April 18, 1997

FUNDING THE BC WORKERS' COMPENSATION SYSTEM

A BRIEFING PAPER

ISSUE

This is one of several briefing papers the Policy and Regulation Development Bureau is preparing on topics which may fall within the terms of reference of the Royal Commission.[1] This paper addresses issues relating to the funding of the workers' compensation system in BC.

BACKGROUND

An Overview of the Funding System

Section 39(1) of the *Workers Compensation Act* requires the Workers' Compensation Board (WCB) to:

- collect sufficient funds from employers and independent operators to meet all amounts payable from the Accident Fund during the year,
- provide capitalized reserves sufficient to meet the periodical payments of compensation accruing in future years for all injuries occurring during the year, and
- provide reserves for depleted or extinguished industries or classes; disasters or other circumstances which unfairly burden employers in a class; and for the portion of a disability enhanced by a pre-existing disease, condition or disability.[2]

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1 The purpose of these papers is to give background information that will orient the Commission or others to some major issues. The Board does not expect the Commission to make decisions on the basis of these documents. Rather, the Commission will make its own inquiries.

The papers do not pretend to cover all the issues that the Commission or others might raise. The general nature of the papers also means that they cannot include detailed discussion of all the issues. There may be relevant factors that are omitted with regard to some issues. The explanations of some matters may be less than would be desired if the issues were being considered for decision.

The papers refer to sources of additional information where known. There has been no attempt to exhaustively research all the issues. The papers do not include recommendations for resolving issues, or take a position with respect to them. They may discuss known alternatives, particularly when other jurisdictions have adopted them.

2 Section 48(1) provides that while separate accounts shall be maintained of the amounts collected and expended in respect of every class, reserve, and special fund, the accident fund, for the purposes of paying compensation, is one fund and indivisible.

The *Act* does not require the Board to fully fund all costs associated with an injury. [3] However, as a matter of practice, the Board aims to be "fully funded" and establishes capitalized reserves to pay the future costs of claims the year they are accepted by the Board. Actuaries calculate the amounts required based on assumptions about inflation, interest rates, life expectancy, and existing claim payment patterns.

The system is funded through employer assessments and assessments on independent operators who purchase personal optional protection.[4] Each year, assessment rates are set based on claim costs and payrolls from two years prior. For example, the assessment rates for 1997 are based on claim costs and payroll data from 1995.

The amount collected through assessments will be more or less than required depending on how close the projections are to actual experience.[5] The aim over the long run is to adjust the assessment rates so the WCB comes as close as possible to balancing its reserves and long term liabilities.

The WCB's funding status is commonly expressed as the difference between its total assets and total liabilities. The WCB's total liabilities are the estimated future costs for all existing claims; the total assets are the WCB's investments portfolio, and other assets. When the total liabilities are greater than total assets, the WCB is considered to have an "unfunded liability". Conversely, when the total assets are greater than total liabilities, the WCB is considered to have a "surplus". Another, more instructive, measure of funding status commonly used by Boards is percent funded.

The Board accumulated its first unfunded liability in 1972. In the last 15 years, the WCB has moved from an underfunded to a surplus position, and back to an underfunded position again. At the end of 1996, the system was 95% funded.[6]

History

In his 1913 *Final Report*,[7] Sir William Meredith discussed two possible approaches to funding the workers' compensation system: current cost financing, or funding.

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3 Although commonly used, the phrase "fully funded" does not appear in the *Act*.. The WCB is required to collect funds annually which are sufficient to meet the objectives of the *Act*. Currently, the WCB sets aside capitalized reserves or "funds" all costs, with the exception of administration costs and latent occupational disease. Whether or not the WCB's current practice constitutes "full funding" is a matter of interpretation. What is meant by the term "full funding" also varies from province to province. For further discussion see section on "What costs should be capitalized" below.

4 Employers pay assessments based on their assessable payroll. Personal optional protection is available to employers and independent operators who elect to apply for coverage.

5 Employers pay assessments in arrears and only submit a payroll report annually. As a result, projections of injury costs are hampered because the Board does not have up-to-date information on industry growth and shrinkage.

6 See Appendix A.

7 Sir William Meredith, *Final Report on Laws relating to the liability of employers to make compensation to their employees for injuries received in the course of their employment which are in force in other countries, and as to how far such laws are found to work satisfactorily.*

- The current cost approach involves financing all costs, including costs attributable to prior years' injuries, from current year revenue. This approach is sometimes referred to as pay-as-you-go financing.

