

2011 Municipal Insurance Survey Results

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Association of Municipalities of Ontario



Executive Summary

- 1) Municipalities are spending a lot of money on insurance; these costs are only going up.
- 2) There are ways to help lower those costs which municipalities need to explore.
- 3) One of those ways needs to be reforming the *Negligence Act* so the cards aren't as stacked up against municipalities as they are today.
- 4) Ontario property taxpayers deserve greater equity in liability law and lower insurance premiums.



A developing crisis

- The insurance story began with some of the headlines on the following slides.
- The second headline is a story regarding a \$12.8 M lawsuit launched against the City of Windsor for not having a sidewalk on both sides of a quiet residential street.



THE WINDSOR STAR

Soaring insurance rates stun Essex

Rising judgments cited

Gary Rennie, *The Windsor Star*

Published: Tuesday, December 21, 2010

Shocked councillors were looking for answers Monday after learning the town's municipal liability insurance premium could go up 70 per cent, and overall premiums up by 41 per cent in 2011.

"This is going to be pretty tough to explain to a ratepayer," said Coun. John Scott. "We're against the wall here," said. Coun. Bill Baker.

The annual premium bill from the Frank Cowan Co. could jump from \$484,981 to \$687,168 -- enough to trigger a more than one per cent tax increase in Essex.



Claims drain municipal coffers

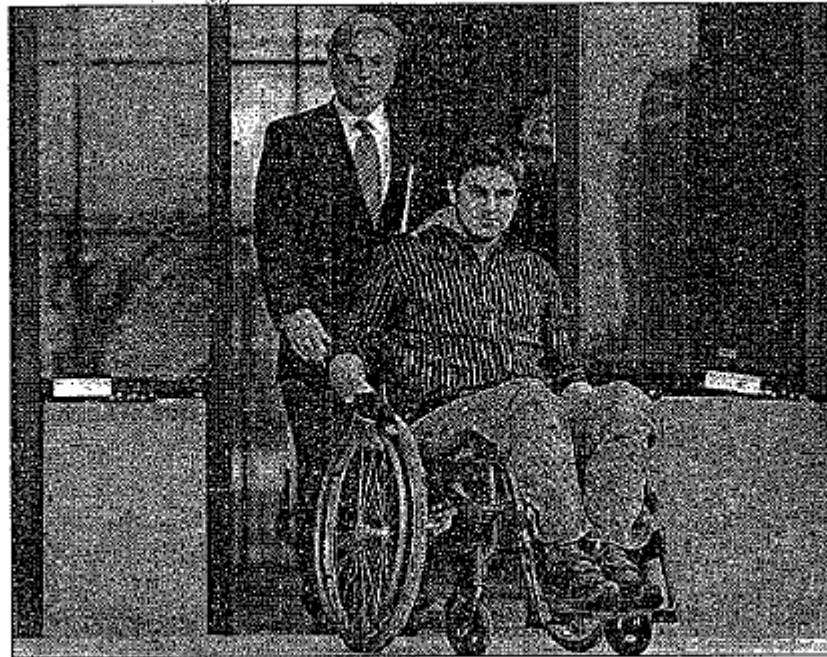
Injury lawsuits driving up insurance costs

GARY RENNIE
The Windsor Star

Essex County politicians say lawsuits are driving municipal insurance premiums through the roof as accident victims seek out defendants with "deeper pockets."

In Windsor, for example, an ongoing injury claim has landed the city in the crosshairs of a \$12.8-million lawsuit.

The lawsuit was filed by Mohammed Abed, 19, who was only weeks away from entering



Windsor Star files

Mohammed Abed, who was badly injured in a hit-and-run accident, exits court in April during driver Michael Dorakofski's trial.

suspension. The accident left end road where the hit-and-run

increases anticipated by the City of Windsor.

Gary Henry, the city's risk management supervisor, said the city is aware of the trend of increasing costs for both insurance premiums and claims management.

While currently insured by OMEX, a recommendation will be going to city council soon to issue a request for proposals for insurance and risk management services, Henry said.

