



TO: The Honorable Members of the PA Senate Labor and Industry Committee

FROM: Alex Halper, Director, Government Affairs

DATE: April 27, 2021

RE: Support S.B. 319 – Addressing workers’ compensation *Whitmoyer* court decision

On behalf of the PA Chamber I urge support for S.B. 922 to address a workers’ compensation court decision known *Whitmoyer*, which the Committee is scheduled to consider today.

Employers have traditionally been eligible for reimbursement of certain workers’ compensation expenses if a third party is found liable for the injury. These subrogation rights hold negligent third-parties accountable, mitigate the impact on non-negligent employers and prevent double recovery by claimants. Subrogation has included allowing employers to offset future wage-loss and medical costs if the third-party recovery exceeds the compensation paid by employer.

However, in the 2018 *Whitmoyer* decision, the PA Supreme Court found that the ability to offset future costs only applied to wage-loss benefits, not medical expenses. The court did not seem to object to the concept of subrogation applying to both future wage and medical benefits, but simply raised technical issues with language in the act. This decision disrupted a long-held and widely-accepted standard leading to increased costs for Pennsylvania employers.

S.B. 319 makes the technical change to address *Whitmoyer* and we urge you to support the bill. Please contact Alex Halper at ahalper@pachamber.org or 717-720-5471 with any questions.