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Employer mandate on health care largely symbolic

State government » Requiring contractors who win state jobs to provide insurance benefits is pointless because most already do.

By Heather May and Lisa Rosetta

The Salt Lake Tribune

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A signature health care reform bill passed by state lawmakers this year was supposed to boost the number of Utahns who have insurance, among other goals.

In reality, HB331, which requires certain state contractors to provide health insurance to their employees, is largely symbolic and will likely have little impact, an analysis by *The Salt Lake Tribune* has found.

That's because most of the companies that win the contracts targeted by the law already provided insurance, many businesses said in a *Tribune* survey.

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Casey Ontiveors, right, works with other members of... (Chris Detrick / The Salt Lake Tribune)

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The law says companies working on design and construction jobs worth $1.5 million or more -- and $750,000 or more for subcontractors -- must provide employees and their dependents a minimum level of insurance. The law took effect in July.

With unprecedented prodding by then-Gov. Jon Huntsman Jr., lawmakers also approved bills meant to eventually expand access to insurance and reduce costs. Lawmakers lauded the contract law as a "big step forward."

One goal: to reduce the number of uninsured Utahns, now at 13 percent. It was also meant to reduce the ranks of uninsured workers who can't pay for care they receive, and to level the playing field for contractors, according to the bill's sponsor, Rep. Jim Dunnigan, R-Taylorsville.

Before the law, companies that didn't provide health insurance could underbid their competitors, he noted.

The law sets the policy that "as a state, we're going to support and encourage responsible employers who provide health insurance for their employees," Dunnigan told lawmakers during the session.

Requiring insurance could also lower the amount of care provided through charity and state programs like Medicaid and the Children's Health Insurance Program, he noted. Insured Utahns could benefit, too: An estimated 9 percent to 17 percent of health insurance premiums pay for the cost of caring for the uninsured, he noted.

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Advocates for reform doubted HB331 could make good on such promises, and they appear to have been right.

Through records requests, the *Tribune* determined there were 95 contractors who had received $1.5 million contracts in 2007 or 2008. Half of them, a mix of 46 small and large employers, participated in a telephone survey.

About 94 percent said they provided insurance in the past. The same number offer insurance today.

In other words, the law has not yet prodded any of them to offer insurance, though it did create some angst as contractors assessed whether their plans met the law.

"That's right on," said Rich Thorn, president and chief executive of the trade group Associated General Contractors, when asked if the law was largely symbolic. His group nevertheless opposed the mandate, calling it "social engineering" and unfair to construction contractors.

If lawmakers wanted to get more Utahns insured, "they could require anybody that has a business or has a business license to provide health care coverage. That would never see the light of day," he said, calling contractors "low-hanging fruit."

Indeed, state lawmakers have refused to discuss a large-scale mandate to provide more Utahns insurance, as is being discussed now at the federal level.

Thorn knows of some contractors, which he declined to name, who have decided to stop bidding on state

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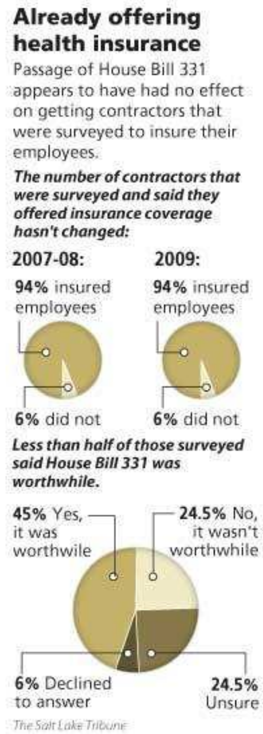
projects rather than provide insurance, because the cost is too high. "It does cost more money to work for the state of Utah today than it did a year ago," he said.

Staker Parson Cos., one of the companies with the most contracts worth more than $1 million, already provides insurance to its construction crews. Paul Glauser, a vice president over benefits for the Ogden company, said he was glad the law leveled the playing field, but he too has problems with it. It adds administrative costs and forced the company to insure more employees than it had before, he said.

"We feel like we are one of the companies that is doing everything right, however, we still end up paying the cost for those who are not," he wrote in an e-mail.



