

**SUBMISSION TO THE  
WORKERS COMPENSATION BOARD**

**LONG TERM EARNINGS  
FOR  
APPRENTICES & LEARNERS  
POLICY ITEM #67.40  
BC BUILDING TRADES POSITION**

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**British Columbia and Yukon Territory Building and Construction Trades Council**

**#209 – 88 – Tenth Street, New Westminster, British Columbia V3M 6H8**

**Tel: (778) 397-2220 Fax: (778) 397-2250**

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**PREFACE**

The British Columbia and Yukon Territories Building and Construction Trades Council (“BC Building Trades”) represents unionized construction trades workers in myriad contexts. Our members include construction labourers, ironworkers, electricians, roofers, plasterers, cement masons, sheet metal fabricators, bricklayers, heat and frost insulators, and many others in building and construction. There are 40,000 highly skilled unionized construction trades workers throughout British Columbia and the Yukon.

The decimation to the Workers Compensation System resulting from the 2002 amendments to the *Workers Compensation Act* have created increasing financial, physical, psychological, emotional, and workplace hardships for workers. The BC Building Trades’ opposition to the BC Liberals and their draconian changes to the Act are well known. Labour, which is the source of all value, cannot be continually sacrificed on the altar of private enterprise if the so-called historic compromise is to function over the long term.

The *Workers Compensation Amendment Act, 2011* (“Bill 14”) was enacted on May 31, 2012, and will come into effect July 1, 2012. Among other things, this new legislation significantly reduces long term average earnings for apprentices who are deemed temporarily disabled as a result of a workplace incident. At a time when the province is projecting a shortage of 160,000 workers over the next five years, the government should be increasing support for apprentices, not penalizing them.

**INTRODUCTION**

In order to implement the changes in Bill 14, the Workers Compensation Board has revised their *Rehabilitation Service and Claims Manual, Volume II*, Policy Item #67.40 respecting the Average Earnings for Apprentices and Learners. Given the legislative straightjacket created by Bill 14 with respect to earnings for apprentices, the BC Building Trades is, in the final analysis, vehemently opposed to the Board’s proposed policy which simply reflects the language of Bill 14.

## BACKGROUND

Prior to the enactment of Bill 14, injured apprentices and learners received benefits based on their wage at the time of injury for the first 10 weeks of their temporary disability. After the initial 10 weeks, however, apprentices' rates increased to the rate of a journey-level tradesperson.

Bill 14's amendment to section 33.2 of the *Workers Compensation Act* changes the compensation rate by making a distinction between "temporarily" and "permanently" injured apprentices. It reduces the compensation level for temporarily injured apprentices to the rate they were earning at the time of injury or the worker's gross earnings for the 12 month period immediately preceding the date of injury, whichever is greater. Specifically, the new provision states:

If a worker's injury results in a temporary disability that continues after the initial payment period, the Board must, for the period starting after the end of the initial payment period, determine the amount of average earnings of the worker based on the greater of the following:

- (a) the rate at which the worker was remunerated by each of the employers for whom he or she was employed at the time of the injury;
- (b) the worker's gross earnings, as determined by the Board, for the 12 month period immediately preceding the date of injury.

This new provision may significantly reduce the long term benefits accruing to apprentices who are deemed temporarily disabled by the Board.

According to the Board's financial accounting based on 2010 data, the reduction of benefits to apprentices will be minimal and, therefore, so too the government's savings of approximately \$125,000 annually. Despite these limited savings, the government aggressively pushed ahead and curtailed the legislative debate to ensure the new provisions promulgation. The fact is, of course, the government is likely to save far more than their estimate indicates, and they will do so on the backs of the most vulnerable and valued workers in the province – apprentices.

When discussing the financial implications of the proposed policy the government admits to the limitations of its data due to "information on apprentice and learner claims [not being] specifically captured prior to the implementation of the Claims Management Solutions System". As a result of this lack of data, the Board resolved to extrapolate from 2010 data. The following data was available for 2010:

- 374 apprentice and learner claims received short-term benefits based on time of injury earnings. The average short-term wage rate on these claims was \$32,000.
- Of the 374 apprentice and learner claims in 2010, approximately 50 claims had long-term average earnings calculated based on the earnings of a

qualified person employed at the starting rate in the same trade, occupation or profession.

- The average long-term wage rate for these 50 claims was \$37,300.
- The average claim duration for the receipt of benefits in these 50 claims was approximately 120 days.

The Board also applied several assumptions in order to estimate the financial impacts of Bill 14:

- Approximately 50 claims annually would have long-term average earnings calculated based on the higher of the time of injury earnings or the 12 month prior earnings.
- Date of injury earnings would be higher than earnings in the 12 month prior period for apprentices and learners.
- \$32,000, the 2010 short-term average wage rate amount, is used as the date of injury earnings.
- \$37,300, the 2010 average long-term wage rate for apprentices or learner claims, is based on the qualified person average earnings;
- Average claim duration for apprentices or learner claims is 120 days based on existing data.
- The number of working days in a full year for a standard worker, working 5 days per week for 52 weeks per year, is 260.