Henry thought Windsor's recent experience didn't show "a significant trend of an increasing number of claims."

The driver who struck Abed, Michael Dorakofski, pleaded guilty in Superior Court in April to criminal negligence causing bodily harm, plus theft and breach of probation.

Dorakofski driver's licence had been suspended for unpaid



Insurance premiums affect tax rates

CONTINUED FROM A1

Given Dorakofski's admissions in criminal court how does the City of Windsor end up as one of the defendants in the civil lawsuit?

Abed's lawyer Greg Monforton said Greenpark Boulevard has sidewalks on only one side of the road.

When Abed stepped off the curb in the early morning of Aug. 25, 2007, he was trying to reach the sidewalk on the other side of the road, Monforton said.

The firm's analysis of the city's own development standards and traffic patterns suggested Greenpark Boulevard should have had sidewalks on both sides of the road, Monforton says.

If the city is found even one per cent liable in the accident, it could be on the hook for much of the \$12.8-million claim if other parties also found responsible can't pay their share.

"We consider the City of Windsor to be a significant defendant," Monforton said.

Had a sidewalk been there, Abed wouldn't have crossed the

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third of the total hike in some cases.

In debating the issue Wednesday county politicians vowed to

If multiple parties are sued and one ends up being a municipality with as little as one per cent liability, it's good public policy that they should make up the difference in what the other parties can't afford to pay, Monforton says.

per cent tax hike.

Premium increases are mostly because of personal injury and property damage claims in

ment programs, Boyle said.

The non-profit OMEX, based in Markham, got its start after the last liability insurance cri-

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responsible for claims. The biggest complaint is over how those with "deeper pockets" can be forced to pay extra if co-defendants in a claim can't come up with their share of an award.

Monforton and other local lawyers say they're heard the arguments being raised against "joint and several liability" before and aren't impressed.

"Responsibility is responsibility," says Windsor lawyer Claudio Martini.

Whether a party sued is partially or wholly responsible, it's more important that the person injured is compensated as fully as possible, Martini says.

If multiple parties are sued and one ends up being a municipality with as little as one per cent liability, it's good public policy that they should make up the difference in what the other parties can't afford to pay, Monforton says.

"The law is meant to protect those who are innocently injured," said Monforton. Damage awards to victims are meant to restore, as much as possible, their lives to what they enjoyed before the accident occurred, he said.

Holding municipalities



Public policy at what cost?

- Municipalities are the targets of litigation when other defendants cannot pay high damage awards. As stipulated in law, a fraction of fault can cost a municipality millions. This is known as joint and several liability.
- Just how much is this public policy costing municipalities and property taxpayers?
- AMO conducted a survey of municipalities to find out.



Survey Objectives

- Inform our advocacy efforts with the province
- Provide municipal members with a province-wide insurance snapshot.
 - Are insurance premiums increasing?
 - If so, what types of premiums are increasing the most?
 - Can we quantify (in part at least) some of the costs associated with the public policy of joint and several liability?



Methodology - overview

- AMO polled all 444 municipalities and received a total of 135 responses representing approximately 50% of the Ontario population.
- AMO hired a statistical consultant to calculate the province-wide weighted results.



Province Wide Totals

Insurance Costs (weighted results for all municipalities)	2011
Automobile	\$ 32.3 million
Property	\$ 33.9 million
Liability	\$ 85.5 million
TOTAL COST of all municipal insurance premiums (including above and other coverage)	\$155.2 million



Is this the total cost of municipal liability?

- It is merely the tip of the liability iceberg.
- The City of Toronto for example spends \$14 million annually just on legal fees for civil litigation.



Other liability costs include:

- Municipal legal fees and civil litigation costs
- Provincial Sales Tax on premiums
- Insurance deductible expenses and self insurance
- Cost of out-of-court settlements
- Court mandated awards
- Risk management staff and expenses



How does that total compare?

