

From Your CEO

Should Laws Apply to Everyone?

Much will be said and written before the legislature returns to Nashville this coming January and determines the fate of the Opt-Out Workers' Compensation bill being considered. The bill would allow certain employers to remove themselves from the current law and its administration by the Tennessee Department of Labor. Apparently a group of largely unnamed employers either think the current law, which was substantially revised in 2013, is a massive failure or perhaps they just feel that the law should not apply to them.

I guess, to some extent, we all feel that way from time to time. Every time my car needs a MARTA inspection, I believe that pesky requirement should not apply to me. Likewise when April 15th rolls around every year, I really would like to Opt-Out of filing Federal Income tax. You can make your own list, but I hope you get the point. Upon further reflection, how would I feel if I was not allowed to Opt-Out, but others were? Laws are written for the entire state and apply to the big and small, rich and poor. In workers' compensation the State has set requirements for employers who have 5 or more employees (1 for contractors) that include benefits and requirements for accessing benefits. If these statutory minimums are so onerous as to damage economic development, they should be considered for revision; and in that case the revision should apply to all.

Some examples to clarify. Proponents of Opt-Out suggest one major cost saver is to utilize the Federal Employee Retirement Income Security Act of 1974 (ERISA) law. Under ERISA, employers

can lower the notice period after an injury to 24 hours instead of the 30 day requirement currently allowed under Tennessee Law. In an age of smartphones, e-mail and social media I can understand why the 30 days could be reviewed. However, if the entire state is better served with this action, then it should apply to every on-the-job injury incurred. As for benefits themselves, Tennessee requires unlimited medical benefits (along with 47 other states). The bill would limit those benefits. Again, if unlimited medical benefits are onerous then that benefit could be reduced for all employers that choose workers' compensation insurance or choose to self-insure.

A Prosperous Tennessee

Tennessee's Speaker of the House, Rep. Beth Harwell, recently sent out an e-mail touting the plethora of new businesses entering Tennessee. According to the Tennessee Department of Economic and Community Development, 146 companies have moved or expanded into Tennessee creating an estimated 28,000 jobs in the last three years. Additionally, the State Workers' Compensation Administrator, Abbie Hudgens, filed her first annual report after the 2013 Workers' Compensation reforms which shows a more efficient system with cost savings and less adjudication time.

The point is, a decision to reduce benefits or further restrict eligibility belongs to the legislature and not to individual employers. All of which begs another question. **If it ain't broke, why fix it?** ♦

"...how would I feel if I was not allowed to Opt-Out, but others were?"



A stylized blue ink signature of the name "Chuck".

Chuck Bidek, CPCU