- The funding approach involves collecting sufficient revenue to pay present, as well as future, compensation for injuries occurring during the current year.

Meredith concluded the current cost approach did not afford adequate safeguards against escalating and unstable assessment rates. He recommended the establishment of a reserve fund for future payments, and commented:

> I have concluded that the act should not lay down any hard and fast rules as to the amount which shall be raised to provide a reserve fund and that it is better to leave that to be determined by the Board which is to have the collection and administration of the accident fund as experience and further investigations may dictate. I have therefore made provision in the draft bill to that end, by making it "the duty of the Board at all times to maintain the accident fund so that with the reserves it shall be sufficient to meet all the payments to be made out of the fund in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in future years with payments which are to be made in those years in respect of accidents which have previously happened..."[8]

In his 1916 *Report of the Committee of Investigation on Workmen's Compensation Laws*, Avard Pineo recommended BC adopt a funded approach to financing the workers' compensation system.

Based on Pineo's recommendation, the 1917 *Act* included a provision requiring the Board to collect from employers sufficient funds, according to the Board's estimates, to provide in each year capitalized reserves sufficient to meet the periodical payments of compensation accruing in future years in respect of all accidents occurring during the year.[9]

At the time of the Sloan Royal Commissions in 1942 and 1952, and the Tysoe Royal Commission in 1966, the Board had a surplus in its accident fund.

Mr. Justice Tysoe noted the Board had been criticized for accumulating this surplus, on the grounds its existence proved assessments against industry had been higher than necessary.[10] He commented:

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8 *Ibid*., p.6
9 Section 29(1).
10 *1966 Tysoe Royal Commission Report*, p. 59.

> It will be seen that it is incumbent on the Board to collect from employers from time to time sufficient moneys by way of assessments to provide and maintain the reserves set out in the section. It goes without saying that the Board owes a duty to employers to act reasonably and not to accumulate obviously unnecessary surpluses.[11]

Mr. Justice Tysoe concluded:

> It is necessary to have adequate protection against all sorts of contingencies. There are unpredictable increases in the costs of taking care of already injured workmen - hospital and medical - recoveries from injuries may not take place as early as anticipated, medical care and treatment may turn out to be lengthier and more extensive than had been expected, administration expenses may go up. All these and other things make it requisite that the Board have a cushion of money to fall back upon. I am not prepared to say that the cushion which it now has is too large. Indeed, if all my recommendations are adopted, I think it is going to be needed.[12]

There have been a number of internal and external reviews of the WCB's funding system since the Tysoe Royal Commission in 1966.

In 1976, Samuel Eckler and Robert Tipping were appointed as Commissioners under the *Departmental Inquiries Act* to, "...inquire into and report upon the state and management of that part of the business of the British Columbia Workers' Compensation Board that comprises the actuarial aspects of the operations of the Board and of the Workers Compensation Act."[13]

The result of this inquiry was the *Report on Actuarial Aspects of the Workers' Compensation Board of British Columbia*, which made a number of recommendations with respect to benefit levels, assessment rate-making and experience rating, and other financial aspects of the Board. No action appears to have been taken either by government or by the WCB as a result of this inquiry.

By 1981, the WCB had an unfunded liability for projected future costs of over $509 million dollars. Between 1981 and 1985, the Board was able to reduce and eventually eliminate its unfunded liability. This was accomplished, in part, by maintaining an average assessment rate that was more than sufficient to cover the cost of new claims.

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11 *Ibid.,* p. 59.
12 *Ibid*., p. 61.
13 Eckler, Brown Segal & Company Ltd*., Report on Actuarial Aspects of the Workers' Compensation Board of British Columbia*, introduction.

It was also helped by a very high interest rate relative to inflation that allowed the WCB to earn large amounts of investment income,[14] and by a reduction in injury rates.

In 1984, a WCB task force prepared *A Report on the Board's Unfunded Liability & Funding Policies*. This Report examined the history and significant causes of the growth of the unfunded liability, considered a number of alternative funding policies, and made recommendations for future action. None of the Report's recommendations were adopted because the unfunded liability was retired in 1985 without intervention by the Board or government.

