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## GOOD NEWS FOR EMPLOYERS FROM THE WSIB

On November 21st two announcements relating to the Workplace Safety and Insurance Board (WSIB) were made:

1. That the average premium rate for 2025 will be \$1.25 per \$100 of assessable payroll; and
2. That a surplus distribution in the amount of \$2.0 billion (similar to the \$1.2 billion surplus distribution that was made prior to the last Ontario general election in 2022) will be made in February 2025

For the Government's news release, click on the following link:

<https://news.ontario.ca/en/release/1005375/ontario-returning-over-25-billion-to-workers-and-businesses-through-fee-reductions-and-wsib-rebates>

### Average Premium Rate

The average premium rate reduction is great news for the provincial workers compensation system. The premium rate is made up of two components:

- a. the cost of new injuries (CNI) which includes an additional contingency or safety factor in the event that the estimation of the CNI is insufficient
- a. the cost of administering the system (which to its credit, the WSIB has been doing its best to reduce, including the head office move from downtown Toronto to London, Ontario and continuing investments in new technology)

It should be understood that \$1.25 is the average premium rate for employers in all classes. Individual employers' rates will vary depending on their class within the system and their own performance. Again, this is an average rate and not every employer's rate will decrease, some will increase and others will decrease. But the average rate for all employers in the system will be \$1.25 per \$100 of assessable payroll.

The process to determine the final rate goes something like this:

- The WSIB's actuarial team thoroughly evaluates the risk that they are insuring and determines a range of premium rate options, from a very conservative rate option with more contingency margin built into the CNI, to a less conservative option with no contingency option
- The chief actuary presents the range of options to the senior management team for discussion and to determine their recommendation to the WSIB's board of directors
- The WSIB's board of directors makes the final determination of the rate option

We will have to wait until the WSIB's 2025 financial statements are published to see how accurately the CNI was calculated and the results of the WSIB's cost reduction initiatives. We have no reason to believe both will not show positive impacts and that the WSIB will at least break even on its insurance operations (excluding investment account gains or losses) in 2025.

Although there was no announcement to this fact, curiously employers had access to their own 2025 premium rates about a week before the November 21st announcements.

If you think November 21st is very late in the year for employers to be notified of their rates for the next year, you are correct. In years past, rates for the year to come have been announced as early as mid-September.

WSIB observers will be well aware the workers compensation benefits are determined by the Ontario legislature and premium rates are determined by the WSIB. It was interesting that these announcements were made by Premier Ford.

### Surplus Distribution

Premier Ford also announced the distribution of the WSIB's excess surplus, totalling \$2 billion, to qualifying employers in February 2025. The impact of the strong performance in financial markets on the WSIB's investment fund had pushed the organization's sufficiency funding ratio beyond upper limits of its own target policy range of 110% - 120% and dangerously close to the 125% level at which it would have to divest of funds sufficient to bring the ratio down to 115.1% and distribute those funds to employers within 30 days.

To qualify to receive a share of the distribution, employers must:

- have an active account and premium payment obligations as of November 1, 2024
- had premium obligations in 2023
- have not been convicted of a Workplace Safety and Insurance Act or an Occupational Health and Safety Act offence in a proceeding under Part III of the Provincial Offences Act, in 2024 or in 2025 up to and including the date the WSIB issues a surplus rebate
- have not been convicted in more than one such proceeding under the Workplace Safety and Insurance Act, or have not been convicted in more than one such proceeding under the Occupational Health and Safety Act, between 2020 and 2025 up to and including the date the WSIB issues a surplus rebate
- have not had a traumatic workplace fatality attributed to the organization in 2024 or in 2025 up to and including the date the WSIB issues a surplus rebate, or have not had more than one traumatic workplace fatality attributed to the organization between 2020 and 2025, up to and including the date the WSIB issues a surplus rebate
- must not be affiliated through common ownership with a business that:
  - is ineligible to receive a surplus rebate based on the convictions criteria outlined, and
  - has a traumatic workplace fatality attributed to them between 2020 and 2025, up to and including the date the WSIB issues a surplus rebate

