



Stakeholder Feedback

Online consultation on the topic below was posted from January 15 to February 15, 2021. The verbatim comments received by WCB-Alberta during online consultation are reproduced below.

Bill 47 – Maximum Compensable Earnings (MCE)

<i>Stakeholder</i>	<i>Category</i>	<i>Comments</i>
Suncor Energy Services Inc.	Employer	Maximum Compensable Earning: For claims with DOI of Jan 1/21 or later, we can report the MIE cap of \$98,700 on any time loss claim and do not have to provide gross earnings any longer.
Alberta Forest Products Association	Employer Association	<p>Principles of Alberta Workers' Compensation</p> <ul style="list-style-type: none">• We have no concerns with inclusion of the current WCB practice for establishing Maximum Compensable Earnings reflected in the addition of #13 to the Principles of Alberta Workers' Compensation as noted below. 13. Maximum Compensable Earnings The Board of Directors sets maximum compensable earnings annually to achieve coverage for the full wages of at least 90 per cent of workers in the province. The annual amount will change when the percentage of workers covered drops below 90 per cent.• In addition, since this document is currently under review and other non-substantive changes are being proposed, we offer the following comments:<ul style="list-style-type: none">o Protection from lawsuit #3 Page 1 of 3 - We propose WCB clarify that "Protection from lawsuit against any party applies where the activities causing the injury are part of an employer's normal insured activities. Workers' compensation is meant to replace any tort remedy for that injury". This would address a gap whereby a Director or Owner of a Corporation is open to litigation if they do not have Optional Personal WCB Coverage.o Retrospective Earnings #12 Page 2 of 3 - insertion of the word "any" has potential to create confusion because of how this will be interpreted. We suggest replacing "any" with "the Board" to be consistent with language in other WCB policies.
ITF	Employer Association	We have no concerns with inclusion of the current WCB practice for establishing Maximum Compensable Earnings reflected in the addition of #13 to the Principles of Alberta Workers' Compensation as noted below.

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		<p>13. Maximum Compensable Earnings The Board of Directors sets maximum compensable earnings annually to achieve coverage for the full wages of at least 90 per cent of workers in the province. The annual amount will change when the percentage of workers covered drops below 90 per cent.</p> <p>In addition, since this document is currently under review and other non-substantive changes are being proposed, we offer the following comments.</p> <ul style="list-style-type: none"> o Protection from lawsuit #3 Page 1 of 3 - We propose WCB clarify that “Protection from lawsuit against any party applies where the activities causing the injury are part of an employer’s normal insured activities. Workers’ compensation is meant to replace any tort remedy for that injury”. This would address a gap whereby a Director or Owner of a Corporation is open to litigation if they do not have Optional Personal WCB Coverage. o Retrospective Earnings #12 Page 2 of 3 - insertion of the word “any” has potential to create confusion because of how this will be interpreted. We suggest replacing “any” with “the Board” to be consistent with language in other WCB policies.
Health Sciences Association of Alberta	Labour Union	<p>We can only express our concerns that this will take away from the equality and fairness of treatment for all workers to be compensated for an injury that occurred through no fault of their own.</p> <p>This will deny high income workers their right to their fair income replacement the same as any other injured worker.</p>
Individual	Other	<p>13. Maximum Compensable Earnings The Board of Directors sets maximum compensable earnings annually to achieve coverage for the full wages of at least 90 per cent of workers in the province. The annual amount will change when the percentage of workers covered drops below 90 per cent.</p> <p>In fact only approximately 1% are affected by the cap - this legislation is discriminatory, workers who have achieved a level in their field to be compensated at above cap maximums are being placed in a position of financial hardship. The more income earned above the cap pre-accident the greater the hardship. Workers should all be compensated at the levels of 90% - WCB pays 90% of net - all monies that would have be submitted to CRA are not now sent to CRA - this means that taxable benefits cannot be claimed - this creates hardship. WCB should</p>

