

HAMILTON COMMUNITY LEGAL CLINIC

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June 2, 2010

Standing Committee on Public Accounts
Legislative Assembly of Ontario
Queen's Park
Toronto ON M7A 1A2

Dear Sir/Madam:

RE: Workplace Safety and Insurance Board

Hamilton Community Legal Clinic is a community legal clinic funded by Legal Aid Ontario and serves the people of the City of Hamilton. It is an amalgamation of three Hamilton legal clinics some of which have been serving the Hamilton Community for over 30 years. During this time we have represented hundreds of injured workers in their individual cases at all levels of appeal. We have also represented the Hamilton and District Injured Workers' Group and the Ontario Network of Injured Workers' Group in their legal cases and law reform efforts to improve Workers' Compensation law for injured workers. Our experience with respect Workers' Compensation and the plight of injured workers is extensive.

We are disturbed by the content and conclusions made in the Auditor-General's value for money audit of the Workplace Safety & Insurance Board. In particular we are troubled with the Auditor-General's conclusions regarding the unfunded liability of the Workplace Safety & Insurance Board. Our concerns revolve around the language that is used by the Auditor-General to describe the unfunded liability. In particular the Auditor-General uses the language of debt and implies that the unfunded liability is a debt owed by the Workplace Safety & Insurance Board that can imperil the financial viability of the Board.

This is seen in the following passages. Under historical perspectives at page 320 of the report the Auditor-General states:

By 1994, the unfunded liability stood at \$11.4 billion. In response to the growing unfunded liability, the government reduced benefits in 1995. In 1996, the government of the day undertook a comprehensive review of the system. That review determined that legislative intervention was necessary because the existence of such a large unfunded liability threatened the viability of Ontario's system. The government

believed that the unfunded liability not only put at risk the system's ability "to provide fair and secure compensation to injured [and ill] workers both now and in the future" but also had resulted in premium rates that were among the highest in North America – a situation that adversely affected Ontario's competitive position.

It is clear from the section on page 322 entitled "Should We Be Concerned about the Unfunded Liability" that the Auditor-General accepts this. This is seen in the very first sentence where he states:

The risk that a large unfunded liability poses to the system's financial viability was recognized over a decade ago.

He further states:

We acknowledge the argument that because the worker's compensation system is a perpetually ongoing operation, the unfunded liability is meaningless. From this point of view, this liability is merely an amount that will become due only in the highly unlikely event that the WSIB was to wind down its operations today. For example, The WSIB told us that, from an injured worker's perspective, there are currently sufficient funds to pay benefits for up to three years even if ongoing premium revenue was eliminated completely and the WSIB was wound down.

We do not agree with this argument and are concerned that the trend of selling off the WSIB's investments to fund current operations and benefit payments is not financially sustainable.

The Auditor-General has accepted the view that a high unfunded liability for the Workplace Safety & Insurance Board places it in an unsustainable financial position. This is the language of debt.

This is also a myth.

Part of the reason that this pernicious myth exists is that it is difficult to understand the concept of an unfunded liability; an unfunded liability is the difference between the amortized present value of all estimated future liabilities and the assets. This is a confusing definition that uses mysterious concepts in finance and actuarial science. It is much, much easier to think in terms of debt.

While it is easier to think of the unfunded liability as a debt it is wrong. The unfunded liability is not a debt.

One way of seeing this to look at the concepts contained in the definition of an unfunded liability in the context of a personal finance problem. Imagine a person who is 46 and has an income of \$100,000 per year; that person would have an income that would put him or her in the top 10% of income earners in Canada. Further imagine that, including all taxes, this person spends \$80,000.00 per year. Suppose that the person plans to retire at 65 and at 65

reduce his or her spending to \$60,000.00. Finally suppose that this person has net assets of \$235,000.

This person would be considered by many to be very well off. Certainly there are richer people in Ontario, but there are whole lot of people in Ontario who are much worse off. This person is not in financial crisis.

This person has an unfunded liability. Using the information in the Workplace Safety & Insurance Board's 2008 annual report one can calculate this person's unfunded liability **exactly** the same way as the Board calculates its unfunded liability. This imaginary person's unfunded liability would be \$1,159,934.22.¹ Certainly if this person was \$1,159,934.22 in debt this person would be in financial trouble.

But this person does not owe this money. The unfunded liability calculation assumes that the person would get no money ever from today onwards: no income from wages, ever; no income from the investments that form part of the \$235,000 assets; no disability insurance should the person become too disabled to work; no Employment Insurance or social assistance benefits should the person be temporarily out of a job; no Canada Pension Plan Retirement or Old Age Security benefits when he or she turns 65. In other words, this person's unfunded liability makes assumptions that are wholly unrealistic and faintly ridiculous.

This is the same flaw with respect to the Auditor-General's view. The unfunded liability is only a concern if we were to assume that the Workplace Safety & Insurance Board **never received a single dollar in revenue ever again**. The unfunded liability is only of concern if we were to make an assumption that was wholly unrealistic and faintly ridiculous.

Another way of seeing the absurdity of the claims regarding the unfunded liability is to compare this mythical person's finances with the Workplace Safety & Insurance Board. An alternative measure of the Workplace Safety & Insurance Board financial health is the funding ratio. This is the ratio of assets to the present value of all future liabilities. The Workplace Safety & Insurance Board has a funding ratio of 53.55%. Our mythical person has a funding ration merely of 16.85%. In order to have the same financial health as the Workplace Safety & Insurance Board, this mythical person would have to have a net worth of \$746,987.28. In other words, the Board is in a sounder financial state than a mythical person who is financially better off than the vast majority of Ontarians.

