A STUDY OF NONSUBSCRIPTION TO THE TEXAS WORKERS' COMPENSATION SYSTEM: 2001 Estimates

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EXECUTIVE SUMMARY

Since the Texas workers' compensation (WC) law was enacted in 1913, private sector employers have been allowed to opt out of the state's WC system.[1] Elective WC systems, like the one currently in place in Texas, were fairly common until the mid-1970s. During the 1970 to 1975 period, 21 states changed their WC law to require employers to carry WC coverage.[2] Texas is currently the only state with a truly elective WC system for private sector employers.[3]

Previous studies by the Research and Oversight Council (ROC) and its predecessor, the Research Center, found that a substantial number of Texas businesses have exercised this option not to carry WC coverage.[4] Because of the propensity of many Texas businesses to become nonsubscribers to the WC system, it is critical to understand the potential impact they can have on workers, businesses, and the insurance market in Texas.

This study represents the fourth major employer-based nonsubscription study conducted in Texas, and is based on a telephone survey of 2,808 Texas employers completed between August and October 2001. Previous nonsubscription reports were released in 1993, 1995 and 1996.[5] The current project follows the same general format as earlier studies, by analyzing the WC coverage experience of year-round Texas employers.

Key findings from the study are presented below.

Overall Nonsubscription Rates

Since the first study of employer participation in the WC system was completed in 1993, nonsubscription rates have dropped modestly but steadily, with the 2001 estimates being the

[1] Governmental employers in Texas are currently required to provide workers' compensation coverage to their employees. This provision was not, however, effective in 1913.
[2] This sudden shift to mandatory WC may have been related to the work of the National Commission on State Workmen's Compensation Laws, which included mandatory WC coverage as one of it's 19 essential recommendations. See *The Report of the National Commission on Workmen's Compensation Laws* (Washington D.C., July 1972).
[3] New Jersey is the only other state that currently does not require employers to carry WC coverage. However, due to the restrictive nature of its statute, all employers in New Jersey have thus far chosen to carry WC coverage.
[4] Texas employers who opt out of the WC system are commonly referred to as "nonsubscribers." The terms "nonsubscriber" and "subscriber" will be used throughout the report.
[5] In addition to the four employer studies conducted in 1993, 1995, 1996 and 2001, surveys of employees working for nonsubscribers were administered in 1994 and 1997. All studies were conducted by the Research and Oversight Council on Workers' Compensation, or its predecessor, the Texas Workers' Compensation Research Center.

lowest recorded to date. In addition, significant variation in nonsubscription rates is observed across employers of different sizes and industries. Key findings related to statewide rates of nonsubscription are as follows:

- In 2001, an estimated 35 percent of year-round Texas employers (approximately 114,000 firms) were not covered by WC insurance, and they employed approximately 16 percent of the Texas workforce (approximately 1.4 million workers). These estimates represent a decline in the nonsubscription rate from 39 percent in 1996 (the last time it was measured), when nonsubscribers employed 20 percent of the workforce. Nonsubscription was first measured in 1993, when an estimated 44 percent of Texas firms employing 20 percent of the Texas workforce had opted out of the WC system.

- Among industry types, nonsubscription rates are highest among employers in the retail trade (48 percent), services (38 percent) and manufacturing (36 percent) sectors, and lowest among firms in the mining (12 percent) and wholesale trade (25 percent) sectors.

- Larger firms are significantly less likely to opt out of the Texas WC system than smaller employers. Almost half (47 percent) of the smallest employers in the state (one to four employees) are nonsubscribers to the WC system versus just 13 percent of companies with 100 to 499 employees and 14 percent of firms with 500 or more employees.

- Most employers in Texas have either always had WC coverage (60 percent), or have always been nonsubscribers (26 percent).

Key Drivers for Purchasing WC and for Opting out of the System

It is clear from this study that a wide variety of factors enter into an employer's decision whether or not to purchase WC coverage. As the findings presented below indicate, it is also apparent that the key decision drivers expressed by nonsubscribers vary significantly by the size of the employer.

- When subscribers were asked for the primary reason why they purchased WC coverage, the three most frequently cited reasons were as follows: 1) "company philosophy to provide occupational benefits" (36 percent); 2) "fear of lawsuits" (21 percent); and 3) "need WC coverage to obtain government contracts" (9 percent). These responses are fairly consistent across subscribers of varying size.

- There appears to be a significant increase in employer awareness that Texas has a voluntary WC system since the last survey was conducted in 1996. In 1996, almost a quarter of the survey respondents (23 percent) said that the primary reason they purchased WC coverage was because they erroneously thought the law required that they do so, compared to only 7 percent in 2001.

- "Quoted premiums were too high" was cited as the *primary reason* for opting out of the WC system by 31 percent of nonsubscribing companies. Since most nonsubscribers are fairly small companies, it is not surprising that "too few employees" was the second most common primary reason for not having WC coverage (26 percent).

- Reasons for not having WC coverage vary substantially across firms of different sizes. For small firms (i.e., those with less than 50 employees), "too few employees" (67 percent), "few on-the job injuries" (61 percent), and "quoted premiums were too high" (60 percent) were the most frequently cited as "important" decision drivers.[6] Conversely, for large nonsubscribers (i.e., those with 100 or more employees), the following were most frequently cited as important reasons for not having WC coverage: 1) "quoted premiums were too

[6] *Important* is defined as assigning a rating of 4 or 5 on a 5-point scale where 1 means "Not at all Important" and 5 means "Extremely Important."

high" (87 percent); 2) "alternative occupational benefits plan was a better value than WC" (80 percent); and 3) "wanted more control over choice of medical providers" (78 percent).

WC Insurance Costs

Since cost is an important factor that employers consider when they make decisions regarding WC coverage, it is critical to understand the current experience of employers as it relates to recent changes in WC insurance premiums. It is clear from the findings presented below that employers are currently facing rising WC insurance costs, and that they would consider dropping their coverage if rates climbed to unacceptable levels. Specific findings are as follows:

- *Overall, 42 percent of current subscribers indicated that they observed an increase in their most recent WC insurance premium, compared to 30 percent that reported such an increase in 1996. Thirty-eight percent said the premium increase was less than 10 percent, and one-third (33 percent) noted that the premium hike was between 10 and 19 percent, and 29 percent reported a recent premium increase of 20 percent or more.*

- *Larger firms were more likely to report a recent premium increase in 2001. Approximately two-thirds (67 percent) of large subscribers (those with 100 or more employees) reported an increase in their most recent WC premiums, compared to 54 percent of companies with 50 to 99 workers, and 40 percent of employers with less than 50 workers.*[7] *This increase in premiums, particularly among large employers, is likely the result of carriers cutting scheduled credits previously offered to policyholders, less negotiation of experience modifiers, and perhaps rate hikes filed by some insurance carriers.*

- Almost half (48 percent) of current subscribers indicated that they would consider dropping coverage if premiums increased by some increment up to 20 percent (12 percent would consider dropping with a 1-9 percent premium increase; 17 percent with a 10-15 percent increase; and 19 percent with a 16-20 percent premium increase). This propensity of employers to seriously weigh the possibility of opting out of the system in the event of higher costs holds across employers of all sizes.

Alternative Occupational Benefits Plans

While over a third (35 percent) of Texas employers have chosen to opt out of the WC system, this does not necessarily indicate that medical and income replacement benefits are not provided to their employees. Specific findings related to the propensity of nonsubscribing firms to pay occupational benefits are provided below.

[7] In 1996, only 15 percent of firms with 50 or more employees reported an increase in their most recent WC premium. In fact, the majority of these larger firms (55 percent) said their WC premium actually decreased in 1996.

- Over half of nonsubscribers surveyed (56 percent) indicated that they pay occupational benefits to employees injured on-the-job. Since larger firms are more likely to pay benefits, the vast majority of the nonsubscriber workforce (80 percent) is employed by companies that pay occupational benefits.

- A lower percentage of all nonsubscribers (20 percent) have a *written* occupational benefits plan; however, because they tend to be larger firms, they employ the majority of Texans working for nonsubscribers (59 percent).[8]

- Of the nonsubscribers that indicated they pay occupational benefits to injured workers, 82 percent said that medical expenses related to the injury were covered, and 69 percent noted that income benefits are paid to injured workers during their period of recovery to compensate for lost wages.

- Sixty percent of nonsubscribers that pay medical benefits for on-the-job injuries indicated that these expenses are covered as long as is medically necessary. Just over a quarter (27 percent) indicated that medical payments are capped by a dollar amount and 13 percent said that medical benefits were capped at a specific treatment duration.

- Contrary to the Texas WC system, which provides the injured worker with choice of health care provider, the majority of nonsubscribing firms indicated that either the employer has first choice of health care provider (43 percent) or that the injured worker must choose from an employer's list of providers (16 percent). Since large nonsubscribers are more inclined to have employer-choice based medical arrangements, 76 percent of the nonsubscriber workforce are employed by firms that choose the health care provider.

- Almost three-quarters (73 percent) of nonsubscribers with employer-choice medical plans said that the employee may change health care providers if they are not satisfied with the initial provider of health care services.[9]

Litigation and the Use of Liability Waivers

Nonsubscribers can be sued for damages based on negligence for work-related injuries suffered by their employees; however, a relatively small proportion of nonsubscribers report being sued by an employee over an on-the-job injury. Liability waivers of negligence typically involve an agreement in which the employee agrees not to sue their employer over a work-related injury in exchange for benefits provided through an alternative occupational benefits plan. Recent legislation (HB 2600, 77th Texas Legislature, 2001) prohibits the use of pre-injury waivers by nonsubscribers. Key findings related to litigation and the use of liability waivers are presented below.

- Only 3 percent of nonsubscribing employers surveyed reported that they have been sued over a work-related injury in the past five years. This is the same overall litigation rate reported in 1996.

- The majority of nonsubscribers (65 percent) indicated that they were comfortable with the level of risk of lawsuit for work-related injuries their company assumes by opting out of the WC system.

- The use of liability waivers by nonsubscribers surveyed was fairly uncommon. Only 7 percent of nonsubscribing employers indicated that they asked their employees to sign waivers of negligence. Since waivers were more common among larger employers, an estimated 18 percent of the nonsubscriber workforce were employed by firms that requested liability waivers.

- Though the majority of nonsubscribers indicated that there was no financial incentive (e.g., an enhanced benefits plan) offered to employees who signed the waiver, most nonsubscribers (77 percent) said that over three-quarters of their workforce signed the agreement.

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[8] Just over a third (35 percent) of nonsubscribers that pay benefits indicated that they have a written occupational benefits plan.

[9] It is not known whether the employee must choose another doctor from the company list, or is free to select a health care provider of his or her own choosing.

- Almost a quarter of current subscribers (24 percent) said that they would be likely to drop WC coverage if they could have employees sign pre-injury liability waivers, an option that is now clearly prohibited by law (Article 16, HB 2600, 77th Texas Legislature).

Satisfaction with Subscriber/ Nonsubscriber Experiences

Since Texas is the only state with a significant number of employers operating without workers' compensation coverage, it is important to look at satisfaction levels of both subscribing and nonsubscribing firms as one measure of how well the elective WC system is working. Satisfaction with subscribing and nonsubscribing employers' respective experiences are presented below.

- The majority of subscribers (60 percent) and nonsubscribers (68 percent) indicated that they were satisfied with their respective experiences in and out of the WC system.

- Interestingly, satisfaction with their experience outside of the WC system increased with employer size for nonsubscribers (85 percent of large firms satisfied vs. 67 percent of small firms). Just the opposite was true for subscribing firms: satisfaction with their experience in the WC system decreased with employer size for subscribers (48 percent of large firms satisfied vs. 60 percent of small firms).

- Subscribers tended to be less satisfied with their ability to manage WC claim costs than nonsubscribers. Just over half of subscribers (54 percent) indicated satisfaction with their ability to effectively manage claims costs versus 74 percent of nonsubscribers.

Differences in satisfaction levels observed between subscribers and nonsubscribers are not surprising since employers who have made a conscious decision to opt out of the WC system may feel a stronger sense of ownership over their alternative occupational benefits program than subscribers do about the statutorily-based WC system. Thus, higher overall satisfaction levels, as well as a greater degree of satisfaction with specific aspects of their programs, can be reasonably expected from firms that choose to opt out of the system.

Concluding Observations

While Texas remains the only state in the country with a truly elective WC system for private sector employers, it appears from this study that satisfaction levels are relatively high among employers both in and out of the WC system. Estimated alternative occupational benefit coverage rates demonstrate that most employees working for nonsubscribers are paid some level of medical and income benefits after experiencing a work-related injury. In addition, previous

ROC and Research Center studies suggest that injured workers employed by nonsubscribers are generally satisfied with their post-injury treatment.[10]

However, over a third (35 percent) of nonsubscribers who pay benefits to injured workers do not have a written benefits plan – suggesting a degree of variability in benefit delivery. Further research is needed to gauge the adequacy of the benefits provided by nonsubscribers to their injured workers, dispute resolution options, return-to-work patterns, employee satisfaction levels, and the degree to which cost shifting may be occurring into other payer groups or social systems (e.g., community hospitals, Social Security, etc.).

This study also points out an area which may be of concern for insurance regulators and policymakers: the current state of insurance rates and the propensity of employers to consider leaving the WC system if rates continue to rise. As previously noted, increasing numbers of employers are reporting recent increases in WC premiums, and almost half of current subscribers indicated that they would seriously consider dropping their WC coverage if insurance premiums increased by some increment up to 20 percent.[11]

[10] See Texas Workers' Compensation Research Center, *A Study of Nonsubscription to the Texas Workers' Compensation System: The Employee Perspective* (1994), and Research and Oversight Council on Workers' Compensation, *Experiences of Injured Workers Employed by Nonsubscribing Employers* (1997).

[11] It is impossible to know the percentage of employers that would actually drop their coverage. However, since the majority of current subscribers have always had coverage and the primary reason why subscribers have WC coverage is "company philosophy," it can be assumed that the number dropping coverage would be significantly smaller than the number seriously considering such a move.

I. INTRODUCTION

Since the Texas workers' compensation (WC) law was enacted in 1913, private sector employers have been allowed to opt out of the state's WC system.[12] Previous studies by the Research and Oversight Council (ROC) and its predecessor, the Research Center, estimate that a substantial number of Texas businesses have exercised this option not to carry WC coverage. Because of the propensity of many Texas businesses to become nonsubscribers to the WC system, it is critical to understand the potential impact they can have on workers, businesses, and the insurance market in Texas.

Elective WC systems, like the one currently in place in Texas, were fairly common until the mid-1970s. During the 1970 to 1975 period, 21 states changed their WC law to require employers to carry WC coverage. This sudden shift to mandatory WC may have been related to the work of the National Commission on State Workmen's Compensation Laws, which included mandatory WC coverage as one of it's 19 essential recommendations.[13] When South Carolina made WC coverage mandatory in July 1997, Texas became the only state in the country with a truly elective system for private sector employers.[14]

Several states with compulsory WC laws provide exemptions to allow small private sector employers to reject the state WC Act. For example, Michigan, New Mexico and Virginia require employers with three or more employees to carry WC coverage. South Carolina requires employers with four or more employees to carry WC

[12] Governmental employers in Texas are currently required to provide workers' compensation coverage to their employees. This provision was not, however, effective in 1913.

[13] See National Commission on State Workmen's Compensation Laws, *The Report of the National Commission on Workmen's Compensation Laws* (Washington D.C., July 1972).

[14] New Jersey is the only other state that currently does not require employers to carry WC coverage. However, due to the restrictive nature of its statute, all employers in New Jersey have thus far chosen to carry WC coverage. New Jersey has a single law which includes two alternatives: 1) the standard workers' compensation statute; and 2) a form of employers' liability based on traditional common law remedies. It is required that every employer in New Jersey choose one of the two options.

coverage. Mississippi, Missouri and Tennessee require all employers with five or more employees to purchase WC insurance.[15]

This study continues Texas' efforts to periodically monitor the size and make-up of the population of employers that have chosen not to carry WC coverage and provide estimates of the percentage of the Texas workforce they employ. In addition, this study collects and analyzes detailed information on alternative occupational benefits plans utilized by nonsubscribing employers, and explores the wide range of motivations that influence employer WC coverage decisions.[16]

Background: 1991-2001

Throughout this report, employers that are covered by WC insurance (either through a WC insurance policy or the Certified Self Insurance Program administered by the Texas Workers' Compensation Commission) are referred to as "subscribers" to the Texas workers' compensation system. Likewise, employers that have chosen not to carry WC coverage are referred to as "nonsubscribers" to the workers' compensation system. Subscribers generally benefit from the lawsuit immunity under the "no-fault" provisions of the system. Nonsubscribers do not have this statutory benefit and take the risk of being sued for damages based on negligence for on-the-job injuries suffered by their employees.[17]

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[15] Many of the state laws have additional requirements. For example, Virginia also lowers the requirement to two or more full-time employees for farm labor; New Mexico also requires all construction industry employers to carry WC coverage; and Michigan also requires WC coverage for all employers that have at least one employee working 35 hours per week. For a comprehensive review of WC laws, see U.S. Chamber of Commerce, *2000 Analysis of Workers' Compensation Laws* (Washington D.C., 2000).

[16] Alternative occupational benefits plans are programs utilized by nonsubscribers that pay medical and/or income benefits to employees injured on the job. These benefit plans can be funded from a variety of sources including alternative (non-WC) insurance policies, self-funded accounts, excess liability insurance, etc.

[17] Some nonsubscribing employers developed alternative occupational benefit programs and requested that employees sign an agreement waiving their right to sue in the event of a workplace injury. Liability waivers, prohibited by House Bill 2600 in 2001, are examined in detail in Section IV.

While the WC reforms of 1989 brought significant changes to the Texas WC system, the voluntary nature of WC coverage for private sector employers remained intact.[18] The first empirical estimate of nonsubscription to the Texas WC system, after the new law took effect on January 1, 1991, was derived from a statewide survey of employers in 1993 conducted by Texas A&M University for the Texas Workers' Compensation Research Center (Research Center).[19] This study found that 44 percent of the employers in Texas did not have WC coverage and that they employed 20 percent of the Texas workforce.

A companion study was released in 1994, which provided information on nonsubscription from the employee perspective.[20] This study indicated that there was a significant degree of confusion among employees of subscribers and nonsubscribers regarding the existence of occupational benefits for work-related injuries, and whether or not those benefits were provided through the Texas WC system.

In 1995, the Research Center updated the nonsubscription estimates using a different sampling methodology from the 1993 study.[21] The estimated percentage of employers opting out of the WC system, and the percentage of employees working for these firms, remained basically unchanged: 44 percent of the employers in Texas were nonsubscribers, employing 21 percent of the Texas workforce.

Prior to the present study, the most recent nonsubscription estimates were provided in 1996 by the Research and Oversight Council on Workers' Compensation (ROC), using the same methodology as the 1995 study.[22] In 1996, the nonsubscription rate

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[18] Concerns about the potential negative impact on small employers and the effect the proposed WC reforms would have on rising insurance rates were cited by policymakers as reasons for keeping WC insurance voluntary.

