force or later and allows the Board to review payments at any time after the amendment comes into force in accordance with the prescribed maximum frequency, if any, or with such frequency as it determines is appropriate. The Board may also review payments if a material change in circumstances occurs.

Part I of Schedule 1 of Ontario Regulation 175/98 made under the Act sets out classes of industries in which employers are subject to the insurance plan. The new section 74.1 provides that residential care facilities operated by a private employer and group homes are deemed to be included in that Part.

Schedule 9, Bill 105

- April 20, 2026:
  - **First reading** Bill 105, Protecting Ontario's Workers and Economic Resilience Act, 2026

- **Schedule 9: Core Changes**
  - LOE Benefit Enhancement (85% to 90% of net)
  - Retirement Age Reform (Elimination of firm age 65 cut off)
  - Flexibility re: 72-month lock-in

Schedule 9, Bill 105

- **Broad CEC focus:**
  - impacts re: increases in benefit costs
  - actuarial implications for employer premium rates
  - request policy consultation process for the age 65^{+} elements
- **Focus on the impacts and needed policy work**

History: Wage Replacement Level

1914: 55% of gross

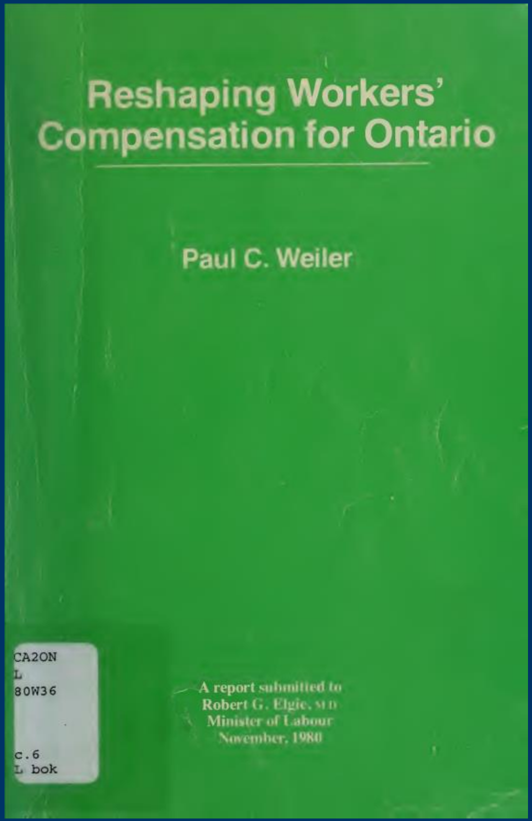
1920: 66 2/3% of gross

1950: 75% of gross

1985: 90% of net

1998: 85% of net

History: Wage Replacement Level

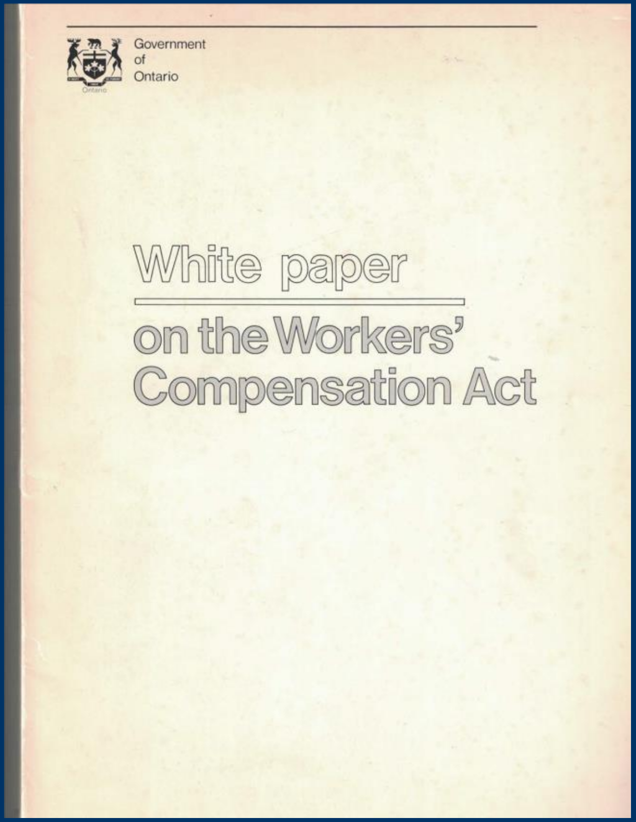


- November, 1980 paper "***Reshaping Workers' Compensation for Ontario***" ("Weiler Report")
  - Argument for the move from 75% of gross to 90% of net (**pages 38-40**).

Weiler's Argument

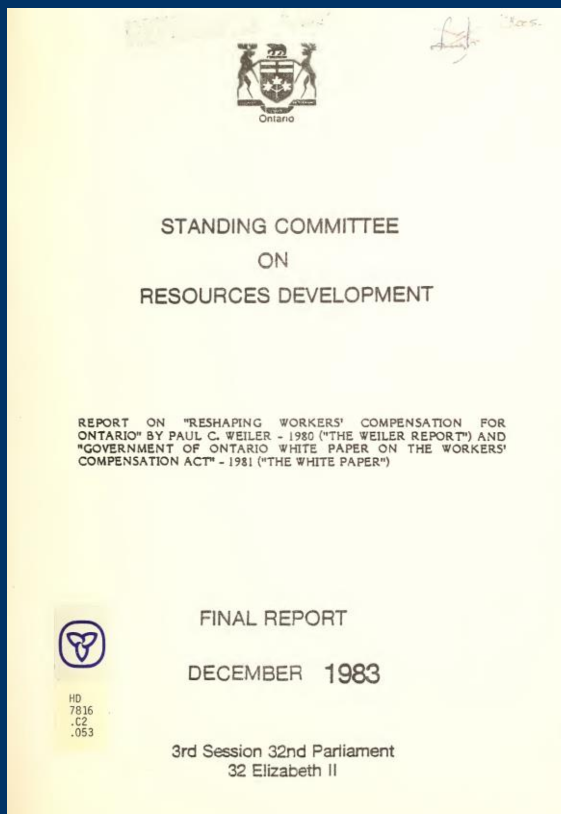
- "The single, higher income wage earners may profit from the current structure, but the lower-paid injured worker with a fairly large family suffers." (p. 38)
- ". . . pre-injury net disposable earnings . . . is the best measure of the real financial loss to the worker from his injury." (p. 39)

History: 1981 White Paper



- The 1981 Government "*White Paper*" supported 90% of net
  - **(Recommendation #2, pages 6 - 9)**
- ***Those were the days!*** Serious reforms received serious attention

