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Balance. Stability. Improvement.

Options for the Accident Fund

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Note: *This document contains policy advice intended for WorkSafeBC's Chair and Board of Directors. It is not intended for release or circulation.*

Final Report
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Preamble

In mid October 2018, I was asked by the Chair of WorkSafeBC, Ralph McGinn to undertake a review of options related to the Accident Fund. Specifically, the brief required me to:

...conduct a review of options under the *Workers Compensation Act* (the “Act”) for WorkSafeBC and its Accident Fund that support WorkSafeBC’s mandate. The review must meet the following requirements:

- (a) The options provided must recognize and be consistent with WorkSafeBC’s mandate as set out in the Act to manage the Accident Fund with a view to the best interests of the workers’ compensation system as a whole, including the financial stability of the system, compensation payable to injured workers, and the standards for the health and safety of workers and the enforcement thereof;
- (b) In conducting the review and with respect to any options proposed by the Contractor, the Contractor must take into account the requirements of section 39 of the Act and actuarial rate-making principles; the longer terms risks to funding levels and capital adequacy due to events such as financial downturns, increases in morbidity due to slowly developing occupational diseases, increases in treatment costs and any other relevant factor; and the “smoothness” of year-over-year changes in employer rates;

This report provides options consistent with this brief. The options focus on the larger parameters of workers’ compensation legislation that directly impact injured workers, survivors and dependents. These options also impact liabilities of the Accident Fund; each option has been “costed” to quantify the impact on the Accident Fund and WorkSafeBC’s ability to provide a sustainable system for the workers, employers and people of the province.

I’ve included several additional options to address gaps in the coverage profile and provide improvements to the compensation and benefits in cases of workplace fatalities. These additional options are consistent with purpose of workers’ compensation and the value of every worker’s life. Finally, within this set of options are enhanced authority of the Board of Directors to safeguard the system through timely and equitable actions.

There are, of course, many other options that have a bearing on costs including alternatives related to prevention, enforcement, service, policy, operations and research. Such options are the essential domain of the Board of Directors and senior executive of WorkSafeBC who have authority within the current legislative framework to allocate resources, modify policy, and direct new programs—and consistently do so. Options for further refinement of operations and programs are beyond the scope and time allotted to this review.

Every change has consequences for specific groups. Each option here identifies those most directly affected if the option is adopted, the magnitude of the impact on the Accident Fund and the future sustainability of the system. Some options have large financial implications; others have a lower cost impact. Collectively, these options are designed to meet the objectives reflected in the title: balance, stability, improvement in the best interests of the workers’ compensation system.

My thanks to the external stakeholder groups, internal subject matter experts, and dedicated professionals at WorkSafeBC who shared their time, insights, and knowledge to make this review possible.

TJB December 2018

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Parameter	BC	Washington*	Alaska*	Alberta	Yukon	Saskatchewan	Manitoba	Ontario	New Brunswick
Maximum insurable/assessable earnings	\$82,700 (2018)	~\$90,000 to \$112,580 Based on Family status (Inferred from Max Benefit at .6 and .75 compensation rate)	~\$100,000 (inferred from Max Benefit at .8 spendable for Married, no dependents)	\$98,700 Assessable (2018)/ no max insurable (Sept 2018)	\$86,971 (2018)	\$82,627 (2018)	\$127,000 assessable (2018)/ no max insurable	\$90,300 (2018)	\$63,600 (2018)
Maximum Weekly Benefit	1095.48 (2018)	\$1299 (2017)	\$1239 (2017)	\$1,238.51 (2017) None (Sept 2018)	\$1251.02 (2018)	\$1,120 (derived from max insurable)	None	\$1098.45 (2017)	
Compensation Rate	90% of Net	60-75% gross Pre-Injury Weekly Wage	80% of spendable	90% of Net	75% of gross	90% of Net	90% of Net	85% of Net	85% of Net
Waiting Period	None	3 days	3 days	None	None	None	None	None	3/5ths of weekly benefit
Retroactive Period	n/a	14 days	28 days	n/a	n/a	n/a	n/a	m/a	20 working days
Cost of Living Adjustment	Canada CPI less 1%, Floor zero, Max 4% (0.394268% Jan 1, 2018)	Based on the change in the state's average wage (5% effective July 1, 2018)	Based on COLA in three largest cities; different for non-residents	Based on the change in the Alberta Consumer Price Index (ACPI) for 12 months, ending September 30 (1.2% Jan 1, 2018)	Consumer Price Index for Whitehorse, calculated by using the percent change between the average index for the twelve month period ending October 31st, floor of zero, max of 4%	Annual change in Provincial consumer price index (3.9% 2018)	Based on CPI Manitoba June/June floor of 1%, Max 6% (2.25% 2017)	Canada CPI (1.5% Jan 2018)	Based on CPI July 2016/ June 2017, (1.46% July 1, 2018)
Duration of Permanent Disability "pensions"	To age 65 or later if predetermined	For the length of disability and can be for life. * All dollar amounts in this column are \$US	Until no longer disabled * All dollar amounts in this column are \$US	January 1, 2018: normal retirement age is considered to be age 65 or five years after your date of accident, whichever is later. New Economic Loss Payment will continue for life.	Loss of earnings ends when legibility for OAS beings (or other reasons)	For length of disability or age 65	Wage Loss ends at 65; PPD award (pre-1992 claim) or a Permanent Partial Impairment (PPI) award (1992 to present claims) awarded reassessed every two years.	Loss of Earnings pension paid to age 65. Non-economic loss payable as lump sum or periodic payments that may continue for life	Loss of Earnings to age 65

Figure 1- Table of Selected Parameters for Comparison

Balance. Stability. Improvement.

Options for the Accident Fund

Introduction

Work-related injury, disease and death impose human and financial costs on individual workers, their families, employers, and every community in British Columbia. The choices made through legislation, policy and administration don't change that fundamental reality; what they impact is how much of the financial burden associated with that loss will be borne by each party.

Any change to workers' compensation has implications for all parties, particularly the more than 45,000 workers and 4,000 survivors (spouses and non-child survivors) and 700 children who depend on monthly "pension" cheques from WorkSafeBC. BC's 238,000 employers and their 2.4 million workers are affected by the coverage and costs implications of every change made to the workers' compensation legislation. Families, communities and all British Columbians also share in the human costs and financial losses not covered by the workers' compensation system.

WorkSafeBC's strong financial position is not accidental but it is fortuitous. The climb from an unfunded liability position in the early 2000s required sacrifice on the part of workers and employers to preserve the viability and sustainability of the system.

The legislative reforms of 2002¹ substantially reduced claim liabilities but had real-world impacts on workers. The compensation and benefits² defined by the *Workers Compensation Act (Act)* were amended, limiting future permanent disability "pensions"³ to a retirement age (presumed to be 65), reducing cost of living adjustment frequency from twice to once a year, and changing the formula for those increases from full Consumer Price Index (CPI) to CPI less 1% for pre-2002 and future pension recipients. The indexation change alone has reduced worker pensions (and cash awards to workers and survivors) by \$584 million between 2002 and 2017. The imposition of a presumed retirement age, departure from full CPI, changes to the compensation rate (from 75% of gross earnings to 90% of net earnings) and restricting consideration of loss of earnings to cases where the loss was "so exceptional" also resulted in lower payments to workers but had the desired effect of lower cost of claims and a decrease in claim liabilities. These and other reforms

¹ Bill 49 - *Workers Compensation Amendment Act, 2002*

² This report uses "compensation" to refer to temporary and total disability entitlements based on earnings from employment and payable to the worker. "Benefits" in this paper primarily refer to payments not tied directly to the worker's average earnings and/or payable to a person other than the worker. Benefits include payments to doctors, hospitals, physiotherapists, pharmacies (or to reimburse workers for pharmaceuticals and supplies), as well as payments to survivors and dependents.

³ The term "pensions" is used in this report to refer to periodic (monthly) payments of permanent disability awards, survivor benefits and dependent benefits.

altered the injury cost equation and increased the share of the financial burden of work-related injury, disease and death to workers, their families and the greater community, including tax payers through the increased externalized costs to the social welfare system.

Cost of Work-Related Injury and Impact of Changes to Workers' Compensation Premiums and Payments

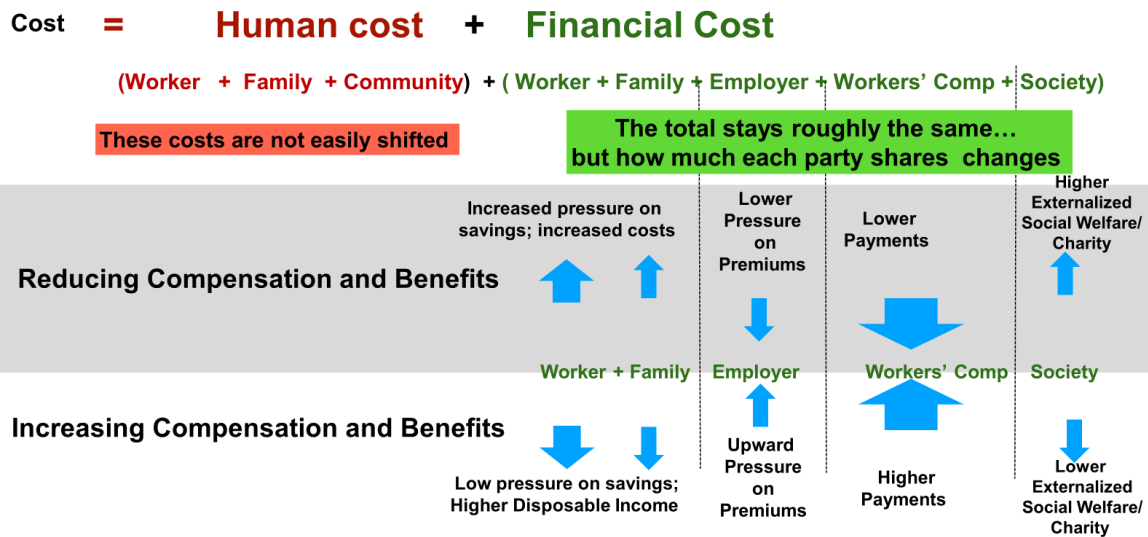


Figure 2 - Human and Financial Cost of Work-Related injury

Employers, too, had to bear increased costs. In the years following the 2002 reforms, rateable employers contributed more than a quarter billion in revenue (\$282 million 2003 through 2006) in excess of the required cost rate through the premiums they paid. As the unfunded liability was eliminated and financial performance remained stable to strong in the years following, rateable employers received offsets approved by the Board of Directors of nearly \$1.8 billion (2007 through 2018) against the total cost premium⁴.

Lower premiums are not simply a product of allocating gains from exuberant financial markets to offset premiums. Employers, workers, union, and other participants in the workplace have achieved lower injury rates. Investments in new plant and equipment have removed hazards. Safety associations have extended the reach and specificity of the workplace health and safety message to specific industries. These improvements in the workplace have allowed the Board of Directors to reduce the premium rate paid by employers by nearly a quarter from more than \$2.00 per hundred dollars of assessable payroll in 2002 to \$1.55 in 2018.

The investment strategy, financial policies and fiduciary oversight of the Board of Directors have also played an important role in WorkSafeBC's strong funding position. The 2002 and subsequent reforms redefined the role and authority of the Board of Directors. Their mandate to "act with a view to the best interests and objectives of the workers' compensation system⁵" focused attention to funding requirements, active consideration of risks, and refinement of strategies to manage threats to the viability of the Accident Fund while assuring its sustainability.

⁴ Premium rates have now been set for 2019. Extending the analysis through 2019 adds another \$0.2 billion "offset against the total cost premium" resulting in a total to \$2.0 billion (for 2007 through 2019).

⁵ Section 84(1)(b) *Workers Compensation Act*.

While the Board of Directors has been able to direct funds to support lower premium rates to employers, it has been constrained from acting on compensation and benefits. Despite sharing in the burden of achieving the current funding level, workers have seen no significant offsets to reduce the financial burdens of work-related injury and disease. The Board of Directors guides the administration of the legislation, approves programs and authorizes expenditures within the existing framework but cannot alter the main compensation and benefit parameters defined in the *Workers Compensation Act*.

Many of the compensation and benefit parameters “hard coded” into the legislation remain among the highest levels among workers’ compensation systems. The 90% of net compensation rate, for example, is equivalent to or greater than the compensation rates of neighbouring and comparator jurisdictions. Other parameters have not kept up with social and economic changes in British Columbia workplaces. The legislated formula that determines maximum insurable earnings does not reflect the distribution of earners, effectively reducing the compensation rate for more than 20% of workers below 90% of net. Similarly, the presumed retirement age of 65 no longer reflects the increasing participation of older workers in the workplace.

This review provides a series of options for reforming the compensation and benefits currently defined in the legislation. The positive funding level of the Accident Fund has already contributed to lower premium rates for employers, increased prevention programs, and services to workers and employers because the Board of Directors has the authority to act. Further improvements to compensation and benefits require legislative change. The options presented here, if implemented, will reduce the financial burden workers and their families must bear as a result of work-related injury, illness, disease and death. They will also reduce the externalization of costs to others including taxpayers.

In the post “global financial crisis” world, managing in the “new normal” environment is not without continuing risk. There are arguments for continuing with the *status quo*. Volatile markets, sudden disasters, and emerging hazards are ever present; economic cycles persist and threaten employment security of workers and financial stability of employers; trade wars, climate change is disrupting the workplace environment as well as posing risks to the Accident Fund investments. Demographic and societal change are altering who works and for how long. Technology is overturning traditional patterns of work and presenting both challenges and opportunities across wide sectors of the economy. Any of these risks can undermine the financial stability of the workers’ compensation system, threaten its ability to compensate workers, and diminish the ability of WorkSafeBC to maintain, promote and enforce health and safety standards that benefit workers and others in the workplace.

The Board of Directors recognizes these risks. Over the last three years it has refined its reserves and funding policies accordingly. After taking prudent measures to manage these risks, the Board of Directors has set and achieved its financial adequacy targets. This paper explores options for what comes next: How to strategically deploy of the unallocated “excess surplus” to further secure the workers’ compensation system for the workers, employers and people of BC.

WorkSafeBC has historically provided compensation and benefits consistent with the upper range provided by other workers’ compensation systems. Figure 1 in this report provides a table that highlights some of the key parameters defined by a selection of workers’ compensation jurisdictions. While BC compares well in many respects; differences among comparators demonstrate where improvements to coverage, compensation and benefits have been made by other jurisdictions, and possible opportunities for BC. Appendix F provides financial comparators in terms of payroll, cost to employers and benefits paid to workers using standard workers’ compensation ratios. These data demonstrate WorkSafeBC’s position relative to neighbouring and comparator jurisdictions.

Options and Context

The options presented here advance the income security of WorkSafeBC's compensation and benefits to injured workers, survivors and dependents, improving coverage within the funding framework and capacity of the system.

For the purposes of developing the options in this review, three themes were given priority:

- Balance: evening the distribution of benefits of WorkSafeBC's financial position
- Stability: maintaining the sustainability and comparability of the system
- Improvement: filling gaps in coverage for the most severely injured, disabled and fatality cases

This report describes the financial status of WorkSafeBC, how the system is funded and, crucially, how imbalances—both positive and negative—have been dealt with in the past by various workers' compensation jurisdictions including WorkSafeBC. This discussion highlights the fundamental assertions and key concepts underlying the system against which options may be judged and considered.

The options presented in this paper are selective and not exhaustive in range or detail. They represent actionable options developed in consideration of stakeholders' views, the technical assistance of WorkSafeBC's professional staff, and the comparative context of other workers' compensation systems, particularly those in Canada. Each option provides a description and rationale for the proposed change. High level impact on the Accident Fund and funding model are discussed in most of the options.

The options proposed are generally consistent with legislation, policies and practices in place in neighbouring workers' compensation systems in Canada and the US as well as other comparators in Canada and elsewhere but are responsive to British Columbia's particular circumstances. Other jurisdictions face similar issues but the timing and extent of past reforms result in a variety of solutions, some of which may not meet the needs of WorkSafeBC's workers, employers or community. They do, however, provide a context in which to examine a range of alternatives rather than an isolated proposal.

It is possible to continue within the defined parameters of the current legislation. The *status quo* option provides leeway for the Board of Directors to continue to control costs, direct investment strategy, create reserves, and alter services levels. However, the *status quo* does not address the continued erosion of purchasing power of past awards, changing workforce conditions, or the need to protect the value of current and future compensation for permanent disability.

Beyond the *status quo* option, the options presented here are not intended to be mutually exclusive but to provide a coherent and logical set of legislative actions for consideration.

The financial status, methods, and impacts of changes to parameters are complex topics. In discussions with stakeholders, the need for increased clarity about these matters became apparent. This report contains a generalized representation to aid in the consideration changes that impact the Accident Fund and funding model.

Stakeholder views were important to the development of these options. Employer representatives in particular did not oppose the need for reform as long as that reform was supported by evidence and assures the viability, stability and predictability of the workers' compensation system. They expressed concern over the potential for large swings in costs or moves that did not account for impacts on premiums. Labour representatives shared the desire for a system that preserved the promised compensation and benefits provided under the legislation. Stakeholders interviewed acknowledged the reduction in compensation and benefits workers endured in order to alter the funding trajectory of the late 1990s and the sacrifice injured

workers and their families endured as a result of the 2002 reforms. Professional staff charged with policy development, administration and operations identified specific issues that inhibit WorkSafeBC from providing optimal services to the workers, employers, families, and communities of the province.

The options described in this paper will not satisfy all stakeholders. The desire to see complete or perfect information and exhaustive analysis to support each option is understandable but beyond the allotted time, available research, and scope of this review. Those that seek an unwinding of past legislative decisions on the basis of righting the perceived wrongs of the past will be similarly disappointed. The social, demographic, technological and economic realities of today have altered the environment; a return to the past is no longer practical nor advisable. The options proposed here are supported by a rationale sensitive to today's reality and trends in workers' compensation legislation. Each option includes estimated impacts on the Accident Fund and premium rates based on the best information available and intended to inform the deliberations of WorkSafeBC's Board of Directors.

No legislative provision, policy position or practice directive can change the reality of work-related injury, disease or death. Injured workers and their families will always bare human and financial loss. Workers' compensation can only lessen some of the financial burden and only to the extent its financial status for the long term will allow. These options will improve the outcomes for many within the financial capabilities of the present and with due regard to the risks that lie ahead.

Summary of Options

Option 1, The *status quo*, would see no change to the basic parameters of compensation and benefits.

Option 2, **Increase the maximum insurable and assessable earnings to \$100k per year.** This addresses a shortfall in the coverage. More than 20% of workers in BC report earnings above the maximum insurable earnings increasing their financial vulnerability in the event of prolonged work-related disability.

Option 3, **Increase presumed age of retirement from age 65 to 70.** This addresses a fundamental societal shift in employment patterns since the 2002 reforms that established a presumed retirement age of 65. This option would increase this reference age to 70 and provide greater coverage for the increasing numbers of workers working beyond age 65.

Option 4, **Provide a one-time adjustment to restore the value of currently paid pensions to their purchasing power in 2002 or more recent year when the pension was established.**

Option 5, **Revise the cost of living provision of the legislation by altering the current CPI-1% such that full CPI would apply unless the Accident Fund falls below the established fully funded level.** This reflects policies in many defined benefit pension plans and will increase the flexibility of the board of directors to act in the best interests of the works' compensation system.

Option 6, Assumption of **maximum earnings in the event of a work-related death.** This option would ensure survivors and dependents receive the maximum benefit possible.

Option 7, **New lump-sum payable to the Estate of a fatally injured worker.** This option recognizes the work-related death regardless of survivors with a one-time amount payable to the estate and would give standing to the Executor of an estate to initiate a claim.

Option 8, **Increased powers to secure and preserve assets for the Accident fund.** This set of changes improve the ability of WorkSafeBC to secure funds owed by delinquent and bankrupt employers and to retain funds for the Accident Fund in a way similar to other large public pension plans.

Option 9, **Permit diagnostic and treatment expenditures prior to claim acceptance.** This option formalizes the ability of WorkSafeBC to authorize and pay for diagnostic and treatment prior to claim acceptance in cases where timely treatment is likely to lessen or prevent more serious harm or disability.

Part 1

Concepts, Context and Definitions

Fundamental Assertions

The options in this paper are developed in the context of WorkSafeBC's mandate and model. That context is based on the following fundamental assertions:

- The power to make and alter the parameters of workers' compensation legislation is the exclusive jurisdiction of the legislature.
- The legislation, the *Workers Compensation Act (Act)* creates the Workers' Compensation Board of British Columbia (operating under the name WorkSafeBC), to administer that legislation.
- The *Act* mandates the Board as follows (Section 36):
 - (1) The Board must continue and maintain the Accident Fund for payment of the compensation, outlays and expenses under this Part and for payment of expenses incurred in administering Part 3 of this Act.
 - (2) The Board is solely responsible for the management of the Accident Fund and must manage it with a view to the best interests of the workers' compensation system.
- The *Act* defines the parameters of benefits and compensation payable; the Board of Directors approves and publishes the policy for administering the provisions of the legislation

Under this framework, WorkSafeBC operates as the exclusive workers' compensation insurer for employers. It is also the occupational health and safety (OH&S) regulator, OH&S inspectorate for workplaces, and claims administrator for the defined benefits and compensation for the injured workers and survivors within its jurisdiction.

The workers' compensation system

The workers' compensation "system" is not defined by legislation. It is, however, the product of the mandate, structure and operations of the workers' compensation insurer in the context of its jurisdiction and scope, particularly the scope of who and what is covered.

WorkSafeBC shares many characteristics with other workers' compensation systems. For this discussion, certain commonalities and differences are important, particularly when evaluating policy options already established in comparator and neighbouring workers' compensation jurisdictions.

Workers' compensation insurance and Occupational Health & Safety

WorkSafeBC is the exclusive provider of workers' compensation insurance in British Columbia. Like most US, Australian and Canadian provinces and states, employers require workers' compensation insurance in order to operate in this province. Like half the workers' compensation boards in Canada (and some in Australia and the US), WorkSafeBC also has responsibility for OH&S functions including regulation, inspection, enforcement and prevention/promotion. The following table shows how the OH&S functions are distributed across Canadian jurisdictions.

OH&S Mandates Canada (condensed from AWCBC.org)

Jurisdiction	% Employed Labour Force Covered	Enforcement	Regulation	Training/Education	Prevention
PE	98.04	WCB	WCB	WCB	WCB
NL	97.61	Government	Government	WHSCC	WHSCC
BC	97.61	WorkSafeBC	WorkSafeBC*	WorkSafeBC	WorkSafeBC
YT	97.32	WCB	WCB	WCB	WCB
NT/NU	97.16	WSCC	WSCC	WSCC	WSCC
QC	92.6	CSST	CSST	CSST	CSST
NB	91.39	WorkSafeNB	WorkSafeNB	WorkSafeNB	WorkSafeNB
Canada	84.38				
AB	84.36	Government	Government	Government	Government
MB	77.4	Government	Government	Government	WCB
ON	76.24	Government	Government	Government	Government
NS	75.4	Government	Government	WCB	WCB
SK	71.3	Government	Government	Government	Gov. & WCB

AWCBC KSM 22 (2016 data)

Figure 3 - Workers' Compensation Coverage and Occupational Health & Safety Mandate

Note that the trend in Canada is to assign the OH&S functions to the workers' compensation authority where workers' compensation coverage exceeds 90% of the employed labour force; WorkSafeBC's mandate is consistent with this trend.

Under the BC model, virtually all employers are required to be insured and WorkSafeBC is the only entity mandated to sell workers' compensation insurance in this jurisdiction. There are few exemptions or exceptions; for example, certain corporations (such as personal services corporations), sole proprietors,

partnerships and independent operators with no employees are excluded but may “opt in” for their own coverage. Virtually all entities with employees are within the scope of coverage in BC. More than 97% of workers in the province are covered by WorkSafeBC. Federal government employees are covered by the *Government Employees Compensation Act*, which WorkSafeBC administers under contract for the Government of Canada.

Most employers within the scope of coverage are assessed and pay a percentage of their assessable payroll (commonly called a premium) for their workers’ compensation insurance coverage. The Federal government and a few other employers⁶ are “self insured” but the administration of injury claims from these employers is carried out by WorkSafeBC. WorkSafeBC receives premium revenue equal to the claims and administration cost to manage their claims. These employers also deposit funds with WorkSafeBC in trust to cover expected ongoing costs but retain liability for future costs of their claims.

