

The Truth About Issue 2

What will Issue 2 actually do?

The Big Business coalition which supports Issue 2 has the money to air a slick ad campaign. The Big Business Campaign is founded on the belief that it can fool the public and that it doesn't have to admit what Issue 2 actually does.

Issue 2 dramatically **reduces benefits** for injured workers. If it didn't dramatically reduce benefits, how would it save Big Business money? If it didn't save Big Business significant amounts of money, why would Big Business spend so much money trying to trick people into voting for it?

Big Business claims Issue 2 is a "waste, fraud and abuse" bill.

They are right. Issue 2 is a waste of time, a fraud on the taxpayer, and an abuse of process.

The television ads supporting Issue 2 are misleading and deceptive. This document provides the Truth about Issue 2.

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The Truth About Benefit Reductions

Fiction

Fiction: No Benefit Reduction

Those supporting Issue 2 incorrectly claim that Issue 2 will not reduce workers' compensation benefits.

For example, one brochure issued by the Issue 2 supporters, Keep Ohio Working ("KOW"), incorrectly states:

Issue 2 does not reduce temporary total disability benefits. It does not reduce permanent partial disability benefits. It does not reduce rehabilitation benefits. It does not reduce wage loss benefits.

This is blatantly inaccurate. As discussed under the Facts section, opposite, Issue 2 significantly reduces **all** benefits by **limiting coverage** of claims and **cutting the time a claim will be open**.

Issue 2 also contains provisions which will significantly **reduce** permanent total, permanent partial, and wage loss benefits.

Fact

Fact: Issue 2 would result in Significant Benefit Reductions

The assertion that Issue 2 will not result in benefit reductions is false. Business will save between \$100 million - \$200 million per year if Issue 2 passes.

How will they save \$100 - \$200 million?

Obviously, by benefit reductions.

How does Issue 2 reduce benefits?

1. Fact: Reductions in Permanent Total benefits

Issue 2 would change the standard for permanent total awards. This change will eliminate consideration of vocational factors long deemed essential by Ohio Supreme Court decisions.

This elimination will greatly reduce permanent total disability eligibility and benefits paid. **Ohio will be the only state in the nation that does not consider vocational factors** for permanent total.

The elimination of vocational factors means the permanent total award is based on medical considerations only. Issue 2 treats an accountant with a herniated disc the same as a laborer with a herniated disc. It does not consider that the laborer has only physical strength to offer in the labor marketplace. If he can't use his back, what can he do?

It is estimated by the Industrial Commission that **permanent total awards will drop** from about 2,000 a year to 157.

1. Fact: Reductions in Permanent Partial Benefits

Issue 2 would eliminate the right which the employer and the injured worker currently have to submit their own evidence for permanent partial awards.

Issue 2 supporters claim that this will simplify the workers' compensation process. However, this means that injured workers would no longer be able to provide the medical reports of their own treating doctors as evidence.

Disability awards would be based **solely** on the state doctor's report. The state doctors have a history of recommending low and unfair awards based on three to five minute examinations. The Bureau doctor would be required to use an impairment system (known as the *AMA GUIDES*) which explicitly states that it is not to be used for this purpose.

This "simpler" system, where an injured worker's doctor has no voice, is unfair to injured workers.

1. Fact: Reduction of the Length of Time a Claim is Open

Issue 2 further limits and reduces benefits because the life of a workers' compensation claim is reduced by 50%.

This reduction impairs a claimant's ability to receive medical benefits and treatments, as well as compensation.

1. Fact: Reduction of Wage Loss Compensation

Wage loss benefits paid while an injured worker searches for a job have been reduced from 200 to 26 weeks. These wage loss benefits are paid to an injured worker while looking for a new job because the injury prevents return to the former employment.

Issue 2 only gives injured workers twenty-six weeks to find a job. In reality, many times it takes an injured worker longer than twenty-six weeks to be rehabilitated and find a new job.

1. Fact: Reduction of Occupational Disease Coverage

Issue 2 would **eliminate** certain occupational diseases from eligibility for workers' compensation, which will also reduce the number of individuals eligible to receive benefits.

