



February 2006 Newsletter



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IN THIS ISSUE

Coming Events	Pg 6
Diversity Notes	Pg 4
Legal News for HR	Pg 5
Member Profile	Pg 2
News & Tidbits	Pg 3
SHRM Foundation	Pg 2
Wal-Mart Bill	Pg 2
Worker's Comp Reform	Pg1

WORKER'S COMPENSATION REFORM – HOUSE BILL 7

By Liz Galvan, PHR

At the January 2006 BVHRMA Monthly Meeting, Blake Smith and Emma Woodard of the Division of Workers' Compensation (DWC) gave members a presentation on the Impact of House Bill 7 (HB7) on Workers' Compensation in Texas.

Highlights of the HB7 reform include:

- HB7 transferred functions of the Texas Workers' Compensation Commission (TWCC) to the DWC, effective September 1, 2005.
- A new agency was created to assist injured workers, the Office of Injured Employee Counsel (OIEC). The office will provide ombudsman assistance to injured workers.
- The creation of certified health care "networks" for injured workers. Network certification began on January 1, 2006. Employers may elect to contract with an insurance carrier to participate in the carrier's network. The network is similar to the HMO concept which is used in group health insurance. The injured worker must see a network provider. There will be an Approved Doctors List (ADL) for those injured workers who don't live within a network service area. The ADL will be maintained by the DWC and the doctors listed on the ADL must comply with training requirements and financial disclosures set-up by the DWC.
- The cap on weekly income benefits will be raised by about 12% for workers' compensation injuries occurring on or after October 1, 2006.
- Reduces the time (from 4-weeks to only 2-weeks) the injured worker must be off work in order to receive the income benefits for the first week of disability.

-Continued on page 7, REFORM

Brazos Valley HRMA is an affiliate of SHRM (Society for Human Resource Management). For more information about HR employment, résumés for individuals seeking a career in HR, and to find helpful links to other HR relevant web sites, go to www.bvhrma.org.

Your Foundation at Work: *HR in Alignment*

The Foundation recently produced a new video entitled "HR in Alignment: The Link to Business Results". Narrated by Dr. Wayne Cascio, this DVD presents a real-world case study of Sysco Food Services Company. It explains how Sysco is successfully measuring the business impact of its HR strategy and aligning its mission throughout the organization, from top executives, to front-line employees, to customers. This product compliments the very successful "HR Role Models" DVD introduced by the Foundation

in 2003. A valuable resource for chapter programs and professional development, the video was distributed free to attendees at the 2004 SHRM Leadership Conference, and is now available for purchase through the SHRMStore. The SHRM Foundation: Investing in Your Future as an HR Leader

The SHRM Foundation:
Investing in Your Future as an HR Leader

Membership Profile Dana Sparks

I have my undergraduate in Business Admin from University of Hawaii and an MBA with concentration in HR from Chaminade University in Hawaii. I also have a Paralegal degree from N. Carolina. I have lived all over the U.S. due to the military. I grew up in Indiana. I am PHR certified. I am single and have a 14 year old daughter. I moved to the B/CS area 4 mos. ago for a wonderful job opportunity with The Physician's Centre as HR Director. I have been in HR for 9 years, doing mostly healthcare and retail.



“Wal-Mart” Bill Veto Overridden and Headed to Other States

The Maryland Legislature voted Jan. 12 to override last year's veto by Gov. Robert Ehrlich of legislation requiring employers with 10,000 or more employees to spend at least 8% of payroll on health care benefits for employees. Those that fail to meet that spending threshold would have to contribute to a state fund that provides health care to low-income residents.

Though the new law sets the threshold at 10,000 employees, the measure now applies only to one employer in the state-Wal-Mart Stores Inc.-because the other employers of that size already provide benefits that cost them more than 8% of payroll.

Since then, a template of the Maryland legislation is being circulated throughout statehouses around the country, with virtually identical measures being introduced in some states, such as West Virginia. In Massachusetts, a mandate proposal would apply to employers with as few as 10 employees (see related story). The 8% threshold is based on U.S. Bureau of Labor Statistics data that show employers, on average, devote at least 8% of total compensation to health benefit costs, according to Ms. Walker.

-Continued on page 8, WALMART

NEWS & TIDBITS

MEMBERSHIP DUES DEADLINE APPROACHES



In order to keep your membership in good standing, please remember the deadline for payment of dues is fast approaching. Payments must be received by Wednesday, Feb 15th, 2006.

