

California Chamber of Commerce
California Manufacturers & Technology Association
California Coalition on Workers' Compensation
California League of Food Processors
California Independent Grocers Association
California Hospital Association
California Restaurant Mutual Benefit Corporation
Associated Builders and Contractors of California
Home Improvement Self-Insurance Group
Lumber Association of California and Nevada
California Association of Joint Powers Authorities
California Grocers Association
National Federation of Independent Business
California Restaurant Association
California Retailers Association
California Grain and Feed Association
California Seed Association
Pacific Egg and Poultry Association
Pacific Coast Renders Association
California Warehouse Association
California Bean Shippers Association
California State Floral Association
California Pear Growers Association
Western Electrical Contractors Association

May 11, 2009

The Honorable Darrell Steinberg
California State Senate
State Capitol, Room 205
Sacramento, CA 95814

The Honorable Dean Florez
California State Senate
State Capitol, Room 313
Sacramento, CA 95814

RE: SB 773 (Florez and Steinberg)- Workers' Compensation: PD Increase
OPPOSE

Dear Senators Steinberg and Florez,

The above represented public and private employers and other entities respectfully **OPPOSE** your **SB 773**, which would roll back historic workers compensation reforms and increase costs for employers by significantly increasing permanent disability benefits. While there has been a clear decline in permanent disability benefits because of the application of objective medical evaluations through AMA, the appropriate use of apportionment, the reduction of weeks for low ratings, and return-to-work adjustments; there is no statistically valid and objective evidence that this situation warrants an increase in benefits such as the one proposed in SB 773.

Prior to the recent reforms, California's workers' compensation system was out of control. It harmed employees by creating an adversarial system focused on litigation and disability instead of reasonable and appropriate medical treatment and return-to-work, and it did so at incredible cost to employers. The economic harm to both employees and employers should be evident when you consider that workers' compensation premiums and system costs tripled from 1999 to 2003. Outside of the high cost of operating in California, skyrocketing workers' compensation

premiums negatively impacted businesses and local governments to the point where expansion of the workforce came at a high price and public services suffered.

According to the Public Policy Institute of California, one of the major reasons for skyrocketing costs was the increasing number of PD claims. Prior to SB 899, PD claims were filed at a rate of three times the national average, and California was 20% higher than the next highest state. A subjective system of work preclusions led to injured workers getting higher permanent disability rates, and litigation that preyed on this subjectivity compounded the situation.

While there has been evidence of a drop in benefits, California should take a data driven approach to reviewing the available information prior to considering a permanent disability increase, let alone doubling benefits. Last year the Division of Workers' Compensation reviewed the relevant data and recommended an increase the permanent disability benefits through regulations. Many of the organizations listed above supported that increase because it was based on sound data.

AB 773 seems to propose increases in both the maximum weekly benefit rate *and* the duration of benefits without any real data justification. We are unaware of any information that justifies the specific increases proposed in SB 773. The impact of SB 773 would be to increase permanent disability benefits by different amounts for different workers, and apparently without rationale. For instance:

- SB 773 proposes a 32% increase in the weekly benefit amount and a 20% increase in the number of weeks an injured worker receives benefits if they have a PD rating of between 10 and 14.75%.
- SB 773 proposes a 32% increase in the weekly benefit amount and a 27% increase in the number of weeks an injured worker receives benefits if they have a PD rating between 50 and 69.75%.
- SB 773 proposes a 28% increase in the weekly benefit amount and a 23% increase in the number of weeks an injured worker receives benefits if they have a PD rating between 70 and 99.75%

The organizations listed above are unaware of any objective analysis that calls for the specific adjustments called for in SB 773. Additionally, the impact of recent court decisions in the *Alvarez/Guzman* and *Ogilvie* decisions, which completely undermine the objective basis of the permanent disability system in California, do not seem to have been accounted for. SB 773 increases the benefit level and duration of permanent disability benefits without objective data, and does so in a manner that will be significantly amplified by recent court cases.

Premiums have come down, objectivity has been established, and a sense of balance has been returned to California's workers' compensation system. California's private and public employers stand ready to resolve any inequities that have resulted from recent reforms; however, we cannot proceed on a path that will lead us back to the days of skyrocketing premiums, adversarial litigation, and an unbalanced system.

With budget pressures weighing heavily on local governments, and economic concerns weighing on private businesses, this is not the time to arbitrarily increase costs on California's public and private sector.

For these reasons, the above referenced organizations are **OPPOSED** to **SB 773**.