

To: Board of Directors
From: Brock Smith, Chair of Coverage Review
Date: November 17, 2003
Subject: Final Report on Coverage

Issue

To finalize recommendations to the Minister with respect to broadening WSIB coverage and resolving the independent operator issue.

Background

In the spring of 2002 the Board conducted a public review of key coverage issues including lack of coverage for about 35 per cent of the workforce and the treatment of independent operators. In August 2002, the BOD discussed its recommendations and instructed staff to prepare a final report to be approved and forwarded to the Minister of Labour. However, the then Minister indicated that he did not want to receive recommendations until an impact study had been undertaken so final recommendations have yet to be approved. The impact study has now been completed. It analyses the impact on employment in the industries to which coverage would be extended and concludes that the employment impact would be minimal in the long run. In the short run there would be dislocations for small business and community health and social assistance agencies.

Relevant Factors

Implementation of the recommendations will halt coverage erosion, improve long term financial viability, eliminate confusion with respect to who is covered, resolve the independent operator issue, and eliminate the need for financial assurances from Schedule 2 employers. Employers generally support the status quo or say they would support compulsory coverage provided it included the option of private insurance. Construction and trucking employers support resolution of the independent operator issue through some form of compulsory coverage. Schedule 2 employers oppose transfer to Schedule 1. Labour representatives favour compulsory WSIB coverage for all sectors and workers.

The report suggests that where coverage is extended, the unfunded liability charge would apply to an industry where some firms are currently covered, but not apply in the

case where a whole industry is brought into the system. The report does not contain a formal recommendation on this point.

U of T Prof. Doug Hyatt, whose specialty is the impact of workers compensation policies, has completed a study of the impact of coverage extension. His conclusion is that full coverage extension would create a modest, negative impact on employment in the short run. The greatest impact would be on health care and social assistance and small business. However there would be no long run impact on employment. His analysis is that, in the long run, the cost of WSIB coverage is borne by workers in the form of slightly lower wages.

Recommendation

The following reflects the decisions taken by the Board in August 2002. The Board is being asked to reaffirm these decisions.

Exclusionary or Inclusionary? *It is recommended that the Act should be converted to the exclusionary principle whereby all workers and employers are covered except where specifically excluded in the Act, by Order in Council or by the WSIB. The exclusion list, to be placed in regulation, should be composed of three parts, which are "permanent", "provisional" and "special category".*

The "permanent" list would include industries or occupations that are presently excluded and where there is no expectation that they would ever be brought into coverage. Examples would include teams or individuals competing in sports, circus performers, individuals who do stunts and so on. Also, these individuals or their employers would not be provided with the choice of applying for coverage.

The "provisional" list would include industries or occupations where the objective is that they be brought into coverage at some future point, but in the meantime receive a provisional exemption that, for example, would provide time for adequate stakeholder consultation.

The "special category" list would cover industries and occupations where it is appropriate to provide compulsory coverage to some aspects of the industry but not to others. The prime example would be the entertainment industry where actors and performers would be exempt from coverage but most other workers in the industry would not be.

Schedule 1: (Option 1 is "full coverage". Option 2 is full coverage as in option 1, with a limited option to require equivalent coverage through private insurance.)

It is recommended that Option 1 be adopted. It is also recommended that the application of this option to certain designated industries would not take place without further consultation. In the meantime, they would be designated under the proposed "provisional" exemption category.

Schedule 2: (Option 1 is to transfer all non-government organizations in Schedule 2 to Schedule 1. Option 2 is to permit the grandfathering of existing private companies in Schedule 2 conditional on maintaining appropriate financial security arrangements.)

It is recommended that Option 1 be adopted and that consultations take place with Schedule 2 employers with respect to its implementation.

It is recognized that a transfer from Schedule 2 to Schedule 1 involves the issue of "double jeopardy". The WSIB's past practice has been that when a Schedule 2 employer transfers in Schedule 1, it remains liable for its previous accident costs as well as being required to contribute to past Schedule 1 unfunded liabilities. One option would be to continue this practice under a newly integrated system. However, it could be argued by the employers being transferred that the requirement to fully fund their own claims while required to pay a charge for the Schedule 1 unfunded liability is unfair.

An alternative would be to merge the Schedule 2 claim liability with those of Schedule 1, but only at the same funding level. One way to achieve this would be to first require a Schedule 2 employer to gradually buy-out its own Schedule 2 liabilities (say over a three year period) at a level equal to the Schedule 1 funding ratio (currently 70 per cent) and together transfer its Schedule 2 claims into Schedule 1. The effect of this is to ensure that everyone contributes to the unfunded liability at the same funding level, while ensuring that additional liabilities are not added to either Schedule 1 or Schedule 2 employers entering into Schedule 1.

Independent Operators: *The Act should continue to recognize independent operators, both those who own and operate their own equipment and those who have multiple employers whether or no they own their own equipment. Coverage should be compulsory. Where there is a single employer, the principal would be responsible for the premiums which could be billed back. Where there are multiple employers, the independent operators would have the option of maintaining individual accounts. Employers would be able to demand proof of coverage as a condition of entering a worksite. The independent operator questionnaire would be changed to reflect the new policy. Further consultation should occur regarding the most effective method of incorporating experience rating into this model.*

It is also recommended that the executive office category be eliminated so as to close a possible loophole that might be used when compulsory coverage for independent operators is implemented.

It is recommended that staff explore the feasibility of implementing a named insured system in the construction industry and report to the Board.

Volunteers: *It is recommended that compulsory coverage for volunteers essentially remain limited to those currently covered with some minor amendments to ensure that volunteers working for corporation contracted to provide police, fire or ambulance services on behalf of a municipality are covered as well. The Act should be amended to empower the Board to broaden coverage for volunteers on an application basis.*

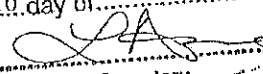
Outworkers: *It is recommended that the outworker category be deleted from the Act.*


Casual Workers: *Reference to casual workers should be deleted from the Act. Employers would be responsible for providing coverage for all work performed on their worksites by their workers, regardless of the status*

.....
Brock Smith

APPROVED BY THE BOARD
OF DIRECTORS

this 10 day of December 20 03


Secretary

BOD Minute #15, December 10, 2003, Page 6569 

FINAL REPORT

COVERAGE UNDER THE WSI ACT
REPORT TO BOARD OF DIRECTORS

October 8, 2002

I. INTRODUCTION

The Board's discussion paper *Coverage Under the Ontario Workplace Safety and Insurance Act* was issued in January 2002 (Attachment A). Consultation included eight days of hearings during February and March. About 170 oral and/or written submissions have been received. They are summarized in the attached document, *Summary of Submissions by Stakeholders* (Attachment B).

This report presents recommendations, which are based on a review of the stakeholder submissions and further informal discussions with WSIB officials and certain stakeholders. In this report, stakeholder views are presented only in their briefest form. For a detailed review of positions presented by stakeholders, readers are invited to refer to the *Summary of Submissions by Stakeholders*.

II. EXCLUSIONARY OR INCLUSIONARY

The *Act* establishes and lists two categories of covered industries under Schedules 1 and 2. A short list of excluded industries and non-covered individuals is also noted in the *Act* and regulations. This is the "inclusionary method" of defining coverage, which in essence requires the specific and extensive listing of industries and businesses in order that they be covered. The alternative is an "exclusionary" system in which the *Act* applies to all employers and workers except where they are specifically excluded by order.

