Effects of Reforms on the Texas Workers' Compensation Insurance Market

Research and Oversight Council on Workers' Compensation

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Acknowledgments

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Research and Oversight Council on Workers' Compensation

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Executive Summary

Senate Bill 1 (SB 1, 1989) and House Bill 62 (HB 62, 1991) introduced significant reforms to the Texas workers' compensation insurance system. This study examines:

- the effect of the reforms on the level of competition in the Texas workers' compensation marketplace; and
- whether the reforms made workers' compensation insurance more affordable and available for employers in Texas.

Key Findings

Overall, there are more carriers competing for the business of Texas employers, resulting in increased availability and affordability of workers' compensation insurance.

- The Herfindahl-Hirschman Index, a measure of market concentration, was calculated for calendar years 1991 through 1997. The results from these calculations show that the workers' compensation market was at its least competitive in 1993 and 1994, and at its most competitive in 1996 and 1997.

- The percentage of Texas employers who do not carry workers' compensation coverage has declined from 44 percent in 1993 to an estimated 39 percent in 1996. This change was due mostly to an increase in the number of small employers who reentered the workers' compensation system after previously opting out.[1]

- The market share of the top twenty insurers decreased from 87.8 percent in 1993 to 74.7 percent in 1997, a reduction of 13 percent. The market share of the largest writer of workers' compensation insurance in Texas — the Texas Workers'

[1] Research and Oversight Council on Workers' Compensation, *Annual Nonsubscription Survey: 1996 Estimates* (1996).

Compensation Insurance Fund (Fund) — has declined from 27.8 percent in Fiscal Year (FY) 1995 to 13.4 percent in FY 1997.

- The number of policies written in the residual market (i.e., by the Fund, as insurer of last resort) has decreased from 17,898 (12 percent of total policies written) in 1993 to 970 (0.8 percent) in 1997. A low percentage of policies written in the residual market indicates increased availability of insurance in the voluntary market.

While increased competition among carriers in Texas has resulted in more available and less costly workers' compensation coverage, fierce competition may compel insurance carriers to adjust prices downward beyond the point at which losses can be covered by premiums. Subsequently, carriers may need to increase prices in order to maintain profitability and avoid financial difficulty. There are indications that the workers' compensation market may be in for a change:

- total premium volume decreased from $2.3 billion in 1993 to $1.8 billion in the 4th quarter of 1998;[2]
- in a recent survey, 85 percent of insurance carriers who responded agreed that underpricing is occurring in the Texas workers' compensation insurance market;[3]
- the combined ratio for the Texas workers' compensation market (i.e., the sum of the loss ratio, loss adjustment ratio, and the underwriting expense ratio) in 1997 is 110.6 percent, indicating an overall insurance carrier underwriting loss;[4] and
- the average Texas insurance carrier had an overall profit of 8.5 percent in 1997 compared to 12.8 percent nationally.[5]

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[2] Texas Department of Insurance, *Quarterly Legislative Report on Market Conditions*, 4th Quarter 1993 and 4th Quarter 1998.

[3] Research and Oversight Council on Workers' Compensation, *An Examination of the Strengths and Weaknesses of the Texas Workers' Compensation System* (1998).

[4] Texas Department of Insurance, 1999.

[5] National Association of Insurance Commissioners, *Profitability by Line by State in 1997* (1999), as reported in *Ed Welch On Workers' Compensation* 9, No. 3 (1999).

Many carriers have been able to offset the lower premium volume with investment income and the release of reserves from earlier accident years to maintain profitability. However it is unclear how much longer insurance carriers can rely on investment income to remain profitable.[6]

Texas utilizes the following mechanisms for monitoring the workers' compensation insurance market and maintaining healthy market conditions:

- ensuring adequate insurance rates and reserves through insurance carrier reports to the Texas Department of Insurance;
- adopting classification relativities and experience rating plans that encourage workplace safety;
- maintaining an early warning system for identifying carriers with the potential for financial difficulty;
- mandating the Fund to promote rate competition in the Texas workers' compensation insurance marketplace as well as to serve as the insurer of last resort; and
- guaranteeing the payment of claims in the event of a carrier failure by mandating that insurance carriers who conduct business in Texas be members of the Texas Property and Casualty Insurance Guaranty Association.

All system participants can aid in maintaining a healthy Texas workers' compensation system by focusing on the following issues:

- **Workplace safety.** Continued reductions in injury rates will help to keep the costs of workers' compensation in Texas low.

- **Health care costs.** Per-claim medical costs in Texas are almost 1.5 times the national average.[7] The combination of high costs and potential cost increases in the future

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[6] "Workers' Comp Rates Start to Rebound," *The Wall Street Journal*, March 10, 1999, A2.

[7] Research and Oversight Council on Workers' Compensation, *Healthcare Costs in the Texas Workers' Compensation System* (1999). Recent National Council on Compensation Insurance (NCCI) data show the difference to be even greater (approximately 1.8 times higher).

indicates a need for additional attention to medical cost containment strategies in the Texas workers' compensation system.

