

December 14, 2021

Workers' Compensation Act – Committee of Review
Attention: Ms. Greenberg, Chairperson

Dear Ms. Greenberg,

Re: 2021 WCB Committee of Review Submission

Thank you for extending the opportunity to provide feedback for the 2021 WCB Committee of Review. I am Nadine Koch of KMS Construction Ltd. and I represent 60 employees from within the Saskatchewan Heavy Civil Construction industry in Saskatchewan.

Our company is in the heavy construction industry of roadbuilding, lagoon building, site works and preparation and underground utility construction. We are a Saskatchewan, family-owned business with almost 40 years in the industry.

Safety Associations in Saskatchewan are funded entirely by the employers they represent. As such, each association is governed by an independent board of directors made up of representatives from that industry. These boards are elected by the membership, and accountable to the membership. Until recently, the WCB and Safety Associations operated under a funding agreement that allowed the WCB to collect the funds from employers annually and provide them to the safety associations quarterly. Other general requirements were included, such as the submission of an annual funding request, and the sharing of injury and injury cost data from the WCB to that safety association.

According to Section 146 of *The Workers' Compensation Act, 2013*, these associations have been established "...for the purpose of injury prevention and safety..." All further guidelines for Safety Associations come from the internal WCB policy, "Safety Associations (POL 06/2020)."

Over the past two years, the WCB Administration has modified these guidelines to create further barriers for the associations. This has led to control being shifted to the WCB from the industry employers that make up and pay for these associations. WCB's move to stricter governance has all but completely removed the authority of the association's membership, as well as has removed the association's ability to be accountable to their membership. The change has also taken away the association's abilities to shift focus and delivery in alignment with the membership's needs. As we are all aware, the last two years have been full of change, and under the current structure, safety associations will not be able to make appropriate moves to continue to service their memberships in further times of change.

In addition to the removal of authority from the safety associations themselves, the amount of administration now required is an undue hardship on many of the safety associations. Completing the incredibly prescriptive requirements requires resources and costs far beyond what is reasonable. Those costs will not be borne by the WCB, but by the employers represented by the associations. As a result, those funds will be used to pay for WCB administration instead of injury prevention and safety.

WCB's increased authority also allows them to decide, at the individual program level, whether or not funding will be provided. Again, this now takes away the strategic direction coming from the safety association's membership and puts it in the hands of WCB. Already they have stripped away funding from member-driven programs so they could divert it to programs and activities that are politically based. They have taken full control of employer's money and are making decisions based on their own interests and priorities, instead of those of industry.

At the time of the development of the new Funding Agreement, the WCB Administration was disingenuous about the rationale for the new agreement. During the 4-5 years it took to develop this new agreement, WCB has put out the pretense of consultation, but never actually consulted. Since then, they have gone out of their way to fight a propaganda campaign to discredit Safety Associations. They have also shown their willingness to abuse their authority to punish Safety Associations who have sought out legal advice.

Each safety association was created by industry to be experts in health and safety for that industry. The resources that have gone into cultivating that expertise cannot be replicated by the WCB administration. The industry has entirely lost confidence in WCB's ability to manage these funds.

Based on the above feedback regarding the WCB's Safety Association policy, I, as a member of the Saskatchewan Heavy Construction Association, **recommend removing WCB's oversight of the industry funded safety associations**. This responsibility should be moved to an industry-based safety council who will appropriately support the safety association's purpose and the membership it represents. The industry-based safety council will work directly with the WCB Board and not the administration, to ensure proper accountability mechanisms are in effect and industry needs are met. We further recommend that a third-party fund administrator be put in place to ensure unbiased decisions are being made regarding industry funding.

Other areas of concern have to do with the claims adjudication and management. Employers have concerns about Section 70 of The Workers Compensation Act, 2013 as it relates to WCB Policy 35/2010. This is related to how WCB re-calculates workers benefits after they've been off work for an extended period. Specifically related to workers who are employed as seasonal labor. In our industry specifically it doesn't address the situation of a worker employed between May 15th and October 31 annually. Should an injury occur during seasonal employment the employee's benefits should be reduced to a maximum 8 hours per day between November 1st and May 14th and wage loss should be recalculated at the average wage of the industry position. The current policy as it's written will only review wage loss after 26 weeks, this policy is not conducive to seasonal employment cycles like those experienced in road construction.

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Another area of concern is the current claim adjudication process. We have heard from many employers that WCB approves, and issues benefits to workers when they have not received a E1 form from the employer. In many of these cases the employee fails to report the injury to their employer. If employers are expected to provide a safe and healthy working environment that includes a comprehensive return to work program, there should be a reasonable expectation of the worker to report incidents immediately to their supervisor as is stated in The Workers Compensation Act, 2013.

There is absolutely no way WCB is in a position to direct these industry safety associations. This is a very risky move, to remove funding and tie the hands of the safety associations. If anything, as with everything else in this world right now, funding should be increased. It has been positive to see industry rates continue to decrease, but we can't stop until that number is nil. And until it reaches that point, WCB is literally playing with people's lives by reducing the funding and the contributing efforts of these safety associations. It's a simple as this, removing funding will no doubt result in less people employed at these associations. Which directly affects how effective these associations are. Perhaps WCB should look internally to reduce their costs instead of "stealing" the industry's money to rob the safety associations of what they need.

I truly appreciate the opportunity to provide insight on topics that concern the business community in Saskatchewan and look forward to the results of your review. If you are interested in discussing further, please do not hesitate to contact me, Nadine Koch, Senior Safety Coordinator, KMS Construction Ltd. at kmssafety@sasktel.net. I have been working within our company, managing safety for almost 20 years. We are not a big corporation. We are a home-grown excavating company that has benefited very much so over the years with the support and guidance of safety associations within this province. Please feel free to call me and we will have a great discussion.

Sincerely,

A handwritten signature in black ink that reads 'Nadine Koch'. The signature is fluid and cursive, with the first name 'Nadine' being more prominent than the last name 'Koch'.

Nadine Koch

Senior Safety Coordinator