History: 1983 Standing Committee


Ontario

STANDING COMMITTEE
ON
RESOURCES DEVELOPMENT

REPORT ON "RESHAPING WORKERS' COMPENSATION FOR ONTARIO" BY PAUL C. WEILER - 1980 ("THE WEILER REPORT") AND "GOVERNMENT OF ONTARIO WHITE PAPER ON THE WORKERS' COMPENSATION ACT" - 1981 ("THE WHITE PAPER")

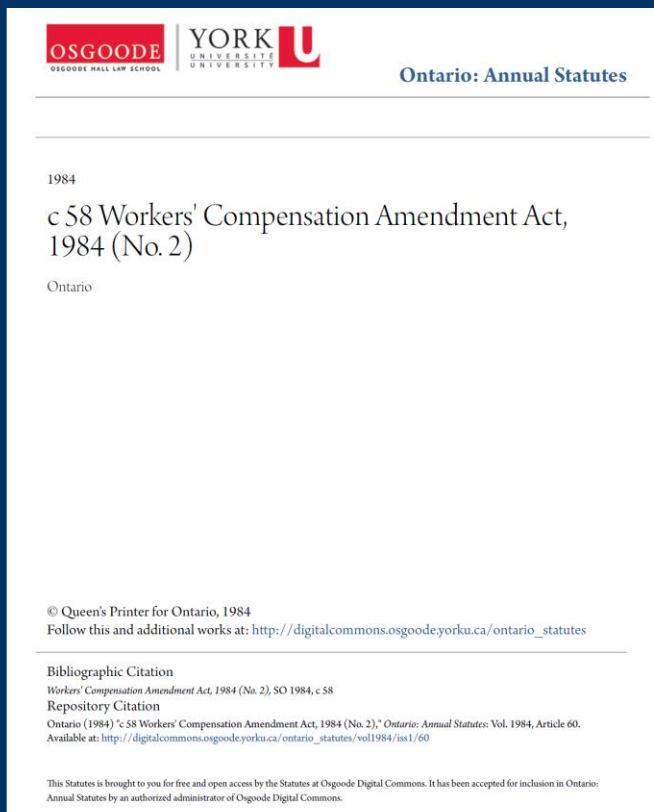
FINAL REPORT

DECEMBER 1983

3rd Session 32nd Parliament
32 Elizabeth II

- The **December, 1983, Standing Committee on Resources Development, Final Report**, the majority agrees with 90% of net **(pages 15-16)**

History: Bill 101, 1984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YORK
UNIVERSITÉ
UNIVERSITY
Ontario: Annual Statutes

1984

c 58 Workers' Compensation Amendment Act, 1984 (No. 2)

Ontario

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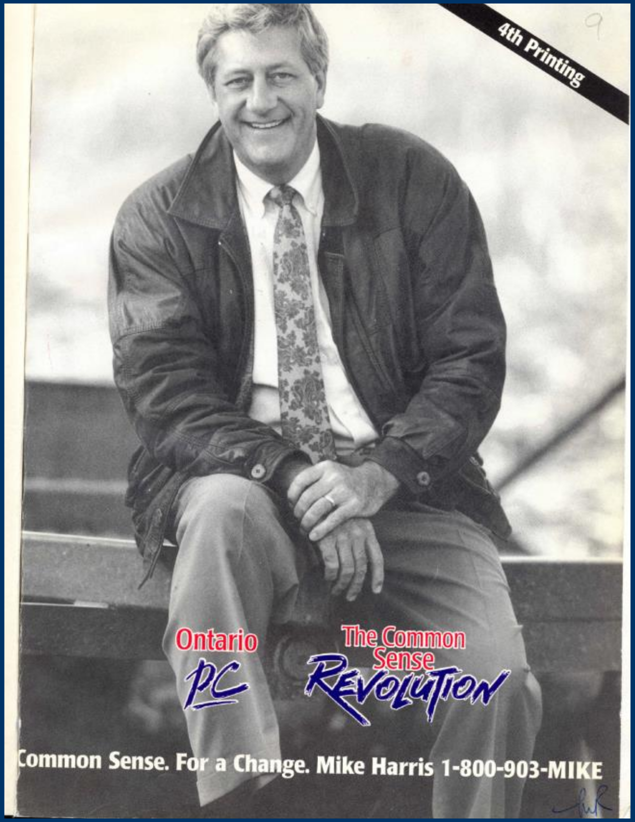
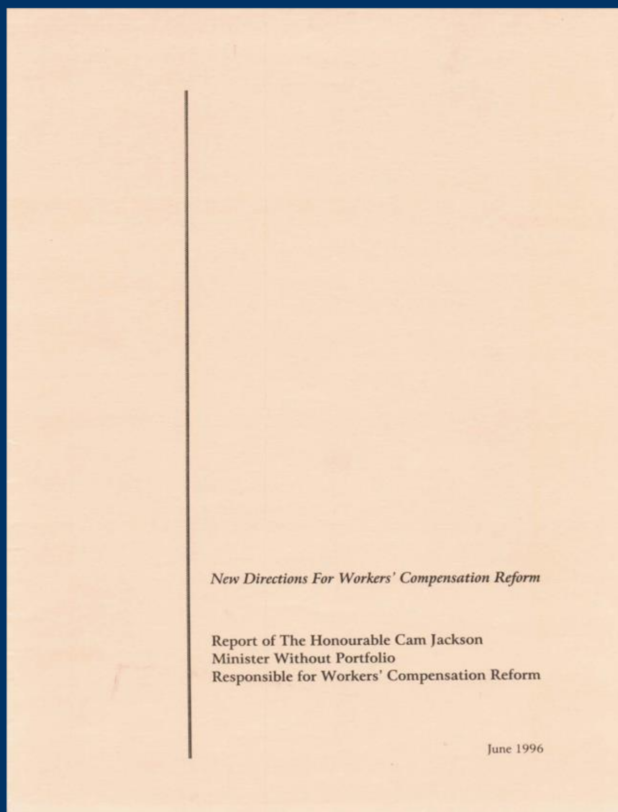
- **Bill 101** in June, 1984 amended s. 40 of the ***Workers' Compensation Act*** and provided compensation based on 90% of net

History: 1995 CSR: WCB Reform



- **PC Party's Common Sense Revolution:**
  - 11 point-plank on WCB reform included #5:
  - ***Reduce benefit levels to 85% of net***

History:
1996: "New Directions"


New Directions For Workers' Compensation Reform

Report of The Honourable Cam Jackson
Minister Without Portfolio
Responsible for Workers' Compensation Reform