Payments can be mailed to: BVHRMA, PO BOX 3442, BRYAN TX 77805.

If you have not received an invoice or need another copy, please email Krystal Broussard at krystal@boydreadymix.com

LEADERSHIP CONFERENCE

Our Chapter President and TSC Foundation Chair, Leah S. Smith, PHR along with TSC District Director and Chapter Foundation Chair, Thom Holt, SPHR have attended the Texas State Council Leadership conference January 20-21 in Waco Texas. They along with 70 state of Texas chapter leaders and HR professionals will be discussing chapter leadership activities for 2006.

WALK ACROSS TEXAS

Looking for a free way to promote fitness to your employees? Grab your walking shoes and get ready to walk across Texas, in a manner of speaking.



**Walk[™]
Across
Texas!**

Walk Across Texas is an eight-week program designed to motivate people to take the most important step toward being fit...getting started. Teams consisting of eight people will have a friendly competition to see who can log the most miles, whether it's by walking, jogging, biking, swimming, dancing or even gardening!

Join us Saturday, Feb. 18, 2006, at 10 a.m. at Wolf Pen Creek Amphitheater in College Station for the Walk Across Texas kick-off event. So dust off your shoes, grab your friends, and get moving!

For more information, visit www.brazoswat.com or call Texas Cooperative Extension at (979) 823-0129.

NOMINATIONS FOR STUDENT EMPLOYEE OF THE YEAR ACCEPTED

The Department of Student Financial Aid is accepting nominations for the Texas A&M University Student Employees of the Year Awards. Beginning this year, two outstanding student employees will be recognized, one student employed on-campus and one student employed off-campus. Award recipients will each receive a scholarship sponsored by the Association of Former Students during an awards ceremony on April 12, 2006. All qualified nominees will be recognized during the ceremony.

If you would like to nominate a student employee, nomination criteria, forms, and instructions are available online at <http://jobsforaggies.tamu.edu> under Student Employment Week. Nominations are due in to the Student Employment Office by Friday, February 3, 2006, at 5:00 p.m. For more information, please contact Erin Porter at 979-845-0686 or eporter@tamu.edu.

DIVERSITY NOTES

African-American History Month February 2006

Black History Month (United States)

- 2 - Groundhog Day (United States)
- 2 - Imbolc (Wiccan)
- 5 - Anniversary of the Constitution (Mexico)
- 9 - Ashura (Islamic, Muslim)
- 12 - Abraham Lincoln's Birthday (United States)
- 12 - Lantern Festival (Taiwan)
- 14 - Valentine's Day (United States)
- 21 - President's Day (United States)
- 22 - George Washington's Birthday (United States)
- 24 - Flag Day (Mexico)
- 28 - Mardi Gras (United States)

"A life is not important except in the impact it has on other lives." –Jackie Robinson

Jackie Robinson (1919 - 1972) broke baseball's color barrier, but it wasn't easy.

The following is taken from the U.S. Census Bureau's Facts for Features site at http://www.census.gov/Press-Release/www/releases/archives/facts_for_features_special_editions/006088.html

To recall and celebrate the positive contributions to our nation made by people of African descent, American historian Carter G. Woodson established Black History Week. The first celebration occurred on Feb. 12, 1926. In 1976, as part of the nation's bicentennial, the week was expanded into Black History Month.

POPULATION

39.2 million

As of July 1, 2004, the estimated population of black residents in the United States, including those of more than one race. They made up 13.4 percent of the total U.S. population. This figure represents an increase of half a million residents from one year earlier.

61.4 million

The projected single-race black population of the United States as of July 1, 2050. On that date, according to the projection, blacks would constitute 15 percent of the nation's total population.

3.5 million

The estimated black population of New York on July 1, 2004, highest of any state. Four other states had black populations that surpassed 2 million: Florida, Texas, California and Georgia. About 85,900 blacks were added to Florida's population between July 1, 2003, and July 1, 2004. That is the largest numeric increase of any state in the nation. Georgia and Texas added 61,800 and 45,000, respectively.

1.4 million

The number of blacks in Cook County, Ill., as of July 1, 2004. Cook led all the nation's counties in the number of people of this racial category. Broward County, Fla., had the largest numerical increase (17,900) between 2003 and 2004.

