

January 17, 2025

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**Via Email: [appeals@wcat.bc.ca](mailto:appeals@wcat.bc.ca)**

Workers' Compensation Appeal Tribunal  
150 - 4600 Jacombs Road  
Richmond, BC V6V 3B1

**Attention: David Newell, Vice Chair - Tribunal Council Office**

Dear Mr. Newell:

**Re: Workers' Compensation Appeal Tribunal Appeal No. A2200795  
Lawfulness of policy item C6-41.00 of the RS&CM II**

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This submission is in response to the Memorandum dated December 18, 2024 by TCO Vice Chair Newell that invited the BC Nurses' Union (BCNU) to participate in the chair's determination of whether policy item C6-41,00 of the RS&CM II is so patently unreasonable that it is not capable of being supported by the *Act* or *Amendment Act* due to extinguishing or fettering discretion to determine retirement date if the worker has reached the retirement age previously determined by the Board.

The December 18, 2024 Memorandum noted that the HEU supported the BCNU application and the HEU perspective appeared very similar to the BCNU's. As a result the Vice Chair concluded that it would not provide additional assistance to have submissions from both applicants and that it would be sufficient to invite the BCNU to make a submission. The BCNU notes that there are perspectives on this issue from the worker community that do go beyond the perspective of the BCNU on this issue.

The BCNU was alerted to the referral to the Chair on the lawfulness of policy in WCAT Decision A2200795 by a colleague at HEU representing an HEU member in the same circumstances as the worker in WCAT Decision A2200795. While we share perspective and have similar appeals, the BCNU has consulted with HEU on this lawfulness of policy matter including in the provision of this submission. While this is BCNU's submission, it has been created with discussion and consideration of the HEU and other worker representatives.

### **Perspective of this Submission**

The perspective of this submission is from a worker and worker advocate point of view rather than a more legalistic view of the lawfulness of policy. This is an important perspective that is often overlooked or minimized when examining Workers' Compensation Law and Policy. The legislation and policy in question did come about, to a large extent, from workers that were experiencing problems as a result of retirement age determinations.

The BCNU is in agreement with the conclusions of the Vice Chair in WCAT Decision A2200795 that referred policy C6-41.00 to the WCAT Chair under section 304(2) of the Act. The BCNU agrees with the Vice Chair's description of the statutory and policy framework, analysis and conclusions. We agree that there is nothing within the development and legislative changes that resulted in section 201 of the Act through Bill 23 in 2021 that would support the Board's third criterion in RS&CM II item C6-41.00 that should prevent the Board from making a retirement date determination if,

- The worker has reached the age of retirement as previously determined by the Board.

The emphasis in this submission is to support and concur with the conclusions of the Vice Chair in WCAT Decision A2200795 by adding relevant information about the impetus for this legislative change through the input of worker's, family of injured workers and employers on the impacts of the restrictive prior law and policy for end of permanent disability benefits as well as the experience of worker and worker representatives under the current law and policy. It is our view that this perspective should be compelling additional information for the Chair to find that the third criterion in RS&CM II policy C6-41.00 is not capable of being supported by the *Act* or the *Amendment Act*.

### Absurd Result of the Issue in WCAT Decision A2200795

In addition to the statutory and policy framework arguments that, in our view, the Vice Chair has eloquently voiced in WCAT Decision A2200795, we point out that the impugned policy has for the worker in this appeal brought about an "absurd result". The facts as set out in paragraph 9 and 10 are that the worker was continuing to work after reaching the previously determined retirement age of 65 when he suffered an increased permanent disability and functional impairment. The absurd result is an ancillary argument to the primary argument on the lawfulness of the policy. We recognize that a decision on the lawfulness of the policy will have to deal primarily with the legal issue of whether the policy is supported by the *Act* and the *Amendment Act*. These are questions of Statutory and Policy matters. The issue of whether the policy creates an absurd result is an issue that impacts the confidence in the Workers' Compensation system. A system that results in a conclusion that the retirement date has passed for a worker that is still working undermines the confidence in that system.

An increased PPD was denied because the worker had passed the previously determined retirement date. The decision is absurd in fact because the worker had not retired at age 65. The matter under this appeal is whether there should have been discretion to make a retirement date determination when the worker had an increased PPD while continuing to work past the previously determined retirement date of age 65. Putting aside the arguments on the lawfulness of the policy for a moment it is on the facts of the situation absurd to conclude the worker should not be entitled to a PPD at the increased impairment when the increased impairment occurred when he was working and would have continued to work. The application of the policy resulted in a decision on eligibility for PPD that was based on a conclusion about retirement date that was plainly in error.

Had the increased impairment occurred as a result of a new injury the worker would have been entitled to benefits under section 201(1)(b)(i) for 2 years after the date of injury (DOI) and determination of another later date under subsection (ii). It is another absurdity that the eligibility for a PPD and the ability to accept facts about the retirement date are substantially different on the basis of whether the impairment in the same body part is the result of an increased impairment on an existing compensable condition as a result of a reopening or a new injury superimposed on a preexisting disability in the same body part.