Implications of the Scope of Coverage

The near universal scope of coverage has important implications. Inclusion in the scope of coverage provides an exclusive remedy for work-related injuries. Workers are statute-barred from suing employers and other workers defined under the *Act*.

A second implication impacts who pays medical costs associated with work-related injury, illness and disease. Once an injury or disease is accepted as a workers’ compensation claim, all medical diagnostic, treatment, and rehabilitation costs are payable from the Accident Fund. The range of healthcare expenses includes all necessary hospital and medical care, prescriptions, orthotics, prosthetics and similar items. A decision to exclude a category of employment from coverage externalizes these medical costs to the provincial medical services plan. (See Appendix B for more background on healthcare cost and the *Canada Health Act*). Changes to the current scope of coverage are not considered in this review.

Inclusion in the scope of coverage for insurance includes coverage under the OH&S mandate of WorkSafeBC and within provincial jurisdiction. Workers and employers under Federal jurisdiction must comply with Labour Canada regulations concerning workplace health and safety. Changes in this current structure are also excluded from this review, however, none of the stakeholders consulted supported any change to the existing structure, scope or mandate.

⁶ Sector 81 Employers: Canadian Pacific Ltd. and associated companies (including CPR and Cominco), Burlington Northern Inc., Air Canada, Canadian National Railway, Via Rail Canada Inc., and Government of the Province of British Columbia

Historic Compromise [Sidebar]

Workers' compensation insurance in BC follows the basic model of most Canadian workers' compensation system based on the principles set out by Sir William Meredith's work 1910-1913 in Ontario. Often termed the Historic Compromise, the BC legislative papers summarize the value proposition this way:

COMPULSORY STATE INSURANCE RECOMMENDED

We believe that, though each class surrenders to the State certain rights, it is in the public welfare that this should be so. The employer in submitting to the levy of taxes upon his industry receives the benefit of protection from expensive litigation, the workman in return, though he loses the precarious right to sue in tort for damages, receives in return a stipulated amount based upon his economic position in the community. Both the employer and the employee, as well as the State as a whole, benefit from the elimination of the friction and loss which necessarily attends all litigation. Your Commissioners have had recommended to them and discussed before them various systems of State insurance, particularly that in force in the neighbouring State of Washington, as well as the proposed legislation of the State of Oregon and the Province of Ontario. After a consideration of the legislation of the various unions of the United States and the Statute drafted by Sir William Ralph Meredith for the Legislature of the Province of Ontario, the system of compulsory insurance as proposed by Sir William Ralph Meredith commends itself in the main to your Commissioners as the most suitable to the jurisdiction of our Province. Several of the American Acts are specifically devised to overcome constitutional restrictions; fortunately our Canadian Legislatures are not hampered in regard to constitutional limitations as to their jurisdiction. [Emphasis added].

(p. 13, Royal Commission on Labour, 1914)

This represents both the Historic Compromise and the fundamental aspect of insurance adopted at the inception of workers' compensation in British Columbia. Employer liability for work-related injury and insurance to cover that liability predates workers' compensation systems. Employer liability laws still exist in some countries; individual employers are liable for work-related injuries and workers may be entitled to take action to recover losses from the employer. The shortcomings and inequities of that system were common and costly to all parties. The solution Meredith proposed and the BC legislators adopted was a compromise that pooled and limited the liability of employers and provided greater certainty to workers. Workers' surrendered the right to sue in exchange for no-fault, defined financial compensation; employers gained protection from suit, surrendering defenses against liability beyond the work-relatedness of injury, illness, disease or death. The underlying insurance principle was part of Meredith's solution: a transfer of financial risk from the insured to the insurer in exchange for a premium for the term of the insurance.

Courts have considered and upheld the exclusive remedy of workers' compensation on the basis (in part) that the compensation and benefits provided by workers' compensation are an effective replacement for tort remedies. Temporary compensation for lost wages, permanent disability awards for loss of function or earning capacity, and other benefits such as health care and vocational rehabilitation that would form the basis of judgements or settlements in tort, are reflected in workers' compensation and benefits; workers' compensation boards fill the role of administrative tribunal and trustee of the awards and benefits to be paid in lump sum or periodically.

Workers' Compensation *Laws* vs. Workers' Compensation *Insurance*

Employment-injury protection schemes are common in developed countries⁷. Governments pass legislation that mandate employers provide injury insurance or workers' compensation for their employees. Workers' compensation laws prescribe the scope of coverage (who and what is covered) and define the benefits to be paid. Workers' compensation insurance is the predominant form of coverage in Canada, the US and Australia. Workers' compensation insurance provided exclusively through a state workers' compensation insurance fund is the model in Canada, common in Australia but less common in the US, although about half the US states have state funds that compete with private insurance providers. Regardless of the model, workers' compensation insurance provides compensation and benefits for work-related injury, illness and disease.

Workers' compensation insurance is most similar to property and casualty insurance. Insurance is a transfer of financial risk associated with relatively rare but costly events from the insured to the insurer in exchange for a premium. Insurers underwriting that risk establish their premiums based on the expected claim costs, administration and other costs (and profit, in the case of private insurers). Premiums may be modified by individual experience. Homeowners will be familiar with home insurance against a specific risk such as fire or water damage from a water system failure in the home. Home fires are very rare but when a house burns down, the cost can be very high; water damage is more common but can have significant costs; home insurance protects homeowners from those costs. Premiums for home insurance may be discounted based on experience (years claim free, for example).

Work injury, illness and death are relatively rare events. Catastrophic work-related injuries and deaths are getting rarer but the human and financial costs continue to be immense. Workers' compensation *laws* limit individual employer liabilities for work-related injuries by defining the compensation and benefits payable; workers' compensation *insurance* provides the mechanisms to fund and administer the insurance, compensation and benefits within the legislated framework.

In the context of this report, aspects of both workers' compensation law and workers' compensation insurance are considered. All options that alter the defined compensation and benefits in the legislation have implications for the insurance aspect of workers' compensation.

Key Concepts

Workers' compensation *laws* define the scope of coverage, compensation, and benefits payable for work-related injury illness and death.

Workers' compensation *insurance* is a particular mechanism for implementing workers' compensation laws through the use of insurance principles and processes.

The Funding Model

The accounting for workers' compensation insurance funding, reserves and liabilities is complex. As one stakeholder said, "There are twenty people in the world who understand how WorkSafeBC funding works... and 18 of them work for the Board." To inform the consideration of options discussed in this review, generalized funding and premium models are provided in this narrative. Key concepts that apply to the options in this paper are presented in simplified form in this section (with some additional explanation in

⁷ ILO, *World Social Protection Report 2017-19: Universal social protection to achieve the Sustainable Development Goals*.

Appendix C). A more detailed explanation of the current funded status is contained in the *2017 Annual Report and 2018-2020 Service Plan*.

WorkSafeBC assumes covered-employers' financial risk of work-related injuries to their workers on a calendar year basis. That financial risk includes the costs that may arise from injuries that occur and are paid in the year but carries on well after that. Many cases will involve compensation or medical expenses for the life of the injured worker, widow/widower or dependent survivor. Moreover, there may be claims that are accepted and first paid many years after the coverage year, potentially long after the employer has ceased to exist.

WorkSafeBC follows a fully-capitalized, casualty insurance model created by statute, the *Workers Compensation Act*. Unlike private insurers, mutualized insurance entities, and some Crown corporations, there are no shareholders. The Workers' Compensation Board is a "statutory agency" created by statute to administer the *Act*. In the common taxonomy of workers' compensation, WorkSafeBC is a not-for-profit, exclusive state fund operating as the sole provider of workers' compensation insurance in its jurisdiction (see Appendix A for descriptions of other workers' compensation models).

Insurance is the transfer of financial risk in exchange for the payment of a premium. To be sustainable, the financial risk the insurer takes on must be quantified and covered by the premium, investment income and appreciation of held assets over the time it takes to discharge the full cost of claims (as well as expenses and profit)⁸.

Unlike most property insurers covering losses for a house fire or flood, the period of time over which a workers' compensation insurer is required to make payments will be lengthy. About 5% of benefits from current year claims are likely to be paid up to a year following injury; more than 50% of payments and associated administration will occur 15 or more years into the future. This "long-tail" of liability means the money collected in a given year must be held and managed for decades beyond the coverage year. For example, in 2017, 42% of current pension claims (long-term disability compensation and fatality benefits paid to survivors and dependents) were not attributable to current, active firms.

To "provide for the compensation, outlays and expenses" related to the administration of claims from all years (as well as other activities including OH&S and prevention), the legislation creates the Accident Fund. It is the Board of Director's responsibility to continue, maintain and manage the assets of the Accident Fund in the "best interests" of the worker's compensation system, keeping in mind the long-term nature of its liabilities.

The Accident Fund receives revenue from insurance premiums, administration fees, penalties, interest on investments and sale of assets. Expenditures from the fund go to make payments to workers (as well as survivors, and dependents) and on their behalf to hospitals, healthcare professionals, pharmacies, medical supply houses and others for medical diagnosis, treatment and rehabilitation expenses. Expenditures also cover the administration costs, acquisition and maintenance of facilities, as well as operations consistent with the OH&S and prevention mandate defined by the legislation.

⁸ There are a number of insurance pricing models, and wide variation within them. This review discusses the funding model used by WorkSafeBC. For more information on insurance funding and pricing models, see Stephen P. D'arcy And Richard W. Gorratt, "A Comparison Of Property/Casualty Insurance Financial Pricing Models," *Proceedings Of The Casualty Actuarial Society, Volume LXXXV, Part 1 No. 162* Available at <https://www.casact.org/pubs/proceed/proceed98/980001.pdf>

Key Concept

WorkSafeBC is the workers' compensation insurer, taking on the financial risk of defined compensation and benefits arising from work-related injuries to workers in exchange for a premium paid by the employer.

Premium Rate-making

Premium pricing and rate-making methods for insurance vary⁹. WorkSafeBC classifies each enterprise by its industrial activities and clusters those with similar risks into rate groups. Using data from past years and other sources, WorkSafeBC develops premiums based on the expected cost of new injuries arising in the coming year. Rateable employers are assessed by applying that premium rate to their individual assessable payrolls; rates may be modified based on a particular employer's past claim cost relative to other similar employers (Experience Rated Assessment or ERA). An insured entity may have multiple classifications depending on the diversity of its activities. More commonly, an enterprise will have one classification and the payroll of all individuals (up to the maximum assessable earnings) "in and about" that industry is subject to a premium based on each \$100 of payroll.

Most but not all workers' compensation insurers have a maximum assessable amount for each individual on an employer's payroll. The maximum assessable amount is usually equal to the maximum insurable amount for compensation. WorkSafeBC's maximum assessable and insurable earnings are set at \$82,700—an amount derived from the relationship in Section 33 (8) to (10) of the *Act*.

Note that BC's maximum assessable is below the maximums in many of its neighbouring jurisdictions and comparators (see *Figure 1*). It should also be noted that a higher maximum does not typically mean a higher premium rate. Provinces with the highest maximum assessable values tend to have lower premium rates. While the reasons for this may differ from province to province, many higher wage earners are in occupations or positions that have lower frequency of injuries. Lead hands, supervisors, and managers may have earnings at or above maximum levels but may also be at lower risk of traumatic injury than others in and about the industry by virtue of their position. Although the frequency of losses may be lower, the financial value of each loss may be significantly higher.

In addition to future claim liabilities for compensation, rehabilitation, medical costs and other benefits, the premiums collected from employers for each year must also cover the administration and infrastructure costs of operating the insurance and fulfilling the occupational health and safety (OH&S) and prevention mandates.

The liability for injuries that occur in a given year may take decades to fully develop. The full claim cost, however, can be discounted by the expected required rate of return on investments over the time payments related to claims for that year may be paid. The required rate of return is established by the Board of Directors. Through prudent investment, effective rehabilitation, and diligent oversight, ideally the funds collected as premiums from a year will cover the eventual full costs arising from that year's injuries.

⁹ This review does not examine the premium pricing or rate-making beyond a simplified model to support the presentation and consideration of the options contained in this paper. The basics of this topic are covered in the following text: Geoff Werner and Claudine Modlin *Basic Ratemaking* (Fifth Edition), Casualty Actuarial Society, May 2016 available at https://www.casact.org/library/studynotes/Werner_Modlin_Ratemaking.pdf

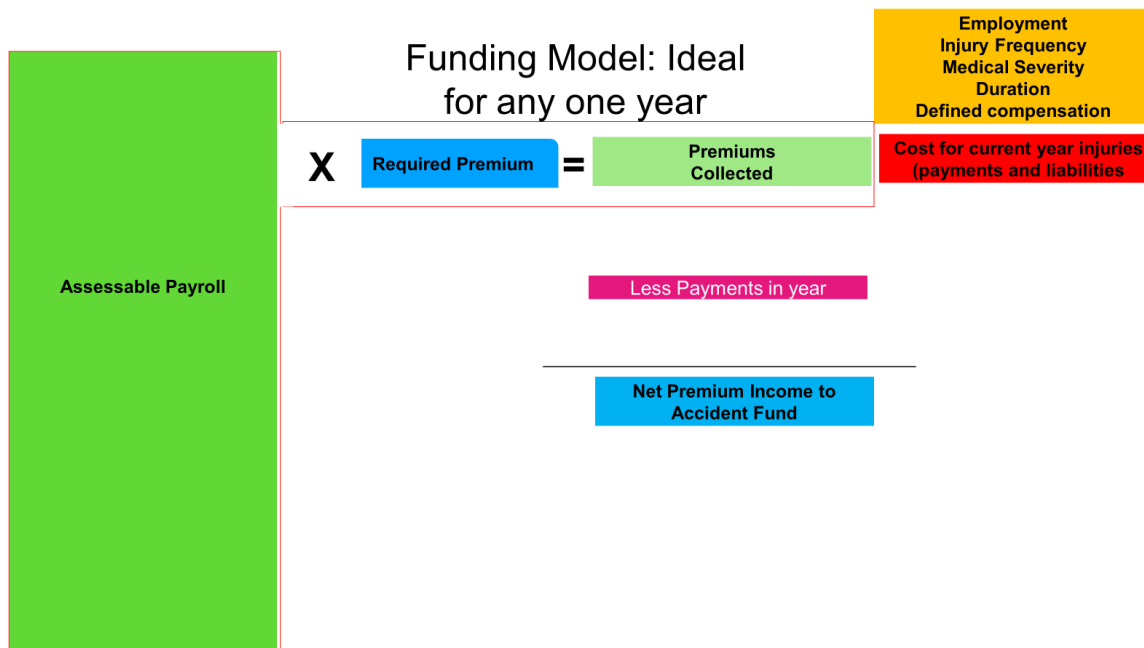


Figure 4 - Funding Model: Ideal Case

The premiums assessed on payroll and collected from employers for any year are intended to cover the costs of claims and other expenses related to that year. In principle, each generation of employers is self-funding and the population of workers and survivors can count on the defined compensation they were assured at the time of injury for the full duration of their entitlement even if the employers responsible for paying premiums at the time of injury are no longer in existence.

The registered base of employers is not constant. For example, only 17.5% of employers that are active at this writing were active 20 years ago¹⁰. About 43% of long-term disability and fatality benefits paid each year are for claims where the accident employer is “inactive”.

In the ideal situation, the premiums of each years’ employers and the future investment returns on those premiums will cover all the costs for the full term of all claims that are attributed to that year for the duration of all the claim entitlements and administration. If the premium charged is too low, there will be a shortfall in the ability of the insurer to pay entitled benefits; if the premium is set too high, then more money than needed is taken away from employers (eliminating the employer’s options to use those amounts for profits, new equipment, business expansion, etc.) Note that the investment and premium part of the funding model is accounted for on a smoothed accounting basis so that changes, shortfalls and excesses will be amortized over five years. This prevents steep transitions in premium rates over short periods of time.

One way to think about workers’ compensation insurance is to consider each year’s premiums and claims liabilities as one book of insurance. At the end of the most recent year, much of the premium income remains to cover the liability of all future compensation, benefits and administration expenses. The balance in the book at the end of the year is substantial but will decline as time passes and expenditures are made on that year’s injuries. Following this analogy, older volumes will have asset and liability values; the older the volume, the lower the asset and liability values. The aggregate sum of all volumes’ assets compared to the

¹⁰ There are 251,985 currently Active, Real Employer CUs as of October 20, 2018. 44,179 of those have a first start date before 1998-11-20. 17.5% of Employer CUs that are active now were active 20 years ago.

outstanding liabilities of all books determines the funding status. If investment returns are as anticipated and costs are as expected, the full set of all books will be balanced.

Key Concept

All current and future year costs associated with injuries in a given year should be covered by the premiums (and future investment returns from those premiums) from that year.

Imbalance in the funding model

The ideal model may not generate ideal results in the real world. Sudden changes in markets can cause sectors to contract quickly, reducing payrolls, the basis on which premiums are assessed. Declining labour markets can drive up claim duration and reduce return-to-work alternatives without enhanced physical and vocational rehabilitation or retraining. In centres where a significant sector of the employment experiences a prolonged decline, alternatives for re-employment of injured workers will decline, often resulting in workers' dislocation or relocation in search of suitable and available employment. The converse is also true. Rising markets, sustained demand for labour, changes in technology can reduce injury frequency, severity and duration of disability resulting in lower than anticipated claim costs.

Managing the imbalance from one year may be corrected by amortization in the subsequent years. Rates may be adjusted to manage or average the adjustment in these following years.

Economic cycles, new occupational diseases, financial recessions, depressions, natural disasters, and many more factors can impact claims costs or anticipated investment growth or income. Workers' compensation insurers, therefore, may set up reserves in anticipation of these risks (more on reserves below).

The theoretical balance of the model is not always achieved. *Figure 5* shows the total cost and premium rates over the last two decades:

Premium rates and cost rates

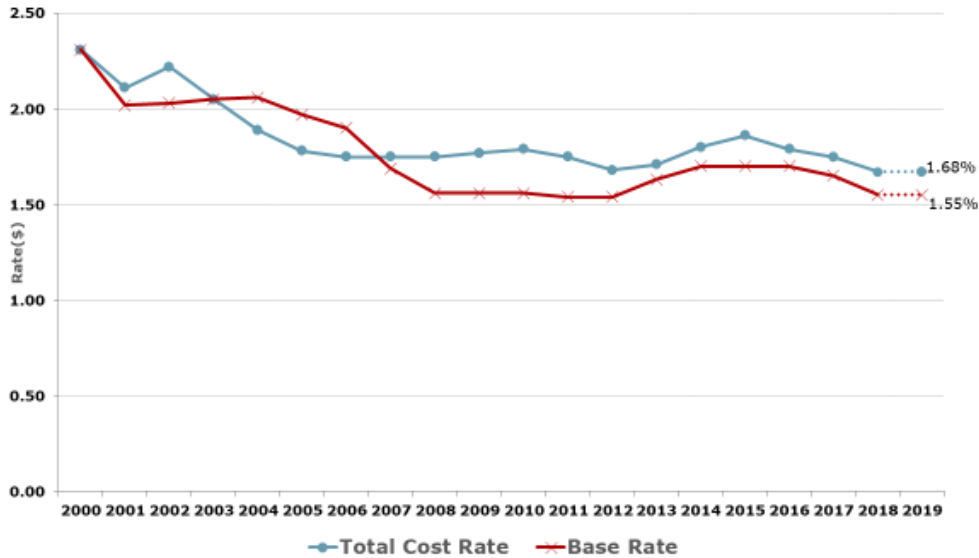


Figure 5 - Total Cost Rate and Base Premium Rate 2000-2019

[As noted in the introduction, the 2002 legislative changes in compensation and benefits reduced claim liabilities substantially but the unfunded liability remained. In the following years rateable employers contributed more than a quarter billion in revenue (\$282 million 2003 through 2006) in excess of the required cost rate through the premiums they paid. As the unfunded liability was eliminated and financial performance, in general, remained strong in the years following, rateable employers received offsets of nearly \$1.8 billion (2007 through 2018 or \$2.0 billion through 2019) against the total cost premium.]

Conceptually, the premium rate charged each year should equal a calculated cost rate that includes all costs that have arisen or will arise going forward (often termed “incurred” costs) for that year’s injuries. Premiums greater than this required cost rate may be necessary to offset a shortfall in the funding model from previous years or a deficiency in the Accident Fund (as shown in Figure 6). This higher premium collected increases revenue to the Accident Fund, increasing the employers’ cost of production and may limit employers’ options to invest in new plants and equipment, create new jobs, improve wages and benefits and return profits to shareholders.

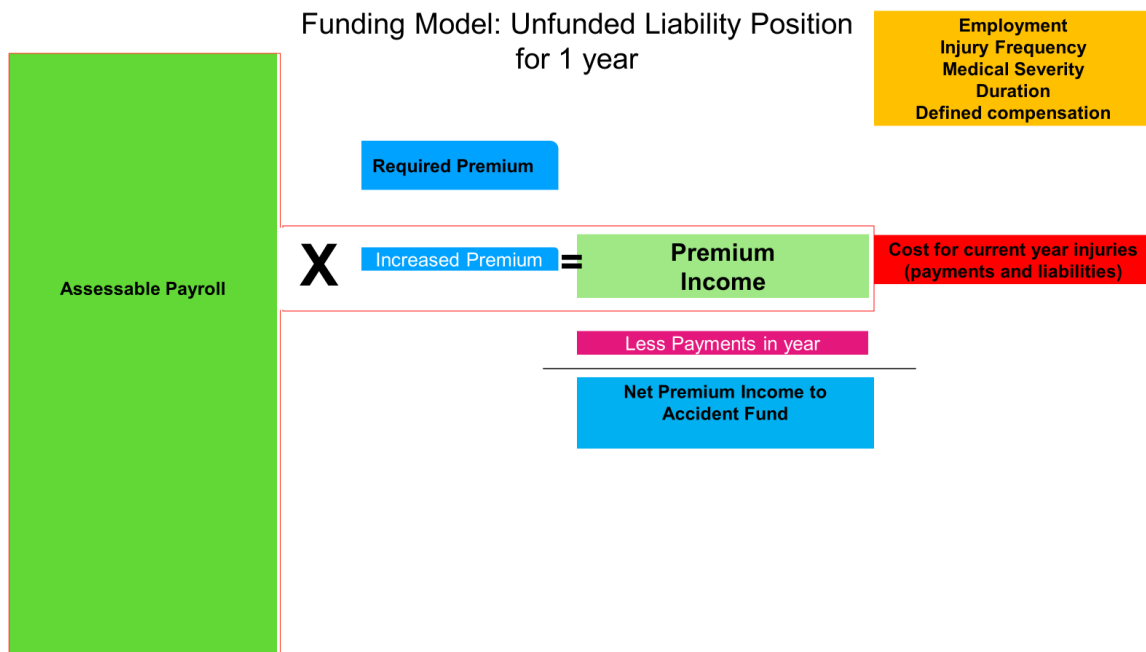


Figure 6- Funding Model: Unfunded Liability Case

In the case where there is no excess surplus, premium set below the expected cost rate result in the current generation of employers not paying the full cost of work-related injuries, illnesses and deaths that arise in relation to employment. If the shortfall is shifted to the future, it may represent an intergenerational transfer of costs from current employers to the employers of future years. If the shortfall is funded from reserves from past years, then the premiums and revenues of the past are subsidizing the losses associated with current employers. Transfers from reserves to support the lower premium or revenue shortfalls reduce future income potential and restrict the range and magnitude of other choices.