An advantage of the present inclusionary method is that, by simply no action, the Board is able to avoid having to specify exclusions that may involve complex administrative issues. However, the current method also has some significant disadvantages. As noted in the Discussion Paper, the existing system lacks consistency and clarity. The process of designating and classifying literally hundreds of specific industries has been based more on historical circumstance than "a rationalized process". Among other things, this has meant that a number of industries may have simply "fallen through the cracks".

Moreover, it would appear that the inclusionary method is no longer congruent with the stakeholder consensus that emerged from the public hearings. While there may be disagreement over *how* universal coverage ought to be implemented, there is a stakeholder consensus on this aspect of providing universal coverage.

To illustrate how the exclusionary principle can be applied, Newfoundland's *Act* covers "workers and employers...in the province" except as exempted by the Lieutenant Governor in Council or the compensation commission. The *Act* explicitly empowers the government and the commission to make regulations with respect to the fishing, logging and the volunteer sector. The *Act* also recognizes independent operators as being eligible for coverage on a volunteer basis. It specifically excludes employment related to private residences and professional sports competitors.

Another example is Saskatchewan, which includes "all employers and workers" except where excluded by the Lieutenant Governor in Council or by the *Act*. The *Act* names as exclusions casual workers, outworkers, household servants, the farming and ranching industry and schoolteachers.

It can be seen from these examples that the exclusionary method still provides ample flexibility to deal with situations where compulsory coverage may not be appropriate.

Recommendation

It is recommended that the Act should be converted to the exclusionary principle whereby all workers and employers are covered except where specifically excluded in the Act, by Order in Council or by the WSIB. The exclusion list, to be placed in regulation, should be composed of three parts, which are "permanent", "provisional" and "special category".

The "permanent" list would include industries or occupations that are presently excluded and where there is no expectation that they would ever be brought into coverage. Examples would include teams or individuals competing in sports, circus performers, individuals who do stunts and so on. Also, these individuals or their employers would not be provided with the choice of applying for coverage.

The "provisional" list would include industries or occupations where the objective is that they be brought into coverage at some future point, but in the meantime receive a provisional exemption that, for example, would provide time for adequate stakeholder consultation.

The "special category" list would cover industries and occupations where it is appropriate to provide compulsory coverage to some aspects of the industry but not to others. The prime example would be the entertainment industry where actors and performers would be exempt from coverage but most other workers in the industry would not be.

III. SCHEDULE 1

Stakeholders are divided on the issue of compulsory coverage under Schedule 1.

Worker representatives, virtually unanimously, advocate universal coverage under Schedule 1. Employer representatives are equally unanimous in their opposition to this and (assuming the status quo is not an option) some argue that while universal coverage is a valid objective, employers should be able to fulfill this obligation by maintaining private insurance which offers "the full gamut of WSIB benefits, incentives and legal characteristics".

Given that there is a near consensus for some form of "universal coverage", the issue then comes down to two broad alternatives. They are (1) universal coverage with some exceptions as discussed above, or (2) universal coverage through *either* WSIB coverage or equivalent insurance as specified in legislation.

Option 1: "Full Coverage"

Under this option, virtually all employers and workers would be covered by the *Act* under Schedule 1 or 2, except as exempted in line with a process such as that outlined above.

This option clearly presents a simple, comprehensive solution. It is consistent with the Board's universal health and safety mandate and with most of the "guiding principles" in the discussion paper. It puts all industries on the same footing, eliminates uncertainty for workers as to whether or not they are covered, and it removes the spectre of costly legal process and liability. Indeed, it comes as a surprise to many people to learn that this kind of comprehensive coverage is not already in existence.

However, thoughtful arguments have been advanced to support another point of view.

For example, employers would maintain that this option fails to meet the Discussion Paper's guiding principle test of "benefiting employers" and also the principle that WSIB coverage should be "cost competitive in the current market place and the WSIB must be able to market and sell its product."

Some social service organizations (e.g. home care) that have opted out of WSIB coverage have said that a return to WSIB coverage could result in a reduction of their services.

The possibility of having to contribute to the unfunded liability is also an important issue for industries not currently part of the system.

In this regard, it is recommended that this option should include a refinement of the current policy which requires all new registrants to pay the unfunded liability charge. While this policy is justified on the basis that it puts new entrants on the same footing as

those in similar categories who are already in the system, it is suggested that the unfunded liability charge not apply in the case of the wholesale inclusion of a new industry where historically virtually none of its participants have been part of the system. In that case, maintenance of a level playing field within the industry is not an issue and it may be unfair to expect such an industry essentially to subsidize others. One means of ensuring that an industry in this situation is not charged for the past unfunded liability would be to establish a new rate group(s) with a new class that begins its existence with a zero unfunded liability¹. For other industries where some firms are currently covered and some are not, the unfunded liability charge would be applied.

Employers have also stated that, should this become the preferred option, it ought to be subject to further consultation based on an economic and financial analysis of its impact.

Accordingly, should this become the preferred option, it may be advisable to phase in its implementation in order to allow for more consultation with respect to the economic and financial impact on certain industries and, in particular, to consult on the creation of new rate groups

Option 2: Full coverage as in Option 1, with a limited option to require equivalent coverage through private insurance.

As noted in the *Summary of Submissions from Stakeholders*, a number of employer organizations advocate that employers should have the option of providing equivalent coverage through private insurance. Thus, employers in specified industries would be eligible for exemption from the provisions of the *Act* if they provide equivalent coverage to their employees.² On its face this option has certain attractiveness since it would presumably achieve the result of universal coverage while providing for the continuance and perhaps expansion and enhancement of existing private coverage arrangements

The "equivalency" option might work along the following lines. First, the Board or an arm's length regulator would approve a template for private coverage as being "equivalent" to WSIB benefits, such as the "Mercer audit tool".³ The Lieutenant Governor in Council and/or the WSIB would be empowered to designate an industry as being eligible for an exemption under the equivalency provision. Firms within this

¹ Exempting one or more industries from paying the unfunded liability charge would create two categories of employers, which would be perceived as unfair by most employers who are required to pay the charge. Also, a number of administrative complexities would have to be ironed out given current funding policies and how the rate setting model works.

² An example of an equivalent coverage legislative mandate is the *Canada Labour Code*, which provides that employers falling within the *Act* "...subscribe to a plan that provides an employee who is absent from work due to work-related illness or injury with wage replacement payable at an equivalent rate to that provided for under the applicable workers' compensation legislation in the employee's province of permanent residence." The *Act* also stipulates that "the employers shall, where reasonably practicable, return an employee to work after the employee's absence due to work-related illness or injury."

³ This template or "audit tool" was prepared by William M. Mercer Ltd. for the Canadian Bankers Association to be used in assessing disability insurance benefits for consistency with the *Canada Labour Code* requirement of equivalency to provincial workers' compensation benefit levels.

industry would then be granted an exemption based upon presentation of proof of coverage consistent with the template developed for their industry and certified by the regulator.