- **Reducing fraud.** All fraud increases system costs. Focusing on costly employer premium and health care provider fraud — as well as carrier efficiency when investigating fraud — will aid in keeping workers' compensation costs manageable.

- **Benefit adequacy.** Workers' compensation reforms sought to strike a balance between carrier/employer concerns with premium affordability and injured worker concerns with benefit adequacy. From a policy viewpoint, it is important to the health of the system that excessive cost containment measures do not disrupt this balance.

Though conditions are presently favorable for Texas employers, increased competition among workers' compensation insurance carriers could ultimately drive prices below a point of financial stability. In the past, carriers have looked to investment income to offset lower premiums. It remains to be seen if this trend will continue, and whether some insurance companies may be forced to raise prices, increase administrative efficiencies, or seek out niche markets to remain solvent. It is increasingly important for system observers to monitor investment market fluctuations, combined ratios and reserving practices of insurance carriers over the next biennium to ensure that the Texas marketplace is healthy for employers and carriers alike.

I. Introduction

The workers' compensation system in Texas has undergone significant change since the reforms of 1989 (effective January 1, 1991). At that time, benefits to injured workers were perceived by many to be inadequate and workers' compensation insurance costs were high.[8] As a result of high costs, employers had difficulty finding affordable coverage. At the same time, promulgated workers' compensation insurance rates (i.e., rates set by regulation) combined with increasing carrier assessments from the Texas Workers' Compensation Assigned Risk Pool made it difficult for insurance companies to operate in Texas.[9]

The Texas Legislature responded to these problems with an array of reform measures packaged in Senate Bill (SB) 1 in 1989. SB 1 addressed general reform issues in the areas of benefit adequacy, equity, and delivery; litigation; and workers' compensation system regulation. In general, the 1989 workers' compensation system reform was successful in creating a more equitable environment for all participants largely because of the following changes:

- **More effective workers' compensation administration**. SB 1 improved the administration of workers' compensation insurance claims in Texas by creating the Texas Workers' Compensation Commission (TWCC). The TWCC provides more services and regulatory duties than did its predecessor, the Texas Industrial Accident Board. In addition to the TWCC, the 1989 reforms created two additional entities: the Legislative Oversight Committee on Workers' Compensation Insurance to monitor the implementation of the reforms and make legislative recommendations for change, and the Texas Workers' Compensation Research Center to provide timely, unbiased

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8 Research and Oversight Council on Workers' Compensation, *An Analysis of Strengths and Weaknesses in the Texas Workers' Compensation System* (1998).

9 As a result of several large insurance company failures, insurance carriers were required to pay assessments to fund deficits of the Texas Workers' Compensation Assigned Risk Pool, the insurer of last resort at the time.

information on the effectiveness of the system. These entities were combined in 1995 to create the Research and Oversight Council on Workers' Compensation (ROC).

- **Benefit adequacy**. More injured workers are receiving between 80 and 100 percent of their after-tax pre-injury wages since the reform (91 percent of workers under the new law compared to 34 percent of workers under the old law).[10] Injured workers also receive their benefits in a more timely manner under the new law.

- **Multi-tiered dispute resolution system**. Litigation and associated costs have decreased significantly due in part to a system that allows multiple opportunities for administrative dispute resolution before a party may proceed to court. Under the old law, attorney representation of injured workers was high — over 90 percent of injured workers were represented by attorneys during prehearing conferences and approximately 40-45 percent of all claims had attorney representation.[11] As a result of the SB 1 reforms, attorney representation of injured workers has decreased significantly. Now, only about 8.7 percent of all workers' compensation claimants are represented by an attorney.[12]

The Legislature also introduced the following reform measures to the workers' compensation system through SB 1 that benefited employers and insurance carriers in Texas:

- **Deductible policy options.** As of January 1, 1992, Texas employers can select from promulgated or negotiated workers' compensation insurance deductible policies.[13]

[10] Peter S. Barth and Stacey M. Eccleston, *Revisiting Workers' Compensation in Texas: An Administrative Inventory*, Workers Compensation Research Institute (1995).
[11] Peter S. Barth and Stacey M. Eccleston, *Workers' Compensation in Texas: Administrative Inventory*, Workers' Compensation Research Institute (1989).
[12] Texas Workers' Compensation Research Center, *Attorney Involvement in the Texas Workers' Compensation System* (1995).
[13] Promulgated or "small" deductibles are those which insurance carriers are required to make available to eligible employers with estimated premiums in excess of $5000. Negotiated or "large" deductibles are those in which the insurance carrier and the policyholder may negotiate the deductible terms along criteria established by the Texas Department of Insurance. See Texas Workers' Compensation Research Center, *A Survey of Workers' Compensation Insurance Deductible Programs* (1993).

Deductible policies produce savings for employers by reducing premium size and providing loss-control incentives for employers to limit workplace injuries.