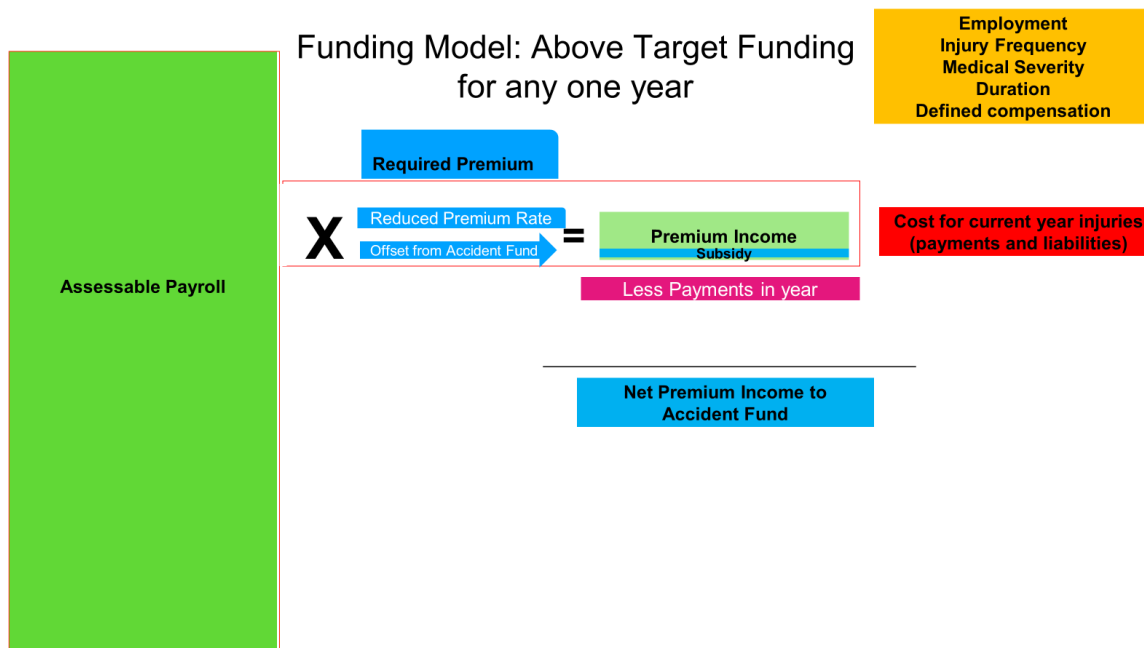


Figure 7 - Funding Model: At or above Target Funding Level with Offset

Supporting the current actual costs with recent investment gains (or excess surplus above the target level) results in a lower base premium rate but sets up the potential for a rate-shock scenario when gains (even if amortized) that enabled lower premiums are no longer available. Figure 7 illustrates how an offset works to support a lower premium when funding targets are fulfilled. The offset is a subsidy to the rate, reducing the effective charged premium. Supporting the current actual costs with recent investment gains (or excess surplus above the target level) results in a lower base premium rate but sets up the potential for a rate-shock scenario when gains (even if amortized) that enabled lower premiums are no longer available.

Key Concept

Imbalances in the funding model may result in intergenerational cost transfers.

The Board of Directors has the authority under the legislation to set premiums, authorize special levies, implement policies to moderate changes to premium rates. For example, a “capping policy” moderates changes in premium rates from year to year; unappropriated balance and accumulated other comprehensive income (or losses) are amortized over five-years through adjustments to future premium rates. In any given year, the combination of that year’s portion of the amortized gains and losses from previous years may result in a net upward or downward effect on the premium rate.

Key Concept

Policies set by the Board of Directors mitigate against sharp changes to premium rates.

The Accident Fund

Each year, a fraction of the eventual full cost of the claims arising from injuries in a given year are paid in the accident year (about 5%). The aggregate of the remaining funds from the current accident year premiums (about 95%) and from all previous years (put aside in previous insurance years to pay claims into the future) form the largest part of the Accident Fund. The revenues from investments and premiums collected in the year add to the Accident Fund. Expenses for claims made in the year, regardless of year of injury, deplete the fund, as do expenses for administration (including systems, operation of facilities, staff, etc.).

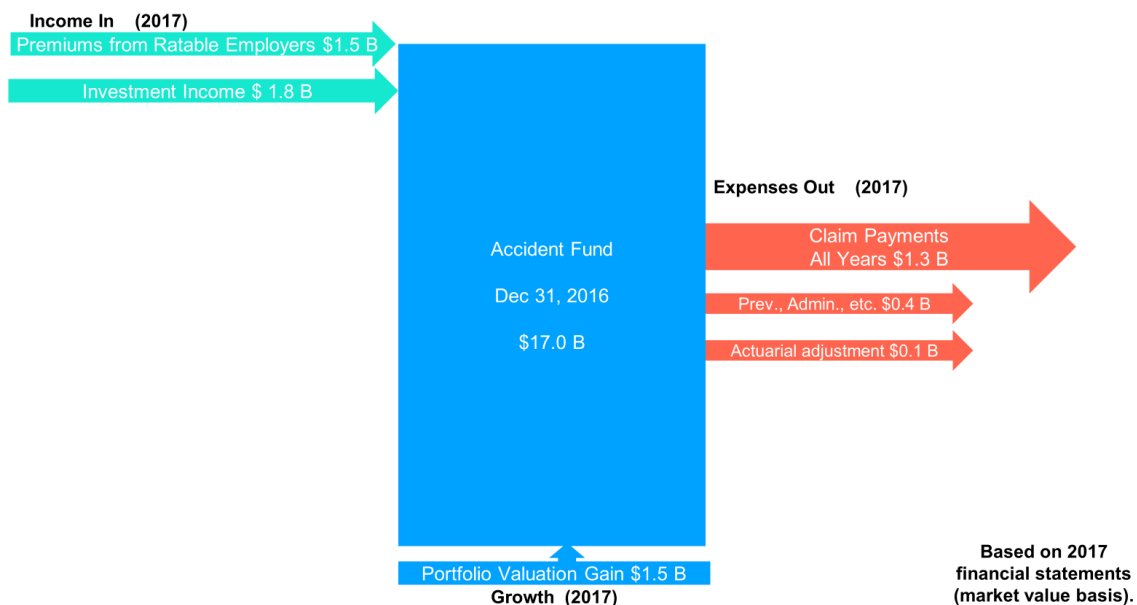


Figure 8- Accident Fund: 2017 Representation

Although not to scale, *Figure 8* illustrates the relative impact of current year income and expenses on the Accident Fund.

Very little “cash” is held in the Accident Fund. The value of the Accident Fund at any given point in time is dependent on the value of the investment portfolio that holds WorkSafeBC’s assets.

The Board of Directors develops investment strategies and manages the Accident Fund to meet certain objectives. Primary among those objectives is the security of the funds entrusted to the Board to pay compensation and benefits part of the social contract of the Historic Compromise. The value of the assets in the Accident Fund and the value of the liabilities against the Accident Fund are formally assessed at the end of each insurance (calendar) year.

If the value of claim liabilities equals the value of assets in the Accident Fund, then the system is balanced but still vulnerable. Changes in the underlying value of investments or liabilities can alter the equation potentially resulting in funding deficits or surpluses. On the liability side, expected claim costs are typically relatively stable but infrequent events can rapidly increase liabilities. Disasters, sudden changes in compensation, and expensive new medical treatments could dramatically increase claim liabilities.

Asset values are also subject to sudden change. The risk of prolonged depressed or falling asset values includes both the loss of capital and expected revenue (interest, dividends, gains on sale) calculated when the valuation was higher. Outflows from an Accident Fund in a falling market may accelerate a decline in the funded status.

To guard against such risks, insurers develop reserves. Reserves provide protection of benefits payable to workers and buffer the need to recover deficits through higher premiums (as well as other purposes as noted below).

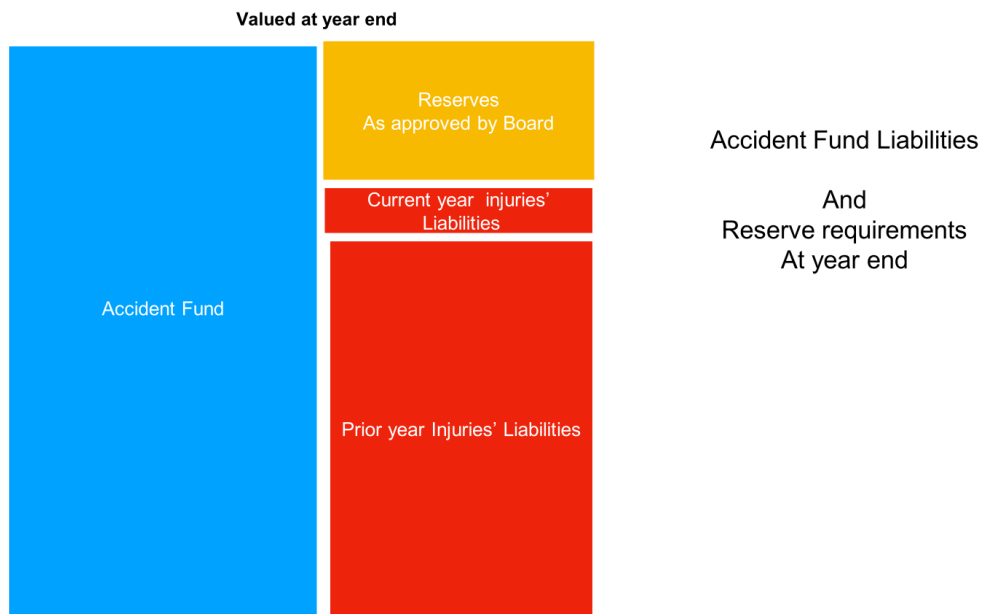


Figure 9- Accident Fund with Liabilities and Reserves: Representation

The funded status is determined by comparing the value of the Accident Fund with the value of the liabilities against it. In the strictest sense, if the value of the Accident Fund equals the value of all outstanding charges into the future, the status of the Accident Fund is 100% funded. That does not mean that the workers' compensation system is sustainable or that the defined compensation and benefits promised injured workers and their families will be there into the future.

The value of the Accident Fund is highly dependent on the valuation of the investment portfolio portion of the Accident Fund. Holders of investments including mutual funds realize that the value of the investment is a function of what the market is willing to pay for that investment at a particular point in time. That value can change dramatically in a short period of time. In a one-week period during this report, the value of the Accident Fund varied by more than half a billion dollars. Swings the other way are also possible. In the latter weeks of October and early November, the value of assets recovered, nearly reversing the earlier decline in portfolio value.

Other risks are also inherent in the workers' compensation system. In the transfer of financial risk, the insurer takes on responsibilities for work-related injuries and illnesses that have yet to be fully recognized. The work-relatedness of some diseases are yet to be determined but workers in workplaces today may be exposed to the toxins or agents of disease that will generate future claims for compensation, medical

treatment and survivor benefits. (Note: current claim liabilities already take into account recognized long-latency diseases where diagnosis, disability and death may occur 15 to 50 years in the future).

Disasters may also occur on longer time scales. Every employer in the lower mainland faces the risk of an earthquake occurring while workers are in the course of their employment and being injured in the event. Experiences in California and New Zealand provide ample evidence of the risk and inform the estimates of loss that similar events might cause here.

There is also the potential for legislative change (including the options contained in this paper) that impacts prior years' cases. These have the potential of increasing claim costs for claims that occurred in past years.

To protect against these and similar risks, WorkSafeBC and other insurers have several alternatives: charge current and future employers when the risks arise, reinsure for those risks with other insurers, or establish reserves to cover or buffer the impact of such changes.

The first alternative (charge current and future employers for any and all costs that arise in the year) is expedient and simple but has cost consequences. Current employers would be responsible for costs over which they had little or no control. If an earthquake occurs in a given year, then the employers of that year and future years will have to bear the extra costs. If legislative change enhances compensation or benefits for cases already entitled to payment under from the Accident Fund, then the premiums charged employers in future years would have to increase to cover those costs.

Reinsurance options are sometimes used by workers' compensation insurers. A reinsurer may be willing to take on the risk of such events in exchange for a premium. There are few reinsurers in this market and not all are willing to take on these risks. Where they are, the premiums are large and often accompanied by high deductibles. Reinsurance expenses would be borne by current employers.

Many larger insurers, including WorkSafeBC, chose to self-insure these risks by creating and maintaining reserves.

Key Concepts

The current Accident Fund value has accumulated over many previous years; the funding model, investment income, and gains on sale of assets all contributed revenue to the existing Accident Fund

The value of the Accident Fund at any point in time is dependent on the value of investments at that time.

Liabilities against the Accident Fund are mainly the estimated value required to cover all future payments and administration for all current and prior year claims.

Funding Status relates to the value of the Accident Fund compared to Liabilities.

Reserves

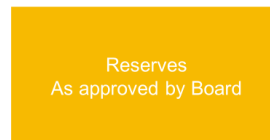
WorkSafeBC has identified specific risks and established reserves. Special reserves are primarily designed to protect employers from excessive costs arising from work-related claims where they have little or no influence. These include:

- Contingent Reserve - in aid of industries or classes that may become depleted or extinguished

- Disaster Reserve - to meet the loss arising from a disaster (or similar circumstance determined by the Board)
- Enhancement Reserve - for payment of that portion of a disability enhanced by reason of a pre-existing disease, condition, or disability (similar to Second Injury Funds maintained in some jurisdictions)
- Latent Occupational Disease Reserve - relating to occupational diseases not currently recognized as compensable but that may be recognized in the future based on new scientific evidence
- Earthquake Disaster Reserve – to provide for claims from workers who may be injured in the course of their employment during an earthquake disaster

Reserves may be established for purposes other than specific event risks. For example, WorkSafeBC has the following

- Research Reserve – Investment income on this reserve is for initiatives in scientific study and dissemination of information and applying ways to reduce occupational injury, disease, impairment, or disability arising from employment
- Injury Reduction and Return-to-Work Initiatives Reserve - Investment income earned on this reserve is directed to funding projects for piloting and implementing initiatives in workplace injury reduction and disability and injury management
- General Reserve - to provide for special circumstances, including legislative changes that significantly impact the organization’s consolidated financial statements and assessment rates levied in a particular year.
- Capital Adequacy Reserve - to mitigate the risks in its assets and liabilities.



**Reserves
Established by the Board**

Individual reserves have values

- **Contingent Reserve**
- **Disaster Reserve**
- **Enhancement Reserve**
- **Latent Occupational Disease Reserve**
- **Earthquake Disaster Reserve**
- **Research Reserve**
- **Injury Reduction and Return-to-Work Initiatives Reserve**
- **General Reserve**
- **Capital Adequacy Reserve**

Figure 10- WorkSafeBC Reserves

By setting aside funds to cover rare events (like disasters), somewhat predictable but uncertain events (like earthquakes), and other risks, insurers can prevent “rate shocks” and level costs over time.

Reserves are generally funded from investment revenues rather than directly from premiums but are notional in that they are not segregated from the Accident Fund. The levels of funding assigned or attributed to each reserve (and reserve levels in total) are decided and managed by the Board of Directors. The largest reserve is the Capital Adequacy Reserve with a value of \$2.9 Billion or about 83% of the value of all reserves

Key Concept

Reserves provide stability to employer premium rates and protection of worker benefits.

Desired Funding Level

The funded position of the WorkSafeBC is determined by dividing the Accident Fund value by the sum of all liabilities. After several years of analysis, stress testing and modeling of risks, the Board of Directors determined that maintaining a funded position of not less than 130% was in the best interests of the workers' compensation system *at this time*. The level is well above the 100% funded level (where the value of assets equals the value of all liabilities) but deemed necessary to protect the compensation and benefits defined by the legislation. The level also protects present and future employers from the necessity to fund shortfalls in funding as a result of investment performance.

The target funding level is not etched in stone but subject to constant review and adjustment as conditions change if conditions are judged by the Board of Directors require amendment.

Key Concept

The Board of Directors is responsible for determining the value of reserves and desired funding status.

Shortfalls and Excess in the Accident Fund

Each year, WorkSafeBC reports the value of its assets and liabilities in "fair value" financial statements in accordance with International Financial Reporting Standards (IFRS) in the *Annual Report and Service Plan* financial statements. The value of the assets and liabilities are assessed independently and subject to audits and review. A perfect balance is rarely achieved.

Imbalances can arise from several sources. The invested assets are subject to market forces; returns may fall short of those needed, expected and planned for. Market volatility alone can result in large swings in the value of the Board's investments (as the example noted earlier of a swing of \$750 million in October 2018 illustrates). Prolonged declines in markets can erode the funded position quickly even if revenues and economic activity in the province remain constant in the short run.

The Board of Directors sets its investment policies and expectations to match the longer-term horizon of its liabilities. Markets, however, are never constant. "Bear" and "bull" markets are part of the investment context and can diminish the value of the Accident Fund.

On the liabilities side, the amount of compensation and benefits being paid out may also exceed or fall short of expectations. Changes in patterns of practice and claims filing may also impact on the value of liabilities. The higher profile of post traumatic stress disorder (PTSD), psychological injury, and a greater appreciation of the work-relatedness of certain occupational diseases can change claim volumes and costs.

In a year when the incurred cost of claims exceeds the revenues collected, the loss for that year, (that book of insurance referred to earlier) may be offset by higher revenues from recent years, raising premium rates in

the future, and using reserves to even costs over time. Amortizing larger gains and losses can minimize the impact of these imbalances. When that is no longer reasonable, more drastic action must be taken [See Sidebar Reviews and Reforms].

Reviews and Reforms: 1988 to 2002. [Sidebar]

In the early 2000s, WorkSafeBC's financial position was poor. Given the outlook and projections, the system was unsustainable and in need of reform. The government of the day introduced changes to the *Workers Compensation Act* consistent with legislative changes made in other Canadian jurisdictions over the preceding decade and the Board of Directors amended policies in an effort to curtail projected operating losses.

Through the 1990's, other workers' compensation systems in Canada and the US faced similar financial difficulty and reforms were urgently enacted in a number of jurisdictions. For several reasons, BC's reforms lagged behind other jurisdictions. In the space of a dozen years, WorkSafeBC transitioned its governance from a commissioner model, to a representative board of governors structure, a panel of administrators and ultimately the present corporate Board of Directors. There was agreement that reforms were necessary but less agreement on exactly what those reforms should take. The Minister at the time, Graham Bruce, noted WorkSafeBC:

... ran a deficit in 2001 of nearly \$287 million.

The current forecast calls for an accumulated deficit of more than \$900 million by the year 2005. This is due primarily to the system's rapidly increasing costs. If we do not act now, the future of our workers compensation system could be at risk, and benefits for injured workers could be threatened. In recent years Ontario, Saskatchewan, Alberta and Manitoba have been forced by economic realities to renew their systems...

Hansard, Thursday, May 16, 2002, Afternoon (Volume 8, Number 3, page 3548)

After outlining the changes, the legislation (Bill 49) would make to worker benefits with particular reference to the new indexing formula, 90% of net compensation limit, and retirement age provisions, the Minister added, "These limits have been set to help return the system to financial health."

The main compensation and benefit changes are summarized in this archival table from an internal presentation:

- **New Governance Model: Board of Directors**
(from Panel of Administrators and former Governor Model)
- **Benefit Changes:**
 - 90% net *(from 75% of Gross)*
 - Average earnings rules in legislation based on 12 months and EI included in some cases
(from more subjective policy-based methods)
 - Defined Indexing: CPI-1% once a year, floor 0% cap 4%
(from full CPI every 6 months)
 - 50% integration CPP Disability *(from full stacking)*
 - Pensions to age 65 with Post Retirement Benefit
(from pensions for life)
 - Loss of Earnings "so exceptional test"
(from "the greater of the loss of earnings or loss of function")

The following figure represents the post-reform estimation of the Accident Fund and Liabilities:

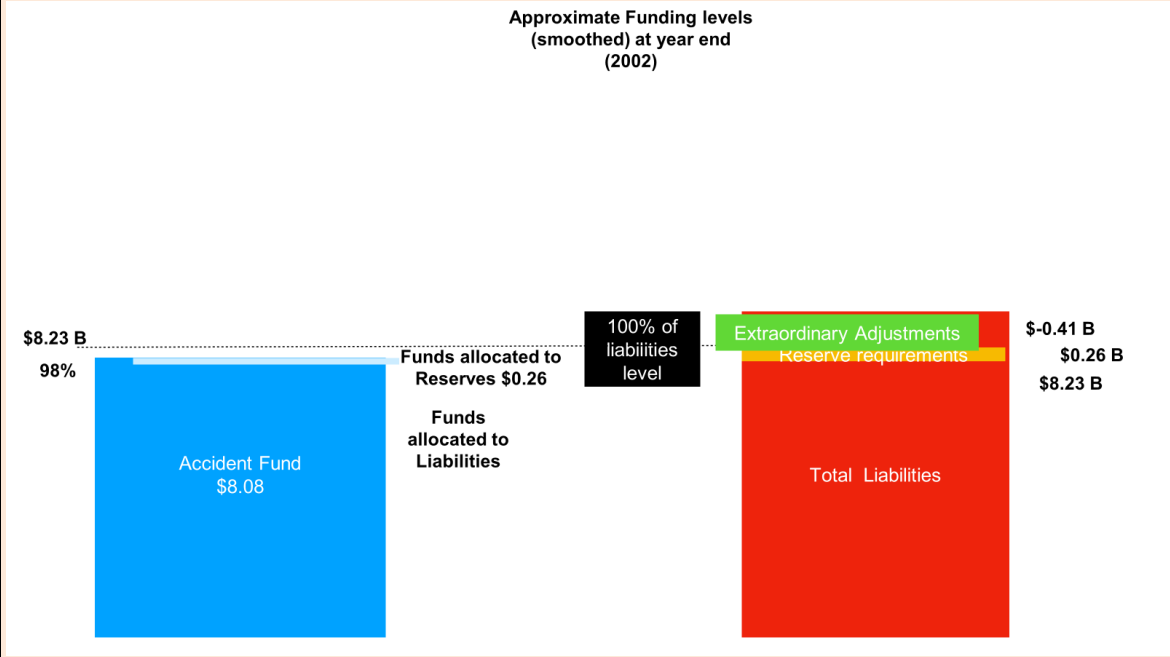


Figure 11- Accident Fund, Liabilities and Funded Status: Post 2002 Reforms

The changes had both positive and negative impacts on WorkSafeBC. This table summarizes the impacts as they were estimated in 2002.

	<i>Annual Impact</i>	<i>One Time Impact (as of 2002 Y/E)</i>
75% gross to 90% net	Saving of \$29M	Saving of \$48M
Average Earning	Cost of \$27M	Cost of \$83M
Life to Term at Age 65	Saving of \$65M	Saving of \$31M
Full CPI to CPI-1%	Saving of \$31M	Saving of \$557M
Total	Saving of \$98M	Saving of \$553M

Figure 12- Impact of the 2002 (Bill 49) Reforms

The largest financial impact on the Accident Fund was attributed to the change in the indexation of compensation. The indexation of periodic permanent disability awards (pensions) was previously full indexation applied twice yearly. Under Bill 49 and Bill 37, the indexation was defined as the Consumer Price Index (CPI) less 1% with a maximum of 4% and a floor of 0% (*Act* Section 25). The impact on the Accident Fund was presented as a positive change in position of \$465 million. [Note: 2002 annual report uses \$553 million as the impact as it captured impacts from other legislative changes].

The trend and impact of the reforms on the Accident Fund balance of the Bill 49 amendments are apparent in the following archival graphic from an internal briefing:

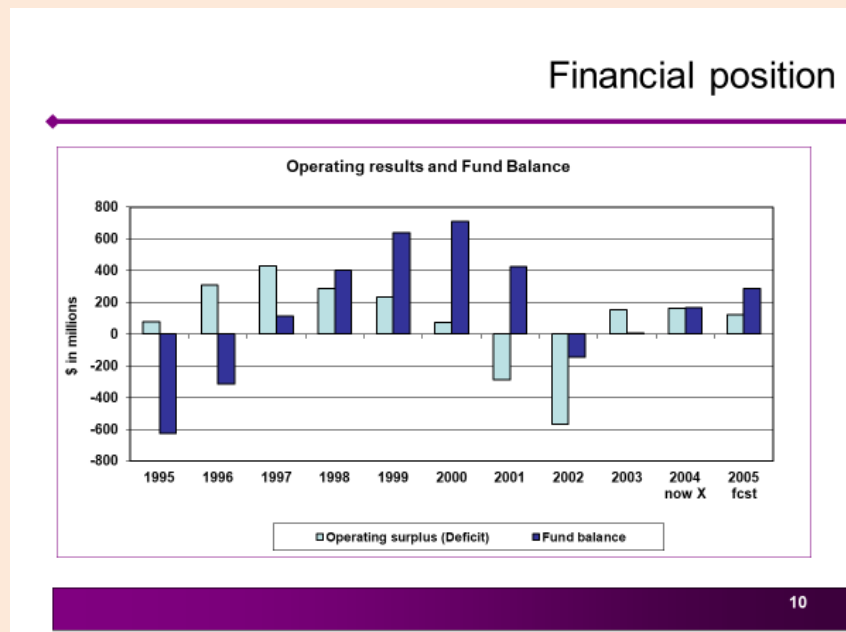


Figure 13- Operating Results and Funded Balance 1995 - 2005 as estimated 2004

Note the nearly \$1 billion change from operating loss [light blue in Figure 13] from 1997 through 2002 and steep decline in the funded balance [dark blue] leading up to 2002. Post 2002, there was a return to operating surplus and a positive funded position.

