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Opponent Testimony on House Bill 459

William J. Wahoff, Member of the OSBA Workers' Compensation Law Committee

Wednesday, May 23, 2018

Chairman Brinkman, Vice-Chair Henne, Ranking member Boccieri and members of the House Insurance Committee. I am attorney Bill Wahoff. I practice at the firm Steptoe & Johnson, PLLC here in Columbus. My practice focuses on employment and workers' compensation law, where I represent employers. I am here to present opposition testimony concerning HB 459 on behalf of the Ohio State Bar Association.

The OSBA Workers' Compensation Law Committee is made up of practitioners who represent both employers and employees. Historically this makeup has made it challenging for the committee to agree on the merits of proposed legislation in this area. That was not the case with HB 459. One month ago, the Committee convened to review this bill and make a recommendation to the OSBA Board of Governors regarding what the OSBA's position should be. After a thorough discussion, the Committee unanimously recommended that the OSBA oppose the bill for the following reasons:

1. The current protections and limitations incorporated into the workers' compensation system regarding who qualifies to be self-insured are essential for the health of the system. HB 459 would eliminate those protections and would create a situation where employers that couldn't qualify to be self-insured today would now magically qualify. Only the most financially secure companies should qualify for self-insurance. When big claims occur, we do not want to hamper the Ohio Workers' Compensation system with a claim because the self-insured employer can't cover the cost. That would damage the health of the system for every worker and employer in Ohio.
2. The scheme contemplated by HB 459 has been tried in other states with disastrous results. My practice exposes me to several different states. The other states that have tried this approach have found it doesn't work. When a big claim occurs, the various entities claim they can't afford to pay, and the burden falls on the state workers' compensation system.
3. As members of the House Insurance Committee, you recognize that HB 459 would essentially create an unfunded and unregulated mutual insurance company. You wouldn't allow such an entity to exist in any other area of the insurance realm. You shouldn't let one exist in the area of workers' compensation.

Thank you for allowing me to present the Ohio State Bar Association's opposition testimony. The Association strongly urges this Committee to take no further action concerning HB 459. I am available to answer questions.