The Canadian Bankers Association (CBA) submits that the Mercer audit tool meets the equivalency requirement of the *Canada Labour Code*. Staff have met with CBA officials and have analyzed the banks' template for comparability with WSIB benefits. With the exception of non-economic loss (NEL) benefits, and the right of appeal to an independent tribunal, the template indeed does appear to provide benefits which are generally comparable to those provided by the WSIB.⁴

The significant issues posed by this option are who it would apply to and how it would be regulated. These are examined below.

Employers' organizations have submitted that the equivalency option ought to apply to everyone, including employers currently enrolled in the WSIB. However, this would involve a fundamental change in the nature of the current system and could lead to a virtual privatized system with the WSIB acting as an insurer of last resort for high-risk industries unable to find affordable private insurance. Such an option is outside of the scope set out in the Discussion Paper and, accordingly, is not considered further.

However, an equivalency option for industries that, to all intents and purposes, are not currently in the system is another matter. Below is a sketch of how this option might work and what some of the legal and administrative implications might be.

Amendments to the *Act* would be required in order to define what "equivalency" means and to specify tests of eligibility. It is important to note that such a test would have to be consistent with the *Charter of Rights* requirement for equal treatment under the law, which would require that clear criteria for eligibility be defined in the *Act*. The *Act* would also establish a regulatory authority lodged within the WSIB or a new body to apply the eligibility rules. Two appeals processes would also be required; one to adjudicate disputes over benefits entitlement, the other to resolve disputes over eligibility for "equivalency". These issues create some significant policy hurdles.

How would eligibility for an industry be defined? Some possible criteria are: (1) the industry is federally regulated; (2) the industry has a low work injury history; (3) the industry is able to meet certain financial tests; (4) the industry has developed an equivalency template to which its members are prepared to adhere and be subject to audit.

The option of extending "equivalency" to federally regulated industries could be considered on the grounds that it would provide a clear-cut definition and is congruent

⁴ The British Columbia Workers' Compensation Board has to date rejected CBA arguments that banks ought to be exempt on the basis that they provide equivalent benefits. Banks are covered in most other provinces but argue that this arose before the CLC amendments and that they are now attempting to persuade provinces that they ought to be exempt from provincial schemes.

with jurisdiction over health and safety regulation. However, currently no other province recognizes federal regulation as grounds for exemption from workers' compensation programs. In fact, there is a long history of federally regulated enterprises participating in provincial workers' compensation. Such a policy, then, could potentially open an exit door to employers that are currently enrolled in the WSIB and are also under the jurisdiction of the *Canada Labour Code*. Finally, there would be a question of equity within the financial sector, as this option would result in "equivalency" essentially being limited to banks.

Another possible exemption criterion is a low frequency of workplace injury. However, the challenges of developing an effective definition of what in fact is a "low injury" history and matching that to reliable data would be a daunting task with uncertain result. Moreover, this criterion would not effectively distinguish between currently covered and non-covered industries since many employers in the system have excellent safety records. As noted, policies that would facilitate or encourage employers to leave the WSIB are not in the terms of reference of this review.

What about equivalency exemptions for currently non-covered industries that could meet financial tests designed to predict their ability to afford equivalent insurance for their employees on a long-term basis? This too presents challenges. First, it would be difficult to gain a consensus as to what the tests ought to be. There is also the issue of perpetual auditing to ensure compliance and the question of what to do if a firm falls out of compliance. Also, it would be difficult to justify why such criteria could only apply to currently non-covered employers.

It has been suggested that another way to define eligibility would be based on the availability of "equivalency insurance" matched to a template such as that developed for the banking industry. However, it is unknown whether other currently non-covered sectors would or could adopt such a process. Once again this option throws up the legal challenge of creating "equivalency" criteria that would be consistent with the objectives of this review and the *Charter* principle of equal treatment under the law.

Who would regulate equivalency? An obvious conflict of interest issue arises with respect to the WSIB. If rules are developed that newly covered industries would not contribute to the unfunded liability and would be placed in newly created, "self contained" rate groups with respect to revenues and costs, then, at least from a financial point of view, the Board ought to be indifferent as to whether coverage was on a direct or equivalent basis. However, that aside, the appearance, whatever the reality, of conflict of interest would likely require the creation of an arms length regulatory body. This would be controversial with stakeholders. Employers could be saddled with (what they would see as) excessive and intrusive demands for information not to mention the cost of regulatory operations. Unions could launch legal challenges to exemptions on the grounds that they were not really "equivalent". All told, the creation of a new and possibly complex regulatory process is something that few stakeholders would support.

Another issue is the handling of individual compensation appeals. The equivalency principle would presumably require that entitlement appeals be subject to third party adjudication as is the case with WSIB claims. It is likely that the stakeholders supporting the equivalency option and their service providers would have major concerns about this.

A final point is that the Board's safety mandate applies to all employers governed by the Occupational Health and Safety Act and farm-related activities. The equivalency option could still involve the application of health and safety charges to many employers in an industry that had been granted the equivalency option. Thus, the industry does not completely avoid being subject to Board levies and oversight.

In summary, while the "equivalency" option may appeal to some as a broad concept, when examined more closely it raises a host of legal, regulatory and administrative issues for which there are no easy answers. Accordingly, it is suggested that this option not be pursued further.

The fact remains that some employers have made a vigorous case for being excluded from WSIB coverage on the basis that they can provide equivalent coverage. The above considerations suggest that if certain industries are to be exempt from coverage under a new act, this should be achieved simply by the granting of an exemption(s) either on a "permanent" or "provisional" basis as recommended in the first section of this report. No attempt should be made to embed equivalency criteria into a new act.

Recommendation for Schedule 1

It is recommended that Option 1 be adopted. It is also recommended that the application of this option to certain designated industries would not take place without further consultation. In the meantime, they would be designated under the proposed "provisional" exemption category.

IV. SCHEDULE 2

Most employee representatives would like to see Schedule 2 eliminated because of what they believe to be overly aggressive claims management on the part of employers and the financial risk that they perceive Schedule 2 private sector employers potentially imposing upon the overall system.

The Schedule 2 Employers Group argues that recent bonding agreements have eliminated the financial risk and that aggressive claims management is a positive not a negative factor. Many other public sector employers submitted separate briefs endorsing continuance of Schedule 2. Some employer representatives recommended that Schedule 2 be expanded.

With respect to bonding arrangements, a problem would arise if a Schedule 2 employer were unable to provide adequate financial guarantees. Currently, the WSIB would not be able to transfer such an employer to Schedule 1 in this situation. If some private sector employers continue to be eligible for Schedule 2, as would be the case in Option 2 below, consideration should be given to allowing the WSIB to move employers into the collective liability system (Schedule 1) where they are unable to meet the required financial guarantees.

It should be noted that the issue of coverage for public sector organizations under Schedule 2 was not raised directly in the Discussion Paper and is not under review here.

There are two options:

Option 1: Transfer all non-government organizations in Schedule 2 to Schedule 1.

Option 2: Permit the grandfathering of existing private companies in Schedule 2 conditional on maintaining appropriate financial security arrangements.

While the issue of financial security for private employers in Schedule 2 has been largely addressed in recent months, there are other concerns that call into question the need for maintaining Schedule 2 coverage for non-governmental employers.

