

The Liversidge e-Letter

An Executive Briefing on Emerging Workplace Safety and Insurance Issues

July 22, 2005

An *Electronic Letter* for the Clients of L.A. Liversidge, LL.B.

3 pages

2006 Premium Rates:

WSIB hikes average premium by 3% for 2006

Business leaders' demands WSIB develop a different strategy unheeded

What the Board Says:

WSIB issues press release and open letter to employers:

July 21, 2005

Dear Employer Stakeholder:

On July 20, 2005, the WSIB Board of Directors set the 2006 preliminary average premium rate, approved a funding framework and changes to the WSIB's Experience Rating Programs. The 2006 preliminary average premium rate has been set at \$2.26 for every \$100 of insurable earnings. This is a 3 per cent increase over the average rate of \$2.19 in 2005.

This is only the second time in the last 10 years that the WSIB has raised the average premium rate. For the 10-year period from 1995 to 2004, the average premium rate paid by Ontario's employers declined 27 per cent from \$3.00 to \$2.19. Over the last several years, premiums have failed to keep up with rising costs, and the unfunded liability has risen to where it is now the highest among all Canadian jurisdictions.

This has also led to Ontario having the lowest funding ratio of any province. It would be fiscally irresponsible to allow this debt load to continue.

These decisions are part of an overall strategy for rate setting, cost improvements and prevention. The Board's decision comes after careful consideration of the WSIB's funding framework, market conditions, and feedback from employer and worker groups. As you know, the WSIB held an unprecedented series of information sessions and has identified a number of opportunities for improvement in the system.

As we continue our dialogue on these important funding developments, it is important to keep in mind that all parties in the system need to work together to help address the challenges we face. Your support is important as we move forward, particularly in the area of improving return to work outcomes and prevention. We will continue to demonstrate respect for employers and injured workers in our attempts to mitigate the significant costs of existing claims and work together to develop prevention strategies that save lives, avoid injuries and illnesses in the workplace, and reduce future costs.

Everyone has a responsibility to ensure their workplaces are healthy and safe. Currently, 10 per cent of employers with poor health and safety records are responsible for 40 per cent of the costs already in the system. [Continued page 2]

What Business Leaders Say:

Canadian Federation of Independent Business open letter to WSIB Interim Chair and President:

July 18, 2005

Dear Ms. Hutcheon:

We are advised that in two day's time, on July 20, 2005, the Board of Directors of the Workplace Safety and Insurance Board will face a pivotal decision on whether to increase employer premium rates for 2006 and beyond.

Last October, you wrote to us, saying, "*While we are not precluding the outcome of our discussions [with employers in 2005], it is our strong belief that a rate increase will be required in 2006. The size of the increase will depend on the cost pressures and the mitigating impact of any solutions that are identified over the coming months.*"

The WSIB's view on the need for a rate increase did not waver during a series of meetings with employers since February of 2005, despite their admission of having little understanding of the effectiveness of recent overhauls of key operations (e.g. new health care model).

As outlined in the attached report, *Curbing the WSIB's Tax and Spend Strategy*, CFIB members have identified a number of responsible alternatives through a recent member survey to increasing premium rates. We commend it to the attention of the Board of Directors.

CFIB members recommend that the Board focus, instead, on implementing the recommendations of the 2004 third-party audit that cited serious, systemic management problems. Adopting these and other recommendations will, we submit, allow the government to keep its promise to small business, while ensuring the overall sustainability of the workers compensation system.

Small business owners understand, and accept their responsibility to injured workers. There has been a long-term decline in accident frequencies, surely evidence that employers are doing their part to make workplaces safer and reduce system costs. As a consequence, they have every right to expect the WSIB to operate the system they fund efficiently, effectively and responsibly.

A payroll tax hike starting in 2006, would needlessly extract billions of dollars from the economy – hurting job creation and economic growth. Worse, it would break the government's promise not to increase taxes on small business! [Continued page 2]

What the Board Says: (continued)

[continued from page 1] The funding framework represents a planned and disciplined approach to managing the risks and uncertainties that can arise through financial pressures on the WSIB in the coming years. These pressures include the unfunded liability, increasing health care costs, impacts of occupational disease, and fluctuations in investment returns.

The average rate has been set at a level that is financially responsible, fair, balanced, and meets the needs of employers, workers and the workplace safety and insurance system. It is based on sound financial principles and is consistent with the need to maintain a strong Ontario economy and retire the unfunded liability by 2014.

