



Texas Occupational Injury Management

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Overview of Texas Workers' Compensation Insurance Market

In 2019:

- 312 insurance companies wrote coverage
- Direct written premium: about \$2.5 billion
- Residual market size: 0.44%
- Projected accident year combined ratio: 98%
- Insurance company average return on net worth: 10%

Since 2003:

- Average premium per \$100 of payroll declined 73% (\$0.63 in 2018)
- Insurance rates have dropped about 72%

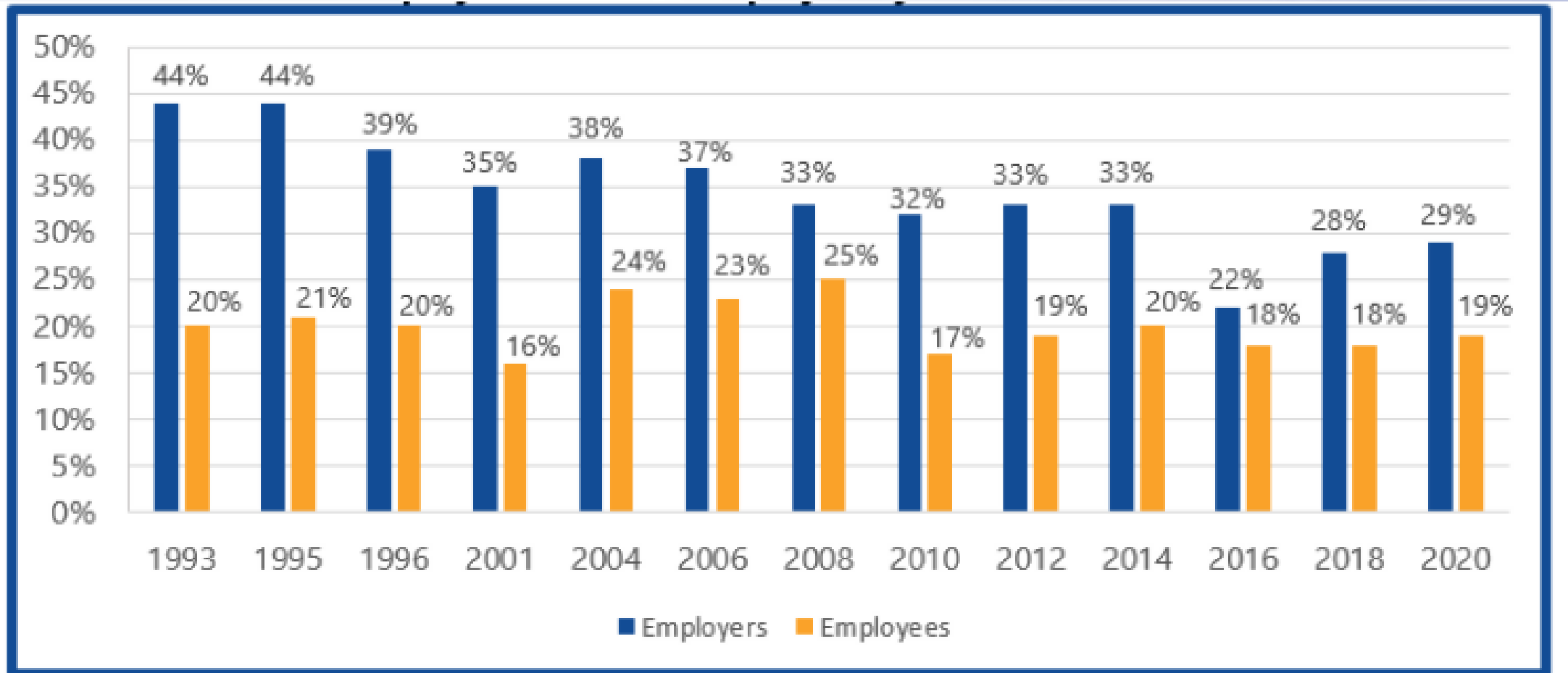
Workers' Compensation Coverage Requirements

- **Private-sector employers** – coverage is optional
 - required coverage for employers providing building or construction services to a political subdivision
- **Political subdivisions** – coverage is required through:
 - self insurance;
 - intergovernmental risk pool; or
 - purchasing a policy.
- **State of Texas** – self-insured programs administered by:
 - State Office of Risk Management;
 - University of Texas System;
 - Texas A&M University System; or
 - Texas Department of Transportation.