Repeated operating deficits and significant unfunded liability positions often result in a tightening of legislative parameters and policy provisions regarding compensation and benefits as well as increases in premiums to employers. The converse is also true. Positive funded positions are often opportunities to improve compensation, benefits and services to workers and to lower premiums for employers.

Improvements and Adjustments

The main parameters of workers' compensation systems have been in place for a century. While no compensation or benefit structure can overcome the human and financial costs of workplace injury, workers' compensation was initiated to offset some of the financial costs of work-related injuries, diseases and deaths.

According to workers' compensation authority, Arthur Larson:

The first true compensation act adopted not only in Canada, but in North America and indeed the entire New World, was enacted in British Columbia on June 21, 1902¹¹

Although limited in scope and defined compensation and benefits, The Workmen's Compensation Act, 1902 Act (effective May 1, 1903) provided a basis for consideration of the Ontario model proposed in Ontario about a decade later by Sir William Meredith.

The original parameters of Canadian workers' compensation system included:

- Compensation for some of the lost wages for temporary disability
- Compensation for permanent disability
- Benefits in the event of the death of a worker
 - Burial
 - Funeral
 - Survivor and dependents

The BC legislature's approach to implementing a workers' compensation system included a committee of the legislature under Avarad Pineo. As a result of his consultations with labour and employer representatives, the BC implementation improved on the Ontario legislation. Prevention and healthcare coverage were not included in the original formulation of workers' compensation but as part of the BC implementation of Meredith's historic compromise, this province had the most comprehensive coverage for medical costs. The inclusion of a comprehensive "medical aid" component in the BC implementation of the Historic Compromise was the price labour demanded for its agreement. One historian put it this way:

During the B.C. portion of the Committee hearings, employers demanded that workers be responsible for a first aid fund, while employers would take care of the disability fund. B.C. hospitals were particularly prominent during this issue as they claimed that injured workers unable to pay medical expenses was putting considerable pressure on their finances. In a rare act of conciliation at this time, a committee of employers, the B.C. Federation of Labor and the Railway Brotherhoods met privately during the hearings and came to agreement on the medical aid issue. The medical aid fund would receive contributions from workers at a fixed rate, one cent a day, with employers covering the difference if there was a shortfall. Thus workers would be guaranteed immediate and full medical assistance and hospitals and doctors could be assured of prompt payment for services.¹²

BC's medical aid provision was the most comprehensive of its time, although workers' compensation reforms in Canada and the US adopted similar provisions. (Direct worker premiums to support healthcare costs were eliminated in the mid-1940s).

¹¹ Larson, Arthur, *Meredith Lectures from 1987-1991*, AWCBC p. 3

¹² Chaklader, A., *History of Workers' Compensation in B.C.: A Report to the Royal Commission on Workers' Compensation in British Columbia*, May 1998, retrieved from October 31, 2018 from <http://www.qp.gov.bc.ca/rcwc/research/chaklader.pdf>

The Pineo commission put it this way:

...[A]dequate medical aid not only results in preventing and alleviating human suffering, and in savings to employers large sums of money otherwise payable in compensation, but also results in preserving and returning to industry the individual efficiency of many of its most competent workmen.

The inclusion of medical aide was not the only improvement proposed for the BC implementation. Pineo added:

Laws which provide for the taxing of industry to furnish compensation for the victims of industrial accidents irrespective of fault are commendable and desirable, but laws which will prevent the happening of such accidents are of more vital importance¹³.

The history of improvements to workers' compensation laws varies by jurisdiction. There are no universal standards or conventions that fully describe the parameters or extent of coverage. One influential US public policy document that has informed policy decisions in workers' compensation laws generally is the *National Commission on State Workmen's Compensation Laws*¹⁴. The report established the minimum recommendations for the main compensation and benefit parameters including:

- Maximum weekly benefit at 200% of State Average Weekly Wage.
- Compensation at least 80% of spendable,
- Waiting periods of no more than 3 days and retroactive periods no more than 14 days

The National Commission remains an important policy reference. Most Canadian systems would meet or exceed its recommendations. From the BC perspective, the current maximum weekly benefit would fall short of the recommendation, although the wage distribution in the US in the 1970s may have little relevance to today's wage distribution. The objective of the National Commission recommendations on maximum benefits was to ensure that the highest wage earners were covered. The recommendation on compensation rate of greater than 80% was accompanied by discussion that would ensure compensation payments did not exceed spendable earnings, a possible consequence then as now with using a percentage of gross income as the basis for workers' compensation temporary disability payments.

The coverage, compensation and benefits under workers' compensation laws expanded in the 1980s across North America. Combined with economic conditions at the time, many jurisdictions saw rising employer costs and sought reforms to limit the growth in costs. Most jurisdictions in Canada reformed their compensation systems during the 1990s and early 2000s in ways to control rising costs. For example, many Canadian workers' compensation systems move from a percentage of gross earnings (typically 75%) to a rate that more closely related to "spendable" or net earnings after mandatory income tax and social security (Canada Pension Plan and Employment Insurance). The compensation rate (ranging from 75% -90% of net earnings) was arguably fairer across income categories. It eliminated disparity in as much as workers at all income levels received the same percentage of take-home pay but also reduced the total compensation payable.

Inflation adjustments to compensation were also included. Full indexing of compensation payments was introduced in the 1960s in most jurisdictions but curtailed as inflation levels rose. Ontario introduced the

¹³ Pineo, Avarad V., Report of the Committee of Investigation on Workmen's Compensation Laws, (Victoria, BC: King's Printer, 1916), p. 7-9

¹⁴ Burton, John F. Jr. [Chairman], *Report of the National Commission on State Workmen's Compensation Laws*, July 1972 available at http://workerscompresources.com/?page_id=28

Friedland formula (75% of CPI, less 1%, with a floor of no less than 0% and a cap of no more than 4% for those with less than 100% disability), which ended full indexation, in 1994 when the funded status of the Ontario WSIB fell to 37%. As the funded status improved, periodic adjustments were applied. Effective January 2018, full indexation at CPI applies; this coincides with the WSIB reporting in September 2018 that it had eliminated its unfunded liability. Many defined pension plans reformed their indexation policies in the late 1990s and early 2000s. The “cost of living adjustment” moved from a guaranteed benefit to a contingent one, subject to funding sufficiency.

In BC, the economic expansion over time allowed for improvements in the workers’ compensation system. For example, compensation rate rose steadily from the original 55% of gross in 1917, 62.5% in 1923 then 66 2/3 % in 1939, to 70% of gross in 1952, then 75% of gross in 1954. The original 1917 workers’ compensation legislation included a three working day waiting period with no retroactive period; the retroactive period of 14 days in 1926 and six days in 1946 before being eliminated in 1972

In periods of stability and strong funding levels, workers’ compensation systems often initiate measures such as raising survivor benefits, funding occupational health and hygiene education, and investing in research. These improvements are intended to reduce the share of the financial burden workers must bear as a result of work-related injury. They are also responsive to changes in other workers’ compensation systems. Historically, increases in the rate of compensation, elimination of waiting periods, and vocational rehabilitation provisions were trends that became part of the workers’ compensation comparative environment. The impact any improvement in defined compensation and benefits can be on future costs, past liabilities or both.

Key Concept

**Both premium rates and compensation levels are used to manage shortfalls in funding;
both premium rates and compensation levels are used to distribute excesses in funding.**

Current Funded Status

At year-end 2017, WorkSafeBC was in a well funded position. Using elements of the previous discussion, the following chart summarizes the funded status.

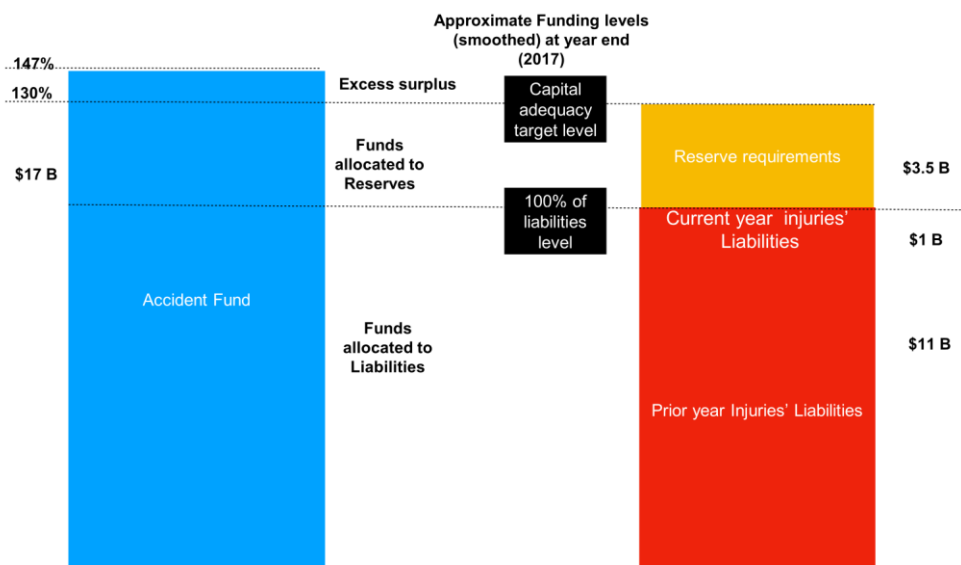


Figure 14 - Accident Fund, Liabilities and Reserves: Funded Status December 31, 2017

The values in *Figure 14* are approximate and limited to the year-end valuation of assets and liabilities. The present funded status may vary significantly based on current conditions.

The value of the Accident Fund is a function of the investment strategies approved by the Board of Directors and what the marketplace is willing to pay for the investments at a give point in time. The Capital Adequacy Target established by the Board of Directors provides a benchmark against which the Accident Fund value may be assessed. To the extent that the benchmark set reflects the Board of Directors' assessment of capital adequacy, the value of the Accident Fund can be interpreted as falling short, meeting, or exceeding the target level.

Capital Adequacy: How much is enough?

The idea of having reserves or saving is familiar advice for personal finances and provides an intuitive analogy for considering the concept of a Capital Adequacy Target. Consumers are often advised to have savings equivalent to three, six, or twelve months of expenses in reserve adequately manage common risks that face individuals and families. The level that is right for any individual will depend a lot on their individual circumstances. Age, location, family responsibilities, and health are all part of the individual calculation of risk to inform the target level for personal savings. The same holds true for workers' compensation insurers. (See Appendix E for the 2016 funding levels of Canadian workers' compensation boards).

The extensive analysis and deliberations that go into setting the Capital Adequacy Target is an essential responsibility of the Board of Directors. A full exploration of that processes is beyond the scope of this explanation, however, the assessment of risks to the Accident Fund has parallels to personal finance example. Significant market swings, geopolitical events, and interest rate changes, changes to fiscal and monetary policies, trade wars, and other risks each have the potential to degrade the value of assets in the Accident Fund. Just like diversification of investments can limit risks for the personal investor, investment policies adopted by the Board of Directors can help mitigate the impact of certain events.

So, how much is enough? That answer will always be contingent on current conditions but testing the current target against past events can help in making that determination. For example, one could ask what the impact of a depression like the 1930-31 or the global financial crisis of 2007-9 would have on the Accident Fund if either event occurred now (see *Figure 15*).

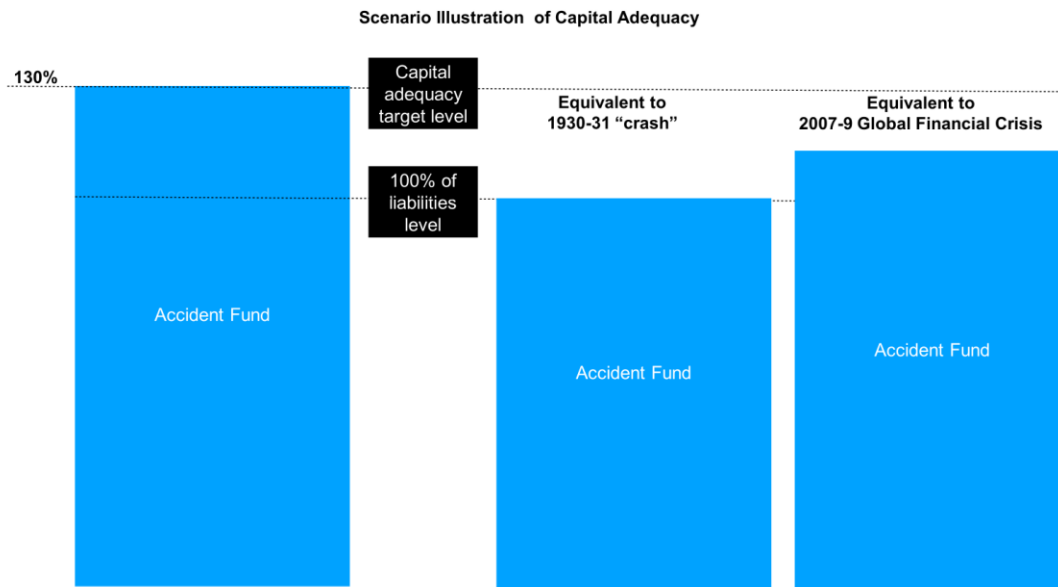


Figure 15 - Accident Fund: Impact of Adverse Scenarios (based on 2017 funded status)

If an investment crisis like the one that occurred 1930-1931 were to occur today, the Accident Fund would lose about 30% its value. The global financial crisis that began in 2007 and ended in 2009, had its greatest impact on WorkSafeBC investments in 2008 and Q1 2009 (the 1.25-year period), where losses could be seen. Assuming the current policy asset mix during this time frame, the Accident Fund would have theoretically lost about 15% in 2008 and lost 3% in Q1 2009; the combined cumulative loss over the 1.25-year period would have been about 17%. This is equivalent to about a loss of \$3.1 billion, using the October 31, 2018 market value of the Accident Fund.

Changes in the defined compensation and benefits as proposed in the options in this review will increase liabilities and lower the funding level calculations. The down-side risk is that significant adverse events will occur when the funding level is below the target capital adequacy reserve target level and result in a drop in funded status below 100%. The converse is also true; continued increases in the value of the investments underlying the Accident Fund will continue after changes to defined compensation and benefit levels, allowing WorkSafeBC to remain at or near its target funding level.

The "Right" Funding Level

There is no one correct funding level for workers' compensation insurers. Appendix E provides a snapshot of the recent funding levels of other Canadian workers' compensation boards. While most report funding levels in excess of 100%, each workers' compensation insurer's funding relative to its own target is of more critical importance and one not revealed in comparison charts.

Funding levels as reported at year end are snapshots. Every investor knows that the values of their individual investments and overall portfolio are subject to change. Workers' compensation boards can't manage on the basis of a single measure at a specific point in time. A result higher or lower than the current

target level may not be indicative of an underlying issue. A funding result in excess of or below the target should not trigger automatic changes in premiums, investment strategies or administration.

The Capital Adequacy Target Level is not a static thing. The Board of Directors must continue to assess the economic environment, economic risks, and potential threats to the Accident Fund to establish the appropriate funding level. Changes in defined benefits, market volatility and investment strategy will continue to be part of the background that the Board of Directors must take into account in setting the appropriate funding level.

Key Concepts

The Funded Status represents the degree to which the assets of the Accident Fund are sufficient to cover liabilities from current and all prior years.

Funded Reserves allocate amounts for specific purposes.

The Capital Adequacy Target level is determined by the Board of Directors as the appropriate Funded Status at a particular point in time and in consideration of current and anticipated economic conditions, risks, threats and opportunities facing the workers' compensation system.

Impact of Options on Funding Model and Accident Fund

This review is about options that alter the financial impact of work-related injury, disease and death on workers (and their families), employers, and the broader community. Each option that increases compensation or benefit parameters in the legislation will ultimately impact the Accident Fund and funding model. Any option that will have application to future claims will be reflected in the premium rates for future years. For example, an option that increases the maximum insurable earnings primarily impacts the funding model. Several options apply to claims that are already established and continuing in payment. Changing the indexation formula for pensions, for example, increases the claims liability for all prior year claims, effectively raising the asset value the Accident Fund must achieve to be fully funded and meet its Capital Adequacy Reserve Target levels.

Impacts of Options

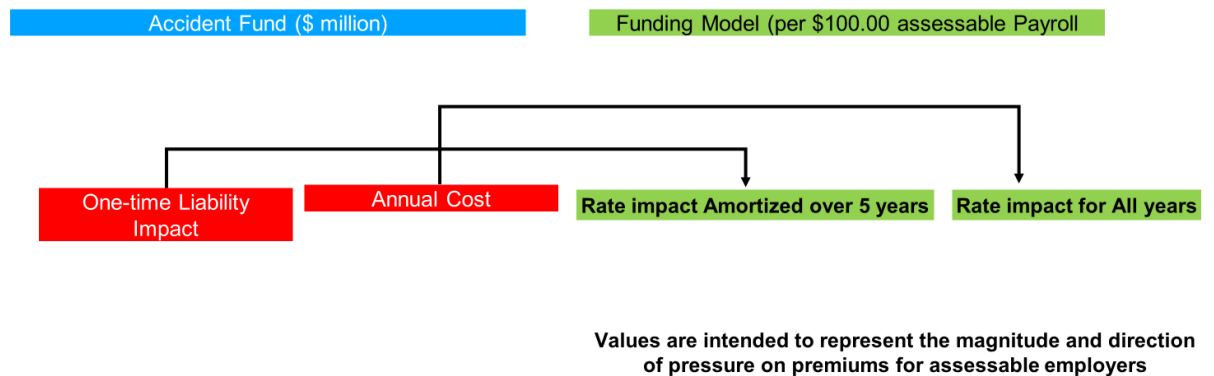


Figure 16 - Impact of Options: General Representation

The impact each option will have also depends on the policy and implementation choices the Board of Directors and senior executive of WorkSafeBC will make if the option is incorporated into the *Workers Compensation Act*. Beyond the intent of the options presented here, this paper does not address subsequent policy and implementation choices if an option is enacted. That responsibility rests with the Board of Directors.

Options may also interact. For example, Option 4- providing a one-time cost of living increase to current pension recipients and Option 5- increasing the current cost of living provision (CPI-1%) with essentially full CPI protection going forward, each have their own cost impacts; however, if both are implemented, the overall cost impact will be greater than the sum of the two individual cost impact estimates. Such “interaction effects” must also be considered in assessing the set of options that may be adopted.

The potential impact of the set of options selected for implementation may also be mitigated by transfers from the unallocated surplus or reserves. The upward pressure on premium rates may also be mitigated by offsets from investment gains over the required rate of return. Improvements in primary prevention may reduce frequency and severity of injury while efforts in disability prevention may decrease the duration and other costs associated with claims.

Key Concept

Changes to the defined compensation and benefit parameters of the *Workers Compensation Act* have impacts on the Accident Fund and Funding Model.

Part 2

Views and Perspectives

Critical Perspectives

Workers' compensation is a common construct in developed economies. Although the social policy choices, system design parameters, and administrative structures vary, there are common themes in the criticisms and perspectives. The scope and timeframe of this report included limited consultation but published research, public briefs and views provided by the stakeholders consulted in this review highlight concerns, views and suggestions. Primary interviews, secondary summaries, and published reports provide a range of views about WorkSafeBC, existing policies and priorities as well as criticisms. While not all of the following pertain to the options cited in this paper, these perspectives inform the discussion and provide insight into issues that may deserve additional attention.

Administrative arrangement, structure, and mandate

The current structural model of WorkSafeBC was reviewed in the consultations. WorkSafeBC is a statutory agency, operating at arms length from government while responsible through the Minister of Labour. This administrative arrangement was differentiated in comments from alternative state models (Insurance Corporation of British Columbia [ICBC], BC Hydro, Ministry or department of government) and other workers' compensation insurance models (mutualized insurer, competitive state fund). No stakeholders consulted suggested any change to the current model, although some representatives (Canadian Federation of Independent Business - CFIB, Council of Construction Associations - COCA, Independent Contractors and Businesses Association of BC- ICBA, British Columbia Federation of Labour – BCFed.) were concerned that turnover in the Chair, Board Members and Chief Executive could result in swings in direction that would jeopardize WorkSafeBC. While some expressed a tentative belief that the present governance model can be credited with contributing to the current funding status. Sudden changes in key positions were seen as creating uncertainty. There is an acknowledgement that workers' compensation is a complex system; given the time it takes to understand the system, changes in the Board of Directors and Senior Executive are seen as complicating factors in achieving what is in the "best interests" of the workers' compensation system.

Most stakeholders noted the importance of actuarial expertise and expressed confidence in the financial and statistical data provided by WorkSafeBC. The policy consultations conducted were viewed as positive but the employer groups consulted were concerned that this process would not have wider consultation and

greater time to consider and study alternatives. The BCFed noted the slow pace of reforms and action on key issues including the recommendations of the Petrie report¹⁵.

The inclusion of workers' compensation and the OH&S mandate was last reviewed in detail during the Royal Commission on Workers' Compensation in British Columbia¹⁶. Since then, there have been several reports, none on this aspect of WorkSafeBC's jurisdiction. The recommendation (number 33) of the Royal Commission was that WorkSafeBC retain its responsibilities for the delivery of OH&S programs and services. Subsequent reviews, including the Macatee report¹⁷, considered WorkSafeBC's jurisdiction over OH&S and have not altered that position. Those contacted in this review proposed no alternatives to the present organizational mandate regarding OH&S regulatory or inspectorate functions currently resident in WorkSafeBC's governance and operational structure. The mandate is consistent with the other jurisdictions that share a high proportion of the labour force covered by both workers' compensation and OH&S.

Funding Level Requirements, Shortfalls, and Excesses

There is an understandable level of uncertainty and confusion over the financial position and policies of WorkSafeBC. This appears to have little to do with transparency of financial statements provided by WorkSafeBC and more to do with the complexity of the accounting, finance and insurance as these apply to workers' compensation. Despite the complexity, there is an appreciation that WorkSafeBC is in a favourable financial position that does allow some adjustments to legislatively defined compensation and benefits. Employer groups consulted expressed grave apprehensions about significant changes government might impose without full appreciation of the consequences. Representatives from CFIB were also concerned that the membership of the Board of Directors did not adequately reflect their members and would not be sensitive to the impact changes in rates or reporting requirements might impose on them. CFIB, COCA, BCBC raised concerns about the greater context for business with changes in other regulatory and reporting requirements coinciding with this review.

All stakeholders acknowledge the uncertainties of markets. When pressed, they generally trust the Board of Directors' decisions regarding the current funding policy; there are differences, however, about how and how soon excess surplus funding should be managed. Here, the views diverge partly by virtue of perspective. BCFed looks back to the changes of the early 2000s. The changes to the legislatively defined compensation and benefit levels are seen by labour as costs to workers. While dollar amounts of compensation pensions were not reduced, the value of pensions awarded have been reduced. They acknowledge that employers had to pay more than the cost rate for a period of time but note that premium rates have been falling and employers have benefited from lower compensation rates that would reflect the real financial cost of injuries for a decade or more. In the interest of equity, they hold that workers ought to have much or all of the lost defined compensation and benefits restored. In addition, they have specific concerns including compensation for contingent workers, delays in decision making, and a lack of independent complaint avenues, lack of an independent medical examination system. Average earnings

¹⁵ Petrie, Paul, *Restoring the Balance: A Worker-Centred Approach to Workers' Compensation Policy*, April 2018 available at <https://www.worksafebc.com/en/resources/about-us/reports/restoring-balance-worker-centered-approach?lang=en>

¹⁶ Gill, G. S [Commissioner], *For the Common Good: Final Report of the Royal Commission on Workers' Compensation in British Columbia*, January 1999 available at <http://www.qp.gov.bc.ca/rcwc/report.htm>

¹⁷ Macatee, G [Special Advisor], *Final Report on the WorkSafeBC Review and Action Plan*, April 2016 available at <https://www.worksafebc.com/en/resources/law-policy/reports/final-report-worksafebc-review-action-plan?lang=en>

calculations, which became restrictive in the 2002 reforms, were singled out as in need of reform to allow for greater discretion at the adjudicative level.