- **Self-insurance.** As of January 1, 1993, employers who meet certain safety and financial requirements may apply to be a TWCC-certified self-insured employer in Texas.[14] Self-insurance allows an employer to assume the risk for the vast majority of its workers' compensation liability, and purchase some form of excess or stop-loss coverage to protect the employer from catastrophic losses. Self-insurance provides employers with greater control over claims and disability management, and also provides loss-control incentives for employers to promote workplace safety.

The Legislature enacted the following additional workers' compensation reforms in 1991 through House Bill (HB) 62:

- **Implementing a file-and-use rating system**. Effective September 1, 1991, workers' compensation insurance rates are determined by each insurance carrier and are subject to review by the Texas Department of Insurance (TDI). Under the old law, the State Board of Insurance promulgated workers' compensation insurance rates that allowed little room for adjustment by insurance carriers.

- **Creating a competitive state fund.** HB 62 created the Texas Workers' Compensation Insurance Fund (Fund), and called for the Texas Workers' Compensation Insurance Facility (Facility) to stop writing new workers' compensation policies on December 31, 1993.[15] The Fund began writing insurance in 1992 and became the insurer of last resort on January 1, 1994. The Fund plays an important role in the Texas workers' compensation system by carrying out three important responsibilities in the marketplace:

[14] See *Texas Labor Code*, Sections 407.062 – 407.065 for specific requirements to be a certified self-insured employer in Texas.

[15] The Facility had taken over the role as insurer of last resort from the Texas Workers' Compensation Assigned Risk Pool.

First, the Fund acts as a competitive force in the voluntary workers' compensation insurance market by creating rate competition in the marketplace.

Second, the Fund acts as the insurer of last resort for high-risk employers by providing workers' compensation coverage to businesses that cannot find coverage in the voluntary insurance market.

Lastly, the Fund ensures the availability of workers' compensation coverage by providing coverage to small employers that historically have had difficulty finding coverage in Texas.

Forty-three percent of the Facility's 1993 accounts were eventually written by the Fund — 17 percent of which were insured through the Fund's programs for high risk and small employers.[16]

- **Eliminating carrier assessments.** HB 62 also eliminated assessments of insurance carriers to pay Facility deficits.[17]

Both SB 1 and HB 62 introduced significant reforms to the workers' compensation system that have benefited many system participants. This study examines how the reform measures of SB 1 and HB 62 have affected the workers' compensation insurance market by analyzing:

- the effect of the reforms on the level of competition in the Texas workers' compensation marketplace; and

- whether the reforms made workers' compensation insurance more affordable and available for employers in Texas.

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[16] Research and Oversight Council on Workers' Compensation, *Depopulation of the Texas Workers' Compensation Insurance Facility: A Survey of Employers* (1996).

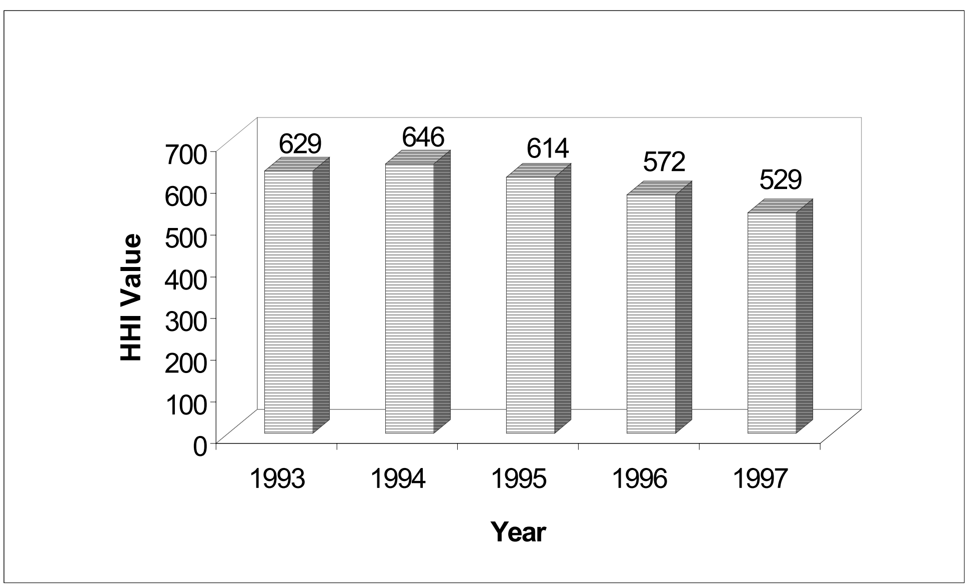
[17] Assessments were levied against voluntary market insurers to pay off annual Facility deficits; the amount of the assessment was based on the insurer's share of the Texas workers' compensation market.

The study concludes with a discussion of how competition may affect both insurance carriers and employers in Texas, and the mechanisms available in Texas to help ensure a healthy workers' compensation insurance marketplace in the future.