In 1991, the Board of Governors arranged for the W.E. Upjohn Institute for Employment Research to carry out an administrative inventory of the WCB's activities. In this inventory, it was noted that by 1986, the WCB had a surplus of $111.3 million. The authors of the inventory stated:

> There are a number of factors that contributed to this financial turnaround. There were minor changes in accounting policies from amortized book values. There was also a large adjustment made to prior years' actuarial estimates, which accounted for over $250 million favourable change in position. As discussed earlier, there were also reported to be serious pressures exerted to keep claim expenses down in the mid 1980s.[15]

The inventory also noted that in 1987, the WCB declared an abatement of $99 million to provincial employers, with an additional $15 million abatement in 1988.[16] The surplus also made it possible for the WCB to set assessment rates substantially lower than they otherwise would have been.

In 1995, the W.E. Upjohn Institute conducted a follow-up inventory. This inventory noted the surplus was exhausted by 1992, and the Board had been slightly underfunded since. The inventory stated:

> In the early 1990s, the WCB was trying to attain a fully funded position without dramatic increases in assessment rates. However, the drain of rapidly rising pension and health care costs kept that annual goal elusively out of reach.[17]

The authors of the inventory concluded:

> While the size of the unfunded liability is a source of criticism by stakeholders, in fact the performance of the WCB over the last decade

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14 H. Allan Hunt, Peter S. Barth & Michael J. Leahy, *Workers' Compensation in British Columbia: An Administrative Inventory at a Time of Transition*, (Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 1991) p.116.
15 *Ibid.,* p. 116.
16 This decision caused significant controversy at the time.
17 *Op cit., Still in Transition*, p. 209.

> has been very good. The investment returns from the nearly fully reserved future obligations have contributed substantially to this record. There is always a tension between the benefits for workers and costs for employers in workers' compensation systems. Achieving a balance between these two opposing objectives is difficult. The combination of generous benefits at reasonable costs has been pursued very responsibly in our opinion. British Columbia is among the very best systems in North America for both injured workers and their employers.[18]

The 1995 Annual Report indicated the unfunded liability of the WCB totaled $236 million at year end. The Report stated:

> In returning to an operating surplus in 1995, the WCB has succeeded in reversing a five-year deficit trend, and this lays a foundation for achieving full funding within the next two to three years. To this end, management continues to focus on actions and programs to address the unfunded liability on a subclass-by-subclass basis. In 1995, management has enlisted the direct co-operation of industry associations, employee representatives, and affected employers to design and implement longer term plans to reduce accidents, improve workplace safety, increase integration of injured workers, and improve case management and adjudication.

In 1996, the WCB's Senior Executive Committee, with the approval of the Panel of Administrators, issued *Transforming the Workers' Compensation Board of British Columbia: A Strategic Plan*. The Strategic Plan noted that one of the critical factors in the WCB's strategy was obtaining a fully funded status.[19] The Strategic Plan established the following financial objectives:

- Raise administrative cost efficiency by 20% by 2000.
- Restore the accident fund to fully funded status by 2000 and provide prudent reserves.
- Require an average internal rate of return of 35% for all strategic capital expenditures by 1996.
- Obtain return on investment of Board funds that exceeds the average while maintaining a prudent risk profile for investments.[20]

The unfunded liability reported in 1995 has subsequently been impacted by a BC Supreme Court decision[21] reinstating pension benefits which were discontinued for

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18 *Op cit, Still in Transition*, p. 260.

19 Workers' Compensation Board of British Columbia*, Transforming the Workers' Compensation Board of British Columbia: A Strategic Plan* (Richmond, BC, 1996) p.13.

20 *Ibid.,* p.15.

21 *Grigg V. British Columbia* (August 23, 1996), Doc. Victoria 950973 (B.C.S.C.).

widows who remarried prior to 1985.[22] The impact of this decision is set out in the 1996 Annual Report as follows:

> In accordance with generally accepted accounting principles, the reinstatement is accounted for as a prior period adjustment of $401 million for pension benefit liabilities retroactive to December 31, 1993. The change had the impact of increasing the WCB's unfunded liability at December 31, 1995 to $636 million.
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> After taking into account the operating surplus of $313 million in 1996, the Board's unfunded liability at year end 1996 was $324 million. Had it not been for the reinstatement of the widow's pensions, there would have been a $77 million unappropriated surplus, 102% funded at the end of 1996.[23]

DISCUSSION

"Funding" has been described as:

> ... a very conservative accounting principle that covers an extremely unlikely contingency - namely, that the system might be forced to close down with a sudden termination of revenue and all future obligations would have to be paid [out of] current assets.[24]

In order to understand why such a "conservative" approach was adopted in BC and across Canada, it is necessary to consider the question of funding in the context of the workers' compensation system as a whole.