59 %

As of July 1, 2004, the proportion of the District of Columbia's population identified as black — the highest rate for this race group of any state or state-equivalent in the nation. The District of Columbia was followed by Mississippi (37 percent), Louisiana (33 percent) and Georgia, Maryland and South Carolina (30 percent each).

32%

The proportion of the black population under 18 as of July 1, 2004. At the other end of the spectrum, 8 percent of the black population was 65 or older.

BUSINESSES

\$92.7 billion

Receipts for black-owned businesses in 2002, up 30 percent from 1997. The rate at which black-owned businesses increased their receipts was higher than the national average (22 percent).

1.2 million

The number of black-owned businesses in 2002, up by more than 370,000, or 45 percent, since 1997. An estimated 94,862 such firms had paid employees, with receipts of \$69.8 billion or about \$735,586 per firm.

38%

The percentage of black-owned firms were in health care and other service industries; health care and retail trade accounted for a fourth of their receipts.

25%

The percentage of the businesses in Washington, D.C., that were black-owned. Black-owned businesses accounted for between 12 percent and 15 percent of firms in Maryland, Georgia, Mississippi and Louisiana.

-Continued on page 7, African-American History

Legal Briefs for HR

By Audrey E. Mross

Here's the scoop, to get your new year started on the right foot:

1. Hup Two Three Four – The U.S. Dep't of Labor released final regulations interpreting the military leave law, USERRA, and an amended notice of rights poster for employers to display and/or distribute to their employees. While it's worth a complete read by anyone who's responsible for administering military leaves, a few gems contained within the rule are [1] confirmation that supervisors may be personally liable for violations of the law; [2] clarification that third-party administrators who provide more than mere ministerial services to employers are, themselves, employers and subject to USERRA liability; and [3] pre-employment inquiries into applicants' military status "may constitute evidence of unlawful discrimination." For a copy of the final reg and the amended notice of rights and duties, go to www.gpoaccess.gov/fr/ and type "USERRA" in the Quick Search box. The first two docs are what you need.

2. Raising a Racket, Part 2 – In Legal Briefs for HR #5-2005, it was reported that the 11th Circuit allowed a class of employees to pursue claims against their employer under the federal racketeering law, RICO. They claimed the employer, staffing agencies and recruiters had a "common purpose" of providing illegal workers so that the employer could keep its costs low. The U.S. Supreme Court has taken the issue up and will have the final word on this one. *Mohawk Indus. v. Williams* (U.S. 12-12-05) Stay tuned!

3. Lunch Money – A CA jury just served Wal-Mart a \$172 million reminder that state law requires employees be given meal and rest breaks. *Savaglio v. Wal-Mart Inc.* (Cal Super. Ct. 12-22-05). The fact that similar claims are pending against the employer in 30 states serves as a good reminder to everyone that many states (not including Texas) require a meal and/or rest period for employees who work a certain number of hours. Some states even specify the timing, frequency and length of the break. The federal law (FLSA) doesn't require breaks, but it does weigh in on the issue of compensability, depending on the length of the break and whether workers were truly relieved of their duties. The next time you update your

employee handbook, make sure that these issues have been researched and addressed.

4. Can You Keep a Secret? – Step One: Employees sign noncompete agreements while employed by Company A. Step Two: Company A is acquired by Company B. Step Three: Employees are unhappy with Company B's wages and quit, going to work for Company C. Step Three: Company B sues the employees (to enforce the noncompetes) and Company C (for tortious interference). Company B loses. Why? [1] The "trade secret" customer information it sought to protect was readily available on Company B's website, in unlocked file cabinets in their office and in computer files that weren't password protected; [2] Company A's noncompete agreement did not contain assignment language so the agreement to not compete did not extend to Company B; and [3] there was no evidence that Company B's relationships with its customers had been damaged. The devil is in the details . . . make sure your agreements are up to snuff and that "secrets" are, in fact, kept secret. *ENV Servs. Inc. v. Alesia* (NY Sup Ct 11-28-05).

5. Cutting Edge in CA – The Los Angeles, CA City Council has OK'd the first-ever ordinance that requires supermarkets to retain employees for at least 90 days following a change in ownership. Citing its police power to issue laws that impact public health and safety, the Council added that any terminations of employment during the 90-day transition must be "with cause." The measure is due to take effect 30 days after the mayor signs it. The CA Grocers Association is weighing its options to fight the measure.