[19] Texas Workers' Compensation Research Center, *A Study of Nonsubscription to the Texas Workers' Compensation System* (1993).

[20] Texas Workers' Compensation Research Center, *A Study of Nonsubscription to the Texas Workers' Compensation System: The Employee Perspective* (1994).

[21] Texas Workers' Compensation Research Center, *System Performance Update: Employer Participation in the Texas Workers' Compensation System* (1995).

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

dropped to 39 percent, with these firms employing 20 percent of the Texas workforce. The decline in the overall nonsubscription rate did not have a big impact on the percentage of the workforce covered, primarily due to the fact that nonsubscription rates for larger employers (which tend to drive the workforce coverage rates) did not change substantially.

In 1997, the ROC released a second study of injured workers employed by nonsubscribers.[23] The study found that the majority of these injured workers, employed by larger nonsubscribers, felt they obtained adequate medical treatment for their injuries, and said that they were compensated for at least some of their wages lost during their period of recovery. Over two-thirds of the injured workers (68 percent) also indicated that they were satisfied with the way they were treated by their employers following their work-related injury. The study also found that reported attorney involvement and litigation rates were very low.

Five years have elapsed since the 1996 estimates were prepared and the labor market in Texas has experienced significant changes. Some sectors, such as technology and construction, expanded substantially during the late 1990s prior to the economic slowdown of 2000/2001. Because of these and other industry changes, such as mounting WC insurance industry losses and the pressure to raise premiums, the need to update the estimates of employer participation in the Texas WC system is greater now than ever. The fact that the rate of nonsubscription varies significantly across industrial classifications and employer size groups suggests that changes in the statewide distribution of industries and the number workers employed in those industries may result in subsequent changes in nonsubscription rates.

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[23] Research and Oversight Council on Workers' Compensation, *Experiences of Injured Workers Employed by Nonsubscribers* (1997). Since the majority of the nonsubscriber injury reports submitted to TWCC (which were the sample source for this study) came from employers with 50 or more employees, the experiences of injured workers reported in the study reflect primarily those injured workers working for larger nonsubscribing firms, which tend to have more comprehensive occupational benefits packages than smaller nonsubscribers.

A second important reason to update the nonsubscription estimates relates to the passage of House Bill 2600 by the 77th Texas Legislature in 2001. The new law represents the most profound changes to the WC Act since the system was overhauled in 1989. Changes to the law impact a wide variety of issues important to both subscribers and nonsubscribers, including:

- The development of a systematic registration process and appropriate training and quality of care monitoring requirements for doctors in the system;
- Creation of a feasibility study to test a new model for the delivery of medical care using regional workers' compensation health care delivery networks;[24]
- Adoption of a new standardized model for medical care reimbursement based on the structure of the Medicare system used by the federal Health Care Financing Administration (HCFA), now the Centers for Medicare and Medicaid Services (CMS);
- Changes to the medical dispute resolution process to require TWCC to utilize Independent Review Organizations (IROs), which have been used to resolve medical necessity disputes involving Health Maintenance Organizations;
- Changes in the way an injured worker's average weekly wage (AWW) is calculated to include income from multiple employers, which increases the income benefits paid to injured workers who are below the maximum income benefit cap allowed by statute;
- Elimination of pre-injury liability waivers for nonsubscribing employers;[25]
- Elimination of the current spinal surgery second opinion process;
- Creation of a minimum mandatory preauthorization list for certain high-cost or unproven medical services (including spinal surgery); and

[24] If found to be feasible, the Texas Workers' Compensation Commission (TWCC), on behalf of a statutory advisory committee, would establish regional health care delivery networks in which the injured worker has a choice to participate or receive treatment outside the networks.
[25] Pre-injury liability waivers typically involve agreements, signed by an employee prior to the time of injury, in which the employee waives the right to sue his/her employer for a work-related injury and, in turn, may receive benefits through an alternative occupational benefits plan provided by the employer.

- Requirement that insurance carriers offer assistance to policyholders regarding return-to-work services, and the requirement that employers report (upon request) the availability of modified duty or return-to-work programs.[26]

The estimates described in this report represent employer participation in the Texas WC system prior to the implementation of HB 2600. These pre-HB 2600 baseline estimates of employer participation are critical in determining the legislative impacts, if any, on subsequent subscription levels.

Purpose of Study

Information regarding employer and employee WC coverage estimates, differences in nonsubscription estimates by industry and employer size, and changes in coverage estimates over time are vital to the evaluation of the only truly elective state workers' compensation system in the country. In addition, the identification of key drivers for opting out of the WC system and for purchasing WC coverage, as well as the collection of detailed information regarding work-injury benefits paid by nonsubscribers are extremely important to policymakers and system stakeholders. Changes in some of the key metrics may alert policymakers to the impact of public policy or private market developments on the WC system in Texas.

This report picks up where the 1996 study of nonsubscription left off, analyzing the WC coverage experience of year-round Texas employers in 2001 and tracking both the overall rate of participation in the Texas WC system as well as the participation rates for specific industries and employer sizes. Whenever possible and relevant, historical comparisons to findings from previous studies of employer participation in the Texas WC system are made.

Organization of the Report

[26] See Research and Oversight Council on Workers' Compensation, "House Bill 2600 Brings Major Changes to the Texas Workers' Compensation System", *Texas Monitor*, Vol. 6, No. 2, Special Legislative Edition (Summer 2001) for a comprehensive review of HB 2600.

Following this introduction, Section II of the report provides estimates of overall nonsubscription rates and the percentage of the Texas workforce employed by nonsubscribers. Section II also provides estimates of nonsubscription rates by industry and employer size, and categorizes Texas employers by their subscription history.

Section III documents the entry and exit patterns of subscribers and nonsubscribers as they move in and out of the Texas WC system. Data are presented for two distinct patterns: 1) the year in which current subscribers that were once out of the Texas WC system most recently purchased WC coverage; and 2) the year in which current nonsubscribers that were once in the Texas WC system most recently dropped their coverage.

Section IV presents an extensive discussion on the characteristics of nonsubscribing employers that includes data on the following:

- Key drivers in the decision not to carry WC coverage;
- Potential impact of a change in WC insurance costs on nonsubscribers;
- Extent to which alternative work-injury benefits are paid to employees hurt on the job;
- Employer satisfaction with the overall experience as a nonsubscriber and with specific aspects of opting out of the Texas WC system;
- Degree to which introducing managed care to the WC system would induce nonsubscribers to purchase WC insurance;
- Litigation against nonsubscribers; and
- The use of liability waivers by nonsubscribers.

Section V provides detailed information about subscribers, such as:

- Key drivers for purchasing or re-purchasing WC coverage;
- Primary reasons why some subscribers dropped their WC coverage in the past;

- Employer satisfaction levels with the overall subscriber experience and with specific aspects of the Texas WC system;
- Level of interest in having employees' on-the-job injuries treated through managed care networks;
- Changes in premium levels over the past year; and
- The impact of liability waivers and premium cost increases on likelihood of opting out of the WC system.

Section VI compares the responses of subscribers and nonsubscribers regarding a variety of issues, including:

- Satisfaction levels with comparable aspects of being a subscriber or a nonsubscriber to the WC system;
- Return-to-work programs for injured workers; and
- Issues related to workplace safety.

Appendix A includes a detailed account of the sampling and weighting methodology employed in this study. Appendix B describes the data collection process and the disposition of survey responses. Appendix C includes a copy of the telephone survey instrument used to collect the data presented in this report.

Survey Design

A randomized probability sample, stratified by industry and employment size (i.e., number of Texas employees), was drawn from all private sector employers in the state. The source of the data was the Texas Workforce Commission's (TWC's) Unemployment Insurance (UI) database. The sample was limited to only year-round employers, which were active in four consecutive quarters during the January 1, 2000 to December 31, 2000 period. Companies who have only seasonal employees were excluded from the analysis.

Public administration and select educational services sectors were also not included in the sampling frame.[27] Due to mandatory coverage laws that apply to those sectors, it was assumed that the WC coverage rate for public administration and education would be 100 percent. These sectors are, however, included in the calculation of statewide nonsubscription rates.

Data Collection

The survey was conducted via telephone by the Public Policy Research Institute (PPRI) at Texas A&M University between August 9, 2001 and October 31, 2001. Computer assisted interviewing (CATI) software that automated the question sequencing and allowed for on-line recording of responses was used in the administration of the survey. ROC staff designed and tested the survey instrument used in this data collection effort and worked closely with PPRI staff throughout the fielding period. A total 2,808 completed interviews with Texas employers serve as the basis for the population estimates provided in this report.

The margin of error for the overall nonsubscription rate is +/-2.4 percent, at the 95 percent confidence interval. This indicates that, in 95 out of 100 cases, the results based on a sample size of 2,808 will differ by no more than 2.4 percent from the results that would have been obtained from interviewing the entire population of Texas employers. Error rates vary for each of the specific firm size and industry nonsubscription estimates presented in this report and they can be found in Appendix B (see Table B3). Also refer to Appendix B for detailed information regarding survey response rates, and the disposition of the sample, and any caveats related to the collection of the data used to prepare this report.

[27] Public administration includes all employers in the major SIC groups 91-99. The vast majority of the employers in this group are federal, state, and local governmental agencies. Educational services excluded from the sampling frame include the following: elementary and secondary schools (SIC 8211); colleges, universities, and professional schools (SIC 8221); junior colleges and technical institutes (SIC 8222); and libraries (SIC 8231). Vocational schools (SIC 824) and schools and educational sectors, not elsewhere classified (SIC 829) were included in the sample under Services.

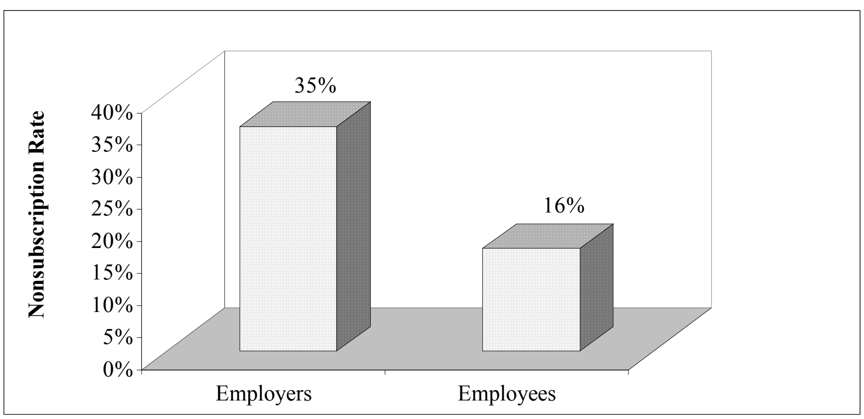
II. STATEWIDE NONSUBSCRIPTION ESTIMATES

This section of the report first provides estimates of the number of employers in Texas that have opted out of the WC system and the percentage of the Texas workforce they employ. Employer nonsubscription estimates are then stratified by industry and employment size. This section of the report also categorizes Texas employers by their subscription history (e.g., always been a subscriber; always been a nonsubscriber; subscriber now, but used to be nonsubscriber; and nonsubscriber now, but used to be a subscriber).

Overall Nonsubscription Rates

In 2001, an estimated 35 percent of year-round Texas employers – approximately 114,000 firms – were nonsubscribers to the Texas WC system. Since smaller firms are less likely to carry WC coverage, nonsubscribers were found to employ a smaller proportion (16 percent) of the Texas workforce, approximately 1.4 million workers. (See Figure 1.)

Figure 1
2001 Nonsubscription Rates for the Texas Workers' Compensation System

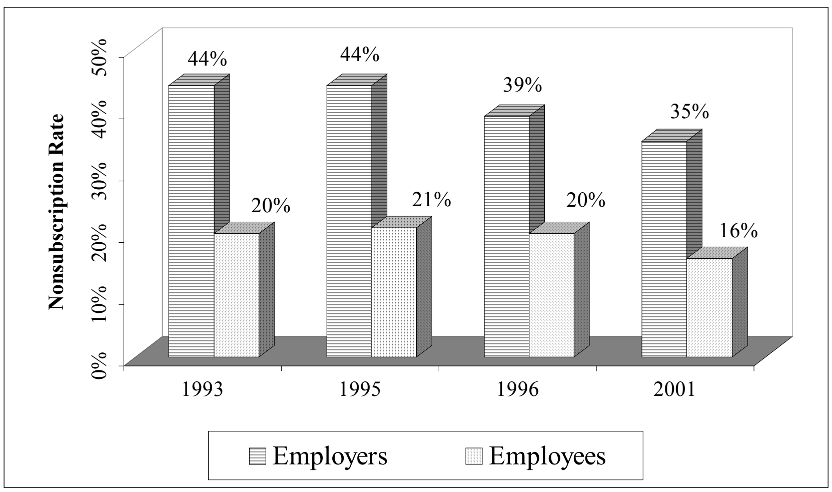


Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Note: The sample was limited to only year-round employers, which were active in four consecutive quarters 1/1/2000 - 12/31/2000. Firms that hire only seasonal employees were excluded from the analysis.

Figure 2 illustrates the estimated nonsubscription rates over time. The current nonsubscription estimates for 2001 represent a substantial increase in the percentage of employers participating in the WC system since the first study was conducted in 1993. The dropping nonsubscription rate may be the combined result of several factors, including an expanding economy with thousands of new businesses created and others growing at an accelerated pace, and dropping WC premiums in the mid to late 1990s making WC coverage more affordable to businesses in Texas.

Figure 2
Employer Nonsubscription Rates and
Percentage of Workers Employed by Nonsubscribers: 1993-2001



Source: Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 1996 and 2001; and Texas Workers' Compensation Research Center and the Public Policy Research Institute at Texas A&M University, 1993 and 1995.

Nonsubscription Rates by Industry

As with the previous nonsubscription studies, the percentage of nonsubscribing employers has been estimated for each of the major industrial divisions based on standard industrial classification (SIC) codes:

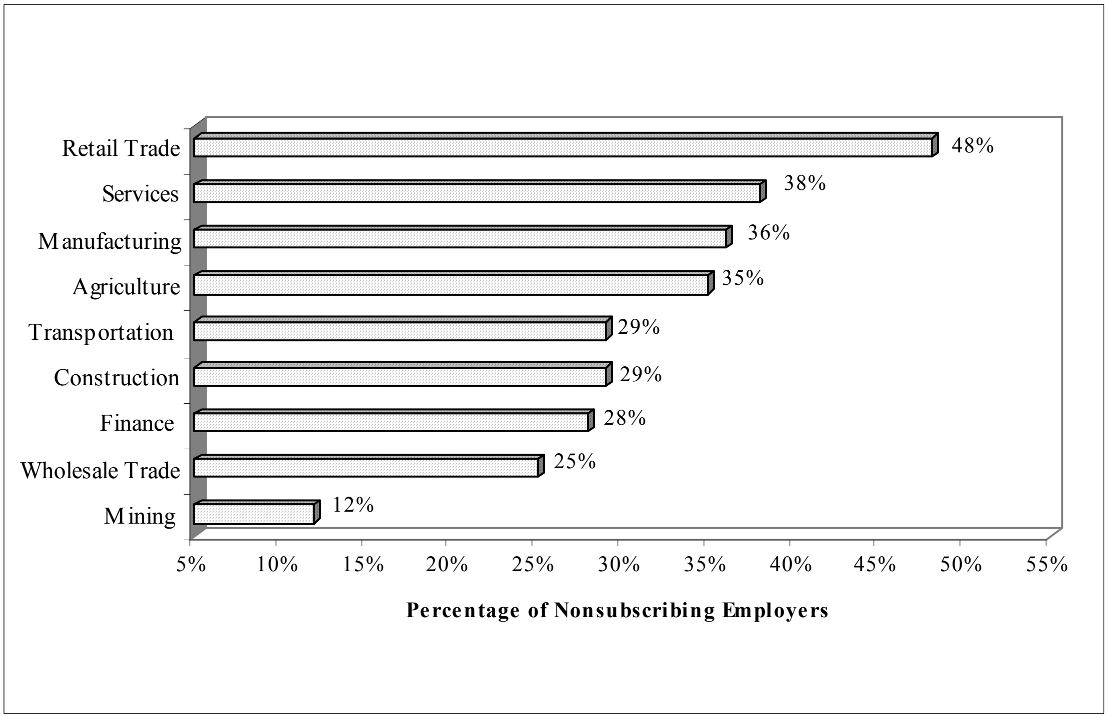
- Agriculture, Forestry, and Fishing;
- Construction;
- Manufacturing;

- Retail Trade;
- Wholesale Trade;
- Services (excluding Educational Services);
- Transportation and Public Utilities;
- Finance, Insurance, and Real Estate; and
- Mining.[28]

Employer nonsubscription rates varied significantly across industrial categories. Nonsubscription rates were highest among employers in the retail trade (48 percent), services (38 percent) and manufacturing (36 percent) sectors. Conversely, nonsubscription rates were lowest among companies in the mining (12 percent), wholesale trade (25 percent), and finance, insurance & real estate (28 percent) sectors. Some of this variation is likely the result of average employer size differences across sectors, as well as injury risk differences, and varying degrees to which businesses in the various industrial sectors do business with governmental agencies which require contractors to have WC coverage. (See Figure 3.)

[28] It is assumed that public administration, which includes SIC codes 91-99, and some educational services (SIC codes 821, 822 and 823), have a 100 percent rate of WC coverage.

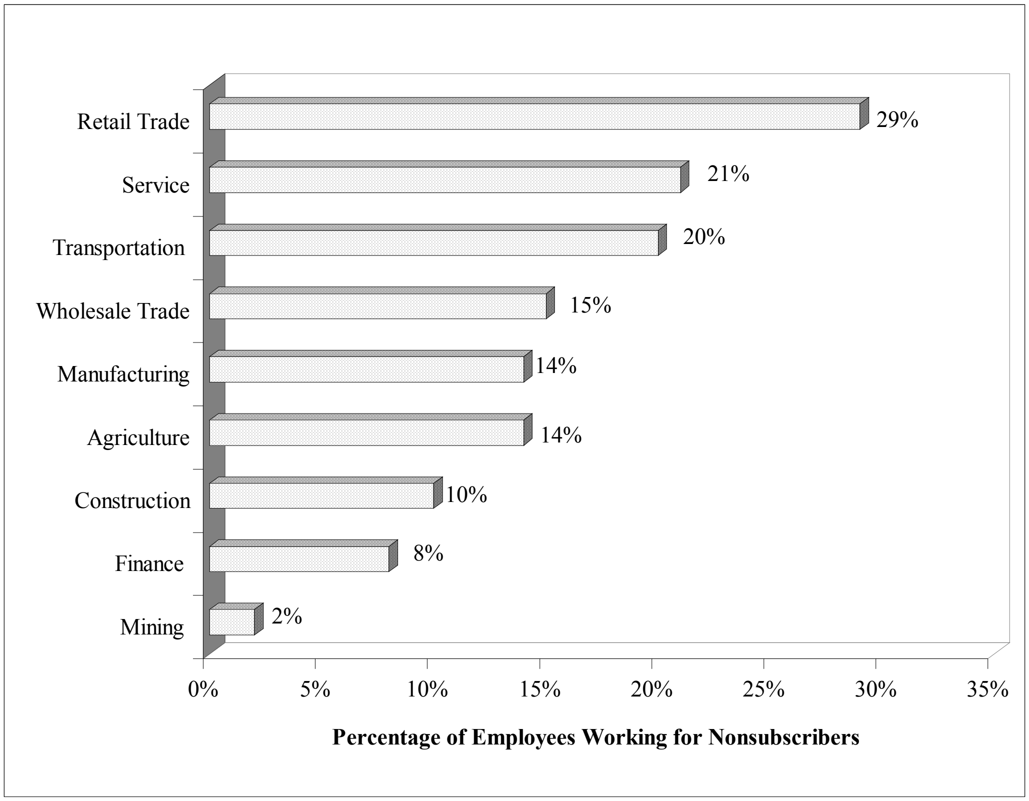
Figure 3
Employer Nonsubscription Rates by Industry



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Similar to the firm-level nonsubscription rates, the proportion of employees working for nonsubscribers was highest in retail trade (29 percent) and services (21 percent) and lowest in mining (2 percent), finance, insurance and real estate (8 percent), and construction (10 percent). (See Figure 4.)

