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Economic Affairs Interim Committee
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OTHER STATE MUTUALIZATIONS/PRIVATIZATIONS

This report looks at selected states that have become mutual workers' compensation insurance companies or privatized in other ways. The most indepth review, of Nevada, relies on testimony given to the 2014 Economic Affairs Interim Committee.

Impacts

Nevada

Rates - A study by a Colorado State University assistant professor pointed out that rates in Nevada after privatization of that state's former monopolistic workers' compensation provider had dropped for many firms, but for firms in the residual market they increased because of surcharges added to cover the cost of servicing carriers in the assigned risk pool. (See Mehmet E. Ozbek, "A Study of the Privatization of State-Chartered Workers' Compensation Funds," 2010.)

Ann Nelson, executive vice president of Employers Holdings Inc., the firm that evolved when the Nevada state fund privatized in 1999, told the Economic Affairs Interim Committee in January 2014 that the privatization of Employers resulted in 19,958 small business policyholders finding coverage in the private market while 2,437 of those with annual premiums of $2,500 or less ended up in the residual market and paying a 25% surcharge levied by the residual market. Ms. Nelson also noted that concerns about privatization leading to higher rates were handled in part by imposing a bandwidth for rate increases or decreases of a certain percentage for six years, with a committee reviewing every six months. There was a request to remove that bandwidth after three years because rates lower than the bandwidth had been proposed. (To hear Ms. Nelson's testimony, go to http://leg.mt.gov/css/Video-and-Audio/archives/av.asp and click on the 1/28/2014 EAIC meeting.)

Old Fund Liabilities – In the 1990s an audit indicated a $2 billion liability of Nevada's then State Fund, which had been monopolistic prior to July 1, 1999. By 1997 liabilities improved for the new fund (similar to Montana's new fund). By the time the mutualized company (post-2000) decided to list on the New York Stock Exchange, the valuation was about $880 million-plus. To get rid of the "old fund's liability," Employers paid a $775 million premium to three reinsurers and bought almost $2.3 billion in coverage (which covers claims and management costs). If the claims costs surpass $2.3 billion, the claims would revert to Employers. Retroactive court cases also pass on to Employers' commitment to handle outstanding claims.

Employee Impacts - Employees went from being state employees to private employees. The new company set up a new pension option similar to the state system. The employees with most difficult transition were those with 17 to 30 years who would have lost benefits under the new version. These employees for the most part went back to state employment. For those with 20 to less than 30 years, Employers bought the employees 5 years of pension coverage (depending on what was needed to reach 30 years. State law required 5 years and the privatization statute apparently allowed Employers to buy a greater number of years).

Residual Market – Costs have gone down year over year, according to Ms. Nelson. Reports from 2012 indicated that of small businesses with a $2,500 annual premium or less, 2,437 were in the residual market, which face a 25% surcharge, but 19,958 of those small businesses found coverage in the private market.

Coverage Differences – The *2009 Analysis of Workers' Compensation Laws* by the U.S. Chamber of Commerce notes that Nevada farm laborers are exempt from having to be covered by workers' compensation. Montana law requires coverage for employed, nonfamily workers.

Selected State Transitions

The following table combines information from Source: Mehmet E. Ozbek, "A Study of the Privatization of State-Chartered Workers' Compensation Funds," 2010, and the Bruce Hockman presentation at the November 2017 EAIC meeting.

State	From What to What	Share of Market	Valuation
Arizona	Bruce Hockman notes: 1) Legislation allowed SCF Arizona in 2014 to become CopperPoint Mutual Insurance Co., a fully private, for-profit mutual insurance company. 2) Transition period of 2 years. 3) No guaranteed market responsibility. 4) Supervised by the Arizona Insurance Department. 5) Has A.M. Best rating of A-.	Bruce Hockman – market share in 2016 24.0% and 29% in the 2014 report to the Economic Affairs Interim Committee (EAIC).	A 2017 Insurance Journal report said that upon CopperPoint acquiring Pacific Compensation Insurance Co., the combined asset base will be $4.1 billion, with $1.5 billion in surplus.
Maryland	Bruce Hockman notes: 1) Legislation in 2013 turned the Injured Workers Insurance Fund into the Chesapeake Employers Insurance Co., a private, nonprofit, nonstock corporation with members of the board appointed by the governor and a prohibition on converting to a mutual or stock company. 2) May not be sold or dissolved but is under control of Insurance Department except for rates. 3) Retains insurer of last resort responsibility. 4) Legislature may not access surplus funds. All assets and liabilities transferred to the new entity.	Bruce Hockman's 2014 report to the EAIC listed the Injured Workers Insurance Fund market share as 23% in 2012.	NA
Michigan	Was quasi-state agency with some self-governance and independence. When court ruling said in 1989 that budget should be approved by the Legislature, a 20% rate cut was ordered, resulting in a loss of $53 million in 1990. In 1993 the Legislature began efforts to privatize. In 1995 an auction resulted in a sale to Blue Cross/Blue Shield of Michigan. Bruce Hockman notes: 1) The state of Michigan faced budget deficits, which resulted in the sale. 2) A state-run assigned risk pool was created.	Market share in 1988 was 25%. Bruce Hockman: market share 19.0% in 2016. Accident Fund is now licensed in 49 states plus District of Columbia.	Policyholder surplus valued at $110.4 million at the end of 1993. Sale in 1995 reported as $255 million or $262 million, depending on the source.