We believe that it is also notable that Bill 23 in section 11 amended section 123 of the *Act* to add authority for the Board to reconsider a decision, even after 75 days have elapsed, if the decision contains an obvious error or omission. While this is a different section, it does indicate a direction that obvious errors warrant correction. The issue in this lawfulness of policy matter is whether there should be discretion to correct an error on retirement date determination. The third criterion of C6-41.00 removes or fetters such discretion.

### Public Input to New Directions: Report of the WCB Review 2019

WCAT Decision A2200795 looked at the development of Bill 23 which in section 18 amended section 201 of the *Act*. The decision noted at paragraph 32 the Restoring the Balance: A Worker- Centered Approach to Workers' Compensation Policy by Paul Petrie that the Board considered amending policy item C6-41.00 "to allow consideration of all relevant evidence regarding the actual impact of the injury on a worker's likely retirement date, including relevant evidence after the date of injury." The panel noted that Minister Bain's referenced Mr. Petrie's recommendations as supporting the necessity of the proposed amendments to section 201. The comments by Paul Petrie and the Minister's comments as recorded in the parliamentary proceedings support the conclusion that there needs to be a more complete consideration of evidence later in the determination process to determine or redetermine retirement date. The amendments to the *Act* and the resulting policy all go in that direction with the exception of the requirement that,

- The worker has not reached the date of retirement as previously determined on the claim.

At paragraph 33 the panel references New Directions: Report of the WCB Review 2019 by Janet Patterson. Ms. Patterson's Review and report is unique among recent reviews of the worker's compensation system in BC. These recent reports included;

- Restoring the Balance - Paul Petrie March 2018
- Balance. Stability. Improvement. - Terrance Boygo December 2018
- New Directions: Report of the WCB Review 2019
- Consultation Report on Potential Amendments to the BC Workers Compensation Act – Jeff Parr February 2020

What set out the Patterson Review from the others is that the Terms of Reference required public consultation. The other reviews had limited consultations that focused on a very small set of specialized stakeholders. Ms. Patterson embarked upon the task of broad public consultation with exceptional determination and drive particularly in the context of the resources that were available to previous reviews.

There had been Royal Commissions that had broad public consultation and mandates to look very broadly at the Workers' Compensation system;

- Sloan, 1942
- Sloan, 1952
- Tysoe, 1966
- Gill, 1999

Each of the Royal Commissions heard extensively from the public and stakeholders. The reports are available on the Board's website. It is submitted that it is an unfortunate situation that public consultation on reviews of the workers' compensation system have become the exception rather than the rule. More weight should be given to the findings of the Patterson Report because of the public consultation element. What was heard in that public consultation is highly relevant to this lawfulness of policy matter.

The time and resources available to the Royal Commission in comparison to the resources available to the recent compensation system reviews (Petrie, Boygo, Patterson, Parr etc.) were orders of magnitude greater. The recent reviews focused on rebalancing a system that had been skewed unfavorably to workers in the 2002 Core Review by Alan Winter. The key and consist theme in the Petrie Bogyo, Patterson and Parr reviews was to rebalance the system.

The Winter Core Review did not include public consultation. There was minimal consultation with only some of the most influential stakeholders. Nevertheless, the Winter Core Review resulted in sweeping and unbalanced changes to the system. The Winter Core Review occurred only a few years after the Gill Royal Commission. The Gill Royal Commission did include comprehensive public consultation. There were considerable parts of the Gill Royal Commission recommendations that had not been acted upon when they were superseded by the Winter Core Review and resulting legislation in 2002.

Many areas of law and policy were categorized as former provisions and current provisions in compensation policy after 2002. The general divide was July 2002. Injury before then were former provisions and after current provisions. The level of benefits under current provisions was drastically reduced under current provisions. One of those aspects in which benefits were drastically reduced was permanent disability benefits after age 65.

Under former provisions functional awards were for life and LOE awards were subject to a 15th rule that from age 50 to 65 reduced a lifetime (beyond 65) LOE award by one fifteenth each year for injuries occurring at age 50 to 65 to account for reduced potential pension earning potential. Under current provisions, permanent disability awards end at age 65 unless a worker prove to the Board that at the time of the injury they had intended to work past age 65. It was an exceptionally difficult task to present evidence to the Board that a worker with a permanent disability had at the time of injury intended to work past age 65.

It is important to put this impact on the default retirement age with context to societal changes that have been taking place over the same time frame. At the time of the 2002 changes to the compensation, of which default retirement

date of age 65 is one of those changes, mandatory retirement was still in place. What this meant was that many employers could and did require employees to retire upon reaching 65 years of age. The Human Rights Code was changed to eliminate mandatory retirement<sup>1</sup> effective January 1, 2008. Even before the change to the Human Rights Code eliminating mandatory retirement, Health Authorities would require nurses to resign upon reaching 65 years of age but they could be rehired as a casual employee and continue to work. Many nurses worked past 65 even before the elimination of mandatory retirement.