For more information on the surplus distribution, click on the following link:

<https://www.wsib.ca/en/rebate>

## WHAT YOU SHOULD KNOW ABOUT WORKING FOR WORKERS SIX ACT, 2024

Bill 229, Working for Workers Six Act, 2024 if passed will amend five statutes and enact a new one. At time of writing, Bill 229 is at Second Reading Debate stage in the legislative process and will very likely become law before the House rises for its winter break on December 12th. Here are some of the proposals contained in the Bill:

### 1. Employment Standards Act, 2000

- an employee who has been employed by an employer for at least 13 weeks is entitled to up to 16 weeks of leave without pay because of the placement or arrival of a child into the employee's custody, care and control through adoption or surrogacy.
- an employee who has been employed by an employer for at least 13 consecutive weeks is entitled to up to 27 weeks of leave without pay if the employee will not be performing the duties of the employee's position because of a serious medical condition.

### 2. Highway Traffic Act

- a requirement for drivers to slow down and proceed with caution when a work-related vehicle with flashing amber lights is stopped on a highway.
- A requirement for drivers to move into another lane, if it is safe to do so, when such a vehicle is stopped on a highway with two or more lanes.

### 3. Occupational Health and Safety Act

- authorizes the Chief Prevention Officer to establish criteria to be used to assess training programs delivered outside Ontario for equivalency.
- the Chief Prevention Officer may seek advice from a committee or person appointed under subsection 21 (1) of the Act. In addition, copies of any assistance, advice or report provided to the Minister by a committee are to be provided to the Chief Prevention Officer.
- requires employers to ensure that personal protective clothing and equipment that is provided, worn or used is a proper fit and is appropriate in the circumstances, having regard to all relevant factors, including such factors as may be prescribed.
- fines applicable to corporations for convictions under the Act, is re-enacted. In addition to setting the maximum fine, the new provision also sets a minimum fine for second or subsequent offences that result in the death or serious injury of one or more workers.
- authority to make regulations requiring the assessment of personal protective clothing and equipment and prescribing requirements related to the conduct of those assessments.

### 4. Ontario Immigration Act, 2015

- requires representatives to comply with any standards or requirements that may be prescribed by the Minister.
- a person or body shall not make misrepresentations, or counsel the making of misrepresentations, that falsely allege that an applicant meets any prescribed criteria for approval. Failure to comply with the section is an offence.
- the Minister may also impose such bans, and new minimum and maximum ban periods are specified for representatives.

### 5. Workplace Safety and Insurance Act, 1997

- To establish presumptions in respect of primary-site kidney cancer and primary-site colorectal cancer.
- in certain circumstances, the Board is required to distribute amounts in the insurance fund in excess of specified amounts among certain Schedule 2 employers.
- the immunity of the Board, members of the board of directors, officers and employees of the Board and the Crown in specified circumstances.

### 6. Skilled Trades Week Act, 2024.

- Bill 229 enacts the Skilled Trades Week Act 2024 which proclaims the first full week in November in each year as Skilled Trades Week.

For the full text of Bill 229, clic on the following link:

<https://www.ola.org/en/legislative-business/bills/parliament-43/session-1/bill-229/status>

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## VERSTER RETIRES – IO'S LINDSAY APPOINTED INTERIM CEO OF METROLINX

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On December 2nd, the Premier's Office announced that Phil Verster has stepped down from the role as President & CEO of Metrolinx and that Infrastructure Ontario President & CEO Michael Lindsay will serve as Verster's successor as head of the provincial transit agency on an interim basis. The search for a permanent President & CEO of Metrolinx will commence shortly and an interim President & CEO at Infrastructure Ontario will be announced in the near future.

Verster came to Metrolinx seven years ago with extensive experience in operating, expanding and electrifying transit and rail systems in Ireland, England and Scotland but left his last position prior to joining Metrolinx under a cloud.

Lindsay on the other hand, is considered a strategy expert with significant experience in planning, procurement and delivering big projects. His mandate from Premier Ford is to get the Eglinton Crosstown open as soon as it is possible to do safely.