The system which Sir William Meredith recommended, and which has formed the basis for all workers' compensation systems in Canada is based on the following principles:

- Industry is compelled to pay benefits to injured workers and their dependants in accordance with the provisions of a Workers Compensation Act.

- Liability to pay the mandated benefits is shared by all employers[25] who collectively contribute to an accident fund from which all benefits are paid.

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22 Issues arising out of this and other retroactive benefit changes are discussed later in this paper.

23 Worker's Compensation Board of BC, *1996 Annual Report*, (Richmond, BC: 1997) p.11.

24 Andrew Stritch, "Homage to Catatonia: Bipartite Governance and Workers' Compensation in Ontario" in Terry Thomason, Francois Vaillancourt, Terrance J. Bogyo & Andrew Stritch*, Chronic Stress: Workers' Compensation in the 1990s* (Toronto, ON: C.D. Howe Institute, 1995) p. 164.

25 And independent operators who purchase personal optional protection. It should be noted that there is a small group of "self-insured" deposit class employers who are individually responsible for the total costs of injuries and diseases, and for the administration expenses required to administer associated claims.

- Workers Compensation Acts are administered by government appointed Boards who are responsible for collecting the money for the accident fund and disbursing all benefit payments.

In BC, the original 1917 *Act* required the establishment of the accident fund on a funded, as opposed to current cost, basis.

Taken as a whole, these principles create a system which, in theory, provides for:

- security of payment for injured workers and their dependants, notwithstanding the fortunes or misfortunes of individual employers, or the system as a whole;

- equity among employers, industries and generations by placing the burden of paying for today's injuries on today's employers; and

- efficiency in preventing workplace injuries by creating a close link between injury rates and assessment rates.

Since the time of Meredith's Report, there has been general support in BC and across Canada for the theory of "full funding". Legislative requirements for funding vary from province to province, but all jurisdictions have adopted a "funded" system, as opposed to a "pay-as-you-go" system. Some jurisdictions provide for all future costs to be funded, while others confine the funding principle to specified items of future cost. Costs that are not provided for by funding are met on a current cost basis.[26]

Issues that have arisen relate more to effective implementation of a funded system, rather than to the principle of funding. This is partly because estimating the costs of future liabilities is not an exact science, but an inherently uncertain process influenced by numerous variables. These variables include:

- changes in the economy;
- shifting demographics;
- changes in wage rates;
- political decisions that change, at times retrospectively, the level of compensation;
- changes to policy/procedure resulting from decisions of appeal bodies;
- inflation;
- level of return on investments;
- administrative costs;
- backlogs in appeals or reviews;
- injury rates; and
- duration of claims.

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[26] Terence G. Ison, *Workers Compensation in Canada, Second Edition* (Toronto, ON: Butterworths, 1989) p. 278. For detailed cross-jurisdictional information, see Appendices B and C.

The WCB's income and assets are affected by assessment rates, policies which cap assessment rate changes, investment income, and discount rates.

Difficulties arise because estimates of future costs can never precisely reflect realities, and this difference between estimated and actual experience creates an "unfunded liability" or a "surplus". Difficulties also arise because the presentation of the funding status once a year masks the fact that the numbers reflect ongoing actuarial calculations which constantly correct and update past projections with respect to prior years' claims.

The longstanding controversy over the WCB's funding status is due, at least in part, to the strong interest both employers and workers have in the financial status of the system. A discussion paper and action plan on the WCB's unfunded liability issued in 1993 by the then President/CEO summarizes these interests as follows:

> For employers, any unfunded liability raises the specter of increasing assessments and an escalation in the cost of doing business. They have a legitimate concern that the Board control its costs. Labour's unease regarding an unfunded liability stems from its members equally legitimate expectation that the future benefits to which they are entitled will be available. Labour may also worry that an unfunded position will increase the level of opposition to any improvement of benefits.[27]

In contrast, it is also argued the system should not be fully funded, but rather should be financed on a current cost basis, with a cushion of reserves. This argument suggests the current cost approach is preferable because full funding is difficult to administer, places an over-reliance on actuarial projections, and can "impede a fair judgement about whether benefit improvements or reduction should be made".[28]

Specific Issues

In addition to general stakeholder concerns over the WCB's "unfunded liability", there are a number of other funding issues which have received attention both in BC and across Canada. These issues include:

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27 Workers' Compensation Board of British Columbia, *WCB's Unfunded Liability: A Discussion Paper and Action Plan* (Richmond, BC, 1993) p.3.

