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ONTARIO BUSINESS COALITION (OBC)

Vision: an Ontario workplace compensation system that is sustainable, that serves the needs of the employers that participate in the system and their workers and that contributes to the Province's competitiveness.

Mandate: to advocate on behalf of employers with regard to issues of importance concerning the Workplace Safety and Insurance Board and workplace injury and sickness prevention.

November 17, 2021,

Natalia Kusendova, MPP, Chair
Tanzima Khan, Clerk
99 Wellesley Street West Room 1405, Whitney Block
Toronto, Ontario M7A 1A2

Sent Via Email: Government online portal

RE: Standing Committee on Social Policy and *Bill 27, Working For Workers Act.*

The Ontario Business Coalition (OBC) appreciates the opportunity to provide input to the Standing Committee on Social Policy which is considering Bill 27, an omnibus bill proposing to amend various statutes with respect to employment and labour statues, along with the *Workplace Safety & Insurance Act*.

By way of some background information, the OBC is the Ontario's largest and most diverse employer organization focused exclusively on workplace safety and insurance issues. Our members represent employers in the manufacturing, auto assembly, construction, retail, long term care, fuels and temporary staffing services industries in the Workplace Safety & Insurance Board's (WSIB) Schedule 1 class of employers.

We are mandated to work with our members, senior officials at the WSIB and in government to make sure Ontario's workplace safety and insurance system meets the needs of the province's employers and compensates injured workers in a fair and efficient manner.

Purpose of the Standing Committee Hearings

The Standing Committee on Social Policy has invited input to *Bill 27, Working for Workers Act*, which following second reading was referred to the Standing Committee on Social Policy for review.

Bill 27 amends a number of pieces of legislation. OBC's comments will, however, focus on the proposed changes to the *Workplace Safety & Insurance Act* (Act).

OBC, earlier this year, provided submissions to the government's consultation regarding the recommendations outlined in the WSIB Operational Review Report to create a sufficiency ratio corridor and give the WSIB the authority, and discretion, to make distributions of surplus employer funds back to employers that participate in the provincial compensation system when funding levels fall within a corridor of 115-125%.

OBC's Position

Since full funding of Ontario's workplace safety and insurance system was achieved, the primary focus of employers is on achieving WSIB premium rate stability. Employers want a funding sufficiency level maintained so that there is little chance of unanticipated premium rate increases, and the accumulation of unnecessary excess surplus funds would be avoided.

OBC supports the need for the full funding of 100% of Ontario's workplace safety and insurance system, and that this 100% funding level be specified in the *Workplace Safety & Insurance Act.* A provision needs to be added to that effect to the legislation as it will provide certainty for the workplace safety and insurance system on the funding level on a going forward basis.

Bill 127 provides the legislative framework creating the mechanism needed by the WSIB to redistribute surplus employer funds. OBC supports this very important legislative change being proposed by the government. The current inability for the WSIB to return these surplus employer funds takes much needed business money out of the economy preventing employers from reinvesting that money back into job creation and business expansion. The proposed changes will create the legislative framework for employer premium surpluses to be returned to employers.

However, OBC continues to believe that the current funding corridor of 115-125% is not necessary. It continues to be our strongly held position that a funding sufficiency level of 105-115% is more than adequate in giving the WSIB a financial cushion should economic circumstances require. OBC has previously submitted several responses to the government and WSIB requesting this more appropriate lower level funding corridor.

Regarding the remaining proposed legislative changes, OBC's position is as follows and reiterated from our August 2021 submission to the government:

1. **All Schedule 1 employers should be eligible to receive a surplus:**

    - All ongoing/continuing employer accounts should be eligible for their share of any distributions of surpluses made by the WSIB;
    - The WSIB should actively pursue employer accounts that are in arrears;
    - If a company is in arrears, it should be pursued for payment in the normal manner.

2. **The method to be used to allocate surpluses should be made across the board pro-rata based on premium:**

- There is no perfect solution to this question, all possible solutions have associated problems or shortcomings;
- Surplus funding distributions should be made in the manner that is the simplest, easiest to understand and most efficient;
- It should be made across the board pro-rata based on premium;
- While we understand that companies that are poor performers, from a risk and claims experience perspective will be entitled to receive a larger share of the distribution than their better performing peers, this is a pure reflection of the fact that these employers also pay higher premiums relative to similar sized employers that perform the same type of work;
- The determination of a surplus funding distribution to employers should be made annually to coincide with the WSIB rate setting process;

- Similar to the previous “unfunded liability charge” that was an element of an employer’s premium rate along with the cost of new injuries (CNI) and administration costs, a surplus distribution should be an element of an employer’s premium rate in the opposite direction, a credit instead of a charge. It could be called a “surplus funding credit”.

3. **The surpluses should be distributed as a surplus funding credit:**

- Surpluses should be distributed as an element of the employers’ WSIB premium rates;
- An employer must be able to understand its CNI, its portion of admin costs and the amount of its credit;
- An employer must have a clear line of site on the WSIB premium rate it can expect to pay in the next year;
- The WSIB must not present its statement in a manner such that the employer is left with the impression that he will pay the same amount the next year;
- The “surplus funding credit” must be clearly identifiable as a one-time credit and not an ongoing part of the premium;
- Under no circumstances should consideration be given to the issuance of cheques to employers for any surplus distributions.

Funding Corridor and a WSIB Funding Policy

OBC strongly agrees, that the WSIB must retain authority on all funding decisions when the sufficiency ratio is between 100% and 125%. Also it must be underlined that the surplus distribution model does not require the sufficiency ratio to be within the corridor at any time. The model only requires the sufficiency ratio to be at or above 100% and below 125%.

OBC strongly believes that the WSIB should be given total control to develop a funding policy and that such a policy should not be prescribed by way of a regulation under the *Workplace Safety & Insurance Act*. OBC maintains that the WSIB must immediately engage stakeholders to develop a complete funding policy with the objective of premium rate stability. The policy needs to set a sufficiency ratio target above 100% and below 115% such that:

(i) The risk of falling below 100% is reduced to a very low acceptable level;
(ii) The potential for the ratio to exceed 115% is reduced so there is not annual pressure for surplus distributions.

The policy would include guidelines to restore any ratios below 100% back up above 100% in a short period of time. It also would include guidelines on reducing the rate back below 115% when it exceeds that level, recognizing the surplus distribution arrangement to be set out by the government.

In considering making a surplus distribution to employers, the WSIB must engage in meaningful consultations with employer stakeholders.

The WSIB should always be predisposed to making distributions back to employers when funding exceeds the lower limit of the funding corridor. Only clearly identified extenuating circumstances should prevent the WSIB from making a surplus funding distribution when funding exceeds the lower limit of the surplus funding distribution corridor

The ultimate objective is to maintain a sufficiency ratio at an acceptable risk level to employers so that premium rate stability is maintained and there is no need for annual pressure on premium rates.

On a final note, we believe that *Ontario Regulation 141/12* (Regulation), which was established under the *Workplace Safety & Insurance Act, 1997,* OBC should be repealed as the WSIB achieved full funding of the system a number of years ago. The Regulation requires the WSIB to achieve full funding by 2027 and does not reflect the current financial reality of the WSIB’s funding position.

We welcome an opportunity to meet with you to provide any additional information about our submission.

Yours truly,

Ian Cunningham
Chair