



August 9, 2018

The Honorable Anthony Portantino
Chair, Senate Appropriations Committee
State Capitol, Room 3086
Sacramento, CA 95864

RE: AB 553 (Daly) – Return to Work Program
OPPOSE

Dear Senator Portantino,

The organizations identified above must respectfully oppose AB 553, which would require the Department of Industrial Relations to distribute \$120 million annually to injured workers from the Return to Work Program (RTW Program) and shift administration of the program from the state to employers.

Recent amendments to the bill amplify our concerns greatly because responsibility for identifying eligible injured workers and notifying them of their eligibility is shifted from the state to employers and claims administrators. The Return-to-Work program was a negotiated compromise and the administration of the program was never intended to be the responsibility of employers. AB 553 would place a tremendous administrative burden on employers and unfairly apply monetary penalties for failure to perform perfectly. We believe that AB 553 could benefit from a discussion between the two parties that originally negotiated the RTW Program – labor and management. In fact, we first proposed such a discussion in 2017 when this bill was introduced. We would support a move to study the issue more thoroughly and attempt to identify a consensus solution.

The Commission on Health and Safety and Workers' Compensation (CHSWC) released data and analysis on the RTW Program in 2016. The data suggests that utilization of the fund is already growing substantially – Between 2015 and 2017 the number of applications grew from 3765 to 13,695 and payments grew from \$16.3 million to \$68.4 million. The RTW Program appears to be on a trajectory to reach the upper limits of the program's \$120 million statutory cap. It is our longstanding opinion that the \$120 million funding level has always been an upper-limit cap and not an annual funding level.

During the regulatory implementation of the RTW Fund, we noted that the chosen implementation options would “ultimately lead to oversubscription of the benefit, depletion of the fund, and lead to calls for increasing the \$120 million cap.” We have those same concerns as we look at AB 553 and the most probable implementation options, which will all lead to a benefit that varies year-to-year based on the number of applicants. This means that the benefit will rise and fall depending on the number of applicants, but the fund will always be spending to the maximum which simply was not intended. Under this construct the benefit becomes somewhat arbitrary, and the cap will need to be increased if the benefit level falls due to oversubscription of a benefit that was never meant to be widely accessed.

For these reasons, we are respectfully opposed to AB 553 and urge your no vote when it comes before the Senate Appropriations Committee.

Cc: Members and Consultants, Senate Appropriations Committee
The Honorable Governor Edmund G. Brown, Jr.
The Honorable Tom Daly, California State Assembly