

November 2019

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RESULTS OF THE VALUE FOR MONEY AUDIT OF THE ONTARIO WORKPLACE HEALTH AND SAFETY SYSTEM

On Wednesday, December 4th, the Ontario Auditor General tabled her annual report with the Ontario Legislature. Part of her review over the past year was a value for money audit of the provincial health and safety system. Thanks to Michael Zacks of the Office of the Employer Advisor for drawing the AG's comments in this regard to our attention. Here are the AG's comments as provided by Michael:

What We Found

- Compared to other Canadian jurisdictions, Ontario has had the lowest lost-time injury rate of any province since 2009 and the second lowest fatality rate in Canada on average from 2013 to 2017. However, Ontario should not be complacent as rates have risen or levelled off in recent years.
- The Ministry's enforcement efforts are not changing the health and safety practices for many employers. We reviewed companies inspected at least three times during the past six fiscal years, and found that many of these companies were issued orders for violations and contraventions related to the same type of hazard in multiple years.
- We estimated the Ministry's system contains only 28% of all businesses in Ontario. The Ministry does not maintain an inventory of all businesses that are subject to inspection. There is no requirement for businesses to register with the Ministry and only construction projects costing \$50,000 or more are required to inform the Ministry, leaving out high-risk industries such as roofing. In 40% of fatality cases sampled from 2017 to 2018, there was no prior record of the associated business in the Ministry's system. Three-quarters of the cases not previously in the Ministry's system were in the construction sector.
- The Ministry uses WSIB injury data and its own

compliance data to identify high-risk hazards or workplace/worker characteristics for developing enforcement strategies. However, it does not use this data to identify, rank and select specific higher-risk workplaces for inspection, often leaving companies with the highest injury rates uninspected.

- Although almost half of the Ministry's occupational health and safety budget provides transfer payments to six health and safety associations, the Ministry assesses the performance of the associations solely on outputs and does not know how effective the associations have been at helping to prevent occupational injury and disease.
- The Ministry has not measured the effectiveness of the 2013 Healthy and Safe Ontario Workplaces Strategy.

Conclusions

- The Ministry has been successful at consistently maintaining the lowest lost-time injury rate in comparison to other provinces. Further, the rates of injury in each sector are among the lowest in the country. However, the Ministry should not become complacent with these results, as Ontario's rates have levelled off or begun to climb in recent years.
- The Ministry does not have assurance that it is identifying and inspecting all workplaces with a high risk for worker injury or illness. In addition, the Ministry's enforcement and prosecution efforts are allowing some companies to continue their poor health and safety practices.
- Training and consulting services provided by the health and safety associations, are not evaluated for their effectiveness. Therefore, the Ministry cannot ensure that it is receiving value for money from the

funding it provides to the associations for prevention activities.

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- o Chapter 1: Adult Correctional Institutions (pdf 807kb)
- o pp. 40-41 re WSIB claims in correctional institutions, in part:

From 2014 to 2018, over three-quarters (1,859) of the 2,347 Workplace Safety and Insurance Board (WSIB) claims filed by staff in the eight institutions we visited resulted in an average of 10,757 days lost per year and \$19 million in total compensation costs (see Figure 11).

Under the Workplace Safety and Insurance Act, employees who are injured or become ill as a result of

their work are entitled to benefits (for example, wage replacement, compensation for permanent injuries and health-care coverage) and services (for example, assistance with return to work). Over half of the claims were due to injuries inflicted by inmates, including through assaults (28%) and exposure to biological/chemical agents or psycho-social situations (26%). The other half were due to other workplace hazards such as slips, trips and falls.

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IMPACT OF THE CHANGE IN JOURNEYPerson TO APPRENTICE RATIOS AND APPRENTICE AND JOURNEYPerson LOWER FEES

The Chair of the Ontario College of Trades, Don Gosen, made a presentation at the recent COCAS Board of Directors and spoke generally about the current state of OCoT and the path forward to its eventual wind down. One of the more interesting facts that came out of Don's presentation was his description of the impact of the government's lowering of the Journeyperson to apprentice ratios for all trades that have ratios to one to one and the lowering of membership fees for journeypersons and apprentices. Don, being a master electrician himself, used the electrician trade as an exemplar. Here are the counts for Electrician — Construction and Maintenance (309A):

Year	Dec-Feb	Mar-May	Jun-Aug	Sep19-Oct19 23rd	Year to October 23rd
2018	888	1,115	1,076	504	3,583
2019	998	1,073	884	493	3,448
Change:	11%	-4%	-22%	-2%	-4%

It shows the changes in apprentice registrations resulting from the ratio changes to one to one and the reductions of apprentices' membership fees is not significant. There was no tsunami of pent up applicants just waiting to register for apprenticeships.

