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## **2007 BUDGET BRIEFING NOTE**

### **WSIB Occupational Disease Claim Liability for Fire Services**

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#### **Issue/Background:**

As described in the joint Briefing Note from Human Resources and Fire Services dated October 19, 2005, due to changes in the Changes to the Workplace Safety and Insurance Board's (WSIB's) handling of occupational disease claims adjudication involving diseases such as cardiovascular disease and cancer will result in increased approvals and subsequent cost increases to the Fire Services budget. A private member's bill in second reading debate gained unanimous support from all MPPs in early October. Employers anticipate that changes to potential WSIB liabilities will lead to increased costs.

#### **Key Points:**

- Fire Services' liability is determined by when the claim was filed. Claims prior to amalgamation were charged to former municipalities / non-program accounts.
- The total current estimated liability for Fire Services, for both settled and potential settlements, is \$12.290 million in retroactive claims payments.
- The current amount of settled claims that Fire Services would be liable for is 20.
- The current estimated amount of claims already absorbed within the Fire Services Operating Budget is \$1.4 million.
- Current estimates of outstanding payments for recently settled claims could possibly add a further \$3.3 million in 2007. 3rd quarter variance estimates may adjust this to \$2.5 million.
- 34 further potential claims, not yet settled, have been estimated at \$7.7 million.
- It is not yet clear as to when these charges may appear against the operating accounts.
- There are also further annual costs of \$0.823 million annually in estimated ongoing monthly pension benefit payments for remaining active claimants.
- Any new claims to be opened beyond the 54 identified will also be charged to Fire Services and may include claims dating to occurrence prior to amalgamation.

**Conclusion:**

It is proposed that, pending further visibility on the timing of actual cash flows, the cost of WSIB Occupational Disease Claims Settlements incurred by Fire Services be offset on a diminishing basis over three years starting in 2006/2007 by transfers from the Employee /Retiree Benefits Reserve Fund.

**Attachment:**

Briefing Note : Occupational Disease Claim Liability for Fire Services (October 19, 2005)

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**Prepared by:** Brian Tagg, Senior Financial Planning Analyst, (416) 392-5377

**Contact for further information:** John Di Lallo, Manager, Financial Planning, (416) 397-4207

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**Attachment:**



William A. Stewart  
Fire Chief

Toronto Fire Services  
4330 Dufferin St.  
Toronto, Ontario M3H 5R9

Tel: (416) 338-9061  
Fax: (416) 338-9060

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## **BRIEFING NOTE**

### **Occupational Disease Claim Liability for Fire Services**

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**Issue/Background:**

Recent changes to the Workplace Safety and Insurance Board's (WSIB's) handling of occupational disease claims adjudication will result in increased approvals and a consequent pressure on Fire Services budget.

The Workplace Safety and Insurance Board's (WSIB's) Board of Directors recently approved the Final Report of the Chair of the Occupational Disease Advisory Panel. The WSIB announced that the intent of this report is to provide for solid and clear, fair and consistent occupational disease policy making and claims adjudication. The WSIB also recently released its protocol for future occupational disease policy development and claims adjudication. The employer community anticipates that these recent WSIB activities will result in increased approvals of occupational disease claims and resulting increased WSIB costs. While this increase may impact to some degree a number of City service areas, the most significant impact is likely to be on Fire Services. A number of linkages have already been made and others are currently being studied with respect to occupational diseases and the occupation of fire fighting.

Given the above, it was recommended by Human resources that consideration of the likely costs of future occupational disease claims should be addressed during the current budgetary planning process.

**Key Points:**

- In 1994, Ontario's Industrial Disease Standards Panel in its "Report to the Workers' Compensation Board on Cardiovascular Disease and Cancer Among Fire Fighters" recommended to the WSIB that a strong correlation be recognized between certain diseases (namely brain cancer, lymphatic and haematopoietic cancers, atherosclerosis that results in aortic aneurysm) and the occupation of fire fighting. By 1997, the WSIB had developed policy on brain cancer and lymphoid leukemia in fire fighters that recognized the strong correlation between these diseases and fire fighting. Subsequently, 80% of City fire fighter brain cancer claims have been approved and the single leukemia claim has also been approved. Other cancer

types that have been recognized by the WSIB as associated with fire fighting, as evidenced by approval of claims, include non-Hodgkin's lymphoma, lung, renal cell, kidney and bladder.

- Twenty City of Toronto fire fighter cancer claims were approved by the WSIB from 1999-2004. These claims have cost approximately \$3,600,000.00 to date. Although these claims were initiated after amalgamation and after the City's new firm number was established, many of these claims were filed by retired fire fighters or their families and were opened by the WSIB under the firm numbers of the fire fighters' predecessor municipalities. Consequently, the costs were paid from non-program accounts, rather than through direct charge back of costs to Fire Services cost centres.
- The WSIB has advised that they will not open any future claims, even for fire fighters that retired prior to amalgamation, under old firm numbers. All occupational disease claims will be charged to the City's current firm number, within which Finance directly charges back the costs to City divisions. Consequently, costs of these future fire fighter occupational cancer claims will be charged back directly to Fire Services.
- The number of occupational disease claims filed by fire fighters or their families is increasing. 27% of the fire fighter cancer claims registered with the WSIB between 1999 and the present have been registered since January 1, 2005. This pattern is to be expected, given the increased awareness of fire fighters that many occupational diseases are now compensable.
- Thirty-six Fire Services occupational disease claims are pending a WSIB decision, as of June 2005. Many of these claims are pending, rather than approved or denied, because a clear protocol for their adjudication did not exist. That protocol has now been established by the WSIB. It is anticipated that these claims will now be adjudicated and a percentage of them will undoubtedly be approved. Previously denied occupational disease claims will also be reviewed, if requested. Until we are able to evaluate how the WSIB interprets and applies its new protocol, it is not possible to estimate the percentage of claims that will be approved or the speed with which these claims will be adjudicated. However, based on recent adjudication decisions by the WSIB's Occupational Disease and Survivor Benefits Branch, it is anticipated that occupational diseases not previously recognized by the WSIB may well now be approved.
- It is likely that future WSIB policies, arising out of the Report of the Chair of the Occupational Disease Advisory Panel, will lead to increased recognition and acceptance of occupational disease claims, including cancers in firefighters. Prior to recent WSIB activities, recognition of occupational diseases was a slow process, given that scheduling of new diseases could only be completed in conjunction with amendments to the Workplace Safety and Insurance Act.

#### **Conclusion:**

- There are 36 pending claims that if awarded will be paid out under new firm numbers at a potential cost \$6.48 million (assuming \$180,000.00 on average, reflecting the \$3.6 million paid out on 20 claims for settlements to date).

- Since it was determined that the post-amalgamation new firm numbers would be funded through program budgets, this funding would become a budget pressure for Fire Services in 2006 and beyond.
- It is recommended that contributions to fund the liability resulting from W.S.I.B. occupational disease claim adjudication be set up beginning in the 2006 budget process in either Fire Services or a non-program account budget.

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**Contact:** William A. Stewart, Fire Chief, Phone: (416) 338-9061, Fax: (416) 338-9060,  
wstewart@toronto.ca

**Prepared by & Further Information:**

Cindy O'Brien, Manager, Occupational Health, Safety and Workers' Compensation (416) 392-5021

Maureen Easby, Senior WSI Consultant, (416) 392-5013

Les Hamilton, Senior Budget Analyst - Fire Services, (416) 338-9190

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