

WSIB Coverage:

February 2006 Response to the WSIB's Early and Safe Return to Work policy proposal. Concern re definition of "productive" work in a modified return to work plan and remuneration for injured workers. It is anticipated that if the proposed changes are introduced as is, it will add to the burden of small and medium-sized employers and result in an increased number of appeals.

June 2006 A letter was sent to the WSIB regarding its Consultation Paper on mandatory Workplace Safety and Insurance Act (WISA) Coverage in the Construction Industry. The Greater Sudbury Chamber of Commerce indicates the proposed changes will fail to reach the stated objectives and that this indirect approach will have significant negative financial ramifications on the people of Ontario.



GREATER SUDBURY CHAMBER OF COMMERCE
LA CHAMBRE DE COMMERCE DU GRAND SUDBURY

2006 - 01 - 26

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ESRTW Consultation
c/o Slavica Todorovic, Director
Workplace Safety & Insurance Board
Benefits and Revenue Policy Branch
200 Front Street West, 10th Floor
Toronto, ON, M5V 3J1

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Re: ESRTW Policies Consultation

Pursuant to Mr. Slinger's letter dated October 27, 2005, we wish to address certain issues we feel may significantly compromise the WSIB's ability to achieve its stated goals.

As specified in the noted letter, the WSIB is reviewing its policies to:

- Improve understanding of the process,
- Address unspecified challenges faced by the WSIB and the insurance system process itself,
- Mitigate claim costs and develop prevention strategies.

Our primary concerns pertaining to the proposal relates to what has been defined as 'suitable work' in policy 19-02-02. Referring to this policy, suitable work is defined as "*post injury work that is safe, productive, remunerated and sustainable.*" The policy further defines, with some detail, a characterization of the four qualifiers.

It is further understood, that qualifiers "safe and productive", must be met in order to qualify as suitable 'short-term' work and all four qualifiers must be observed in qualifying for suitable 'long-term' work. Short-term is defined as "*roughly 12 weeks or less.*"

It should be noted that we do not object to the WSIB taking a suggested 'Best Practices' approach to that proposal however, we believe that formalizing it into policy is troublesome for all stakeholders.

Productive

Our concerns with qualifying for suitable short-term work focuses on how the WSIB has defined the term 'productive', the subjectivity of its interpretation and therefore, the inability of adjudicators to make consistent, reliable decisions.

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The proposed definition states that in order to be productive, the work must “*contribute to the product or service of the company (i.e., work that adds value to the overall work products or outcome).*” We firmly believe that employers are in a better position to determine what constitutes ‘productive work’ in their own workplaces.

We further believe that this process may incite employers to appeal decisions which, they feel are unfounded. As a result, the proposed process will increase the amount of appeals in the system, and both the WSIB and registered employers will incur greater costs. This, we believe, is a likely outcome of formalizing the proposed policy.

Furthermore, the policy states that the WSIB will also *consider “whether the company would normally pay someone to do the work that is offered to the worker” and “whether the company currently has the job in question.”* Once again, we believe the interpretation of these notions is subjective and best left with employers. They alone, should decide what work they are willing to pay for.

As an example: consider an injury where a worker is unable to perform his old job. Consider that this impairment is short-term and his pre-injury job cannot be modified enough to accommodate the worker. The employer, like the majority in Ontario, is a small business having on average, 10-15 employees of which three are office workers and the balance are directly engaged in the operation. The employer wants the worker to return to work to perform odd jobs all within his abilities. These may include helping office staff do clerical work, running errands, sweeping and minor cleaning, special projects such as a mass mailing for marketing purposes, and other related activities.

The above example can be construed as:

- Not being a job currently held by the employer
- Not adding value to the overall product or service
- Not being work that the employer would normally pay someone to perform.

Arguably, modified work can be interpreted as a job currently not held by any employee and paid for by the employer. Therefore, modified work by its very nature, does not conform to the proposed policy.

We maintain that the majority of employers in Ontario are conscientious enough to create return to work opportunities that are safe and productive in the context of their own business realities. The notion of having an adjudicator make a decision on what is productive in a very specific and unique business environment is laden with economic consequences for both the employer and the WSIB.

It is our understanding that employers creating return to work opportunities which are entirely meaningless is not at issue. Therefore, we question the WSIB governance in this process let alone providing an injured worker minuted policy on which to deny a return to work opportunity.

