



*BEFORE THE HOUSE INSURANCE COMMITTEE
OPPONENT TESTIMONY ON HB 268
Wednesday, December 13, 2017*

Chair Brinkman, Vice Chair Henne, Ranking Member Boccieri, and members of the House Government Accountability and Oversight Committee, thank you for the opportunity to provide testimony in opposition to House Bill 268 (HB268). My name is Don Boyd and I am the Director of Labor and Legal Affairs for the Ohio Chamber of Commerce.

The Ohio Chamber is the state's leading business advocate, and we represent nearly 8,000 companies that do business in Ohio. Our mission is to aggressively champion free enterprise, economic competitiveness and growth for the benefit of all Ohioans. The Ohio Chamber of Commerce is a champion for Ohio business so our state enjoys economic growth and prosperity.

House Bill 268 undermines a key tenant of Ohio's workers' compensation self-insurance by allowing those employers that the Bureau of Workers' Compensation (BWC) have determined not to have the financial wherewithal to self-insure to self-insure. Without going through every aspect of the bill, it would generally require the BWC Administrator to waive the financial requirement providing that an applicant for SI status have sufficient assets in the state to cover its SI responsibilities if the company has a Ba2 Moody's rating or higher. However, having sufficient assets within the state is just one of the factors that the Administrator may consider in deciding whether an applicant can "meet all of the obligations imposed on the employer" under the SI statute. ORC 4123.35 outlines the items that the Administrator shall consider in determining whether an employer can meet SI obligations, including, but not limited to: requiring that an employer has operated within the state for at least two years; the employer's previous contributions and liability within the state insurance fund; the sufficiency of the employer's assets located in the state to insure the employer's solvency in paying compensation directly; the employer's financial records and data to determine the employer's solvency and ability to meet SI obligations; the organizational plan for the administration of workers' compensation law, the employer's plan to inform employees of the SI status; and where payment of workers' compensation obligations will come from. When evaluating risk, the BWC looks at more than just the credit rating of an employer.

This legislation assumes that, with the required waiver of the financial requirements for employers to self-insure, SI status would immediately be conferred though, as shown above, there are multiple factors to be considered in granting or denying SI status. The bill goes on to require that employers who are granted SI status through the waiver contribute to a self-insurance guaranty "B Fund" separate

from the current self-insuring employer guaranty fund (Guaranty A Fund). These funds are used to pay claims should an employer granted SI status default or go out of business.

If the only change was to allow the Administrator to consider whether additional security could be obtained when applying for SI status, that may be something that could be examined further. However, simply requiring that the Administrator waive the financial requirement based on a credit rating does not provide the level of certainty necessary for such a change. Too many questions exist as to what this would do to self-insurance in Ohio, to the State Fund, and to our workers' compensation system. What happens if the Guaranty B Fund collapses? Are all other employers and State Fund on the hook? Further, there are constitutional questions with certain aspects of the bill that would need to be examined.

Any change to Ohio's workers' compensation system of this magnitude cannot be done in a silo and must be examined for its overall impact on employers and the system. For the reasons described above and the fact that a compelling argument has not been made to justify such significant changes, we oppose this legislation. Thank you for the opportunity to provide testimony and I would be happy to answer any questions you may have at this time.