

Senator Rob Bradley
414 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

April 3, 2017

Dear Senator Bradley:

As organizations that represent Florida's businesses and employers, we have a significant interest in promoting a stable and competitive workers' compensation system in order to further Florida's continued economic growth. Although Senate Bill 1582 attempts to address some of the issues that remain after the court decisions *Castellanos v. Next Door Co.*, 145 So. 3d 822 (Fla. 2016), *Westphal v. City of St. Petersburg*, 194 So. 3d 311 (Fla. 2016), and *Miles v. City of Edgewater*, 190 So. 3d 171 (Fla. 1st DCA 2016), we are concerned the proposed reforms will not return stability to Florida's workers' compensation system.

Attorney fee awards for workers' compensation claims remain one of the primary cost drivers in Florida's workers' compensation system. Any workers' compensation reform must include a meaningful mechanism for controlling these awards. The \$250 cap present in SB 1582 will not function as a cost containment mechanism. Instead, it will serve as a guaranteed amount a claimant's attorney will receive for engaging in extraneous efforts on behalf of his or her client. Respectfully, we assert the language proposed will result in significant cost increases for Florida's employers without corresponding increases in the benefit to Florida's workers. We urge you to revisit this proposal.

Any reforms implemented this session must return stability to attorney fee awards. Encouraging claimant involvement in the activities of his or her attorney will encourage fairness and efficient resolution of claim disputes. It bears noting that the majority of states (32), including the District of Columbia, require that workers' compensation claimants engage directly with their attorneys regarding fees. Requiring that claimants bear their own attorney fees like most other litigants would address many of our concerns and remove unnecessary system costs currently borne by employers. Such a system change would require ensuring balance in regards to the benefits received by claimants, and we are willing to work towards such a balance. Other states have instituted a fee-sharing mechanism that is worthy of consideration, wherein both employers and claimants share in the cost of the fees awarded in excess of the statutory scale. We are also amenable to exploring this option.

Senate Bill 1582 includes components that will assist all parties in the effective and efficient administration of benefits, and we appreciate the inclusion of these provisions. Requiring greater specificity of pleadings and clarifying the definition of "days", for example, will assist claimants and parties alike. We would suggest there are additional opportunities, such as requiring a more robust demonstration of a good faith effort to settle, that would ultimately serve to encourage settlement and speed the delivery of benefits to claimants. However, without reforms to attorney fees, provisions of this type will do little to positively impact premium costs in Florida.

We are committed to Florida's Grand Bargain that exists for the protection and benefit of employees and employers. We respectfully assert the SB 1582 in its original filed form has not yet achieved that focus. For this reason, we cannot support it. We look forward to working with you to ensure the final product is one that comprehensively addresses the needs of employees and employers.

Sincerely,

American Insurance Association
Associated Industries of Florida
Associated Builders and Contractors of Florida
Florida Association of Counties
Florida Associated General Contractors Council
Florida Association of Insurance Agents
Florida Chamber of Commerce
Florida Building Materials Association
Florida Farm Bureau Federation
Florida Fire Sprinkler Association
Florida Home Builders Association
Florida Hospital Association
Florida Insurance Council
Florida Justice Reform Institute
Florida League of Cities
Florida Poultry Federation
Florida Restaurant and Lodging Association
Florida Retail Federation
Florida Roofing & Sheet Metal Contractors Association
Florida Transportation Builders Association
Florida Trucking Association
Florida United Businesses Association
Manufacturers Association of Florida
National Association of Mutual Insurance Companies
National Federation of Independent Business
National Utility Contractors
Property Casualty Insurance Association of America