June 1996

- 1995 Harris PCs elected
  - Cam Jackson - Minister WC Reform
  - **June, 1996 Cam Jackson Report "*New Directions*"**
  - "*. . . a worker on benefits for up to 39 weeks can*" . . . "*receive net income that exceeds*" pre-injury net

History: Three Principles Emerge

- **Three principles were identified:**
  - Benefits should not exceed pre-injury income
  - Benefits should be less than pre-injury to ensure return to work incentive
  - ***And, funding pressures are a relevant concern***
    - The last point is significant!
      - Today, there is no UFL, funding is in surplus, and employers have received three (3) surplus distributions

History:
Bill 99: Nov 96 – Oct 97

Bill 99, Workers' Compensation Reform Act, 1996

Witmer, Hon. Elizabeth (Minister of Labour)

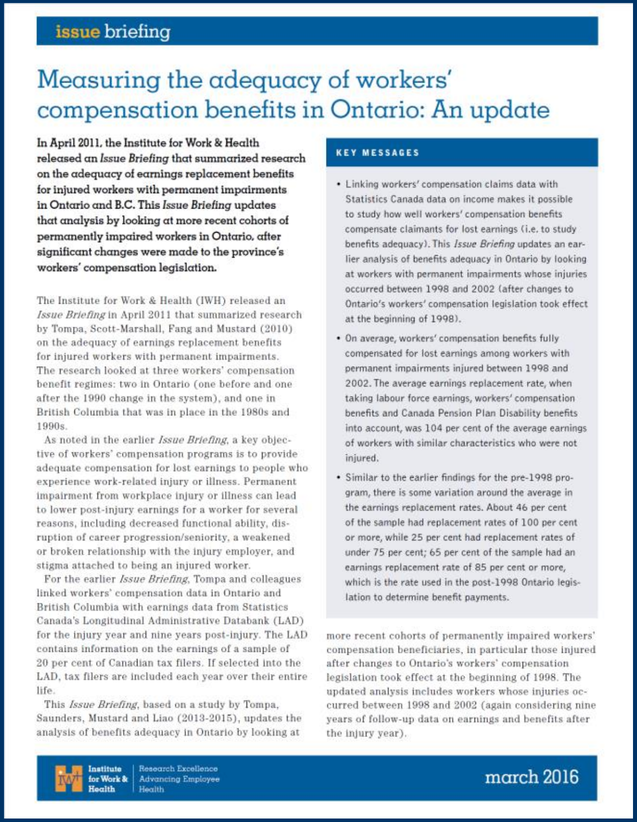
Status

Date	Bill stage	Activity	Committee
October 10, 1997	Royal Assent	Royal Assent received	-
October 9, 1997	Third Reading	Carried on division	-
September 16, 1997	-	Ordered for Third Reading	-
September 16, 1997	-	Reported as amended	-
September 15, 1997	-	Consideration of a Bill	Standing Committee on Resources Development
September 10, 1997	-	Consideration of a Bill	Standing Committee on Resources Development
September 8, 1997	-	Consideration of a Bill	Standing Committee on Resources Development
September 3, 1997	-	Consideration of a Bill	Standing Committee on Resources Development
August 14, 1997	-	Consideration of a Bill	Standing Committee on Resources Development
August 13, 1997	-	Consideration of a Bill	Standing Committee on Resources Development
August 12, 1997	-	Consideration of a Bill	Standing Committee on Resources Development
August 11, 1997	-	Consideration of a Bill	Standing Committee on Resources Development
August 7, 1997	-	Consideration of a Bill	Standing Committee on Resources Development
August 6, 1997	-	Consideration of a Bill	Standing Committee on Resources Development
June 25, 1997	-	Consideration of a Bill	Standing Committee on Resources Development
June 23, 1997	-	Consideration of a Bill	Standing Committee on Resources Development
June 18, 1997	-	Consideration of a Bill	Standing Committee on Resources Development
June 16, 1997	-	Consideration of a Bill	Standing Committee on Resources Development
June 5, 1997	-	Ordered referred to Standing Committee	Standing Committee on Resources Development
June 5, 1997	Second Reading	Carried on division	-
May 5, 1997	Second Reading	Debate	-
May 1, 1997	Second Reading	Debate	-
April 30, 1997	Second Reading	Debate	-
April 24, 1997	Second Reading	Debate	-
November 26, 1996	First Reading	Carried on division	-

History: Bill 99

- **Bill 99** November 26, 1996
  - New **s. 43 (2)** set wage replacement rate at 85% of net
  - Bill 99 debates (House and Committee) November, 1996 to September, 1997
- Government comments re 85% net:
  - Focus on "*financial viability*" (Witmer, Nov. 26, 1996) and consistency with trends in other provinces (Witmer, April 24, 1997)

From 1997: Little Public Dialogue



issue briefing

Measuring the adequacy of workers' compensation benefits in Ontario: An update

In April 2011, the Institute for Work & Health released an *Issue Briefing* that summarized research on the adequacy of earnings replacement benefits for injured workers with permanent impairments in Ontario and B.C. This *Issue Briefing* updates that analysis by looking at more recent cohorts of permanently impaired workers in Ontario, after significant changes were made to the province's workers' compensation legislation.

The Institute for Work & Health (IWH) released an *Issue Briefing* in April 2011 that summarized research by Tompa, Scott-Marshall, Fang and Mustard (2010) on the adequacy of earnings replacement benefits for injured workers with permanent impairments. The research looked at three workers' compensation benefit regimes: two in Ontario (one before and one after the 1990 change in the system), and one in British Columbia that was in place in the 1980s and 1990s.

As noted in the earlier *Issue Briefing*, a key objective of workers' compensation programs is to provide adequate compensation for lost earnings to people who experience work-related injury or illness. Permanent impairment from workplace injury or illness can lead to lower post-injury earnings for a worker for several reasons, including decreased functional ability, disruption of career progression/seniority, a weakened or broken relationship with the injury employer, and stigma attached to being an injured worker.

For the earlier *Issue Briefing*, Tompa and colleagues linked workers' compensation data in Ontario and British Columbia with earnings data from Statistics Canada's Longitudinal Administrative Databank (LAD) for the injury year and nine years post-injury. The LAD contains information on the earnings of a sample of 20 per cent of Canadian tax filers. If selected into the LAD, tax filers are included each year over their entire life.

