PRESENTATION TO THE STANDING COMMITTEE ON SOCIAL POLICY

BILL 27

Good afternoon and thank you for allowing us to speak this afternoon to Bill 27. I'm Willy Noiles, Acting President of the Ontario Network of Injured Workers Groups (ONIWG), and I live in St. Catharines. ONIWG is the advocacy arm for our 25-plus injured worker support groups located in communities across the province from Thunder Bay in the North to Niagara in the South and from Ottawa in the East to Windsor in the West.

Our concern with Bill 27 is specifically Section 6. The plan to refund WSIB surpluses to employers. One can understand why the government wants to give these surpluses back to employers given the state of the economy as a result of COVID. But we have to ask, what about injured workers, the primary stakeholders of WSIB. When the province invited written submissions about this idea back in the summer injured workers weren't asked. We only found out about it because one of our members happened to be surfing the depths of the WSIB website. Shouldn't injured workers, or ONIWG, as their recognized advocacy group, have been invited to submit? We did, but it certainly wasn't because we were made aware of it.

Since the former Liberal government and the auditor general of the day raised the red herring of WSIBs unfunded liability, injured workers have borne the brunt. I use the term red herring because as a government agency, it was never legally required to have enough money set aside for all possible claims as private insurers are. Despite this, WSIB embraced the goal of eliminating the unfunded liability and managed to have it eliminated by 2018. Since then, the story that's often been told is that it was employers who paid the price to eliminate that unfunded liability. But WSIBs own numbers dispute this scenario. Yes, employers did see an increase to their premiums in 2010, but in 2011, they saw a decrease by just one percentage point less than the increase. So in two years, there was a one percent increase. Then in 2017, the government reduced rates for several sectors in the construction industry. The following year, the Liberals reduced premiums as an acknowledgement that increasing the minimum wage would increase employers' expenditures. And when the current government took office, they reduced employer premiums by 30%, followed by about 17% the following year.

But between 2010 and 2017, injured workers benefits were cut in half. In 2010, benefit payments to injured workers stood at $4.8 billion annually. By 2017, payments had been reduced to just $2.3 billion. Benefits have not been restored to the 2010 levels, despite a WSIB surplus.

And this doesn't even take into account, the monies saved in retirement investment. For those who are medically deemed to be permanently injured, WSIB used to put aside 10% of their annual loss of earnings benefits that would be paid out when they reached 65, knowing there wouldn't be monies set aside in CPP. As part of the cost cutting that started in 2010, the monies set aside for these injured workers was reduced to just 5% of their loss of earnings. That amount has remained at 5% even though the unfunded liability is gone and WSIB is posting surpluses. This means these injured workers are looking at long-term poverty into their so-called golden years.

The biggest reason WSIB was able to eliminate its unfunded liability so quickly and has been able to post surpluses since has been primarily through their use of Deeming. Deeming is this perverted mechanism by which WSIB pretends one is able to work a full-time job and then deducts those imaginary wages from this phantom job from one's loss of earnings. If Deeming involved real jobs the worker is suitable for with real wages, ONIWG wouldn't have a problem. But when Deeming involves telling an injured worker they could be a full-time greeter at Wal-Mart, we have a problem, especially since we know Wal-Mart doesn't hire full-time greeters. Or a high-rise window cleaner who fell and broke both ankles being told he could be a parking lot attendant or light assembler, even though his doctor had ruled these were not jobs he was suitable for--or even available in his area.

The result of Deeming is many thousands of workers are now on the Ontario Disability Support Program instead of WSIB. Based on a 2017 FOI request, we know there were about 3,300 injured workers who had been deemed and were now receiving so little in loss of earnings, they'd been forced to rely on ODSP to top their income up to the maximum allowable under that program.

We don't know how much each of these injured workers is being topped up by ODSP, but one conservative estimate put it at $20 million a year. And this doesn't count those who have been deemed to have no loss of earnings or their case has been denied. There's no doubt the social assistance costs of supporting deemed injured workers is much greater than $20 million a year.

Those working at the Injured Workers Community Legal Clinic and IAVGO have advised us that 25% of all claims are denied at the outset today with many disabilities being blamed on pre-existing conditions instead of a workplace accident or disease. For those whose claim is initially approved, WSIB often ignores the treating physician and sends them back to work before they've fully healed (often leading to subsequent injuries or workers on the job who are popping opioids just to make it through the day).

Yes, those 25% who are initially denied can appeal, but as with other injured workers in the system, it could be 10 years or more before there is a resolution to their case. In the meantime, they're forced to rely on Ontario Works or ODSP.

Before the government starts refunding employers from WSIBs surplus, those surplus dollars should be used to start re-investing back into the system so that the retirement investments can be increased back to the 10% it sat at prior to the cuts, restoring benefits paid out to injured workers and eliminating Deeming. It bares repeating that when the workers compensation system was created in 1915, workers gave up the right to sue their employer in return for medical care and compensation for as long as the disability lasts. Employers still enjoy the freedom from lawsuits, but injured workers have seen their side of the equation reduced. We say it's far past time to restore the benefits injured workers have lost!