

**Before the House Insurance Committee
Testimony of Robert A. Minor on H.B. No. 268**

Good morning. I am Robert Minor. I am the Executive Secretary of the Ohio Self-Insurers Association, the OSIA, and I appear on its behalf. The OSIA was formed in 1974 to represent Ohio's self-insuring employers in workers' compensation and employer liability issues. It is the only statewide organization that represents self-insured employers exclusively and is devoted to the issue of workers' compensation and employer liability. The OSIA is dedicated to promoting the highest standards of workers' compensation administration. There are close to 1,200 self-insuring employers in Ohio. Ohio's self-insuring employers represent a significant portion of the Ohio workforce and payroll. The OSIA routinely represents its members' interests by filing briefs amicus curiae with the Ohio Supreme Court and other courts, appearing before legislative committees, and working directly with the administration of the Ohio workers' compensation system.

The OSIA is opposed to H.B. 268 and would offer the following comments for the Committee's consideration. Two things are fundamentally important to Ohio's self-insuring employers when consideration of conferring self-insuring status is made. Only those employers that can demonstrate (1) their financial stability and (2) their ability to administer a self-insured program should be permitted to self-insure. All Ohio self-insuring employers contribute to the Self-Insuring Employers Guaranty Fund. That fund is dedicated to paying the workers' compensation claims of self-insuring employers who default on their obligations. Typically, that occurs after a bankruptcy or some other event which results in the employer's surrendering its self-insured status. By rule, the

Guaranty Fund must have a balance of 125 percent of the previous year's payout. It is like a constant level lake which is replenished through the assessments paid by the Ohio's self-insuring employers. Essentially, self-insuring employers in Ohio insure each other's obligations. Thus, it is important that only those employers that are able to demonstrate their ability to meet their obligations be granted self-insuring status. HB 268 would create a second Guaranty Fund to which those less financially secure companies would contribute. It is helpful to remember that the minimum grade for these companies in HB 268 is a B3 rating, which indicates a higher risk of default. It is not clear in the bill what will happen when these companies default – that is, who will pay their claims.

The second important criterion for self-insurance is the ability to administer a program so that workers' compensation remains an effective and efficient way to compensate Ohio's injured worker population and those who care for them. There are a number of variables that the Administrator will weigh in determining whether that second fundamental criterion, having the resources to effectively manage a program, can be met. In some instances, for example, an employer may have significant operations outside of Ohio that it self-insures. In other cases, an employer might have a self-insured non-occupational disability or medical programs. Ohio's self-insuring employers rely on the sound discretion of the Administrator to determine whether a candidate for self-insurance has the resources to meet its obligations.

Managing or administering a workers' compensation program is not just a matter of having sufficient money to pay the lost time compensation and medical bills incurred by an injured employee. The self-insuring employer makes the determination

as to whether in the first instance the employee with an impairment or a disability qualifies for entrance into the workers' compensation system or whether there is some other form of insurance available and appropriate for her. Similarly, the self-insuring employer makes the determination of whether the employee is entitled to lost time compensation or other forms of benefits. The self-insuring employer must determine whether it can place the injured employee in its operation or in some other employer's operation (such as a charity), so as to keep the injured worker employed in a meaningful manner. The self-insuring employer makes the determination of the feasibility of rehabilitation, of light duty work, and of other tools to keep the employee productive and not allow him to get lost in the system. All of that requires the dedication of resources to address the problems that arise from work related injuries.

The self-insuring employer forms a partnership with the injured employee. Together, they face a common problem; the impairment or disability caused by an injury or occupationally related illness. Working as a team to suit the needs of the injured worker and to make certain that the injured worker is provided with the best care available is a fundamental feature of self-insurance. That, too, requires adequate resources. Because a self-insuring employer makes a commitment to its employees, it dedicates resources to identify and improve the safety of the workplace. The self-insuring employer will evaluate injuries and determine those factors that led to the injury and how the workplace can be modified so as to avoid future injuries. All of this, again, requires adequate resources.

HB 268 would permit employers that do not have sufficient resources to self-insure and, then, to insure their compensation obligations by purchasing private

insurance for first dollar coverage. In other words, a company that is not able to financially qualify, that is not able to shoulder the commitment to its employees that is a fundamental feature of self-insurance, would be permitted to self-insure and outsource its obligations to an insurance company. The OSIA believes that self-insurance, as I just described it, is the most efficient and most effective means of addressing work-related injuries and illnesses. The privilege of self-insurance should be limited to those companies with the resources and commitment to serve their injured worker population consistent with the highest principles of workers' compensation administration should not be granted to companies without the resources to meet that commitment. For this reason, the OSIA opposes HB 268. Mr. Chairman, thank you. Those are my comments. I would be happy to field any questions.