Workers' Compensation and Surplus Distributions

A Small Business Perspective

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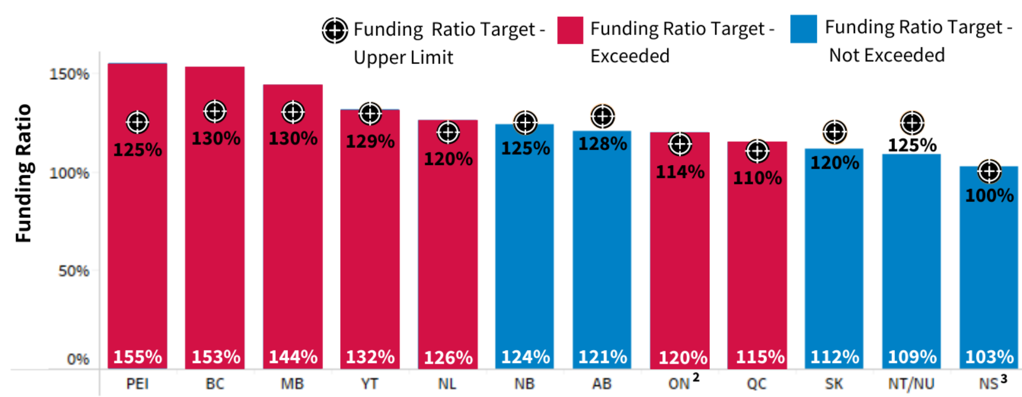
Workers' compensation insurance is entirely funded through mandatory employer premiums and investment earnings. Ideally, provincial/territorial workers' compensation boards/commissions (boards from hereafter) should aim to adequately balance their funding to protect the compensation benefits of injured workers in the long-term, while at the same time preventing the volatility of premiums or overcharging employers. Boards, however, should not accumulate large surpluses in their funding as it deprives employers of crucial resources that could be re-invested to meet the massive challenges being faced by many small businesses. This snapshot sheds light on the funding position of boards across the country and calls on boards to return excess funds to employers.

Funding Positions 2020

Boards typically establish a target funding position or ratio based on total assets over total liabilities. Target ratios are often set to 100%, higher than 100% or a range above 100%. Funds above 100% are meant to provide a buffer to cover unforeseen events and to account for market swings. When a board's financial position exceeds its target funding there is a surplus (overfunding), as a board has more than needed to cover its costs. The amount of the surplus is the difference between the fund balance and its target. At year end 2020 (latest data) seven boards were overfunded — Yukon, British Columbia, Manitoba, Ontario, Quebec, Prince Edward Island, Newfoundland and Labrador (see Figure 1).

Figure 1: 2020 Funding Position of Workers' Compensation Boards[1]



	PEI	BC	MB	YT	NL	NB	AB	ON[2]	QC	SK	NT/NU	NS[3]
Funding Ratio Target %	100-125	130	130	129	110-120	115-125	114-128	100-114	100-110	105-120	125	100

Source: Workers' Compensation Boards.

Notes:

1. Funding ratio is based on total assets to total liabilities, except for BC (smoothed accounting basis), SK and ON (sufficiency basis).
2. Based on third quarter 2021 sufficiency ratio.
3. Unfunded liability eliminated in 2020, going forward the board will develop funding parameters (i.e. setting upper and lower thresholds).

Managing Overfunded Positions – Surplus Distribution Policies

Funding surpluses can be the result of various factors including efficiencies in health and safety and return-to-work outcomes, as well as sound financial management and favourable returns on investments. As the money needed to cover administrative costs and worker benefits in the long-term have been realized, excess funds beyond the target level are indeed a surplus. To bring their funding positions back in-line with their target, boards can allocate excess funds towards lowering employer premiums or issuing surplus rebates directly to employers who paid the premiums.

With respect to rebates, nine boards have a policy to return funds to employers — Yukon, Northwest Territories/Nunavut, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Prince Edward Island, and Newfoundland and Labrador (see Table 1). The funding ratio at which rebates are triggered differs from board to board, Prince Edward Island and Newfoundland and Labrador have the highest ratio (above 140%) and Ontario has the lowest (above 114%). It should also be noted that most boards can use their own discretion in deciding whether to issue a rebate, except for Ontario. In 2022, after an operational review, Ontario became the first province to transform its rebate policy into law, legislating a discretionary distribution at 115% and mandatory distribution at 125%.[1] We encourage other boards to follow Ontario's lead by legislating surplus distribution policies, implementing mandatory distribution, and reviewing the ratio at which excess funds are distributed so that the position is not overly cautious.