28 *Op cit., Ison*, p. 199.

- What is the appropriate funding level?
- What costs should be capitalized?
- Who should pay for retroactive changes to benefits levels?

What is the appropriate funding level?

In 1992, the Association of Workers' Compensation Boards of Canada (AWCBC) commissioned a study to set standards for uniform compilation and presentation of financial information by Boards in Canada. The study was conducted by Doane Raymond Pannell Chartered Accountants in association with The Wyatt Company Consultants and Actuaries, and included an extensive questionnaire and interviews with all twelve Canadian Boards. Based on the information obtained through this process, a series of recommendations were developed.

One of the issues discussed in the study was what funding target should be adopted by Boards across Canada. It was noted that while most Boards reported unfunded liabilities, they all had "full funding" targets. At the time of the study, the funding targets in a number of jurisdictions were under review in light of legislative requirements, the current funded position of the system, equity between generations of employers, and the goal of stable assessment rates.

The study stated that in order to achieve equity among employers, each year's claims must be fully paid by employers during the year, without resulting in an unfunded liability. It was noted the link between equity and funding is particularly important in a changing economy, where high risk industries are declining (forestry, mining) and low risk industries are expanding (service). Concern was expressed that an unfunded system may lead to increased workers' compensation costs for present and future employers, making Canadian industries less competitive on a national and international basis.[29]

With respect to funding levels and targets, the study recommended:

- Each Board should establish, and publish, a comprehensive funding policy for assessment and financing purposes. The funding policy should include a specific funding target which is clearly defined for both accidents and disease.

- Funding policies of the Boards should provide for funding of deficits to meet stated funding targets in as short a period as is reasonably practical.[30]

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[29] Doane, Raymond, Pannell Chartered Accountants, *AWCBC Study of the Compilation & Reporting of Financial Data volumes 1 & 2* (Toronto, ON: 1992). volume 1, p. R.
[30] *Ibid.,* p. 9.

Most jurisdictions are moving towards implementing these recommendations. Since the time of the study, Manitoba and Alberta have both retired their unfunded liabilities.[31] The 1996 Strategic Plan indicates BC aims to be fully funded by the year 2000.

BC's system is designed to be balanced not only in the aggregate, but also at the subclass level. The 1995 inventory pointed to significant distortions in the current system. The inventory noted at the end of 1994, a total of 39 subclasses were in deficit compared to only 21 in surplus. The 1996 Strategic Plan noted "...of the 69 industry subclasses 12 accounted for the entire unfunded liability balance of the Board at the end of 1994."[32] By the end of 1996, there were 31 subclasses in deficit, with 19 less than 95% funded, and a total deficit of $172 million.

Some of the initiatives being undertaken to address this situation include:

- a classification review to examine the underlying structural issues;[33]
- better management of industry performance in terms of monitoring and scrutinizing of injury and cost performance;
- focusing resources on employers who demonstrate above-average injury rates; and
- introduction of measures aimed at addressing the problems within individual subclasses.

What costs should be capitalized?

Currently, BC establishes capitalized reserves for all costs except costs associated with latent occupational disease, and administration expenses.[34] The AWCBC study noted funding of latent occupational disease is becoming a more significant element in workers' compensation systems and recommended:

- All Boards consider the need for advance funding of occupational disease claims. Further study be undertaken to research appropriate methods and amounts for setting up reserves or benefits liabilities in respect of future occupational disease claims. As a first step, Boards begin gathering data and information and calculating statistics for occupational disease claims.

The study also recommended:

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31 Recent amendments to the Alberta *Workers' Compensation Act* legislate that the WCB operate in a fully funded manner. A new Board funding policy introduced in 1996 provides for: a rate and benefit stabilization reserve at 7% of liabilities; an occupational disease reserve at 4% of liabilities; and a fund balance maintained at 10% of liabilities.

32 *Op cit*., *Strategic Plan*, p.22.