The employer representatives consulted had a more prospective orientation to their concerns. They acknowledge the present positive financial position of the WorkSafeBC's funded status but note three main concerns. There is medium to low confidence that the economic conditions that favour sectors like construction will continue. They note the cyclical nature of the industry and fear the consequences of increased costs at or beyond the peak of the cycle. The second concern is that decisions will be made on philosophical and political grounds rather than on the basis of evidence and clear cost information. Finally, the broader context facing business was noted as a significant concern. They note that workers' compensation changes that would increase their costs now and, in the future, would be coming at a time when significant other costs and uncertainties are present in their operating environment. Employers mentioned changes to Canada Pension Plan, trade wars, and changing regulatory environments. Changes to workers' compensation cost or coverage would be a further burden.

The representatives from the CFIB sought greater return of funds, preferably in the form of cheques payable to members but acknowledged that the rate offsets provided by the current funding model and policies have helped employers and allowed for greater investment in plant, systems, training and other elements that improve safety. They view any retained excess from investments as funds that should be returned to them, although this was secondary to the goal of predictable, steady rates.

Other employer representatives contacted set stability and predictability as priority goals. Reference to the many uncertainties in recent years were frequently included in consultations. One employer-referenced exhibit noted the value of positive investment returns and adequate reserves (referred to as "cushions"):

...[I]investment returns (from investing employers' assessment payments) are used to subsidize the rates so that a pattern of good returns will result in lower rates.[emphasis added]

Conversely, years with poor or negative rates of investment returns can trigger the need for sudden and sustained assessment rate increases, unless there is a reasonable "cushion" built into the reserve system.

In the context of these important considerations, the last 10 years have provided instructive examples. WorkSafeBC's funded ratio dropped by 27 per cent during the economic downturn of 2008-2009. A starting point in the 100-110 per cent range at the time would have left the system significantly underfunded at that point and potentially could have necessitated rate increases in response.

The strong funded position at the beginning of the 2008-2009 downturn enabled WorkSafeBC to mitigate rate pressure experienced due to rising claims costs in 2013-2015.

(Dave Baspaly, "An in-depth analysis into WorkSafeBC's financial state," Journal of Commerce, July 4, 2016)

The adequacy of the reserves was a frequent topic either directly raised by or inferred in the consultations with employer groups. Commonly stated positions included assertions that all the funds were either directly or indirectly employer funds, inferring or claiming any gains ought to accrue to the employers. When presented with alternative models (mutualized insurance, group self-insurance) where there would be more direct support for that position, the present model was seen as preferable.

BC Federation of Labour views noted that the funds paid by employers were for insurance at cost and in lieu of settlements that would otherwise be paid if not for the exclusive remedy created by the Historic Compromise. Their representatives point to the 2002 reforms in particular where changes in the defined compensation and benefits halved the unfunded liability and allowed the Accident Fund to weather the

turbulence of recessions and depressions. They agree with a view of the Accident Fund as a trust holding the present value of promised compensation and benefits.

Employers groups support “tweaking” the defined compensation and benefits framework in the legislation but worry that significant changes would distort the predictability and sustainability of the system. They oppose a return to the pre-2002 provisions and want assurance that any changes will be fully costed and the impact on rates and funding level fully assessed by WorkSafeBC’s financial and actuarial professional staff.

Statutory Compensation and Benefit Provisions

The statutory compensation provisions raised by and with internal and external stakeholders are among those that are presented as options in this review. While the Board of Directors has broad powers to set policy and guide administration on how to apply the legislation, they are constrained from altering the legislative provisions that define compensation and benefits. The following statutory issues were discussed with stakeholders:

1. Statutory maximum insurable and assessable earnings

The BCFed representatives raised concerns for the compensation of workers at both the maximum and minimum earnings levels. The lack of coverage for workers’ earnings above maximum was noted for as unfair and resulting compensation lower than that defined in the legislation. Similarly, lower wage earners were identified as being doubly punished: not having a livable wage in the first place and receiving even less when injured and unable to take measures to make up the difference. There is a stated belief that even with a higher maximum, the present compensation rate does not adequately compensate injured workers. Representative from employer groups were generally in agreement that most workers’ earnings should be covered but wanted evidence that this was not the case and expressed concern regarding using other jurisdiction’s maximum as a guide. They also expressed concern over the Manitoba and now Alberta models of fixed maximum for assessable earnings and no cap on insurable earnings.

2. Indexation of benefits

The 2002 legislative changes that imposed the CPI-1% with cap of 4% and a floor of 0% were noted with concern by BCFed. Employer representatives understood the limit but wanted more information on the effect it had on workers. They also wanted to understand the impact of any alternative and expressed a desire that BC not be out of step with others in this regard going forward. There was a firm objection to retroactivity (paying out cash to adjust for past effects of less than full CPI) but acknowledged that some adjustment of current pension amounts might be necessary especially for those with the greatest devaluation of the value of their pension amount.

3. Catastrophic injury cases

Internal policy and operational specialists, representatives from the BCFed and employer communities confirmed a concern for the most serious cases. Typified by total functional disability on a permanent basis (workers with total blindness, bilateral amputees, para and tetraplegia, certain acquired head injuries), individuals in this category are faced with a severe drop in income at retirement age (termed by one person consulted as the “compensation cliff edge”). Current entitlement to a permanent partial disability award ends and a payment of an annuity benefit is available; access to other funds may be extremely limited. Aside from Old Age Security, payment of other benefits may not be available at all. Some employers’

representatives believed workers should bear some of the responsibility for not putting aside funds during their disability to prepare for retirement but conceded the challenge of doing so in markets with rising housing costs and price inflation when full inflation protections were absent post 2002. BCFed representatives noted the “cliff edge” created with the 2002 change is devastating for these most serious cases who often have no other resources available to them, forcing them to become a burden on social services, charities and family members.

4. Compensation on the death of a worker

All parties interviewed acknowledge that the death of a worker is a thankfully rare but terrible event regardless of age. Several of those consulted noted that some workers may receive no compensation before their death and no expenses related to the claim upon death. Workers with no dependents or survivors will incur little claim cost beyond funeral and burial expenses. The idea that there should be no financial acknowledgement of the death was seen as inconsistent with the values of society in general and WorkSafeBC in particular. There was little objection to recognizing the death of a worker through some financial compensation payable to the estate, although the impact of such a payment on estate status was raised as a concern. The cost was not seen as significant given the relatively low numbers of fatalities recognized every year but any change considered should be fully assessed for its potential impact on compensation rates.

A related issue was the ability to provide standing in claims matters granting standing to the estate of a worker in certain cases. Several sources consulted explained unique situations where a worker, with no children or spouse, may not be able to apply for compensation following injury or occupational disease; following the death of the worker, the executor or executrix at present has no standing to file a claim.

A third issue in this regard was raised with respect to Personal Optional Protection. It was noted by several stakeholders that this is a growing segment in the gig economy and that the present process for covering workers for work-related death is problematic. At present, the benefits payable to workers under POP are limited to declared earnings. The process for covering workers in this category often lead to minimum earnings being declared simply as the path of least resistance to becoming registered so they may begin work where WorkSafeBC coverage is required. Upon death, survivors and dependents may receive amounts based on declared earnings.

Similarly, young workers, new workers, contingent workers, marginal workers, students working part time and others were noted in discussions as having little in the way of earnings. With few exceptions, the actual or minimum earnings are used. Both labour and employer representatives agreed that the current provisions for compensation and benefits following the death of a worker in these situations—particularly those with ten or more years to work—may well undercompensate for the loss. Various ways to address this were raised and seen as reasonable and even desirable, and likely not costly given the low number of cases represented in this population. Employer representatives were, however, concerned that the impact on rates be fully examined and accounted for before any change was adopted.

5. Retirement age termination of benefits and elimination of lifetime pensions.

Prior to the 2002 reforms, permanent partial and total disability was compensated through a lifetime award. The 2002 reforms introduced a retirement age and annuity payable upon retirement. The former approach conceptualized the loss due to injury as a lifetime impact while the reforms narrowed that consideration to an economic impact during working life. Those who view workers’ compensation for permanent disability as a substitute for tort point

to the awards made by the courts in personal injury cases resulting in disability where the value of the award typically considers lifetime impacts.

Workers' compensation jurisdictions have taken a variety of approaches in compensation for permanent partial and total disability—an indication of the complexity and competing views of what workers' compensation insurance ought to be. There are two predominant ways of assessing the long-term impact of injuries. The first is "impairment", a measure of permanent loss of physical or psychological functioning typically measured in terms of a percentage loss on a "whole body" basis. This approach typically involves the use of schedules or guides such as the *AMA Guides to the Evaluation of Permanent Impairment*. Schedules prescribe the percentage impairment of impairment; non-scheduled impairments are assessed according to guides or rules to come up with a percentage impairment that may then be used in determining entitlement either directly (by applying the percentage of impairment to pre-injury earnings or to a specified dollar amount) or as an input to a formula that results in a value of the award. BC's legislation uses the term "impairment of earning capacity". This is not the same as physical or psychological impairment, the basis for most US and Canadian impairment rating schedules and guides.

The disability approach often uses similar terms. Schedules that assess values to the loss of function are used directly to determine disability—the presumed economic earning capacity impact resulting from the injury.

In practice, both approaches have schedules that allow for a measure of impairment or function to be assessed and result in a means that will allow the loss to be translated into a value to be paid the worker. In jurisdictions that use the impairment approach, an assessment of non-economic loss may result in the payment of a lump sum or periodic payment for life independent of the impact of the injury on earnings or earning capacity. Many jurisdictions with non-economic awards also allow for the payment of economic loss or earnings loss in addition to the non-economic award.

In Canada, most jurisdictions (other than BC and NWT/NU) provide a lump sum award for the non-economic effects of a permanent physical impairment and then consider a loss of earnings award or economic loss award to a retirement age, typically 65. In the US, most jurisdictions are impairment based but many use a combination of methods to arrive at dollar amounts that reflect the loss. According to one analysis¹⁸, thirteen states use a loss of wage-earning capacity approach, estimating financial impact of the injury on factors such as education, age and labour market conditions in addition to impairment. Another ten states use pre- vs. post- injury wages assessed at some point after return to work. Eight states were reported as using a "bifurcated" approach similar to the BC approach prior to the 2002 reforms, using the impairment or disability rating to determine loss in cases where the worker returned to work at or near pre-injury earnings, and an assessment of future earning capacity for others.

Prior to the 2002 reforms, the permanent disability award for loss of function was applicable for life. The legislation also provided for an individual evaluation of the impact earning capacity; the worker was granted the greater of the loss of earnings or the loss of function. The 2002 reforms imposed a retirement age and restricted the application of this "dual" approach to exceptional cases.

¹⁸ Workers' Compensation Research Group, *Comparison of State Workers' Compensation Systems*, Texas Department of Insurance, March 2004

Rolling back the provisions of the 2002 reforms has been a consistent message from labour; a return to pensions for life of the worker was raised as an issue in the consultation. Some consulted note that there appear to be more older workers and the limits of two years compensation seem arbitrary and unfair given the reality of the workplace. They also note that the policy allows for a later age than 65 in certain circumstances. In fact, internal resources noted that retirement age entered when pensions are established are often greater than age 65.

The Royal Commission on Workers' Compensation in British Columbia considered the issue of a presumed retirement at age 65. The three-member commission split on the issue with the labour commissioner, Gerry Stoney, dissenting:

Therefore, the commission recommends that:

154. the Workers Compensation Act be amended such that:

a) in cases of permanent disability, loss of earnings awards shall:

i) cease upon the worker retiring, or attaining the age at which the worker would have retired but for the injury or disease and,

ii) be replaced thereafter with loss of retirement benefits for the lifetime of the worker;

(Dissent: Commissioner G. Stoney);

b) loss of retirement benefits are calculated by multiplying two percent of the worker's loss of earnings benefit by the number of years during which the benefit was received, up to a maximum of 35 years; and

c) unless the contrary is shown, it shall be presumed that the worker would have retired but for the injury or disease on reaching the age of 65.

The 1999 Royal Commission report was not acted upon but the issue was again addressed in the Core Review by Alan Winter in 2002¹⁹. Winters noted the Royal Commission recommendation and considered the approaches in other provinces, preferring the Manitoba and Ontario models that limited periodic payments to age 65 and provided for an annuity at age 65 as a post-retirement income. This became the basis for the 2002 reforms. The limitation to a retirement age has the impact of reducing claim liabilities for future cases. Subsequent consultations and changes to WorkSafeBC's Permanent *Disability Evaluation Schedule* have adjusted the values of disability²⁰.

None of the consulted parties raised a desire to revisit the basis of permanent disability evaluation, although several parties raised concerns over the retirement age and adequacy of awards in certain cases, particularly those with catastrophic injury. One person noted the contradiction of a "permanent" partial disability award that terminates at an arbitrary age, suggesting the name should be changed to reflect the impermanence of the award.

As noted earlier, internal consultations confirm that there is an increasing use of a later age being entered into the pension system. Policy input notes that current requirements for workers—even those in their teens and twenties—to declare their future retirement plans is unlikely to fairly represent the situation. One stakeholder pointed out that in the 1970s, she and many others believed everyone was aiming for retirement at or before age 55 but the

¹⁹ Winter, Allan, Core Services Review of the Workers' Compensation Board, March 2002 available at [https://www.wcat.bc.ca/research/WorkSafeBC/WSBC_Hist_Rpt/2002%20Winter%20Report%20\(Complete\)%20.pdf](https://www.wcat.bc.ca/research/WorkSafeBC/WSBC_Hist_Rpt/2002%20Winter%20Report%20(Complete)%20.pdf)

²⁰ WorkSafeBC, Permanent Disability Evaluation Schedule ("PDES") Discussion Paper, December 2012 available at <https://www.worksafebc.com/en/resources/law-policy/discussion-papers/consultation-permanent-disability-evaluation-schedule-pdes/consultation-permanent-disability-evaluation-schedule-pdes?lang=en>

(footnote continued)

reality of today is that many are working well beyond that age. The current policy is not reflective of the current reality.

Meredith on the Burden of Permanent Disability²¹ – [Sidebar]

In order that it may be seen whether the division of the burden between the employer and workman is unfair, it may be well to point out how it will be divided under the provisions of the proposed law. The workman will bear (1) the loss of all his wages for seven days if his disability does not last longer than that, (2) the pain and suffering consequent upon his injury, (3) his outlay for medical or surgical treatment, nursing and other necessaries, (4) the loss of 45 per cent of his wages while his disability lasts; and if his injury results in his being maimed or disfigured he must go through life bearing that burden also, while all that the employer will bear will be the payment of 55 per cent of the injured workman's wages while the disability lasts.

The burden of which the workman is required to bear he cannot shift upon the shoulders of any one else, but the employer may and no doubt will shift his burden upon the shoulders of the community, or if he has any difficulty in doing that will by reducing the wages of his workmen compel them to bear part of it.

It is contended that it is unfair to require the employer to pay compensation during the lifetime of the workman because in many cases it will mean that the workman will receive compensation for a period during which if he had not been injured he would have been unable to earn wages. No doubt that will be the result in some cases, but on the other hand the workman loses any advantage he would have derived had he not been injured from an increase in his wages owing to an improvement in his position, or to an increase of his earning power, or to a rise in wages from any other cause because, except in the one case of a workman who is under the age of twenty-one years when injured, the compensation is based on the wages the workman was earning at the time of his injury.

6. Authority for diagnostic and prophylactic treatment prior to acceptance

Several situations were raised with internal staff where the access to treatment post injury is critical but the decision to accept or deny the claim may be delayed by the need for investigation. Three situations were noted contrasting the policies and practices. The first was a needle-stick injury with a possibly contaminated HIV needle. The needle stick injury is deemed an injury so prophylactic treatment can begin and the case monitored. Cedar dust asthma was also noted. The acute nature of the reaction is very brief but may mean the worker must leave the job even though they are not disabled.

The relatively new area of mental injuries was also raised. WorkSafeBC does provide some critical incidence response including some access to treatment as an administrative expense.

²¹ Meredith, William R. [Commissioner], *Final Report on Laws relating to the liability of employers to make compensation to their employees for injuries received in the course of their employment which are in force in other countries, and as to how far such laws are found to work satisfactorily*, 1913 available at [https://www.wcat.bc.ca/research/WorkSafeBC/WSBC_Hist_Rpt/1913%20Meredith%20Report%20\(Complete\).pdf](https://www.wcat.bc.ca/research/WorkSafeBC/WSBC_Hist_Rpt/1913%20Meredith%20Report%20(Complete).pdf)

The goal is to avoid serious repercussions from the incident but some cases to convert to claims at which time the previous costs are charged to the claim. It should be noted that employers acknowledged the work-relatedness of mental injuries but worry about the expansion of coverage in this regard, pointing to the cost issues apparent in some Australian jurisdictions.

7. Growing employment in the excluded sector and lowest income workers.

Several stakeholders noted that workers in the “gig” economy and contingent workforce are becoming more prevalent—a trend that runs counter to the “universal” coverage intent of the legislation. Firms will contract with individuals for specific, short term contracts. These individuals may be working as consultants or contractors and may or may not have workers’ compensation coverage. The nature of their work lacks the protections that are typical of direct employment. For them, there may be no coverage under workers’ compensation but even if they have coverage, their overall benefit framework will be limited. It is unlikely that they will have a defined benefit or defined contribution retirement plan, disability insurance or other typical employer-based support. If this sector grows, there are implications for broader society including the healthcare system because employment in excluded or optional sectors is covered by the public health system rather than workers’ compensation. This sort of externalization also means the information recorded on work-place risks and injuries will be incomplete.

8. Other concerns

The following items were noted or discussed in consultation but were not included in the options developed for this report. These have not been fully analysed at this time for this report because most are difficult to model for cost impacts on the Accident Fund. They are included here to illustrate some of the more significant issues that are not addressed in this report. While many of the items were presented as requiring legislative change, some may be addressed through policy or practice.

Interest policy - BCFed and some employer representatives noted that the payment of interest for delayed decisions is a common expectation and justifiable when there is excessive delay or decisions resulting in large retroactive payments. The present policy regarding interest was seen as overly restrictive and noted that the interest cost would incentivize better decision-making and training of adjudicative staff.

Integration of CPP Disability- The former “stacking” of CPP disability on claims rather than the 50% integration for disability awards was raised by BCFed. They would like to see a return to the stacking option.

Average earnings - BCFed representatives suggest a return to the provisions prior to 2002. Employer representatives generally supported the 2002 changes that provided greater guidance on the calculation of such earnings. They felt the reliance on “T4” -like information was too onerous and would prefer greater discretion.

Powers of the Board of Directors/ Status of Policy- Part of the reforms in the early 2000s was to decrease the discretion of adjudicators and to increase the status of the policy of the Board of Directors to that of subordinate legislation rather than the intended guidance. This issue was also raised in the Petrie Report. Employer groups consulted generally supported the requirement of adjudicators and WCAT to apply the policy of the Board of Directors. Some recalled the concerns that gave rise these provisions. BCFed representatives would prefer greater discretion be granted decision makers.

Reconsiderations- BCFed recommended changes to the “no re-consideration after 75 days” provision so WorkSafeBC may reconsider its own decisions. They see the provision as problematic and giving rise to a whole series of questions about the nature of a decision and resulting in fragmentation of decision-making and injustices. One employer representative raised this issue but noted that the system cannot always make perfect decisions and believed the perceived possible “rough justice” was preferable to the alternative of decision-making not reaching a point of finality. Several subject matter experts and advocates suggested that some form of reconsideration or similar provision should be open to particularly seriously injured young workers with respect to retirement age. They argued that “locking in” a retirement age for these workers as the time the permanent disability award is established fails to reflect changes in retirement patterns over the long term.

Efficiency - Employer representatives were concerned that cases take too long to be decided and workers compensated. BCFed similarly noted the long delays in many decisions and the financial stress lengthy delays place on workers.

Claim Suppression- BCFed representatives noted that the working of section 177 of the *Act* does not include any remedy if an employer was found to engage in claim suppression. They recommended the *Act* amended to include a provision for enforcement and even collection by WorkSafeBC.

Code of Conduct- BCFed representatives raised the Alberta legislation’s inclusion of a code of conduct (*Workers’ Compensation Act*, RSA 2000, Chapter w-15, Section 9.2(1)) recommending a similar inclusion in the BC legislation.

Fair Practices Office - BCFed recommended legislative change to make this office independent (external to WorkSafeBC).

Medical Disputes - BCFed representatives suggested the creation of an independent medical panel office to conduct Independent Medical Exams (IMEs) and resolve medical disputes.

There was some acknowledgment by employer groups of efforts by the Policy Department of WorkSafeBC reaching out to them. Efforts to partner were seen as positive but often blind to the overall environment where other agencies are imposing changes or seeking input at the same time, stretching their resources and challenging the capacity of their members.

Many issues were raised that fall into the “policy” purview of the Board of Directors or actionable with existing legislative provisions in the *Act* or other legislation. These relate to the application of the existing law with respect to certain provisions including:

- So exceptional test for loss of earnings
- Level of expenditure on prevention initiatives
- Lack of prosecutions or stepped up compliance
- Mandatory reinstatement

Other criticisms

Experience Rating was raised in the consultations. Despite the fact that this is within the purview of the Board of Directors, it is important to note its significance in commentary and critiques of the *status quo*.

Former chairman of the Workers' Compensation Board of BC, the late Terence Ison, has written about this concern—a concern that is echoed in more recent commentary and discourse.

Ison's primary criticism of the present model:

For many years, the assessments paid by employers have been adjusted substantially by the costs of claims made for the disabilities and deaths of their workers. These adjustments are called "Experience Rating". This is a dominant cause of the unfortunate changes made to WC in Canada, and damaging changes that continue being made.²²

Ison asserts that Experience Rating Assessments (ERA) drives employer behaviour including appeals against claim acceptance and other decisions in favour of workers that could adversely impact ERA. He suggests that ERA spawned an industry of "Employer Representatives" who may be paid a proportion of what they reduce an employer's premiums even though their actions may actually increase the costs of the system overall.

Ison and others suggest that ERA drives claim suppression and may result in workers being urged to return to work earlier than medically advisable.

Ison recommends abolishing ERA. Other informed critics suggest ERA is salvageable.

Harry Arthurs examined Ontario's workers' compensation funding system and recommended WSIB retain ERA if it met three specific criteria²³. Arthur's recommendation (6-1 in his report) is about the intent of the program: to encourage employers to reduce injuries and occupational diseases, and encourage workers' return-to-work and conclude "that the [experience rating] programs are in fact accomplishing that purpose", at least in Ontario. He also advocated for close, credible monitoring to limit "gaming" the ERA system to prevent adverse consequences to the system in general and workers in particular.

Unfortunately, there are few worker outcome studies on which to base this conclusion. WCRI has released a series of outcome studies for more than a dozen US states. Through a rigorous design and direct interviews with large stratified and comparable samples of workers, the study provides key insights into outcomes, although linkage to policies like the aggressive nature of ERA, compensation or vocational rehabilitation policies are not explored in the series to date.

²² Ison, T, "Reflections on Workers' Compensation and Occupational Health & Safety" (2013) 26 *C.J.A.L.P.* 1-22

²³ Arthurs, H, *Funding Fairness: A Report On Ontario's Workplace Safety And Insurance System*, Queen's Printer Ontario, 2012 available at http://www.wsib.on.ca/cs/idcplg?IdcService=GET_FILE&dDocName=WSIB011358&RevisionSelectionMethod=LatestReleased
(footnote continued)

The RAND Corporation recently released a descriptive study concerning workers' compensation and occupational safety and health.²⁴ That study summarizes a wide cross-section of views and concerns into the following themes, some of which are common across most workers' compensation systems. These concerns and priorities for action include the following [extracted from the report]:

- Coverage remains less than universal, and benefit adequacy is insufficient.
- Safety promotion practices have been somewhat successful but create complex claiming incentives.
- System complexity is a drag on performance. Complexity, delays, and excessive disputes within workers' compensation systems have been widely criticized as a factor that raises system costs and that can harm injured workers by creating an adversarial relationship with employers or preventing timely receipt of needed medical care and rehabilitation services.
- Stakeholders identified many shortcomings of workers' compensation policy as important challenges to worker outcomes
- New approaches to injury prevention and disability management are needed
- Declining coverage of workers and health conditions prevents workers' compensation from serving its purposes
- Inefficient claim management and dispute resolution processes harm workers and drive up costs
- Health care for injured workers is often fragmented and of low quality and is not designed to reward worker outcomes
- Scientific evidence on causation is badly needed to guide workers' compensation systems in handling occupational disease and pre-existing conditions

These views are useful in informing policy actions and selection of options. For the purposes of this study, ERA and research matters are out of scope.

