



September 10, 2018

The Honorable Edmund G. Brown  
Governor, State of California  
State Capitol, First Floor  
Sacramento, CA 95814

RE: AB 553 (Daly) – Return to Work Program – *Request for Veto*

Dear Governor Brown,

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. While the amendments taken remove administrative penalties on employers, we continue to oppose this legislation and we respectfully request that you **veto this bill.**

The Return-to-Work program was created as a compromise between employers and labor, and the purpose of the program is to provide a financial boost to injured workers who had a high loss of earnings capacity, but low permanent disability rating. The administration of the program was never intended to be the responsibility of employers, and regulators implemented the program in its current form largely over the objections of the employers who fund it. AB 553 would place a tremendous administrative burden on employers by shifting the responsibility to administer the program away from the state and on to employers and their insurers. 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, but we are strongly opposed to AB 553.

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 negotiated between employers and labor as 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 request that you veto AB 553.