- More than annual municipal spending on:
 - Maintaining bridges and culverts (\$125 M in 2009);
 - Ontario Works administration and employment assistance benefits (\$128 M in 2010);
 - Conservation Authorities (\$109 M in 2009)
 - Street lighting (\$145 M in 2009);
 - Similar to administering *POA* fines and *POA* courts (\$157 M in 2009).



Growth of Costs

Insurance Costs (weighted results for all municipalities)	2007 - 2011
Automobile	Up 21.2%
Property	Up 16%
Liability	Up 22.2%
TOTAL COST of all municipal insurance premiums (including above and other coverage)	Up 20.8%



Insurance Costs Per Capita

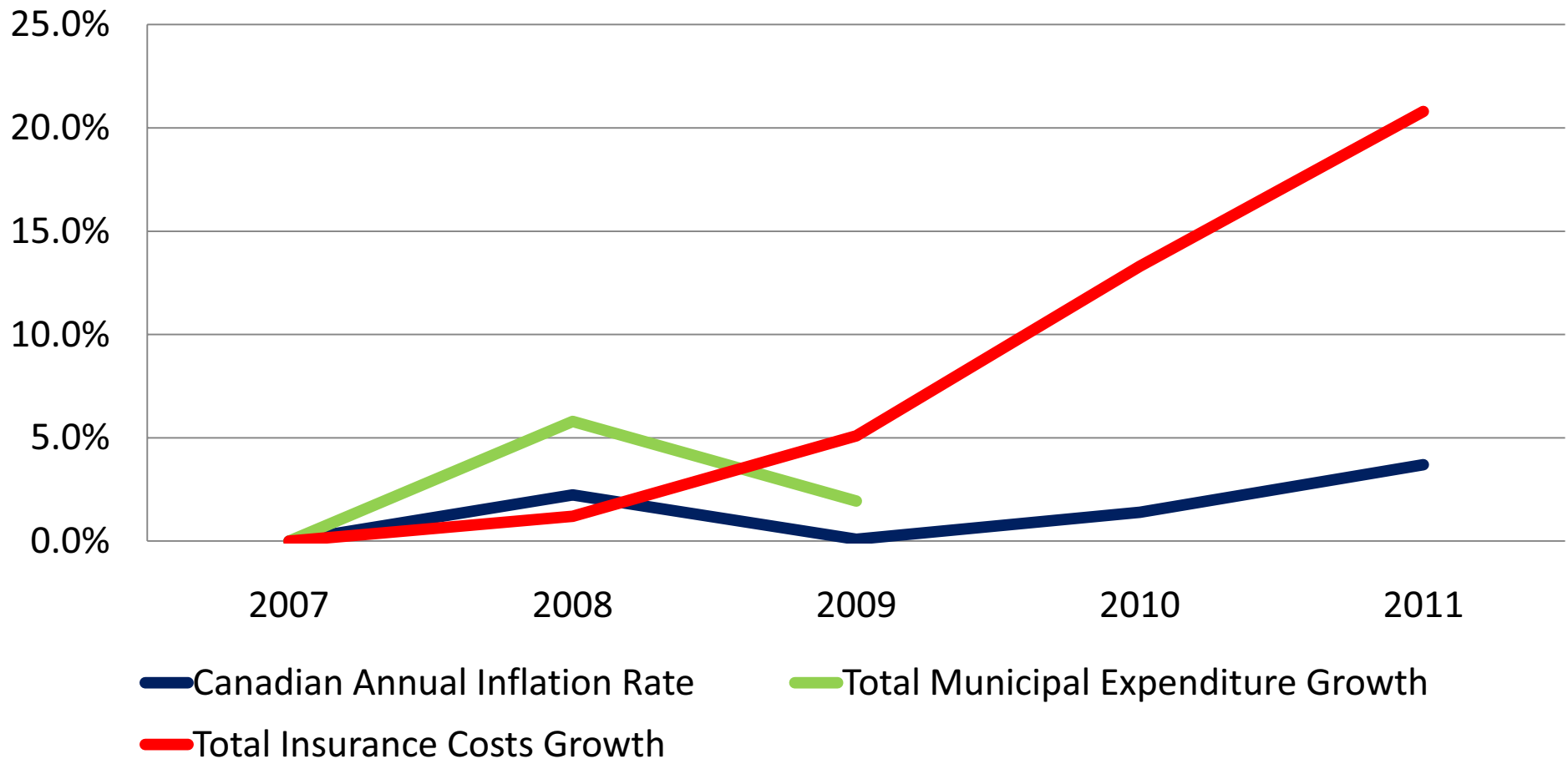
Size of Municipality	Total Insurance Costs Per Capita for 2011
Small (1-9,999)	\$37.56
Medium (10,000-74,999)	\$19.46
Large (75,000+)	\$7.71

