

**House Insurance Committee**  
**March 14, 2017**  
**HB 27**

Chairman Brinkman and Members of the Insurance Committee

We (the Ohio AFL-CIO, OAJ and OACC) have been provided a copy of the Memorandum the BWC has provided you in support of the “HB 27 Amendment to R.C. 4123.57.” We would note that the BWC did not provide us with a copy of this memo.


As I testified, we welcome the opportunity to meet with the BWC to discuss a reasonable approach, which has always been the traditional approach of amending the workers’ compensation law. I will not reiterate my testimony nor “get into the weeds” of the BWC memorandum. However, I will make the following points.

1. Although the legislature clearly has the power to enact statutes of limitations, it lacks the authority to retroactively modify these statutes. Thus, the uncodified language is unconstitutional.
2. A suspension according to R.C. 4123.651 requires a review by a statutorily provided attorney, the IC Hearing Administrator, and a due process procedure which permits a hearing. The proposed R.C. 4123.57 amendment permits a lesser qualified individual, and without an understanding of the law, to dismiss the application without due process.
3. Our proposal mandates a 30 day due process procedure. We have always emphasized we are willing to discuss the length of the suspension. It only needs to be long enough to permit the injured worker the opportunity to ask the BWC to reschedule the examination.

4. The BWC's proposal invites litigation. Our proposal discourages it, and permits for almost the immediate dismissal of the old 20,000 applications (30 days after the effective date of the legislation). Thus, we clearly are not standing in the way of the goal of the BWC; we only want to accomplish it in the fairest and most efficient way.

As always Chairman Brinkman, I am willing to answer any additional questions. I have also taken the liberty to copy Administrator Morrison, Chief Legal Officer Cogan and Ms. Decot in hopes that the Ohio AFC-CIO, OAJ and OACC could have a discussion with them to develop a fair procedure that works for both the BWC and all stakeholders.

Respectfully submitted,



Philip J. Fulton

For the  
AFC-CIO, OAJ and OACC