

Senate Insurance and Financial Institutions Committee
House Bill 27- Bureau of Workers' Compensation Budget
Tim Burga, President
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Interested Party - Written Testimony

Chairman Hottinger, Vice-Chair Hackett, Ranking Minority Member Brown and members of the Senate Insurance and Financial Institutions Committee, thank you for taking the time to read this testimony concerning House Bill 27- the Bureau of Workers' Compensation Budget. I am writing today as an interested party as we do not oppose the entire budget; however, we oppose two provisions in the bill and urge this committee to remove them before advancing the legislation. Specifically, we oppose reducing the timeframe that a worker has to file a claim from two years to one year and taking away the ability of undocumented workers from receiving a benefit when injured.

The statute of limitations should not be reduced from two years to one. There are many examples of why an injured worker would wait longer than one year to file a claim. The worker could think that the injury is minor and will eventually go away only to realize later that the injury gets worse and medical attention is required. Or the worker feels that his/her job could be in jeopardy if a claim is filed but finally concludes that medical attention is the only option. Another reason why a one-year period is insufficient time to file a claim is the case of the compassionate employer. A worker gets injured and their boss agrees to pay their medical bills, allows some paid time off, and promises to find him/her "light duty" until they are back to full health if they don't file a claim. This arrangement may work well until the injury doesn't get better and the employer loses patience with the employee. These are just some of the situations that may lead a worker to wait over one year to file a claim.

On the question of eliminating undocumented workers from receiving injured worker benefits, not only is this inhumane, but there are many unintended consequences of changing the law to eliminate Workers' Compensation for such workers. The Workers' Compensation system that was created just over 100 years ago represented a great compromise between business and labor. The deal was struck whereby employers would participate in this insurance program in exchange for workers not being able to sue the employer for workplace injury or disease. This compromise protects employers from high costs of litigation and awards, ensures workers have access to health care and financial assistance when needed the most, and saves the state and its taxpayers from

bearing the full cost of caring for an injured worker. This is a very delicate balance and is most efficient when everyone in the workforce is covered.

This provision would also incentivize the hiring of undocumented workers and would de-emphasize safety and health measures at the workplace. If employers are able to hire workers that are not eligible for injured worker benefits under the system, and therefore free from any costs associated with a workplace injury, this gives unscrupulous employers motive to seek out and exploit undocumented workers, placing them in the most dangerous situations. A May 8, 2017 article in the *The New Yorker* effectively exposes the exploitation of undocumented workers at Case Farms near Canton. This expose serves as a prime example of how undocumented workers are placed in unsafe work environments with little recourse and now the proposed change in the law would legalize this bad behavior. These types of companies should not be rewarded with a change in the law that prohibits employees from filing an injured worker claim. Instead of looking to punish workers, the state should be looking to stop employers from the despicable practice of using and discarding workers like disposable commodities.

I also share the committee chair's concerns when it comes to enforceability of this provision. It is my belief that at the very least, the administration should respond to this most basic line of questioning. Administrator Morrison stated during testimony that the BWC does not have a mechanism in place to track an employee's immigration status. As the chair pointed out, if an immigrant is here and working illegally, then using a voluntary check off as the mechanism to deny benefits is likely useless.

Members of the Senate Insurance and Financial Institutions Committee, thank you for taking the time to consider these important issues. I implore you to remove these provisions from House Bill 27 before passing it out of Committee. These changes to Ohio's Workers Compensation system are too consequential to be placed in a large budget bill big without vigorous debate. Please do not hesitate to contact my office with any questions.