For 10 municipalities, insurance expenses exceed their OMPF allocations.



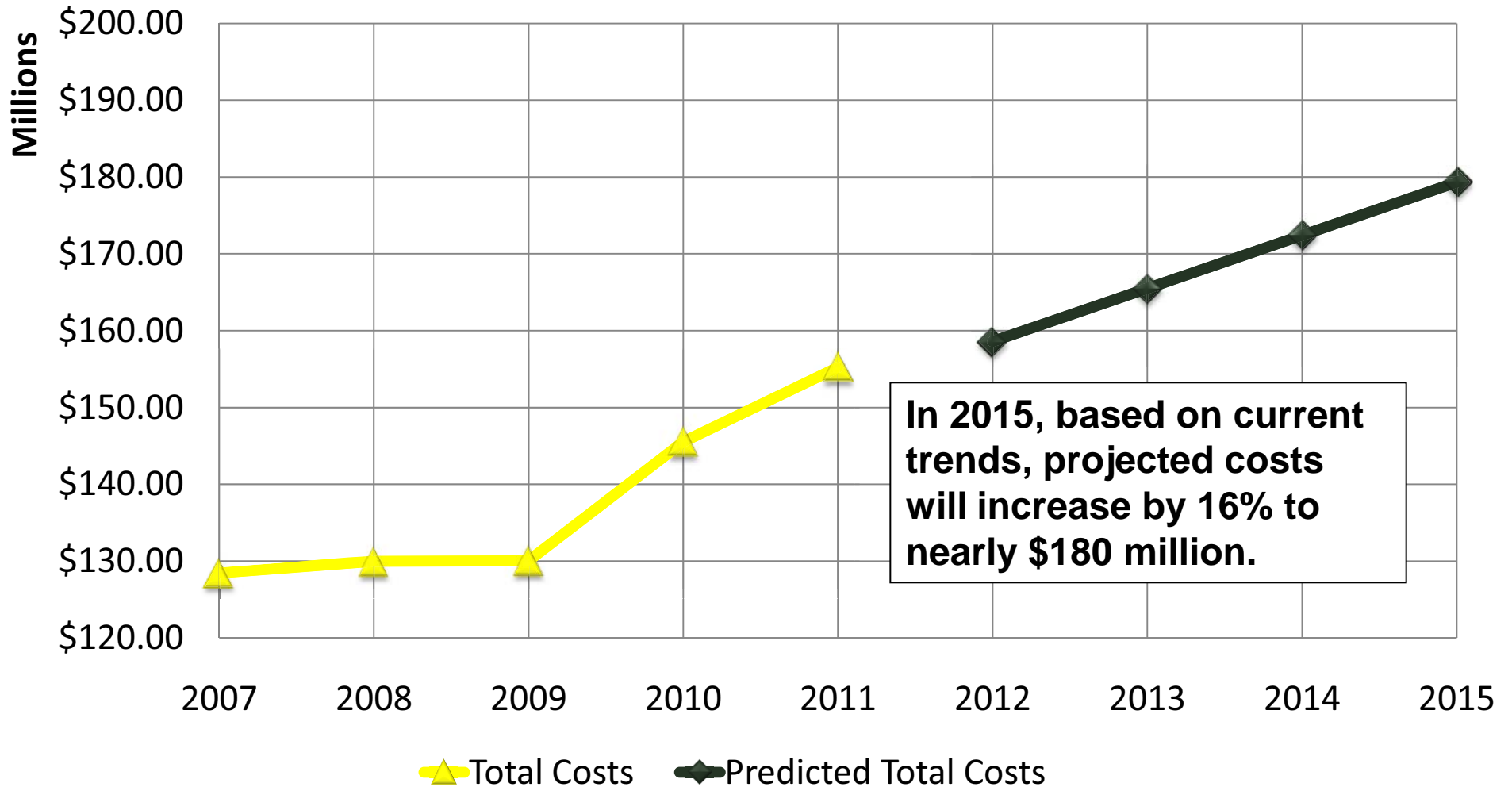
Growth Comparison

Costs of Insurance vs. Inflation vs. Municipal Expenditures



Future Costs of Insurance

Projected Future Growth



Who pays?

- Consider the tax bill of an average family of five, living in a modest home, in a small community. Their annual tax bill is \$3,010. Fully \$200 of their tax dollars are being used for municipal insurance coverage.
- This is the case for too many property taxpayers; particularly Ontarians living in the rural and northern communities.



There are better spending options

- There have been too many headlines of tragic summer drownings in Ontario lakes, rivers and pools this year.
- Many of these deaths would be avoidable if every child in this province had basic water safety skills.
- It should give us pause to consider what we can do about that.



There are better public policy options

- Would investments in water safety skills be a more effective use of taxpayer dollars compared to high insurance premiums?
- Attention to improving water safety skills is a practical and effective way to reduce drownings, have safer communities, and grow stronger healthier children.
- This would be better public policy. Ontario municipalities deserve greater equity in liability law and lower insurance premiums.



Joint and Several Liability

- Ontario needs to address the inequity for “deep pocket” property taxpayers.
- The time is now to explore options like proportionate liability as many other common law jurisdictions have done.
- The example on the next page illustrates the nature of the joint and several liability problem.



An eastern Ontario township accident

- Resulted in a catastrophic brain injury. This is each party's contribution to damages:

The Driver	The Township
SPEEDING	CONSTRUCTION SIGN POORLY POSITIONED
NO SEAT BELTS	
IMPAIRED	
\$2.67 million	\$6.72 million

What to do about premiums?

