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**Defending Workers' Rights to Compensation  
for Injuries and Illness**

## **Ontario Bill 27 -- A Scheme to Pay the Rich with Money Stolen from Workers**



- **Injured Workers Community Legal Clinic Submission on Bill 27**
- **Occupational Disease Reform Alliance Launched**

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## **Ontario Bill 27 -- A Scheme to Pay the Rich with Money Stolen from Workers**

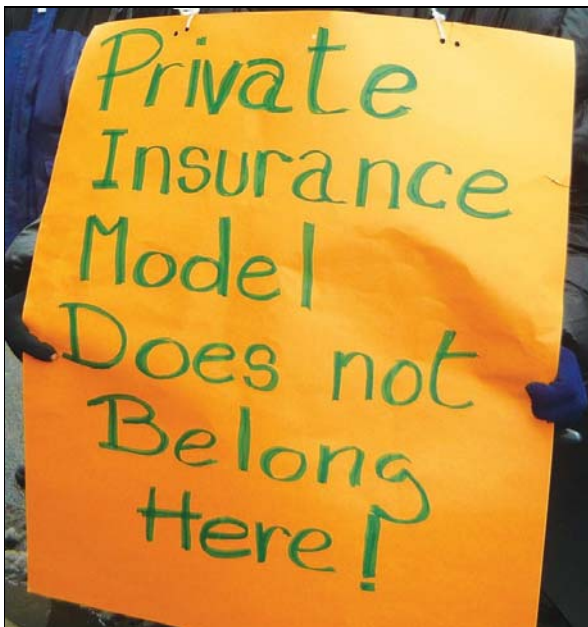
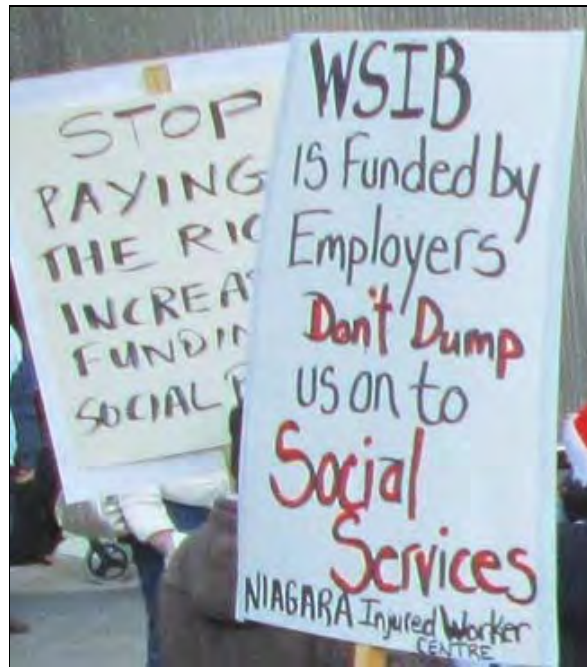
The *Working for Workers Act, 2021* was tabled in the Ontario legislature on October 25 by the Minister of Labour, Training and Skills Development, Monte McNaughton. The bill amends six pieces of legislation, including the *Workplace Safety and Insurance Act, 1997*. It has passed second reading, study by the Standing Committee on Social Policy, and is now going to third reading.

The major change proposed to the *Workplace Safety and Insurance Act, 1997* has to do with including in the Act a requirement that the Workplace Safety and Insurance Board (WSIB) pay out any "surplus" funds to employers when the fund reaches 125 percent of

"full funding" with discretion to pay out funds when the fund reaches 115 per cent. In debate in the legislature the Minister also announced that in 2022 the WSIB is reducing workplace premiums by \$168 million, "another tax cut for safe employers across Ontario" and that "premium rates have now dropped more than 50 per cent since we formed government, leaving more than \$2.4 billion in local economies across Ontario."

Injured workers, advocacy groups, unions and the Ontario Federation of Labour made submissions to the WSIB in August during a short "consultation" period. They have all denounced the plan and outlined their reasons and their demands for restitution for injured workers.

This change is another scheme to pay the rich with funds stolen from injured workers. The "surplus" in the insurance fund is the result of cuts to services, rehabilitation, and compensation to injured workers that has been going on for years. An all-out attack on injured workers was launched by the Mike Harris government's anti-social offensive in the mid-1990s under the hoax of eliminating "job killing" social measures and putting all society's assets at the disposal of the rich who were fraudulently called creators of social wealth. Successive governments have implemented cuts to compensation and other measures that deprive injured workers of benefits. The extent of the theft is so massive that the target of "full funding" which was to be reached by 2027 has now been surpassed, resulting in the "surplus."