Statutory Reporting Requirements for Non-Subscribing Employers

- Must report non-coverage to Division of Workers' Compensation (DWC 5 form)
- Must post written notice in workplace
- Must provide written notice to all new employees or to all employees when coverage terminates
- Employers with 5 or more employees must report to DWC (DWC 7 form):
 - all occupational diseases,
 - fatalities, and
 - on-the-job injuries resulting in more than 1 day of lost time

Percentage of Texas Private Employers That Are Non-Subscribers and Percentage of Texas Employees Employed by Non-Subscribers



Source: Survey of Employer Participation in the Texas Workers' Compensation System, 1995 estimates from the Texas Workers' Compensation Research Center and Texas A&M University, PPRI; 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and PPRI; and 2004-2020 estimates from the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group and PPRI.

Non-Subscription Rates by Employer Size

Employment Size	1995	1996	2001	2004	2006	2008	2010	2012	2014	2016	2018	2020
1-4 Employees	55%	44%	47%	46%	43%	40%	41%	41%	43%	31%	36%	40%
5-9 Employees	37%	39%	29%	37%	36%	31%	30%	29%	27%	19%	27%	21%
10-49 Employees	28%	28%	19%	25%	26%	23%	20%	19%	21%	10%	16%	16%
50-99 Employees	24%	23%	16%	20%	19%	18%	16%	19%	18%	10%	10%	9%
100-499 Employees	20%	17%	13%	16%	17%	16%	13%	12%	14%	11%	10%	10%
500+ Employees	18%	14%	14%	20%	21%	26%	15%	17%	19%	19%	20%	22%

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Non-Subscription Rates by Industry

Industry Type	Non-Subscription Rate								
	2004	2006	2008	2010	2012	2014	2016	2018	2020
Agriculture/Forestry/Fishing/Hunting	39%	25%	27%	25%	29%	26%	14%	22%	21%
Mining/Utilities/Construction	32%	21%	28%	19%	22%	20%	19%	17%	23%
Manufacturing	42%	37%	31%	31%	29%	25%	21%	28%	25%
Wholesale Trade/ Retail Trade/Transportation	40%	37%	29%	32%	26%	34%	20%	33%	23%
Finance/Real Estate/Professional Services	32%	33%	33%	33%	32%	29%	24%	21%	31%
Health Care/Educational Services	41%	44%	39%	32%	35%	41%	28%	39%	42%
Arts/Entertainment/Accommodation/Food Services	54%	52%	46%	40%	40%	39%	24%	32%	19%
Other Services Except Public Administration	39%	42%	36%	42%	49%	47%	22%	36%	38%

Source: Survey of Employer Participation in the Texas Workers' Compensation System, 1995 estimates from the Texas Workers' Compensation Research Center and Texas A&M University, PPRI; 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and PPRI; and 2004-2020 estimates from the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group and PPRI.

Top Five Reasons Employers Gave for Not Purchasing Workers' Compensation Coverage

2006	2020
Premiums too high	Too few employees
Too few employees	Few injuries
Coverage not required	Coverage not required
Medical costs too high	Premiums too high
Few injuries	Company could do a better job reducing costs

Source: Survey of Employer Participation in the Texas Workers' Compensation System, 1995 estimates from the Texas Workers' Compensation Research Center and Texas A&M University, PPRI; 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and PPRI; and 2004-2020 estimates from the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group and PPRI.

