

Workers' compensation rates soar in Ohio

BY: STUART GARSON, ESQ. *Special to the CJN*

On January 28, Plain Dealer reporter Bob Paynter wrote a front page story on how the soaring rates of the workers' compensation group-rating program was adversely affecting small businesses in Ohio.

Ohio's political system, reported Paynter, has created a workers' compensation system where one seriously injured worker can jeopardize a company's ability to remain in business.

Workers' compensation laws throughout the country were created to balance the competing interests of labor and capital (wealth used in business) during the Industrial Revolution. From the end of the Civil War to the end of World War I, more than 27 million people immigrated to the United States. This tremendous wave of immigration provided businesses with what they needed most in an almost endless supply of cheap labor. It was inevitable that the great dynamic forces of capital and labor would eventually clash during this period.



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A system had to be found that would adequately compensate injured workers for their lost time and medical expenses while not jeopardizing the vitality of American business. Workers' compensation laws provided the great bargain between labor and capital; they mirrored President Theodore Roosevelt's beliefs that government should be the great arbiter of the conflicting economic forces in the nation, guaranteeing justice to each and dispensing favors to none.

In Article II Section 35 of Ohio's constitution, amended in 1923, injured workers gave up their right to sue their employers for their work-related injuries. In turn, employers gave up their right to defend work-related injuries based upon negligence of the worker. A no fault workers' compensation system was created with compulsory contribution by employers into the work comp fund.

Therefore, based upon sound insurance principles of spreading and sharing the risk, all employers would be compelled to contribute to the fund to ensure a healthy economic climate for Ohio business. In addition, a seriously injured worker became the collective responsibility of all business.

The group-rating system in Ohio that took root in 1991 has violated this historic bargain by systematically destroying the shared-risk notion of the workers' comp system. It has put at risk the economic prosperity of small business in our

greatest generator of job creation.

The system allows the creation of business groups that start off with ridiculously low premiums. When a company member of such a group experiences a serious injury to one of its employees, that business is often booted out of the group. In this way, the group can artificially maintain its low premiums, while the expunged member now experiences increases in their work comp premium as high as 2100% in some cases.

No business can survive for long under these conditions, nor will it continue to do business in Ohio with such an erratic and costly price attached to a work related injury. An inordinate amount of stress is also in place between the injured worker and the employer, who is now blaming the employee (remember this is supposed to be a no-fault system) for its financial difficulty.

Paynter reported that 38% of Ohio's employers benefit from unrealistically low premiums while the rest pay unrealistically high rates. This is not healthy and effective public policy. Even worse, it is destroying the vibrancy of small business.

Group rating needs to be abolished or seriously reformed to restore balance to the Ohio's workers' compensation system. This should be one of Governor Strickland's highest priorities in his first year in office. Ohio's injured workers and our small businesses deserve no less.

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