The initial justification for the cuts to workers' compensation was the fraudulent claim that the WSIB could not operate with an "unfunded liability." The promise was made that when the unfunded liability was eliminated by the severe cuts to compensation for workers those cuts would be reversed. Not only has this not happened but the amendments in Bill 27 would make the theft of those funds permanent with the current and all future "surpluses" achieved on the backs of workers paid out to employers.

This is part of what Minister McNaughton said in the legislature on November 1 in debate on the bill:

"The WSIB is North America's third-largest insurance company. They have revenues of approximately \$4 billion from premiums paid by employers and returns from investments. Right now, the board has a surplus and is in the best financial position in its history. At the same time, main street merchants and shopkeepers are struggling to make ends meet and recover from the effects of the pandemic. This isn't fair. This money belongs to small businesses in our communities. We

are proposing to make it the law for funds to be returned to those whose premiums fund the board when the WSIB has 125 per cent of the funds they need, and we're giving the WSIB the option to return monies early when the fund is at 115 per cent."

The Minister's talk of "small businesses" and "shopkeepers and merchants" is disingenuous. The Ontario economy is not owned and controlled by small business people but by private monopolies that also control the state and its institutions. It is to them that the bulk of the so-called surplus funds will be distributed. Workers have experience of the WSIB's practice of paying rebates to employers based on "experience rating," rewarding allegedly safe employers for reduced claims, a practice that was proven by injured workers' advocacy organizations to have diverted hundreds of millions of WSIB funds into the coffers of the largest monopolies in the province, sometimes the same year that workers were killed in their facilities.



The billions of dollars "saved" by the government on the backs of injured workers must be repaid to them through reversal of all the cuts to compensation and ending the myriad obstacles that violate the right of workers to receive proper medical care and wage replacement at a level that allows them and their families' financial security and dignity.

*Workers' Forum* is reprinting below excerpts from a submission by the Injured Workers Community Legal Clinic to the Standing Committee on Social Policy which conducted clause by clause study of Bill 27, and the news of the formation of the Occupational Disease Reform Alliance to unite organizations fighting for justice for workers who suffer occupational diseases.



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## **Injured Workers Community Legal Clinic Submission on Bill 27**

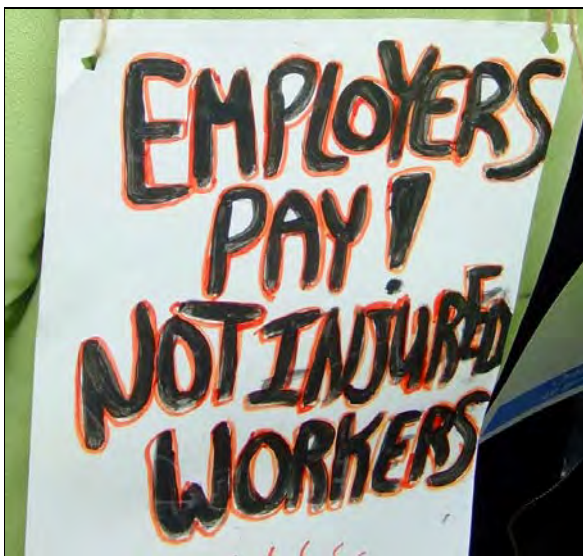
On November 17 the Injured Workers Community Legal Clinic (IWC) submitted proposals for amendments to Schedule 6 of Bill 27 which amends the *Workplace Safety and Insurance Act, 1997* to the Standing Committee on Social Policy. The proposals focus on two aspects of the proposed legislation; first, the need to prioritize restitution to injured workers from whom money was stolen to eliminate the unfunded liability, and second, the need to address the issue of claims suppression, the practice of employers of under-reporting and coercing workers into not filing claims, resulting in injured workers not being compensated and employers with high injury rates actually being designated as "safe employers" because of their low claims rate.

The IWC states:

"This Bill is doing injured workers a great disservice, and we urge the Committee to reject the portions of the Bill regarding the workers' compensation system (namely, Schedule 6), or to, at the very least, amend the Bill to include consideration of injured workers. Specific



suggested amendments to the Bill are contained within this submission. [...]



"As you know, Schedule 6 of Bill 27 proposes that when the Workplace Safety and Insurance Board (WSIB) reaches 115 per cent funding, the WSIB 'may' distribute this surplus among Schedule 1 employers, and at 125 per cent funding, this distribution would be mandatory.

"We are very concerned that the WSIB has reached levels of funding which would make the topic of surplus distribution even remotely relevant. When the government first directed the WSIB to work toward 'full funding,' it directed the WSIB to do so by 2027. The fact that the WSIB reached what it considers to be full funding by 2018 should be a matter of

deep concern rather than pride. The way that the WSIB was able to amass such a huge amount of money in the bank (approximately \$40 billion) was on the backs of injured workers. Before the government or the WSIB even consider claiming to be in a surplus position and propose paying out funds to employers, injured workers need to be provided with full and fair compensation, in compliance with their legal rights and as promised by the historic compromise and founding principles of the workers compensation system."