Figure 4
Percentage of Employees Working for Nonsubscribers by Industry



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

There has been significant variation in industry-specific nonsubscription rates since the first study was completed in 1993. While rates for some industries have remained fairly stable (e.g., construction), other industries, such as mining and manufacturing, experienced substantial variation in nonsubscription rates over the past decade. Since services and retail trade account for such a substantial proportion of year-round Texas employers (approximately 56 percent), it is not surprising that those industries, along with wholesale trade, transportation, and agriculture (which, though smaller in size, experienced more substantial declines in nonsubscription rates), contributed most profoundly to the drop in the statewide rate of employer nonparticipation in the WC system. (See Table 1.)

Table 1
Historical Nonsubscription Rates by Industry
(Percent of Employees Working for Nonsubscribers in Parentheses)

	1993	1995	1996	2001
Agriculture, Forestry & Fishing	44% *(32%)*	50% *(39%)*	45% *(36%)*	35% *(14%)*
Construction	37% *(11%)*	32% *(11%)*	29% *(10%)*	29% *(10%)*
Finance, Insurance & Real Estate	51% *(13%)*	35% *(9%)*	28% *(10%)*	28% *(8%)*
Manufacturing	53% *(17%)*	46% *(22%)*	40% *(12%)*	36% *(14%)*
Mining	45% *(5%)*	24% *(7%)*	20% *(4%)*	12% *(2%)*
Retail Trade	49%** *(33%)*	59% *(45%)*	51% *(46%)*	48% *(29%)*
Services	46%* *(28%)*	45% *(26%)*	41% *(22%)*	38% *(21%)*
Transportation & Public Utilities	38% *(9%)*	40% *(11%)*	37% *(16%)*	29% *(20%)*
Wholesale Trade	49%** *(33%)*	32% *(17%)*	31% *(19%)*	25% *(15%)*

Source: Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 1996 and 2001; and Texas Workers' Compensation Research Center and the Public Policy Research Institute at Texas A&M University, 1993 and 1995.

Note: * In 1993, nonsubscription estimates were calculated separately for heath care services, which were excluded from the overall estimates for the service sector. In 1993 the nonsubscription rate for health care was 30 percent, for other services 46 percent.
** Wholesale and retail trade were combined into one nonsubscription estimate in the 1993 study. Separate estimates are provided for retail and wholesale trade for the 1995, 1996, and 2001 estimates.

Nonsubscription Rates by Employer Size

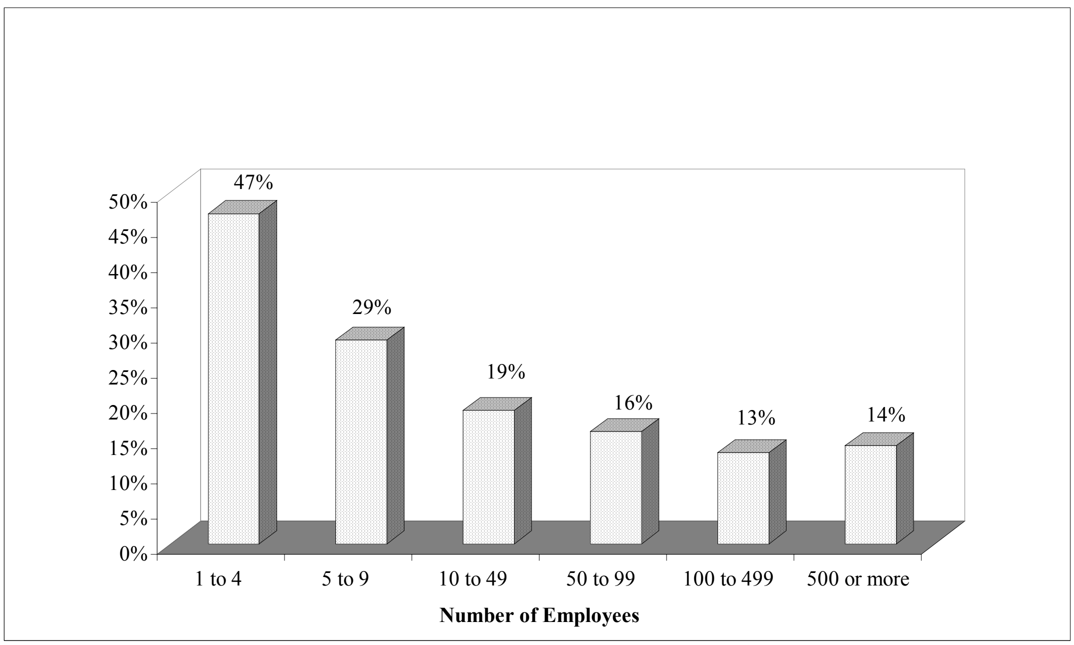
Historically, the size of the employer has proven to be a key driver in whether firms decide to purchase WC coverage. Consequently, nonsubscription rates have been calculated for six categories of employers, based on the total number of workers they employ in Texas:

- 1 to 4 employees;
- 5 to 9 employees;
- 10 to 49 employees;
- 50 to 99 employees;
- 100 to 499 employees; and

- 500 or more employees.

Nonsubscription rates for Texas employers are generally inversely related to the size of the employer, as measured by number of workers employed. The smallest businesses (with 1 to 4 employees) typically have the highest rate of nonsubscription (47 percent); while companies with 100 to 499 employees (13 percent) and 500 or more employees (14 percent) have the lowest nonsubscription rates in the state (See Figure 5). This is primarily due to the financial burden of purchasing WC coverage for small employers.

Figure 5
Employer Nonsubscription Rates by Employment Size



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

When compared to the 1996 estimates, nonsubscription rates dropped for all categories, with the exception of the employment size group which includes the very smallest businesses in Texas (1 to 4 employees). The largest movements are observed among employers with 5 to 9 employees (from 39 percent nonsubscriber in 1996 to 29 percent in 2001) and 10 to 49 employees (from 28 percent in 1996 to 19 percent in 2001).

Employers with 5 to 49 workers comprise a sizable portion of year-round Texas employers (40 percent), and therefore it is firms in this size range that had the most profound impact on the declining statewide nonsubscription rate from 1996 to 2001. Substantial drops in nonsubscription rates for employers with 5 to 49 workers offset the corresponding rise (of 3 percent) in the nonsubscription rate for the state's smallest employers (1 to 4 workers), which comprise 53 percent of employers in Texas. (See Table 2.)

Table 2
Historical Nonsubscription Rates by Employment Size

	1993*	1995	1996	2001
1 to 4 Employees	N/A	55%	44%	47%
5 to 9 Employees	N/A	37%	39%	29%
10 to 49 Employees	N/A	28%	28%	19%
50 to 99 Employees	N/A	24%	23%	16%
100 to 499 Employees	N/A	20%	17%	13%
500 or More Employees	N/A	18%	14%	14%

Source: Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 1996 and 2001; and Texas Workers' Compensation Research Center and the Public Policy Research Institute at Texas A&M University, 1993 and 1995.

Note: * Nonsubscription estimates for 1993 were based on different employer size categories than were used in 1995, 1996 and 2001. The estimated percentage of nonsubscribers in 1993 were as follows: one employee, 69%; 2-5 employees, 40%; 6 to 10 employees, 40%; 11 to 25 employees, 22%; 26 to 100 employees, 25%; 101 to 1000 employees, 15%; and more than 1000 employees, 12%.

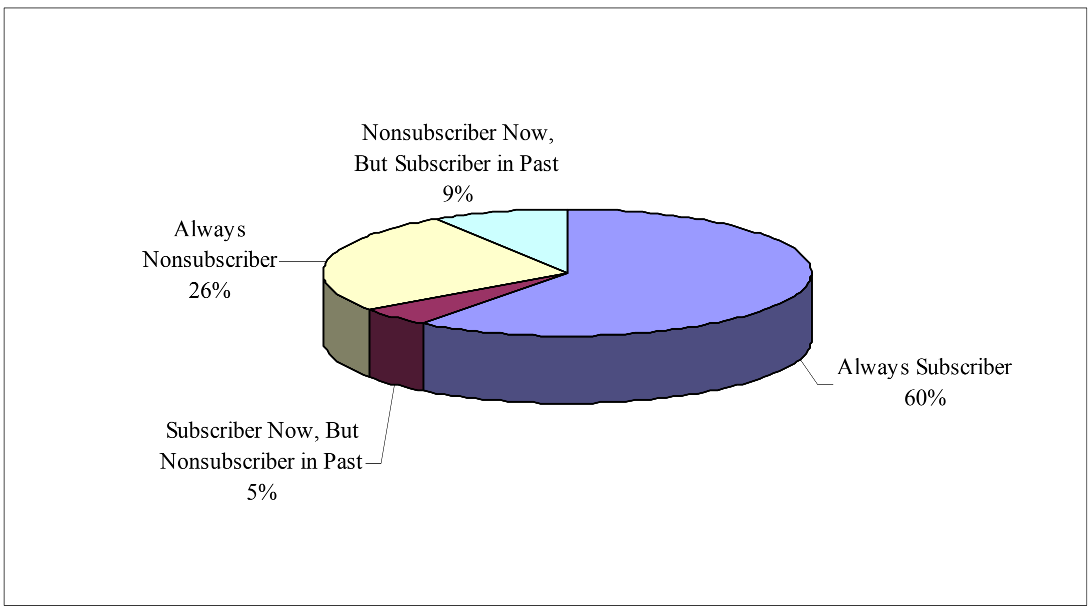
Subscription Patterns

While it is critical to get an accurate gauge of current employer participation rates in the Texas WC system, it is also helpful to understand the subscription histories of

Texas employers. There are four WC coverage patterns that are observed among Texas employers: 1) Employer has always been a subscriber; 2) Employer has always been a nonsubscriber; 3) Employer is now a subscriber, but was a nonsubscriber in the past; and 4) Employer is now a nonsubscriber, but was a subscriber in the past.

The vast majority of employers either have always been subscribers (60 percent) or nonsubscribers (26 percent) to the Texas WC system. The remaining 14 percent have moved in and out of the WC system. Nine percent are nonsubscribers now, but had WC coverage at one time, and 5 percent are subscribers, but were at one time nonsubscribers. (See Figure 6.) The primary reasons why these employers shift their coverage status are discussed in Sections IV and V of this report.

Figure 6
Percentage of Texas Employers by Subscription Pattern

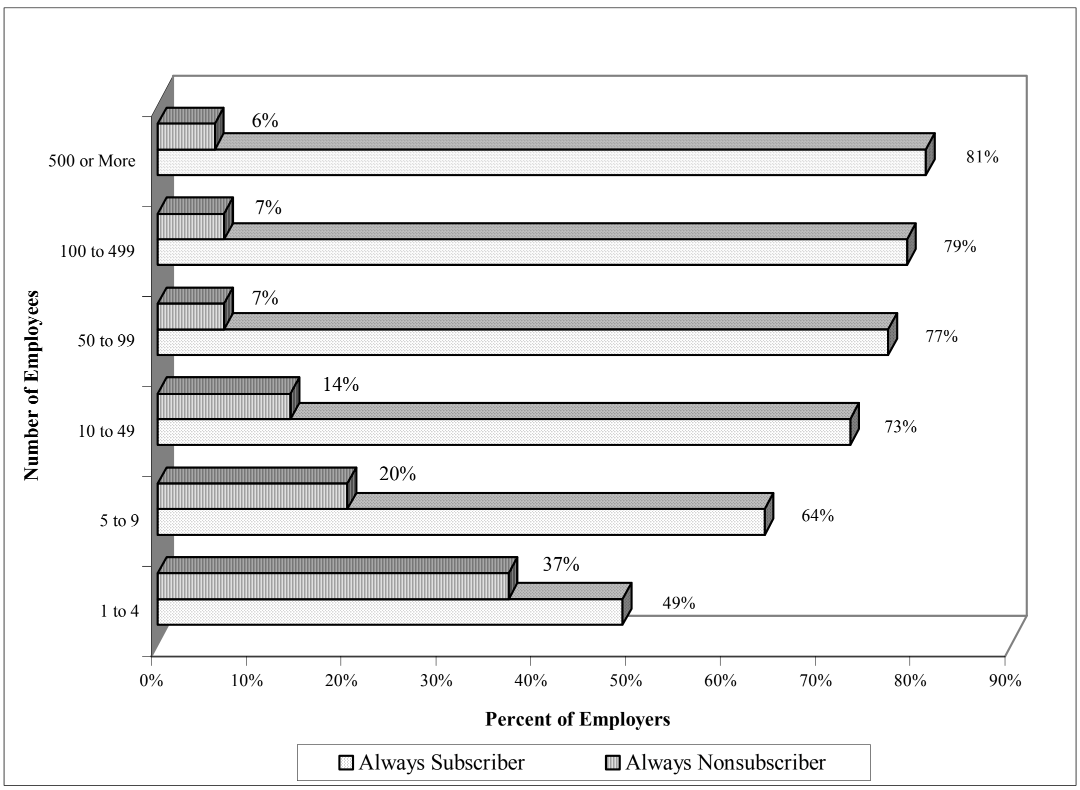


Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Over three quarters of the Texas workforce (76 percent) are employed by employers that have always carried WC coverage, compared to just 10 percent of the workforce that work for companies that have never been in the Texas WC system.

The percentage of employers that have always been subscribers and those that have always been nonsubscribers varies significantly by industry and employer size. As employment size increases, the percentage of businesses that have always been subscribers also increases markedly. Just under half (49 percent) of employers with one to four workers have always been subscribers compared to 81 percent of employers with 500 or more employees. Likewise, 37 percent of employers with one to four employees have always been nonsubscribers, compared to just 6 percent of large firms with 500 or more employees. (See Figure 7.)

Figure 7
Percentage of Texas Employers that were Always Nonsubscribers or Always Subscribers by Employment Size

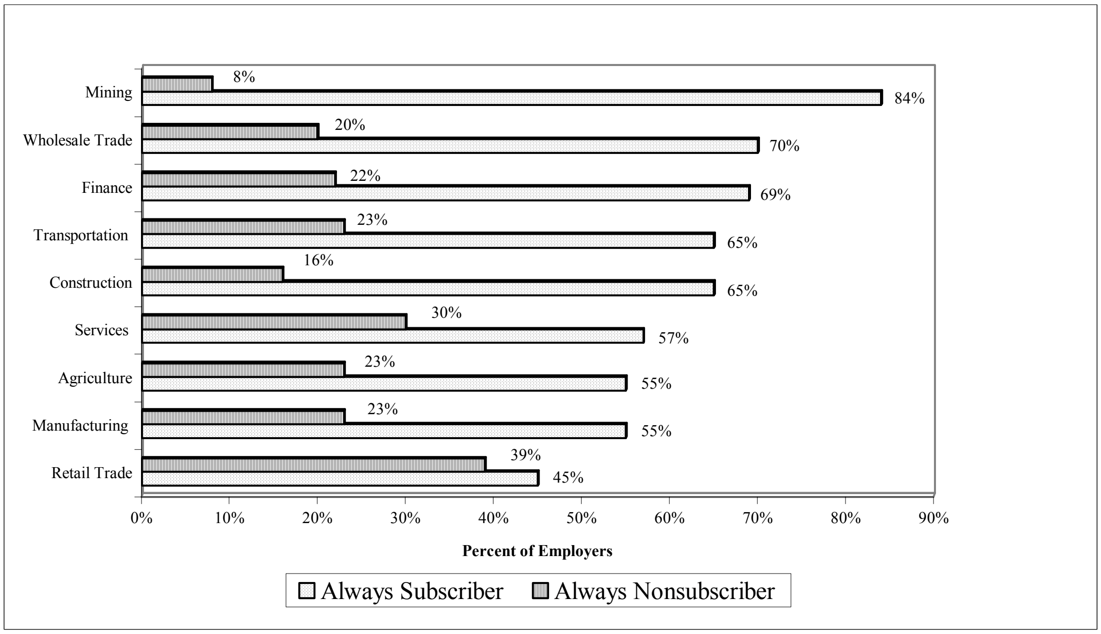


Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Note: Percentages do not total to 100 percent because two patterns (subscriber now but used to be a nonsubscriber; and nonsubscriber now, but used to have WC coverage), which account for an average of 14 percent of the firms in Texas, are not included in the graph.

When industrial classification is considered, mining (84 percent), wholesale trade (70 percent) and finance (69 percent) were the sectors with the highest percentage of employers that have always been subscribers. It is also interesting to note that the manufacturing sector has the highest proportion of employers (22 percent) that have moved in and out of the WC system at different times in their company's history.

Figure 8
Percentage of Texas Employers that were Always Nonsubscribers or Always Subscribers by Industry



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Note: Percentages do not total to 100 percent because of two patterns (subscriber now but used to be a nonsubscriber; and nonsubscriber now, but used to have WC coverage), which account for an average of 14 percent of the firms in Texas, are omitted from the graph.