This *Issue Briefing*, based on a study by Tompa, Saunders, Mustard and Liao (2013-2015), updates the analysis of benefits adequacy in Ontario by looking at more recent cohorts of permanently impaired workers' compensation beneficiaries, in particular those injured after changes to Ontario's workers' compensation legislation took effect at the beginning of 1998. The updated analysis includes workers whose injuries occurred between 1998 and 2002 (again considering nine years of follow-up data on earnings and benefits after the injury year).

KEY MESSAGES

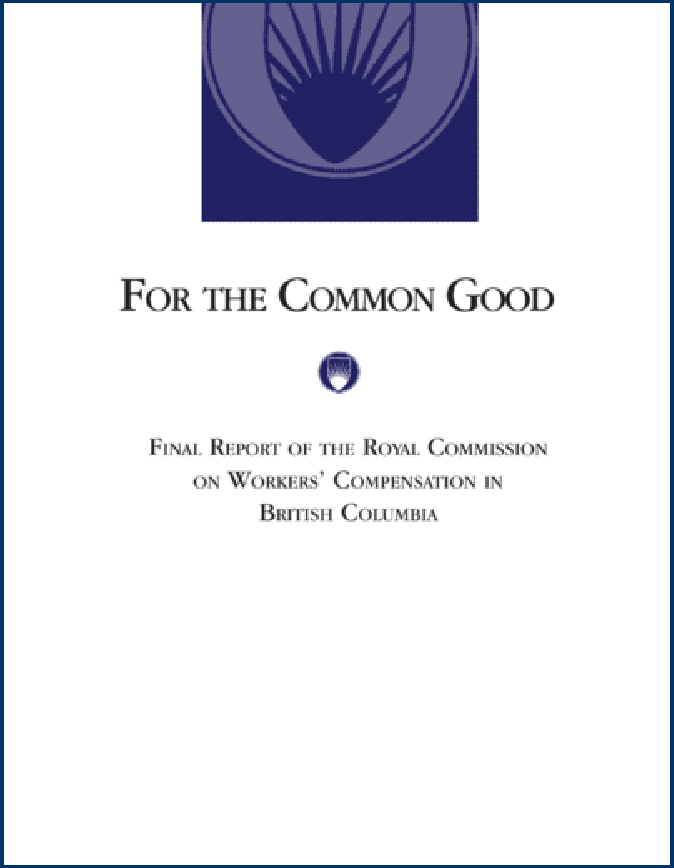
- Linking workers' compensation claims data with Statistics Canada data on income makes it possible to study how well workers' compensation benefits compensate claimants for lost earnings (i.e. to study benefits adequacy). This *Issue Briefing* updates an earlier analysis of benefits adequacy in Ontario by looking at workers with permanent impairments whose injuries occurred between 1998 and 2002 (after changes to Ontario's workers' compensation legislation took effect at the beginning of 1998).
- On average, workers' compensation benefits fully compensated for lost earnings among workers with permanent impairments injured between 1998 and 2002. The average earnings replacement rate, when taking labour force earnings, workers' compensation benefits and Canada Pension Plan Disability benefits into account, was 104 per cent of the average earnings of workers with similar characteristics who were not injured.
- Similar to the earlier findings for the pre-1998 program, there is some variation around the average in the earnings replacement rates. About 46 per cent of the sample had replacement rates of 100 per cent or more, while 25 per cent had replacement rates of under 75 per cent; 65 per cent of the sample had an earnings replacement rate of 85 per cent or more, which is the rate used in the post-1998 Ontario legislation to determine benefit payments.

Institute for Work & Health | Research Excellence Advancing Employee Health

march 2016

- From 1997, little public dialogue re adequacy of 85% net
- A **March 2016 Institute for Work and Health report** regarding the impact of Bill 99:
- "***fully compensated for lost earnings, on average***."

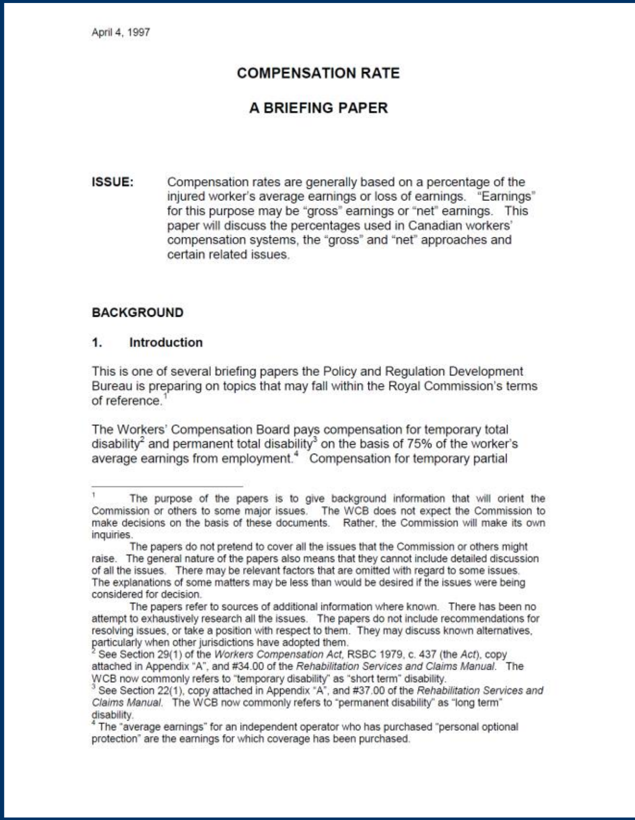
History: 1997 BC Royal Commission


FOR THE COMMON GOOD

FINAL REPORT OF THE ROYAL COMMISSION ON WORKERS' COMPENSATION IN BRITISH COLUMBIA

- Very little academic analysis has been undertaken on wage replacement levels **with the exception of the *1997 BC Royal Commission Report***.

History:
1997 BC Royal Commission



April 4, 1997

COMPENSATION RATE

A BRIEFING PAPER

ISSUE: Compensation rates are generally based on a percentage of the injured worker's average earnings or loss of earnings. "Earnings" for this purpose may be "gross" earnings or "net" earnings. This paper will discuss the percentages used in Canadian workers' compensation systems, the "gross" and "net" approaches and certain related issues.

BACKGROUND

1. Introduction

This is one of several briefing papers the Policy and Regulation Development Bureau is preparing on topics that may fall within the Royal Commission's terms of reference.[1]

The Workers' Compensation Board pays compensation for temporary total disability[2] and permanent total disability[3] on the basis of 75% of the worker's average earnings from employment.[4] Compensation for temporary partial

[1] The purpose of the papers is to give background information that will orient the Commission or others to some major issues. The WCB does not expect the Commission to make decisions on the basis of these documents. Rather, the Commission will make its own inquiries.