First, the overall spirit of this exercise is to move in the direction of inclusiveness, equal treatment and simplicity wherever possible. In this context, private sector Schedule 2 coverage is increasingly anachronistic. In fact, the only real argument for maintaining this method of coverage would appear to be that it is already there. Certainly, if a system were being created from scratch, it is unlikely that such a form of coverage would be envisaged.

Also, as noted in the discussion paper, the traditional distinction between the two schedules, that is, collective and individual liability, has been blurred by the adoption of experience rating in Schedule 1. It should also be noted that the experience rating programs are currently under review and proposals are being developed that would

strengthen the incentives, thereby placing more focus on individual workplace performance.

Recommendation for Schedule 2

It is recommended that Option 1 be adopted and that consultations take place with Schedule 2 employers with respect to its implementation.

It is recognized that a transfer from Schedule 2 to Schedule 1 involves the issue of "double jeopardy". The WSIB's past practice has been that when a Schedule 2 employer transfers into Schedule 1, it remains liable for its previous accident costs as well as being required to contribute to past Schedule 1 unfunded liabilities. One option would be to continue this practice under a newly integrated system. However, it could be argued by the employers being transferred that the requirement to fully fund their own claims while being required to pay a charge for the Schedule 1 unfunded liability is unfair.

An alternative would be to merge the Schedule 2 claim liabilities with those of Schedule 1, but only at the same funding level. One way to achieve this would be to first require a Schedule 2 employer to gradually buy-out its own Schedule 2 liabilities (say over a three year period) at a level equal to the Schedule 1 funding ratio (currently 70 per cent) and then transfer its Schedule 2 claims into Schedule 1. The effect of this is to ensure that everyone contributes to the unfunded liability at the same funding level, while ensuring that additional liabilities are not added to either Schedule 1 or Schedule 2 employers entering into Schedule 1.

V. INDEPENDENT OPERATORS AND EXECUTIVE OFFICERS

With the exception of some stakeholder organizations such as those representing community newspapers and TV commercial producers, there is a fairly strong consensus that independent operators should be covered on a compulsory basis.

The submissions are not in agreement as to how this should be done. The construction industry generally advocates that independent operators pay premiums directly while the trucking industry submits that the "principal" would pay and charge back the premium to the independent operator, a system that did operate in Ontario at one time.

The Employers Council recommends maintaining the executive officer designation.

The Saskatchewan model is worth looking at. It involves two categories of owner operators, those who own and operate their own equipment and those that contract their services to multiple employers regardless of whether they own their own equipment. With respect to the first category, principals are liable for coverage payments, which they can charge back. The independent operators are experience rated under the principal's account and are not permitted to have their own account if they work for only one principal. With respect to the second category (called "independent workers") individuals may have their own accounts. Coverage is guaranteed even if the "independent worker" has not opened an account. In this case costs would be billed to the principal but he cannot charge back these costs to the independent worker.

This model appears to be a good place to start since it incorporates elements that are supported by stakeholders and is apparently working well in Saskatchewan.

Recommendation

The Act should continue to recognize independent operators, both those who own and operate their own equipment and those who have multiple employers whether or not they own their equipment. Coverage should be compulsory. Where there is a single employer, the principal would be responsible for premiums which could be billed back. Where there are multiple employers, the independent operators would have the option of maintaining individual accounts. Employers would be able to demand proof of coverage as a condition of entering a work site. The independent operator questionnaire would be changed to reflect the new policy. Further consultation should occur regarding the most effective method of incorporating experience rating into this model.

It is also recommended that the executive officer category be eliminated so as to close a possible loophole that might be used when compulsory coverage for independent operators is implemented.

"Named Insured"

During the public hearings the issue of implementing a "named insurance" system, particularly in the construction industry, was raised several times. A named insurance system provides coverage on an individual basis, as is the case with private LTD plans and other forms of private insurance. Previous Board discussions have indicated that the development of such a system ought to be a long-term objective. The development of a new policy for independent operators provides a window of opportunity to advance this objective at least on a pilot project basis.

Accordingly it is recommended that staff explore the feasibility of implementing a named insured system in the construction industry and report to the Board.

VI. VOLUNTEERS

Worker representatives generally recommended some kind of universal coverage for volunteers while organizations that place a significant reliance on volunteers are strongly opposed to this.

Some municipal organizations have recommended that coverage be allowed for police or municipal volunteers where no state of emergency has been declared and the "employer" is a local board rather than a municipal corporation. (In cases where the municipality is the "employer", coverage is compulsory for volunteer ambulance and fire brigade and a state of emergency does not have to be declared.)⁵

Any attempt to mandate compulsory coverage for volunteers will create significant problems for many stakeholders. Moreover, no actual volunteer organizations have requested mandatory coverage. Accordingly, changes to this area should focus on the specific issue raised by some local governments and, with respect to the broader issue, take a permissive stance should other organizations seek coverage for their volunteers.

Recommendation for Volunteers

It is recommended that compulsory coverage for volunteers essentially remain limited to those currently covered with some minor amendments to ensure that volunteers working for corporations contracted to provide police, fire or ambulance services on behalf of a

⁵ It is important to note that this issue will be partially addressed by *The Government Efficiency Act, 2002*, Bill 179, which received first reading on September 25, 2002. One of the four amendments to the *WSI Act* within the Bill strikes out "a municipal volunteer ambulance brigade" and substitutes "a volunteer ambulance brigade."

municipality are covered as well. The Act should be amended to empower the Board to broaden coverage for volunteers on an application basis.

VII. OUTWORKERS

The *Act* defines an outworker as "persons to whom articles or material are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for sale in the person's own home or on other premises not under the control or management of the person who gave out the articles or materials." The *Act* excludes them from coverage.

There is a general consensus that the definition of outworker should be broadened to recognize that certain occupational activities are increasingly performed from home as well as office environments and that they should be covered under Schedule 1.

Generally, work activities in private homes are not subject to coverage with the exception of domestics who work more than 24 hours per week for the same employer. However, in certain circumstances the home is a virtual office or factory and in these cases coverage should apply where there is an identifiable employer(s).

An effective and comprehensive way to achieve this objective would be to simply remove any reference to outworkers from the *Act*. This will mean that employers will be responsible for coverage where they are the sole employer, or the individuals working from the home for multiple clients will directly register as "owner operators."

Recommendation for Outworkers

It is recommended that the outworker category be deleted from the Act.

VIII. CASUAL WORKERS

The *Act* excludes persons whose employment is of a "casual nature" and not "for the purposes of the employer's industry".

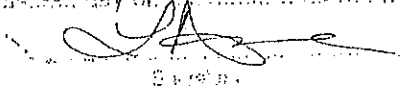
There is a general consensus amongst stakeholders that this definition should be revised to provide for more clarity and broader coverage. The best way to do this would be to simply delete any references to casual workers from the *Act*. This alternative would obviate the need for a new definition and would be consistent with the overall spirit of this exercise which is to make coverage as universal as possible.

Recommendation for Casual Workers

Reference to casual workers should be deleted from the Act. Employers would be responsible for providing coverage for all work performed on their worksites by their workers, regardless of the status of the worker.