Consider for a moment an injured worker (short-term injury) who would rather spend time away from work during his convalescence – this, in spite of his ability to do the activities as noted in our first example. This, we argue, is commonplace in the workforce. He then refuses the work and argues that the work is not suitable as it does not conform to what has been defined as suitable work in WSIB Policy 19-02-02.

Referring to the policy, the adjudicator concurs with the worker. The employer, realizing the economic consequence, decides to appeal the decision. This, we believe, is a likely and logical scenario.

Therefore, we strongly encourage that the WSIB reconsider its decision to govern what the employer is in a better position to determine, namely suitable work.

Remuneration:

This qualifier in addition to sustainable must be met to be considered suitable work on a long-term basis.

We question the objectivity of the following statement: *“Remunerated work is work that the employer would normally pay for, and at a rate of pay that reflects the value of the work...and would be comparably remunerated in the general labour market.”*

In conclusion, we firmly believe that what the WSIB is proposing to govern is currently self-governed in the business community. The majority of Ontario employers do not want to antagonize their employees by providing them with meaningless, trivial return to work opportunities. We further believe that the adoption of the proposed policies will provide injured workers with an avenue on which to refuse legitimate return to work opportunities. This, we believe, will lead to increased claim costs, increased employer premiums, and an influx of employer appeals taxing an already overburdened appeals system.

Lastly, we maintain our belief that matters relating to what is ‘productive’ and worthy of ‘remuneration’ are best left with Ontario employers than in the hands of the WSIB.

Should you have any questions please do not hesitate to contact us.

Yours truly

Debbi M Nicholson
PRESIDENT & CEO



GREATER SUDBURY CHAMBER OF COMMERCE
LA CHAMBRE DE COMMERCE DU GRAND SUDBURY

"VOICE OF BUSINESS"

June 30, 2006

WSIB Coverage Project
400 University Avenue, 12th Floor
Toronto, ON M7A 1T7

BY E-MAIL TO: wsibcoverage@mol.gov.on.ca

RE: Consultation Paper on Mandatory Workplace Safety and Insurance Act (WISA) Coverage in the Construction Industry

Pursuant to the Minister's open letter to the people of Ontario in regards to mandatory workplace safety and insurance coverage in the construction industry, we wish for you to consider the following.

Based on the consultation paper, the stated objectives of the proposed changes are threefold; to tackle the underground economy, to protect the health and safety of Ontario workers, and to level the playing field for business.

In summary, the proposed changes are as follows:

- Sole proprietors will be required to pay premiums based on their earnings;
- Partners in partnerships will be required to pay premiums based on their earnings;
- Executive officers will be required to pay premiums based on their earnings;
- Principals will be required to pay premiums based on the earnings paid to independent contractors;

The financial impact of the proposed changes is substantial. In 2006, the average construction premium rate is \$7.84. Therefore, for every individual affected by this change (earning the maximum), the average yearly premium obligation increase will be \$5,441. For those engaged in homebuilding, the increase will be \$6,746 per individual; for those engaged in demolition, the increase will be \$10,688 per individual.

Assuming the average small to mid-sized construction employer has two executive officers and two independent operators, the yearly increase in their premium obligation will be \$21,764. We firmly believe that this type of increase will not only induce financial hardship for many, but will force many small and med-sized employers out of business.

In light of the stated objectives, we are confident that the proposed changes will be counterproductive. Obliging sole proprietors, partners, and executive officers to contribute to the liability fund will have little affect on the 'underground economy', the state of health and safety in the workplace, and leveling the playing field.

In fact, we believe it likely that it will add to the underground economy and significantly reduce the number of small and mid-sized construction employers and, in turn, will decrease the competitive nature of the construction industry.

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We believe that the proposed changes will have very little effect on large construction employers yet will significantly impact the small and mid-sized companies from whom the Ontario people depend upon for the majority of their construction projects. These negative effects will be felt more profoundly in Northern Ontario where the majority of our construction companies are small, with fewer than 25 employees. Furthermore, Northern Ontario businesses have not benefited to the same degree from the more robust economy experienced in the south, and are more susceptible to the boom and bust cycles.

We believe that the potential economic and social impacts of the proposed changes are far-reaching and although we appreciate the opportunity provided here, we urge further extensive public input on this issue.