Issue 2 creates **additional hurdles** for the worker with an occupational disease. In addition to creating a more limited occupational disease definition, the worker has to show that the claim doesn't fall into one of many exclusions from workers' compensation coverage of occupational disease.

One occupational disease exclusion included in Issue 2 affects claims for carpal tunnel syndrome.

Under Issue 2, carpal tunnel syndrome is defined as an occupational disease and is no longer considered an injury.

For injured workers to receive workers' compensation for a carpal tunnel injury caused by their work, they must show not only that they got the disease from their job, but that it is not a disease that could have arisen without the workplace exposure.

Carpal tunnel can arise without workplace exposure. Therefore, carpal tunnel syndrome, one of the fastest growing class of on-the-job injuries, will thus be virtually eliminated.

1. Fact: Occupational Disease Payment is Reduced

If the worker overcomes the barriers to having an occupational disease claim allowed, payment is determined by the date of the doctor's diagnosis instead of the date the worker becomes disabled and is unable to work due to the disease.

This change results in a considerable benefit reduction.

A worker may be diagnosed at an earlier time (for example, 1985), than s/he stops working (for example, 1997). Under Issue 2, benefits would be paid at the 1985 rate rather than the rate when the disease disabled the worker. Silicosis and asbestosis are examples of diseases that progress slowly and may not be disabling for many years. Under Issue 2, workers with diseases such as silicosis or asbestosis will not be paid a fair rate of compensation.

1. Fact: College Students' Benefits Reduced

Issue 2 will reduce workers' compensation benefits paid to college students. Many college students work part-time or in the summer at low paying jobs. Under the current law, if a college student is injured, the rate of workers' compensation which is paid is based upon their future prospects. Under Issue 2, a college student's future prospects are not considered in determining the rate of workers' compensation paid.

The Truth About Delay

Fiction

Fiction: Delay in payment

Issue 2 proponents incorrectly claim that Issue 2 will eliminate or reduce delays.

For example, a brochure issued by Issue 2 supporters (Keep Ohio Working) states that Issue 2 will result in "Prompt, full payment" and also incorrectly states that:

The old law mandates waiting periods of nearly a year before claims can be decided or paid. Under the new law, those waiting periods would be eliminated allowing quicker - even immediate - payments to injured workers.

As discussed on the Fact side, opposite, this is completely untrue. Not only does issue 2 not speed up payment, but it will lead to **additional delay** before payment is made.

Fact

Fact: Issue 2 does not speed up payment, or provide for prompt, full payment

Issue 2 does not speed up payment or provide for prompt full payment.

A fact sheet published by Keep Ohio Working (the Issue 2 supporters) on September 7, 1997 states that the average processing time to pay a claim is actually **40 days**. Issue 2 does nothing to lessen this 40 day delay.

Legislation enacted in 1993 contains time limits for processing claims. Those time limits are not affected by Issue 2. Issue 2 creates no new time limits for action.

Issue 2 would actually **increase** the **delay** involved in receiving payment.

Under the current law, O.R.C. Section 4123.511(H) indicates that a claimant's benefits must be paid immediately after a Hearing Officer orders compensation to be paid. Issue 2 would change this so that there is no requirement to pay until 21 days after the date of receipt of the order by the employer.

Issue 2 would also increase the delay before an order issues. Currently, the Bureau must issue an order within twenty-one days. Issue 2 permits an additional week of delay before an order issues, giving the Bureau twenty-eight days to issue an order.

The statement in the KOW brochure about the "nearly a year" delay refers to the 40 week waiting period that is mandated by ORC § 4123.57 before an application for Permanent Partial is filed. **This 40 week waiting period has not been changed.**

An injured worker who returns to work after an

injury **still** has to wait 40 weeks before a Permanent Partial application is filed.

The only change that the new statute makes is that individuals who are declared to have reached maximum medical improvement can apply for their permanent partial and skip the 40 week waiting period before they can file the application.

The Truth About Lawyers

Fiction

Fiction: The need for lawyers will be eliminated by Issue 2

Proponents of Issue 2 claim that Issue 2 will limit the need for lawyers

Issue 2 proponents claim in their brochure that:

Ohio's new law allows employers to immediately begin paying benefits to injured workers. This eliminates the need for costly personal injury lawyers who take a third of the benefits the injured worker is awarded.