ACTING CHIEF OF BOARD
OF INDUSTRIAL SAFETY

This 10 day of December 2003



SECRET

November 14, 2003

**Workplace Safety and Insurance Act
Coverage Study**

By

**Douglas Hyatt
University of Toronto**

**Workplace Safety and Insurance Act
Coverage Study**

EXECUTIVE SUMMARY

As the sector of Ontario industry that is not covered by the *Workplace Safety and Insurance Act* has grown more rapidly than the covered sector, the proportion of workers who are protected by the legislation has diminished. As highlighted in the Government's 1996 White Paper on workers' compensation, extending coverage under the WSIA to previously uncovered industries is consistent with the business and insurance principles of equity, purpose and vision, insurance protection and the creation of safety incentives.

However, during the Smith Review of coverage, some employers expressed concern that extending mandatory WSIA coverage might result in job losses in the presently uncovered industries. In response to these concerns, this study was initiated to estimate the magnitude and permanence of any adverse employment effects of extending coverage.

The analysis in this report relies, in part, upon a previous Ontario study (Dungan, 2000) that estimated the impact on the Ontario economy (including employment) of increasing WSIB premiums. Dungan concluded that increased WSIB premiums result in lower employment in the short-term, due to the increased cost of labour, but that this initial negative employment effect is fully mitigated over time as employee wages and/or benefits are reduced to fully offset the increased WSIB premium cost (so that, in time, total labour costs after the premium increase -- wages plus fringe benefits plus workers'

compensation -- is unchanged from total labour costs before the premium increase. The initial adverse employment effect is eliminated by about seven years following the premium increase,

Using key results from the Dungan study, we find that by four years following the extension of WSIA coverage to previously uncovered industries, 4,200 fewer jobs are created (compared to total employment in the uncovered sector of 1.348 million workers) than would have been created had coverage not been extended. By seven years following the extension of coverage, employment recovers to the level that would have been expected had coverage not been extended. That is, by seven years following the extension of coverage, employers will have had sufficient time to adjust wages and fringe benefits to offset the increased WSIB costs.

In summary, extending WSIB coverage to previously uncovered industries is likely to have a small, but ultimately only temporary, adverse employment effect.

Workplace Safety and Insurance Act
Coverage Study

I. Introduction

The *Workplace Safety and Insurance Act* (WSIA) requires covered employers to contribute to the insurance fund. Coverage under the *Act* is on the basis of inclusion (rather than exclusion, as is the case in some other jurisdictions). Consequently, firms in emerging industries are either not covered under the legislation or have, it is sometimes argued, been inconsistently excluded from, or included, under the legislation. Further, firms in other long-established industries, notably much of the financial services sector, have never been covered by the Ontario legislation. (Employers not covered by the legislation may or may not provide alternative insurance protection. However, all uncovered employers are potentially subject to tort litigation for work-related injuries).

The relative employment growth of some of the excluded industries has ultimately resulted in an erosion of the proportion of workers protected by the legislation. The Workplace Safety and Insurance Board (WSIB), and other reviewers of the Ontario workers' compensation system (notably the Government's 1996 White Paper on workers' compensation) have emphasized three business and insurance principles of equity, purpose/vision and insurance protection/incentives. There is concern that these principles may be compromised with further erosion of coverage.

In submissions to the Smith Review on coverage, some uncovered employers and/or their representatives have requested that the WSIB undertake an evaluation of the impact of the broader inclusion of currently uncovered industries. This study represents a response to these requests. In particular, this report sets out estimates of the employment losses likely to be associated with including industries previously not covered under or excluded from the *Workplace Safety and Insurance Act*.

II. Estimating the Employment Effects of Extending Workplace Safety and Insurance Act Coverage

WSIB premiums are, in effect, a payroll tax akin to employer contributions to other statutorily mandated benefits such as the Canada Pension Plan and Employment Insurance. The magnitude of any adverse employment impacts of extending WSIA coverage to presently uncovered/excluded industries depends upon the sensitivity of employment to increases in payroll taxes (including WSIB premiums). As will be discussed, this report relies on a recent study that estimates the long and short-term employment sensitivities to payroll tax changes.

The approach we adopt for estimating the short-run and longer-run employment impacts of expanding the scope of mandatory WSIA coverage to previously excluded and omitted industries has four distinct steps:

Step 1: Derive estimates of the number of workers who are not covered by the WSIA, by industry;

Step 2: Derive estimates of the WSIB premiums that might be charged to the presently excluded/omitted industries;

Step 3: Determine the increased payroll tax burden of WSIB premiums on the excluded/omitted industries;

Step 4: Using the payroll tax - employment elasticities from a recent study of workers' compensation in Ontario, estimate the employment impact by industry in the short-term and in the longer-term.

The remainder of this section sets out each of these steps in greater detail, and concludes with estimates of the short-term and long-term employment impacts of extending WSIA coverage.

Step 1: The numbers of workers who are uncovered, by industry

The second column of figures in Table 1 (at page 18) shows the number of workers employed in each of the uncovered industries, as of 2002.¹ There are some 1,312,000 workers employed in uncovered industries in Ontario. Almost 70 percent of uncovered workers are employed in 5 industries (number of workers in brackets): finance and

¹ Source: Statistics Canada, *Survey of Employment, Earnings and Hours*. I am grateful to the WSIB, and in particular Edwin Yee, for compiling these data.

insurance (246,000); professional, scientific and technical services (234,000); health care and social assistance (206,000); and, other services (115,000).

Step 2: Estimating WSIA premiums that might be charged to the presently excluded/omitted industries

Without a detailed knowledge of the accident records, and accident costs, of employers in the uncovered sectors, it is obviously very difficult to conjecture on the expected WSIB premiums that uncovered firms and industries might pay if they became covered. Until the WSIB had sufficient time to observe the claims cost experience of the excluded/omitted industries, the Board would out of necessity have to set a rate that was based on similar industries.

In consultation with the WSIB, the assumed premiums for uncovered industries that are used in the simulations that follow are based upon the premiums currently being charged to a closely comparable covered industry. These rates are presented in the first column of Table 1. The premiums range from \$2.77 per \$100 of payroll in health care and social assistance, to 17 cents per \$100 of payroll in the finance and insurance, real estate, and administrative and support services industries.²

I note that the assessment rate includes a surcharge for retiring the unfunded liability.

Whether the WSIB assesses an unfunded liability surcharge on premiums paid by

² For some of the uncovered industries, there was more than one possible comparator industry. In these situations, the highest premium rate from the alternatives was chosen.

previously uncovered industries (if coverage is extended) is obviously yet to be determined. However, for the purposes of this study, the employment effects that we estimate are based on a premium that reflects an unfunded liability surcharge. As a consequence, if coverage is extended, our estimates of the employment impacts will be overstated to the extent that no unfunded liability surcharge is assessed, or if the surcharge is less than we have assumed.

Step 3: Determining the increased payroll tax burden of WSIB premiums on the excluded/omitted industries

WSIB premiums are a payroll tax, akin to Canada Pension Plan (CPP), Employment Insurance (EI) and Employer Health Tax (EHT) contributions. Currently, employer contributions to these payroll taxes are as follows:

CPP: \$4.95 per \$100 of assessable earnings
EI: \$2.10 per \$100 of assessable earnings
EHT: \$1.70 (approximately) per \$100 of assessable earnings

The total of these payroll taxes amounts to \$8.75 per \$100 of payroll.³

The percentage increase in total payroll taxes that would be occasioned by extending coverage would range from [$\$2.77 / \$8.75 =$] 32 percent in healthcare and social assistance industries to [$0.17 / \$8.75 =$] 2 percent in the finance and insurance, real estate, and administrative and support services industries.

