

Proposed Legislation to Protect Employers Against Increased WSIB Premiums

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On December 8, 2020, the Ontario government introduced Bill 238, the *Workplace Safety and Insurance Amendment Act, 2020* (Bill 238) and carried through its first reading in the legislature.

If passed, Bill 238 would protect employers from a sudden increase in Workplace Safety and Insurance Board (WSIB) premiums in the 2021 calendar year by amending the *Workplace Safety and Insurance Act* (WSIA) to fix an annual industrial wage (AIW) for 2021 only. The AIW is an important factor in determining annual employer premiums and it typically fluctuates with the actual average industrial wage of workers in Ontario. As a result of job loss among lower wage workers in Ontario due to the COVID-19 pandemic, the average industrial wage for Ontario has increased by 7.8 per cent in 2020. This is compared to an average annual increase of two to three per cent in prior years.

Bill 238 proposes to set the AIW at a fixed amount for 2021, thus limiting the impact the increased average industrial wage has on WSIB premiums to two per cent. However, the amendments do not change how benefits to injured workers under the WSIA are calculated and thus the higher actual AIW would still be taken into account when calculating maximum earnings caps for worker benefits.

As Bill 238 has only passed first reading, it remains to be seen whether it will be enacted in its current form. However, it certainly has the potential to provide some relief for employers who are struggling to manage costs during the pandemic.

Cassels will continue to monitor and report on the progress of Bill 238.

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