



SASKATCHEWAN
Federation of Labour

Submission to:

The Workers' Compensation Act
Committee of Review

November, 2015

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INTRODUCTION

The Saskatchewan Federation of Labour (SFL) represents 100,000 workers across the province hundreds of different jobs and sectors. The SFL represents the interests of union and non-union workers. We work on a variety of issues such as occupational health and safety, human rights, the environment, political action, collective bargaining, women's issues, aboriginal and youth issues, apprenticeship, and shift work. Our work also involves partnerships with community groups across the province, some of which include social justice and anti-poverty groups, health coalitions, farm groups, senior, and student organizations.

Simply put, the SFL represents working people in Saskatchewan. No other group has so wide a constituency as ours, and no other group has a greater interest in the Workers' Compensation Board.

1. THE MEREDITH PRINCIPLES

Recommendation: adhere to the Meredith Principles.

In the early portion of the twentieth century, Judge Sir William Meredith defined the principles that would come to serve as the foundation for workers' compensation in Saskatchewan. The Meredith Principles are an important basis upon which the SFL's recommendations to the Committee of Review are based.

The five core principles are:

- *No Fault Compensation.*
Workers are not required to prove blame for their injuries in order to receive compensation for those injuries;
- *Security of Benefits*
A dedicated fund with enough assets to provide compensation to the worker for all future costs caused by the injury;
- *Collective Liability*
Costs are shared by employers through compulsory mutual insurance wholly paid by employers;
- *Independent Board*
Autonomous from government control, the Board is composed of worker and employer representatives, with the Board deciding claims and collecting assessments;
- *Exclusive Jurisdiction*
Workers and employers are protected against the cost, delay and uncertainty of litigation, by making Board decisions final and conclusive.

The Saskatchewan Federation of Labour insists that the Committee of Review include in its report a call for continued and absolute adherence to the Meredith Principles as the foundation of our Workers' Compensation system. Any variation from, or wearing down of, the Meredith Principles would be considered by the SFL as unacceptable.

2. GOVERNANCE

Recommendation: maintain the Workers' Compensation Board (WCB) governance status quo.

The SFL strongly supports the existing composition of the WCB, that being a three-person board consisting of a full-time board chair, one (1) labour representative, and one (1) employer representative. Ensuring compensation and appeals decisions are made in-house by an accountable board of directors is necessary for the process to maintain its legitimacy from the perspective of injured workers.

In our view, the current board structure and mandate – complemented by well-resourced and highly-trained support staff – are more cost-effective than any third-party appeals system, and ensures consistency in decision-making. Any outsourcing of the board's work to a third-party or external process is inconsistent with the history of the WCB in Saskatchewan, and would be strongly opposed by the SFL.

To more effectively deal with a backlog of WCB appeals and reduce heavy workloads, the SFL would support expanding the board to five (5) members – one (1) full-time chair, two (2) labour representatives, and two (2) employer representatives.

The type of board expansion referenced above was recommended in the 2011 Committee of Review final report, and it listed six (6) distinct advantages of five directors:

1. Providing increased guidance to the CEO leading to greater efficiency and effectiveness of the organization and a clearer reflection of the needs and inputs of the employer and worker communities;
2. Improving the strategic planning and budgetary processes of WCB by taking a longer term view rather than the day to day operational requirements which are the major concern of management;
3. Providing greater oversight to bodies like OHS which are funded by WCB resulting in greater accountability on the use and effectiveness of those funds;
4. Overseeing the Continuous Improvement Committees for Information Systems and Customer Service (see Recommendations 18 and 21) to ensure steady advancement in these important areas;
5. Ensuring that WCB policies are relevant and up to date (see below);
6. Following up on recommendations from Committee of Review, their status of implementation and their effectiveness. [*Workers' Compensation Act Committee of Review Final Report, 2011, pages 31-32*]

3. PREVENTION

Recommendation: end employer rebates, invest in prevention, and evaluate training.

The prevention budget of WCB has increased minimally over the past number of years. Prevention services was moved from the OHS department to WCB. This results in WCB taking full responsibility for prevention services. The services provided by WCB must be sufficient to educate and monitor and evaluate effectiveness of the Prevention Programs. The SFL insists that the WCB end employer rebates – this year totalling approximately \$141 million – and instead invest that money into injury prevention.