Retirement ages of the Canadian workforce have been progressively increasing. Some workers continue to work past 65 as a personal choice. Some as a result of economic necessity. Worker's that suffer a permanent disability are more likely to need to work past 65 out of economic necessity. The Policy Regulation & Research Division (PRRD) January 8, 2021 Discussion Paper Bill 23-Retirement Age Determinations provides statistics on average/median retirement ages for Canadian workers. The Discussion Paper provides a link to data from statistics Canada. The link leads to updated data to the year 2024.

<https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1410006001>

The average and median ages for retirement surpassed 65 years of age in 2023 and continues on an upward trend. For more than half of the workforce a default retirement date of age 65 will undercompensate. A very significant portion of the workforce worked past 65 even in 2020 when the average and median retirement ages were 64.3 and 64.5 respectively.

We are now at a point where the average worker retirement age is over 65. The January 8, 2021 Discussion Paper at page 13 provides statistics on the percentage of workers by age that receive a retirement date determination later than 65. The bottom end of the scale is mostly zero and does not climb above single digits until age 60. This maxes out with 27 percent of workers aged 63 who will receive a retirement date determination greater than 65. The statistics directly above this chart show that about 50% of workers will work past 65. The younger a worker the more likely the worker will be short-changed on PPD by the retirement date determination. Even for workers with determinations in the oldest age groups, about half of those workers will be undercompensated by retirement date determination that is inconsistent with the actual statistics.

The situation with retirement date determinations favours the Board and disadvantages workers by a significant margin. This system results in significant loss of earning capacity greater than that compensated for more than 50% of the workers that will or would have worked past 65. The loss for some workers will be very large. WCB claim No. 08257560 provides an example of how large such losses can be. This worker did manage, with the assistance of the BCNU, to have her retirement date changed after reaching 63 from 65 to 75. We are reminded of what was said in Commissioner's Decision No. 8 about averages,

If one claimant is being grossly under-compensated in comparison with the actual loss of earning capacity, and if another claimant is being grossly overcompensated to the same extent, should we really take any comfort in the thought that the average claimant is being treated fairly, or that the right amount is being paid in total? There is no such thing as justice on average.

At paragraph 35 of WCAT Decision A2200795 the panel referenced quotes from Minister Bains and Janet Patterson that retirement date determination evidence challenges were most prevalent for "young" workers. While there is logic to the concept that there will be a lack of evidence on intended retirement date for young workers, it was predominantly older workers with permanent disabilities that were appearing before the Patterson review in public hearings complaining about determinations that ended benefits at age 65.

This writer worked on the Patterson Review. I attended most of the public hearings as well as reviewed all the written submissions and online responses. More than any other subject, the age 65 default retirement age was the biggest complaint. Workers, family members and some employers raised this issue as an injustice that needed correcting. There were workers that were well past 65 years of age that were continuing to work and had been determined to be past their default retirement age. Several of the workers that came forward to the Patterson Review

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<sup>1</sup> Bill 31 given Royal Assent May 31, 2007

in the Public hearing process were past 65, no longer receiving PPD, continuing to work and would be ineligible for new retirement date determination because they had passed a retirement date determination previously made by the Board. The worker in the HEU represented appeal WCAT A2400985 is in the same situation as several other BCNU members. The significant undercompensated loss of earning capacity resulting from the criterion of not having reached the date of retirement as previously determined on the claim is not rare.

## Policy Process

The Board of Directors amended policy item C6-41.00 effective January 1, 2021 in a Resolution dated December 9, 2020. This policy change was made without consultation. Consultations later took place with a Discussion Paper Bill 23- Retirement Age Determinations January 8, 2021. No rationale or analysis was presented in the Discussion Paper for the third criterion of C6-41.00,

- the worker has not reached the age of retirement as previously determined by the Board.

The options presented in the Discussion Paper were status quo leaving the revised policy as set out in the January 1, 2021 changes or that the PRRD would make recommendations to the BOD for revisions based on stakeholder feedback. A summary of stakeholder submissions is available on the Board's website. Submissions from individual workers reflected the viewpoint of submissions made to the Patterson Review. The BC Building Trades submitted that evidence should be considered and new determinations made after workers have turned 65. This would be consistent with "after previously determined retirement dates." As noted in the BCNU submission, the policy consultation process for Bill 23 changes was truncated due to most of the Bill being effective as of Royal Assent and other parts including retirement date determination effective January 1, 2021.

The Workers' Advisors Office submitted that it would be unjust if a worker were to continue to work beyond the previously determined retirement age, but be precluded from benefits due to the third requirement of the transitional provision. The BCFED, HEU and CLAS submitted that the requirement that the worker has not reached the previously determined retirement age be removed specifically as there was nothing in the transitional provisions of Bill 23 that support this limitation. There was no subsequent BOD decision on the Bill 23 amendments including the C6-41.00 Retirement Age Determinations. The policy consultation process in our view was fatally flawed. The impugned policy was created prior to consultation. The consultation process resulted in several stakeholders clearly identifying the problem with the criterion of not having passed a previously determined retirement date. There is no record of any action by the BOD after the policy consultations.

