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The *Entergy* Decision Gives Effect to the Explicit State Policy of Encouraging Subscription to the Workers' Compensation System

The public policy underpinning of the *Entergy* decision is good, which is that a premises owner can act as its own general contractor and purchase a comprehensive workers' compensation policy to cover its own employees and that of subcontractors. For about a hundred years, it has been the explicit policy of Texas and every other state to encourage workers' compensation coverage.

Everyone agrees that the Workers' Compensation Act allows a general contractor hired by a premises owner to purchase a workers' compensation policy that covers the general contractor's workers and the workers of its subcontractors and thereby receive tort immunity as a "statutory employer" of the subcontractors' employees.

There is no reason to distinguish a hired general contractor from a premises owner engaged as its own general contractor – both serve the public policy interest of encouraging the enrollment of all workers on a job site in the workers' compensation system.

The workers' compensation system was established in the early Twentieth Century as part of the Progressive movement. Workers' compensation allows an injured worker to receive lost wages and all medical expenses without the delay and risk of negligence lawsuits. To encourage employers to provide workers' compensation, the employer receives immunity from tort lawsuits for the worker's injury.

Since the *Entergy* decision gives effect to good public policy – encouraging employers to provide workers' compensation insurance to workers – then the only reason to support a reversal of the decision would be a conviction that the Supreme Court clearly encroached on the Legislature's policy-making function.

But Justice Green's opinion for the Court is well reasoned, gives effect to the express public policy of the Workers Compensation Act, and is completely consistent with the established rules of statutory construction.

The *Entergy* decision recognized existing practices in the workplace. Premises owners for years have acted as their own general contractors and covered the entire work site with a workers' compensation policy.

Since the *Entergy* decision gives effect to established market practices and sound public policy, the Legislature has no compelling reason to reverse the decision through legislation, especially as an amendment to an Insurance Sunset Bill.