6. Mans' Best Friend – The EEOC settled an ADA dispute with an employer who refused to hire a qualified, blind applicant because it would not accommodate her guide dog. The employer will pay \$200,000.00 in back pay and compensatory damages and must [1] post notices of the settlement in its IN and IL locations; [2] train managers, supervisors and HR staff on the ADA; [3] distribute its EEO policy to all employees and applicants; and [4] recruit qualified applicants through a Lighthouse for the Blind group. *EEOC v. Americall Group Inc.* (N.,D. Ill. 12-1-05).

-Continued on page 8, Legal News

Upcoming Seminars & Conferences

<p><u>23rd Annual Employment Law & Legislative Conference</u> <i>March 13-15, 2006, Capital Hilton Washington, D.C.</i> http://www.shrm.org/conferences/leg/</p> <p>The Employment Law and Legislative Conference provides the information you need to stay informed about the latest legislative issues pending at the federal and state level as well as compliance and regulatory issues that affect how you conduct day-to-day HR business.</p>	<p><u>Global Certification Preparation Course</u> <i>Saturday, March 18–21, 2006 Caesars Palace Las Vegas, Nevada USA</i> http://www.shrm.org/conferences/global/</p> <p>. Strengthen your knowledge base of the entire body of international HR knowledge while preparing for the GPHR™ exam. Using the SHRM Global Learning System, this comprehensive course highlights content areas that may appear on the certification exam.</p>
<p><u>29th Annual Conference & Exposition of the SHRM Global Forum</u> <i>March 20-22, 2006, Caesars Palace Las Vegas, Nevada USA</i> http://www.shrm.org/conferences/global/</p> <p>Join other HR professionals from around the world for strategic discussions, workshops and presentations about global HR practices and issues. Hear from highly acclaimed keynote speakers who provide differing perspectives and viewpoints that enhance your understanding of HR in the global community and marketplace. Their messages supplement concurrent session offerings on a wide variety of international HR topics.</p>	<p><u>37th Annual Employment Management Conference & Exposition</u> <i>March 30-April 1, 2006, Manchester Grand Hyatt San Diego, California</i> http://www.shrm.org/conferences/ema/</p> <p>Join us at SHRM's 37th Annual Employment Management Conference and Exposition—the one and only conference dedicated to HR professionals specializing in employment and staffing. This conference is specifically designed to focus on the distinctive interests and professional development needs of employment professionals.</p>
<p><u>SHRM Annual Conference & Exposition</u> <i>June 25-28, 2006 Washington, D.C.</i> http://www.shrm.org/conferences/annual/</p> <p>The SHRM Annual Conference & Exposition is a three-and-a-half-day conference designed to give you, the HR professional, the most comprehensive and relevant professional development programs that improve your knowledge, skills and abilities.</p>	<p><u>2006 SHRM Workplace Diversity Conference & Exposition</u> <i>October 16-18, 2006, Century Plaza Hotel and Spa Los Angeles, California</i> http://www.shrm.org/conferences/diversity/</p> <p>Join leaders in the field of diversity management at this two-and-a-half-day forum. You will attend guided dialogue sessions that focus on emerging issues, current research, and legislative and regulatory compliance. This conference promises to be an excellent learning and networking opportunity for all professionals who are responsible for diversity within small, medium and large organizations.</p>
<p><u>2006 Strategic HR Conference</u> <i>October 4-6, 2006, Westin Kierland Resort Phoenix, Arizona</i></p> <p>This three-day meeting promises to accelerate your strategic thought process, expand your view of what's possible, and give you key insights and ideas that you can use immediately to impact the success of your organization. An esteemed team of HR experts, leaders and visionaries will share their wisdom and best practices on how to think and act strategically.</p>	

REFORM, continued from page 1

- Return-to-work initiatives
 - Pilot program will provide reimbursements up to \$2,500 per employer to pay for workplace modifications that allow for injured workers to return to work
- Please visit the DWI website at <http://www.tdi.state.tx.us/wc/> for more information or you may contact Emma Woodard (Office Manager) at the Bryan Field Office at 979/268-6766 if you have questions.

African-American History, continued from page 1

EDUCATION-----

81%

Among blacks age 25 and older, the proportion that had at least a high school diploma in 2004. This proportion rose by 8 percentage points from 1994 to 2004.

18%

Among blacks age 25 and older, the proportion that had a bachelor's degree or higher in 2004 — up 5 percentage points from 1994.