## Current Policy

Policy item C6-41.00 currently reads in part,

3. Workers Compensation Amendment Act, 2020 (Bill 23 of 2020)

Section 36:

A determination may be made under section 201(3) of the *Workers Compensation Act*, as added by section 18 of this *Act*, whether or not a determination has been made under section 201 (1) of that *Act* before the date section 18 of this *Act* comes into force [January 1, 2021].

## **POLICY**

For the purpose of permanent disabilities, section 201(1) provides for the payment of permanent disability benefits:

- if a worker is under 63 years of age on the date of the injury, until the date the worker reaches 65 years of age, or
- if a worker is 63 years of age or older on the date of the injury, until two years after the date of the injury.

If the Board is satisfied a worker would retire after these dates, section 201(1) permits the Board to continue to pay permanent disability benefits to the date the worker would retire if the worker had not been injured.

For the purpose of this policy, a worker is generally considered to be retired when the worker substantially withdraws from the workforce and receives retirement income from one or more retirement-like sources (e.g., CPP, OAS, employer pension plan, RRSP or other personal savings).

...

The determination of a worker's retirement date for the purposes of the duration of permanent disability benefits decision under section 201 is made once, unless section 36 of the Workers Compensation Amendment Act, 2020, applies. Under section 36, another determination may be made after the worker has reached age 63 if:

- the worker was under 63 years of age on the date of injury,
- a previous determination was made under section 201(1) before January 1, 2021, and
- the worker has not reached the date of retirement as previously determined by the Board.

This mischaracterizes the content of Section 36 by implying that the legislation fetters the Board's discretion.

When reading ss. 201(1), (2), and (3) of the Act and ss.18 and 36 of the Amendment Act, there is no such requirement as stated in RSCM C6-41.00 that a worker must be under 63, or not have reached a retirement age previously determined by the Board.

Section 36 of the Amendment Act permits the Board to make a new decision on retirement whether or not a decision was made before s.18 of the Amendment Act came into force, and s. 18 permits the Board to make a decision after age 63. On its face, the plain intent is that a decision on retirement age is to be made in a manner that considers all the relevant circumstances and at a time when the worker can reasonably provide evidence. Section 36 explicitly permits the Board to make a new decision on retirement if a previous determination was made prior to the effective date of January 1, 2021 and to base that retirement date determination on the evidence that is available at that later date beyond age 63. There is nothing in the legislation or in the history of the development or legislative record of the debate of the legislation that would support a limitation based on age or having passed what was the previously determined retirement date. The thrust of this legislation was to correct the Board's policies which were resulting in unfair determination of permanent disability benefits based on a worker's age at the time of injury. It was recognized that previous determinations were often based on poor or insufficient evidence. The third criterion removes the opportunity to correct an impugned prior retirement date determination in circumstances where the evidence supports that a later retirement date should be determined.

It must be considered that a worker that had a retirement date that was determined years ago and has passed the age 65 retirement date must still meet the evidentiary requirements to establish a new, later retirement date. Put simply, this is an opportunity to correct an erroneous prior decision only where the evidence available at a later date from the prior decision supports that different conclusion. This is not a free ride. It is the correction of an unjust decision where the available evidence at the time of the prior decision was inadequate. The third criterion is in clear conflict with the intent of the legislative change.

Only RSCM Policy Item C6-41.00 fetters the Board's discretion to make a new retirement age decision when it has new information. The purpose of the legislation was to remedy age discrimination against younger workers as explained elsewhere in this submission. In our view, this policy fettering the Board's discretion is patently unreasonable as there is nothing in the legislation that would support WorkSafeBC policies that result in discrimination against older workers in paying out PPD awards. It is an absurd result for legislation intended to create more equality amongst workers of different ages to be implemented by the Board in a manner that continues and expands discrimination based on age.

## Current Practices

The BCNU discussed retirement date determinations with the Directors of the PRRD, LTD Services and Practice and Quality Support Services in mid-2024. The BCNU had requested that, for workers who would be entitled to a new determination of retirement date after turning 63, the Board embark on that process promptly when the worker turns 63. We were told the practice is to send out a letter to the worker six months before they turn 65 advising that they are eligible for a new determination and the type of evidence that may be helpful for such a determination. The file is assigned to an officer 3 months before the worker turns 65. We expressed our concern that this may leave insufficient time to gather evidence, investigate and make a determination before the worker turns 65 and a determination can no longer be made under section C6-41.00.

The BCNU was told there would not be a change to this practice because it would result in increased case load and decision-making requirements. The reason was the Board did not want the workload of increased numbers of determinations of retirement dates. The reason was not related to the legislation in its word or intent. It is to limit the amount of required adjudication. Our concern is that the restriction on making a new determination after the worker has passed a previously determined retirement age is being done for workload reasons, is entirely contrary to the intent of the legislative change and is unsupportable under the Act and Amendment Act. There is an injustice to workers caused by this restriction from considering the worker's circumstances after a previously determined retirement date has passed. The criterion results in a patently unreasonable fettering or extinguishing of statutory discretion.

