



S.768 (Gounardes) / A.1118 (Bronson)

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BILL S.768 (Gounardes) / A.1118 (Bronson)
SUBJECT Re-Defines Temporary Total Disability
DATE May 09, 2022
OPPOSE

All employers, especially considering the unprecedented workforce shortage they are currently experiencing, want injured workers to receive the necessary care they need as the result of their injury and to return to work as soon as possible. This bill, however, will result in a dramatic increase in costs to the workers' compensation system and be especially costly to small employers. For these reasons, The Business Council of New York State, on behalf of its 3,200 members oppose this bill.

This bill intends to change the long-held definition of temporary total disability to include a new caveat: the availability of modified employment offered by the employer consistent with the employees' disability.

Again, employers are working hard to get injured workers back to work. In fact, both New York State Human Rights Law and the Americans with Disabilities Act require employers to consider modified work as a reasonable accommodation to reemploy otherwise qualified individuals with a disability.

Difficulty arises when smaller employers - who make up the vast majority of employers in New York State - do not have the resources or ability to provide such modified work and the employee request of accommodation is deemed unreasonable. In these cases, injured workers will receive the maximum workers' compensation benefit with the cost falling almost exclusively on small employers.

New York State would be adopting the standard for temporary total disability used by the Social Security Administration. But instead of having these costs socialized across the system, these costs would fall disproportionately on small employers as reflected by their workers' compensation experience levels. In a time of unprecedented upheaval as a result of the COVID-19 pandemic and its forced government shut-downs, this additional operating cost on small businesses would further hinder business recovery in the state.

For these reasons, The Business Council opposes this bill.