Under the theme "Restitution for Injured Workers" the IWC lists specific obligations to injured workers that must be met before any "surplus" can be considered legitimate, including increased rates of payment to cover loss of earnings, the elimination of deeming, proper funding for occupational disease and recognition of mental stress injuries, and others, and concludes:

"... inadequacies of the workers' compensation system need to be addressed before any 'surplus distribution' to employers is considered. It is incumbent on the WSIB to identify any gaps in services and liabilities before considering itself in a surplus position, so that those needs can be met before taking money out of the system through employer discounts. [...]

"In order to be able to address outstanding obligations and inadequacies of the system with available funds, any surplus distribution provisions must prioritize the distribution of funds to programs and services for the benefit of injured workers -- not only employers (the proposed section 97.1). Schedule 6 of Bill 27 is otherwise inexcusably one sided and pandering to employer interests and not 'working for workers' at all."

The other major issue with the proposed legislation is that the "surplus" is to be distributed to "good" employers. The Minister stated that the government's intention is to "reward safe employers." A "safe employer" is determined by "claims experience," i.e. a formula that defines "safe employers" as those with a low number of claims filed by workers who have been injured or made ill on the job. The WCI points out that "Employers pay premiums based on their cost experience, but if they coerce their workers not to claim or reduce compensations costs, bad actors win."

Injured workers advocacy groups have long reported that claims suppression and under-reporting, including misrepresenting the circumstances surrounding a workplace injury, are serious issues. They point out that although this is difficult to measure, A 2013 Report

commissioned by the WSIB indicated that "20 per cent is a plausible estimate of the proportion of likely compensable, work-related injuries or illnesses for which workers do not submit claims," that other studies (including very recent ones) have suggested that workplace injuries are under-reported in the range of 40-60 per cent, and that the current rate setting system does not address (and in fact unintentionally encourages) the problem of claims suppression and under-reporting.

The WCI proposes several changes to the legislation which would require that the Board prioritize injured workers, eliminate deeming, use any funds over and above those used to compensate workers for improvement in health and safety in workplaces, and ensure sufficient workplace audits every year to stop under-reporting and claim suppression.

In the conclusion of their submission the WCI once again argues that injured workers' benefits have been reduced by billions of dollars in the name of addressing the unfunded liability, and for reparations and ensuring proper benefits for injured workers. They say, "We, as a society, should not be engaging in an exercise of balancing corporate profit against full compensation for injured workers. In order to avoid helping businesses at the expense of injured workers, the proposed legislation needs to be amended to include the need to consult stakeholders on outstanding inadequacies of the system before allocating available funds, and potential allocations need to be allowed and prioritized for programs and services that benefit injured workers."

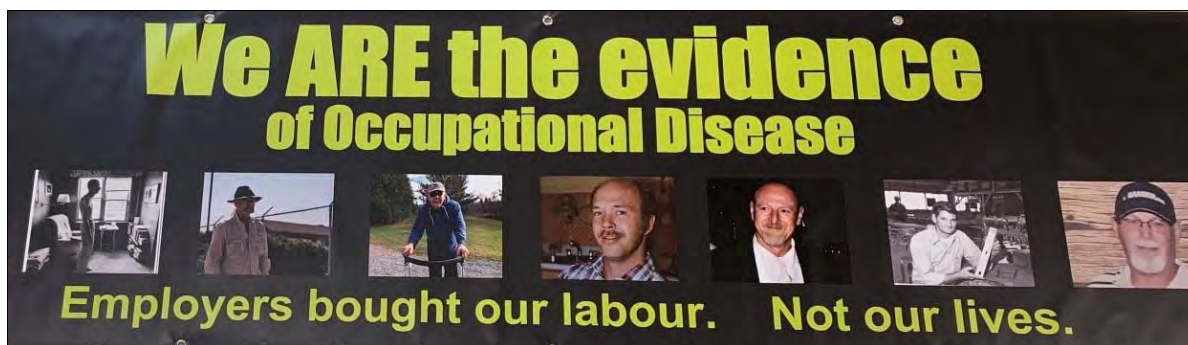


To read the full submission [click here](#).