³ These payroll tax figures represent the maximums for each of the taxes. The employer's total cost for these benefits per \$100 of payroll may be lower than these maximums depending upon the extent to which workers earn more than the statutory maximum earnings for assessment purposes.

Note that, if employer premiums for private disability insurance are reduced as a consequence of WSIB coverage, then at least part of the increase in payroll taxes will be offset by savings in other employee benefit costs. To the extent that this offset occurs, the employment impact of WSIB coverage will be overstated in the simulation results that follow.

Step 4: Using the payroll tax - employment elasticities from a recent study of workers' compensation in Ontario, estimate the employment losses by industry in the short-term and in the longer-term

The final step is to link the increase in payroll taxes to changes in employment. Further, it is important to recognize that the impacts of a change such as the introduction of WSIA coverage into previously uncovered industries will evolve over time. Indeed, as discussed below, the evidence for Canada has tended to indicate that increases in payroll taxes are eventually (fully) passed on to workers in the form of lower wages. As a consequence, there may be some immediate negative employment impacts resulting from extending WSIA coverage, but these impacts are muted over time as real wages adjust downward (although total compensation -- wages plus benefits plus the WSIB benefit -- remains the same).

A recent article (Dungan, 2000)⁴ is one of the very few studies that has projected the impacts of various changes to the workers' compensation system (such as benefit increases and decreases, and premium increases and decreases) on the Canadian and

Ontario economies. Dungan's analysis uses the FOCUS and FOCUS-Ontario models, maintained by the Policy and Economic Analysis Program (PEAP) at the Institute for Policy Analysis, University of Toronto.

At page 137, Dungan highlights the utility of macroeconomic simulation models for analyzing the potential impact of payroll tax changes:

What then do the macroeconometric models tell us that the more general literature does not? Primarily, they put specific values on the qualitative statements about directions of impacts and lengths of lags. They give us some indication of the amount of unemployment needed to shift the tax incidence from firms to workers, and the length of the adjustment process.

Critically, Dungan's analysis links increases in payroll taxes and employment, and illustrates the dynamics by which economic agents (workers and firms) adjust to payroll tax increases in the short-run and in the longer-run. Dungan (at pages 136-137) describes the adjustment process of the economy to changes in payroll taxes as follows:

The employment and wage equations will yield the result that the short-term incidence of a payroll-tax change is on the employer. Under, for example, a payroll tax increase, wage costs to the firm will immediately rise and corporate profits will fall. Investment demand will begin to decline with lower profitability. However, with a small lag, firms will begin to economize on the more-expensive labour and will also begin to pass through the higher unit labour costs to prices, likely reducing aggregate demand. The fall in aggregate demand will further reduce employment. As employment falls, the unemployment rate will rise almost in proportion (although some of the unemployed become 'discouraged' as the unemployment rate rises). The rising unemployment rate reduces real-wage demands (although nominal

⁴ Dungan, Peter. 2000. "The Effect of Workers' Compensation and Other Payroll Taxes on the Macro Economics of Canada and Ontario." In Morley Gunderson and Douglas Hyatt (eds.), *Workers' Compensation: Foundations for Reform*. Toronto: University of Toronto Press: 118-161.

wage may rise somewhat in response to the tax pass-through to prices).

Real wages will continue to fall over time as long as the tax increase is causing unemployment. Eventually, real wages decline sufficiently to absorb the full amount of the payroll tax increase; the entire long-run incidence is borne by labour because labour supply is insensitive to the real wage. Output prices and corporate profits return to their levels before the tax change, and so does investment, but the disturbance may persist for a long time in the capital stock.

The elasticities show that employment losses peak at four years following the payroll tax increase. By the end of year 7, the employment losses are reversed. The positive elasticities in years 8, 9 and 10 reflect past findings for Canada that the pass-through to wages is typically overshoot (i.e., wages are reduced by more than the payroll tax). Employment continues to adjust until wages reflect the true cost of the payroll tax increase.

According to Dungan, the percentage change in employment given a one percent change in a payroll tax (the employment - payroll tax elasticities), by year following the premium increase, are as follows:

Year 1	-0.0096	Year 6	-0.0096
Year 2	-0.0198	Year 7	-0.0026
Year 3	-0.0280	Year 8	0.0104
Year 4	-0.0290	Year 9	0.0106
Year 5	-0.0218	Year 10	0.0036

The key insights from Dungan's analyses, for the purposes of considering the impacts of expanding WSIA coverage to currently excluded/omitted industries are as follows:

- (a) Expanding workers' compensation coverage results in an increase in the payroll tax burden faced by industries that are currently excluded/omitted from WSIA coverage.
- (b) Consequently, there is a reduction in employment as a result of the increase in the costs of employment associated with WSIB premiums.
- (c) The actual impact on employment in Ontario of increases in payroll taxes, including workers' compensation, is relatively small. For example, Dungan found that five percent increase in workers' compensation across all currently covered employers would result in a maximum reduction in employment of 8,500 workers (or, stated more accurately, a five percent increase in workers' compensation premiums results, at the peak, in 8,500 fewer workers being employed than would have been the case in the absence of the premium increase).
- (d) However, over time, the economy adjusts to workers' compensation premium increases. In particular, the increased costs of workers' compensation are shifted from employers to other economic agents, including workers (in the form of lower wages or reductions in other fringe benefit costs), consumers (in the form of higher prices), and shareholders or firm owners (in the form of lower profits).

- (e) In the FOCUS model, consistent with other studies of the cost-shifting of workers' compensation premiums (e.g., Vaillancourt and Marceau, 1990), most of the costs are shifted to workers in the form of lower wages (or other benefits);
- (f) Adverse employment effects arise because of the time it takes to pass-through the increased payroll costs to wages. Consequently, industries that are able to pass through the costs quickly will experience less disruption to employment.
- (g) The amount of time it takes for these costs to be fully passed on is about 7 years.
- (h) As the costs are passed on to other agents, the economy will return to its long-run trend.

Two points merit particular emphasis. While in the longer-run there are no employment losses, there is the potential for some dislocation in the short-run as industries adjust to the increase in payroll tax occasioned by inclusion under the WSIA. Further, while workers in the industry may not lose their jobs as a result of the costs of WSIA coverage being introduced into an industry where they did not exist previously, it may be that increases in employment in the future will be reduced (i.e., the costs of WSIA coverage fall on "prospective" employees).

Similarly, as the cost of WSIA coverage is passed to workers, it may not be the case that they experience immediate reductions in their nominal wages. Rather, the costs are more likely to be passed on through slower growth in real wages over time. The speed by which WSIB costs can be passed on to lower wages is the key determinant of the speed of adjustment between the short-run, during which there will be employment losses, and the long-run, in which the employment returns to pre-extension levels.

Results

The result for each of the industries is presented in Table 1. To illustrate the approach, consider the example of Management Companies and Enterprises (NAICS code 55), the shaded row in Table 1 (page 18).