Resources

- Texas Labor Code §§406.002-005, 406.007, 406.091, 411.032
- Texas Administrative Code §§ 110.101 and 160.2
- www.tdi.texas.gov/wc/employer
- www.tdi.texas.gov/pubs/factsheets/noncoveremp.pdf
- www.tdi.texas.gov/reports/dwc/documents/2020dwcblenlrpt/pdf



TEXAS ALLIANCE
OF NONSUBSCRIBERS

TEXAS ALLIANCE OF NONSUBSCRIBERS

- Non-profit trade association representing responsible non-subscribers.
- Mission is to increase the public and legislators' understanding of non-subscription.
- Represents many top employers with operations across all regions and industry sectors of Texas.
- All Alliance members are required to have Occupation Injury Benefit Plans to provide benefits in lieu of workers' compensation.

Texas Non-Subscription

- **Texas Workers Compensation system established in 1913 as non-mandatory no-fault compensation system for injured workers.**
- **Approach has been described as a “carrot and stick” for employers:**
 - **Benefit** of carrying workers’ compensation is immunity from most lawsuits (exception: death caused by employer’s intentional act or gross negligence).
 - **Penalty** for not carrying workers’ compensation is loss of immunity from lawsuits (*i.e.*, tort liability).
- **Often referred to as “going bare,” but most employees not in the workers’ compensation system are covered by Occupation Injury Benefit Plans.**

Benefits to Employees

The Non-Subscriber Occupation Injury Benefits Plans covering most employees provide:

1. Immediate wage-replacement benefits on the first day of missed work.
2. Wage-replacement benefits at higher rates than workers-compensation (most are 85% - 100%).
3. Access to more medical specialists and higher-quality medical care.
4. Overall, employees of nonsubscribing employers report higher satisfaction rates than those employed by companies carrying workers' compensation.

Benefits to Employers

1. Lower insurance premiums (many self-insure up to \$250,000 or even \$2 million).
2. Ability to provide better and faster medical care for employees (less paperwork and better pay for doctors, so more willing to participate).
3. Faster return-to-work rates, so less impact on existing workforce.
4. Lower amounts paid overall on claims due to better claims management.
5. **“Overall, Texas non-subscribers report higher levels of satisfaction than subscribers.”**

Source: Survey of Employer Participation in the Texas Workers' Compensation System, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2018;

<https://www.tdi.texas.gov/reports/wcreg/documents/nonsub2019.pdf>

Employer Participation in the Texas Workers' Compensation System: 2018 Estimates

Texas Department of Insurance

Workers' Compensation Research & Evaluation Group

FEBRUARY 2019

Percentage of "Extremely" or "Somewhat" Satisfied: Subscribers and Non-Subscribers in 2018

Satisfaction with Subscription/Non-Subscription Experience	Subscribers	Non-Subscribers
Overall satisfaction	54%	62%
Adequacy and equity of benefits paid to injured employees	46%	54%
Degree to which workers' compensation insurance coverage or occupational benefits plan is a good value for the company	52%	61%
The ability to effectively manage medical and wage replacement costs	46%	62%

Non-subscribers generally express higher levels of satisfaction than subscribers.

Note: On a scale of 1 to 5, where 1 means *Not At All Satisfied* and 5 means *Extremely Satisfied*, this table represents those who responded 4 or 5.

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Public Policy Research Institute at Texas A&M University and the Texas Department of Insurance Workers' Compensation Research and Evaluation Group, 2018.

Do Non-Subscribers Need Regulation?



- Workplace safety regulated by Occupational Safety and Health Administration (“OSHA”).
- Non-subscribers further self-regulated through competition for employees.
- Non-subscribers are highly motivated to provide safe workplaces due to tort exposure.
- Non-subscribers who have Occupation Injury Benefit Plans are regulated through Employee Retirement Income Security Act (“ERISA”).