Table 1

Surplus Distribution Policies, Workers' Compensation Boards, by Jurisdiction[1]

	YT	NT/NU[2]	BC[3]	AB	SK	MB	ON[4]	QC[5]	NB	NS[6]	PEI[7]	NL[8]
Rebate Policy exists — Yes/No	Yes	Yes	No	Yes	Yes	Yes	Yes	No	Yes	No	Yes	Yes
Funding ratio for rebate %	Above 129%	Above 135%	Na	Above 128%	Above 122%	Above 130%	Above 114%	Na	Above 125%	Na	Above 140%	Above 140%

Source: Workers' compensation boards

Notes:

1. Boards can use their own discretion in deciding whether to issue a rebate, and its amount.
2. Discretionary rebate if funded ratio exceeds 135% for two successive years.
3. Excess funds are used to discount premium rates.
4. Discretionary rebate if funded ratio is equal to or above 115%, mandatory rebate if funded ratio is above 125%.
5. Excess funds are used to discount premium rates.
6. In 2020, the board eliminated the unfunded liability, going forward the aim is to develop funding parameters (i.e. upper and lower thresholds).
7. If funded ratio is between 125% and 140%, the board will adjust annual revenue requirements, based on assessment rate adjustments.
8. Premium rate reduction if funded ratio is greater than 120%, but less than 140%.

Surplus Rebates Preferred Over Premium Reductions

Since small businesses typically operate on small margins and highly competitive markets, the practice of surplus rebates for employers is not only fitting, but a preferred option. For business owners surplus rebates would allow the immediate and effective use of funds inside their business to use in their Covid-19 recovery efforts — particularly as only 40% of businesses have returned to normal sales, 65% report holding debt at an average of $158,000 per business, and 90% of businesses are facing significant impacts from rising prices (e.g. fuel, inputs, insurance).[2,3] Business owners could also use the funds to reinvest in technology and health and safety protections, and to create jobs.

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[1] Legislative Assembly of Ontario, Bill 27, Working for Workers Act, 2021. Retrieved: March 9, 2022. https://www.ola.org/en/legislative-business/bills/parliament-42/session-2/bill-27#BK8

[2] Your Voice – April 2022: An online survey completed by 2,886 CFIB members between April 8-22, 2022.

[3] Your Voice – January 2022: An online survey completed by 5,630 CFIB members between January 18-27, 2022.

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Rebates are also preferrable as the money goes back to those businesses that have paid into the fund whereas a reduction in premiums uses excess funds to reduce costs for businesses which have yet to pay into the system.

Potential Rebates for 2022

To illustrate the potential gains of rebates to employers nationally, Table 2 shows that if over-funded boards were to return all funds accumulated beyond the upper bound of their target ratio at the end of 2020, the total potential rebate to employers would translate into nearly $5.6 billion.[4] At a regional level, the highest rebates would occur in British Columbia ($2.9 billion), Manitoba ($185 million), Ontario ($1.8 billion), Quebec ($615 million), Prince Edward Island ($49 million), Newfoundland and Labrador ($59 million), and the Yukon ($3 million). Further to this analysis, Table 2 also shows that if rebates are provided for funds equal to or above 115% across all boards (Ontario's discretionary rebate funding ratio), the total potential rebate would total $7.3 billion — with the highest regional rebate in British Columbia at nearly $5 billion.

Table 2

Potential Total Rebate for 2022, Over-funded Boards Only, by Jurisdiction[1]

	Funding ratio at year-end 2020 — %[2]	Difference between total assets and total liabilities at year-end 2020 — $ million[3]	Upper limit of funding ratio %	Potential total rebate at upper limit of funding ratio — $ million	Potential total rebate at 115% — $ million
YT	132%	$60	Above 129%	$3	$32
BC	153%	$6,949	Above 130%	$2,896	$4,998
MB	144%	$638	Above 130%	$185	$419
ON	120%	$6,428[4]	Above 114%	$1,774	$1,774
QC	115%	$2,452	Above 110%	$615	na
PEI	155%	$92	Above 125%	$49	$67
NL	126%	$331	Above 120%	$59	$136
CAN	126%	$16,949	na	$5,577	$7,331

Sources and notes:

1. Only boards with funding positions that are beyond the upper bound of their target funding (overfunded) are included.
2. Ratio of total assets over total liabilities.
3. CFIB calculation, may not sum to total due to rounding.
4. Based on third quarter 2021 sufficiency ratio.