II. Competition in the Texas Workers' Compensation Insurance Market

Figure 1 shows the Herfindahl-Hirschman Index (HHI) for calendar years 1993 through 1997. The HHI is an indicator of market concentration and is used to measure competition within an industry. Higher values indicate a higher degree of market concentration, and consequently less competition. Competition is desirable because it provides Texas employers with the lowest insurance rates possible and, therefore, encourages participation in the workers' compensation system. As Figure 1 illustrates, the insurance market in Texas has become increasingly competitive since 1993. The market was at its least competitive in 1993 and 1994, and at its most in 1996 and 1997.

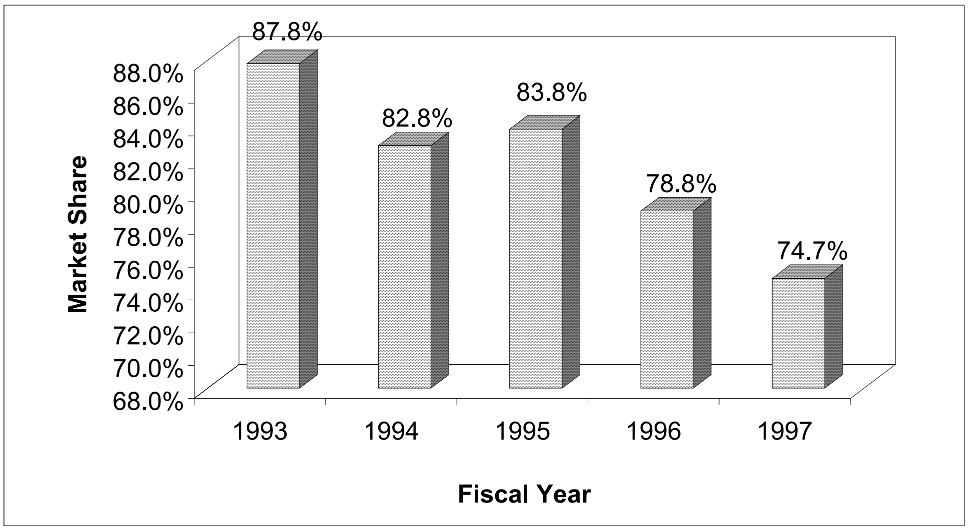
Figure 1: HHI for the Texas Workers' Compensation Insurance Market: 1993 – 1997



Source: Texas Department of Insurance, *Quarterly Financial Call*, 1993 – 1997, and the Research and Oversight Council on Workers' Compensation, 1999.

The market share of major insurance groups writing workers' compensation policies also highlights the higher levels of competition in Texas. As illustrated in Figure 2, the market share of the top twenty insurers decreased from 87.8 percent in Fiscal Year (FY) 1993 to 74.7 percent in FY 1997, a reduction of 13 percent.[18]

Figure 2: Market Share of the Top Twenty Insurance Groups in Texas: Fiscal Years 1993 – 1997



Source: Texas Department of Insurance, *Quarterly Legislative Report on Market Conditions*, 1993 – 1997.

The experience of one of the largest carriers in Texas, the Fund, further illustrates the level of competition in the state. The Fund's market share has declined from 27.8 percent in FY 1995 to 13.4 percent in FY 1997 (see Figure 3).[19]

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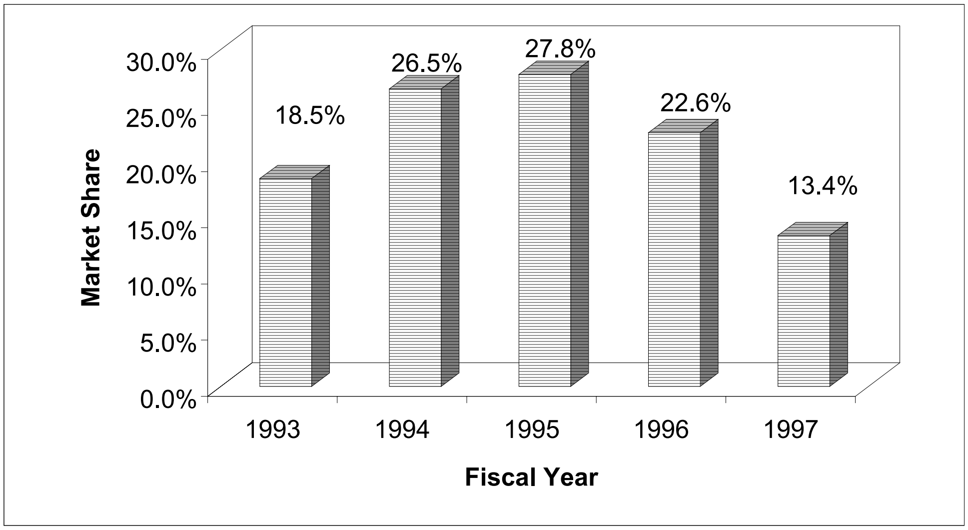
[18] Texas Department of Insurance, *Quarterly Legislative Report on Market Conditions*, 1993-1997.