## Proportionality and Affordability to the compensation System

There is one aspect of WCAT Decision A2200795 that we do have disagreement with. The panel at paragraph 50 says,

I have noted the possibility that the Board's limit on who can apply for a new determination of their retirement age in policy may have been intended to address the financial viability of the workers' compensation system. If correct, then I find it necessary to comment the policy could undergo a minor amendment to be consistent with the Act and Amendment Act. It seems to me that that the statutory discretion provided by the legislation could be maintained by the inclusion of the phrase "usually", "generally", or other such language to modify the portion of policy such that it is no longer mandatory and the statutory discretion found in the Act and Amendment Act remains.

It is submitted that the divergence of the third criterion on C6-41.00 from the language Act and intent of the Amendment Act is so egregious that it should not be saved by suggested discretionary language such as "usually" or "generally". The contention that there may have been intention to limit access to new determinations on the basis of the financial viability of the workers compensation system is without merit.

There is considerable financial harm to those relatively small number of workers that merit a new determination of retirement date. Those workers must meet evidentiary requirements in order to get a later retirement date. That evidence and decisions ensure that the worker has an actual loss of earning capacity that under the principles of the system should be compensated. It is an injustice to those workers not to be compensated due to an arbitrary rule that denies consideration.

There is proportionally small impact to the system as a whole to properly compensate this relatively small number of workers that have passed a previous retirement determination made prior to January 1, 2021. There is a lack of merit to an argument that these workers should not be appropriately compensated for their loss of earning capacity for the sake of the financial viability of a system that, according to the Board's Ten-year summary of consolidated

financial statements — Funding basis<sup>2</sup>, was funded at 154.7% in 2021 and in the latest available year of 2023 is funded at 142.1%

## Conclusion

It is submitted that the panel's reasoning is correct in the referral to the Chair under section 304 of the Act that policy item C6-41.00 is a patently unreasonable extinguishment or fettering of the legislation and enabling statute. It is submitted that the Chair should find that the third criterion on item C6-41.00 is unlawful.

***All of which is respectfully submitted.***

Yours truly,

**British Columbia Nurses' Union**



Jim Parker  
Coordinator, WCB/LTD Appeals  
BC Nurses' Union

Encl.

c. S. Bateman  
M. Muir  
G. Loi  
G. Rabin  
K. Birch  
K. Harding  
M. Cheng  
N. Dhaliwal  
Z. Gedeon

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<sup>2</sup> For ease of reference we have attached the most recent *Ten-year summary of consolidated financial statements — Funding basis* to this submission



# Ten-year summary of consolidated financial statements — Funding basis

**Note:** These financial statements were prepared using the smoothed accounting approach. It is the accounting basis used by WorkSafeBC to determine our financial position for the purposes of setting premium rates and the required funding level. It may not be comparable to financial statements prepared in accordance with International Financial Reporting Standards.

## Consolidated statement of financial position as at December 31 (\$ thousands)

	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014
<b>ASSETS</b>										
Cash.....	—	—	64,369	—	298	69,862	—	39,576	122,959	—
Receivables.....	948,630	812,957	675,920	596,213	575,565	508,627	501,493	482,513	463,228	411,471
Portfolio investments.....	22,973,447	22,563,683	21,022,456	19,139,612	18,483,940	17,433,162	16,384,877	15,168,614	13,984,594	13,260,376
Property, equipment, intangible assets, and right-of-use assets <sup>a</sup> .....	256,127	267,306	276,858	285,816	280,020	237,180	238,335	249,866	260,478	275,848
Employee pension plan net assets <sup>b</sup> .....	—	—	159,685	—	92,622	155,866	56,726	62,160	71,673	46,402
	<b>24,178,204</b>	<b>23,643,946</b>	<b>22,199,288</b>	<b>20,021,641</b>	<b>19,432,445</b>	<b>18,404,697</b>	<b>17,181,431</b>	<b>16,002,729</b>	<b>14,902,932</b>	<b>13,994,097</b>
<b>LIABILITIES AND FUNDED POSITION</b>										
Outstanding payments.....	36,488	31,388	30,371	32,870	39,109	30,779	32,622	8,084	26,078	23,170
Payables and accruals <sup>c</sup> .....	135,627	126,876	133,697	111,397	121,751	66,722	73,581	74,767	60,882	59,225
Injured workers' retirement benefit liability.....	204,047	180,850	155,765	130,312	113,765	97,733	82,242	68,130	54,522	42,985
Employee benefit liabilities <sup>c</sup> .....	372,698	369,410	526,572	380,888	399,395	459,820	339,946	399,407	381,745	316,887
Claim benefit liabilities <sup>d</sup> .....	16,260,848	15,434,088	13,505,534	12,417,371	12,138,289	11,240,318	11,157,547	11,092,128	11,051,407	11,036,079
<b>Total liabilities.....</b>	<b>17,009,708</b>	<b>16,142,612</b>	<b>14,351,939</b>	<b>13,072,838</b>	<b>12,812,309</b>	<b>11,895,372</b>	<b>11,685,938</b>	<b>11,642,516</b>	<b>11,574,634</b>	<b>11,478,346</b>
Reserves.....	5,103,000	4,843,000	4,306,000	3,922,000	3,652,000	3,569,000	3,506,000	3,727,000	2,953,000	2,399,000
Unappropriated balance.....	2,065,496	2,658,334	3,541,349	3,026,803	2,968,136	2,940,325	1,989,493	633,213	375,298	116,751
<b>Total funded position.....</b>	<b>7,168,496</b>	<b>7,501,334</b>	<b>7,847,349</b>	<b>6,948,803</b>	<b>6,620,136</b>	<b>6,509,325</b>	<b>5,495,493</b>	<b>4,360,213</b>	<b>3,328,298</b>	<b>2,515,751</b>
	<b>24,178,204</b>	<b>23,643,946</b>	<b>22,199,288</b>	<b>20,021,641</b>	<b>19,432,445</b>	<b>18,404,697</b>	<b>17,181,431</b>	<b>16,002,729</b>	<b>14,902,932</b>	<b>13,994,097</b>