²⁴ Dworsky, Michael and Nicholas Broten, *How Can Workers' Compensation Systems Promote Occupational Safety and Health? Stakeholder Views on Policy and Research Priorities*. Santa Monica, CA: RAND Corporation, 2018.

Part 3

Options

Options

The following options represent legislative changes that will address many stakeholder concerns and allow the Board of Director to more effectively act in the best interests of the workers' compensation system. In particular, the options beyond the *status quo* provide changes to the defined compensation and benefit provisions that will restore the value of previously awarded pensions in the past, revise a cost of living provision for all claims going forward, increase the "age 65" provision, establish a new maximum assessable/insurable earnings provision, and improve benefits paid on the death of a worker.

The financial impact of options 2 through 7 were generated by WorkSafeBC's internal resources using their extensive dataset and modeling techniques. The dollar value impact on premiums for assessable employers is based on current policies and practices. The Board of Directors may alter these policies and practices should some or all of the options be selected for implementation. For example, the Board of Directors may extend or accelerate the amortization impact or implement policies that will mediate the application and dollar impact of new provisions.

Each option, beyond the *status quo*, has an impact on the funding model or the existing Accident Fund or both. Each of these options may be pursued individually but collectively will help achieve the balance, sustainability, and improvement stakeholders seek and administration representatives believe are in the best interests of the workers' compensation system. An interaction effect impact for the full set of costed options 2 through 7 has been developed and included. This particular estimate applies to this set of options; any other set or subset will likely have a different interaction impact.

Option 1: The *Status Quo*

Description: Current defined compensation and benefits in the legislation to remain as they are.

Rationale: There is ample evidence that the current compensation and benefit structure with policy and administration under the Board of Directors has achieved the objectives of the 2002 reforms. The parameters of the wage-loss and permanent disability provisions continue to meet and exceed those provided in other jurisdictions for most workers.

The powers and responsibilities of the Board of Directors have proven equal to the task of managing the Accident Fund in the best interests of the province and achieving the current funding level. The strong financial position achieved under the *status quo* has allowed the Board of Directors to use the policy and administrative levers to enact changes in the best interests of the system. A strong financial position has allowed the Board of Directors to:

- Increase staff dedicated to Occupational Health and Safety
- Increase vocational rehabilitation services
- Invest in research
- Improve outreach to specific sectors
- Promote prevention

Continuing under the *status quo* does not necessarily mean a static system. Under successive leadership of members of the Board of Directors, CEOs and senior executives, WorkSafeBC has demonstrated its ability to respond to change and crisis. This is particularly evident in the relatively smooth transition through the global financial crisis. The *status quo* option allows the board to change existing policies to respond to specific concerns.

The current state of financial markets also supports the *status quo*. The volatility that has marked the post-depression era continues. Extended interventions of central banks using interest and other monetary policy levers may have supported the longest bull run in history but the tightening fiscal policy marked by increasing prime rates have given some a reason to call for caution. While the new United States-Mexico-Canada Trade Agreement has removed some unknowns, other threats from trade wars and increasing sentiments away from globalization support going forward with caution.

Implications for the Accident Fund: The current methods to spend funds, increase/create/collapse reserves and support premiums below the required cost rate remain open to the Board of Directors under this option. While the future of markets can never be known with certainty, retention of gains and increasing the funding level allow the Board of Directors to protect and preserve its funded status for the benefit of the workers' compensation system.

Other implications: This option means legislative provisions remain as they are. BC's position on indexation of benefits has not kept up with leading workers' compensation systems and cannot change in this option. The formula for increasing insurable earnings is not reflective of the distribution of earners in BC but will remain under this option. Differences and disparities between BC and other leading workers' compensation systems may erode confidence in the system.

Option 2: Increase the Statutory Maximum to cover all earnings for 90% of workers

Description: Revise the formula for determining the maximum insurable and assessable earnings such that at least 90% of BC workers are covered for 100% of their earnings from employment. This will restore BC to a level at or near most neighbouring and comparator jurisdictions.

An increasing proportion of earners are earning above the current maximum of \$82,700 per year. BC's maximum insurable earnings are now well below Ontario at \$90,300. Alberta's maximum insurable and assessable earnings level was at \$98,700 until recent legislative changes eliminated the cap on maximum insurable earnings but retained the present maximum on assessable earnings. Until September of this year, Alberta had a stated objective of covering 100% of earnings for 90% of workers in that province. Alberta joins Manitoba in eliminating the maximum insurable (although it retains a maximum \$127,000 assessable earnings limit in that province).

Rationale: The original intent of Meredith's workers' compensation was to cover the highest wage earners but not necessarily the earners of the highest paid managers.

That said, there is clear evidence that the disparity between the highest and lowest wage earners has expanded in recent decades. High demand for high skilled occupations has driven earnings higher for this segment of the population. Many in high tech, medical, education, engineering, and some construction trades have annual earnings in excess of the current maximum. Marine employers note that some dock workers earn more than \$250K in some years (and raised concern about the absence of a cap contributing to lower incentives for returning to work).

Using Canada Revenue Agency data from personal income tax filings for taxation year 2015, it is possible to compare the maximum insurable earnings of that year to the distribution of tax filers reporting earnings from employment on Line 4 of their personal returns.

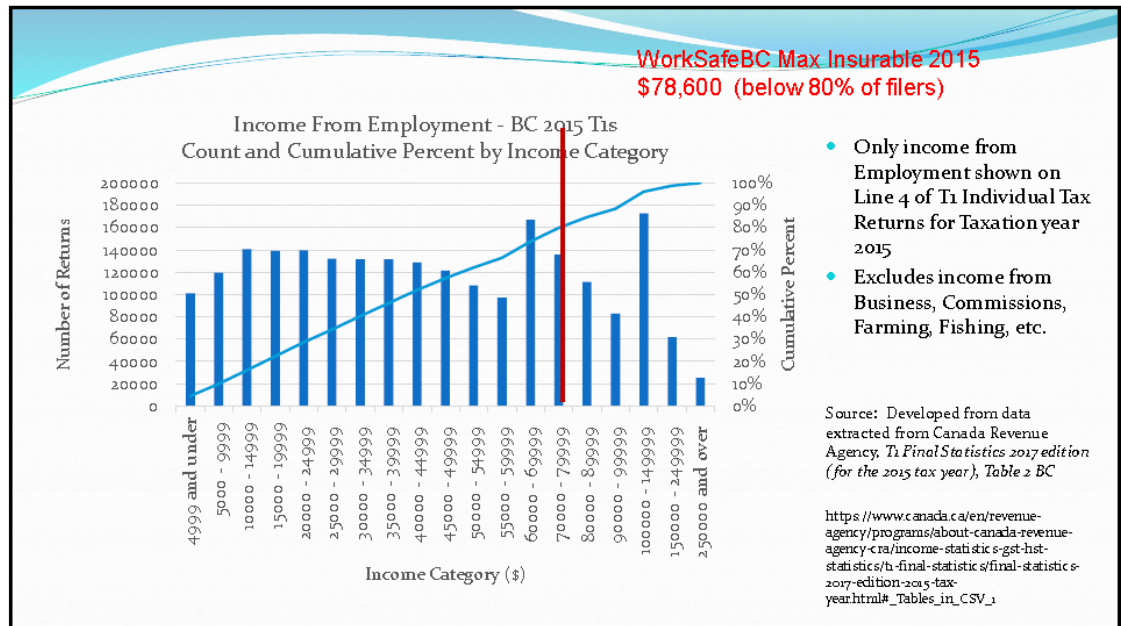


Figure 17 – Count of T1 2015 Tax Filers by Income Category: Line 4 Employment Income

Limitations of this analysis are many and are likely to understate the extent of the issue. This analysis excludes earnings from employment that may be insurable or covered for workers' compensation purposes. Commissions, other employment income, professional income, self-employed income are reported on other lines on personal income tax forms. Using just line 4 data, more than 20% of earners were in categories above the WorkSafeBC maximum for that year. Adopting \$100k maximum insurable and assessable would increase the coverage of full earnings from employment (Line 4 of the *T1 Income Tax and Benefit Return*) to approximately 88.5% of tax return filers in the 2015 dataset.

The elimination of the maximum is a departure from the original intent of workers' compensation as proposed in the Meredith model, although it is a perfectly legitimate choice from a public policy perspective to extend the maximum to cover all earnings of all earners. Two provinces (Alberta and Manitoba) have taken that step. It is not clear how eliminating the cap on insurable earnings would have on rate making, service provision or behaviour. There are no published studies on the impact of limiting assessable payroll but covering all earnings above that level. The lack of research into the impact eliminating the maximum cap on insurable earnings is the primary reason for retaining a maximum figure at this time. Further consideration of elimination of the maximum insurable should await research in this area.

Comparator Data: BC's current maximum insurable earnings and assessable earnings at \$82,700 (2018) moving to \$84,800 (2019). Alberta has established a maximum assessable at \$98,700 but eliminated its cap on insurable earnings. Its previously stated policy was to cover 90% of the workforce for 100% of their wages²⁵. Manitoba has set its maximum assessable earnings at \$127,000 but eliminated its cap on maximum insurable earnings.

²⁵ WCB Alberta, "Changes to Maximum Insurable Earnings", *Employer Fact Sheet*, June 28, 2018 • WCB-588 available at https://www.wcb.ab.ca/assets/pdfs/employers/EFS_Changes_to_Maximum_Insurable_Earnings.pdf

Saskatchewan has maximum insurable earnings set at \$82,627 (2018). Ontario currently has maximum insurable earnings set at \$90,300 (2018) and increasing to \$92,600 (2019).

The elimination of the maximum insurable in Alberta and Manitoba effectively eliminates the need for government to set a formula or adjust the maximum. In Saskatchewan, the maximum setting is delegated to its Board of Directors.

Washington state assesses employers on hours of exposure rather than payroll for most categories. Their compensation rate pays 60% to 75% of gross depending on family composition and there is a maximum benefit. In US dollar terms, the maximum insurable earnings may be inferred to be between \$90,000 and \$112,580.

Legislative amendment: Set the statutory maximum insurable and assessable earnings equal to \$100,000 per annum and delegate to the Board of Directors the authority to set the maximum insurable earnings and assessable earnings to a level such that 100% of earnings will be insured for at least 90% of workers in the province.

Sections of the Act: Section 33

Implications for the Accident Fund and Funding Model: This is a prospective option and primarily impacts cases in the future. There will be some impact on past cases where a new wage rate for compensation purpose must be established and cases that arising from past or current year claims after the wage rate is set. Ignoring the drop in the rate due to larger assessable payroll, the impact on premium rates will be in the order of \$0.02-\$0.03 per \$100.00 of payroll. The one-time impact on claim liabilities will be an increase of approximately \$31 million.

(2) Impacts of Statutory Maximum Assessable and Insurable to \$100k

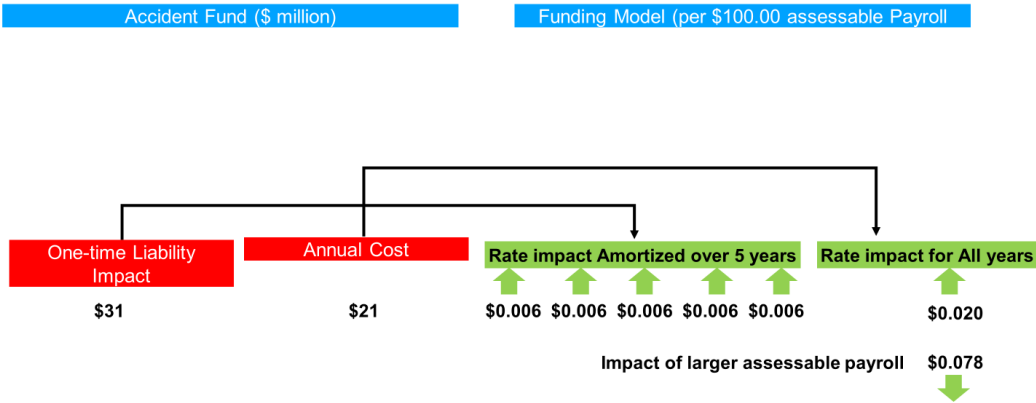


Figure 18 - Impact of Option 2: Statutory Maximum Assessable and Insurable to \$100k

Option 3: Increase presumed retirement age to 70

Description: This option would be achieved by changing all references in the legislation from age 65 to 70 (and age 63 to 68). Assume the change were effective upon passage of the legislation and would apply to all cases currently in receipt of pensions where the worker is under age 65 at the effective date and all current and future claims where the worker is under age 65.

Rationale: The 2002 legislative reform moved away from full life pensions to permanent disability compensation coverage that ends at the presumed retirement age 65. The reform also limited benefits to **two years** for those 63 years of age or older. The actual retirement year could be set at an age beyond age 65 if a later retirement date was supported.

This option does not fundamentally change the intent of the of the 2002 reform but it recognizes the societal and demographic changes that have developed over past two decades. The aging “baby boomers” account for a fifty percent increase in the population over the age of 65 but their employment rate has more doubled over that timeframe.

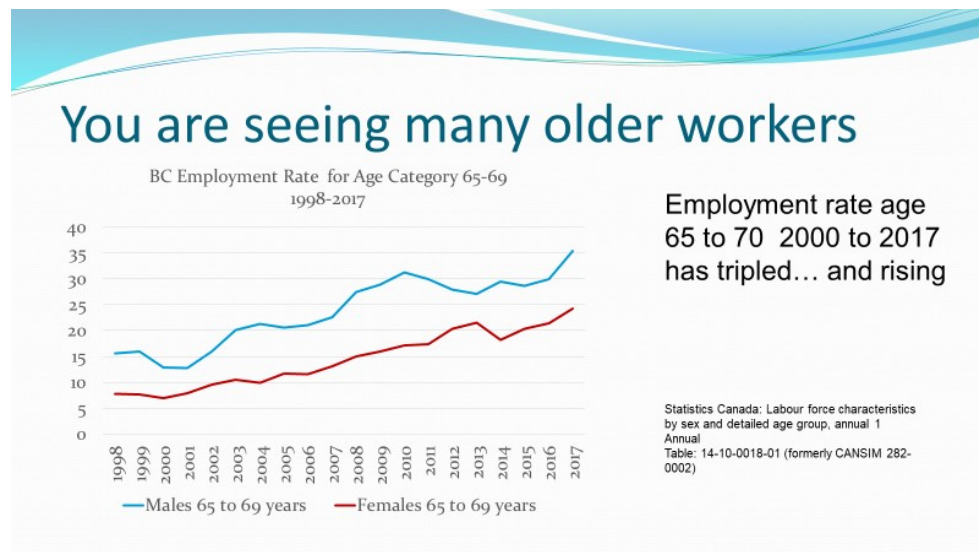


Figure 19- BC Employment Rate Age Category 65-69 1998-2017

In 2000, only 7% of females and 12.5% of males in the age category 65 to 69 were employed. In 2017, that rose to 24.2% for females and 35.4% for males. It is not just that there are more older workers in our communities, but they are working at increasing rates. This same pattern has been noted in Canada, US and Australian demographic and employment data.

The influence of this change is reflected in current data. When permanent disability awards are established (under the 2002 provision), the retirement age is declared and entered. There has been a shift toward ages above 65 being entered, a trend that is more evident in recent years. In 2003, just 6.6% of pensions had an expiry date of greater than age 65; for the years 2013-2017, that has increased to between 16.7% and 18.6% of claims.

Expectations about earnings beyond the age of 65 have also changed and future data may provide evidence that the retirement age should be further amended. This rapid increase in employment of those over the age of 65 raises a further issue: How reasonable is it for a worker in his or her 20s, 30s, or 40s to declare their retirement expectations? Changes in the socio-economic realities of the present have altered the expectations of those approaching or entering retirement. A recent survey highlighted three reasons Canadian respondents provided for working past 65 (Rob Carrick, “A New Retirement Era: How many years past 65 will you work?”, *Globe and Mail*, November 30, 2017)

- Helping adult children financially
- Low interest and subdued stock market returns
- Rising divorce rates.

This option recognizes this societal shift. While the two-year provision of the existing legislation is not changed by this option, the extension of the presumption of retirement age to 70 has the effect of increasing the benefit period to five years for those injured at age 65, four years for those age 66, and three years for those age 67. Older workers will still be bound by the two-year provision.

Comparator Data: Most provinces have an age 65 restriction with an annuity payable at retirement. Quebec has age 68 with a **four-year** period limit on payments beyond age 64 such that the indemnity is reduced by each year (25% less after one year, then 50%, and 75%). There are some variations depending on age. NS and NWT/NU pay for life. PEI’s Pension Replacement Benefit intended to replace lost pension income for life.

Alberta recently changed its *Economic Loss Payments* (ELP) as they apply to those over the retirement age. Note that the presumption of age 65 as retirement age in Alberta has a **five year** rather than two-year frame beyond the date of accident. The ELP retirement benefit continues post-retirement can be significant if the pre-retirement payments were significant. Here is an example of how the benefit works²⁶:

If your date of accident/illness was on or after January 1, 2018:

ELP retirement adjustment

During this time period, normal retirement age is considered to be age 65 or five years after your date of accident, whichever is later. However, if you are able to provide evidence that you planned to work beyond normal retirement age if the injury had not occurred, your ELP will not be adjusted until the date you were planning to retire.

*This newly adjusted ELP is called an **ELP retirement adjustment and will continue to be paid for the rest of your life.** [emphasis added]*

The ELP retirement adjustment paid is equal to two per cent of your total wage loss compensation. Total wage loss compensation is the sum of all wage loss benefits paid from the date of your accident up to the month in which your ELP/TEL ends. It also includes temporary wage loss benefits.

Here is an example:

You were 55 years old when you were injured in 2018.

After you returned to work you received an ELP of \$262.43 (\$3,149 per year)

²⁶ WCB Alberta, “Permanent disability compensation”, Fact Sheet, available at https://www.web.ab.ca/assets/pdfs/workers/WFS_Permanent_disability_compensation.pdf

It is now 2028. You are 65 years old and decide to retire.

You received a total of \$55,000 in wage loss benefits throughout the course of your claim from 2018 - 2028.

$$\begin{array}{rclcl}
 \$55,000 \text{ (Total} & & & & \\
 \text{amount of benefits} & \times & 2\% & = & \$1,100/\text{yr (or} \\
 \text{paid for the duration} & & & & \$91.60/\text{month) (The} \\
 \text{of your claim)} & & & & \text{retirement adjustment is} \\
 & & & & \text{normally paid in 12 equal} \\
 & & & & \text{monthly payments)}
 \end{array}$$

Note that this ELP retirement adjustment is payable for life.

Legislative amendment: Change all references in the legislation from age 65 to 70 (and age 63 to 68). All other provisions remain the same.

Sections of the Act: 23.1

Implications for the Accident Fund and Funding Model:

(3) Impacts of Retirement Age from 65 to 70

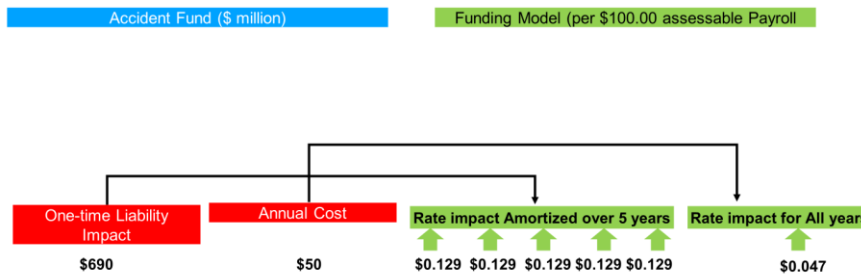


Figure 20- Impact of Option 3: Increase Retirement Age to 70

Option 4: Bring all existing pensions up to date with one-time CPI adjustment

Description: Applying a one-time CPI adjustment to all existing LTD and survivor pensions such that the value of their pension is restored to its value in 2002 or more recent year when their award was effective.

Rationale: This option would apply prospectively to restore the purchasing power of the original disability award or survivor/dependent pension. There are about 4700 survivors pensions and more than 45,000 workers being paid monthly. Except for those established with an effective date in the current year, each of these receive a cost of living adjustment to their pensions. Since the 2002 reforms, the cost of living adjustment has been limited to the Canadian Consumer Price Index increase less 1%. This option would provide a one-time adjustment which would be sufficient to raise the purchasing value of a pension established at any time in the past to the equivalent of its original value.

To illustrate this option, consider the following example:

A worker or survivor in receipt of a monthly award or pension of, say \$1000 per month in January 2002 would be receiving \$1,358.00 per month in November 2018 under the former "full CPI applied twice a year" provision. The adoption of the current formula (CPI less 1% annually with a floor of zero and a cap of 4%) results in the value of \$1,153.97 currently. In this example, the purchasing value of the worker or survivor pension has declined by 15%. This option would restore the original purchasing power of the award to \$1358.00 per month effective November 2018.

The impact will be less for pensions established in recent years. The \$584 million reduction in pensions paid to workers and survivors between 2002 and the end of 2017 contributed to the return of WorkSafeBC's Accident Fund to its present status.

Comparator Data: Ontario has used full CPI for survivors and those with 100% disability. Beginning in 1995, indexation for those with partial disability was limited. From January 1, 1995 and December 31, 1997, the factor provided for an annual adjustment of 75 per cent of the CPI minus one (with a cap of four per cent, but not less than 0 per cent). From January 1, 1998 through January 2007 an annual adjustment of 50 per cent of the CPI minus one (with a cap of four per cent, but not less than 0 per cent) beginning in July 2007 and followed closely in January 2008 and again in January 2009, pensions were provided general indexing of 2.5% on each occasion in an effort to restore some of the lost purchasing power lost due to the indexation formula.

Legislative amendment: Provide the Board of Directors authority to apply a one-time cost of living adjustment to increase existing pensions to account for the full CPI from 2002 or year the award was established if more recent.

Sections of the Act: Section 25

Implications for the Accident Fund and Funding Model:

(4) Impacts of bringing all Existing Pensions up to date with one-time CPI lift

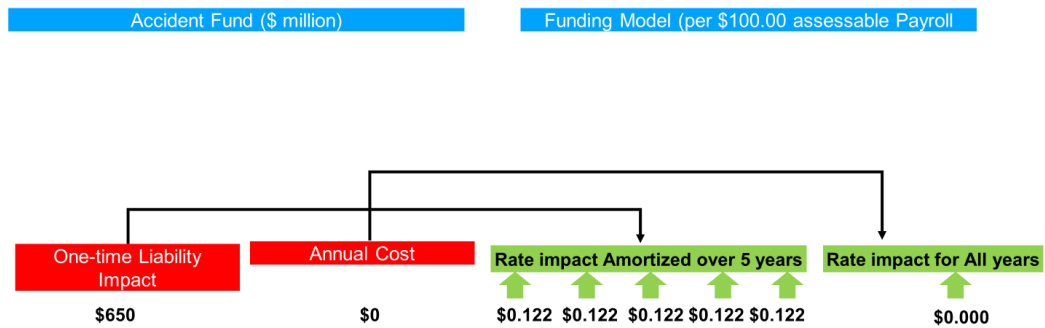


Figure 21- Impact of Option 4: One-time Lift to Existing Pensions

Option 5: Changing the CPI formula prospectively to full CPI as finances allow

Description: Separate from the previous option, this option changes the cost of living adjustment formula prospectively by changing the automatic 1% reduction from the CPI rate to an amount from 0% to 1% as determined by the Board of Directors. The existing 4% cap and 0% floor would remain the same.

Rationale: This option would change the existing provision to “CPI less an ‘adjustment factor’ (of between zero and 1%) to be set by the Board of Directors within the current 4% ceiling and 0% floor window. This would permit the Board of Directors some leeway going forward to defer part of all of a scheduled CPI adjustment as a defensive move to protect Accident Fund.