The only rationale that the Auditor-General appears to give for the concern over the unfunded liability is that the Workplace Safety & Insurance Board's "trend" to sell off investments in order to finance current operations.

¹ See Detailed Calculations in Appendix #1

An analysis of the Workplace Safety & Insurance Board's Annual reports shows that there is no unsustainable trend. The following table shows the Workplace Safety & Insurance Board's assets since 1996:

	Assets (Million \$)	Change in Assets (Millions \$)	%age change in Assets
1996	\$ 7,872.00		
1997	\$ 8,721.00	\$ 849.00	10.79%
1998	\$ 9,338.00	\$ 617.00	7.07%
1999	\$ 10,479.00	\$ 1,141.00	12.22%
2000	\$ 11,395.00	\$ 916.00	8.74%
2001	\$ 11,576.00	\$ 181.00	1.59%
2002	\$ 11,624.00	\$ 48.00	0.41%
2003	\$ 11,847.00	\$ 223.00	1.92%
2004	\$ 13,643.00	\$ 1,796.00	15.16%
2005	\$ 14,547.00	\$ 904.00	6.63%
2006	\$ 16,398.00	\$ 1,851.00	12.72%
2007	\$ 15,972.00	\$ (426.00)	-2.60%
2008	\$ 13,207.00	\$ (2,765.00)	-17.31%

As you can see from 1996 until 2006 the assets of the Workplace Safety & Insurance Board continuously went up. It was only in 2007 and 2008, years marked by significant investment losses in the Workplace Safety & Insurance Board's investment portfolio, that the Workplace Safety & Insurance Board lost assets.

The final way of seeing the absurdity of the Auditor-General's concern is when you look at the level of assets at the Workplace Safety & Insurance Board. At the end of 2008 the Workplace Safety Insurance Board had net assets of \$13.207 billion. How can an organization be in financial trouble when they have over 13 billion dollars "in the bank"? They are not and they cannot be in financial with that level of net assets.

The unfunded liability is not the concern that the Auditor-General makes it out to be. The unfunded liability does not represent a threat to the financial viability of the Workplace Safety & Insurance Board. The unfunded liability should not be used as an excuse to deny justice for injured workers, nor should it be used as an excuse to cut their benefits in the future.

Thank you very much for your time in this matter. I would be more than happy to address the committee for any questions that they may have.

Yours truly,

HAMILTON COMMUNITY LEGAL CLINIC

Andrew C. Bomé
Staff Lawyer

ACB:sb

Appendix 1: An individual unfunded liability

Assumptions

Annual Salary	\$	100,000.00
Annual Expenses	\$	80,000.00
Total Assets	\$	235,000.00
Current Age		46
Age At Retirement		65
year of Retirement		2029
Expenses after retirement	\$	60,000.00
Age at death		83
Year of Death		2047
Fully indexed discount rate		4.5%

Results

Benefits Liability	\$1,394,934.22
Assets	\$ 235,000.00
Unfunded Liability	\$1,159,934.22
Funding ratio	16.85%

If person's finances were like the WSIB's

Net Assets 2008 \$ 746,987.28

Year	Expenses	Discounted expenses
2010	\$ 80,000.00	\$ 80,000.00
2011	\$ 80,000.00	\$ 76,555.02
2012	\$ 80,000.00	\$ 73,258.40
2013	\$ 80,000.00	\$ 70,103.73
2014	\$ 80,000.00	\$ 67,084.91
2015	\$ 80,000.00	\$ 64,196.08
2016	\$ 80,000.00	\$ 61,431.66
2017	\$ 80,000.00	\$ 58,786.28
2018	\$ 80,000.00	\$ 56,254.81
2019	\$ 80,000.00	\$ 53,832.35
2020	\$ 80,000.00	\$ 51,514.21
2021	\$ 80,000.00	\$ 49,295.90
2022	\$ 80,000.00	\$ 47,173.11
2023	\$ 80,000.00	\$ 45,141.73
2024	\$ 80,000.00	\$ 43,197.83
2025	\$ 80,000.00	\$ 41,337.64
2026	\$ 80,000.00	\$ 39,557.55
2027	\$ 80,000.00	\$ 37,854.11
2028	\$ 80,000.00	\$ 36,224.03
2029	\$ 60,000.00	\$ 25,998.11
2030	\$ 60,000.00	\$ 24,878.57
2031	\$ 60,000.00	\$ 23,807.25
2032	\$ 60,000.00	\$ 22,782.05
2033	\$ 60,000.00	\$ 21,801.01
2034	\$ 60,000.00	\$ 20,862.21
2035	\$ 60,000.00	\$ 19,963.84
2036	\$ 60,000.00	\$ 19,104.15
2037	\$ 60,000.00	\$ 18,281.48
2038	\$ 60,000.00	\$ 17,494.24
2039	\$ 60,000.00	\$ 16,740.90
2040	\$ 60,000.00	\$ 16,020.00
2041	\$ 60,000.00	\$ 15,330.14
2042	\$ 60,000.00	\$ 14,669.99
2043	\$ 60,000.00	\$ 14,038.27
2044	\$ 60,000.00	\$ 13,433.75
2045	\$ 60,000.00	\$ 12,855.27
2046	\$ 60,000.00	\$ 12,301.69
2047	\$ 60,000.00	\$ 11,771.95