1.1 million

Among blacks age 25 and older, the number who had an advanced degree in 2004 (e.g., master's, Ph.D., M.D. or J.D.). Ten years earlier — in 1994 — only 624,000 blacks had this level of education.

2.3 million

Number of black college students in fall 2004, roughly double the number 15 years earlier.

INCOME AND POVERTY-----

\$30,134

The annual median income of black households in 2004. This represents no change from 2003.

24.7%

Poverty rate in 2004 for those reporting black as their only race. This rate was unchanged from 2003.

FAMILIES AND CHILDREN-----

9.1 million

Number of black families in the United States. Of these, nearly one-half (47 percent) are married-couple families.

11%

Proportion of black children who live in a household maintained by a grandparent.

JOBS-----

27%

The percentage of blacks age 16 and older who work in management, professional and related occupations.

There are 50,600 black physicians and surgeons; 69,400 postsecondary teachers; 44,800 lawyers; and 53,800 chief executives.

VOTING-----

60% of black citizens age 18 and older who voted in the 2004 presidential election. That amounted to 14 million voters. The percentage of those voting is up 3 percentage points from the previous election. Blacks had the highest turnout rate of any minority group in 2004.

SERVING OUR NATION-----

2.3 million of black military veterans in the United States in 2003.

HOMEOWNERSHIP-----

48% The proportion of black householders who own their own home.

HEALTH INSURANCE-----

20% The proportion of blacks who lacked health insurance in 2004, unchanged from the previous year.

Legal News, continued from page 1

7. **A Taxing Situation** – Have your employment agreements, option plans, change in control agreements, severance plans, SERPs, defined contribution plans and other non-qualified deferred compensation (NQDC) arrangements been reviewed in light of Section 409A of the Internal Revenue Code? Mistakes can be very costly to plan participants . . . non-compliant deferrals are subject to a 20% penalty and interest at the underpayment rate plus 1%. And to add insult to injury, these amounts are included in the participant's current year's gross income and are taxable. Ouch.

8. **New Year, New Laws** – Several states have raised their minimum wage rates, effective 1-1-06, including CT (\$7.40), FL (\$6.15), NY (\$6.75; \$7.15 eff. 1-1-07) and VT (\$7.25). Dependent kids in CO can stay covered under their parents' health insurance until age 25. IL and MN have banned anyone under the age of 18 from talking on a cell phone while driving (think delivery drivers).

9. **E-Filing Requirement** – Effective 1-4-06, employers wanting to hire workers on H-1B visas must file their labor condition applications (LACs) via the DOL website. Alternate means of filing will be made available for employers with physical disabilities or who lack Internet access, upon a written request to waive the requirement.

10. **Are You Ready to BOC?** – The Texas Business Organizations Code, which took effect 1-1-06, codifies multiple Texas laws governing corporations, partnerships, LLCs, professional associations and corporations, non-profit entities

and other business organizations. It applies to all entities formed on or after 1-1-06 as well as to foreign filing entities registering to transact business in TX on or after that date. Existing entities are governed by the existing law until 12-31-09 unless they opt in to the BOC by filing a form with the TX Secretary of State.

11. **Celebrate!** – Congratulations to T.G.I.Friday's on receiving the Catalyst Award during People Report's Annual Best Practices conference. The award is given annually to a company that shows the greatest improvement in their people practices in the foodservice industry.

12. **New Years Resolutions for HR** – Please join me at the Jan. 10 Dallas HR meeting, where I'll be presenting a "things to do" list for 2006 along with practical tips for getting them done. On-line and printable registration forms for the luncheon meeting are available at www.dallashr.org. And don't forget to bring a donation for the Texas Food Bank! Until next time,

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WALMART, continued from page 1

Setting the threshold at 8% could have unintended consequences if employers that already provide more-generous benefits decide to cut back, warned John Miller, executive director of the Mid-Atlantic Business Group on Health, an employer coalition based in Greenbelt, Md.

"It creates a disincentive for employers that are aggressively managing cost through benefit design, disease management and vendor

negotiations," Mr. Miller said. "They will not have the motivation to do so anymore."

There is some debate as to whether states have the power to mandate that employers provide a minimum level of health benefits.

*edited from 1/23/06 article
by JOANNE WOJCIK of Business Insurance.*

*For the full article go to
<http://www.businessinsurance.com/cgi-bin/article.pl?articleId=18228>*