Changes to the Experience Rating Programs will ensure that good performers are rewarded while employers with poor health and safety records pay their fair share. NEER changes will come into effect for the 2006 injury year, and CAD-7 changes will come into effect for the 2007 issue year, to allow employers ample opportunity to make the necessary business planning changes. This is consistent with our long range planning approach and your need for predictability and appropriate lead time. We are committed to an experience rating system that truly encourages and rewards best practices in prevention and return to work.

Based on this average rate, the WSIB has calculated 2006 preliminary premium rates for all employer rate groups. They will be posted on our website on Tuesday July 26 at www.wsib.on.ca. We are releasing preliminary rates now in order to assist employers with their financial forecasting and budgeting for next year. The approved funding framework will also be posted on our website for your review.

Following the decision from the Board, Actuarial Services, supported by Revenue Policy, Operations staff, Communications and External Relations Branch will then start working with employers in the impacted rate groups to fully brief them and obtain feedback.

Final approval of the 2006 premium rates will take place in September, at which time employers will receive a Premium Rate Statement or Merit-Adjusted Premium Rate

Statement (for small business employers participating in the Merit Adjusted Premium (MAP) experience rating plan).

If you have any questions, please contact Sharon Gilchrist, Director of External Relations, at (416) 344-4943 or Devin Munro at (416) 344-4652.

Thank you.

Note the readers: As I had several questions pertaining to this announcement, I called the numbers listed only to learn that one of the individuals was on vacation and not set to return until August 2nd. The other did not return the call before this newsletter was released.

The WSIB will not be releasing the industry rates until Tuesday, July 26, 2005, although the reasons for the delay are not clear. Certainly the Board would have the preliminary individual industry rates set before the Board of Directors approved the rate hikes. Readers should be aware that, in the past, when the Board hiked the average rate by 3% (for 2003), some industries still experienced a slight *decrease* in their premium rate, while others saw rate hikes of *greater than* 3%.

What Business Leaders Say: (continued)

Canadian Federation of Independent Business open letter to WSIB Interim Chair and President (continued from page 1):

Our members look forward to reading your positive response to the alternative, and responsible approach outlined in the attached report.

Sincerely

Judith Andrew

Vice-President, Ontario

Ontario Trucking Association

OTA President Slams "Unacceptable" Proposed WSIB Premiums Hike

July 19, 2005

With the Workplace Safety and Insurance Board (WSIB) Board of Directors poised to approve a rate hike at its Board Meeting tomorrow (July 20th) OTA President David Bradley wrote to WSIB President and Acting Chair Jill Hutcheon urging her "*in the strongest possible terms*" to reject the proposed increase in premiums.

In his letter, which was also sent to Labour Minister Steve Peters, Finance Minister Greg Sorbara and Premier Dalton McGuinty, Bradley told the WSIB Chair that "*any such decision to hike payroll taxes (which is what WSIB premiums are in fact) when other alternatives exist is unacceptable to my industry*".

Bradley went on to say that, "*The OTA and the rest of the employer community have clearly and repeatedly indicated that rather than face a payroll tax hike, we would rather that the WSIB revisit the policy of achieving full funding by 2014 and move the date to 2016 or beyond in order to keep rates stable. From our perspective, this full funding objective is clearly the "pressure" that the Board has the greatest control over and the greatest ability to modify in order to eliminate the need for rate hikes.*"

"*It is important to note that it was in fact originally employer groups that pressed the Board to deal with its unfunded liability issue by committing to the "full funding by 2014" goal. The reason for this position was the employer community's concerns about the possibility of future massive rate hikes. I think it is also extremely relevant to remember that at that time employers agreed to increased premiums in the short term in order to ensure that rates would continue to decrease over the long term. That was the basis for the 2014 policy, increased rates up front, elimination of the unfunded liability by 2014, and the reduction in premiums as we approached that 2014 date.*"

"*Increasing premiums now would violate the spirit of the consensus around 2014. As employers we accepted higher rates over the past 2 decades based on the promise of lower rates. The purpose of the 2014 policy was to ensure that rates would not go up, but now, by proposing an increase in rates, the WSIB has both violated our trust that rates would go down and invalidated the 2014 policy.*"

"*During the "consultations" the WSIB's own analysis showed that there is currently no funding crisis, and that simply by moving the target date for eliminating the unfunded liability to 2016 the need for a rate hike at this time would be removed.*"

He concluded by saying "I urge you to reject any suggestion that WSIB premiums should be increased. There is no need if you chose the responsible alternative offered by the employer community."