The intent would be to apply full CPI as long as the funding status was equal to or greater than 100% funded. If the funding level was below the 100% funding status, the Board of Directors could modulate the impact by applying some adjustment factor between 0% and 1% rather than the current prescribed 1%. This permits the Board of Directors to take timely defensive action to protect the Accident Fund while minimizing the impact on recipients of compensation and benefits from the fund. The defensive action retains Accident Fund assets and limits upward pressure on employer premiums that may coincide with adverse economic conditions.

A consequential enabling amendment would permit the Board of Directors to provide periodic adjustments to apply any deferred CPI increase when the funding status is above the target capital adequacy level.

This option is similar to defined pension plans that have implemented policies that apply the CPI when funding is available. As with defined pension plans, once indexed by the CPI amount, the new amount becomes the guaranteed pension base amount going forward.

Legislative amendment: Change the less 1% provision to “less an adjustment factor between 0 and 1%” as determined by the Board of Directors and enable to Board of Directors to increase the adjustment factor above 1% to restore the value or reduced CPI from previous years.

Comparator Data: In Alberta, the indexation formula is based on 100% of the change in the Alberta Consumer Price Index (all items) for the 12 months ending September 30 of the year immediately prior to the adjustment; negative changes are considered zero. COLA from 1996 to 2017 was based on a formula of 100% of the change in the Alberta Consumer Price Index for the 12 months less 0.5% (some variation in the 12-month period frame). Ontario, Quebec, New Brunswick, Newfoundland & Labrador, apply the percentage change in CPI for Canada although the reference period varies. Prince Edward Island, Saskatchewan and Yukon territory use some variant of a provincial CPI.

Sections of the Act: Section 25

Implications for the Accident Fund and Funding Model: The effect for costing purposes would be the impact of full CPI.

(5) Changing the CPI formula prospectively to full CPI as finances allow

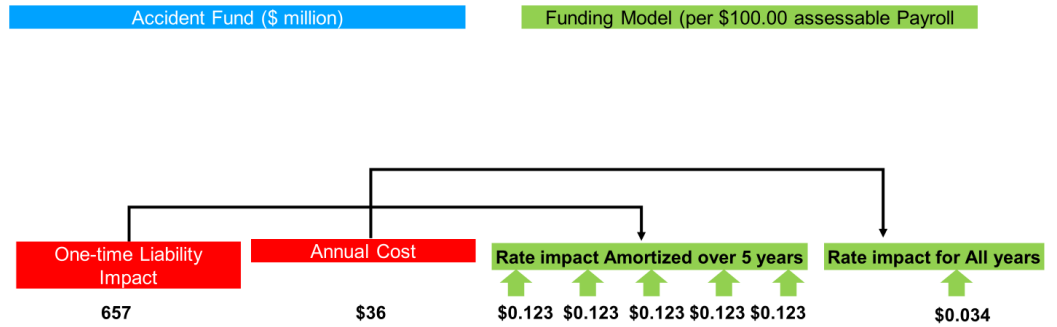


Figure 22- Impact of Option 5: Full CPI Prospectively

Snapshot of Fatality Claims and Survivors [Sidebar]

For 2017, there were 158 worker deaths accepted fatal claims. Of these,

- 87 (55%) deaths were due to diseases and
- 71 (45%) of due to motor vehicle incidents and other injuries
- 28 (18%) were receiving pension payments from WorkSafeBC prior to their deaths.
- 109 (69%) had survivor pensions (average for 2010-2017: 75%)

Summary of Fatal With Survivor Indicator

Fatal Accepted Year	Total Fatal Count	With Survivor Pension	No Survivor Pension
2010	156	123	33
2011	146	101	45
2012	151	119	32
2013	130	95	35
2014	175	131	44
2015	122	97	25
2016	144	112	32
2017	158	109	49
2018	111	74	37

Summary of Fatal With Survivor by Survivor Type

Fatal Accepted Year	With Parent Survivor Pension	With Spouse Survivor Pension	With Child Survivor Pension	With Other Survivor Type Pension
2010	2	117	32	0
2011	2	96	36	1
2012	3	112	28	0
2013	2	88	27	0
2014	4	128	29	1
2015	1	92	23	0
2016	3	103	20	1
2017	0	107	21	0
2018	0	69	14	2

Note: The total of pension by Survivor type is not equal to the total of claim 'With Survivor Pension' as a claim may receive more than one type of survivor pension (e.g.; spouse and child)

Option 6: Presumed maximum earnings on the death of a worker

Description: Presume earnings on the death of a worker to be equal to maximum. This legislative change would set the average earnings of a worker in a work-related death to the maximum. Again, this is not retroactive but would have an impact in the transition year. After that, there would be an impact on premiums. Note, this change would apply to personal optional protection as well as other cases where a wage rate is required to set survivor or dependent benefit amounts.

Rationale: Survivor and dependent benefits in fatality claims where the worker is working prior to the death (or working immediately prior to an injury leading to death) are based on the worker's average earnings. Unlike other defined compensation provisions, the beneficiary is not the worker. Survivor and dependents beneficiaries of workers' compensation insurance lose more than the worker's income. They often lose the support that enables their own earning capacity, education and even housing options. This provision would presume average earnings for setting compensation to be equivalent to the current maximum, simplifying adjudication and providing a standard benefit that values all lives equally.

The current provisions for rate setting for survivors is complex. The following figure was provided to help explain the current process.

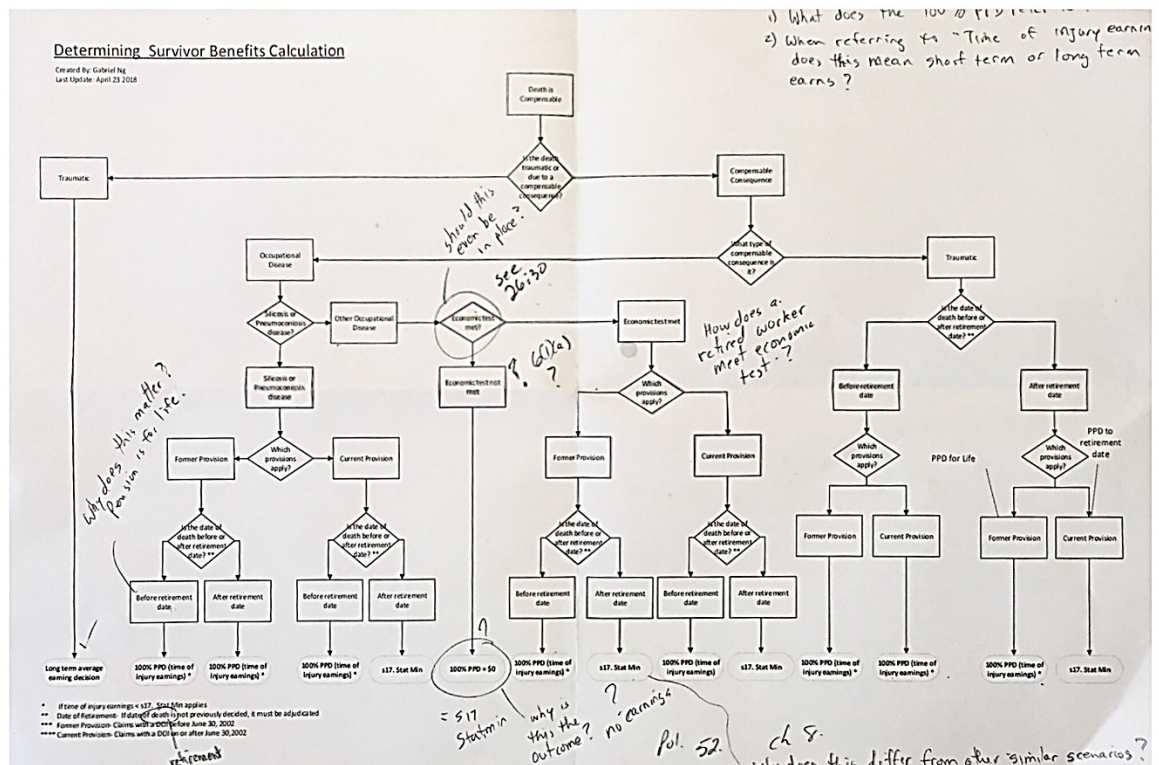


Figure 23 - Photograph of flow chart for determining Survivor Benefit Calculation

This option proposes no retroactivity and the option has no impact on death claims where there are no qualified survivors or dependents. (see sidebar for recent statistics on fatality claims and survivors).

Comparator Data: The variations in compensation for work-related death vary widely. This comparison looks only at the reference point used to calculate some or all of the benefits payable and specifically where a sum other than the workers' average earnings is payable on death. A common example is a base amount used in lump-sum payments. For example, Newfoundland & Labrador have an immediate lump-sum provision that is equal to 26 times the worker's average weekly net earnings at the time of the injury, or \$15,000, whichever is the greater. New Brunswick has a lump-sum provision where the amount is "equal to 50% of the New Brunswick Industrial Aggregate Earnings". PEI has a lump-sum provision that provides \$10,000 for the education of each orphaned child.

Ontario provides a lump sum where age of the survivor is used to modulate the amount:
\$78,616.07 increased by \$1,965.40 for every year under 40 years of age or reduced by \$1,965.40 for every year over age 40. \$39,307.99 (minimum) - \$117,924.03 (maximum).
(AWCBC Dependency Benefits and Fatalities – Summary)

Recent changes in international jurisdictions include Kentucky's move to paying a lump sum to the estate instead of paying funeral and other benefits. The lump-sum value in Kentucky increases annually with inflation. (2017: \$82,022.93 \$US). Note that the lump-sum value is independent of earnings and that the payment to the estate occurs even if there are no dependents or survivors.

Death entitlements in Australia are independent of worker earnings in most jurisdictions. The lump-sum entitlements vary by state. For example, New South Wales pays \$760,000 (\$AU), Victoria pays \$589,650 (\$AU). Lump sums are payable to the estate where there are no survivors or dependents.

Legislative amendment: Intent is to change replace current method of rate setting with an assumption of maximum earnings.

Sections of the Act: 17

Implications for the Accident Fund and Funding Model:

(6) Presumed maximum earnings on the death of a worker

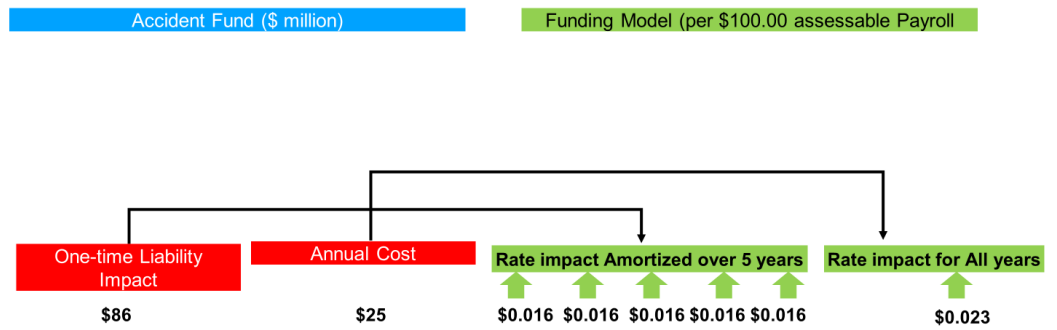


Figure 24- Impact of Option 6: Presume Maximum Earnings on Death of a Worker

Option 7: Benefit to Estate on the Death of a worker.

Description: This would apply to all accepted fatality claims prospectively (including the death of a worker not currently in the workforce such as a retired person who dies of mesothelioma and workers who are suffer traumatic fatalities). In addition to any other death benefits, on acceptance of the fatality as being work-related, a payment of 50% of the maximum yearly compensation benefit will be made to the estate. This increases the liability of past claims where a work-related death may still be determined and will have a cost impact on rates going forward that would have to be quantified. Note, the intent of this change is to make an amount payable to the estate and would require a change allowing the executor or executrix of the estate to make a claim.

Rationale: Every life has value. Other provisions provide benefits for survivors and dependents; however, some fatality cases may have no survivors or dependents who are financial dependent or entitled to other compensation. This proposal would apply to all accepted fatality cases and be payable to the estate. This would ensure all cases of work-related fatality are recognized with an equal amount of compensation. If there are no dependents or survivors, the executor could apply for, receive and distribute the benefit as part of the assets of the estate.

Comparator Data: [See notes under Option 6, noting lump sum payments may be based on something other than earnings and may be made to the estate]

Legislative amendment: Add a new provision.

Sections of the Act: Section 17

Implications for the Accident Fund and Funding Model:

(7) Benefit to Estate on the Death of a worker [50% 12 months of max benefit]

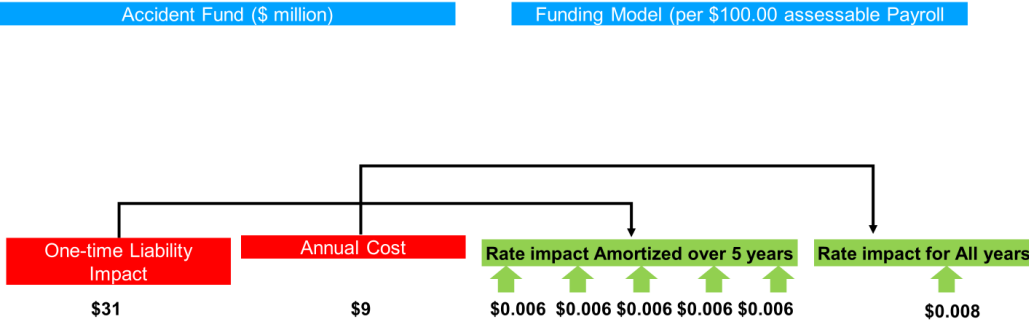


Figure 25- Impact of Option 7: Benefit to Estate on Death of a Worker

Option 8: Enabling amendments to permit greater security for the Accident Fund

Description: Protecting the Accident Fund is critical to the sustainability and stability of the workers' compensation system. These legislative changes provide WorkSafeBC with the tools necessary to protect present and future employers from having to bear costs when other employers become delinquent, insolvent, or restructure in ways that currently frustrate efforts to ensure the proper and adequate contribution to the fund.

Rationale: Any delinquent or abandoned accounts transfer the incurred cost of claims and the shared cost of liabilities from offending employers to other ratable employers who diligently participate in the funding of the system by keeping their accounts current. This option identifies gaps in the current legislative framework and proposes amendments that would secure WorkSafeBC's position in order to recover the maximum possible benefit in order to limit the externalization of costs to other employers. This proposal also includes a provision that would place WorkSafeBC's pension plan for its own employees on a par with other large, public sector pension funds. This action is consistent with the protections in the Municipal, Teachers, and other pension plans but would eliminate the additional cost of providing insolvency protection while WorkSafeBC continues in a surplus funding position.

Comparator Data: Of the 12 Canadian jurisdictions reviewed, six of them have some form of directors' liability –.

All of them had similar challenges relative to collections and identified employers without assets, out of province employers and employers who keep reincorporating to avoid paying existing liabilities as an issue. All had legislation in some form which assisted them to deal with successor firms, the ability to collect unpaid assessments of a subcontractor from a prime contractor and everyone, except Quebec which uses a form of lien priorities.

The form of directors' liability varies across the six jurisdictions. Some hold directors jointly and severally liable for the payment of the corporate debt while others jurisdictions enforced workers' compensation payment through municipal tax rolls where the liability is treated the same as a tax liability and is collected by the municipality - in some cases for a fee.

Jurisdictions that have true directors' liability include Manitoba, Nova Scotia, P.E.I. , Newfoundland/Labrador and Quebec. When contacted, these jurisdiction report that notifying the employer that the directors will be held liable for the corporate debt often prompts immediate payment. Quebec implemented this in 2011 and have enforced directors' liability in 400 situations since 2013. All jurisdiction with director's liability advised that it was an effective collection tool especially in situations where the company may not have any assets but the directors may have assets.

The only jurisdiction with collection authority similar to CRA's "requirement to pay", is Alberta. A "demand to pay" puts a hold on a firm's bank account for 30 to 60 days. WorkSafeBC's only collection avenue on a business where there are no assets is a garnishing order served on a prime contractor; a "requirement to pay" option would provide greater flexibility to include bank accounts and other receivables.

Eleven of the jurisdictions have legislation to deal with successive employers where a firm shuts down one account under one legal entity name, which has outstanding debt and opens up another legal entity, however, it is a totally non-arms-length situation as the business is the same in every aspect except for their legal name.

All jurisdictions identified this as a problem. It is often difficult to identify the successor registration and there are specific criteria which have to be met before it can be transferred. WorkSafeBC's legislation in this area is under 49(2). Expanded powers would conceivably result in increased revenue to the Accident Fund. More importantly, increased authority will improve compliance and the reputation of WorkSafeBC holding employers accountable for their responsibilities under the Act.

Legislative amendment: [See table below for intent].

Item	Description	WC Act ref.	Why it would be of value?
1	Adding Director's Liability	New power	<p>Intent is to hold directors liable for unpaid assessments relative to corporate debt, similar to what Canada Revenue Agency (CRA) has under their legislation (Section 227.1 (1) of the <i>Income Tax Act</i>).</p> <p>Possible Options:</p> <ol style="list-style-type: none"> 1. Could be defined so that Directors have liability for all corporate debt OR 2. Could be liability is capped (as per Employment Standards) <p>In WorkSafeBC context, one approach could be to have Directors' Liability for unpaid Prevention Penalties & related charges. A limited/incorporated firm which has been assessed for one or more safety infractions can shut down one legal entity and open another the next day, and <u>there is no effective legislation to recover this debt in full.</u> (s. 51 and s. 49 (2), if appropriate, would only recover a portion of the debt). As a result, these employers continue to carry on unsafe work practices and put workers' lives at risk and suffer no financial consequences.</p> <p>Benefits: Allow for greater collection potential and to reinforce the legislative mandate and intent relative to safe work practices.</p>
2	Expanding interpretation of Levy Unpaid Assessments on Successive Employer	s. 49 (2)	<p>Current legal interpretation of this section of the Act permits WorkSafeBC to levy unpaid assessments on the successive owner or employer <u>only</u> for the year in which the change in ownership occurred.</p> <p>Benefits: Allow for greater collection potential and to deter debtors from closing down one day and opening a new legal entity the next day, which is, in effect, the same business. Support the legislative mandate relative to safe work practices.</p> <p><i>Note: Mar. 1, 2017 - Currently reviewing interpretation with Legal Services, and Peter Seddon believes there is a strong case to be made for <u>year of transfer plus debt owed from immediately prior year</u> (given post-pay / remitting model). This may be a potential mitigation. Currently awaiting completion of that review.</i></p>
3	Adding Requirement to Pay	New power	<p>This would be a new "power" which would allow Collections Officer to write a "requirement to pay" when they identify a firm's receivable or bank account. This is an authority that Officers who work for Canada Revenue Agency have under their legislation (Section 224 (1) of the <i>Income Tax Act</i>).</p> <p>Benefits: Would reduce legal costs and staff necessary to process legal actions. It would also mitigate delays & challenges encountered with issuing garnishing orders and increase timeliness and potentially increase recovery of debt.</p>
4	Eliminate solvency requirement		<p>All of the large public sector pension plans (or at least the "big four") are exempt from the requirement to conduct solvency valuations in addition to the going concern valuations that we do every three years. Our plan is not exempt. The requirement for our pension plan to do this can result in significant costs to the system, for example we made a \$139 million contribution to the pension plan in 2011 due to the solvency requirements, while we were in a surplus from a going concern perspective.</p>

Sections of the Act: See table. Other legislation may be involved.

Implications for the Accident Fund and Funding Model:

(8) Enabling Amendments to provide greater security for the Accident Fund

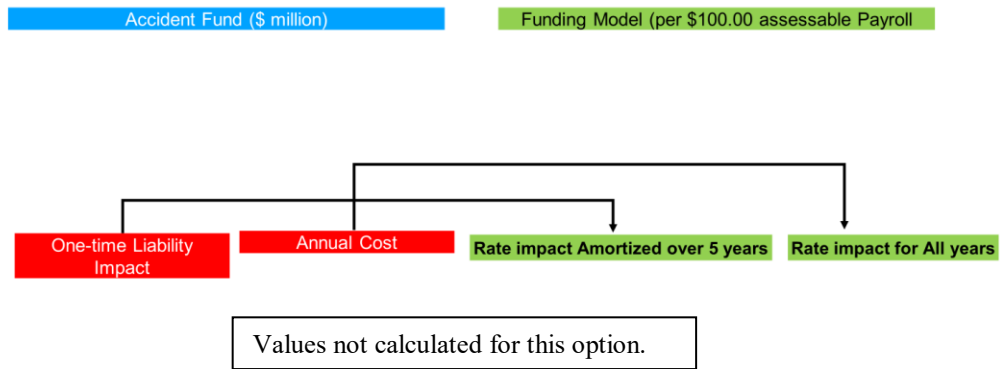


Figure 26- Impact of Option 8: Enabling Amendments for Greater Fund Security

Option 9: Diagnostic and prophylactic treatment prior to Claim Acceptance

Description: Prior to rendering a decision on claim acceptance, workers may require diagnostics and treatment. At present, WorkSafeBC can pay for diagnostics but with few exceptions, are unable to pay for treatment. [HIV exposure through needle-stick injury is a notable exception]. This change would allow payment for diagnostic and prophylactic treatments to be arranged for and paid prior to claim acceptance on a “without prejudice” basis.

Rationale: Some exposures and mental injuries do not result in disability or occupational disease within the current definitions; left untreated (or if treatment is delayed or inadequate) a worker may develop a serious injury or disease at a later date. This provision would allow WorkSafeBC to pay for medical diagnostics and treatments before formally deciding on claim acceptance. Mental injury conditions may benefit from immediate treatment but access to care may be limited without WorkSafeBC’s intervention and payment to expedite care (as provided for in the Canada Health Act). Providing treatment or paying for prophylactic treatment prior to decision may prevent a case from becoming a serious claim. Certain occupational diseases such as HIV, tuberculosis, or SARS exposures and psychological injuries (such as PTSD) may be exacerbated by delay in treatment. This provision would enable the Board of Directors to establish policy to cover the payment of such cases.

To provide services in these cases, WorkSafeBC may use administrative funds and has found ways in policy to justify payment in certain circumstances. This provision would provide a direct means within legislation to approve payment in advance of the formal claim acceptance.

Comparator Data: Most Canadian jurisdictions do not have a provision in legislation for payment in advance of claim acceptance. Newfoundland & Labrador advises that prior to a claim being accepted as work related, WorkPlaceNL will provide an initial course of physiotherapy (12) or chiropractic (15) treatment. They can also assign a claim to their case management area for early intervention while a claim is undergoing adjudication. Manitoba, like BC, has policy to allow for payment for post-exposure prophylaxis treatment for exposure to potentially infectious blood or bodily fluids in HIV cases. In the Yukon Territory (where TB exposure cases are also handled in a way similar to HIV exposures), the Claims Division codes the claim to “incident only” without actually accepting the claim for a work-related injury, because that allows them to incur expenses on the claim for medical assessment and treatment. If the worker developed the illness or disease later, the claim would be changed to “accepted” with or without lost time as appropriate based on the case

Some jurisdictions surveyed noted that psychological treatment for a witness to a traumatic event may be initiated and covered prior to a formal diagnosis even if the case does not proceed. In Saskatchewan, the WCB may provide coverage for counselling services and required medication before the claim is formally accepted (while the claim is being adjudicated). If the claim is denied, costs are not charged to the claim.

Legislative amendment: Grant Board of Directors authority to pay medical expenses before claim acceptance on a “without prejudice” basis.