33 Detailed information on the classification review and subclass restructuring is included in a forthcoming briefing paper on "Classification & Experience Rating".

34 Rehabilitation payments were capitalized effective December 31, 1993. The effect of this change was to increase benefits liabilities and claim costs expenses by $133 million in 1993. Workers' Compensation Board of British Columbia, *1993 Annual Report* (Richmond, BC: 1994) p. 42.

- The provisions for future benefits liabilities should fully cover all expected future benefits payments relating to existing claims, including provisions for underlying government commitments for benefits increases, and ultimately for future administration costs related to such claims.[35]

While the majority of jurisdictions in Canada are moving towards implementing the recommendations of this study, there may be some legislative obstacles to the establishment of additional reserves. The accounting principles espoused in the study do not always accord with the levels of funding required or permitted by the various Acts. As a result, movement towards the recommendations in this area may be difficult under some current legislative schemes, and may require legislative amendment.

The question of what funding level is required, and what level of funding is permitted by BC's *Workers Compensation Act* has arisen on a number of occasions. Legal advice provided to the WCB 1984 Task Force suggested the *Act* does not require, or perhaps even empower, the WCB to be "fully funded".[36] A more recent 1994 legal opinion suggested the *Act* provides for a minimum funding level, beyond which the Board has broad discretion to "fund" as fully as it deems advisable.[37]

As noted previously, whether or not the WCB's current practice constitutes "full funding" is a matter of interpretation. Some argue that unless the Board capitalizes all costs, including the costs of latent occupational disease and administration costs,[38] the Board does not "fully fund". This highlights one of the difficulties when comparing levels of funding across Canada. The requirements and practices for "full funding" vary between provinces, as does interpretation of the concept of "full funding" itself.

Who Should Pay for Retroactive Changes to Benefit Levels?

There have been a number of retroactive changes to benefits flowing from the recommendations of the three Royal Commissions, amendments to the *Workers Compensation Act*, and most recently from a decision of the BC Supreme Court.[39]

Changes in entitlement can lead to significant increases in claim costs and benefits liabilities. These increases can, in turn, have a significant effect on the WCB's funded ratio.

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35 Further study was recommended in this area.
36 Workers' Compensation Board, *A Report on the Board's Unfunded Liability and Funding Policies* (Richmond, BC: 1984) p.16.
37 Memo from General Counsel, Secretary to the Board to the Chairman, Board of Governors September 1994.
38 The WCB has recently considered establishing reserves for latent occupational diseases and administration costs.
39 *Op cit*., *Grigg v. British Columbia*.

The issue of who should pay for these retroactive changes in entitlement is a longstanding one.

Mr. Justice Sloan, in his 1952 Royal Commission Report, recommended that generally, increased benefits and allowances should not be given retrospective effect.[40] He stated:

> There is one salient feature relevant to the point under consideration: the industrial class in which the injury occurred is assessed and pays a sufficient sum to set up capital reserves adequate to provide the funds required to pay the awards consequent upon the injuries suffered in that class during the time period covered by the assessment.
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> When that is clearly understood, then it ought to become quite apparent any increase in benefits to be given a retrospective effect would immediately require the setting-up of large sums for additional capital reserves. These sums can only be raised by assessment; thus if retroactive awards are granted, industries this year would be saddled not only with assessments to pay for their own accidents, but with a large additional sum to set up capital reserves to pay added compensation to workmen injured in other assessment periods and for whom and for whose dependents many of the present industrial classes may have no responsibility whatever.[41]

In considering the financial implications of his own recommendations in 1966, Mr. Justice Tysoe commented that it seemed unfair to impose on employers the entire cost of improving existing pensions. He concluded that where changes in benefits are made, the costs should be shared by employers and society as a whole, i.e. through Consolidated General Revenue.[42]

In 1976, the Eckler and Tipping inquiry into the WCB's finances concluded:

> ...that the general taxpayer through the Consolidated Revenue Fund should contribute at least 50% of the cost of retroactive benefit improvements since 1965 with employers providing the balance. Tysoe had recommended a 50% sharing for comparable improvements and we concur that it is probably a more logical percentage than any other one. We have not calculated this total cost but it should correspond to the present value of the benefit improvements on their effective date accumulated with interest to the date the cost sharing becomes effective.[43]

40 *Op cit., Sloan 1952*, p. 362.
41 *Ibid.,* p. 362.
42 *Op cit., Tysoe*, pp. 65-66.
43 *Op cit., Report on Actuarial Aspects*, p. 44.