The papers do not pretend to cover all the issues that the Commission or others might raise. The general nature of the papers also means that they cannot include detailed discussion of all the issues. There may be relevant factors that are omitted with regard to some issues. The explanations of some matters may be less than would be desired if the issues were being considered for decision.

The papers refer to sources of additional information where known. There has been no attempt to exhaustively research all the issues. The papers do not include recommendations for resolving issues, or take a position with respect to them. They may discuss known alternatives, particularly when other jurisdictions have adopted them.

[2] See Section 29(1) of the *Workers Compensation Act*, RSBC 1979, c. 437 (the *Act*), copy attached in Appendix "A", and #34.00 of the *Rehabilitation Services and Claims Manual*. The WCB now commonly refers to "temporary disability" as "short term" disability.

[3] See Section 22(1), copy attached in Appendix "A", and #37.00 of the *Rehabilitation Services and Claims Manual*. The WCB now commonly refers to "permanent disability" as "long term" disability.

[4] The "average earnings" for an independent operator who has purchased "personal optional protection" are the earnings for which coverage has been purchased.

***Compensation Rate: A Briefing Paper*, April 4, 1997:** (75 pages)

- Provides an academic level comprehensive analysis
- This was written *after* Ontario's Bill 99 was introduced
- Author was aware of Ontario argument for 85% of net
- BC later adopted 90% of net

April 20, 2022 Government of Ontario Announcement

NEWS RELEASE

Ontario Exploring Increase to Compensation for Injured Workers

Raising benefits would put more money in pockets of injured workers

April 20, 2022
Labour, Training and Skills Development

TORONTO — The Ontario government is working for workers by directing the Workplace Safety and Insurance Board (WSIB) to explore an increase in compensation for workers who become injured or ill on the job. The plan to raise benefits would direct more money to injured workers and families, while minimizing the impact on the Board's financial health and employers' premium rates.

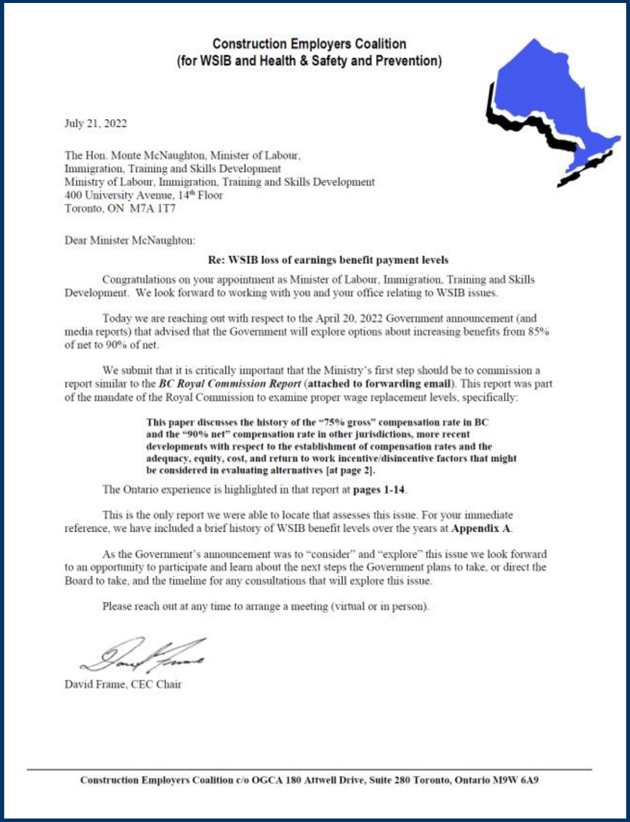
"Under our government, the WSIB has been brought to its strongest financial position in history," said Monte McNaughton, Minister of Labour, Training and Skills Development. "Exploring an increase in compensation of up to 90 per cent is just one of a series of historic steps we are taking to support injured workers in our province, as we continue to drive change at the Board to ensure it is working for workers and employers."

Currently, the WSIB provides injured workers with payments equal to 85 per cent of their pre-accident take-home pay. The government and the Board are exploring raising this compensation up to 90 per cent. For an injured worker who earns $60,000 a year, this increase could mean an additional $2,315 per year.

The *Workplace Safety and Insurance Act* would need to be amended to set a new compensation rate based on the finalized plan.

- The **Government announced** that they will "explore options" about increasing benefits from 85% of net to 90% of net

July 21, 2022 CEC letter to Minister MLITSD



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

July 21, 2022

The Hon. Monte McNaughton, Minister of Labour,
Immigration, Training and Skills Development
Ministry of Labour, Immigration, Training and Skills Development
400 University Avenue, 14th Floor
Toronto, ON M7A 1T7

Dear Minister McNaughton:

Re: WSIB loss of earnings benefit payment levels

Congratulations on your appointment as Minister of Labour, Immigration, Training and Skills Development. We look forward to working with you and your office relating to WSIB issues.

Today we are reaching out with respect to the April 20, 2022 Government announcement (and media reports) that advised that the Government will explore options about increasing benefits from 85% of net to 90% of net.

We submit that it is critically important that the Ministry's first step should be to commission a report similar to the ***BC Royal Commission Report*** (**attached to forwarding email**). This report was part of the mandate of the Royal Commission to examine proper wage replacement levels, specifically:

> **This paper discusses the history of the "75% gross" compensation rate in BC and the "90% net" compensation rate in other jurisdictions, more recent developments with respect to the establishment of compensation rates and the adequacy, equity, cost, and return to work incentive/disincentive factors that might be considered in evaluating alternatives [at page 2].**

The Ontario experience is highlighted in that report at **pages 1-14**.

This is the only report we were able to locate that assesses this issue. For your immediate reference, we have included a brief history of WSIB benefit levels over the years at **Appendix A**.

As the Government's announcement was to "consider" and "explore" this issue we look forward to an opportunity to participate and learn about the next steps the Government plans to take, or direct the Board to take, and the timeline for any consultations that will explore this issue.