As demonstrated above, Issue 2 does not speed up payment. Furthermore, under the current law employers are permitted to immediately begin paying compensation.

Issue 2 will actually increase the need for lawyers, by increasing the complexity of the workers' compensation system.

Fact

Fact: Issue 2 will not eliminate the need for lawyers

1. Fact: Immediate Payment is not provided by Issue 2

At the end of 1996, there were 275,260 employers in the system.

Only 1,133 (5%) of these employers would be able to begin paying benefits immediately as this option is only offered to self-insured employers.

The remaining employees who work for the other 274,127 employers are not covered by this provision.

Self-insured employers are already able to begin immediate payments under the current law, through sick and accident programs and short term disability programs.

Self-insurers could immediately pay under current law and don't need the new law to permit immediate payment.

1. Fact: Issue 2 will Increase the need for Lawyers

Issue 2 will drive injured workers to lawyers because many of the provisions are very

complicated.

Individuals will not know the correct statute of limitations in certain cases, they will not know how to appeal and obtain medical evidence for a hearing, and they will not understand the basis for reversal at these hearings.

This was recognized by the *Fiscal Note and Local Impact Statement* drafted by the Ohio Legislative Budget Office.

That statement indicated that:

The Bureau of Workers' Compensation, the Attorney General's Office (AG), and the Ohio Industrial Commission are likely to experience operating cost increases due to the additional activities and potential increase in hearings likely to occur due to the provisions of the bill.

1. Fact: The truth about use of attorneys

According to BWC statistics, in 1996 only 12% of injured workers were represented by lawyers.

88% of all injured workers were unrepresented.

The 12% who chose to be represented by lawyers felt they needed someone on their side to help them get the benefits they deserved.

In addition, Big Business has attorneys to represent them.

The fact that employers use high-powered lawyers to contest Workers' claims is never mentioned by Issue 2 supporters.

If Business is interested in giving the injured worker the "benefits they rightly deserve," why do they use lawyers to contest claims?

When employers contest claims, injured workers may need representation. Injured workers deserve the right to be represented if they choose to be, just as anyone else.

The Truth About Taxes

Fiction

Fiction: Issue 2 will save taxpayers money

Issue 2 supporters claim that taxpayers will save money if Issue 2 passes. The Keep Ohio Working Brochure claims:

Taxpayers will save millions. Estimates indicate that Ohio taxpayers will save \$100 million each year after the reforms are enacted.

This is **false** because the workers' compensation system is not funded by taxpayers.

However, it also demonstrates that the claim that Issue 2 would not reduce benefits is incorrect how are these millions of dollars to be saved if not through benefit reductions?

Fact

Fact: Issue 2 will cost taxpayers money

1. Fact: Taxpayers do not pay workers' compensation taxes

Taxpayers do not pay for workers' compensation.

There is no workers' compensation tax.

Workers compensation is an insurance premium, which is paid by employers.

Since 1995, businesses have been given a **28% reduction** in workers' compensation premiums. This has amounted to a **savings of \$880 million** for private employers, according to the Fact Sheet issued by the Issue 2 supporters Keep Ohio Working.

Issue 2 would throw more money in the employer's pockets at the expense of the injured worker.

The ordinary taxpayer will not save any money. The \$100 million in "taxpayer savings" is really \$100 million in business savings.

1. Fact: Issue 2 will cost taxpayers money because workers' compensation will no longer pay for work-related injuries.

Issue 2 will take people from work and put them on welfare. The brochure issued by the Issue 2 supporters, Keep Ohio Working, indicates that the workers' compensation benefits which are cut by Issue 2 would be replaced by

social programs, retirement programs, and other forms of public assistance [which] were created and continue to be funded by Ohio taxpayers.

These forms of public assistance are funded by

taxpayers. Therefore, Issue 2 would increase the taxpayers burden, not save taxpayers' money.

This contradicts the purpose of workers' compensation, which is that the employer -- not the taxpayer -- foots the bill for work-caused injuries.

The Truth About Business Economics

Fiction

Fiction: Issue 2 is necessary to aid the business climate

Issue 2 proponents claim that Issue 2 is necessary to make Ohio's business climate more competitive, and that workers' compensation costs put business at a competitive disadvantage. This is not true. As discussed on the fact side, Ohio's business economy is booming.