OTA has participated in the WSIB's rate consultations over the past 9 months, repeatedly arguing that rate hikes could, and should, be avoided.

Prior to writing that letter, OTA also met with the new Labour Minister, Steve Peters, along with a number of other employer associations and pressed the Minister directly to use his power to stop the WSIB from hiking rates.

The Employers' Council of Ontario:

June 1, 2005.

Minister of Labour

The recent history pertaining to Workplace Safety & Insurance Board premium rates is akin to an amusement park roller-coaster ride. Following a period of stability, of late we have been witness to wild dips and turns in WSIB funding plans that would be dizzying to any observer.

At this juncture, we are embroiled in a senior dialogue with WSIB officials pertaining to the Board's long-term funding strategy, which of course, includes a discussion of the 2006 premium rates. While we have long requested this dialogue (since the Fall of 2002), even before the commencement of this essential exchange, the Board's CEO pre-empted the outcome and announced that it is the Board's "strong belief that a rate increase will be required in 2006". In the eyes of the Board, from the outset, the only issue has been the magnitude of the rate hike. Throughout the extensive discussions during this past Winter and Spring, Board officials have not wavered from this position.

We remain convinced that a premium rate hike not only is not necessary, such a move would be irresponsible. There are responsible alternatives. As it is clear that the Board is determined to needlessly hike premium rates, we are taking our case to you, and request that you exercise your prerogative under s. 167 of the *Workplace Safety and Insurance Act*, and issue a policy directive to the WSIB instructing the Board not to increase the 2006 average premium.

To assist you in exercising this discretionary authority, we are accompanying this request with a short briefing note, which clearly shows that a rate hike is not necessary. We look forward to addressing this issue with you.

Yours sincerely,
Rod Seiling, Chair

July 19, 2005

WSIB Board of Directors

Members of the Employers Council of Ontario participated in the stakeholder information sessions presented by the WSIB administration from February through June of this year. The information provided did profile many of the challenges the WSIB is facing and explained the proposed responses to them. The WSIB's own analysis has concluded that the current average assessment rate can remain at \$2.19 and the unfunded liability will be paid down by 2016. This will avoid a premium tax increase.

All Employer representatives at the wrap up meeting agreed that the administration has not established the need to raise assessments and they supported the adjustment to the model required to maintain the average rate.

We encourage you to act responsibly when you consider this discussion on July 20th, 2005. I am attaching a briefing we have produced for the Minister on this issue.

Yours sincerely,
Rod Seiling, Chair

The Ontario Chamber of Commerce:

July 8, 2005

The Honourable Dalton McGuinty, Premier

WSIB Proposed Rate Hike Damaging to Ontario's Economy

Dear Premier:

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

The proposed WSIB rate hike of a minimum of three per cent per year for the next five years seems to contradict your stated intention in your 2005 Budget not to raise taxes in Ontario. Our membership views the proposed increase in WSIB premium rates as direct increases to payroll taxes, which are profit insensitive levies that are a key inhibitor to Ontario's corporate competitiveness.

It is a significant achievement that Ontario has been one of the few jurisdictions to contain its premium rates over the past ten years. The average rate paid by Ontario employers has declined by nearly 30 per cent for the 10-year period from 1995 to 2004, a trend we would prefer to see continue.

It is our understanding that the argument for this rate increase is blamed on rising health care costs, and in particular, to address prevention and occupational diseases. Yet, not only is the WSIB in a secure financial position but industrial accident rates have dropped by over 60 per cent since the late 1980s and are projected to continue to decline. According to the WSIB's own Chief Actuary, "the system is not in crisis – it is very manageable," as stated in the WSIB Funding Session, March 2005. As well, the Ministry of Labour continues to be committed to improving workplace safety in Ontario and plans further reduce injuries by 20 per cent by 2008.

The proposed increase in WSIB premium rates, coupled with the new Ontario Health Premium, is arguably the largest tax hike Ontario has seen in recent years. This 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.

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

Sincerely,
Len Crispino, President and CEO

There are others, but the message is clear.