- 1. See how your premiums compare.** Look at the results for a similar sized community included in AMO's survey results. This is not a perfect comparison - it doesn't account for claims history, different facilities, or types of roads in your community. However is a starting point to get a better understanding of your municipal insurance.



What to do about premiums?

2. Consider increasing deductibles. Deductibles have been unchanged for five years. Raising them would mean your municipality will be responsible for managing a greater degree of risk, but discuss this with your insurance provider. Insurance tends to be cheaper at the top end than it is at the bottom end. Also, municipalities don't pay PST on deductibles.



What to do about premiums?

3. Review the dollar limits of your liability

coverage. Insurance companies have been saying for a number of years that increasing claim awards and frequency are driving up premiums. Municipal coverage limits however have remained largely unchanged for five years. Talk to your insurance provider.



What to do about premiums?

4. Continue to manage risk. A municipality should always avoid claims. Do some of the smart things that can be done to lower the risk. Sadly, this sometimes means tough decisions to reduce or eliminate services. LAS's website contains many risk management tools. In addition, have a good understanding of your municipality's claim history.



What to do about premiums?

5. Advocate for joint and several liability

reform. AMO's joint and several liability paper provides good background information on the law. It also lists many of the service reductions municipalities have made in response. Talk with your local MPP and your community regarding the need for reform.



The bottom line

- Rising municipal taxes and service withdrawals were the impetus for liability reform in the United States, Australia, and other countries.
- Ontario municipalities are facing these challenges today.
- Ontario property taxpayers deserve greater equity in liability law and lower insurance premiums.



For more information

- Contact Matthew Wilson, Senior Policy Advisor, AMO at mwilson@amo.on.ca or 416-971-9856 extension 323.
- [AMO's Liability Reform Paper and risk management tools](#)
- [Insurance Survey Results by Population](#)

