

NONSUBSCRIPTION: The Texas Advantage

Forty percent of Lone Star businesses thrive on a Proven alternative to Workers' Compensation.

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In 1989, Texas employers faced a crisis. The expense of subscribing to the state's workers' compensation system threatened to drive companies out of business. Excessive litigation and fraudulent misuse of the system generated overwhelming increases in premiums.

Inadequate premium rates for benefits and the resulting expenses caused many insurers to leave the workers' compensation line of business. The state's Assigned Risk Pool became the largest insurer, and the losses incurred discouraged potential new insurers from stepping in.

Fortunately for businesses in Texas, legislators who drafted the first Texas Workers' Comp laws in 1913 were farsighted enough to provide an option. Texas offers all employers (other than local units of governments, such as cities, counties and school districts), the opportunity to "Nonsubscribe", or "Opt Out" of the state's workers' compensation program. The ranks of Nonsubscribers began to grow.

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Businesses that chose not to subscribe provided their own injury benefit plan to cover occupational injuries and illnesses, and provided for legal liability defense and damage payments. As the nonsubscriber market grew through the early 1990s, insurers recognized the opportunity to develop products to insure nonsubscriber risks. Over time, those products have evolved into a form that offers broad coverage for injuries resulting from accidents, occupational disease or cumulative trauma. Injury benefits are paid under plans that must comply with the reporting, disclosure, and fiduciary duty rules or ERISA (the same federal law that regulates group health plans and retirement plans).

Proof Positive

Employer satisfaction with Nonsubscription has steadily grown. The proof is in the numbers. Approximately forty percent of Texas businesses today are nonsubscribers. They represent a growing community of employers that have chosen a fair and responsible way to care for injured workers. In 2003, that list (at the time of printing) includes companies like:

Dillard's	H-E-B Grocery	Randall's / Tom
Thumb Markets		
Hoover Vacuums	Kroger Co.	Minyard's Food
Stores Inc.		
Pappas Restaurants	Nordstrom	Osteopathic Health
System of Texas		
Home Depot	Lone Star Couriers	Baylor All Saints
Medical Center		
Kroger Co.	Pilgrims Pride	Intercontinental
Hotels Group		
Sky Chefs	St. Paul & Zale Lipshy	Methodist
Hospitals of Dallas		

Nonsubscribers report positive results, according to the Research and Oversight Council on Workers' Compensation ("ROC") study in 2002:

- ❑ Of all nonsubscribing employers, 68% gave satisfactory marks to their experience outside of the workers' compensation system. That number is 14% higher than the satisfaction rating for employers within the workers' comp system.
- ❑ In companies with more than 100 employees, the satisfaction rating soared to 85%, a number that is 77% higher than the same-sized employers that subscribed to the workers' compensation system.

Nonsubscriber businesses not only reduced expenses in insurance premiums, they also:

- ❑ Gained control over fraudulent claims.
- ❑ Experienced fewer workplace accidents as a result of the focus on safety and prevention.

Employees See Value

While employers realized immediate advantages with Nonsubscription, employees experienced important benefits as well. Prompt medical attention and better outcomes have earned the Nonsubscription plan top grades from injured employees. They report high levels of satisfaction with employer treatment, medical coverage, and income benefits paid during recovery for on-the-job-injuries under nonsubscription, according to studies by the ROC. And contrary to statements of Nonsubscription opponents who claim that injured workers clog the

court system with lawsuits against nonsubscribers, ***the fact is that less than 1/10 of 1% of all non subscriber injury claims have any attorney involvement*** (and far fewer actually result in litigation).

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A Reasonable Alternative

Workers' comp costs are on the rise again. And, Texas employers deserve a reasonable alternative.

Almost every employer in the state has seen dramatic cost increases in workers' compensation insurance and claims costs. According to the 2002 study conducted by the ROC:

- ❑ 42% of current subscribers reported an increase in their workers' compensation insurance premium in 2001.
- ❑ 29% saw a recent price increase of 20% or more. Data from 2002 and 2003 will reflect even greater price increases affecting more Texas employers.

The average cost per workers' comp claim today is just under \$5,000, which makes Texas the highest cost state in the nation, according to data from the Texas Workers' Compensation Commission and other studies. Those figures are far higher than the average cost per claim for most nonsubscribers. In year 2000, when the Workers' Compensation Research Institute analyzed Texas' costs to comparable workers' comp states, the study revealed:

- ❑ 36% higher average medical cost per claim, or \$6,345 in Texas
- ❑ 21% higher average indemnity payment per claim, or \$4,912 in Texas.
- ❑ 48% more medical services provided per claim.
- ❑ 32% more medical visits per claim incurred.
- ❑ 21% higher duration of disability.

In this environment, nonsubscription offers a reasonable alternative. It's reasonable, in part, because nonsubscribers (1) are subject to Federal benefit plan regulations, and (2) injured workers employed by nonsubscribers report high level of satisfaction with this alternative.

The Research and Oversight Council reported that Texas' workers' compensation has the highest average medical cost per claim in a review of eight comparable states, a rate that is 20 percent higher than the second highest state and more than 250 percent higher than the lowest state.

Freedom to Choose is Good Business

Nonsubscription gave Texas businesses a crucial advantage at a point in time when many employers could not have afforded workers' compensation insurance. In this respect, the ability to opt out of the state system may have saved Texas from the loss of hundreds of thousands of jobs in the early 1990s.

The ability to choose without interference from government mandate enabled Texans to keep jobs and survive in the last economic downturn. **And with current insurance and financial market difficulties, it's crucial to the vitality of business in Texas to preserve the right to choose between two proven, reasonable options to delivering care to injured workers.** That freedom could be one of the keys to recovery in the days ahead.

For more information about the Texas Association of Business and its Nonsubscriber Committee, contact:

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The TAB is a nonprofit association that represents the employers' voice in legislative regulatory and judicial issues that impact businesses in Texas.