The practice in BC has been for the employers in the system at the time of the increase to bear the costs. These costs have included:

- Retroactive benefit improvements resulting from the 1974 amendments to the *Workers Compensation Act*. No financing was provided from Consolidated Revenue and the increases were added to the unfunded liability and amortized in accordance with Board practice at that time.[44]

- Changes in dependants' benefits resulting from amendments to the *Workers Compensation Act* in 1993. The effect of the legislative amendments was an increase in claims costs expenses of $108 million, consisting of an increase in current year's claim payments of $8 million and an increase in estimated future liabilities of $100 million.[45]

- Further retroactive changes to pensions for dependants resulting from an August 1996 decision of the BC Supreme Court. The effect of this decision has increased the benefits liabilities previously reported by $432 million. Of this amount, $31 million is recoverable from self-insured employers and the remaining $401 million has been charged to the Board's unfunded liability. This may mean a delay in achieving the goal of restoring the fund to fully funded status and providing "prudent reserves" set out in the WCB's 1996 Strategic Plan.

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44 *Ibid.,* p. 44.
45 *Op cit., 1993 Annual Report*, p. 42.

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APPENDICES

APPENDIX A

Ten Year Statement of Operations and Unfunded Liability for the Year Ended December 31 (in $,000s)

	1996	1995	1994	1993	1992	1991	1990	1989	1988	1987
Income										
Assessment	999,775	984,601	878,187	759,950	644,987	575,572	551,028	520,737	441,951	323,364
Investment	533,745	437,525	345,373	356,621	316,122	329,617	324,859	310,491	269,921	244,015
	1,533,520	1,422,126	1,223,560	1,116,571	961,109	905,189	875,887	831,228	711,872	567,379
Expenses										
Claims costs:										
Short-term disability	256,841	303,052	309,528	279,330	252,972	217,679	218,187	196,944	175,123	156,423
Long-term disability	467,479	460,630	463,767	245,924	477,319	417,887	452,397	349,046	297,583	228,587
Survivor benefits	58,907	52,055	44,969	550,096	38,442	133,318	60,787	51,144	55,618	49,198
Health care	186,912	216,330	224,832	168,940	151,052	29,707	113,829	102,627	99,444	86,969
Rehabilitation	58,701	119,907	118,643	181,728	32,522	20,352	12,856	12,229	10,835	7,133
	1,028,840	1,151,974	1,161,739	1,426,018	952,307	818,943	858,056	711,990	638,603	528,310
Operating and prevention costs										
Operating	158,141	157,981	158,187	158,332	146,197	126,984	107,714	86,420	77,705	67,469
Prevention	34,012	30,030	29,827	27,654	26,167	24,155	21,827	18,191	16,470	13,987
	192,153	188,011	188,014	185,986	172,364	151,139	129,541	104,611	94,175	81,456
	1,220,993	1,339,985	1,349,753	1,612,004	1,124,671	970,082	987,597	816,601	732,778	609,766
Surplus (Deficiency) From Operations	312,527	82,141	(126,193)	(495,433)	(163,562)	(64,893)	(111,710)	14,627	(20,906)	(42,387)
(Unfunded Liability) Unappropriated balance - January 1	(636,464)	(718,605)	(592,412)	(96,979)	66,583	131,476	243,186	228,559	249,465	291,852
(Unfunded Liability) Unappropriate balance - December 31	(323,937)	(636,464)	(718,605)	(592,412)	(96,979)	66,583	131,476	243,186	228,559	249,465

Note: The above amounts have been restated reflecting the retroactive effects of changes in accounting policies.
Source: 1996 Annual Report

APPENDIX C

Alberta

At the end of 1995, the Alberta WCB was 100% funded. Amendments to the *Workers' Compensation Act* require the WCB to continue to operate in a fully funded manner.

In June 1996, the WCB announced a rebate of $99.5 million to employers and implemented a new funding policy. The policy introduces:

- a Rate and Benefit Stabilization Reserve at 7% of liabilities designed to provide a contingency for emergencies or extraordinary events such as natural disasters or catastrophic events;
- an Occupational Disease reserve at 4% of liabilities which sets aside funds to cover costs that may arise from latent occupational diseases;
- a requirement the fund balance be maintained at 10% of liabilities.