Fact

Fact: Ohio's business climate is booming

According to the Proponents of Issue 2, the state of Ohio has "...led the nation in new business facilities and expansions for the past 6 years." (Keep Ohio Working, fact sheet, September 7, 1997.)

Issue 2 is not necessary to aid business. Business has been significantly aided by workers' compensation rate reductions which have been given to employers over the last three years. For example:

- 1995 - 7.3% reduction in premiums
- 1996 - 6.0% reduction in premiums
- 1997 - 15% reduction in premiums.

The Truth About Fraud

Fiction

Fiction: Issue 2 reduces fraud

Proponents of Issue 2 call it a "waste, fraud and abuse" measure.

In fact, Issue 2 is not necessary to fight fraud.

Fraud is an inflammatory term used by Proponents of Issue 2 to obscure the true issues the significant benefit reductions which will be made to workers' compensation if Issue 2 passes.

Fact

Fact: Issue 2 does not affect fraud

Issue 2 is not necessary to fight fraud. The Bureau of Workers' Compensation already has the power and authority to fight fraud. There are already laws on the books making it illegal for an injured worker to defraud the system.

The Bureau of Workers' Compensation has significant fraud-fighting measures in place. The Bureau of Workers' Compensation has an antifraud unit, created in 1993, which has 60 investigators and an annual budget of \$9 million.

The Administrator of the Bureau of Workers' Compensation, James Conrad, states in a letter to Representative Darrel Opfer that the "BWC is a national leader in detecting and prosecuting those who try to defraud the system..." (Dated: June 17, 1997.) The Bureau obviously does not need this legislation to combat fraud.

The Bureau of Workers' Compensation has the ability to deal with fraud now. Issue 2 does not address injured worker fraud even though the Issue 2 advertisements would lead one to believe otherwise.

The Truth About Unions

Fiction

Fiction: Labor Unions are bad

Issue 2 supporters are attempting to portray Issue 2 as good because unions oppose it.

What sense does that make?

Unions do not make any money off the workers' compensation system. Unlike business, unions do not have money at stake.

What unions have at stake is the interest of their workers, people who may suffer a work injury and be affected by the devastating reductions contained in Issue 2.

Fact

Fact: Labor Unions exist to protect workers

Labor unions are voluntary associations of workers. They have one purpose: to do what is best for their members; that is, to do what is best for workers.

Ohio labor unions have been involved with the Ohio workers' compensation system since 1911.

Labor unions have throughout the years fought for workers' compensation legislation that would benefit injured workers whether or not they are union members.

Unions have been involved in the fight against Issue 2 since Big Business introduced it in the legislature.

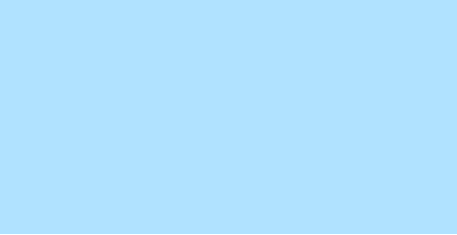
The fight against Issue 2 has continued after Big Business got its way in the legislature on workers' compensation.

The fight continues because Issue 2 is bad for Ohio workers. It shreds the safety net that was designed to help injured workers.

Unions have been joined in this fight by a broad coalition. This coalition includes injured workers and organizations dedicated to their protection, workers who are not affiliated with unions, as well as senior citizens, health care groups, consumer protection associations, environmental and women's groups. [A listing of some [groups](#) who have endorsed a "No" vote on Issue 2, is available.]

This document has looked at the specifics of Issue 2. It has responded to the mischaracterizations issued by the supporters of Issue 2.

The supporters of Issue 2 call themselves "Keep Ohio Working." Lets call them by their true name: Big Business. Big Business is not spending millions of dollars to pass Issue 2 because it will help injured workers. Big Business is spending millions of dollars to pass Issue 2 because Big Business will save hundreds of millions of dollars if Issue 2 passes.



Unions oppose Issue 2 because it is harmful to workers. Any worker who may be injured [which means anyone who works in the state of Ohio] will be harmed if Issue 2 passes.

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