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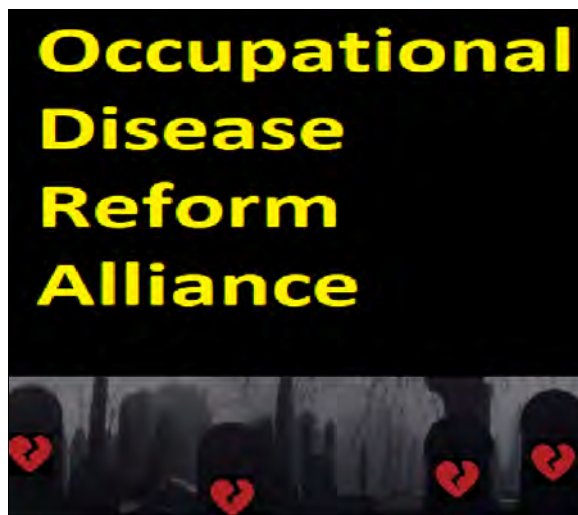
## Occupational Disease Reform Alliance Launched



Ontario workers and families of workers who are suffering from or have died from occupational diseases launched an important initiative in their fight for justice. On October 29 the formation of the Occupational Disease Reform Alliance (ODRA) was announced at

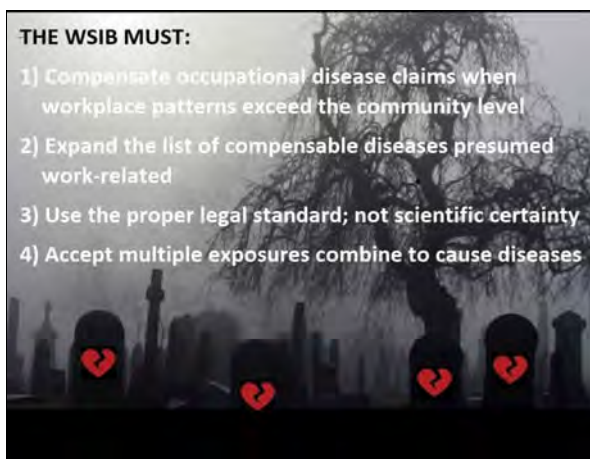
a press conference hosted by NDP MPP Wayne Gates. Speakers at the press conference included Sue James, former Peterborough GE worker, and two widows of workers who have died of occupational diseases, Jean Simpson, whose husband worked at Fiberglass Sarnia for 36 years, and Sara Sharpe, whose husband worked at GE Peterborough for 42 years.

The ODRA is composed of occupational disease victims and family members from various disease clusters across Ontario, including Peterborough, Sarnia, Sudbury, Thunder Bay, Dryden, Kitchener-Waterloo and Sault Ste. Marie. Included in the sources of the occupational disease clusters are Peterborough GE, McIntyre Powder aluminum dust, Kitchener rubber workers, Sarnia victims of Chemical Valley, Dryden Pulpmill, Ventra/Pebra Plastics in Peterborough, Neelon Castings in Sudbury and Sault Ste. Marie steel mills.



The ODRA brings together into one single advocacy coalition groups that have been fighting for decades to get the Ministry of Labour and the Workplace Safety and Insurance Board (WSIB) to acknowledge their workplace diseases and compensate them.

At the press conference Sue James, chair of the ODRA said "Our communities from across Ontario are wrapped in a shroud of despair, grief and suffering. Minister, you know exactly who we are, we have reached out to you before, through letters and emails. You know our suffering and loss and yet you do nothing. It saddens me that you have ignored the families who have been seeking justice for their loved ones and the workers who continue to get ill and die. ...The time is long since passed for this to be corrected and we are calling on you and holding you to account and responsible for the many wrongs inflicted on these workers and families. The Occupational Disease Reform Alliance will no longer be silenced."



The ODRA is making four demands of the Ford government that will bring justice for workers and their families trying to access WSIB benefits for occupational diseases. These demands are: granting entitlement for diseases when they are more prevalent among workers than in the community, not using unreasonable standards to make decisions about supporting sick workers, creating a presumption of work-relatedness for certain cancers, and requiring WSIB to recognize diseases caused by exposure to multiple carcinogens at once.

The Occupational Disease Reform Alliance is on [Facebook](#) and can be reached at [odreform@gmail.com](mailto:odreform@gmail.com).

An ODRA representative will join with Ontario Network of Injured Workers Groups (ONIWG), labour organizations and allies for the 30th anniversary Christmas



Holiday demonstration being held online on December 14 at 10:00 am. See ad below and watch for further information on coming events on the [cpcml.ca](http://cpcml.ca) homepage.



**DECEMBER 14th • 10am to 11:30pm**  
The ONTARIO NETWORK OF INJURED WORKERS' GROUPS  
**30th Anniversary**  
**Christmas**  
**Demonstration**  
Fighting back against more GIFTS TO EMPLOYERS  
**Join Online!** [tinyurl.com/oniwg2021](https://tinyurl.com/oniwg2021)



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