Budget allocations, as per the 2014 WCB Annual Report, show that OHS had a 2% increase, Safety Associations a 1% increase, and WorkSafe a 5% increase to \$2.2 million. In consideration of ample surpluses in WCB, and that Saskatchewan's injury rate is still the second highest in Canada, more funds should be allocated to prevention.

WorkSafe initiatives include four perimeters: awareness campaigns, education and training, targeting strategies and partnerships. Awareness campaigns are prominent and are effective in raising awareness of workplace safety. To reduce injuries and engage in safe workplace practices, we ask that more funding and staff are allocated to education and training.

Safety training includes a number of on-line sessions. We ask that an assessment of the effectiveness of this mode of education for safety practices be evaluated. WCB contracts certain aspects of training to outside entities. We ask if the cost effectiveness and quality of this training be evaluated. We suggest that WCB appropriately staff their Prevention departments to allow WCB Staff to perform all safety and prevention training.

The Prevention department has implemented a new strategy to focus on more Employers with high workplace injuries. In the past the focus was on 65 employers. In 2014 the focus to expand the number of target employers, was initiated to result in a total of 128 Employers. We ask that the details of this strategy and the rationale be reviewed, and evaluated.

A recommendation from the previous WCB Committee of Review asked for active pursuit of the creation of additional Safety Associations. To date there are only seven Safety Associations. WCB must take action to have more Safety Associations created for industries currently without Safety Associations. Safety Associations exist for certain industries. The effectiveness of Safety Associations should be evaluated by third party entities to provide unbiased assessments of their activities.

4. BENEFITS

Recommendation: increase the maximum wage base.

The previous WCB Committee of Review recommendation to increase the maximum wage rate has been implemented. This new provision of the WCB Act is a commendable improvement. However, in comparing the maximum wage rates of other provinces, Saskatchewan's maximum wage of \$65,150, for 2015, is the third lowest in Canada with the Canadian average at \$76,450. SFL members' earnings can, in some professions, be up to \$80,000 per year. SFL members who are injured at work should not have to endure the hardship of dealing with an injury as well as a significant drop in earnings. We ask this WCB Committee of Review to consider further increases to the maximum wage base.

5. STAKEHOLDER ADVISORY COMMITTEE

Recommendation: establish a Stakeholder Advisory Committee.

A key recommendation to address all of the evaluation, assessment and monitoring of WCB operations and board functions could be addressed by a Stakeholder Advisory Committee.

This Stakeholder Advisory Committee would consist of equal labour and employer representatives, appointed by their respective stakeholder groups. They would report directly to the board and to stakeholders, and their function would be set in legislation. It would be an ongoing group who would meet on a regular basis. This committee would ensure that Committee of Review recommendations are properly addressed.

This ongoing group would become familiar with WCB issues, and then could be utilized to review current issues, such as surplus distributions, WCB Policies, Experience Rate Reviews and legislation. They would be able to monitor activities of the WCB operations and the board.

To facilitate proper governance, criteria must be established for the appointment of board members. WCB board members – with their role equivalent to that of Court of Queen’s Bench – must be examined for experience, knowledge, and initiative to take further education. Board members must take additional education regarding adjudication of decisions, Tribunal decision-making based on the principles of the Inquiry Model, and board governance principles.

Proper governance also includes evaluation of board functions, by an unbiased third party. Stakeholders at present do not have a mechanism to assess if the board is functioning properly in terms of proper board governance and adjudication principles. Board members must be evaluated on a regular basis by their stakeholders or the Stakeholder Advisory Committee.

The SFL’s recommendation with regards to a Stakeholder Advisory Committee is silent on whether or not it would replace the existing WCB Committee of Review. We would need to see a period of time utilizing a Stakeholder Advisory Committee before such an assessment and recommendation could be made.

CONCLUSION

The SFL fully supports the WCB Committee of Review process. It is an effective process in which all stakeholders can focus on WCB's operations and the provisions of *The Workers' Compensation Act, 2013* to seek improvements. The SFL encourages further work to fully and quickly implement previous Committee of Review recommendations, and that future Committee of Review recommendations be acted upon promptly and responsibly.

The SFL thanks the WCB Committee of Review for this opportunity to provide our input into the review of *The Workers' Compensation Act, 2013*.