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Editorial

Lawmakers should correct Supreme Court workers' comp decision

The Texas Supreme Court reversed long-settled state law regarding the rights of injured workers to sue in some instances, but the Legislature can restore the law - and should.

The Texas Supreme Court has spoken once more on the Entergy case and has refused to change its original bad ruling. But the Legislature can get the last word by passing legislation to reverse this latest sign of the court's extreme tilt toward business interests.

The Entergy case centered on whether the "premises owner" of a large facility, in this case a utility power plant, could get immunity against a lawsuit filed by a contract worker injured on the job simply by declaring itself to be the general contractor and buying workers' compensation coverage for the contractor and actual employer.

For years, the law in Texas has been clear: No. Attempts by some business interests to change the answer to "yes" were defeated in the Legislature. The fear was that plant owners would then have incentive to slack off on plant safety just by purchasing workers' compensation insurance when it hired a contractor to work on a plant, such as for repairs or maintenance.

In 2001, John Summers, a contract worker for International Maintenance Corp., was seriously injured while working on a plant owned by Entergy, an electric utility that serves Southeast Texas. He began collecting workers' compensation benefits from the insurer, and he sued Entergy, accusing it of providing defective equipment. But Entergy claimed immunity on grounds it had made itself the general contractor and purchased the workers' compensation insurance for the IMC employees.

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The case worked its way up to the Texas Supreme Court, which in 2007 ruled unanimously for Entergy. Criticism rained down on the court, and not just from workers' groups. Legislators from both parties faulted the court for misapplying long-settled law, as did the Texas Association of Defense Counsel, whose members generally represent those being sued — including plant owners.

The court agreed to reconsider the case, but on April 3, in a ruling written by Justice Paul Green, it stuck with its original decision — though this time there was dissent — on a 6-3 vote. Justice Harriet O'Neill, joined by Chief Justice Wallace Jefferson and Justice David Medina, were the dissenters.

Sen. Robert Duncan, R-Lubbock, the Senate's acknowledged expert on workers' compensation law, has introduced a bill that would reverse the court's ruling, as has Rep. Helen Giddings, D-Dallas. Giddings' House Bill 1657 was recommended for approval on a 9-0 vote this week by the House Business and Industry Committee and now goes to the full House.

The workers' compensation system is designed to provide employers an incentive to compensate, through insurers, workers injured on the job. In exchange, employers get immunity to lawsuits by those workers. The system, the Legislature has rightly judged, must not provide plant owners incentive to cut back on the expense of maintaining a safe plant simply by paying a contractor's workers' compensation insurance policy.

And lawmakers should spell it out in terms that even a majority of the Texas Supreme Court can't reinterpret to please certain business interests.

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