Cost challenges remain » Businesses bidding on $1.5 million jobs are, typically, sophisticated operations that already offer benefits to attract employees, said Judi Hilman, executive director of the Utah Health Policy Project group, which supports reform.

Even at $500,000 -- the lower threshold originally proposed -- few businesses would have been affected, she believes.

In any case, Hilman said, the Legislature shouldn't require businesses to offer insurance until more comprehensive reforms take place.

"We don't think it's appropriate to consider an employer mandate until you've bent over backward to rein in the costs ... and we haven't done that," she said.

Kent Henderson, owner of Broderick & Henderson Construction in Orem, agrees. He doesn't offer a group insurance plan to his 30 employees, but will -- at an estimated cost of $7 an hour per employee -- to continue to work on state projects, which make up 80 percent of his business.

He finds it "really frustrating" that insurers charge small employers more for similar policies than large ones.

"Most employers want to carry [insurance]," he said. "The reason we have dropped it is the inability to compete because of the pricing structure of the insurance companies."

He added: "If they leveled the playing field as to what we pay for insurance most of the problem would go away."

He predicts he'll lose bids for private jobs because he'll be competing against contractors who only work in that market and avoid the mandate.

"I would have [lawmakers] not do it at all or [mandate that] all companies in Utah cover it. Don't go half way," Henderson said.

Those are some of the reasons Sen. Scott Jenkins, R-Plain City and the majority whip in the state Senate, voted against the bill, saying he doesn't support government mandates.

"The question is, should we do more?" asked the owner of a plumbing-supply company, which he said provides insurance to its employees. "I don't think we should do more. I think we've done great."

Making a difference » Dunnigan said he was surprised, and pleased, to hear so many of the surveyed contractors already offered insurance. But the legislator, who met with more than 200 companies over the summer to answer questions about the law, remains convinced it will make a difference.

Some employers told him they were giving workers $100 a month to go buy individual health plans. "If you're 40-something or older, 100 bucks is nice, but it isn't really going to cover your costs," Dunnigan said.

Others said they offered plans that don't meet the benefit criteria required by the new law, he said. And still others admitted to "double dipping" taxpayer dollars -- bidding on government-funded projects while steering employees to public health programs, such as Medicaid and CHIP.

"I've heard plenty enough of that," he said, "that I think HB331 will be a very productive piece of legislation."

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Q & A

What kind of insurance must be provided under the new law?

The employer must pay at least 50 percent of the premium for the employee and his or her dependents on a plan that is similar to the Children's Health Insurance Program. A high deductible health plan is also acceptable, under certain conditions.

Who does it apply to?

Contractors working on jobs for the Department of Environmental Quality, Department of Natural Resources, Division of Facilities Construction and Management, Utah Department of Transportation, Utah Transit Authority and Capitol Preservation Board.

It only applies to general contractors when the contract is worth at least $1.5 million, and to subcontractors for contracts worth $750,000 or more.

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What are the penalties?

Contractors could be suspended from entering into future contracts with the state for three months for the first violation and six months for the second. A third violation could result in the contractor being forbidden to work for the state. He could also be fined up to 50 percent of the cost of providing insurance. And out-of-compliance contractors could be sued by the employees to cover health care costs.

About the Tribune survey

The newspaper sought the names of general contractors who received state contracts worth $1.5 million or more in 2007 and 2008. Only Utah Transit Authority couldn't provide the data without a lengthy search through paper records. The Capitol Preservation Board said no contracts were awarded in 2007 and 2008 that met the conditions in the law authorized by HB331.

Tribune staffers Eric Watson, Andrew Maddocks, Sheena McFarland and Lisa Rosetta called the contractors to survey them about their insurance status and other issues. Computer-assisted reporting editor Tony Semerad analyzed the data.

What do other states do?

According to the National Conference of State Legislatures, Illinois and Massachusetts have similar laws. Illinois requires certain contractors to pay wages and benefits comparable to "conditions prevalent in the location where the work is to be performed." Massachusetts says wages and benefits must be comparable to what state employees make.

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