[19] Recent data show this trend continuing: the market share of the Fund was 12.66 percent as of the 1st quarter of fiscal year 1998 (based on the sum of the four most recent quarters as of that quarter).

Figure 3: Market Share of the Texas Workers' Compensation Insurance Fund: Fiscal Years 1993 –1997



Source: Texas Department of Insurance, *Quarterly Legislative Report on Market Conditions,* 1993 – 1997.

The results in Figures 2 and 3 show how the workers' compensation insurance market in Texas has become more competitive than it was in the mid-1990s. Insurance carriers agree: 89 percent of insurance carriers recently surveyed reported that they believe the current market is more competitive now than it was in 1991.[20]

III. Availability and Affordability of Workers' Compensation in Texas

While it seems clear that competition has increased in the current marketplace, has increased competition translated into more available and affordable insurance coverage? The following data suggest that it has:

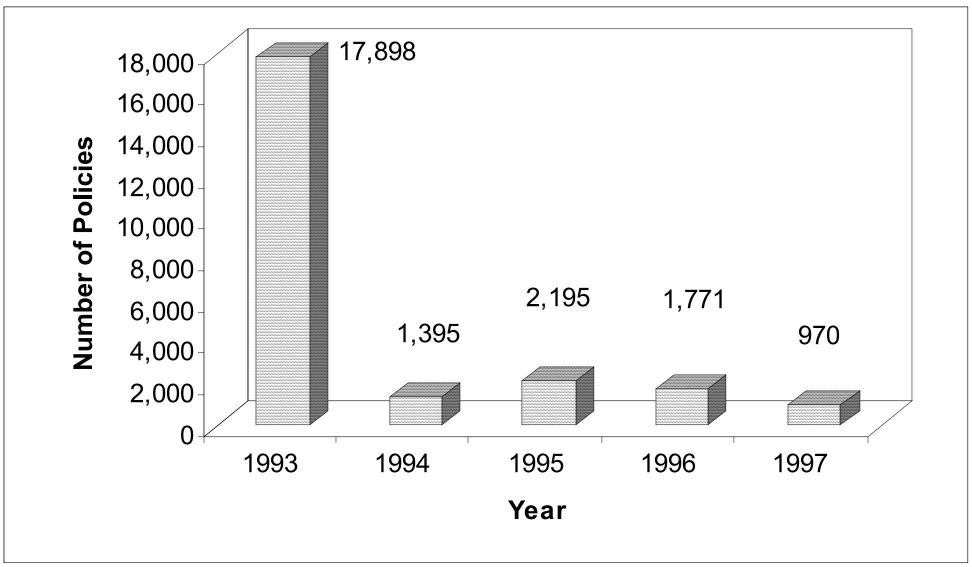
- The percentage of Texas employers who do not carry workers' compensation coverage has declined from 44 percent in 1993 to an estimated 39 percent in 1996.

[20] Research and Oversight Council on Workers' Compensation, *An Examination of the Strengths and Weaknesses of the Texas Workers' Compensation System* (1998).

This change was due mostly to an increase in the number of small employers who reentered the workers' compensation system after previously opting out.[21]

- The number of policies written in the residual market (i.e., by the Fund, as insurer of last resort) has decreased from 17,898 (12 percent of total policies written) in 1993 to 970 (0.8 percent) in 1997 (see Figure 4). A low percentage of policies written in the residual market indicates increased availability of insurance in the voluntary market.

Figure 4: Number of Policies Written in the Residual Market: 1993 – 1997



Source: Texas Department of Insurance, *Quarterly Legislative Report on Market Conditions*, 1993 – 1997.

- The number of insurance groups and companies currently providing coverage in Texas has increased by 25 and 39 percent respectively during the 1993-1997 time period (see Figure 5).

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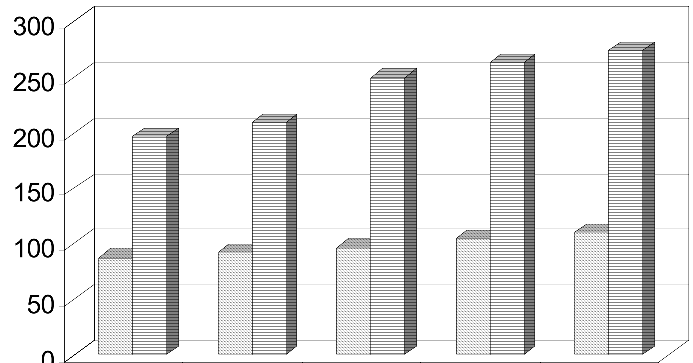
21 Research and Oversight Council on Workers' Compensation, *Annual Nonsubscription Survey: 1996 Estimates* (1996).

