

To: The Honorable Members of the Senate Labor & Industry Committee

Date: Jan. 23, 2018

Re: Support S.B. 963 to address significant cost increases on employers

From:

Associated Pennsylvania Constructors
County Commissioners Association of Pennsylvania
General Contractors Association of Pennsylvania.
Hospital & Healthsystem 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 S.B 963, legislation introduced by Chairwoman Kim Ward to bring Pennsylvania workers' compensation law into compliance with a recent state Supreme Court decision. This decision prompted the Pennsylvania Compensation Rating Bureau to file for a mid-year loss cost increase, an unprecedented action that was approved on Dec. 27th and will impose 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.

The IRE using AMA guides is a nationally accepted means of adjusting to changes that inevitably occur during the course of an employee's recovery from injury. 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 existed for over twenty years and have served their purpose of bringing structure and fairness to the process of determining circumstances in which claimants can reasonably be expected to transition off wage-loss benefits and when benefits should be paid for the rest of an individual's life. IREs also helped stabilize the overall workers' compensation system which had experienced massive cost increases in the late 1980s and early 1990s.

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.

S.B. 963 will help ensure the constitutionality of the IRE process by updating the law with the most recent edition of the AMA guides and applying it to current and future claims. We urge you to support this bill and help save Pennsylvania employers hundreds of millions of dollars in increased insurance costs.