III. ENTRY AND EXIT TRENDS TO AND FROM THE WC SYSTEM

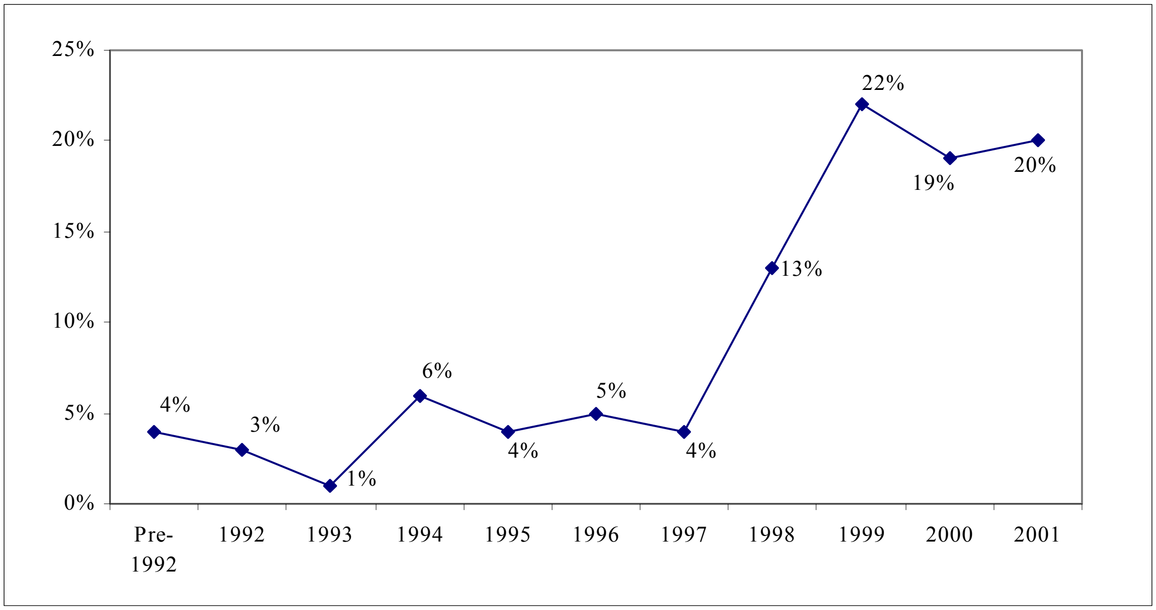
This section of the report examines the trends of employers entering and exiting the Texas WC system. Specifically, for current subscribers that at one time opted out of the WC system, the year in which they most recently purchased WC coverage is tracked. Likewise, for current nonsubscribers who at one time were covered by WC, the year in which they most recently dropped WC coverage is documented. This entry and exit data provides valuable insight into possible future nonsubscription trends.

Entry Trends into the Texas WC System

Entrance patterns are reported for employers that were once nonsubscribers, but have since obtained WC coverage. This accounts for approximately 5 percent of all employers in Texas.

As Figure 9 illustrates, there has been a significant acceleration in the number of companies that were once nonsubscribers to the WC system, but later purchased WC coverage. Of those former nonsubscribers that have become subscribers to the WC system, the majority (61 percent) did so between 1999 and 2001.

Figure 9
Year in Which Employers (Who Were Previously Nonsubscribers) Purchased WC Coverage



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Notes: Percentages are based on responses from 134 subscribing employers that were once nonsubscribers to the Texas WC system. They represent 5 percent of all Texas employers. Percentages may not total to 100 percent due to rounding.

Of the 61 percent of former nonsubscribers who recently purchased WC coverage (since 1999), the three most frequently cited "primary reasons" for their decisions were:

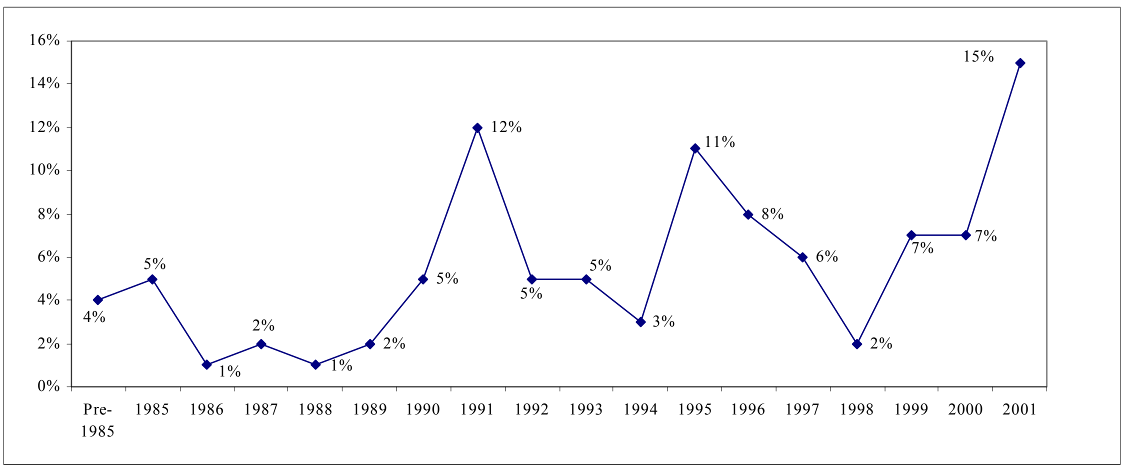
- Fear of lawsuits (27 percent)
- Company philosophy (18 percent)
- Lower WC insurance rates (13 percent)

It is interesting to note that among this group of new subscribers, fear of lawsuits and lowered insurance rates rise significantly in importance from the overall population of subscribers (see Table 5).

Exit Trends from the Texas WC System

An estimated 9 percent of all Texas employers are currently nonsubscribers who carried WC coverage at one point in time. After observing relatively stable rates of departure from the Texas WC system throughout the 1990s, with the exception of a spike in 1995, there appeared to be an increase in the number of firms dropping their coverage in 2001. Fifteen percent of all nonsubscribers that used to be in the WC system indicated that they dropped their WC coverage in 2001. This represents almost twice the percentage of employers who dropped coverage in 2000 (see Figure 10). It will be critical to track this trend, along with the size of the population of nonsubscribers that were once in the WC system, to determine if the rising WC insurance rates will have a significant impact on the ability of Texas employers to remain in the WC system.

Figure 10
Year in Which Current Nonsubscribers Dropped Their WC Coverage



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.
Note: Percentages are based on responses from 187 nonsubscribing employers that once had WC coverage. They represent 9 percent of all Texas employers. Percentages may not total to 100 percent due to rounding.

Of the 29 percent of companies that dropped WC coverage since 1999, the three most frequently cited "primary reasons" for their decision were as follows:

- Quoted premiums were too high (45 percent);
- Too few employees (15 percent); and
- Company cost cutting (5 percent).

Among larger firms (those with 100 or more employees) that dropped coverage during the 1999-2001 period, the following were also frequently noted as the primary reason for not carrying WC coverage:

- The feeling that their company can do a better job at handling work-related injuries than the Texas WC system (26 percent); and
- Concerns about fraud in the WC system (24 percent).

Medium-sized firms (those with 50 to 99 employees) were also more likely (24 percent) than either large (5 percent) or small employers (4 percent) to indicate that the primary reason why they recently dropped coverage was "company cost-cutting measure to be more competitive."

IV. THE NONSUBSCRIBER EXPERIENCE

This section of the report provides detailed information about businesses that are nonsubscribers to the Texas WC system. The discussion specifically addresses the following key areas as they relate to nonsubscribers:

- Key drivers for opting out of the Texas WC system;
- Potential impact of change in WC insurance costs on nonsubscribers;
- Potential impact of managed care option in the WC system on nonsubscribers' propensity to consider carrying WC coverage;
- Satisfaction with specific aspects of the nonsubscriber experience;
- The propensity of nonsubscribers to offer alternative occupational benefits plans to their employees;
- Financing methods for alternative occupational benefits plans;
- Payment of medical benefits for on-the-job injuries;
- Payment of income benefits to employees injured on the job;
- Litigation against nonsubscribers; and
- The use of liability waivers by nonsubscribers.

Key Drivers for Opting Out of the Texas WC System

Survey respondents were queried extensively regarding their decision to opt out of the Texas WC system in an attempt to determine the key drivers behind their decision to ultimately become nonsubscribers. Employers were asked to rate the importance of various factors on a 5-point scale, as well as provide the "primary reason" why they chose not to purchase WC coverage.

Importance Ratings

Nonsubscribers were asked to rate the degree to which a wide variety of factors influenced their decision to become a nonsubscriber to the Texas WC system. Respondents used a 1-to-5 scale where 1 means *Not at all Important* and 5 means *Extremely Important*.

Since the majority of nonsubscribers are small businesses, it is not surprising that the two reasons respondents rated most frequently as "important" were:

1) "too few employees" (66 percent); and
2) "few injuries" (61 percent).[29]
3) "high quoted premiums" (61 percent)
4) "not required by law to have WC coverage (56 percent)

The percentage of employers rating the reason as "important," as well as mean importance scores for each of the potential reasons for not carrying WC coverage are provided in Table 3 by order of importance.[30]

[29] "Important Influence" is defined as rating the importance of the attribute a "4" or "5" on a 1-to-5 scale, where 1 means "not at all important" and 5 means "extremely important." The mean scores in Table 3 represent the average response to the scaled questions described above. The higher the mean score, the higher the relative importance in the decision to not carry WC coverage.

[30] The mean scores measure relative degrees of importance for each decision driver. The higher the mean score, the more important that reason was in the decision whether or not to purchase WC coverage.

Table 3
Key Drivers for Not Carrying WC Coverage

Reason for Not Carrying WC Coverage	Percentage of Nonsubscribers Rating Reason as "Important"	Mean Importance Score (5-Point Scale)
Your company had too few employees	66%	3.75
Quoted premiums were too high	61%	3.51
Your company had few on-the-job injuries	61%	3.49
Not required to have WC coverage by law	56%	3.41
Medical costs in the WC system were too high	45%	3.03
Company cost-cutting measure to be more competitive	43%	2.88
Felt company could do a better job than WC system at providing occupational benefits	37%	2.86
Alternative occupational benefits plan was a better value than WC coverage	40%	2.78
Wanted more control over choice of medical providers	29%	2.44
Competition does not carry WC coverage	25%	2.25
Concerns about fraud in the WC system	24%	2.22
Administrative process associated w/filing a claim	24%	2.20
Concerns about TWCC dispute resolution process	17%	1.97
Dissatisfaction with service from WC insurance carrier	18%	1.91
High experience modifier which made WC insurance unaffordable	12%	1.64

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Note: "Important" is defined as assigning a rating of 4 or 5 on a scale of 1 to 5, where 1 means *Not at all Important* and 5 means *Extremely Important.*

It is important to note that the level of importance assigned to the various reasons for opting out of the Texas WC system varies greatly by employer size. The importance ratings reported in Table 3 are largely driven by small employers, because such employers represent the largest percentage of nonsubscribers. Table 4 presents the percentage of small (less than 50 employees), mid-sized (50 to 99 employees) and large nonsubscribers (100 or more employees) that felt the various reasons were "important" in their decision to opt out of the WC system.

Table 4
Reasons for Not Carrying WC Coverage Rates as Important
By Employer Size

	Percent of Nonsubscribing Employers Rating Reason as Important		
Reason for Not Carrying WC Coverage	**1 to 49 Employees (Small)**	**50 to 99 Employees (Medium)**	**100 or More Employees (Large)**
Quoted premiums were too high	60%	82%	87%
Your company had too few employees	67%	21%	1%
Not required to have WC coverage by law	57%	39%	49%
Your company had few on-the-job injuries	61%	36%	34%
Company cost-cutting measure	33%	63%	61%
Competition does not carry WC coverage	25%	13%	23%
Medical costs in the WC system were too high	44%	51%	54%
Dissatisfaction with service from WC insurance carrier	18%	15%	43%
Alternative occupational benefits plan was a better value than WC coverage	39%	59%	80%
Wanted more control over choice of medical providers	28%	32%	78%
Administrative process associated w/filing a claim	24%	21%	33%
Felt company could do a better job than WC system at providing occupational benefits	36%	38%	58%
Concerns about TWCC dispute resolution process	17%	16%	34%
Concerns about fraud in the WC system	23%	35%	47%
High experience modifier which made WC insurance unaffordable	11%	24%	33%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Note: "Important" is defined as assigning a rating of 4 or 5 on a scale of 1 to 5, where 1 means *Not at all Important* and 5 means *Extremely Important.*

Premiums costs were cited as an important factor for not carrying WC coverage by the significant percentages of large (87 percent), medium (82 percent) and small (60 percent) employers. "Few on-the-job injuries," and "too few employees" tended to be important factors only for smaller nonsubscribers. Conversely, larger nonsubscribers (those with 100 or more employees) were much more likely to opt out of the WC system because they felt that their alternative occupational benefits plan was a better value than WC coverage, because they felt they could do a better job than the WC system at ensuring their injured workers obtained appropriate benefits, or to gain more control over choice of medical provider. In addition, larger nonsubscribing firms also were more likely to be more concerned about WC fraud or the TWCC dispute resolution process (see Table 4).

It is evident from the survey findings that small businesses tend to be more focused on the cost/benefit of carrying WC coverage (i.e., whether the cost of the insurance will outweigh the loses they are likely to occur); while larger nonsubscibing firms are more concerned with their ability to have greater control over costs related to on-the-job injuries and the administration of their occupational benefits programs.

Primary Reason for Nonsubscription

Nonsubscribers were also asked to select the *primary* reason why they chose to opt out of the WC system. "Quoted premiums too high" (31 percent), "too few employees" (26 percent), and "WC insurance is not required by law" (8 percent) were the three most common responses. Quoted premiums being too high was also cited as the primary reason for opting out of the system by employers in 1996. Table 5 provides a complete distribution of the primary reasons indicated by nonsubscribers.

Table 5
Primary Reason for Not Carrying WC Coverage

	Percent of Nonsubscribing Employers
Quoted premiums were too high	31%
Your company had too few employees	26%
Not required to have WC coverage by law	8%
Your company had few on-the-job injuries	6%
Company cost-cutting measure to be more competitive	4%
Medical costs in the system were too high	4%
Alternative occupational benefits plan was a better value than WC coverage	3%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.
Note: Only those responses noted by at least 3 percent of the nonsubscriber population are listed.

When *primary* reasons for nonsubscription are examined by employer size, some interesting and parallel findings to those noted above emerge. For example, as Table 4 indicated, larger firms tend to be much more concerned about fraud in the WC system than do smaller businesses. Fourteen percent of companies with 100 or more employees indicated that concern about fraud was the primary reason they chose not to carry WC coverage, compared to 6 percent of medium-sized firms (those with 50 to 99 employees) and just 1 percent of businesses with less than 50 employees.

Large nonsubscribers are also much more likely to opt out of the WC system because they felt that "their company can do a better job than the Texas WC system at ensuring injured workers receive adequate benefits." While just 2 percent of small employers and 3 percent of medium sized employers cited this as the primary reason they are nonsubscribers, 14 percent of companies with 100 or more workers indicated that their primary reason for nonsubscription status was superior performance in this area to that of the WC system.

It is also interesting to note that medium-sized firms with 50 to 99 employees were much more likely to cite "company cost cutting measure" as the primary reason they have opted out of the WC system. Thirteen percent of medium-sized companies noted cost cutting as the primary reason compared to just 3 percent of large firms and 4 percent of small businesses. This may be an indication that the extremely challenging economic environment of 2000 and 2001 had the most immediate impact on these mid-sized firms.

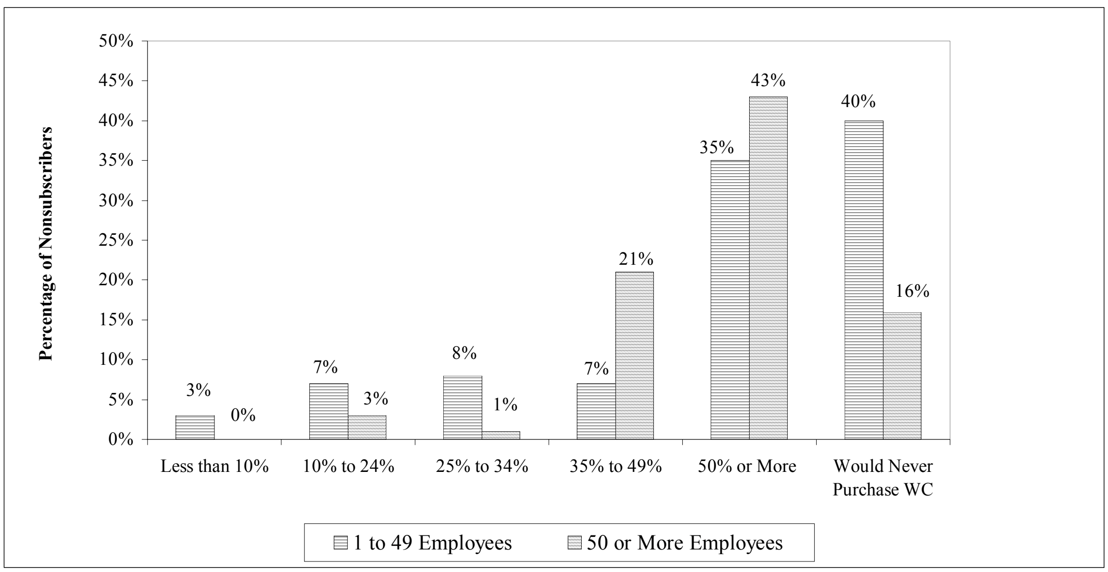
Impact of a Potential Change in WC Insurance Costs on Nonsubscribers

It appears clear from the survey data that a large segment of nonsubscribers are fairly entrenched in their decision to opt out of the Texas WC system. Almost three quarters of all nonsubscribers (74 percent) indicated that they have never had WC coverage.

When asked what percentage decline in insurance premiums (if any) it would take to lure them into the Texas WC system, 40 percent indicated that they would never purchase WC coverage.[31] Another 35 percent of nonsubscribers said that it would take a massive reduction in WC insurance premiums (of 50 percent or more) for them to purchase WC insurance.

Very few nonsubscribers said that modest to substantial declines in WC insurance costs would induce them to enter the WC system. Only 10 percent of nonsubscribers said they would buy WC insurance if premiums declined by less than 25 percent, and another 16 percent indicated that they would purchase WC insurance if premiums were reduced by 25 to 49 percent. (See Figure 11.)

Figure 11
Percentage Decline in Insurance Premiums Required to Induce Nonsubscribers to Purchase WC Coverage



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

As Figure 11 illustrates, nonsubscribers with 50 or more employees are less likely (16 percent) to indicate that they would never purchase WC coverage regardless of the drop in WC premiums than are smaller nonsubscribing firms (40 percent). However, the majority of nonsubscribers with at least 50 employees (64 percent) said that it

[31] Since smaller firms are more likely to never purchase WC insurance, a smaller proportion of the nonsubscriber workforce (27 percent) are employed by firms that indicated that they would never purchase WC coverage regardless of any premium reductions.

would take a premium reduction of 35 percent or more to induce them to obtain WC coverage.

Satisfaction with Nonsubscriber Experience

Businesses which opted out of the Texas WC system tended to be fairly satisfied with their overall experience as nonsubscribers. More than two-thirds (68 percent) of nonsubscribing employers indicated that they were satisfied with their nonsubscriber experience compared to just 12 percent who said that they were not satisfied.[32] The remaining 21 percent of the survey respondents were neutral.

Nonsubscribers were also asked to rate their satisfaction with the following specific aspects of their experience:

- Adequacy and equity of the alternative occupational benefits paid to injured workers through their company's plan;
- Degree to which nonsubscribing firms feel their occupational benefits plan is a "good value" for the company;
- Service provided by insurance carriers writing alternative occupational benefits insurance policies; and
- Their company's ability to effectively manage medical and income benefit costs related to on-the-job injuries.