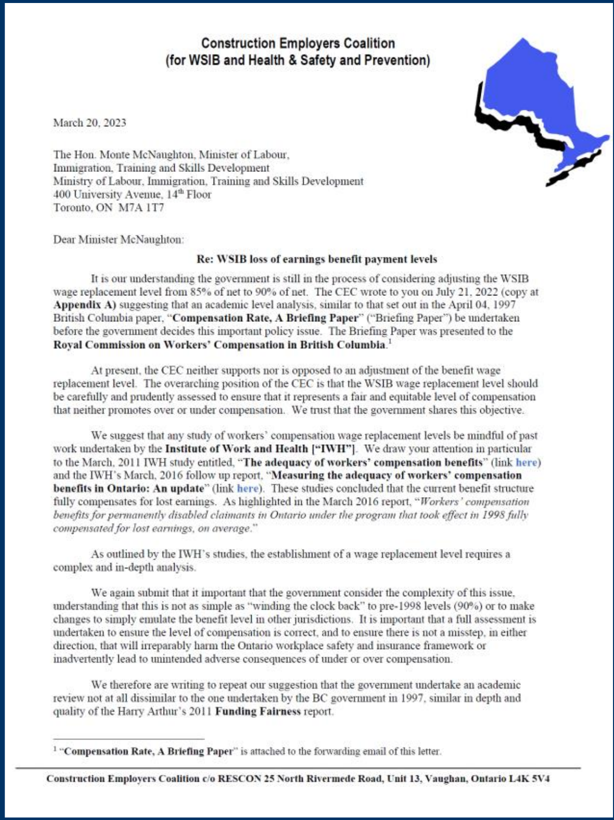
Please reach out at any time to arrange a meeting (virtual or in person).

David Frame, CEC Chair

Construction Employers Coalition c/o OGCA 180 Attwell Drive, Suite 280 Toronto, Ontario M9W 6A9

- "*We submit that it is critically important that the Ministry's first step should be to commission a report similar to the 1997 BC Royal Commission Report.*"

March 20, 2023 CEC again wrote to Minister MLITSD



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

March 20, 2023

The Hon. Monte McNaughton, Minister of Labour,
Immigration, Training and Skills Development
Ministry of Labour, Immigration, Training and Skills Development
400 University Avenue, 14th Floor
Toronto, ON M7A 1T7

Dear Minister McNaughton:

Re: WSIB loss of earnings benefit payment levels

It is our understanding the government is still in the process of considering adjusting the WSIB wage replacement level from 85% of net to 90% of net. The CEC wrote to you on July 21, 2022 (copy at **Appendix A)** suggesting that an academic level analysis, similar to that set out in the April 04, 1997 British Columbia paper, "**Compensation Rate, A Briefing Paper**" ("Briefing Paper") be undertaken before the government decides this important policy issue. The Briefing Paper was presented to the **Royal Commission on Workers' Compensation in British Columbia**.[1]

At present, the CEC neither supports nor is opposed to an adjustment of the benefit wage replacement level. The overarching position of the CEC is that the WSIB wage replacement level should be carefully and prudently assessed to ensure that it represents a fair and equitable level of compensation that neither promotes over or under compensation. We trust that the government shares this objective.

We suggest that any study of workers' compensation wage replacement levels be mindful of past work undertaken by the **Institute of Work and Health ["IWH"]**. We draw your attention in particular to the March, 2011 IWH study entitled, "**The adequacy of workers' compensation benefits**" (link here) and the IWH's March, 2016 follow up report, "**Measuring the adequacy of workers' compensation benefits in Ontario: An update**" (link here). These studies concluded that the current benefit structure fully compensates for lost earnings. As highlighted in the March 2016 report, "*Workers' compensation benefits for permanently disabled claimants in Ontario under the program that took effect in 1998 fully compensated for lost earnings, on average.*"

As outlined by the IWH's studies, the establishment of a wage replacement level requires a complex and in-depth analysis.

We again submit that it important that the government consider the complexity of this issue, understanding that this is not as simple as "winding the clock back" to pre-1998 levels (90%) or to make changes to simply emulate the benefit level in other jurisdictions. It is important that a full assessment is undertaken to ensure the level of compensation is correct, and to ensure there is not a misstep, in either direction, that will irreparably harm the Ontario workplace safety and insurance framework or inadvertently lead to unintended adverse consequences of under or over compensation.

We therefore are writing to repeat our suggestion that the government undertake an academic review not at all dissimilar to the one undertaken by the BC government in 1997, similar in depth and quality of the Harry Arthur's 2011 **Funding Fairness** report.

[1] "**Compensation Rate, A Briefing Paper**" is attached to the forwarding email of this letter.

Construction Employers Coalition c/o RESCON 25 North Rivermede Road, Unit 13, Vaughan, Ontario L4K 5V4

- . . . it important that the government consider the complexity of this issue
- . . . not as simple as "winding the clock back"
- . . . a full assessment . . . to ensure the level of compensation is correct,
- . . . to ensure there is not a misstep, in either direction . . ."

Nov 29, 2023 CEC <u>again</u> wrote to Minister MLITSD

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

November 23, 2023

The Hon. David Piccini, Minister of Labour,
Immigration, Training and Skills Development
Ministry of Labour, Immigration, Training and Skills Development
400 University Avenue, 14th Floor
Toronto, ON M7A 1T7

Dear Minister Piccini:

Re: CEC suggestion related to the Government's consideration of the level of WSIB loss of earnings benefits (85% of net *versus* 90% of net)

We congratulate you on your appointment as Minister of Labour, Immigration, Training and Skills Development. The **Construction Employers Coalition for WSIB and Health & Safety and Prevention** (CEC) represents more than 2,000 construction firms employing approximately 80,000 workers. The CEC was formed in 2010 for the purpose of studying and responding to workplace safety and insurance issues related to Ontario's construction sector. A list of our members is at **Appendix A.**

We look forward to working with you and the WSIB on current and emerging workplace safety and insurance issues. There is one issue which we anticipate you will be addressing in the near future - the review of the WSIB benefit wage replacement rate. As background, we present the following:

- The **Government announced on** <u>April 20, 2022</u> that it was directing the WSIB to explore options about increasing WSIB loss of earnings benefits from 85% of net to 90% of net.
- The **CEC wrote to Minister McNaughton on July 21, 2022** (see **Appendix B**). We recommended that the Ministry's first step should be to commission an academic level analysis and report similar in approach to the 1997 "*Compensation Rate Briefing Paper*" commissioned by the **British Columbia Royal Commission on Workers' Compensation**. As far as we have been able to determine, that **Briefing Paper** (attached at **Appendix C**) stands alone as an academic analysis on this issue. The issue warrants a fresh but comprehensive assessment.
- The **CEC wrote to Minister McNaughton again on March 20, 2023** (see the letter and forwarding email at **Appendix D**) repeating our suggestion. We remain of the view that an academic level review is necessary. The issue is not as simple as "winding the clock back" to pre-1998 levels (90%) or to make changes to emulate the benefit level in some other jurisdictions.

We would be happy to discuss this issue with you at your convenience and look forward to taking part in a full review of this issue.