Figure 5: Number of Insurance Groups and Companies Providing Workers' Compensation Coverage to Texas Employers 1993 – 1997



	1993	1994	1995	1996	1997
Insurance Groups	*88*	*92*	*97*	*105*	*110*
Insurance Companies	*197*	*209*	*250*	*263*	*274*

Source: Texas Department of Insurance, *Quarterly Legislative Report on Market Conditions,* 1993 – 1997.

- Workers' compensation insurance coverage is also more affordable for Texas employers now than it was in 1991. Competition between insurance carriers combined with the advent of competitive pricing tools such as deductible policies (introduced in the reform legislation) and negotiated experience modifiers have resulted in significant reductions in workers' compensation premiums. Total premium volume decreased from $2.3 billion in 1993 to $1.8 billion in the 4th quarter of 1998.[22] Texas workers' compensation insurance rates have decreased by an average of 8.36 percent per year since 1990 (see Figure 6).[23]

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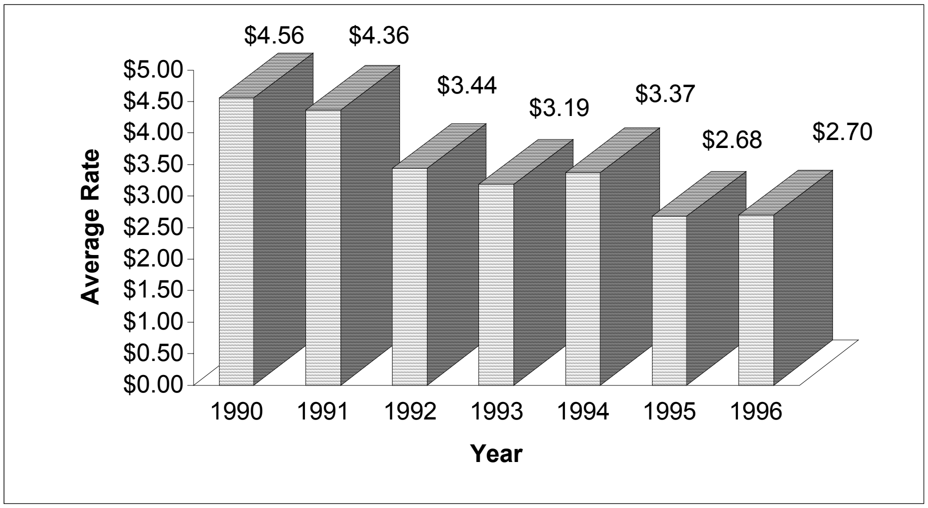
[22] Texas Department of Insurance, *Quarterly Legislative Report on Market Conditions*, 4th Quarter 1993 and 4th Quarter 1998.

[23] The average rates include the company filed rate deviation, schedule rating, premium discounts, retrospective rating adjustments and discounts for small deductibles. They do not include the effect of experience rating. Source: Texas Department of Insurance website, 1998 (http://www.tdi.state.tx.us).

Figure 6: Average Workers' Compensation Premium Rate per $100 of Payroll by Calendar Year: 1990 – 1996



Source: Texas Department of Insurance, 1998.

In summary, workers' compensation insurance is more readily available and affordable now than it was at the beginning of the decade. However, despite cost reductions, employers surveyed in 1998 were divided about the affordability of coverage in Texas. Surprisingly, only 47 percent of Texas employers surveyed felt that insurance rates were reasonable.[24] Another study found that only 25 percent of employers with workers' compensation coverage experienced a decrease in premiums after the reforms.[25] The latter study suggests that large employers were the primary beneficiaries of legislative reforms. Workers' compensation coverage may still be an unobtainable goal for a large portion of smaller employers, even after significant reductions in costs.

IV. The Future of the Workers' Compensation Insurance Market

While increased competition among carriers in Texas has resulted in more available and affordable workers' compensation coverage, fierce competition may compel insurance

[24] Research and Oversight Council on Workers' Compensation, *An Examination of the Strengths and Weaknesses of the Texas Workers' Compensation System* (1998).
[25] Research and Oversight Council on Workers' Compensation, *Annual Nonsubscription Survey: 1996 Estimates* (1996).

carriers to adjust prices downward beyond the point at which losses can be covered.[26] Once this point is reached, carriers may be forced to increase prices in order to maintain profitability and avoid financial difficulty. There is some evidence at the national level that prices are already starting to firm: premium volume continues to decrease and reinsurers are expected to begin withdrawing from the market due to unprofitability.[27] Furthermore, the combined ratio, a measure of insurance carrier profitability, has increased steadily from 97 percent in 1995 to 101 percent in 1997.[28] A combined ratio of 101 percent indicates that the average insurance company paid out $1.01 in administrative and claim costs for every dollar in premium received from policyholders.

Conditions in the Texas marketplace appear to be more pronounced. The average insurance company writing workers' compensation in Texas paid out more in administrative and claim costs ($1.10 per dollar of premium received) than the national average in 1997. The combined ratio for Texas also suggests the possibility of higher rates in the future (see Figure 7). As competition increased after 1995, combined ratios began to rise.[29]

However, an insurance company can have a combined ratio over 1.00 and still be profitable, due to the fact that the combined ratio does not take into account earnings from investment income, which can offset underwriting losses.