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		<p>compensate every injured worker at the same rate regardless of income level. Private disability insurance would pay a worker injured off the job at the rate consistent with their employment income - the WCB legislation punishes workers who work to the top of their field to make incomes compensable with their skills - & because WCB exists an employee cannot access disability benefits they pay into each month to insure they do not suffer financial hardship should they experience an injury that sidelines employment.</p>
Individual	Worker	<p>The decision to place an wage replacement earnings salary cap is a terrible idea. In my industry , officers put their lives on the line every day. Most often this results in invisible injuries. To add this cap will be negligent on the Governments part.</p> <p>This will add undue financial stress to the worker. It will create an environment for workers to return to work when they are not ready. They will be returning to work because the wage reduction forces them to.</p>
Individual	Worker	<p>First, I find it absolutely egregious that WCB and/or the Provincial Legislature is seeking consultation/feedback AFTER the implementation of Bill 47. If stakeholder consultation/feedback were to be given genuine consideration, it would have been done BEFORE implementation of the Bill.</p> <p>The most comprehensive stakeholder consultation already existed in the formal independent panel review of the WCB system dating back to 2017, yet, despite the findings and recommendations of such an extensive review from all stakeholders that set the stage for changes within the WCB system to better represent fairness to all stakeholders through legislative changes.</p> <p>Yet, the current legislature apparently elected to ignore this most comprehensive review, not seek any feedback or consultation prior to "roll backs" in the WCB system and does not follow its own "principles", and then only requests feedback "after the fact", can therefore cannot be seen as representing Albertan's, both workers and employers.</p> <p>One of WCB's principles is that the system is to be fully funded through employer premiums for sustainability of the system. Yet, the current legislature cite rollbacks to employee benefits contained within Bill 47 through maximum earnings caps as the means elected to ensure sustainability of the system. In doing so, the "sustainability of the system" is now being entirely shouldered by a reduction or cap upon workers through potential reduction in worker benefits, not through employer premiums. Yet, the employer continues to enjoy absolutely full protection</p>

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		<p>against any liability through tort law.</p> <p>I can't imagine any other "insurance" company being able to change reduce benefit payouts to ensure "sustainability". For example, if one insures a house that has a value of \$500,000 and then the house burns down, representing a total loss, and the insurance company comes back to you and states - "we must remain sustainable so we are going to only cover your loss up to \$400,000". This is akin to what Bill 47 does to the workers of Alberta. Rather than alter the premiums to maintain "sustainability", which is a Principle of the WCB, whereas premium increases shared across industries is minuscule to employers but can represent an exorbitant loss if all "sustainability deficits" are applied to benefit loss to an individual worker. This can easily represent a gross financial burden cast upon one individual that has already suffered a workplace injury, rather than shared across an industry where it would go almost unnoticeable in operating costs.</p> <p>This rollback to cap earnings may not represent exorbitant losses to an injured worker where the injury is only temporary in nature and recovery of such injury and earning ability is achievable. But, the workers that sustain permanent clinical impairment and/or work restrictions that translate into economic losses, the amount of benefit loss may be experienced by an individual worker year after year, for their entire lifetime. And, but for the workplace injury, the individual would likely never have had to endure such income losses.</p> <p>When maximum earnings are capped, even cost of living increases do not apply if the worker is already at that cap, yet when WCB determines what a worker is "qualified to earn" if there is a loss in earning capacity due to workplace injury, in the calculation of economic loss benefits it is possible that with maximum earnings caps may keep that part of the equation absolutely stagnant, year after year, while the portion of the equation of "qualified to earn" receives a presumed 5% increase annually - thus, the difference in the equation of calculating economic loss benefits effectively gets cannibalized over time. Instead of presumed annual income increases to time of retirement had the workplace injury had not occurred, income would increase year over year instead of depleting it by a compounded 5%, year after year, to the point it may become non-existent depending on the age of the worker at the time of permanent disability.</p> <p>There isn't any employment scenario imaginable that would replicate such a system as to potentially eliminate or drastically reduce annual income in such a way so that by the worker's retirement they are receiving no income for work performed, yet this legislation and WCB</p>