## Consolidated statement of comprehensive income and unappropriated balance for the years ended December 31 (\$ thousands)

	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014
<b>Workers' compensation contracts</b>										
Premium income.....	2,277,945	2,108,631	1,855,157	1,587,767	1,654,128	1,549,668	1,535,031	1,489,014	1,404,000	1,337,561
Other income.....	5,555	6,513	6,079	8,105	9,082	7,734	12,945	8,330	10,534	9,809
<b>Claim costs</b>										
Short-term disability.....	(625,813)	(604,848)	(558,861)	(480,181)	(421,393)	(345,421)	(310,041)	(266,565)	(266,654)	(275,328)
Long-term disability.....	(925,415)	(1,234,981)	(1,031,932)	(970,817)	(745,951)	(650,789)	(511,090)	(562,901)	(540,059)	(638,176)
Survivor benefits.....	(103,381)	(145,964)	(119,048)	(61,141)	(76,598)	(77,783)	(80,373)	(70,444)	(70,119)	(97,525)
Health care.....	(953,230)	(551,017)	(746,928)	(152,695)	(494,180)	(304,104)	(476,785)	(315,729)	(334,734)	(375,569)
Vocational rehabilitation.....	(257,274)	(229,594)	(279,860)	(199,654)	(144,762)	(100,141)	(99,294)	(91,924)	(110,488)	(133,153)
Claim administration.....	(395,454)	(341,276)	(418,177)	(331,652)	(328,664)	(273,902)	(259,139)	(282,057)	(226,901)	(250,236)
Latent occupational disease <sup>e</sup> .....	(696,400)	—	—	—	—	—	—	—	—	—
Non-recurring adjustments to revalue liabilities <sup>f</sup> .....	668,650	(1,040,293)	—	—	(485,617)	—	74,583	—	—	—
<b>Claim administration costs.....</b>	<b>(346,209)</b>	<b>(318,306)</b>	<b>(299,980)</b>	<b>(302,552)</b>	<b>(285,083)</b>	<b>(268,600)</b>	<b>(253,955)</b>	<b>(260,061)</b>	<b>(251,845)</b>	<b>(246,093)</b>
Prevention costs.....	(133,084)	(124,114)	(117,501)	(111,473)	(114,243)	(108,207)	(98,258)	(101,970)	(95,768)	(88,902)
Assessment administration costs.....	(46,611)	(47,967)	(42,583)	(43,432)	(39,233)	(36,851)	(33,535)	(29,820)	(28,555)	(30,491)
Corporate administration costs.....	(91,715)	(77,541)	(86,511)	(72,849)	(67,996)	(61,361)	(71,005)	(67,275)	(59,767)	(54,627)
	<b>(617,619)</b>	<b>(567,928)</b>	<b>(546,575)</b>	<b>(530,306)</b>	<b>(506,555)</b>	<b>(475,019)</b>	<b>(456,753)</b>	<b>(459,126)</b>	<b>(435,935)</b>	<b>(420,113)</b>
Less: Claim administration costs.....	346,209	318,306	299,980	302,552	285,083	268,600	253,955	260,061	251,845	246,093
Injury research & reduction initiatives.....	(22,195)	(17,590)	(16,216)	(16,698)	(16,731)	(15,522)	(15,400)	(16,899)	(16,948)	(12,421)
	<b>(1,298,422)</b>	<b>(2,300,041)</b>	<b>(1,556,381)</b>	<b>(844,720)</b>	<b>(1,272,158)</b>	<b>(416,679)</b>	<b>(332,361)</b>	<b>(308,240)</b>	<b>(335,459)</b>	<b>(609,058)</b>
<b>Investment</b>										
Investment income <sup>g</sup> .....	1,016,532	1,985,012	2,440,053	1,235,916	1,394,818	1,450,530	1,413,803	1,352,070	1,179,997	2,242,093
Investment expenses.....	(65,810)	(74,624)	(63,847)	(60,069)	(53,933)	(47,377)	(41,019)	(34,695)	(30,323)	(21,805)
	<b>950,722</b>	<b>1,910,388</b>	<b>2,376,206</b>	<b>1,175,847</b>	<b>1,340,885</b>	<b>1,403,153</b>	<b>1,372,784</b>	<b>1,317,375</b>	<b>1,149,674</b>	<b>2,220,288</b>
<b>(DEFICIT) SURPLUS FROM OPERATIONS.....</b>	<b>(347,700)</b>	<b>(389,653)</b>	<b>819,825</b>	<b>331,127</b>	<b>68,727</b>	<b>986,474</b>	<b>1,040,423</b>	<b>1,009,135</b>	<b>814,215</b>	<b>1,611,230</b>
<b>OTHER COMPREHENSIVE INCOME (LOSS)</b>										
Actuarial gains (losses) on employee benefit plans <sup>h</sup> .....	14,862	43,638	78,721	(2,460)	42,084	27,358	94,857	22,780	(1,668)	(9,560)
<b>UNAPPROPRIATED BALANCE — January 1 ..</b>	<b>2,658,334</b>	<b>3,541,349</b>	<b>3,026,803</b>	<b>2,968,136</b>	<b>2,940,325</b>	<b>1,989,493</b>	<b>633,213</b>	<b>375,298</b>	<b>116,751</b>	<b>(637,919)</b>
Withdrawal from (appropriation to) Capital Adequacy Reserve.....	(247,000)	(510,000)	(209,000)	(270,000)	(83,000)	(63,000)	221,000	(774,000)	(554,000)	(847,000)
Withdrawal from (appropriation to) special reserves.....	(13,000)	(27,000)	(175,000)	—	—	—	—	—	—	—
<b>UNAPPROPRIATED BALANCE — December 31 .....</b>	<b>2,065,496</b>	<b>2,658,334</b>	<b>3,541,349</b>	<b>3,026,803</b>	<b>2,968,136</b>	<b>2,940,325</b>	<b>1,989,493</b>	<b>633,213</b>	<b>375,298</b>	<b>116,751</b>