Examining investment income (i.e., return on net worth) provides additional information on carrier profitability (see Table 1).

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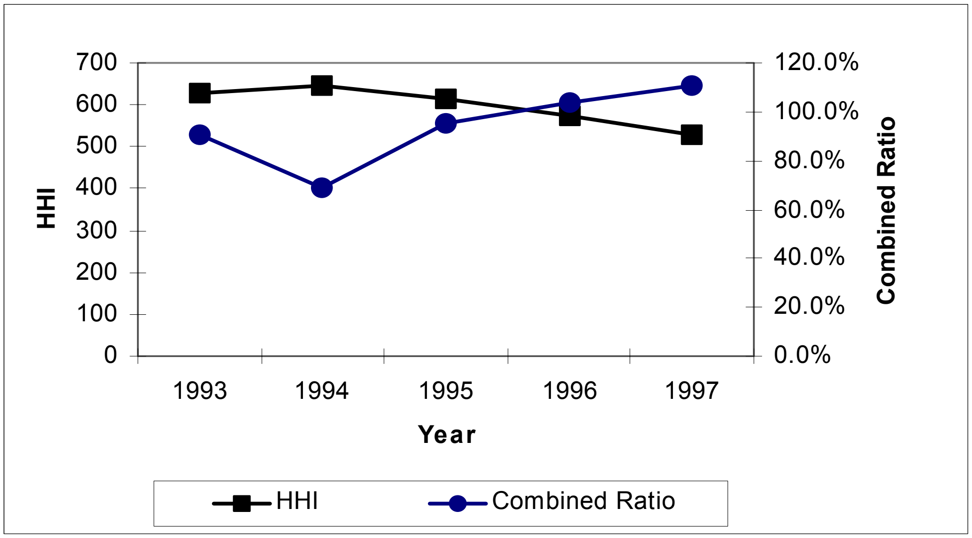
[26] Competitive practices utilized by insurance companies include retrospective and experience rating plans, scheduled rating credits, and departures from advisory rates.

[27] Reinsurers assume a portion of the risk covered by other insurers. Reinsurance rates typically follow interest rates. As interest rates increase, so does the cost of purchasing reinsurance. If the cost of reinsurance increases, some carriers may be less likely to purchase additional coverage. See also "Workers' Comp Rates Start to Rebound," *The Wall Street Journal*, March 10, 1999, A2.

[28] Bill Schrempf, "The State of the Market," *The Journal of Workers' Compensation* 8, No. 2 (1999): pp. 92-102. The combined ratio, which is the sum of the loss ratio, loss adjustment expense ratio (LAE), and the underwriting expense ratio, is used as an indicator of profitability. The loss ratio is an estimate of expected payments for reported and unreported claims, expressed as a ratio to earned premiums. The LAE ratio considers the expenses incurred to investigate and settle claims, expressed as a ratio to earned premiums. The underwriting expense ratio considers the expenses associated with writing policies expressed as a ratio to earned premiums. A combined ratio over 100 indicates an underwriting loss.

Figure 7: Level of Competition and
the Combined Ratio for Texas Insurance Market: 1993 – 1997



Source: Texas Department of Insurance, *Quarterly Legislative Report on Market Conditions*, 1993-1997, and the Research and Oversight Council on Workers' Compensation, 1999.

Table 1: Return on Net Worth for Workers' Compensation Insurance Carriers, Texas and the Nation, 1997

National Avg.	12.8 %
Texas	8.5 %

Source: National Association of Insurance Commissioners, *Profitability by Line by State in 1997* (1999), as reported in *Ed Welch On Workers' Compensation* 9, No. 3 (1999).

These data show that the workers' compensation market in Texas is still profitable — the average insurance company made a profit of 8.5 percent on its workers' compensation insurance in 1997. However, the workers' compensation market in Texas is significantly less profitable than the rest of the nation and only six other states are less profitable than Texas.[30] Many carriers have been able to offset the lower premium volume with investment income and the release of reserves from earlier accident years to maintain

[29] The data used to calculate the combined ratio is on a direct basis rather than net basis.
[30] The other six states are California, Idaho, Vermont, Oklahoma, Alabama, and New York. See "Insurance Profits," *Ed Welch On Workers' Compensation* 9, No. 3 (1999).

profitability. However it is unclear how much longer insurance carriers can rely on investment income to remain profitable.[31]

An increasingly unprofitable workers' compensation market in Texas could indicate problems for participants in the Texas workers' compensation system. As a result, employers could feel the effects through higher premiums since carriers may have to increase premium rates to service current claims and pay expenses associated with writing insurance policies. As carriers raise rates to cover losses, they will also become more selective of the business they write. Subsequently, more employers may find themselves seeking coverage in the residual market (i.e., the Fund's START Program). In order to remain competitive, carriers will need to be more efficient in the way they process and manage claims. Carriers may also need to seek out new niche markets once efficiencies have been exhausted.