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		<p>system effectively does.</p> <p>Then, to add financial hardship to a worker with a permanent disability that can realistically experience a complete cannibalization of their economic loss benefits before retirement, "retirement benefits" are calculated on the last five years of economic loss payments, and effectively, the way the WCB is designed would represent the lowest years of benefits received. This "retirement benefit" is stated to represent the pension losses that the worker incurs. Yet, when economic loss benefits are reduced or eliminated over time, the pension losses can easily be extremely more than what the permanently disabled worker would ever receive from WCB. While the YMPE increases each year to effectively reach maximum CPP benefits upon retirement and the Economic Loss Payments can effectively decrease each year and then WCB "retirement benefits" are calculated on likely the lowest five years of payments, that gap of pension loss grows year after year and therefore, does NOT represent pension losses because there is no parity between the two systems, one increases over time while the other decreases. This loss in CPP because of extended loss in earnings due to permanent disability, cannot "reasonably represent" the actual losses with ever increasing gap of income created by the WCB system.</p> <p>Even if the worker who has sustained permanent disability and economic loss is not impacted by the maximum cap, the reduction in COLA certainly does put that worker at risk of economic loss benefits decreasing year after year as well. It has been justified that it the Alberta Cost of Living is not a "reasonable representation" of the actual costs. Then it should be argued that an assumed 5% annual income increase applied year after year to "qualified earnings" is also not a "reasonable representation" of actual income increases an average Alberta worker would ever experience, especially year after year. To achieve any resemblance to fairness, the SAME percentage should be applied both to compensable earnings AND deemed qualified earnings increases, otherwise a worker's benefits can do nothing but decrease in a compounding fashion year after year.</p> <p>If legislators are wanting to apply the justification of "reasonably represent", then that same justification and rationale should be applied to each part of an equation in determining economic loss benefits.</p> <p>Much of this is a reiteration of the extensive review of an independent panel undertaken in 2017. These concerns were identified as significant problems that unfairly determined benefits for workers, especially those unfortunate enough to have sustained a permanent disability. To some degree, the legislative changes to the WCB Act that occurred in 2017,</p>

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		<p>addressed some of these inequities. Yet, the current government has unilaterally rolled back those changes that were meant to bring a worker's compensation to that of being more fair and equitable. Now citing, to "maintain sustainability", workers now are solely bearing the brunt of the system, a system that has two main stakeholders - the employer who continues to enjoy all the protections and the injured workers. These changes to "maintain sustainability" targets ONLY the workers.</p> <p>To define "maintain sustainability" it means there must be a balance between premiums paid in and benefits paid out. Yet, this attempt to "maintain sustainability" is NOT a balance, it targets ONLY benefits paid out and is absolutely contradictory to WCB's Principles.</p> <p>It is doubtful that whatever is stated in this feedback will actually mean anything because it was sought after decisions were already made and legislated. Providing this opportunity for any Albertan, whether an employer or employee, to enter the conversation and actually have representation or any consideration in the outcome is nothing but an insincere gesture.</p>
Individual	Worker	<p>It seems the wcb is continually attempting to erode worker rights. This is another example of such legislation meant to undercut the help a worker needs during recovery. Returning back to work needs to be changed to return to meaningful work, not a parking lot attendant or truck dispatcher! To force people to enter into these back to work practices is dangerous and proven unhealthy for the worker and unproductive for the employer. You are only ever interested in the dollar amounts of everything so much so that you forget who actually pays your bills, THE WORKERS!</p> <p>The wcb, in my opinion needs to be revamped from the ground up and all the executives need to be fired and replaced with medical people not insurance salesmen! Also, to suggest a cap on benefits paid based on 90% of workers is reckless and must include FULL WAGE REPLACEMENT WITH BENEFITS if unable to return back to MEANINGFUL work! If you want to act like an insurance company then you must PAY like one also! Also, there needs to be more transparency with wcb employees and their poor conduct dealing with clients. Remember you are here to protect the worker and NOT YOUR JOBS!</p>
Individual	Worker	<p>Earnings caps should not be in place. The ability of the worker to support their family and lifestyle should not be compromised by an on the job incident.</p>

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		The earnings cap may have long term consequences both physically and mentally to workers who do not report an injury due to the financial strain it would cause, or who suffer psychological and financial harm due to the stress of reporting an injury and significantly decreasing their earnings and impacting their lives in a multitude of ways.
Individual	Worker	I totally agree that there should be a cap on maximum insurable earnings.
Individual	Worker	PCL is in favour of this policy change as it now puts some accountability on the workers that make more than maximum compensation to get back to full duties. It is a good incentive to be entitled to overtime once cleared and medically to be able to do so. The onus is on workers to participate in return to work program and take part in a gradual return to work plan should they want to return to their full earning potential. One thing that is still not clear in the policy is the criteria WCB uses to determine a workers compensation rate, we have had some claims that look at 12 months prior to DOA and others that look at the historical past 5 years of a workers earning potential and no reason why this was done.

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