Based on 50 long-term claims per year and an average apprentice or learner claim duration for wage-loss benefits of approximately 120 days, the Board estimates that the reduction of the average long-term earnings will result in an annual cost reduction of approximately \$125,000.

The BC Building Trades sees things otherwise.

It is disingenuous for the Board to use a single year of data related to apprentice and learner injuries, and then to extrapolate and make all sorts of assumptions from it in order to estimate their expected annual cost reduction. While we may accept the structural limitations of the Board's Claims Management Solutions System as it relates to capturing apprentice data, we cannot condone it when those limitations infringe on the well-being of workers. In the context of changes to apprentice and learner earnings, they do so infringe.

Furthermore, the Board has calculated the impact of the changes of Bill 14 using exceedingly generic values which fail to reflect the reality of many building and construction workers. Most importantly, the Board posits that the long-term average wage rate for apprentices is \$37,300; the average claim duration for apprentices is 120 days; and a so-called standard worker works for 5 days per week for 52 weeks a year. But, prior to Bill 14, many building and construction apprentices' long-term wage rate far exceeded \$37,300, the duration of their claim was far longer than 120 days; and they typically put in considerable overtime and were paid by the hour, not by the day. Simply put, using the Board's values obscures the impact of the legislative changes on

individual building and construction workers. For some workers the impact will be extremely dire.

The BC Building Trades have done their own cost reduction/savings analysis, and it indicates that a significant reduction in compensation levels for temporarily injured apprentices will result from Bill 14.

The average apprenticeship starting wage is 50% of a journey-level tradesperson. For every six (6) months of training an apprentice receives, their compensation is incrementally increased by five (5) percent. Usually when they complete their training (after approximately five (5) years), their compensation rises to a journey-level tradesperson. An average starting wage for an apprentice is approximately \$15.84 per hour. A journey-level tradesperson who is red seal certified receives approximately \$31.68 per hour.

If an apprentice was temporarily injured under the former legislation for longer than 10 weeks, they would be compensated at the journey-persons rate, that is, \$31.68 per hour. Since the enactment of Bill 14, however, apprentices who are deemed by the Board to be temporarily disabled, as opposed to permanently disabled (a designation which may obtain for many, many months or years) are compensated at their wage rate at the time of injury or gross earnings rate for the 12 months immediately preceding the date of injury, whichever is greater. In other words, the apprentice will be compensated at the much lower rate of approximately \$15.84 per hour upon starting his apprenticeship (and an increase of 5% on that wage for every six months thereafter) for the duration of his or her temporary disabled status.

Clearly, the financial implications of Bill 14 for some apprentices injured on the job will be significant. And let us not forget that it is apprentices and learners, the ones who lack knowledge and experience in their chosen trade, that are the most likely to be injured on the worksite.

#### **BOARD'S PROPOSED POLICY – POLICY ITEM #67.40**

Given the draconian changes of Bill 14 respecting the long term earnings of apprentices, the impact of the proposed policy changes to #67.40 are necessarily regressive and circumscribed. With that said, the BC Building Trades would like to see at least one change to the revised policy item.

The Board should be instructed to contact British Columbia Federation of Labour, the BC Building Trades Council, and/or the Construction Sector Council when seeking data respecting wage rates for injured workers. Currently the proposed policy states:

The Board will contact the injury employer to determine what a qualified person employed at the starting rate in the same trade, occupation or profession earns or would earn with the injury employer.

Where this information is not available, the Board will contact an employer similar to the injury employer, in the same region as the injury employer, to

determine what a qualified person employed at the starting rate in the same trade, occupation or profession earns.

The Board is not limited to obtaining wage rate information from a single employer. As such, the Board may use relevant information from employers in the region on the average starting rate of various trades, occupations and professions. This information may be used to determine the average earnings of an apprentice or learner where relevant information is not available from the worker's employer.

Employers do not possessive exclusivity of information respecting the effective wage rates of qualified workers, whether those workers are unionized or non-unionized. Such information is likely to be more readily available as well as accurate when coming from organizations whose sole function is to represent workers. Therefore, where the draft references the Board gathering wage data from employers, it should add the above labour contacts.

## **CONCLUSION**

While we appreciate the opportunity to provide feedback to the Board with respect to the proposed policy #67.40, the draconian changes introduced by Bill 14 with respect to long term average earnings for apprentices who are temporarily disabled provides no room for constructive input. The old section 33.2 of the *Workers Compensation Act* should be reintroduced into the BC Legislature at the earliest opportunity.