



Now May Be Time For Employers To Opt Out Of State Workers' Compensation System

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Several recent news reports have criticized companies that have taken advantage of the option - unique to Texas - of opting out of the state workers' compensation system (or "nonsubscribing") and providing their own benefits plan for injured employees. The ability to opt out was included in Texas' first workers' compensation law, enacted in 1913. Currently about 35 percent of Texas employers are nonsubscribers. Nevertheless, nonsubscription has been wrongly portrayed as simply a ploy to save companies money while leaving workers who get hurt with inadequate benefits.

The truth is, however, that a perfect storm is currently brewing in the workers' compensation arena that may soon lead many more companies to consider dropping their workers' compensation coverage - and workers may actually benefit. Workers' compensation premiums are already high, but a lack of profitability among workers' compensation insurance carriers, an increase in claims resulting from injuries, rising medical costs and big losses for reinsurers, may soon lead to even higher premiums.

Under the right circumstances, employers can save money - as much as 50 percent to 80 percent as opposed to what they would pay for workers' compensation - by nonsubscribing. These savings do not come from providing injured workers substandard benefits. Rather, they would come from improving workplace safety, reducing the likelihood of injuries, providing good medical care and getting employees back to work faster after an injury. If an effective alternative benefits plan is not provided, the nonsubscribing employer will realize no savings at all.

Employers in industries with a higher potential for numerous or catastrophic injuries may be better off remaining under the workers' compensation system. Other employers, particularly those doing business in a less hazardous environment, may wish to seriously consider the feasibility of nonsubscription.

Nonsubscription allows employers the potential to realize significant savings while providing a benefits plan that offers superior assistance to injured employees. Given the high cost of workers' compensation insurance, and more premium increases likely on the way, employers would benefit by at least considering whether nonsubscription is a viable alternative.

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