BE PREPARED FOR UPCOMING INSPECTION BLITZ

The Ministry of Labour, Training and Skills Development's next enforcement blitz will focus on personal protective equipment (PPE). The Infrastructure Health and safety Association will conduct an outreach, education and awareness campaign, to help construction employers prepare for the blitz from January 6, to March 13, 2020. Check the IHSA's website for details of their programming. Focused inspections will be conducted by Ministry inspectors from February 3 to March 13, 2020. Be forewarned and be prepared.

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MINISTER ADMITS CLIMATE CHANGE IS REAL AND CAUSED BY HUMAN ACTIVITY

Minister Greg Rickford's understanding of and belief in the reality of climate change had often been questioned because he often quoted climate science denial sources in the legislature. After being pushed, however, by NDP MPP Peter Tabuns, Rickford stated, "I believe in climate change and I believe it's as a consequence of human activity."

Has another member of the flat earth society been won over?

MINISTRY OF LABOUR, TRAINING AND SKILLS DEVELOPMENT TO FUND TRAINING FOR LAID OFF BOMBARDIER WORKERS

The Ministry of Labour, Training and Skills Development recently committed \$613,430 towards career retraining for laid-off Bombardier workers in Thunder Bay. A Bombardier Transportation Action Centre has been opened to connect unemployed workers with local job and training opportunities via Employment Ontario.

In July, Bombardier announced plans to lay off 550 workers unless it got more contracts to produce public transit vehicles. Since the announcement, Metrolinx has ordered 36 new bi-level GO train cars from Bombardier's Thunder Bay. However this order is not sufficient to stem layoffs.

Could this be an opportunity for the northwestern Ontario construction industry? Just askin

MINISTRY OF TRANSPORTATION RE-ANNOUNCES 401 WEST WIDENING

Our government seems to have a need to make good news announcements and re-announcements almost daily to win favour with the public. And simply by making these announcements and re-announcements, it's implied that they should take credit for the announced policy or initiative. Here's an example: Kinga Surma, Parliamentary Assistant to the Minister of Transportation, announced recently that the province will spend \$640 million to widen 18 kilometres of Highway 401 from Mississauga to Milton. The widening was originally announced by the former Liberal government in 2017 and construction is already underway.

PREMIERS FORD, HIGGS & MOE AGREE ON DEVELOPMENT OF MODULAR NUCLEAR REACTORS

Ontario Premier Doug Ford, New Brunswick Premier Blaine Higgs and Saskatchewan Premier Scott Moe recently signed a memorandum of understanding in which they agreed to work collaboratively together to explore the use of small modular nuclear reactors for the purpose of power generation.

According to our government's news release these small modular nuclear reactors generate clean safe power at low cost and can be deployed for both on-grid and off-grid communities.

Could these small reactors be part of the solution to our climate change challenge?

PROMPT PAYMENT AND ADJUDICATION: TOP TEN | COURTESY LDCA

Prompt Payment and Adjudication: The Top Ten List



Following the November 26, 2019 LDCA conference: The Practitioners Guide to Prompt Payment and Adjudication, the LDCA and panelists compiled the following the Top Ten items for construction participants to know to get the best out of the new provisions:

1. Ensure bid documents identify how often the contractor may render invoice, what is the proper invoice, and how invoices may be delivered.
2. At the initial project meeting ensure all parties know and understand invoicing and payment standards.
3. Document everything related to invoicing and payment, and when a dispute occurs, proactively take steps to resolve the dispute or get ready for Adjudication (don't wait for the Notice of Adjudication).
4. Know whether the Construction Lien Act or Construction Act applies to your project.
5. Ensure consultants are involved in all change orders.
6. Prompt payment and adjudication are an entirely new approach, it will take time for the industry to normalize around this new approach.
7. Adjudication is real, it's threat of use (to modify behaviour), is as important as its actual use (to penalize behaviour).
8. Long-term, effective business relationships are critical to your long-term success, weigh this before starting an adjudication.
9. Choose your adjudicator carefully and based on the core aspects of the dispute.
10. Set up your business practices and processes to be the best they can be as adjudication is a very time compressed, "rough justice" process.