Your truly,

Andrew Pariser, CEC Chair

Construction Employers Coalition c/o RESCON 25 North Rivermede Road, Unit 13, Vaughan, Ontario L4K 5V4

- Provided history of the issue:
  - *We look forward to working with you . . . .*
  - *. . . the review of the WSIB benefit wage replacement rate.*

Pre-Bill 105 CEC Advocacy

- CEC went on record many times 2022 – 2023
- No response from the Ontario Government was ever received
- Still, the move from 85% of net to 90% of net is no “surprise”
- **However, we are essentially at square one as a policy discussion**

No Ontario analysis since Weiler 46 years ago

- In Ontario, other than **Weiler Report** 46 years ago, there is not an Ontario policy document that assesses the appropriate wage replacement level for LOE benefits.
- The wage replacement level should be based on ***equitable considerations***, <u>**not political trade-offs**</u>

Age 65 Benefit Cut-Off
A Brief History

- Current LOE benefits structure was introduced on April 1, 1985
  - Replaced the Permanent Disability (PD) and Temporary Disability (TD) wage-loss model
- Before 1985 for long term disabilities:
  - Benefits were based on a mix of fixed disability pensions and partial wage-loss replacement

Age 65 Benefit Cut-Off
A Brief History

- Benefits were paid as long as the worker was medically unable to work
  - There was no age 65 cut off
- However, benefits were “temporary”
  - Ceased at end of rehab efforts (with or without a return to work) or upon full recovery
  - PD benefits were paid for life, based on the degree of physical impairment

Age 65 Benefit Cut-Off
A Brief History

- The system *either* over *or* under compensated
  - Structurally unfair <u>to both</u> workers and employers
- A switch to a "wage-loss" focus was **an equitable and essential reform**
- An age-65 cutoff was introduced (WSIA, **s. 43(1)**

Age 65 Benefit Cut-Off A Brief History

- While age discrimination has been alleged
  - the age 65 cut off was addressed in
  - ***Gouthro v. Workplace Safety and Insurance Appeals Tribunal et al*, 2014 ONSC 7289** at Ontario's Superior Court of Justice, Divisional Court, in 2014

Gouthro **v.** ***WSIAT*** **2014**

- *"It is an insurance scheme, not a social benefits program for workers.*
- *It has to be distributed in a financially responsible and accountable manner, and the age limit provision is a practical way of achieving this goal.*
- *The tribunal therefore made the correct decision by concluding that the provision does not create discrimination, and therefore **there was no contravention of the Charter**"*

Age 65 and the B.C. Experience

- The BC Workers' Compensation Act
  - Benefits generally payable until age 65;
  - OR, extended based on individual retirement plans [BC WCA **s. 201**]
- BC Board:
  - Benefits to age 65 or later if the Board is satisfied the worker would retire *after* age 65
  - The Board will render the assessment of retirement date after the injured worker reaches age 63

Age 65 and the B.C. Experience

- WorkSafe BC’s three-page “Retirement Date Questionnaire”
  - a statement of “planned retirement age”
  - names of prospective employers
  - type of work
  - a statement of financial circumstances

Age 65 and the B.C. Experience: Actual Cases

- **WCAT Decision Number: A1901564 (October 15, 2019)** extended retirement date to age 75.
  - . . . based upon . . . the physically heavy nature of the worker's pre-injury job, the lack of company benefits including a pension and when the worker's mortgage might be extinguished, I estimate the worker's new termination (retirement) date to be age 75 [**para. 67**]

Age 65 and the B.C. Experience: Actual Cases

- **WCAT Decision Number: A1900334 (July 4, 2019)** extended retirement date to age 83.
  - The worker demonstrated prior to his injury in 2012 that he was capable of meeting the physical demands of his employment [**para. 32**].

There is no reason to believe Ontario's experience will be any different

Back To: Schedule 9, Bill 105

Bill 105, Protecting Ontario's Workers and Economic Resilience Act, 2026

Khanjin, Hon. Andrea (Minister of Red Tape Reduction)

Current status: Second Reading Ordered for Third Reading

View bill | Status | Debates | Acts affected | Votes

Date	Bill stage	Event	Outcome	Committee
May 25, 2026	Second Reading	Ordered for Third Reading	-	-
May 25, 2026	Second Reading	Report adopted	-	-
May 25, 2026	Second Reading	Reported as amended	-	Standing Committee on Finance and Economic Affairs
May 21, 2026	Second Reading	Consideration of a Bill	-	Standing Committee on Finance and Economic Affairs
May 13, 2026	Second Reading	Consideration of a Bill	-	Standing Committee on Finance and Economic Affairs
May 4, 2026	Second Reading	Ordered referred to Standing Committee	-	Standing Committee on Finance and Economic Affairs
May 4, 2026	Second Reading	Vote	Carried on division	-
April 23, 2026	Second Reading	Question put	Vote deferred	-
April 23, 2026	Second Reading	Debated	-	-
April 23, 2026	Second Reading	Debated	Debate adjourned	-
April 22, 2026	Second Reading	Debated	Debate adjourned	-
April 22, 2026	Second Reading	Debated	Debate adjourned	-
April 21, 2026	Second Reading	Debated	Debate adjourned	-
April 20, 2026	First Reading	Ordered for Second Reading	-	-

Legislative Assembly of Ontario | Assemblée législative de l'Ontario

44TH PARLIAMENT, 1ST SESSION | 44E LÉGISLATURE, 1RE SESSION

ORDERS AND NOTICES PAPER | FEUILLETON ET AVIS

No. 82 | N° 82

Tuesday October 27, 2026 | Mardi 27 octobre 2026

Hon. Donna Skelly Speaker | L'hon. Donna Skelly la présidente

G105. Third Reading of **Bill 105**, An Act to enact the Strengthening Talent Agency Regulation Act, 2026 and to amend various Acts. Hon. Andrea Khanjin (Minister of Red Tape Reduction). *The Lieutenant Governor's recommendation, pursuant to S.O. 60, has been received.* **REPRINTED.**

G105. Troisième lecture du **projet de loi 105**, Loi édictant la Loi de 2026 visant à renforcer la réglementation des agences artistiques et modifiant diverses lois. L'hon. Andrea Khanjin (Ministre de la Réduction des formalités administratives). *La recommandation de la lieutenante-gouverneure a été reçue, conformément à l'article 60 du Règlement.* **RÉIMPRIMÉ.**

Schedule 9, Bill 105
May, 2026 CEC Submission

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

Construction Employers Coalition
(for WSIB and Health & Safety and Prevention)
submissions with respect to:

Bill 105, Protecting Ontario's Workers and
Economic Resilience Act, 2026

aka

An Act to enact the Strengthening Talent Agency
Regulation Act, 2026 and to amend various Acts

Submitted May 12, 2026

Construction Employers Coalition c/o RESCON 25 North Rivermede Road, Unit 13, Vaughan, Ontario L4K 5V4

E. The CEC's recommendations

1. **Bill 105, Schedule 9**, is a complex statutory amendment that raises many questions from implementation to impact vis-à-vis the aggregate WSIB benefit expenditure and impact on employer premium rates.

