

From: Don Drinko  
Sent: Wed Nov 03 16:43:03 2010  
**Gallagher Sharp Shop Talk: Workers' Compensation**

Ohio remains one of the few "monopolistic" workers' compensation systems in the United States. A few clients have recently asked about efforts to "privatize" Ohio's workers' compensation system. Adam Sadowski of our Toledo office recently attended a presentation from a member of the Ohio Senate Task Force that was created to review the feasibility of allowing private insurance companies to enter the market. The Task Force has heard testimony from sources on all sides of the workers' compensation spectrum, but failed to meet a June 30, 2010 deadline to issue its recommendations.

It appears that the Task Force is considering three (3) potential recommendations. The first recommendation would be to keep the system as it currently stands with a "State Fund" and a right to opt out and self-insure for larger employers. The second recommendation would be to maintain the "State Fund" and allow private insurers to compete with the State Fund, which would likely result in some (mostly smaller) employers remaining part of the "State Fund" as an insurer of last resort. The third recommendation would be to privatize the entire system. At least one economist has reported to the Task Force that if private insurers were allowed to compete in Ohio there would be 65-85 insurers entering the market and writing coverage, and the high level of competition would likely result in a savings to employers. It should also be noted that most multi-state employers would benefit from not having to maintain separate programs.

So where does this "movement" stand? The Task Force did not consider the legal or political feasibility of privatizing workers' compensation coverage in Ohio. The ultimate decision of whether to allow Ohio to join the 46 other states that permit private insurance competition in the workers' compensation sector will likely be based more on politics than any Task Force report. New Ohio Governor-elect John Kasich has campaigned in favor of privatizing workers' compensation in Ohio, so it remains to be seen whether the current politics in Ohio are going to offer a much better climate for change. Even if the current political climate may favor privatizing workers' compensation, I don't see the political will to do this in the short-term. The movement failed in the State of Washington, where a bill to privatize was soundly rejected by voters on November 2, 2010. As always, Gallagher Sharp will keep you apprised of any significant developments on the issue.

Donald G. Drinko, Esq.  
Certified Workers' Compensation Specialist,  
Ohio State Bar Association  
Gallagher Sharp  
1501 Euclid Avenue  
Cleveland, OH 44115  
Direct: 216.522.1326  
[ddrinko@gallaghersharp.com](mailto:ddrinko@gallaghersharp.com)  
[www.gallaghersharp.com](http://www.gallaghersharp.com)