



SUBMISSION TO

WORKER'S COMPENSATION BOARD

**“SURPLUS DISTRIBUTION STRATEGY”
DISCUSSION PAPER**

JANUARY, 2005

The Alberta Federation of Labour (AFL) appreciates the opportunity to respond to the WCB-Alberta's discussion paper on the surplus distribution strategy. The AFL is Alberta's largest central labour body, representing 120,000 members and their families.

In general, we are uncomfortable with the three options outlined in the discussion paper. We believe they approach the issue from an unnecessarily narrow perspective. Our main concern is that the WCB is approaching this issue from an exclusively administrative perspective – how to best allocate money. What should be asking is what policy goal does it want to achieve with this money?

We argue the goal should be to make workplaces safer. That means a focus on prevention and lower accident rates – all accidents and not just lost-time claims. That principle is missing from the objectives of this policy.

We break our comments into three sections and then offer an alternative strategy that more effectively addresses the long term needs of the WCB system.

I. The Problem of Surplus Cheques

The proposal to issue surplus cheques to employers pro rata is a case of retro-policy. This was the common practice of WCB-Alberta in the mid-1990s. Employers received a rebate cheque if the WCB received a surplus in that given year. Quite understandably, many employers liked this arrangement – who doesn't appreciate receiving a rebate cheque?

However, there were two problems with this approach. First, the rebates were given to all employers, regardless of safety record, and so became an odd form of rewarding bad performers. Employers who worked hard to minimize injuries were, in effect, subsidizing those who did nothing – for lower claims costs were due to the efforts of the stronger employers.

Second, as is often human nature, the rebate cheques quickly came to be perceived as an annual "right". In a year when the WCB was unable to offer a rebate, many employers complained vociferously.

In short, the practice did little to improve safety, and created a feeling of entitlement among employers that was not beneficial to the WCB system. Returning this system, as suggested by option #2 and part of option #3, seems counter-productive. We need to learn from past mistakes.

2. The Problem of Measurement

The possible solution to the above problem might be to tie the rebate to certain requirements, such as safety performance or meeting targets. On the surface, this seems to achieve a policy goal and remove the risk of entitlement. However, a new problem arises – measurement.

What is the proper way to measure the performance? What do we want employers to demonstrate? If we select timely accident reporting, we achieve faster claims, but do not make the workplace safer. If we use lost-time claim rate, then we are not measure accidents, but merely accidents that require time away from work. The workplace is not necessary safer.

How do we measure “fewer accidents”? How are we defining this? How are we to ensure that such an incentive does not create unexpected perverse consequences – such as employers hiding accidents to ensure they get their rebate?

Using the COR recognition merely duplicates an existing incentive, and so would achieve no policy goal whatsoever. How does it add value to the incentive?

The concern these questions raise is that the WCB is not in a position to adequately measure “safety” on a workplace. There is no right of inspection to check accuracy of records. There is no enforcement capacity to ensure that an employer is meeting a target or requirement in an up-front manner.

In addition, there are no requirements about how the money should be used. While employers have a right to manage their workplace as they best determine, this is money that was initially allocated for WCB purposes. It is desirable to have that money put back into health and safety initiatives. If an employer chooses to move the money to another portion of its operations, it is a lost opportunity to make gains in safety.

When suggesting selecting pay-out on the basis of some criteria, the WCB faces two problems – what is the correct measure and how do they ensure accurate compliance. We believe these problems to be significant enough to make option #1 untenable. In our opinion it would fail to achieve its intended goal.

3. The Problem of Limited Vision

The policy paper as presented offers a very narrow range of possibilities, much to the impoverishment of the system. The health and safety system in Alberta has always had two separate pillars – regulation and enforcement is covered by Workplace Health and Safety (WHS), and fair compensation is the mandate of the WCB.

The missing piece in the puzzle is prevention. It is simultaneously everyone's and no one's responsibility. In recent years, the WCB has delved into areas of prevention through sponsorship of ad campaigns and other educational material. But, to date, its involvement in this area has been limited. Conversely, WHS has limited resources to allow for extensive prevention initiatives.

This is a concern. While some health and safety statistics have improved, others have remained stubbornly high. There is real debate that workplaces are significantly safer today than 10 or 15 years ago.

No one is taking the issue of prevention seriously. It is time someone took a step forward to make accident and disease prevention a bigger priority.

4. The Solution of a “Prevention Fund”

The AFL is proposing unexpected surpluses be routed to a new fund, called the Prevention Fund. The purpose of the Fund would be:

- To finance WCB-led initiatives in the area of prevention, including research, advertising, educational material and programming, and promotion of best practices
- To finance employer and/or worker (including union) initiatives aimed at innovative solutions for accident and disease prevention. These initiatives would have to be new and attempt to lower injury rates in a targeted fashion. Emphasis would be given to initiatives that have joint employer/worker leadership.
- Offer ad hoc incentives to workplaces to initiate specific prevention initiatives
- To finance consultation to smaller employers on how to prevent injuries and disease in the workplace
- Other prevention-based initiatives as deemed appropriate

The Fund would allow the WCB to take a growing role in prevention, which is overdue. Understandably, at first the initiatives will be smaller in scale and scope. Certain pilot projects and smaller initiatives could be financed. But as the fund grows, more ambitious projects could be entertained.

Unexpected surpluses are not the ideal form of financing for this Fund, but in the current climate, it may be the only politically feasible starting point. It is surplus money employers are not expecting, and it does not take resources away from operating commitments such as claim benefits. In this light it is an appropriate way to establish such a fund.

The Fund need not be administratively burdensome. The work of projects and initiatives will be conducted by employers and workers in workplaces, and WCB-led initiatives can be performed by various agencies and organizations with expertise in the area. Management of the Fund could fall to a committee of WCB, employer, labour and government representatives. Such a committee would only need to meet a handful of times a year.

It is premature to discuss the details of the Fund and its administration. Such matters can be discussed if stakeholders agree to the concept of the Prevention Fund.

The AFL sees two key advantages to this proposal over the options outlined in the WCB paper.

1. It achieves a specific policy outcome not currently well-served under the current system – that of injury and disease prevention
2. It avoids the problems of entitlement, randomness, measurement and enforcement that have plagued previous efforts to disperse surpluses.
3. It is a proposal that can receive support from all stakeholders, as all stakeholders benefit.

We hope the WCB will give this proposal serious consideration. We are happy to meet with policymakers to discuss the idea in further detail.

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