It is important to note that some provinces have recently moved to rebate some, though not all, of the excess funds from 2020 — including Ontario ($1.5 billion rebated in 2022)[5], Manitoba ($95 million rebated in 2022)[6], and Prince Edward Island ($25 million rebated in 2021)[7] (see Table 2). Other notable recent rebates based on funding positions prior to 2020 include the Yukon ($10 million rebated in 2021)[8,9], Alberta ($355 million in 2017)[10], and Saskatchewan ($218 million in 2016)[11].

[4] Ontario's funding ratio is based on third quarter 2021 sufficiency ratio.
[5] WSIB. *Surplus rebate for businesses*. Accessed, March 23, 2022. https://www.wsib.ca/en/rebate
[6] WCB Manitoba. *WCB Distributes $95 Million in Surplus Funds to Manitoba Employers*. Accessed, April 22, 2022. https://www.wcb.mb.ca/wcb-distributes-95-million-in-surplus-funds-to-manitoba-employers
[7] WCB PEI. *Workers Compensation Board of PEI announces 2022 Rates and Surplus Distribution to Employers*. Accessed, March 22, 2022. http://www.wcb.pe.ca/Information/NewsItem/544
[8] At the end of 2019, the Compensation Fund's funded position was 141 percent.
[9] Yukon Government. *YWCHSB delivers $10-million rebate to employers*. Accessed, March 22, 2022. https://www.wcb.yk.ca/web-0074/web-0077/news-0109
[10] WCB Alberta. *Fact Sheet Employers: Funding distribution*. Accessed, March 23, 2022. https://wcb.ab.ca/assets/pdfs/employers/EFS-Funding-distribution.pdf
[11] WCBSask. *2016 surplus distribution*. Accessed, March 23, 2022. https://www.wcbsask.com/2016-surplus-distribution

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Potential rebates per employee

A breakdown of potential rebates per employee shows that the highest rebates would take place in British Columbia ($1,238), Prince Edward Island ($637), Manitoba ($391), Ontario ($337), Newfoundland and Labrador ($275) and Quebec ($162) — see Table 3. For a business with five employees, the potential rebates could be in the thousands of dollars — British Columbia ($6,189), Prince Edwards Island ($3,185), Manitoba ($1,956), Ontario ($1,683), Newfoundland and Labrador ($1,374), the Yukon ($644), and Quebec ($809). It is important to note that surplus rebates would not be limited to the private sector but would include public sector employers subject to workers' compensation.

Table 3

Potential Rebates to Employers for 2022, Over-funded Boards Only, by jurisdiction[1]

	Potential rebate for an employer with one employee [2]	Potential rebate for an employer with five employees [3]
YT	$129	$644
BC	$1,238	$6,189
MB	$391	$1,956
ON	$337	$1,683
QC	$162	$809
PEI	$637	$3,185
NL	$275	$1,374
CAN	$458	$2,288

Source: Workers' compensation boards

Notes:

1. Only boards with funding positions that are beyond the upper bound of their target funding (overfunded) are included.
2. CFIB calculation based on covered workers in 2020. Amount shown is an average, and assumes all premiums are equal. Actual rebate will depend on industry classification of employees, among other criteria.
3. For illustration purposes. A typical small business has 5 employees.

Conclusion and Recommendations

For the benefit of both employers and employees, it is critical that workers' compensation insurance operates effectively and with reasonable costs. Further, boards should ensure that their financial obligations associated with payment of current and future worker's benefits are met, but they should not be overly cautious and accumulate larger surpluses that can be put to better use by businesses. For this purpose CFIB offers the following recommendations for workers' compensation boards:

- Lower employer premiums or rebate surplus funds to employers, if funding ratio exceeds its target funding, with a stronger preference for a rebate to eligible employers.
- Legislate surplus distribution policies.
- Implement mandatory distribution policies.

About Marvin Cruz

Marvin Cruz is the Director of Research for the Canadian Federation of Independent Business (CFIB) in Toronto. Since joining CFIB in 2000, he has prepared reports on a wide range of topics including taxation, workers' compensation, and red tape. He is a graduate of the University of Toronto with a bachelor's degree — majoring in Economics.

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