To illustrate the magnitude of the proposed changes on a provincial level, the WSIB has told us that there are approximately 56,000 registered construction employers in the province. If we assume that each employer has an average of two executive officers and two independent contractors, the yearly collective increase in premium could be in excess of \$1 billion, most of which, will understandably be paid by small and mid-sized employers. This, we firmly believe, is unacceptable and will undoubtedly be to the detriment of the province.

In conclusion, we believe that the proposed unfocused and generalized initiative will not achieve the stated objectives. We do believe, however, that recent, more direct and centralized initiatives such as the partnership between CRA and the WSIB are more appropriate and cost effective for the province to pursue.

According to the WSIB, in 2005, approximately 4,000 unregistered employers were retroactively registered due to a CRA / WSIB initiative. There can very little doubt that this type of focused approach has an immediate positive impact on reducing the underground economy, on increasing awareness on health and safety issues, and helps level out the playing field without inducing any negative impact on the current registered employer population.

We do not simply disagree that the proposed changes will fail to reach the stated objectives, we also believe that this indirect approach will have significant negative financial ramifications on the people of Ontario.

The Greater Sudbury Chamber of Commerce is not-for-profit business association representing approximately 800 member organizations and is the recognized "voice of business" in the Sudbury area.

Thank you for the opportunity to provide input.

Yours truly

Debbi M Nicholson
PRESIDENT & CEO



GREATER SUDBURY CHAMBER OF COMMERCE
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"VOICE OF BUSINESS"

September 12, 2005

The Hon. Rick Bartolucci
Minister of Northern Development and Mines
Suite 603, 159 Cedar Street
Sudbury, ON P3E 6A5

Dear Mr. Bartolucci:

The Greater Sudbury Chamber of Commerce and its members are gravely concerned with the potentially dire consequences that the government's increase to WSIB rates will have on Ontario employers and the province's competitiveness.

The proposed WSIB rate hike of an average of three per cent per year for the next five years seems to contradict the government's stated intention in the 2005 budget not to raise taxes in Ontario. The increases to industries that dominate Northern Ontario are even more onerous: forestry is facing a 4.9% average increase, mining is facing a 7.1% average increase and construction is facing an average increase of 5.3%. Our membership views the increase in WSIB premium rates as direct increases to payroll taxes which will affect every industry and employer in Ontario and places the province's ability to grow at considerable risk.

Although the Greater Sudbury Chamber of Commerce appreciates the government's current fiscal position, we believe that the new Ontario Health Premium sufficiently addresses the government's concern over rising health care costs. Ontario taxpayers were told that the new taxation revenue from this premium would be used to invest in the reduction of wait times, improving access, enhancing preventative health measures and expanding mental health services. These issues, as you know, are particularly acute in Northern Ontario, where workers often have to wait extended periods for service or travel to Southern Ontario for medical needs.

The increase in WSIB rates, coupled with the Ontario Health Premium, is arguably the largest tax hike Ontario has seen in recent years. This WSIB payroll tax increase will extract up to \$2 billion or more in increased premiums over the next seven years from the Ontario economy. Revenue from the Ontario Health Premium is planned to reach \$2.4 billion in 2005 and is expected to rise by about \$1 million per year thereafter.

On a final note, the Greater Sudbury Chamber of Commerce is concerned that the WSIB's Chair position has been vacant for well over a year. We therefore urge the Minister of Labour to immediately appoint a new chair.

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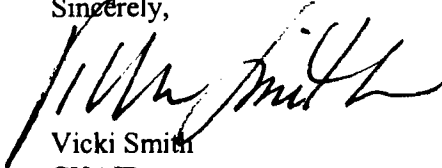
The Hon. Rick Bartolucci

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Thank you for the opportunity to present ~~our position on this important matter~~. We would be pleased to discuss this issue with you in greater detail at your convenience.

Sincerely,



Vicki Smith
CHAIR

c.c The Hon. Dalton McGuinty, Premier
The Hon. Greg Sorbara, Minister of Finance
The Hon. Steve Peters, Minister of Labour and
Ms. Jill Hutcheon, President and CEO and Interim Chair, WSIB
Mr. John Tory, Leader of the Official Opposition
Mr. Howard Hampton, Leader of the New Democratic Party of Ontario
Mr. Len Crispino, President and CEO, Ontario Chamber of Commerce