To: The Honorable Members of the PA Senate  
Date: October 15, 2018  
Re: Support H.B. 1840 to address significant costs on employers  

From:  
Associated Builders and Contractors  
Associated Pennsylvania Constructors  
County Commissioners Association of Pennsylvania  
Hospital & Healthsystem Association of Pennsylvania  
General Contractors Association of Pennsylvania  
Insurance Agents and Brokers  
Insurance Federation of Pennsylvania  
LeadingAge PA  
Manufacturer and Business Association  
National Federation of Independent Business-Pennsylvania  
Pennsylvania Association of School Business Officials  
Pennsylvania Boroughs Association  
Pennsylvania Builders Association  
Pennsylvania Chamber of Business and Industry  
Pennsylvania Council of General Contractors  
Pennsylvania Defense Institute  
Pennsylvania Food Merchants Association  
Pennsylvania Forest Products Association  
Pennsylvania Health Care Association  
Pennsylvania Homecare Association  
Pennsylvania Manufacturers' Association  
Pennsylvania Medical Society  
Pennsylvania Municipal League  
Pennsylvania Restaurant and Lodging Association  
Pennsylvania Retailers’ Association  
Pennsylvania School Boards Association  
Pennsylvania Self-Insured Association  
Pennsylvania State Association of Township Supervisors  
Rehabilitation & Community Providers Association  
SMC Business Councils  

We write in support of H.B. 1840, which the Senate may consider soon. H.B. 1840 will bring Pennsylvania workers’ compensation law into compliance with a recent state Supreme Court decision that was so significant it prompted the Pennsylvania Compensation Rating Bureau to take the unprecedented action of filing for a mid-year loss cost increase. This action is imposing on Pennsylvania employers hundreds of millions in additional insurance costs.

The Court’s decision in Protz v. Workers’ Compensation Appeals Board relates to Impairment Rating Evaluations, in which a state-designated physician evaluates a patient two years into a claim and, using American Medical Association impairment guides, determines if wage-loss benefits should continue indefinitely or be limited to 500 weeks. Medical benefits continue indefinitely either way.
The process ensures that doctors are making decisions – both those at the national level who develop the AMA impairment guides and those locally who apply the guides to specific patients. IREs have been in law for over twenty years and have brought structure and fairness to the process of determining circumstances in which claimants can reasonably be expected to transition back to work and when benefits should be paid for the rest of an individual's life.

In the Protz decision, the Supreme Court did not object to 1) evaluating workers’ compensation claimants to determine level of impairment; 2) limiting the duration of benefits; or 3) using AMA guides for these purposes. The Court held that the current IRE process was unconstitutional because AMA guides are updated periodically (twice since the law was passed in 1996) and therefore, since the current version differs from the version used in 1996, their use is an unconstitutional delegation of authority.

H.B. 1840 addresses the court’s concern by updating the law with the most recent edition of the AMA guides. Additionally, the House adopted an amendment which was described as the culmination of negotiations with the Administration.

We urge you to support this bill and help save Pennsylvania employers hundreds of millions of dollars in increased insurance costs.