## Supplementary Financial Information

	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014
Capital asset expenditures (\$ thousands) <sup>a</sup> .....	8,184	11,963	12,661	29,574	66,686	19,330	14,725	11,573	12,475	22,141
Claim costs (\$ thousands)										
Payments.....	2,461,557	2,219,419	2,066,643	1,917,058	1,799,194	1,669,369	1,596,720	1,548,899	1,533,627	1,531,507
Change in benefit liabilities.....	1,495,410	888,261	1,088,163	279,082	412,354	82,771	140,002	40,721	15,328	238,480
Non-recurring.....	(668,650)	1,040,293	—	—	485,617	—	(74,583)	—	—	—
	<b>3,288,317</b>	<b>4,147,973</b>	<b>3,154,806</b>	<b>2,196,140</b>	<b>2,697,165</b>	<b>1,752,140</b>	<b>1,662,139</b>	<b>1,589,620</b>	<b>1,548,955</b>	<b>1,769,987</b>
Average premium rate (\$) <sup>b</sup>										
- published base rate.....	1.55	1.55	1.55	1.55	1.55	1.55	1.65	1.70	1.70	1.70
- actual collection rate.....	1.48	1.45	1.46	1.47	1.48	1.51	1.60	1.63	1.62	1.63
Investment return of portfolio (%)										
- total return net of management fees (market yield).....	8.4	(2.6)	12.7	10.5	12.5	2.1	10.5	5.1	8.7	10.6
- accounting return funding basis (yield on average value of portfolio) <sup>c</sup> .....	4.2	8.7	12.0	6.2	7.4	8.1	8.7	9.0	8.4	18.6
- real return funding basis (yield in excess of inflation) <sup>d</sup> .....	1.1	1.8	7.3	5.5	5.5	5.7	7.3	7.5	7.4	16.2
Percent funded (ratio of assets to total liabilities) (%).....	142.1	146.5	154.7	153.2	151.7	154.7	147.0	137.5	128.8	121.9
<b>STATISTICS</b>										
Claims first reported <sup>e</sup> .....	143,856	150,257	141,218	128,214	158,110	155,575	152,624	148,923	145,529	146,621
Claims first paid <sup>f</sup> .....	97,490	104,843	97,747	90,844	110,302	109,960	106,808	103,687	102,823	102,791
Claims disallowed <sup>g</sup> .....	10,809	9,425	8,940	10,239	11,631	12,197	12,812	12,499	12,753	12,593
Claims rejected <sup>h</sup> .....	1,740	1,725	1,557	1,636	2,014	1,929	1,926	1,863	1,923	2,049
Claims disallowed as a proportion of claims reported (%) <sup>i</sup> .....	7.5	6.3	6.3	8.0	7.3	7.8	8.4	8.4	8.7	8.6
Provincial time-loss claims rate (number of claims per 100 person-years of employment) <sup>j</sup> .....	2.08	2.40	2.24	2.14	2.19	2.19	2.18	2.20	2.22	2.27
Prevention inspection reports issued <sup>k</sup>	54,551	52,936	55,420	60,685	44,394	44,618	43,121	41,573	42,009	39,348
Prevention worksite activity hours <sup>l</sup>	293,268	274,670	286,596	308,228	302,360	306,452	300,609	283,938	290,384	293,705
Number of insured employers	280,890	269,321	263,292	255,490	249,336	245,257	238,545	231,482	225,582	221,324

**Note:** Refinements in measurement approach have resulted in minor changes to previously reported figures in some cases. The above amounts have been restated reflecting the retroactive effects of changes in accounting policies.

