

February 13, 2017

2016 WCB Legislative Review Committee  
PO Box 1296 Winnipeg Main PO  
Winnipeg, MB R3C 2Z1

Dear Members of the Review Committee:

On behalf of the Winnipeg Construction Association and its 800 commercial and industrial contractor members, I'm happy to provide our input on the current review of Manitoba's Workers' Compensation Act.

As an industry that has invested a great deal of time and money into developing comprehensive workplace safety programs, most notably through the creation and growth of the Construction Safety Association of Manitoba, we certainly appreciate the need to maintain legislation that reflects the current realities of the modern work environment.

We would like to focus our comments on three specific areas:

1. The need for an Employers' Advocate;
2. Funding of research programs, as addressed in Section 97.1 of the Act;
3. Calculation and adjustment of average earnings.

## **1. Creating an Employer Advocate Office**

To maintain a balanced and effective workers compensation system, the WCB needs to fully engage employees and employers. While employees currently benefit from the worker advisor office and Fair Practices Advocate, there is no similar resource for employers to turn to when they have questions or need help navigating the system. This is especially an issue for smaller businesses who may not have the in-house knowledge to deal with these issues or the financial resources to hire outside experts.

By following the example of the numerous other Canadian jurisdictions that have an employer advocate – BC, ON, NS, NB, PE, NL and YT – the WCB could ensure Manitoba employers are better educated on their rights and obligations under the Act.

## **2. Reconsidering the Research and Workplace Innovation Program**

Section 97.1 of the Act enables the WCB to undertake research and safety programs on injury prevention, safety in the workplace, treatment of workplace injuries and other issues relating to workers compensation. In response, the WCB has created the Research and Workplace Innovation Program (RWIP).

While we do appreciate the value of applied research in the area of workplace safety, any program that is funded by employer contributions needs to have a strong focus on results. In our observation, many of the projects that have been funded to date under the RWIP have not been adequately measured for their effectiveness. Additionally, several “projects” seem to be simply supplementing operating activities of the sponsoring organization.

In light of these concerns, we would suggest the WCB could enjoy considerable savings if it eliminated or significantly revised the RWIP.

### **3. Calculation and adjustment of average earnings**

Many of our members have expressed concern WCB policy 44.80.10.10, Benefits Administration – Wage Loss can unintentionally have a negative impact on an employer’s experience rating.

The policy states the WCB may review and adjust a worker’s average earnings on any claim when further documentation is received which indicates an irregular earnings pattern. Any adjustments are retroactive to the time of the accident if they result in an increase, and *effective at 13 weeks if they result in a decrease in the worker’s average earnings.*

Irregular earnings patterns are common in construction employment due to the impact of seasonal and economic conditions. Therefore, this issue is important to our industry.

Our difficulty with this policy is the arbitrary nature of the 13-week delay to reduce a worker’s benefits. We think all earnings adjustments should be treated the same by making them retroactive to the time of accident.

Our intent is not to penalize injured workers but to ensure they are paid equitably, commensurate with their co-workers. In the interest of fairness, we request the 13-week delay be removed from the policy, or at the very least, the costs of an overpayment be removed from the employer’s experience.

In closing, I would like to thank the committee for the opportunity to provide feedback on our worker’s compensation system and offer my assistance if you need any further information on behalf of the construction industry. I can be reached at [REDACTED] or at [REDACTED] if you would like to discuss this further.

Sincerely,



Ron Hambley  
President, Winnipeg Construction Association