Almost three quarters of nonsubscribers that pay benefits to injured workers (72 percent) indicated that they were satisfied with the adequacy and equity of occupational benefits paid to their injured workers. Seventy-eight percent felt that their alternative occupational benefits plan was a good value, and 74 percent of

[32] "Satisfied" is defined as rating their experience as a "4" or "5" on a scale of 1 to 5 where 1 is "not at all satisfied" and 5 is "extremely satisfied." "Not Satisfied" is defined as rating their experience as a "1" or "2" on a scale of 1 to 5 where 1 is "not at all satisfied" and 5 is "extremely satisfied." While a fairly small percentage of nonsubscribers indicated that they were not satisfied with their nonsubscriber experience, dissatisfaction was more common among small employers that have less than 50 workers (12 percent) than larger employers that employ more than 50 workers (2 percent).

nonsubscribers were satisfied with their ability to manage costs related to on-the-job injuries.

Nonsubscribers with alternative occupational benefits insurance policies tended to be very satisfied with the service provided by the insurance carrier. The vast majority (84 percent) indicated they were satisfied with the insurance carrier's service. This includes 53 percent who said they were "extremely satisfied."

As previously noted, past studies conducted by the ROC in 1997, and its predecessor, the Research Center in 1994, suggest that satisfaction levels for injured workers employed by nonsubscribers are fairly high. However, another follow-up study of injured workers would be helpful in determining if there have been significant differences in the satisfaction levels of injured workers employed by subscribers and nonsubscribers since 1994.

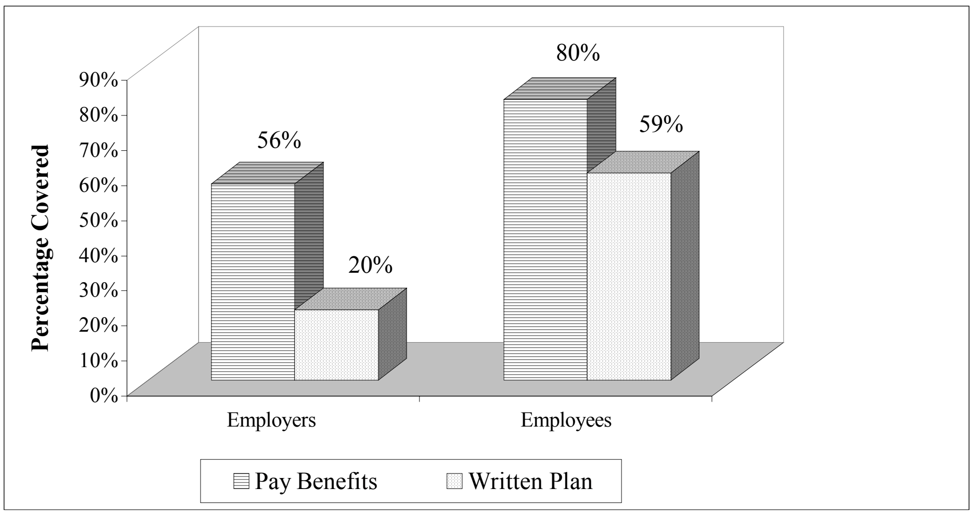
Alternative Occupational Benefit Plans Offered by Nonsubscribing Employers

While a substantial percentage of Texas employers (35 percent) have chosen not to carry WC coverage, this does not necessarily mean that medical and income (i.e., wage-replacement) benefits are not provided to their employees injured on the job. In fact, more than half (56 percent) of nonsubscribing firms surveyed indicated that they pay benefits (medical and/or income benefits) to employees injured on the job.

Since larger firms are more likely to pay occupational benefits to injured workers, the vast majority (80 percent) of the nonsubscriber workforce in Texas is covered by such an alternative plan. The overwhelming majority (88 percent) of nonsubscribing firms with 50 or more employees indicated that they pay occupational benefits to injured workers compared to 55 percent of smaller firms (those with fewer than 50 employees).

Of those nonsubscribers that pay benefits to injured workers, just over one-third (35 percent) have a *written* company policy or procedure to pay occupational benefits.[33] In total, about one in five nonsubscribers (20 percent) have a written policy to pay benefits to employees injured at work. Since larger nonsubscribing firms are more likely to have written policies, 59 percent of the employees working for nonsubscribers are employed by firms with written plans. (See Figure 12.)

Figure 12
Prevalence of Alternative Occupational Benefit Plans and the Proportion of the Nonsubscriber Workforce they Cover



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

The majority of nonsubscribers (60 percent) indicated that their employees were eligible for benefits under the alternative occupational benefits plan immediately after hire. Since larger firms are more likely to make occupational benefits available from the first day of an employee's injury, an even higher percentage (80 percent) of employees working for nonsubscribers are covered by occupational benefits plans immediately after hire.

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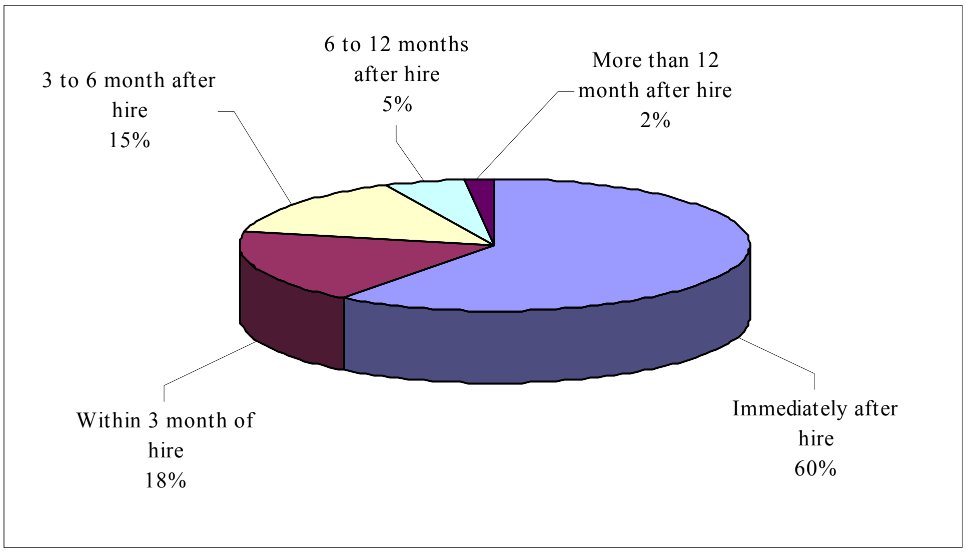
[33] The percentage of nonsubscribing firms that pay benefits may represent a lower-bound estimate: firms with a very small number of employees that have never had a workplace injury may have responded negatively even though they would assist an injured worker should the need arise.

Smaller percentages of nonsubscribing firms indicated that their employees were eligible for benefits within three months of hire (18 percent), after they have been on the job for three to six months (15 percent), or after they have been employed for some period in excess of six months (7 percent). (See Figure 13.)

Figure 13
Waiting Period for Workers to Become Eligible for Occupational Benefits



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Just over one-fifth of nonsubscribers (22 percent) that pay occupational benefits indicated that they utilized an ERISA structure when developing their company's occupational benefits plan for work-related injuries.[34] The use of an ERISA structure was much more prevalent among larger nonsubscribers with 100 or more employees (86 percent) than either mid-sized employers with 50 to 99 employees (48 percent), and small businesses with less than 50 employees (17 percent). Just under two-thirds (65 percent) of all employees working for nonsubscribers that pay occupational

[34] ERISA refers to the Employee Retirement Income Security Act of 1974. It is a federal statute, which provides a framework for private sector employee benefit plans. ERISA sets uniform minimum standards to ensure that employee benefits plans are established and maintained in a fair and financially sound manner. ERISA covers most employee benefit plans, including pension plans and welfare plans, which provide health benefits, occupational (work-injury) benefits, disability benefits, death benefits, vacation benefits, and other similar benefits.

benefits are employed by firms that used an ERISA structure to create their alternative occupational benefits program.

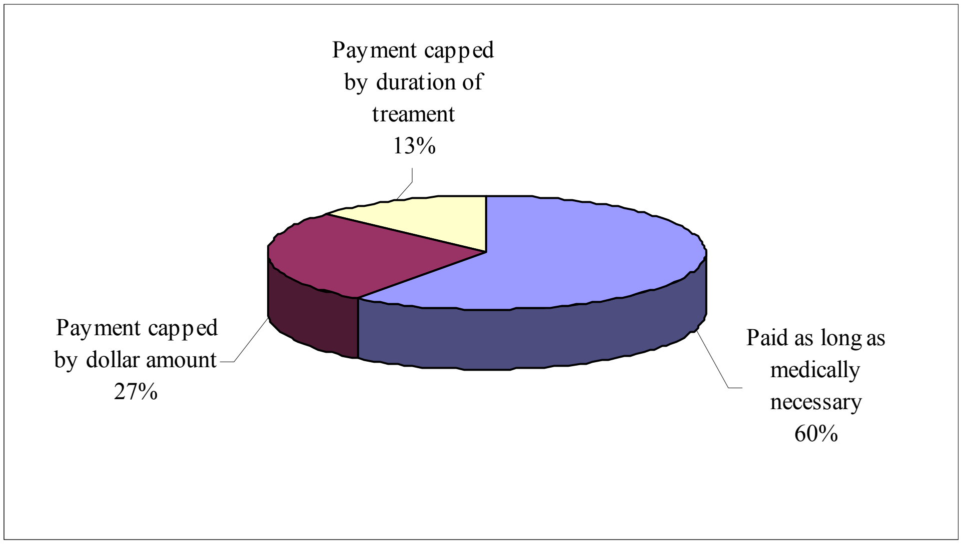
Payment of Medical Benefits for Occupational Injuries

Of the nonsubscribers that pay any occupational benefits to injured workers, the vast majority (82 percent) cover medical expenses. Overall, medical benefits for on-the-job injuries are paid by 46 percent of *all* nonsubscribing employers. These medical plans cover 75 percent of all Texas employees working for nonsubscribers. However, medical benefits can vary greatly across nonsubscribing firms. This subsection of the report details some of the differences in nonsubscriber occupational injury medical plans.

Restrictions Placed on Medical Benefits

Well over half (60 percent) of nonsubscribing firms that pay medical costs for work-related injuries indicated that their injured employees may receive medical treatment for as long as is medically necessary, a provision similar to that in the WC system. Slightly over a quarter (27 percent) noted that benefits were capped by the dollar amount spent on medical treatment for the on-the-job injury, and the remaining 13 percent said that medical benefits were capped by the length of treatment. (See Figure 14.)

Figure 14
Duration of Medical Benefits for Injured Workers
Employed by Nonsubscribers



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

For those firms that have medical benefits capped at some dollar amount, 19 percent have the cap set at $25,000 or less; 11 percent between $50,000 and $250,000; and 37 percent more than $250,000. The remaining 27 percent of the survey respondents that have a dollar cap on medical benefits noted that the cap level was determined on a case-by-case basis.

For those nonsubscribers that have medical benefits *capped by duration of treatment*, the median length of treatment duration allowed is 52 weeks, with the highest being 401 weeks. Just over a quarter (26 percent) of the employers that have a duration cap on medical services noted that the treatment duration was determined on a case-by-case basis.

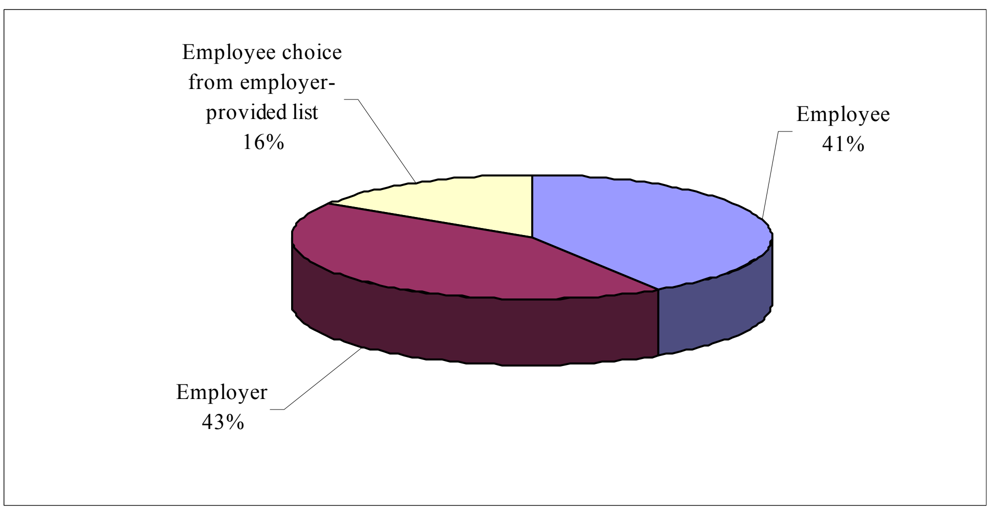
Employee Cost Sharing Arrangements

In the Texas WC system, injured workers are not responsible for the payment of any medical costs related to their on-the-job injury or illness. This is not necessarily the case for alternative occupational benefit plans used by nonsubscribers. Twenty-one percent of nonsubscribers indicated that employees are responsible for paying some portion of their medical expenses, through arrangements such as co-payments or deductibles.

Choice of Health Care Provider

In the Texas WC system, the employee may select a health care provider of his or her choice to treat a work-related injury. It is apparent from the survey responses that this is not usually the case for injured employees working for nonsubscribers. While a substantial proportion (41 percent) of nonsubscribers allowed the injured worker to choose the initial treating doctor, 43 percent indicated that the employer had first choice of health care provider, and 16 percent permitted the employee to choose a health care provider from an employer-provided list. (See Figure 15.)

Figure 15
First Choice of Health Care Provider for Occupational Injuries



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

The majority of nonsubscribers with employer choice-based medical plans (73 percent) said that if the injured worker is not satisfied with the provider chosen by the employer or selected from the employer-provided list, the worker may change health care providers.[35]

Since large nonsubscribers were likely to indicate that gaining control over choice of health care provider was an important factor in their decision to opt out of the WC system, it is not surprising that larger firms were more inclined to use employer-choice plans in the medical component of their alternative occupational benefit plan. Over three-quarters (76 percent) of the nonsubscriber workforce are employed by nonsubscribers with employer-choice based arrangements.

Managed Care

House Bill 2600, passed by the 77th Texas Legislature, included a provision (Article 2) which may provide a new medical care delivery option for injured workers. This provision calls for a study to determine the feasibility of developing regional workers' compensation health care delivery networks in Texas. The networks, if found to be feasible, will be required to meet the minimum standards for Preferred Provider Organizations (PPOs) in Texas. Insurance carriers providing WC coverage in regions selected for the networks will have the option to participate In addition, injured workers employed by companies covered by participating insurance carriers will have the option of receiving care through a network physician or not participating in the network, in which case they would be subject to the standard provisions applicable to choice of doctor in the Texas WC system.[36]

In an effort to measure what if any impact this new law might have on employer participation in the WC system, nonsubscribers were asked to indicate their

[35] It is not known whether the employee must choose another doctor from the company list, or is free to select a health care provider of his or her own choosing.

[36] If they agree to participate in the WC health care delivery networks, injured workers may be eligible to receive enhanced income benefits (e.g., reduction of retroactive period from four to two weeks, and increase of maximum weekly temporary income benefit (TIBs) to 150 percent of the state average weekly wage (SAWW) from 100 percent). These enhanced benefits will directly impact injured workers who are off work due to the injury long enough to start receiving TIBs (one week) but less than the disability duration necessary to recoup the first week of lost wages (4 weeks). It will also affect

willingness to consider returning to the Texas WC system if managed care networks for the medical treatment of work-related injuries were implemented. Similar to the lack of success other inducements (e.g., premium reductions) appear to have on nonsubscribers' willingness to enter the WC system, a fairly small percentage (18 percent) of nonsubscribing firms said they would be likely to consider purchasing WC insurance if managed care was introduced into the WC system.[37] More than half (52 percent) of all nonsubscribers indicated that they would be "Not at All Likely" to purchase WC even if managed care was available.

When asked why they would not be likely to consider purchasing WC coverage even if managed care was introduced, the reasons most frequently cited by nonsubscribers were:

- Not enough employees to need managed care (56 percent)
- Costs are too high (14 percent); and
- Unfamiliar with and/or dislike managed care (12 percent).

Payment of Income Benefits for Occupational Injuries

Of the 56 percent of the nonsubscribers that paid occupational benefits to injured workers, 69 percent said they pay income benefits to injured workers while they are off work due to the injury. Thus, overall, 39 percent of nonsubscribing employers replace the lost wages of injured workers to some degree. Since larger firms are more likely to have a plan which includes payments to compensate the employee for time lost from work, the majority of the workers employed by nonsubscribers (65 percent) are paid income benefits while they recover from their work-related injury or illness (see Figure 16).

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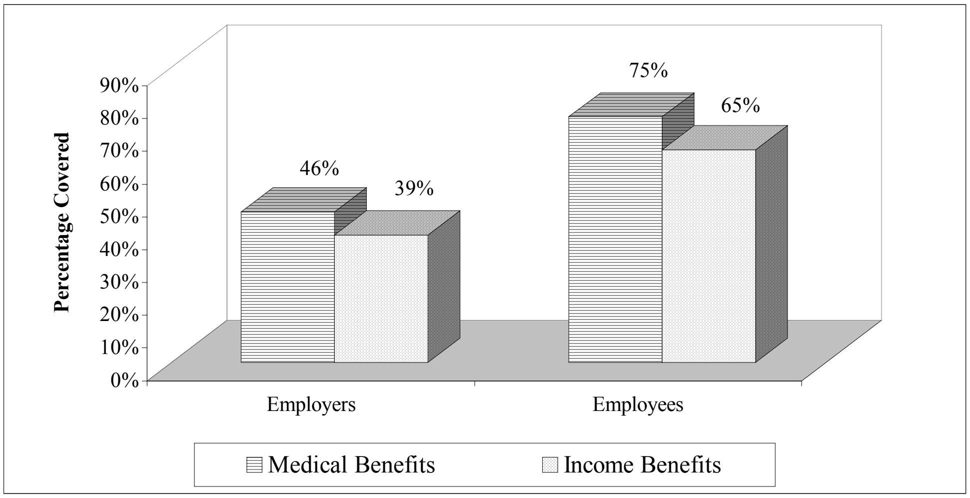
injured workers in higher income brackets who previously had their TIBs capped (by the SAWW) at less than 70 percent of their wages.

[37] Twenty-two percent of the nonsubscriber workforce are employed by firms that would be likely to purchase WC insurance if managed care were introduced into the Texas WC system.