- (I) In 2002, firms classified as Management Companies and Enterprises employed 34,012 workers. Over the 1991 to 2002 period, employment grew at an average annual rate of 5.8 percent. This average rate of employment growth is assumed to extend into the future (at least over the next 10 years).
- (II) Payroll taxes, before WSIB premiums, total \$8.75 per \$100 of payroll, consisting of: CPP \$4.95 of assessable earnings, EI \$2.10 per \$100 of insurable earnings; and, the Employer Health Tax \$1.70.
- (III) The assumed WSIB premium for the industry is \$0.30 per \$100 of payroll.

This represents an increase in total payroll taxes of [$\$0.30/\$8.75 =$] 3.4 percent.

(IV) Using the elasticities from the Dungan study, the difference in employment for each year, compared to employment in the absence of extending WSIA coverage to the industry is calculated as:

$$\begin{aligned} &\text{Employment (no WSIA coverage)} \\ &\quad \text{minus} \\ &\text{Employment (with WSIA coverage)} \end{aligned}$$

Where,

$$\text{Employment (no WSIA coverage)} = \text{Employment in the previous year} \times \text{annual employment growth rate}$$

and,

$$\text{Employment (with WSIA coverage)} = \text{Employment (no WSIA coverage)} \text{ plus } (\text{elasticity} \times \text{percentage increase in payroll taxes after WSIA coverage}) \times \text{employment (no WSIA coverage)}.$$

The results of the simulation are presented in the following table.

<u>Year</u>	<u>Employment No W.C.</u>	<u>Employment With W.C.</u>	<u>Difference</u>
Present	34,012	34,012	0
1	35,982	35,971	-12
2	38,067	38,041	-26
3	40,272	40,234	-39
4	42,606	42,563	-43
5	45,074	45,040	-34
6	47,685	47,670	-16
7	50,448	50,443	-4

The maximum expected adverse employment impact would be 43 workers (that is, employment would be 42,563 instead of 42,606) at the end of year 4. By the end of year 7, the adverse employment effect is eliminated, as the WSIA costs are fully passed on to workers.

Over all of the currently uncovered industries, the maximum employment reduction is estimated to be 4,721 workers 4 years following the introduction of WSIA coverage to these previously excluded/exempted industries. Note however, that by the end of the seventh year following mandatory coverage, employment will have returned to the level that would have prevailed in the absence of mandatory coverage. This is because it takes approximately 7 years for the premium increases to be full passed on to workers in the form of lower wages (or, probably more accurately) smaller wage increases than would have been expected in the absence of mandatory coverage.

Caveats

There are a number of important caveats to this analysis:

- (a) While Dungan's analysis reveals no long-run impact of a payroll tax increase, there is a recent, small but growing body of evidence that payroll tax increases can have permanent impacts on employment. That is, an increase in a payroll tax may permanently reduce employment below what it would have been in the absence of the payroll tax increase.

- (b) The short-run employment loss impacts may be smaller than those estimated if WSIB costs are offset by reductions in premiums for other forms of disability insurance that excluded/omitted employers are currently providing.⁵
- (c) All of the employment losses are assumed to occur in the industry upon which coverage is initiated, and not in other closely allied industries (e.g., customers, suppliers).
- (d) For some uncovered industries, workers' compensation premiums may represent an additional cost of employment. However, the characterization of workers' compensation as an "additional" cost must be considered in light of the possibility that in the absence of workers' compensation coverage injured workers have the option of suing their employer. It may be the case that many uncovered employers assess, at least implicitly, that these litigation risks are zero. However, the potential costs of litigation can be considerable.

A Note Regarding Profits

Another central concern of the non-covered and excluded employers is the impact that coverage will have on profitability. While there may be short-term implications for the profits of affected firms, it is likely to be small, and the longer-run impact will be negligible. This is because, as demonstrated by the simulation analysis, the costs of WSIB premiums will be passed on to workers' in the form of lower wages (or elements of

⁵ In the appendix to this report, illustrative information is provided on the extent of disability benefit costs in the currently uncovered industries.

the remuneration package) within a very short period of time. However, the self-employed (with no employees) are more likely to experience some diminution of profits than are other employers, because the increased costs cannot be passed on to other workers.

Further, to the extent that employers are already providing benefits that cover the costs of work-related injuries, such employers should expect to negotiate reduced premiums for the private coverage. These savings could potentially offset some or all of the costs of WSIA coverage.

Finally, a true measure of profitability would be one that builds in an assessment of the risks of litigation. An award to an injured worker may erase some of both past and future profits, and indeed risk the financial solvency and continued existence of the organization.

III. Conclusions

During the Smith Review of coverage, some employers expressed concern that extending mandatory WSIA coverage might result in job losses in the presently uncovered industries. In response to these concerns, this study was initiated to estimate the magnitude and permanence of any adverse employment effects of extending coverage.

The analysis in this report relied, in part, upon on a previous Ontario study (Dungan, 2000) that estimated the impact on the Ontario economy (including employment) of increasing WSIB premiums. Dungan concluded that increased WSIB premiums result in lower employment in the short-term, due to the increased cost of labour, but that this initial negative employment effect is fully mitigated over time as employee wages and/or benefits are reduced to fully offset the increased WSIB premium cost (so that, in time, total labour cost -- wages plus fringe benefits plus workers' compensation -- is unchanged from total labour cost before the premium increase). By seven years following the premium increase, the initial adverse employment effect is eliminated.

Using key results from the Dungan study, we find that by four years following the extension of WSIA coverage to previously uncovered industries, 4,700 fewer jobs are created (compared to total employment in the uncovered sector of 1.348 million workers) than would have been created had coverage not been extended. By seven years following the extension of coverage, employment recovers to the level that would have been expected had coverage not been extended. That is, by seven years following the extension

of coverage, employers will have had sufficient time to adjust wages and fringe benefits to offset the increased WSIB costs.

In summary, extending WSIB coverage to previously uncovered industries is likely to have a small, but ultimately only temporary, adverse employment effect.

Table 1
Estimates of **Maximum** Short Term Employment Losses, by Industry

NAICS	Industry	Assessment Rate	Employment in 2002	Employment in 5 years without WSIB Coverage	Employment in 5 years with WSIB Coverage	Difference
512	Motion Picture and Sound Recording	\$0.94	14,051	13,819	13,776	43
5131	Radio and Television Broadcasting	\$0.35	11,468	11,338	11,344	14
514	Information and Data Processing	\$0.30	27,415	31,810	31,779	31
52	Finance and Insurance	\$0.17	245,713	250,496	250,355	141
531	Real Estate	\$0.17	60,173	64,608	64,572	36
54	Professional Scientific and Technical Services ^a	\$0.30	233,948	290,632	290,343	289
55	Management Companies and Enterprises	\$0.30	34,012	42,606	42,563	43
561	Administrative and Support Services ^b	\$0.17	85,910	105,875	105,816	59
61	Educational Services ^c	\$0.68	86,815	86,185	85,991	194
62	Health Care and Social Assistance ^d	\$2.77	205,595	231,419	229,294	2,125
71	Arts, Entertainment and Recreation	\$0.94	91,773	105,794	105,465	329
81	Other Services ^e	\$2.34	115,112	117,700	116,787	913
	TOTAL		1,211,985	1,352,302	1,348,085	4,217

Notes:

- Excludes NAICS code 5413 (Architectural, Engineering and Related services).
- Excludes NAICS codes 5613 (Employment Services), 5616 (Investigation and Security Services), and 5617 (Services to Buildings and Dwellings).
- Excludes NAICS codes 6111 (Elementary and Secondary Schools) and 6112 (Community Colleges).
- Excludes NAICS codes 6216 (Offices of Physicians), 622 (Hospitals), 6231 (Nursing Care Facilities), and 6233 (Community Care Facilities for the Elderly).
- Excludes NAICS codes 811 (Repair and Maintenance) and 8123 (Dry Cleaning and Laundry Services).

