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How worker's compensation expanded in British Columbia

View from the Board | Grant McMillan

The passage of the Workmen's Compensation Act of 1917 brought huge changes to the world of workplace injury and disease. The worker no longer has to go to court. The employer cannot be sued.

However other penalties – especially for health and safety violations – can be and are applied.

An administrative tribunal, the Workmen's Compensation Board (WCB), now called WorkSafeBC, adjudicates the worker's claim.

The system is no fault, meaning that the worker receives compensation even if the worker, or a fellow worker, was partly or entirely to blame for the injury or death.

The worker's benefits continue for life in the case of permanent disability or death, and the worker's dependents receive a pension in the case of death.

All medical and rehabilitation costs are also paid by WorkSafeBC and there is no limit on the amount or duration of these benefits.

Workers also go to the head of the line in the medical system and receive treatment without waiting.

The benefits do not depend upon the individual employer's ability to pay.

As well, the benefits remain untouched by strikes, lockouts, recessions or seasonal layoffs or slowdowns – the benefits are secure.

Over time, amendments to the act provided major new benefits to workers.

The original level of worker's compensation, in 1917, was set at 55 per cent of a worker's wages.

Then, in 1935, the level was increased to 62.5 per cent. And in 1938 the amount increased to 66.66 per cent.

These benefits continued to grow and expand under successive governments to the point where, in 1954, the worker was compensated at 75 per cent of his wages, tax free.

It is important to note that in 1954, taxes were relatively low, compared to a few decades later.

Still another significant change was made to the waiting period.

In 1916, an injured worker did not receive wage loss benefits for the first three days of time off work.

In 1972, the waiting period was reduced from three days to one day.

By the 1990s, because of the growing impact of higher personal income taxes upon earnings, a benefit of 75 per cent that was tax free, usually resulted in higher take home pay.

For the construction industry, this meant that a worker who earned \$50,000 while at work would receive a benefit of about \$52,000 while off on workers' compensation.

The system became more generous to the point that it created a disincentive to return to work.

The year 1974 saw more changes that added costs to the WCB of B.C.

A new appeal structure resulted in a complicated, confusing three-tiered body of appeals – the Workers' Compensation Review Board, the Medical Review Panels and the Board of Commissioners.

The structure permitted multiple appeals on the same claim, with the result that a claim could move back and forth between appeal bodies for 20 years or more without final resolution.

The worker, who was appealing, was left in limbo and might be discouraged from taking an active role in his or her rehabilitation and return to work.

The complete cost of the system – compensation benefits, medical costs, administration and appeals, then and now – is borne by the employer.

This includes the cost for the workers' advisors and the employers' advisors, who assist workers and employers to contest WorkSafeBC decisions.

Employers have a very large stake in the workers' compensation system.

No tax money is used to pay for WorkSafeBC and it is illegal for an employer to collect any workers' compensation contribution from a worker.

WorkSafeBC is supposed to be self-contained and self-supporting.
Still, benefits have increased.

The boundaries of workers' compensation have expanded to cover new conditions.

The investment returns of the WorkSafeBC portfolio have dwindled in an uncertain world economy.

Now, as we approach 2014, the funding of the system is facing serious challenges.

And the system – like any system of entitlements – has limits.

This column is the second in a three-part series on worker's compensation in B.C. The next installment will look at the future challenges.

Grant McMillan is the president of the Council of Construction Associations, which represents the interests of 16 construction associations in B.C. on WorkSafeBC matters. Grant is also a member of the Journal of Commerce Editorial Advisory Board. Send comments or questions to editor@journalofcommerce.com.