Figure 16
Percentage of Nonsubscribers with Medical and Income Benefit Programs and the Proportion of the Nonsubscriber Worker Population Covered



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Waiting Period

While the Texas WC system requires that an injured worker be off work for seven days before becoming eligible for income benefits, many nonsubscriber plans do not have that same waiting period before an injured worker is eligible to begin receiving wage replacement benefits. More than three-quarters (78 percent) of nonsubscribers that pay wage replacement benefits indicated that injured workers are immediately eligible for income benefit payments. For those nonsubscribers who pay income benefits but do not do so immediately, the median waiting period is seven days. The distribution of waiting periods for the 22 percent of nonsubscribers that do not pay wage replacement benefits from the date of injury is as follows:

- 18 percent have waiting periods of three days or less;
- 15 percent have waiting periods of 4 to 6 days;
- 24 percent have waiting periods of 7 days;
- 13 percent have waiting periods of 8 to 14 days;
- 17 percent have waiting periods of more than 14 days; and
- 14 percent determine the waiting period on a case-by-case basis.

Report of Injury

Under the Texas WC system, an injured worker has 30 days to report an injury and up to one year to file a claim to pursue benefits. It is clear from previous research and the survey responses observed in this study that nonsubscriber plans provide less flexibility in reporting injuries than does the Texas WC system.[38] The majority of nonsubscribers (76 percent) require that the employee report the injury immediately (or the same day) to be eligible for income benefits. Fourteen percent indicated that the injury must be reported within three days, and the remaining 10 percent said the injury must be reported within 30 days.

Caps on Income Benefits

The Texas WC system limits temporary disability benefit payments (known as temporary income benefits, or TIBs) to 104 weeks from the date disability began. In addition, the total number of weeks an injured worker may receive TIBs, permanent impairment income benefits (known as IIBs) and supplemental income benefits (SIBs) is limited to 401 weeks.[39] Almost two-thirds of nonsubscribers (64 percent) indicated that income benefits are paid for the duration of disability.[40] Twenty-two percent of nonsubscribers that pay income benefits noted that payments were capped by the dollar value of payments made to the injured worker and 14 percent indicated that these wage-replacement benefits are limited by the duration of the injured worker's lost time from work.

It is interesting to note that capping income benefits by the duration of the injured worker's lost time is much more common among larger employers (with 50 or more employees) and capping income benefits by total dollar payments is more common

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[38] See Research and Oversight Council on Workers' Compensation, *Annual Nonsubscription Survey: 1996 Estimates* (1996) and Texas Workers' Compensation Research Center, *A Study of Nonsubscription to the Texas Workers' Compensation System* (1993).

[39] This excludes claims involving the payment of Lifetime Income Benefits (LIBs) for very severe, statutorily defined, injuries.

[40] It is not clear if these responses refer only to temporary disability claims or all injuries (regardless of the severity), since respondents were not asked to make that distinction.

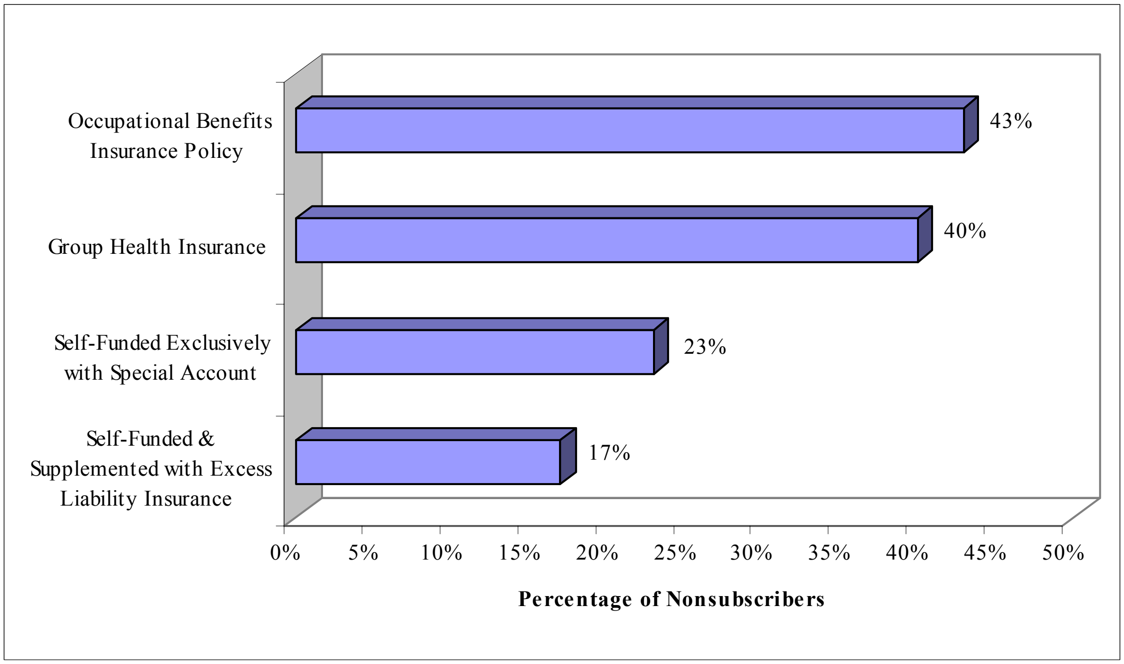
among smaller employers (with fewer than 50 employees). Approximately two thirds (67 percent) of larger nonsubscribers that cap income benefits do so based on the amount of time lost from work, versus 36 percent of smaller firms. Likewise, smaller firms are much more likely to cap income benefits based on a specified dollar amount (64 percent) than are larger companies (33 percent).

Financing Methods for Alternative Occupational Benefits Plans

Employers that opt out of the Texas WC system finance the payment of alternative medical and/or wage loss benefits in a variety of ways. Survey respondents indicated that medical costs are covered by four primary sources: 1) an insurance policy (43 percent); 2) group health insurance (40 percent); 3) self-funded exclusively through a special fund (23 percent); and 4) self-funded through a special fund and supplemented with excess liability insurance (17 percent).[41] Twenty-one percent also noted that they use some other method for financing medical costs.[42] (See Figure 17.)

[41] These percentages do not total to 100 percent because survey respondents were allowed to select more than one funding source.
[42] The majority of other financing methods noted by respondents tended to be variations of self-funding claims and losses being paid out of corporate assets.

Figure 17
Methods Used to Finance Medical Benefit Payments to Injured Workers

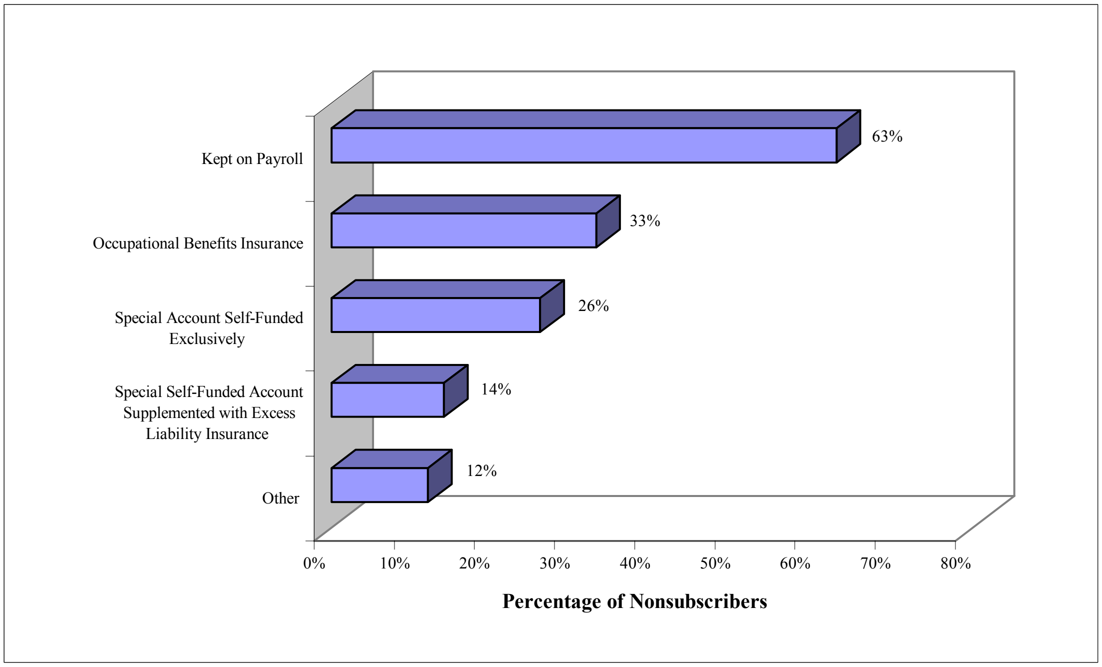


Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

It is noteworthy that group health insurance is one of the most common methods for paying occupational injury medical costs, since this may suggest that a significant degree of cost shifting to the group health arena is occurring in Texas. The extent to which health insurance companies price their premiums to account for the treatment of occupational injuries, traditionally covered in the WC system, is unknown.

Income benefits are typically funded in the following ways: 1) alternative occupational benefits insurance; 2) keeping employees on the payroll during their period of recovery; and 3) a special account that is self-funded (and may also include a supplemental excess liability insurance component). The most common method of paying income benefits is by keeping employees on the payroll or having their salaries supplemented to their pre-injury level (63 percent); second most common is alternative occupational benefits insurance (33 percent). About a quarter (26 percent) of nonsubscribers that pay income benefits for work-related injuries indicated these costs are covered exclusively by a self-funded account. Fourteen percent utilize a self-funded account with supplemental excess liability insurance and 12 percent indicated that they use some other source to fund wage-replacement benefits for on-the-job injuries.[43] (See Figure 18.)

Figure 18
Methods Used to Finance Income Benefit Payments to Injured Workers



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Note: Accident losses paid for with "company assets" or "out of pocket" account for the overwhelming majority of the responses specified by respondents under "Other."

Litigation Against Nonsubscribers

Since nonsubscribers to the Texas WC system are not afforded the same degree of protection from lawsuits by injured workers as employers that carry WC coverage, measuring the degree of litigation against nonsubscribing firms is important to system stakeholders. The rate of litigation among nonsubscribers remains low, and is relatively unchanged since the 1996 survey was conducted. As was the case in 1996, just 3 percent of nonsubscribing firms reported that they have been sued over a work-related injury during the past five years. Since larger firms are much more likely to

[43] These percentages do not total to 100 percent because survey respondents were allowed to select

have been sued, a substantial proportion of the nonsubscriber workforce (19 percent) are employed by firms that have been involved in litigation regarding an on-the-job injury during the past five years. This is not surprising, because larger employers have more injuries and have more resources upon which legal claims can be made. In addition, the proportion of injuries reported that result in litigation may still be very minor for large firms based on the size of their workforce.

Nonsubscribers were also asked to rate their level of comfort with the risk of lawsuit their company assumes by not carrying WC coverage. There is substantial variation in how nonsubscribers felt about this issue. The majority of nonsubscribers (65 percent) indicated that they were comfortable with the level of risk they assumed, while only 16 percent indicated a certain degree of discomfort with the risk of lawsuit for work-related injuries.[44] The remaining 19 percent of the nonsubscribers expressed neutral feelings regarding this litigation issue.

Liability Waivers

In an effort to lessen the risk of lawsuits and provide on-the-job injury benefits, some nonsubscribers (particularly large firms) purchase alternative occupational benefit insurance or establish a self-funded benefits plan to cover work-related injuries. Some nonsubscribing employers with these alternative plans ask their employees to sign liability waivers under which the employee relinquishes his or her right to sue the employer over a work-related injury or illness in exchange for some consideration, including perhaps participation in the nonsubscribers' occupational benefits plan or a higher level of plan benefits. The 77th Texas Legislature, through the passage of HB

more than one funding source.

[44] "Comfortable" is defined as indicating 4 or 5 on a scale of 1 to 5 where 1 means "Not at all Comfortable" and 5 means "Extremely Comfortable." It is important to note that half of the nonsubscribers in Texas indicated that they are "Extremely Comfortable" with the level of litigation risk they assume by opting out of the WC system. "Discomfort" is defined as indicating 1 or 2 on a scale of 1 to 5 where 1 means "Not at all Comfortable" and 5 means "Extremely Comfortable."

2600, prohibited these types of pre-injury liability waivers. It is important to note that this provision in HB 2600 does not include post-injury waivers.[45]

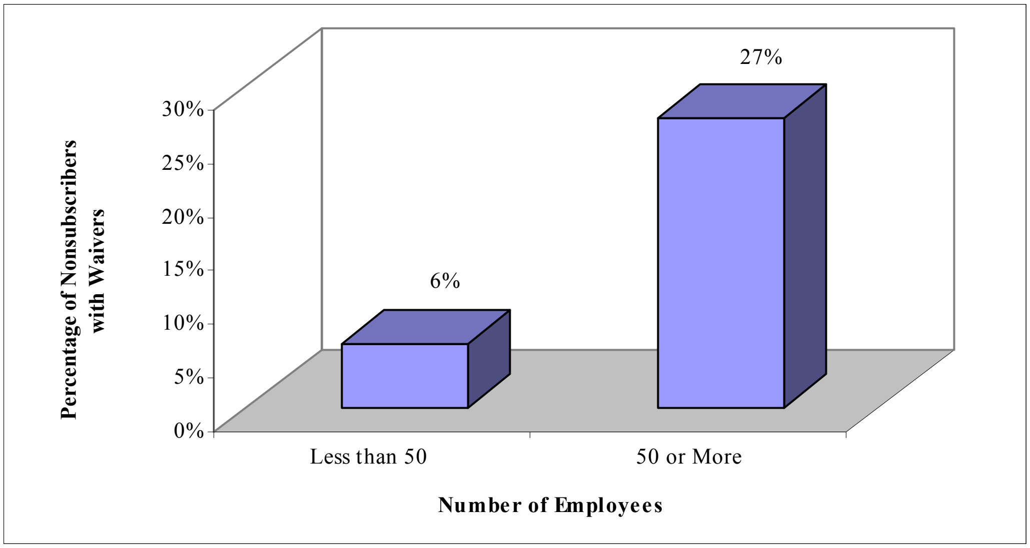
It is clear from this study that the use of liability waivers was fairly low among nonsubscribing employers. Only 7 percent of nonsubscribers surveyed said that they asked their employees to sign liability waivers. Since waivers are used more frequently by larger firms, an estimated 18 percent of the nonsubscriber workforce are employed by firms that claimed to use liability waivers.[46]

Considering only the larger nonsubscribing employers, however, waiver usage is considerably more common. While just 6 percent of smaller nonsubscribers (i.e., those with less than 50 employees) used liability waivers, more than a quarter (27 percent) of firms with 50 or more workers reported that they utilized waiver agreements (see Figure 19).

[45] For a legal review of nonsubscriber liability waivers, see Hardberger, Phil, "Texas Workers' Compensation: A Ten Year Survey – Strengths, Weaknesses, and Recommendations", 2000, *St. Mary's Law Journal*, Volume 34, Number 1, pp. 1-76; also *Texas Monitor* vol. 5, no. 1, Spring 2000, Research and Oversight Council on Workers' Compensation.

[46] It should be noted that while the survey of employers was conducted after the effective date of HB 2600 (which banned pre-injury waivers), it is reasonable to assume that many if not most respondents were not yet aware of the change in the law. HB 2600 did not contain provisions for educating employers about the change. ROC staff will examine this issue in preparation for its next Biennial Report in 2002.

Figure 19
Use of Liability Waivers Among Nonsubscribers
By Employer Size

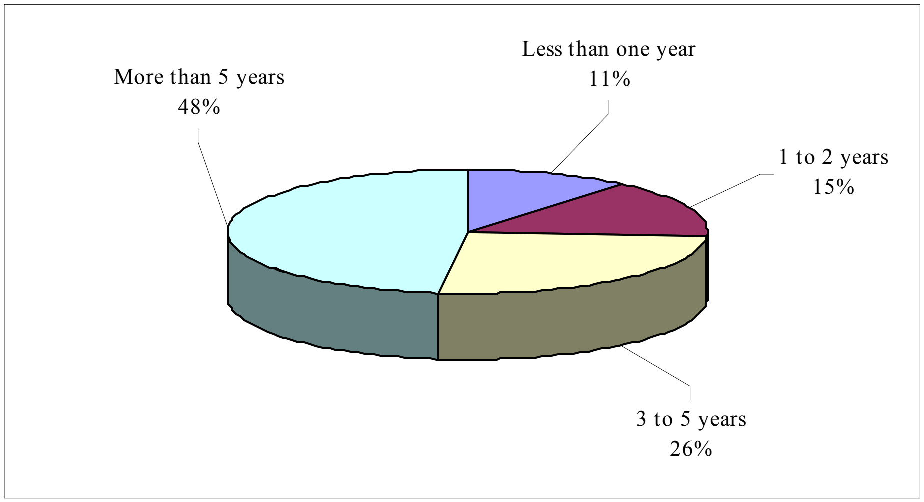


Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Of those employers that have utilized liability waivers, the overwhelming majority (92 percent) indicated that the waiver was typically signed before the worker sustained an on-the-job injury (i.e., pre-injury waivers). Eight percent of the nonsubscribers who used waivers indicated that the agreement was typically signed by the employee at the time of the injury, or some time after the injury had taken place.

It also appears that liability waivers have been used by nonsubscribers for some time. Of those businesses that have used waivers, almost half (48 percent) said they have been using them for more than five years (see Figure 20).

Figure 20
Length of Time Nonsubscribers Have Been Using Liability Waivers

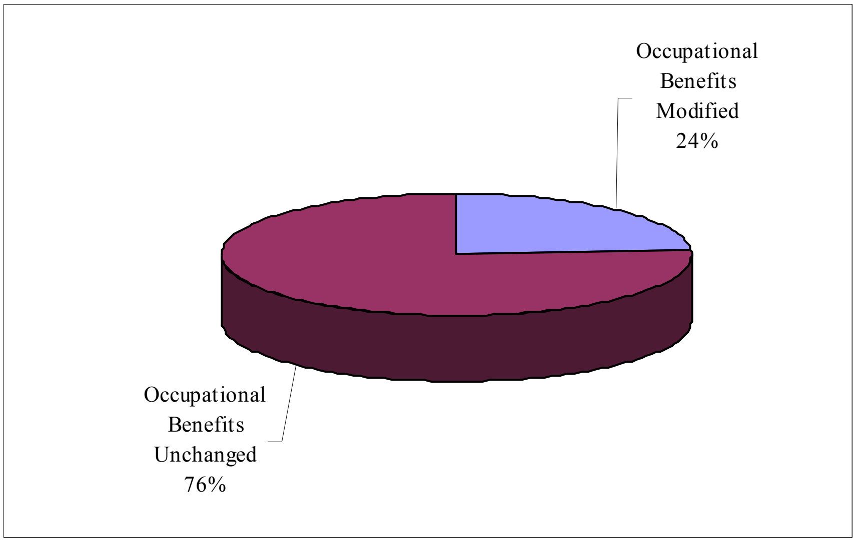


Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Of the relatively small proportion of nonsubscribers that used liability waivers, 76 percent indicated that they do not offer an incentive (i.e., enhanced occupational benefits) for employees to sign the waivers. The remaining 24 percent said that they altered the benefit levels for employees who agreed to sign the liability waiver.[47] These waivers may involve arrangements where an employee may receive more comprehensive medical benefits and/or higher wage-loss (or income) benefits if they agree to waive their right to sue their employer over an on-the-job injury. (See Figure 21.)