Manitoba

At the end of 1995, Manitoba was 95.9% funded. In September 1996, the Manitoba WCB announced the retirement of its unfunded liability. The WCB subsequently announced a post-deficit funding strategy which includes:

- reducing assessment rates for Manitoba employers by 5% of 1997, 5% in 1998 and 5% in 1999. The combined return to employers will total $40 million over 3 years;
- adding $35 million to the WCB's rate stabilization fund over three years, for a total fund of $50 million by 1999;
- enhancing services to injured workers through a series of new initiatives, valued at $1.8 million per year over three years.

New Brunswick

New Brunswick's Workplace Health, Safety and Compensation Commission moved to a fully funded position in 1995. By the end of 1995, the Commission was 103% funded.

In 1993, the WCB (now the Commission) established a reserve to meet future costs of latent occupational diseases. The Commission has undertaken to develop a policy for the estimation of such future costs, and has commissioned an external review for assistance.

Newfoundland/Labrador

The Commission plans to be fully funded by 2012. At the end of 1995 the Commission was 66% funded. This was up from 59.2% in 1994, and continues a trend of decreasing the unfunded liability begun in 1991. The unfunded liability was reduced through a number of strategies, including:

- decrease in the duration of claims;
- investment income increasing by 40%
- increase in assets by 18% over 1995; and
- an increase in recovered claim costs through third party actions.

This was offset by the impact of legislative changes which extended benefits being paid to surviving dependent spouses. This change resulted in a decrease in the 1995 surplus.

Northwest Territories

The Board was fully funded at the end of 1995. The funding ratio was 108.7%.

In April 1996, responsibility for administration and enforcement of the *Safety Act, Explosives Uses Act*, and *Mines Health and Safety Act* was transferred from government to the WCB. The government is to compensate the WCB for part of the cost of transfer. Additional and future costs will be recovered from employer assessments.

Nova Scotia

The Nova Scotia WCB approved a new assessment rate classification in 1995 to help deal with their unfunded liability. The Board was 59% funded at the end of 1995. The current funding strategy is based on a 45 year amortization program.

A May 1996 decision by Nova Scotia's Human Rights Council ordered the WCB to reconsider an application to reinstate the benefits of a widow whose pension was discontinued when she remarried, and to advise all like survivors that they may apply for reinstatement. The WCB estimated the ruling could cost the WCB $14 - $15 million in pension costs. The decision, however, was reversed on appeal on January 23, 1997 by the Nova Scotia Court of Appeal.

The WCB has not established reserves for latent occupational diseases or administration expenses.

Ontario

In 1995, Ontario's funding ratio was 40%. The WCB slightly reduced its unfunded liability with $510 million in operating surplus in 1995, to a total unfunded liability of $11 billion.

A report entitled *New Directions for Workers' Compensation Reform* was published by the Ontario government in June 1996. This Report formed the basis for amendments to the *Workers' Compensation Act* introduced in November 1996. The Report states the WCB's unfunded liability threatens the financial viability of the system, and makes a number of recommendations for reform. The Report attributes the causes of the unfunded liability to legislated benefit increases introduced retroactively; and a liberal policy toward benefit payment and entitlement.

The reforms introduced by the government in November include:

- reducing benefits from 90 to 85% of net average pre-injury earnings;
- modifying the formula used to calculate inflation protection; and
- imposing a requirement on employers and workers to cooperate with the return to work process.

PEI

PEI's Board has seen a fairly steady decrease in its funding percentage since 1984. At 1995 year end, it was 66.5% funded. A plan was adopted in 1995 which aims to retire the unfunded liability by 2015. The Board does not establish reserves for latent occupational disease.

Quebec

The Commission de la santé et de la securité du Travail (CSST) recorded a surplus of $125.6 million and $65.6 million in 1994 and 1995. The level of funding increased to 65.1% at the end of 1995 from 54% at the end of 1992.

Saskatchewan

Saskatchewan was fully funded at the end of 1995. In 1996, the Board conducted an actuarial review, and a review of the rate-setting model used by the Board. The Board does not currently establish reserves for latent occupational disease or future administration expenses.

Yukon

The Yukon Board was fully funded at the end of 1995.

The Yukon *Workers' Compensation Act* provides that the Board may provide for a reserve to provide for the cost of occupational diseases. The *Act* prohibits administration costs being paid out of the Fund.