In order to avoid and protect against some of the problems that plagued the workers' compensation system in the 1980s, Texas utilizes the following mechanisms for monitoring the workers' compensation insurance market and maintaining healthy market conditions:

- **Rate Monitoring**. Insurance carriers in Texas are required to file rates that take into account the company's loss experience, operating expenses and investment income. TDI can disapprove a rate filing if the rates are found to be inadequate, and require the carrier to adjust its rates accordingly. TDI can also assess an administrative penalty if an insurer consistently over- or undercharges its customers.[32]

- **Monitoring of Reserves.** Along with rates, adequate reserves are necessary to protect employers as well as the solvency of insurance carriers. Insurance carriers are required to submit to TDI a report that demonstrates adequate reserve levels.[33] If TDI

[31] "Workers' Comp Rates Start to Rebound," *The Wall Street Journal*, March 10, 1999, A2.
[32] See *Texas Insurance Code,* Art. 5.55 for more information on rates in workers' compensation insurance.
[33] HB 2510 (76th Legislature) will eliminate the reporting requirement to TDI as early as September 5, 1999 because it is duplicative of information that is already reported under the *Texas Insurance Code*, Art.

finds that reserves are inadequate, TDI can require an insurer to establish additional reserves.

- **Classification relativities and experience rating plans.** TDI is required to create classification relativities and a uniform experience rating plan which insurance carriers use to calculate employer premiums.[34]

- **TDI early warning system.** TDI has developed a computer-assisted early warning system that helps detect insurance carriers with the potential for financial difficulty.

- **The Texas Workers' Compensation Insurance Fund.** The Fund is mandated to act as a competitive force in the Texas workers' compensation market as well as the insurer of last resort for Texas employers that have difficulty obtaining coverage in the voluntary market.

- **Texas Property and Casualty Insurance Guaranty Association (TPCIGA).** The TPCGIA is an association of insurers that pays the claims of policyholders in the event of an insurance carrier failure. In order to conduct business in Texas, all insurance carriers, including the Fund as of August 30, 1999, are required to be members of TPCIGA.[35]

Thus, the Texas workers' compensation system protects against carrier financial instability and provides a method to stimulate rate competition when workers' compensation rates increase. All participants, however, can aid in maintaining a healthy Texas workers' compensation system by focusing on the following issues:

1.15a, which "requires an annual examination by an independent certified public accountant of the financial statements reporting the financial condition and the results of operations of each insurer."

[34] Classification relativities provide a means to group together employers that have a similar exposure to losses; experience rating is a statistical method used to calculate a premium rate based on loss experience.

[35] HB 3697 (76th Legislative Session) mandated the Fund's membership in TPCIGA.

- **Workplace safety.** Nonfatal injury rates in Texas are at an all time low, due in part to a concerted focus on workplace safety issues. Continual improvement in workplace safety will help to keep the costs of workers' compensation in Texas low.

- **Health care costs.** Medical costs in Texas are approximately 1.5 times the national average.[36] The combination of high costs and potential cost increases in the future indicates a need for additional attention on medical cost containment strategies in the Texas system.

- **Reducing fraud.** Although impossible to determine with certainty, the Texas Comptroller of Public Accounts estimates that fraud may account for as much as 30 percent of all workers' compensation claims in Texas.[37] Focusing on costly employer premium and health care provider fraud as well as carrier efficiency when conducting fraud investigations will aid in keeping workers' compensation costs manageable.

- **Benefit adequacy.** Reforms have been successful in part due to a perceived fairness of workers' compensation systems and the adequacy of workers' compensation benefits.[38] From a policy perspective, it is important to maintain adequate benefit levels so that participation in the Texas workers' compensation system continues to provide value for all concerned.

Conclusion

The reform measures of SB 1 and HB 62 have had a significant impact on the workers' compensation system in Texas. There are more carriers competing for the business of Texas employers, resulting in increased availability and affordability of workers' compensation insurance.

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[36] Research and Oversight Council on Workers' Compensation, *Healthcare Costs in the Texas Workers' Compensation System* (1999).
[37] Texas Comptroller of Public Accounts, *The Texas Medicaid System–Fraud and Abuse* (1996).
[38] Bill Schrempf, "The State of the Market," *The Journal of Workers' Compensation* 8, No. 2, pp. 92-102.

While certainly favorable for employers at present, fierce competition could ultimately drive prices below a point of financial stability. Unless the investment income of carriers continues to offset lower premiums, some insurance companies may be forced to raise prices, increase administrative efficiencies, and seek out niche markets to remain solvent. It will be increasingly important for system observers to monitor investment market fluctuations, combined ratios and reserving practices of insurance carriers over the next biennium to ensure that Texas provides a healthy marketplace for employers and carriers in the future.