[47] Over one third (35 percent) of the nonsubscriber workforce employed by firms using liability waivers are offered a financial incentive to sign the waiver agreement compared to 65 percent who receive the same occupational benefits regardless of whether or not the sign the liability waiver.

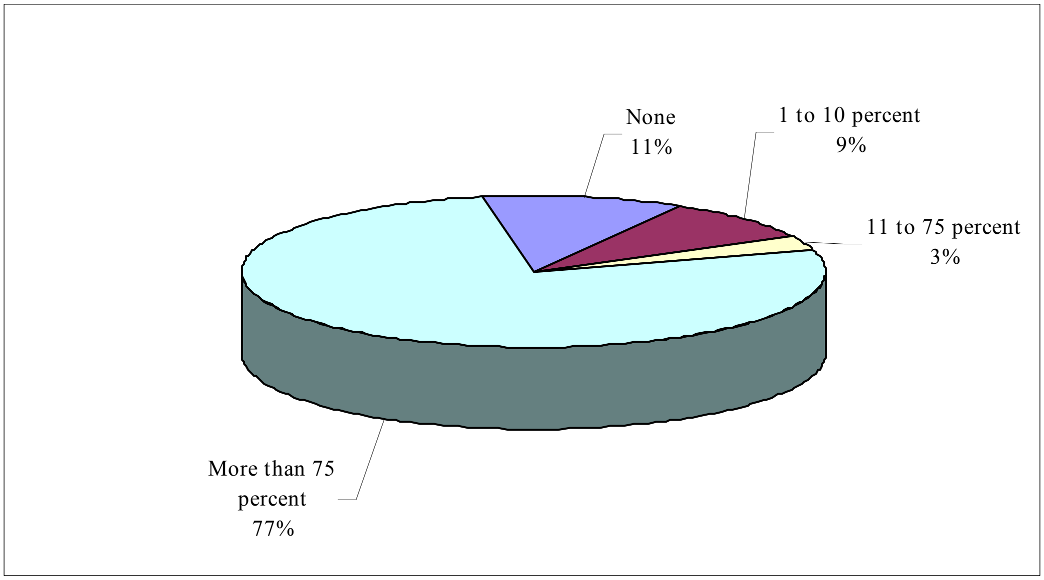
Figure 21
Offer Different Alternative Occupational Benefits Plan to Employees Who Sign Liability Waiver



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Even though the majority of nonsubscribers who use waivers indicated that there is no financial incentive offered to employees to sign the waiver, 77 percent of the firms that use waivers estimated that over three-quarters of their employees signed the agreement. However, a significant minority of nonsubscribers using waivers indicated that they were not very effective at getting employees to sign the waiver agreements. Twenty percent said that less than 10 percent of their workforce signed the liability waiver (see Figure 22).

Figure 22
Percentage of Employees Who Sign Liability Waiver



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

It is interesting to note that the offer of enhanced occupational benefits to employees who signed the waiver appears to have had little impact on the percentage of employees actually signing the agreement. The reasons for this and other findings regarding liability waiver agreements warrant further study.[48]

[48] It is not known why workers signed the waivers regardless of benefits offered, and this issue warrants further study. Possible explanations include a strong and/or trusting employer-employee relationship; lack of knowledge that signing was optional; or the perception that it was in the worker's best interest to do so.

V. THE SUBSCRIBER EXPERIENCE

This section of the report provides detailed information about subscribers and the experiences that they have had in the Texas WC system. Specifically, the following issues are explored:

- Key drivers for purchasing or re-purchasing WC coverage;
- Primary reasons why some subscribers dropped their coverage in the past;
- Satisfaction with subscriber experience;
- Changes in premiums over the past year;
- Percentage increase in premiums it would take for subscribers to seriously consider dropping their WC coverage;
- Impact of legality of pre-injury and post-injury liability waivers on subscribers' propensity to drop WC coverage; and
- Likelihood of subscribers participating in a managed care network for the medical treatment of work-related injuries.

Key Drivers for Purchasing/Repurchasing WC Coverage

In 1996, "fear of lawsuits" and "thought WC coverage was required" were the top two reasons why employers obtained WC coverage. While "fear of lawsuits" remained a significant driver for subscribers in 2001, an even higher proportion of Texas employers indicated that a "company philosophy to provide appropriate benefits to employees injured on the job" was the primary factor that drove their decision to carry WC coverage.

Employers were asked to rate the degree to which various factors influenced their decision to purchase or obtain WC coverage.[49] The overwhelming majority of the covered employers (81 percent) indicated that "company philosophy" was an important decision driver.[50] "Fear of lawsuits" (58 percent) and the feeling that "WC was a good value for their company" (57 percent) were also rated to be important

[49] A scale of 1 to 5 was used, where 1 means "not at all important" and 5 means "extremely important."

decision drivers for more than half of the current subscribers in Texas. Table 6 illustrates the mean, or average, importance ratings provided to potential reasons for carrying WC coverage, as well as the percentage of subscribers indicating that the reason for carrying WC coverage was an "important" factor in their decision-making process. The decision drivers are ranked in order of relative importance.

Table 6
Key Drivers for Carrying WC Coverage

Reason for Carrying WC Coverage	Percentage of Subscribers Rating Reason as "Important"	Mean Importance Score (5-Point Scale)
Company philosophy to provide occupational benefits	81%	4.30
WC insurance is good value	57%	3.59
Fear of lawsuits	58%	3.55
Lower insurance rates	45%	3.15
Confidence in the administration of the WC system	42%	3.11
Ability to reduce WC costs through deductibles or other premium discounts	39%	2.90
Company is in a high-risk industry	26%	2.42
Ability to self insure through the TWCC certified self-insurance program	25%	2.37
Need WC coverage to obtain government contracts	25%	2.16
Dissatisfied with alternative occupational benefits package or ERISA plan	18%	2.14

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Note: "Important" is defined as assigning a rating of 4 or 5 on a scale of 1 to 5, where 1 means *Not at all Important* and 5 means *Extremely Important.*

Similarly, when asked for the *primary* reason their company purchased WC coverage, "company philosophy" was cited most frequently (36 percent), followed by "fear of lawsuits" (21 percent), and "WC coverage is needed for government contracts" (9 percent). (See Table 7.) Unlike the reasons nonsubscribers had for opting out of the system which showed a great deal of variation between small and large employers, there was *not* a great deal of variation in the reasons cited by subscribers for carrying coverage when survey respondents were stratified by firm size.

[50] "Important" is defined as rating importance as "4" or "5" on the previously described five-point scale.

Table 7
Primary Reason for Carrying WC Coverage

	Percent of Subscribing Employers
Company philosophy to provide occupational benefits	36%
Fear of lawsuits	21%
Need WC coverage to obtain government contracts	9%
WC insurance is good value	8%
Thought WC insurance was required	7%
Company is in a high-risk industry	6%
Lower insurance rates	4%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.
Note: Only those responses noted by at least 3 percent of the subscriber population are listed.

Since 1996, there has been a substantial drop in the percentage of subscribers that carry coverage because they erroneously believe they are required to do so by law. In 1996, 23 percent of subscribers said that the primary reason they purchased WC insurance was because they thought the law required it. In 2001, just 7 percent of subscribers to the Texas WC system purchase insurance for this reason.

Primary Reason for Dropping WC Coverage in the Past

There is a fairly small percentage (5 percent) of current subscribers that had WC coverage in the past and dropped it. Those employers were asked what factors drove their decision to drop WC coverage before re-entering the system. The majority of these employers (67 percent) indicated that they opted out of the WC system in the past because WC insurance premiums were too high.

Satisfaction with Subscriber Experience

Sixty percent of subscribers indicated that they were satisfied with their overall experience in the Texas WC system compared to just 13 percent who expressed dissatisfaction with their experience. The remaining 27 percent of the survey respondents were neutral regarding their satisfaction level (i.e., rating their satisfaction level as 3 on a 5-point scale where 1 means *Not at all Satisfied* and 5 means *Extremely Satisfied*).

Subscribers were also asked to rate their level of satisfaction with the adequacy and equity of WC benefits, the degree to which WC coverage is a “good value”, the service provided by their WC insurance carrier, and their company’s ability to manage costs related to WC claims.

The majority of subscribers (60 percent) indicated that they were satisfied with the adequacy and equity of WC benefits paid to injured workers. Fifty-eight percent of subscribers felt that WC coverage was a “good value” for their company, and 70 percent were satisfied with the service provided by their WC insurance carrier.

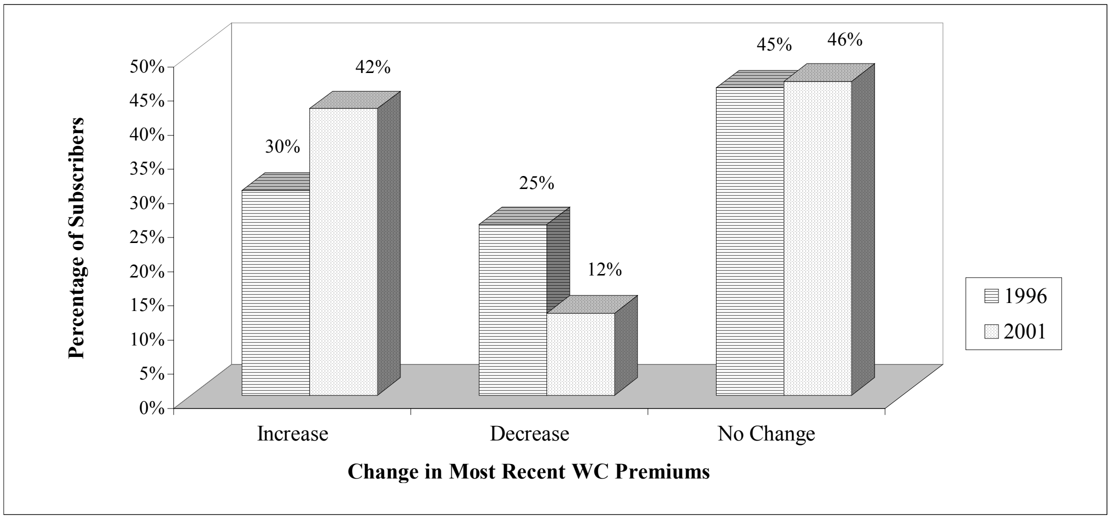
Subscribing employers tended to rate their satisfaction with their ability to effectively manage medical and income benefit costs related to on-the-job injuries lower than other aspects of their subscriber experience. Just over half of subscribers (54 percent) indicated they were satisfied with their ability to manage WC claim costs.

Changes in WC Insurance Premiums

It is clear that the cost of WC insurance coverage is an important factor in a company’s decision to carry coverage in Texas. Therefore, employers were asked if their company has observed a change in WC premiums paid for its most recent policy. Overall, 42 percent of the survey respondents indicated that they experienced an increase in premiums for their latest WC policy, compared to 12 percent who said that their premiums declined. The remaining 46 percent reported no change in their most recent WC insurance premium. These percentages reflect an increase in the proportion of subscribers experiencing increasing WC costs in 2001, and a decline in the proportion of firms experiencing WC premium decreases in 2001 compared to those percentages in the last survey in 1996. (See Figure 23.)

Figure 23

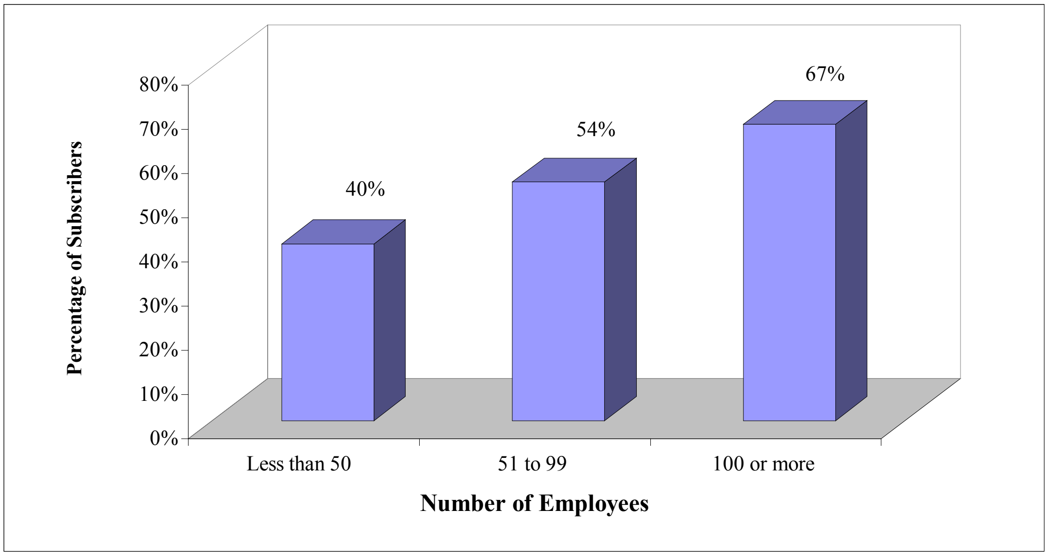
Change in the Premium Paid for their Most Recent WC Policy



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

As Figure 24 illustrates, larger firms were more likely to report an increase in WC premiums than were smaller businesses. Approximately two thirds (67 percent) of companies with 100 or more workers reported an increase in premiums, compared to 54 percent of businesses with 50 to 99 workers and 40 percent of firms with less than 50 employees. There has been a profound increase in the percentage of large employers experiencing an increase in WC premiums in 2001 compared to 1996, when only 15 percent of firms with 50 or more employees reported an increase in premiums for their most recent WC policy. This rise in WC insurance costs, particularly among large firms, is likely the result of insurance carriers cutting scheduled credits previously granted to policyholders, less negotiation of experience modifiers, and perhaps rate increases filed by some insurance companies.

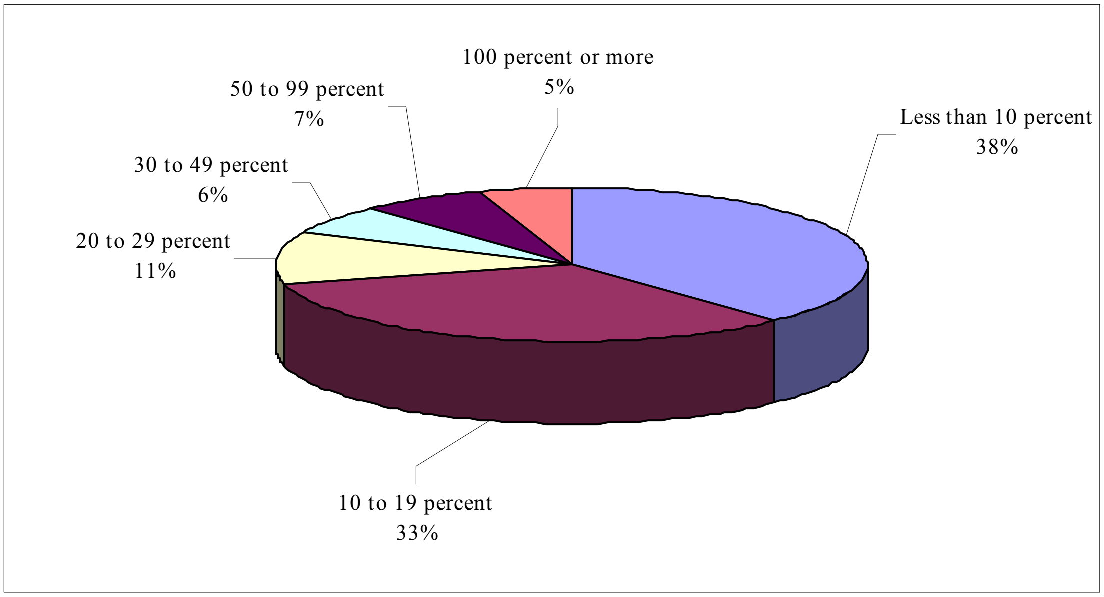
Figure 24
Percentage of Employers Experiencing an Increase in the Premium Paid for their Most Recent WC Policy by Employer Size



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

The majority of the subscribers that reported a recent increase in WC premiums indicated that their WC costs increased by either less than 10 percent (38 percent) or by 10 to 19 percent (33 percent). Seventeen percent noted that their premiums increased by 20 to 49 percent and 12 percent reported an increase of 50 percent or more. (See Figure 25.)

Figure 25
Size of Recent WC Premium Increase



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

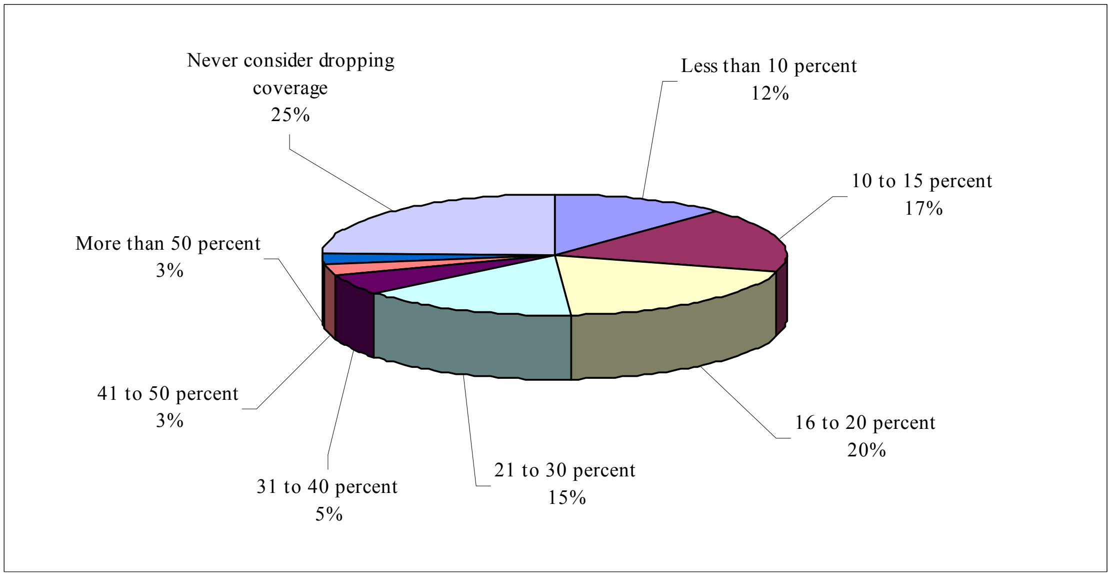
Impact of Potential Increase in WC Insurance Premiums

In order to determine how sensitive employers that subscribe to the WC system are to increases in insurance costs, subscribers were asked what percentage increase in WC insurance premiums (if any) it would take for them to seriously consider dropping their WC coverage.

