Testimony in support of HB 80
Offered by John Van Doorn
On behalf of the Ohio Association for Justice
Before the House Finance Committee
May 30, 2019

Good morning, Chairman Oelslager, Vice Chairman Scherer, Ranking Member Cera and members,

My name is John Van Doorn. I am the Government Affairs Director for the Ohio Association for Justice, the statewide bar association for trial attorneys whose mission is to protect our 7th Amendment rights. OAJ includes among its membership most of the attorneys who represent and assist injured workers with their workers' compensation claims in Ohio.

While we are still reviewing the legislation, the OAJ finds much to like in substitute HB 80. First and foremost, we support adequate funding for the BWC. Further, we support several provisions that were included in the substitute bill, which we believe will make the Ohio workers' compensation system work better for all stakeholders.

OAJ supports the elimination of a state-fund employer's authority to veto a settlement when the claim is no longer in the employer's experience, and the employee is no longer employed by the employer. RC 4123.58(G) A state-fund employer should not have the power to veto a settlement application if the employer is no longer impacted. This practice creates bad policy for the workers' compensation system as it makes it more difficult to settle claims.

OAJ supports the provision nullifying judicially-created common law voluntary abandonment defenses to temporary total disability claims. RC 4123.52(F) The General Assembly has enacted several statutory defenses against Temporary Total Disability awards, for incarceration and retirement, and for other reasons involving causal relationship. It is the legislature's duty and prerogative, not the courts, to determine when and how to award or deny compensation.

OAJ supports the provision allowing first responders to be covered for PTSD arising in the course of employment. RC 4123.01(C)(1)(c) We would prefer this psychological coverage be extended to all workers, and not just first responders, but we recognize the political viability of this provision depends upon this limitation.

OAJ supports the provision requiring the Bureau or a self-insuring detention facility employer to pay the cost of medical diagnostic tests when a corrections officer is exposed to bodily fluids. RC 4123.026 It is not uncommon these days for guards in our jails and prisons to be exposed to a prisoner's saliva or vomit; and it is only fair that their employer's comp coverage should pay the cost of their medical tests since the exposure happened on the job.

OAJ supports the provision clarifying that an employee's sick days, which an employee has earned, are not considered part of the employer-provided disability coverage. RC 4123.56 (A) An employee should not be compelled to use their accrued sick time when they must take time off to recover from an injury sustained on the job.

There is one provision about which we need to learn more. It is the provision granting the Superintendent of Industrial Compliance, located in the Department of Commerce, the authority to determine who is an employee for the purposes of workers' comp, unemployment comp and taxation. RC 4177.01 to .06

That concludes my remarks, Mr. Chairman. I thank you for allowing me the privilege of presenting OAJ's views. OAJ is pleased to support HB 80, and we look forward to working with you and the committee to make our workers' comp system better for all stakeholders.