- a In 2019, right-of-use (ROU) assets totaling \$50.7 million was added to capital asset expenditures, as a result of the adoption of IFRS 16 (Leases).
- b Effective 2022, pension plan net assets (i.e., pension assets less liabilities) were excluded from the funding-basis funded position with a corresponding decrease in other comprehensive income, to ensure that only available surplus is applied to rate-setting.
- c Effective 2020, deferral of gains and losses related to employee benefit liabilities were reclassified from payables and accruals to employee benefit liabilities; prior years were restated accordingly.
- d Effective 2023, claim benefit liabilities included a provision for latent occupational disease liability.
- e The adjustment in 2023 relates to the increase in real discount rate from 2.65 percent to 3.1 percent. The adjustment in 2022 relates to the Bill 41 legislative amendments, as well as the real discount rate change from 2.4 percent to 2.65 percent. The adjustment in 2019 relates to lowering the real discount rate from 3.0 percent to 2.4 percent. The adjustment in 2017 relates to a revision of mortality assumptions.
- f Effective January 1, 2014, for rate-setting purposes, WorkSafeBC's Board of Directors approved a change in the investment-smoothing methodology under the funding basis of accounting. This change was made to align with the smoothing method outlined in the Canadian Institute of Actuaries education note, Guidance on Asset Valuation Methods for pension plans. As a result of this change, WorkSafeBC recorded an extraordinary gain of \$949 million in funding-basis income; this represents the one-time release of a portion of the deferred investment gain as of January 1, 2014. Funding-basis accounting recognizes investment income at the required rate of return (based on the inflation rate plus the net discount rate) plus the amortization, over a five-year period, of the difference between the actual and required return on investments. Starting in 2022, the required rate of return is subject to a maximum differential of 10 percentage points from the preliminary market rate of return.
- g The published base rate is the rate announced at the time the assessment rates are set. The actual collection rate differs from the published base rate primarily due to two factors:
- the difference between the payroll distribution by industry underlying the base rate calculation and the subsequent actual payroll distribution
  - the actual collection rate reflects a shortfall in the assessments due to an imbalance in the experience rating program, whereas the published base rate does not
- Note: The actual collection rate for an assessment year is finalized in the following year, when the final actual payrolls are available. As an example, the 2022 actual collection rate is finalized at the end of 2023.
- h For 2014, the 18.6% funding-basis return includes the extraordinary gain of \$949 million and would be 10.7% if this gain had not been recognized.
- i Inflation is the change in the All Canada CPI from the preceding October to the current October value, reflecting the indexation of injured worker benefits.
- j Claims are not necessarily disallowed, rejected or accepted in the year in which they are reported. The counts of reported claims in this table have been revised from those that appeared in the 2022 ten-year summary: the claim consolidation process results in some duplicate claim numbers from past years being eliminated.
- k Claims first paid include claims first paid for health-care benefits only.
- l Disallowed claims are those that fall within the scope of the *Workers Compensation Act* but are not payable because they are not work-related.
- m Rejected claims are those that do not fall within the scope of the Act: claims from workers employed in industries not covered under the Act, claims from self-employed workers without optional protection, or accounts from physicians submitted in error to WorkSafeBC.
- n Reported claims that are not accepted, disallowed, or rejected are either suspended claims or no-adjudication-required claims. Suspended claims are those where the claimant fails to respond to a request for information from the adjudicator, or withdraws the claim. No-adjudication-required claims are basically accident reports that are not claims for benefits.
- o The provincial time-loss claims rate for 2023 is preliminary and subject to change. The provincial time-loss claims rate is finalized in July each year; prior-year results are restated, if necessary, to reflect final figures.
- p These figures represent the number of inspection reports issued by prevention officers in each respective year, and include both provincial inspections and federal Workplace Hazardous Materials Information System (WHMIS) inspections. Inspection reports represent either new or follow-up prevention activity and most inspection reports are the result of a worksite visits. Historical counts have been revised to include documents that were issued to unregistered employers.
- q Prevention activity hours include both Prevention Services and Investigations officer time. These hours represent the number of hours spent in each respective year on inspections, program review, education, consultations, investigations, certification, processing, and other industry and worker services combined. Overhead hours are not included (administration, training, leaves, etc.). Prevention activity hours include travel time. Prevention activity hours are reported by the date the activity took place, not by the issue date of the Prevention document. Historical counts have been revised to include hours that were attributed to unregistered employers.