Sections of the Act: Sections 5 and 21

Implications for the Accident Fund and Funding Model:

(9) Diagnostic and prophylactic treatment prior to Claim Acceptance

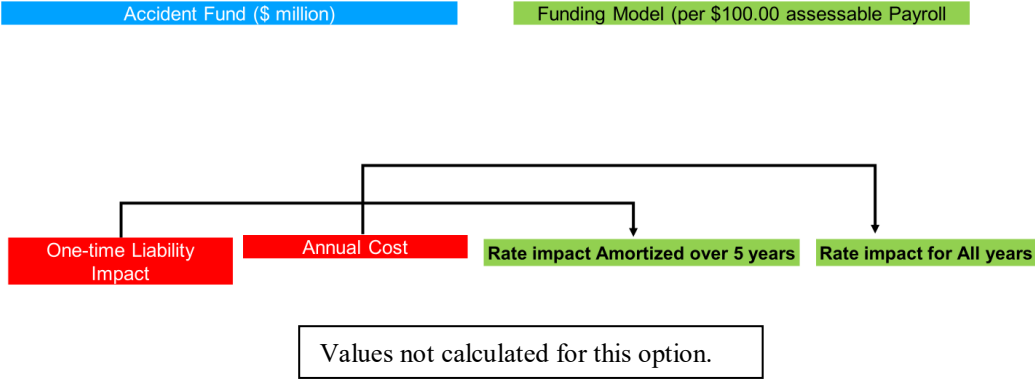


Figure 27 - Impact of Option 9: Payment Authority for Diagnostic and Prophylactic Treatment in Advance of Formal Claim Acceptance

Interaction Effects of Options 2 through 7

The options in this review have been individually costed but there are interactions among various options. As a result, a simple tallying of the cost impacts of each option would not present an accurate representation of the overall cost impact. To address this issue, the options with significant costed impacts have been considered together. Excluding the downward impact on rates that would follow from an increase in the assessable / insurable maximum option, the interaction effects are summarized in the following costing chart:

Interaction Effects

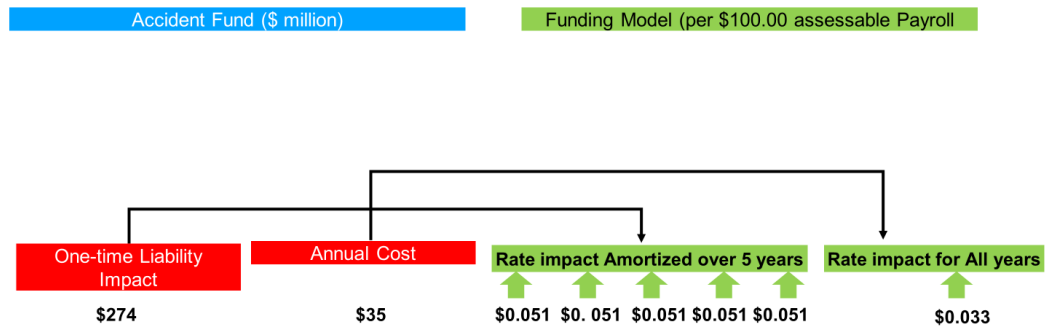


Figure 28- Interaction Effects

Conclusion

The last significant changes to the workers' compensation system in British Columbia were enacted when the funding status of the Accident Fund was declining. The sustainability of the system was in question. The changes adopted at the time primarily impacted those in receipt of pensions (workers with permanent total or partial disability awards, survivors, and dependents) and those who would be injured after the changes were passed into law.

The mandate and powers of the Board of Directors also changed. These changes allowed the Board of Directors to establish new policies, fund new administrative programs, and establish effective controls on investment and funding decisions. Acting in the best interests of the workers' compensation system, the Board of Directors has established funding targets, investment policies, and reserves responsive to the risk environment and essential to the long-term sustainability of the system.

Successive Boards of Directors have authorized premium rates for assessable employers that have, at times, increased the Accident Fund's funding status through higher rates. They have also used their authority to offset the actual cost rate required to moderate rate increases and, more recently, to reduce the effective base premium. Other than authorizing changes to services and administration, the Board of Directors had no authority to alter the fundamental parameters of the compensation and benefits available to workers under the legislation.

The options proposed in this review are selective and not exhaustive. Options that address the maximum insurable and assessable earnings address significant shifts in the earning pattern and age distribution of BC workers. The option to restore the purchasing power of those on permanent disability, survivor or dependent pensions is only possible because their shared burden of the past unfunded liability has contributed to the improvement in the funding status to its recent and present levels. Providing full CPI protection going forward returns WorkSafeBC's compensation benefits on this measure to the equivalent of most workers' compensation systems.

Two options address benefits for work fatalities. These options are improvements to the system, acknowledging that every worker's life has value and maximizing the benefits for survivors and dependents.

Two options are not costed. Enhancing WorkSafeBC's ability to collect under directors' liability and other authority enhancements will protect the integrity of the Accident Fund. Expenses associated with diagnostic and preventative or prophylactic treatment are currently being made to some extent and additional expenditures will likely be cost neutral because of expected avoided claim costs.

Other than these two options, all other options presented have an impact on the Accident Fund liabilities and assessable premiums in future years. These are summarized in the table below:

<i>Option</i>	<i>Accident Fund (\$millions)</i>		<i>Funding Model Impact (per \$100 payroll)</i>	
	<i>One-time Liability</i>	<i>Annual Cost</i>	<i>Amortized Cost (Each year for 5 years)</i>	<i>All years</i>
Option 1: <i>Status Quo</i>	0	0	0	0
Option 2: Increase the Statutory Maximum to cover all earnings for 90% of workers	31	21	0.006	0.020
Option 3: Increase presumed retirement age to 70	690	50	0.129	0.047
Option 4: Bring all existing pensions up to date with one-time CPI adjustment	650	0	0.122	0.000
Option 5: Changing the CPI formula prospectively to full CPI as finances allow	657	36	0.123	0.034
Option 6: Presumed maximum earnings on the death of a worker	86	25	0.016	0.023
Option 7: Benefit to Estate on the Death of a worker.	31	9	0.006	0.008
Option 8: Enabling amendments to permit greater security for the Accident Fund Values not calculated for this option	0	0	0	0
Option 9: Diagnostic and prophylactic treatment prior to Claim Acceptance Values not calculated for this option	0	0	0	0
Interaction Effects Options 2-7	274	35	0.051	0.033
Total Option 2-9 plus Interaction Effects	\$2,419	\$ 176	\$ 0.453	\$ 0.165
<i>In addition, there is about a 5% reduction on the rate due to higher payroll base. Based on 2019 average rate, this translates to a 0.078 rate reduction.</i>				<i>(\$0.078)</i>

Figure 29 - Costing of Options Table

This review was time and scope limited to the larger parameters of the systems and those most in need of adjustment to keep coverage in line with post 2002 socio-economic, demographic and comparator changes. The options proposed contain specific proposals, considered in an overall context. The choices made in developing the options are not intended to restrict the choices or judgements of legislators; rather, the options are intended to provide an actionable set of alternatives to the *status quo* that address the desire of all stakeholders to see a balanced, sustainable system that strives to meet the needs of workers and employers.

There are other possible legislative provisions and proposals not addressed by this review. Many of these are more controversial or difficult to model and cost. Further options may be addressed by through additional researched and focused analysis in future review initiatives.

There are also many policy and administrative issues that could be addressed in future reviews. Changes in policy are the exclusive purview of the Board of Directors; administrative changes also involve the senior leadership of WorkSafeBC. Both the Board of Directors and the administration will, no doubt, continue to engage stakeholders to identify the changes most urgently in need of reform.

Our workers' compensation system is intended to benefit workers, employers and the people of British Columbia. The set of options presented here provides a means of achieving greater symmetry in achieving that intent. Employers have already benefited directly from the strong funded status through lower overall premium rates and direct offsets to those rates; they will continue to do so as conditions allow. Through these options, workers will share to a similar extent but over a longer, future time-frame through specific changes to the defined compensation and benefits under the legislation.

All British Columbians benefit from a strong workers' compensation system that supports safe workplaces and provides injured workers and survivors with improved compensation that reduce externalized costs to tax payers and communities. This set of options is responsive to the changing realities of the workplace and balances the benefits of a strong funded position with the need for stable, predictable premium rates—all in the best interests of the workers' compensation system.

Appendices

A. Employer Liability and the Workers' Compensation Insurance landscape.

Work-related injuries occur. They have human and financial costs. In the absence of workers' compensation laws, an injured worker (or the worker's family in the case of fatality) could seek compensation for those losses from the employer.

Employers have a well-established responsibility for the safety and health of their employees. If the employer, employer's agents (including fellow workers and managers) or processes were at fault for the injury, illness or fatality, then the employer would have an obligation to compensate for losses. In the absence of any insurance, the common law would apply. Disputes over the attribution of fault, the extent of the loss and the quantum of the compensation were common and litigation with adjudication by the courts was common.

Prior to workers' compensation, laws defining employer liability in work injury cases evolved. The evolution of the law restricted defenses an employer might invoke to limit or avoid financial responsibility. In many countries, "employer liability" laws defined the responsibilities of employers for work-related injuries and deaths. Workers' compensation laws often precisely define compensation and benefits. How employers manage the financial risk associated with that liability is either left to the employer or mandated by the state. The state may mandate that employers obtain workers' compensation insurance coverage. The following briefly describes the range of arrangements for workers' compensation insurance.

- Individual self-insurance (with or without self-administration) – the employer bears all the present and future cost of work-related injuries. In BC, some entities such as the Federal Government are self-insured, depositing with WorkSafeBC funds to cover the current cost of claims and their administration and providing a surety to cover future costs. BC does not allow self-insurance with self-administration, while this is permitted in some US states. Liability for injury costs are not transferred from the self-insured entity. In jurisdictions with no workers' compensation statutory requirements or sectors outside of or exempt from the scope of coverage, many firms chose to self-insure. Texas allows firms to opt out of the workers' compensation coverage and many larger firms chose to self-insure.
- Employer liability insurance -- commonly available to cover work-related injury not covered by workers' compensation. The insurance transfers the financial risk to the insurer and may be required by the state but does not necessarily protect the employer from suit. Payouts or "settlements" typically conclude the employer's liability. The amount may be agreed by the parties, mediated or ordered by the courts. Structured settlements or settlement trusts may be used to convert lump sum awards to a stream of income. The funds in the trust are managed for the security of the beneficiaries of the trust.
- Group Self-insurance, mutual or cooperative insurance pools - are insurance arrangements where the insured policy holders are the owners and share in the profits of insurance. Some US state funds follow this model (Missouri Employers Mutual, for example). In the wake of the global financial crisis and self-insurance pool failures, access to this insurance arrangement became far more restrictive. New York state, for example, only allows the most secure groups that survived the crisis to continue and only then after meeting new, more stringent criteria including more robust security deposit requirements; no new groups are allowed in that State. Regulating and

oversight are typically carried out by industrial accident boards and commissions or government insurance boards. The liability for work-related injuries is transferred from the individual employer to the shareholders who are the policyholders. The state may require security deposits or mandate contributions to guarantee funds.

- Private insurance is familiar to most readers. Insurance is provided by either a closely owned or publicly traded entity. Shareholders may receive dividends from the insurance activities. Most of the US market follows this alternative and have structures to oversight, rate approval and guarantee funds to cover the claims when the insurance entities become insolvent. (Liberty, Travelers, Hartford and AON are some high-profile examples). Private insurers compete for market share but are free to refuse coverage to any employer they consider poor risks. States with this model generally have assigned risk pools to handle this “residual market”. Liability for claim costs is fully transferred from the employer to the insurer. The insurer operates on a for-profit basis as a going concern, covering losses from reserves and current premiums, distributing profits to shareholders.
- State funds (exclusive or competitive)—Canadian workers compensation boards including WorkSafeBC fall into the exclusive state fund (sometimes called monopoly funds). Washington state’s Department of Labor and Industry (LNI) has exclusive workers’ compensation jurisdiction in that state, but does allow some self-insurance with self-administration subject to its oversight. The state occupational health and safety function is also administered by LNI.. Oregon’s state fund (known as SAIF) is a competitive insurer with about half the market share. The California State Fund is typically classified as a competitive state fund; however, it is technically the insurer of last resort, insuring firms turned down by those in the competitive market. Employers transfer the financial risk of work-related injuries to the insurer. The insurer operates as a not-for-profit going concern.

B. Workers' Compensation and the *Canada Health Act*

Workers' compensation insurance in Canadian, US and Australian jurisdictions include coverage for medical and other health care provided as a consequence of the work-related injury.

In Canada, universal healthcare originated in Saskatchewan in the 1950s. *The Royal Commission on Health Services in Canada* (1961-1964) (also known as the Hall Commission) recommended all provinces create medical services plans that conformed to a national standard. Constitutionally, the provinces have jurisdiction over issues related to hospitals (and by extension healthcare) and labour. In exchange for agreeing to national standard based on five principles (public administration, comprehensiveness, universality, portability and accessibility), certain taxation provisions and funding arrangements were transferred from the federal government to the provinces.

The legislation and funding have evolved over time but are consolidated in the current *Canada Health Act*. Note the current definition of insured services continues the exclusion of workers' compensation:

insured health services means hospital services, physician services and surgical-dental services provided to insured persons, but does not include any health services that a person is entitled to and eligible for under any other Act of Parliament or under any Act of the legislature of a province that relates to workers' or workmen's compensation;

The exclusion allows workers' compensation systems to make specific arrangements for the treatment of injured workers. This includes alternative fee schedules for providers and direct payment for necessary services outside the province. At various times, that ability has been used to expedite treatment and access private clinical care.

C. Additional Concepts in Workers' Compensation Accounting

Workers' compensation costs: Incurred vs. Actual

For work-related injuries and disease that result in an accepted workers' compensation claim, the full cost of the claim includes all medical and healthcare-related costs as well as compensation payments for short- and long-term disability, physical and vocational rehabilitation and administration. The eventual actual cost of claim by definition can only be determined when the last payment is made and all related administration is complete. For a claim involving a young person with a work-related permanent disability, the life of the claim may extend for decades. In the case of a young person with a dependent disabled child, the costs associated with the claim may extend for the life of the dependent.

As an alternative, workers' compensation insurers use various methods to estimate the cost of a claim at the time the claim is established. One method involves "reserving" on a claim by claim basis. The cost of the claim is established and revised at various stages and the overall liability of all claims can be estimated by summing the per-case reserves. This method is common in workers' compensation systems that allow for claim "settlements". Another method is to value the future liability of all claims based on patterns established from the population of past and current claims. These estimates consider the costs over time. The incurred cost of a claim can be considered as the value needed today to pay all claim-related expenses for the lifetime of a claim.

Workers' compensation liability and time

In the absence of workers' compensation insurance and applicable statutes of limitation, an employer's liability for work injury would continue for the life of the firm. Even if the firm goes out of business, the liability for the work injury would continue. Workers' compensation insurance transfers the liability for the injury costs to the insurer; as long as the insurer is solvent, the actual cost of compensation and medical care will continue to be paid.

A claim for a work-related injury is usually made within the coverage year but could be made later. Most workers' compensation systems allow for claims to be made for six months or a year after the injury but allow for extensions in certain circumstances. Workers' compensation insurance provides coverage for a coverage (often a calendar) year. Injuries in that year that result in claims even if they are made after year end are attributable to that year. Claims that occur late in the coverage year or are delayed because of litigation or investigation can result in claims being attributed to the coverage year many years later. The following table from WorkSafeBC Statistics 2017 demonstrates the issue:

Table 2-8: Days lost and claims first paid in 2017, by year of injury

Year of injury	Number of short-term disability, long-term disability, and work-related death claims ¹ first paid in 2017 ²	Total days lost in 2017 from all claims ³
2007 and prior	53	45,459
2008	9	9,922
2009	7	10,425
2010	10	8,492
2011	10	13,802
2012	16	19,173
2013	49	36,878
2014	117	66,405
2015	443	164,152
2016	5,419	867,391
2017	48,253	1,508,128
Total	54,386	2,750,227

More than 10% of the claims first paid in 2017 were related to injuries that occurred in prior years; nearly half of all days lost and compensated in 2017 relate to injuries that occurred in prior years.

To fully account for the many years the actual costs related to a claim will develop, workers' compensation systems track past experience and include these cost (appropriately discounted) in the incurred cost estimates.

Workers' compensation and actuarial adjustments

Estimates of the future compensation, healthcare and rehabilitation costs of all past claims can change. Experience garnered from previous claims can show shifts in patterns of cost, mortality, claim duration and return-to-work success. These changes are accounted for each year and may increase or decrease the valuation of claims that must be paid into the future.

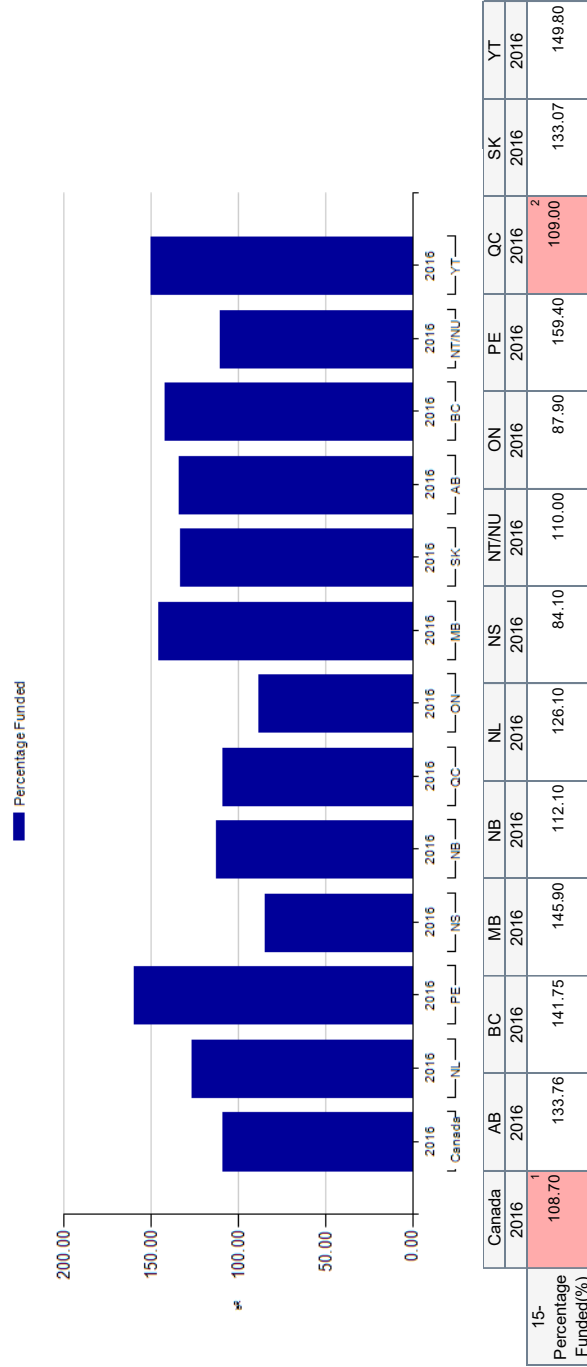
Workers' compensation and accounting for Occupational Disease

Occupational disease claims are often related to work exposures over many years (hearing loss, for example) or limited exposure in years long past (mesothelioma and other asbestos disease, for example). The long latency of such disease means that the exposures that caused the claim are disconnected in many cases from the current employer. In many cases, the employer or employers where exposure took place may no longer be in existence and a workers' current employer may have nothing to do with the worker developing the disease. Although the claim may be established in the year of diagnosis, the employer at the time of diagnosis is not charged with claim costs.

D: List of Consultations

Name	Organization	Job Title	Credentials
Diana Miles	WorkSafeBC	President & Chief Executive Officer	BA, CPHR
Brian Erickson	WorkSafeBC	Chief Financial Officer and Senior Vice-President, Finance & Information Technology	CPA, CGA and MBA
Lori Guiton	WorkSafeBC	Director, Policy, Regulation & Research Division	LL.B
Dr. Dave Baspaly	Council of Construction Associations	President	CMC, DBA, MA, BA
Grant McMillan	Council of Construction Associations	Strategic Adviser	
Trevor Alexander	WorkSafeBC	Senior Vice-President, Operations	
Lee Loftus	WorkSafeBC	Board Member	
Alan Cooke	WorkSafeBC	Board Member and Chair of Audit Committee, Investment Committee member	Actuary, FCIA, FSA
Lillian White	WorkSafeBC	Board Member and Co-Chair, Policy, Regulation & Research Committee	CPA, CGA
Lynn Bueckert	WorkSafeBC	Board Member and Co-Chair, Policy, Regulation & Research Committee	
Chris Hartmann	WorkSafeBC	Director, Return-to-Work Services, Voc Rehab & Disability Awards	M.ED
Chris Gardner	Independent Contractors and Businesses Association of BC	President	
Tim McEwan	Independent Contractors and Businesses Association of BC	Senior Vice-President	
Irene Lanzinger	BC Federation of Labour	President	
Jennifer Leyen	WorkSafeBC	Director, Special Care Services	
Gerry Paquette	WorkSafeBC	Manager, Class & Rate Modification PR	MBA, Six Sigma Blackbelt
Charmaine Chin	WorkSafeBC	Director, Business Intelligence & Analytics	CPA, CMA
Ernest Urbanovich	WorkSafeBC	Senior Research Analyst	MS in OR and PhD (Senior Research Analysts)
Terry Martin	WorkSafeBC	Business Intelligence Analyst	
Jennifer Wing	WorkSafeBC	Manager, Business Intelligence & Analytics	
Ryan Tse	WorkSafeBC	Actuary	ASA, ACIA, FRM and MSc

E: Comparative Funding Status – AWCBC



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Note: Cells with a grey background indicate data that has not yet been published. It is currently in a pre-approval state.

The information contained in this report is based on accepted national definitions and may not be the same as statistics published in WCB annual reports. This document should be read in conjunction with the "Preface to Accompany" Report.
Source: Association of Workers' Compensation Boards of Canada (AWCBC)

Footnotes

1 Weighted average calculated as follows: The sum of the estimated jurisdictional assets divided by the sum of the total jurisdictional benefits liabilities for assessable employers (\$M) (KSM #7) expressed as a percentage, where est. assets (in \$M) are calculated by multiplying the total benefits liability for assessable employers (\$M) (KSM #7) by the percentage funded (KSM #15).

2 The percentage funded for rate setting purposes is 114.5%. It corresponds to the ratio of assets to liabilities excluding latent occupational diseases yet to be reported.

F: Employer Cost, Worker Benefit Payments: Ratios to Assessable Payroll 2016

2016 (Source: AWCBC Key Statistical Measures)	Assessable Payroll (KSM12)		Employer Cost (KSM11 Total Premium Revenue; KSM10 Que.)		WC benefits paid in year (KSM5.1)		Employer cost per \$100 payroll	Worker benefit paid per \$100 assessable payroll
	\$	\$	\$	\$	\$	\$		
BC	\$ 92,400,000,000	\$ 1,493,786,000	\$ 1,259,000,000	\$ 1.62	\$ 1.36			
Canadian Neighbours	Alberta Yukon NWT/Nu	\$ 99,800,000,000 \$ 1,100,000,000 \$ 2,900,000,000	\$ 994,527,000 \$ 20,700,000 \$ 56,900,000	\$ 766,400,000 \$ 14,300,000 \$ 36,000,000	\$ 1.00 \$ 1.88 \$ 1.96	\$ 0.77 \$ 1.30 \$ 1.24		
Canadian Comparators	Ontario * Saskatchewan Manitoba Quebec New Brunswick	\$ 171,600,000,000 \$ 20,900,000,000 \$ 18,200,000,000 \$ 139,000,000,000 \$ 8,800,000,000	\$ 4,858,000,000 \$ 281,800,000 \$ 256,900,000 \$ 2,541,100,000 \$ 212,700,000	\$ 2,252,000,000 \$ 204,100,000 \$ 156,800,000 \$ 2,001,900,000 \$ 142,800,000	\$ 2.83 \$ 1.35 \$ 1.41 \$ 1.83 \$ 2.42	\$ 1.31 \$ 0.98 \$ 0.86 \$ 1.44 \$ 1.62		
*Ontario benefits paid excludes \$56M in loss of retirement income contributions and claim administration costs.								
2016 (Source: NASI Workers' Compensation Benefits, Costs and Coverage, Oct 2018)	Assessable Payroll (US\$) (Table 4)		Employer Cost (US\$) (Sources & Methods)		WC benefits paid in year (US\$) (Table 9)		Worker benefit paid per \$100 assessable payroll	
US Neighbours	Washington Idaho Montana Alaska	\$ 184,150,000,000 \$ 26,421,000,000 \$ 17,472,000,000 \$ 16,316,000,000	\$ 3,076,809,000 \$ 450,887,000 \$ 373,445,000 \$ 381,974,000	\$ 2,430,746,000 \$ 268,000,000 \$ 261,105,000 \$ 227,630,000	\$ 1.67 \$ 1.71 \$ 2.14 \$ 2.34	\$ 1.32 \$ 1.01 \$ 1.49 \$ 1.40		

Resources

The following resources were used in the preparation of this report:

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