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Committee on Insurance
Public Hearing, AB 884
February 1, 2018

Thank you Chairman and members of the Committee for this opportunity to testify on AB 884, relating to actions against third parties by injured employees under the worker's compensation law.

Over 100 years ago, the "grand bargain" for workers compensation was established between employers and labor. Workers who were injured on the job gave up their right to sue employers in civil court for workplace injuries and instead would go through the workers compensation procedures. In return, injured workers received statutory benefits in a no-fault system, simply meaning that if you were injured on the job, you would be covered under workers compensation. In Wisconsin, this deal was signed into law on May 3, 1911.

This law has worked well for over a hundred years now, until recently when District III of the Wisconsin Court of Appeals held that temporary workers who are injured while working for their host employers have the right to elect either to claim workers' compensation benefits or to sue their host employers in court. After a careful look at state statute, it appears that a fix is needed to make clear that temporary workers are held to the same standards as permanent workers. AB 884 does exactly that.

The court's decision has granted a greater right for temporary employees in the event that they are injured at work. This is not only unfair, but it will actually hurt our temporary workforce. You will hear from some attorneys today who are actually cautioning employers about hiring temporary workers because of the recent court ruling. We have over 60,000 temporary workers in this state. If employers are being cautious about hiring these workers, you can see how this could be a problem.

It is my hope that the Committee will support AB 884 in order to quickly remedy this situation.

Thank you again for the opportunity to testify.

Representative Cindi Duchow

WMC

WISCONSIN MANUFACTURERS & COMMERCE

TO: Members, Assembly Committee on Insurance

FROM: Scott Manley, Senior Vice President of Government Relations

DATE: February 1, 2018

RE: Support for Assembly Bill 884

Wisconsin Manufacturers & Commerce (WMC) thanks Chairman Petersen for holding a hearing on this important legislation in such a timely manner, and for providing an opportunity to convey our support for Assembly Bill 884. WMC also extends our sincere thanks to Representative Duchow for sponsoring this bill to fix an urgent problem in our workers compensation system.

WMC is Wisconsin's largest general business association, with roughly 3,800 members representing all sectors of our state's economy. Our membership consists of small, medium and large businesses from all portions of our state. Since we were founded in 1911, WMC's mission has focused on making Wisconsin the most competitive state in the nation to do business. Having fair, consistent, and predictable workers compensation laws is an important factor in the competitiveness of Wisconsin businesses.

For nearly 107 years, Wisconsin has had a workers compensation system that achieves two very important policy goals. The first goal ensures workers will receive medical treatment and compensation for workplace injuries, regardless of fault, by requiring employers to provide insurance coverage for their employees. The second goal provides employers with immunity from tort lawsuits, regardless of fault, for work-related injuries. Both of these concepts provide the foundation for the "grand bargain" that has worked to the mutual benefit of employers and employees for more than a century.

Unfortunately, a recent decision by the Wisconsin Court of Appeals disrupts this longstanding balance by allowing certain employees to sue businesses for work related injuries. The case in question is Rivera v. West Bend Mutual, and allows an injured *temporary* employee to make a choice between filing a workers compensation claim, or suing the temporary employer for damages in a tort lawsuit.

This was never the intent of Wisconsin's workers compensation law. In exchange for providing medical treatment and compensation for workplace injuries, regardless of fault, employers were guaranteed that workers compensation claims would be the "exclusive remedy" for injured employees to seek compensation. The appellate court decision makes clear that s. 102.29(6) must be clarified to maintain the Legislature's original intent to limit workers compensation claims as the exclusive remedy for work-related injuries.

Assembly Bill 884 makes simple clarifications to the statutes that will recapture the Legislature's original intent, and restore the elements of the "grand bargain" that has served our state so well for so many years. We thank you for your thoughtful consideration of this important legislation, and respectfully ask that you support its passage.

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Founded in 1911, WMC is Wisconsin's chamber of commerce and largest business trade association.