Appendix

Disability Benefits in Uncovered Industries

The WSIB system provides medical and vocational rehabilitation benefits, as well as temporary and permanent wage-loss indemnity benefits and benefits to the families of workers who are killed out of and in the course of employment. At present, workers in the uncovered and excluded sectors are covered either by insurance coverage sponsored by their employer, purchased individually, or have no insurance coverage. Some uncovered individuals may receive coverage under their spouses' employer-sponsored plans. However, the latter mode of coverage is more likely to be for medical treatment-related benefits, and less likely to cover indemnity benefits for short and long-term absences.

There is very little publicly available information on the extent of benefit coverage, and the value of such benefits, for Ontario workers. This lack of information is especially limiting for determining benefit coverage by industry and/or occupation. As a consequence, it is not possible to provide definitive estimates of the extent of benefit coverage among uncovered and excluded workers.

Table A1 presents survey information collected by KPMG on employee benefit costs, by industry. It is important to bear in mind the limitations of these data. First, the data are derived from firms from all over Canada (51.2 percent of employees covered by the survey are from Ontario. In total, the survey provides information on benefits that cover 308,805 workers across Canada). Second, the firms and organizations that were

surveyed are mostly large employers. Finally, surveyed employers may or may not be subject to coverage under the relevant workers' compensation statute in their jurisdiction (or may have voluntarily applied for coverage).

Table A1 shows that, in general, a larger proportion of payroll is devoted to disability-related benefits in the public sector in comparison with the private sector. This reflects some combination of higher coverage rates in the public sector (i.e., relative to the private sector a greater proportion of workers have access to the benefits) and/or the value of the benefit is greater in the public sector than in the private sector.

The proportion of payroll spent on disability-related benefits is above the private sector average in for hospital and health care, dental care, long-term disability and the provision of health care spending accounts. The proportion of payroll spent on disability benefits in the insurance industry is below the private sector average in each of the benefit categories in the table. Professional firms devote a higher proportion of payroll to disability benefits, compared to other private sector employers, with the exception of short-term disability. High tech services employers pay a higher proportion of payroll towards hospital and health care and dental care than the average private sector employer, and media and advertising firms exceed the private sector average only on the proportion of payroll spent on sick leave benefits.

Table A1
Employee Benefits as a Percentage of Payroll,
Canada 1998

Benefit Type	Private Sector	Public Sector	Financial Services	Insurance Services	Professional Firms	Hi-Tech Equip. and Services	Media and Advertising
Sick leave	0.5	2.3	0.1	0.1	0.7	0.0	0.8
Group life	0.3	0.4	0.3	0.1	0.5	0.2	0.1
Survivor benefits	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Accident benefits	0.0	0.0	0.0	0.0	0.1	0.1	0.0
Business travel accident	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Hospital and health care	0.6	1.7	0.7	0.1	1.2	0.7	0.1
Dental care	0.7	1.4	0.9	0.1	1.0	0.8	0.2
Short-term disability	0.4	0.0	0.2	0.0	0.2	0.0	0.0
Long-term disability	0.3	1.2	0.5	0.1	0.9	0.3	0.1
Health care spending account	0.0	0.0	0.2	0.0	0.0	0.0	0.0

Source: KPMG, *Employee Benefit Costs in Canada, 1998*.

SUMMARY OF HYATT REPORT: WORPLACE SAFTEY AND INSURANCE ACT COVERAGE STUDY

Some employers (CME, CFIB) submitted that there should be a study of the economic and financial impact of extending WSIB coverage. Dr. Hyatt (U of T) was commissioned to study the economic impact of extending coverage to industries currently exempted.

Dr. Hyatt is Professor of Business Economics at the Rotman School of Management, University of Toronto. His research has focused on evaluating outcomes of workers' compensation legislation and policies.

The key finding of the study is:

"...we find that by four years following the extension of WSIA coverage to previously uncovered industries, 4,200 fewer jobs are created (compared to total employment in the uncovered sector of 1.348 million workers) than would have been created had coverage not been extended. By seven years following the extension of coverage, employment recovers to a level that would have been expected had coverage not been extended...In summary, extending WSIB coverage to previously uncovered industries is likely to have a small, but ultimately only temporary, adverse employment effect."

Hyatt's figures show that the greatest negative impact occurs in health care and social assistance and small business.

The draft report states the following caveats:

- * While the analysis in the report reveal no long run employment impact, some economic research suggests that payroll tax increases can have a permanent impact on employment.
- * The short run employment loss impacts estimated in the report may be overstated because some employers may have offsetting savings from cancelled or reduced private insurance.
- * All of the employment losses are assumed to occur in the industry to which coverage is extended and not in other closely allied industries such as suppliers.
- * While coverage extensions may impose additional direct costs on employers, their litigation risks have been reduced to zero.

Detailed employment impacts are summarized in an attached table.

Table 1
Estimates of **Maximum** Short Term Employment Losses, by Industry

NAICS	Industry	Assessment Rate	Employment in 2002	Employment in 5 years without WSIB Coverage	Employment in 5 years with WSIB Coverage	Difference
512	Motion Picture and Sound Recording	\$0.94	14,051	13,819	13,776	43
5131	Radio and Television Broadcasting	\$0.35	11,468	11,358	11,344	14
514	Information and Data Processing	\$0.30	27,415	31,810	31,779	31
52	Finance and Insurance	\$0.17	245,713	250,496	250,355	141
531	Real Estate	\$0.17	60,173	64,608	64,572	36
54	Professional Scientific and Technical Services ^a	\$0.30	233,948	290,632	290,343	289
55	Management Companies and Enterprises	\$0.30	54,012	42,606	42,563	43
561	Administrative and Support Services ^b	\$0.17	85,910	105,875	105,816	59
61	Educational Services ^c	\$0.68	86,815	86,185	85,991	194
62	Health Care and Social Assistance ^d	\$2.77	205,595	231,419	229,294	2,125
71	Arts, Entertainment and Recreation	\$0.94	91,773	105,794	105,465	329
81	Other Services ^e	\$2.34	115,112	117,700	116,787	913
	TOTAL		1,211,985	1,352,302	1,348,085	4,217

Notes:

- Excludes NAICS code 5413 (Architectural, Engineering and Related services).
- Excludes NAICS codes 5613 (Employment Services), 5616 (Investigation and Security Services), and 5617 (Services to Buildings and Dwellings).
- Excludes NAICS codes 6111 (Elementary and Secondary Schools) and 6112 (Community Colleges).
- Excludes NAICS codes 6216 (Offices of Physicians), 622 (Hospitals), 6231 (Nursing Care Facilities), and 6233 (Community Care Facilities for the Elderly).
- Excludes NAICS codes 811 (Repair and Maintenance) and 8123 (Dry Cleaning and Laundry Services).