Nevada	The Nevada Legislature changed this monopolistic fund in 1999 to a mutual insurance company and no longer required the company to offer coverage to the residual market. Instead the Division of Insurance set up a special fund for the residual market. The mutual became a stockholder-owned company in 2007 by distributing $850 million in stock and cash to 6,600 policyholders/owners of the mutual firm.	Monopolistic fund but with self-insurance allowed. Before privatization in 1999, state had about 65% of market. Share in 2010 was about 6%. Sells in 29 other states. Bruce Hockman: U.S. market share 2016 3.8%. Other data list Employers Holdings with 2.75% Montana market share in 2016, 1.2% U.S. market share in 2014 and 6% in 2012.	In early 1990s roughly $3 billion worth of unfunded liability. By 2007 when the mutual became a privately owned insurer, the firm paid $850 million to its mutual owners (see left).
Oklahoma	Bruce Hockman notes: 1) Legislation in 2013 stated CompSource Oklahoma would become domestic mutual insurance company in 1/1/2015, with a mandatory certificate of authority from the insurance commissioner. 2) The Insurance Commissioner would regulate the insurer but could not dissolve it. 3) The insurer would continue guaranteed market.	Bruce Hockman's 2014 report to the EAIC listed CompSource's market share as 29% in 2012.	NA
Texas	Bruce Hockman notes: 1) Legislation formed the Texas Workers' Compensation Insurance Fund in 1991, which changed its name in 2001 to Texas Mutual Insurance Co. All money was to be solely that of the company, without access or liability by the state. 2) Legislation in 2013 did not pass to allow the company to expand out of Texas and relinquish the guaranteed market responsibility.	Bruce Hockman's 2014 report to the EAIC listed the Texas Workers' Compensation Insurance Fund market share as 37% in 2012.	NA

Other States' Mutualization/Privatization, continued

Utah	Bruce Hockman notes: 1) Utah Supreme Court said the Workers' Compensation Fund policyholder owns the WCF assets. 2) Legislature provided a transition first to a quasi-public corporation then to an entity fully separate from state control. 3) Mutual insurance corporation was to begin operating 1/1/2018. 4) The state chose a residual market mechanism.	Bruce Hockman's 2014 report to the EAIC listed Utah's Workers' Compensation Fund market share as 50% in 2012.	
West Virginia	The West Virginia Legislature converted the monopolistic state fund to a private mutual insurer with passage of legislation in 2005. The initial transition was January 2006 but the firm retained a monopoly until full privatization began in July 2008. Bruce Hockman notes: 1) West Virginia's monopolistic fund had $2 billion-plus in unfunded liabilities when the state allowed privatization in 2005. 2) The state provided capital for formation of Brickstreet Mutual as a private mutual insurer. 3) Market opened to competition in July 2008. 4) State uses NCCI assigned risk plan. 5) Brickstreet Mutual operates in 14 states.	Market share 51.0% in 2016: Bruce Hockman.	Prior to privatization, the monopolistic fund had $3.1 billion in unfunded liabilities. By 2010 this number was $1.5 billion. Current valuation not available.

Additional Considerations

Bailouts … or Not

In two notable cases, Nevada and West Virginia, the decision to turn monopolistic funds into private insurers was in part because of the workers' compensation insurer's unfunded liabilities valued at billions of dollars. However, in Michigan the decision was, in part, because the state needed a cash infusion and sought to sell the state-created workers' compensation fund.

Scope of Coverage

Not all coverages are the same, which means that the transition to a mutual or private insurer may impact small businesses in some states differently than would be the case in Montana. For example, in Montana agricultural employees regardless of the size of the employer's payroll must be covered with workers' compensation, while in Oklahoma only agricultural or horticultural employers with $100,000 or more in annual payroll are required to provide workers' compensation, according to the U.S. Chamber of Commerce *Analysis of Workers' Compensation Laws*. Some states exempt small businesses that employ fewer than a certain number of employees – usually 2 or 3 employees – from mandatory workers' compensation.

Legal Challenges

Some states privatized their state funds without a major legal challenge, simply by legislative action. See Jameson Walker's report.