2. The CEC submits that the government must commit to extensive post-passage consultation on both policy development and the accompanying Regulations. This is essential to ensure that the full financial impacts of these amendments, particularly their effects on system costs and employer premium rates, are clearly understood, transparently communicated, and responsibly managed. Comprehensive consultation will also ensure that all stakeholders are engaged in developing well-defined, consistent, and transparent policies and Regulations that support a smooth and orderly transition.

3. The CEC looks forward to taking part in all stakeholder consultations the Government/WSIB undertakes with respect to these issues related to Bill 109, Schedule 9.

Respectfully submitted by,

Andrew Pariser, CEC Chair

Schedule 9, Bill 105 August 2026 CEC Letter

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

Via Email

August 10, 2026

Mr. Jeffery Lang, President & CEO
Workplace Safety & Insurance Board
200 Front Street West
Toronto ON M5V 3J1

and

The Hon. David Piccini, Minister of Labour, Immigration, Training and Skills Development
Ministry of Labour, Immigration, Training and Skills Development
400 University Avenue, 14th Floor
Toronto, ON M7A 1T7

Dear Mr. Lang & Minister Piccini:

Re: Request for a Structured Consultation Framework for an anticipated Bill 105, Schedule 9 implementation

We have been following the status of **Bill 105 Protecting Ontario's Workers and Economic Resilience Act, 2026**, with particular attention to **Schedule 9**. As you likely know, the CEC provided submissions (**attached**) to the **Standing Committee on Finance and Economic Affairs** on May 13, 2026. **Bill 105** is on the **Order and Notices Paper** for Third Reading for October 27, 2026.

We consider **Bill 105, Schedule 9** to be a major structural reform, not at all dissimilar in scope and aim to several major past reforms. Most of these reforms share a common thread of extensive study and public consultation prior to implementation. A good summary of the scope of significant workers' compensation reforms is found on the Appeals Tribunal website, **Workers' Compensation Law: A Documentary History in Ontario**.

For example, the **Weiler Report** ("***Reshaping Workers' Compensation for Ontario***," Prof. Paul C. Weiler, November, 1980) led to two major legislative consultation processes, including legislative committee hearings and a White Paper and spanned a full decade. These culminated in two major statutory reforms: **1984's Bill 101** (effective April 1, 1985) which adjusted benefits and the WCB administrative structure; and, **1988's Bill 162** (effective January 2, 1990) which introduced what has been referred to as "the dual-award system" (economic and non-economic loss), and adjusted vocational rehabilitation and re-employment provisions.

Bill 99, which introduced the (current) *Workplace Safety and Insurance Act, 1997* in 1996 (effective January 1, 1998), was preceded by a Discussion Paper and extensive public consultations as set out in "**The Report on New Directions for Workers' Compensation Reform**," all led by a Minister Responsible for WCB Reform, a ministerial position created for that process.

Bill 99 itself was considered by the **Standing Committee on Resources Development** for public hearings June 9, 1997 to August 14, 1997, an unprecedented amount of time. On October 10, 1997, **Bill 99** received royal assent.

The clear point we are making is this: **Bill 105, Schedule 9** makes changes of similar magnitude, yet no comparable consultation process has occurred or seems to be planned.

We strongly recommend the government, together with the WSIB, establish an appropriate mechanism, such as a pre-implementation consultation framework or White Paper type process to ensure needed transparent and comprehensive regulatory and policy work, with full public engagement.

We submit that the core elements of **Schedule 9**, noted below, cannot be effectively implemented without substantial regulatory and/or policy development:

1. The expansion of the WSIB's post 72-month review powers (**Schedule 9, s. 3**, **amends s. 44 (1-4)**)
2. The extension of benefits beyond age 65 (**Schedule 9 s. 43(1)(1.1 – 1.9)**)
3. Increasing the level of LOE benefit from 85% of net to 90% of net (**Schedule 9 s.43(2)**)

Bill 105, Schedule 9 grants wide and undefined discretionary authority to the WSIB without regulatory or policy specificity. This risks compromising consistent, transparent, and predictable administration.

The CEC asserts that the consultation process must give all stakeholders a meaningful opportunity to review, comment on, and shape the regulatory and policy framework *before* the new provisions of **Schedule 9** take effect.

We recommend that this work be carried out jointly by the Ministry and the WSIB, engaging directly with stakeholders in a manner replicating past processes. This joint mechanism should provide transparent, inclusive engagement and the regulatory clarity needed to implement **Schedule 9**. The CEC would welcome the opportunity to assist in the design of the process and of course, we will fully participate.

We look forward to continued dialogue on this important matter.

Yours truly,

Andrew Pariser, CEC Chair

Attachment: 20260612 CEC submissions re Bill 105 Schedule 9

Schedule 9, Bill 105 August 2026 CEC Letter

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Schedule 9, Bill 105
August 2026 CEC Letter

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We look forward to continued dialogue on this important matter.

Final Words: SIEF

- WSIB is sacrificing fairness and equity for administrative efficiency
- The SIEF story is a portal into the current governing mindset of the WSIB
- It will take time, vigilance and effort <u>but eventually fairness will prevail</u>

Final Words: SIEF

Canada v. *Vavilov*, 2019 SCC

. . . administrative decision makers must adopt a culture of justification and demonstrate that their exercise of delegated public power can be "justified to citizens in terms of rationality and fairness" (para 14)

<u>Question</u>: Do the WSIB's actions rise to this test?

Final Words: Bill 105

- **Bill 105, Schedule 9** is a skeleton of a bill
- Nothing more than concepts really
- No flesh on the bones
- Badly designed laws are a modern Pandora's box; once opened, their unintended consequences spill out
- Do not accept this as Bill 105's legacy

Coming Soon
The Liverside Letter

The Liverside Letter

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

DATE **An ongoing policy discussion for the clients of L.A. Liverside, LL.B.** **X pages**

SIEF CANCELLED by WSIB

Reach out with ideas/suggestions/comments:

lal@laliversidge.com

Advocacy Matters