A substantial proportion of subscribers (26 percent) indicated that they would never drop their WC coverage. This is consistent with the large percentage of employers that have always been subscribers to the Texas WC system. However, as Figure 26 illustrates, a large proportion of subscribers (48 percent) indicated they would seriously consider opting out of the WC system if premiums increased by up to 20 percent (12 percent would consider dropping with a 1-9 percent premium increase; 17 percent with a 10-15 percent increase; and 19 percent with a 16-20 percent premium increase).[51]

[51] These firms account for 39 percent of the WC-covered workforce.

Figure 26
Percentage Increase in Premiums that Would Result in Subscribers Seriously Considering Dropping WC Coverage



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

The propensity of employers to seriously consider dropping WC coverage if there was a premium increase of 20 percent or less holds across employers of all sizes. While smaller firms (those with less than 50 employees) were the most likely to seriously consider opting out (50 percent), substantial proportions of companies with 50 to 99 workers (35 percent) and those with 100 or more employees (37 percent) also said they would consider dropping their WC coverage if insurance costs rose by 20 percent or less.

The actual proportion of those employers that would drop their coverage based on relatively small rate increases is unknown; however, the fact that nearly half of current subscribers and more than a third of larger subscribers are cost-sensitive enough to consider such a move is of concern to both insurance regulators and policymakers.

Liability Waivers and Propensity to Drop WC Coverage

Liability waivers, used by some nonsubscribers and expressly prohibited by HB 2600 in 2001, typically involved an agreement where an employee waived his or her right to sue the employer over any subsequent work-related injury. In exchange for this agreement not to sue, the employee typically received benefits, or enhanced benefits, through an alternative occupational benefits plan.

In an effort to determine the impact liability waivers have on subscribing employers' propensity to drop WC coverage, subscribers were asked to rate how likely they would be to drop their WC coverage if they were allowed to used pre-injury or post-injury liability waivers.[52] Almost a quarter of the subscribers (24 percent) indicated they would be likely to drop coverage if they could have employees sign *pre*-injury liability waivers, indicating that the statutory change may result in curbing the number of employers tempted to exit the Texas WC system.[53] Approximately 18 percent of subscribing employers said they would be likely to drop WC coverage if they could have their employees sign *post*-injury liability waivers, which are not specifically prohibited under the current statute.[54] (See Figure 27.)

The fact that a substantial percentage of subscribing employers would be interested in dropping WC coverage and utilizing post-injury waivers may signal that this is a policy issue that may require future legislative attention. While the majority of nonsubscribing employers that have used liability waivers in the past have used pre-injury waiver agreements, it is possible that the prohibition on these waivers could lead to expanded use of the post-injury variety.

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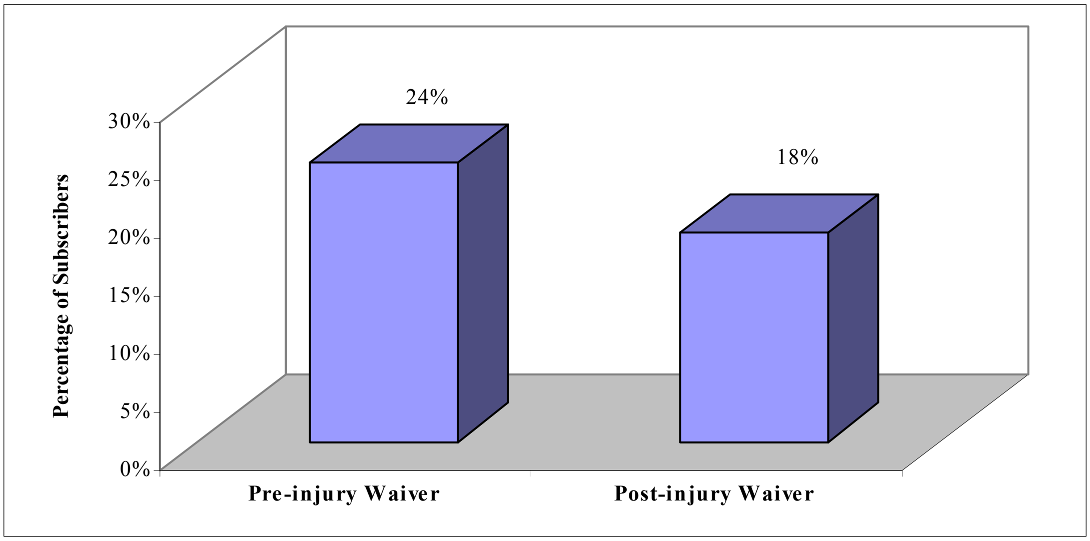
[52] Employers were asked to use a five-point scale to rate how likely they would be to drop WC coverage, where 1 means "not at all likely" and 5 means "extremely likely." "Likely" is defined as indicating "4" or "5" on the previously mentioned five-point scale.
[53] These subscribers employ 21 percent of the WC-covered workforce.
[54] These subscribers employ 18 percent of the WC-covered workforce.

Figure 27
Percentage of Employers Indicating They Would Drop WC Coverage if They Were Allowed to Have Employees Sign Liability Waivers



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

There also appears to be a statistical relationship between a subscriber's willingness to drop coverage to use waivers and the reason for obtaining coverage. A slightly higher proportion of subscribers who purchase WC due to "fear of lawsuits" (30 percent) indicated that they were likely to drop WC coverage if they could use pre-injury waivers. This compares to 24 percent overall and just 20 percent of those subscribers who primarily carry WC coverage because of a "company philosophy" to provide benefits to injured workers.

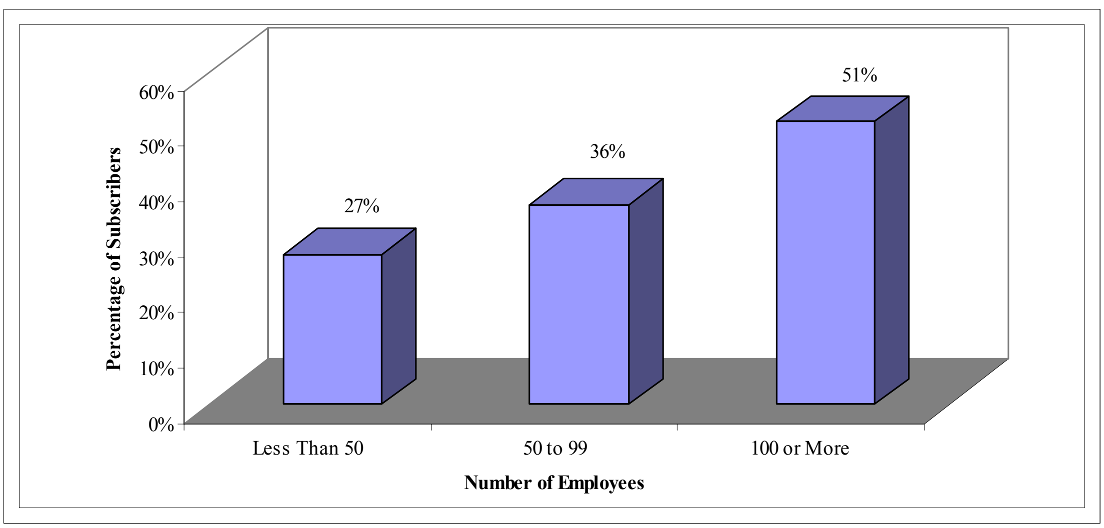
Regional Managed Care Networks

HB 2600 also included a component that called for a study to determine if regional managed care networks for WC were feasible in Texas. If found to be feasible, this new medical care delivery option would be available to injured workers on a voluntary basis. It is anticipated that the networks would utilize volume discounts and active monitoring of care to increase the quality of care, reduce system costs, and improve return-to-work outcomes.

Subscribing employers were asked how likely they would be to participate in a managed care network for the treatment of work-related injuries. More than a quarter (28 percent) of the subscribing employers (which employ 45 percent of the covered workforce) indicated that they would be likely to participate in a managed care network compared to 37 percent who claimed that they were not likely to participate. The remaining 26 percent were neutral on the issue.

Large subscribers were much more likely to be willing to participate in managed care networks for work-related injuries. More than half (51 percent) of firms with 100 or more workers said they would be likely to participate, compared to 36 percent of mid-sized firms (i.e., those with 50 to 99 employees) and 27 percent of firms employing less than 50 workers (see Figure 28).

Figure 28
Percentage of Subscribers Likely to Participate in Managed Care Networks by Employer Size



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

VI. COMPARISON OF SUBSCRIBERS AND NONSUBSCRIBERS

This section of the report compares the survey responses of employers that carry WC coverage to those that have opted out of the system. Key areas that are addressed include:

- Employer satisfaction with their respective subscriber or nonsubscriber experiences;
- Propensity to have a return-to-work program for injured workers; and
- Comparison of subscriber and nonsubscriber responses to a series of questions related to workplace safety.

Since there is a significant difference between the average size of nonsubscribing and subscribing employers (in terms of number of employees), results are also stratified by firm size when appropriate.[55]

Satisfaction with Experiences as Subscribers and Nonsubscribers

Throughout the survey, subscribers and nonsubscribers were asked comparable questions regarding their levels of satisfaction with various aspects of their respective WC coverage status. Specifically, the following comparisons are made:

1) Overall level of satisfaction with their subscriber or nonsubscriber experiences;
2) Adequacy and equity of work-injury benefits paid to injured workers of subscribers and nonsubscribers;
3) Degree to which subscribers and nonsubscribers feel their occupational benefits plans (WC or otherwise) are a "good value" for their respective companies;
4) Service provided by insurance carriers writing WC policies for subscribers and alternative occupational benefits policies for nonsubscribers; and
5) The ability of subscribers and nonsubscribers to effectively manage costs (both medical and wage replacement costs).

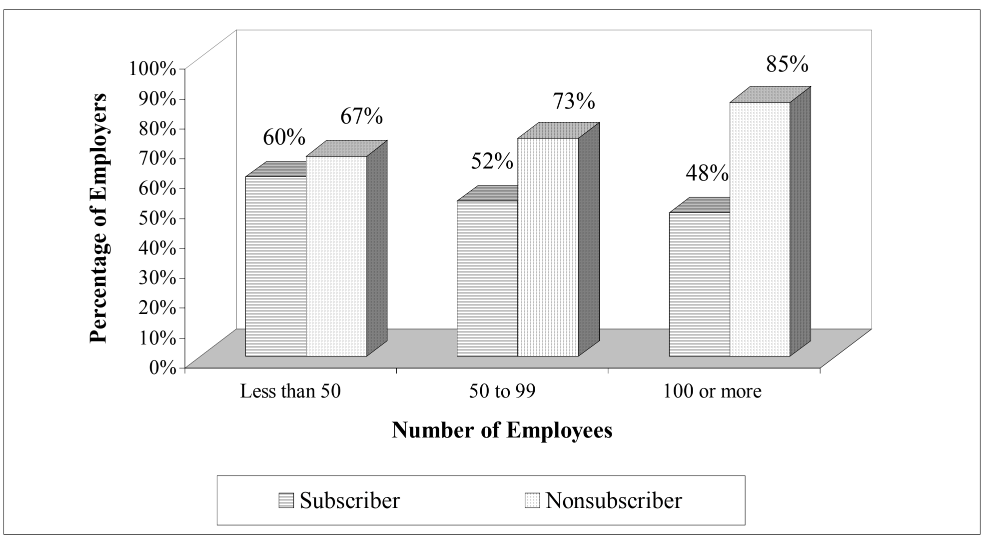
[55] The average number of Texas workers employed by subscribing firms is 29.7 employees versus 10.3 employees for nonsubscribers.

Overall Satisfaction

Generally high satisfaction levels were expressed by both subscribers and nonsubscribers regarding their respective decisions to purchase or not purchase WC insurance. Approximately two-thirds of nonsubscribers (68 percent) indicated that they were satisfied with their overall experience compared to 60 percent of subscribers.[56]

Overall satisfaction levels increased significantly with employer size for nonsubscribers. The vast majority (85 percent) of the largest nonsubscribers (those with 100 or more employees) indicated they were satisfied with their overall experience out of the WC system compared to 73 percent of nonsubscribers with 50 to 99 employees and 67 percent of nonsubscribers with less than 50 employees. As Figure 29 illustrates, the same trend is not observed among subscribers of various sizes.

Figure 29
Percentage of Employers Satisfied
with their Overall Subscriber and Nonsubscriber Experiences
by Employer Size



[56] Throughout this section, "satisfaction" is achieved when a respondent provides a rating of "4" or "5" on a scale of one to five, where 1 means *Not at All Satisfied* and 5 means *Extremely Satisfied*.

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Differences in satisfaction levels observed between subscribers and nonsubscribers are not surprising since employers who have made a conscious decision to opt out of the WC system may feel a stronger sense of ownership over their alternative occupational benefits program than subscribers do about the statutorily-based WC system. Thus, higher overall satisfaction levels, as well as a greater degree of satisfaction with specific aspects of their programs, can be reasonably expected from nonsubscribing firms.

Increased dissatisfaction among larger subscribers may be the result of several factors, including the fact that they are more likely to have WC losses and are more familiar with -- and potentially dissatisfied with -- some specific aspects of the WC system (e.g., the dispute resolution process, perceived fraud in the system). In addition, the majority of larger subscribers indicated that they recently experienced an increase in their insurance costs, which may have also have had an impact on their satisfaction level.

Satisfaction with Adequacy and Equity of Benefits

While the majority of subscribers (60 percent) and nonsubscribers (72 percent) said that they were "satisfied" with the adequacy and equity of the benefits paid to injured workers, nonsubscribers were much more inclined to feel "extremely satisfied" with the benefits they provide. More than half (51 percent) of nonsubscribers were "extremely satisfied" compared to 25 percent of subscribers.

Satisfaction with Value of WC or Alternative Occupational Benefits Package

Over half (58 percent) of subscribers were "satisfied" that their WC coverage was a good value for their company, compared to more than three-quarters (78 percent) of nonsubscribers who were satisfied that their alternative occupational benefits plan was a good value for their company.

Satisfaction with Service Provided by Insurance Carrier

The majority of subscribers to the Texas WC system (70 percent) indicated satisfaction with the service provided by their WC insurance carrier. The lion's share (84 percent) of nonsubscribers with insurance policies that pay occupational benefits to employees injured on the job also tended to be highly satisfied with the service provided by their insurance companies.

Almost all larger nonsubscribers (those with more than 100 employees) with insurance policies that pay occupational benefits (98 percent) indicated that they were satisfied with the service provided by the insurance carrier. Sixty-nine percent of these large nonsubscribers said that they were "extremely satisfied" with the service compared to just 24 percent of subscribers of comparable size who noted that they were "extremely satisfied" with the service provided by their WC insurance carrier.

Satisfaction with Ability to Manage Costs Associated with On-the-Job Injuries

Subscribers tended to be slightly less satisfied with their ability to manage WC claim costs than some of the other aspects of their subscriber experience. Just over half of the subscribers (54 percent) said they were satisfied with their ability to effectively manage medical and wage replacement costs related to on-the-job injuries. Approximately 17 percent of subscribers said that they were dissatisfied with their ability to manage WC costs.

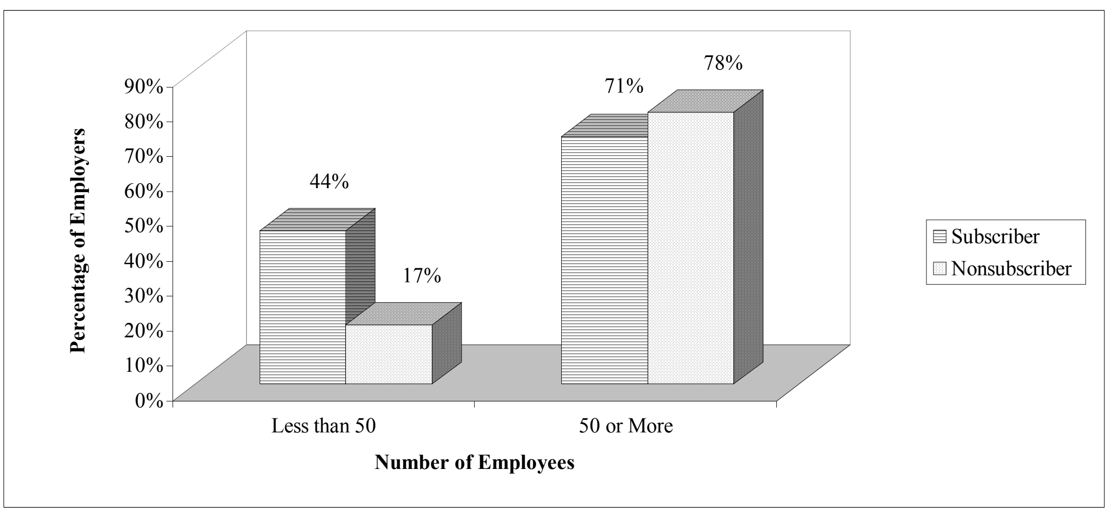
Because nonsubscribers are able to tailor their own occupational benefit plans, it is not surprising that a substantially higher percentage of nonsubscribers (74 percent) indicated that they were satisfied with their ability to manage claim costs, and fewer (9 percent) expressed dissatisfaction.

Return-to-Work Programs for Injured Workers

Since returning injured workers to gainful employment following recovery from a work-related injury is one of the cornerstones of the WC system, both subscribers and nonsubscribers were asked about the existence of formal return-to-work (RTW) programs at their companies. Overall, companies with WC coverage were significantly more likely to have a written policy to assist injured workers in returning to work than were nonsubscribers. Survey results found that 46 percent of subscribers had such a RTW policy compared to 18 percent of nonsubscribers.

Because subscribers tend to be larger in size than nonsubscribers, the results were also stratified by employer size. Among smaller firms (those with less than 50 employees), 44 percent of subscribers indicated that they had a written RTW policy compared to 17 percent of nonsubscribers of that size. As employer size increases the difference in the propensity of employers to have RTW programs disappears. For employers with 50 or more workers, the overwhelming majority of both nonsubscribers (78 percent) and subscribers (71 percent) have written RTW policies. (See Figure 30.)

Figure 30
Percentage of Employers with Written Return-to-Work Policy by Employer Size



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

Of those companies that indicated they had a written RTW policy, the overwhelming majority (93 percent) of both subscribers and nonsubscribers said that their RTW policy included provisions for light, modified, or transitional duty.

Workplace Safety Issues

Past research on insurance-based, risk-sharing arrangements have shown that by shifting additional exposure for work-injury losses from insurers to employers, an incentive for employers to reduce workplace injuries, and/or reduce the costs of injuries that do occur, can be created.[57] This subsection of the report provides a comparison of how subscribers and nonsubscribers view a series of workplace safety issues as they relate to their companies. Survey respondents were asked to rate their level of agreement with the following five statements:

1) Employees of my company would agree that workplace safety is a top priority;
2) My company conducts workplace safety training on a regular basis;
3) In the past two years, safety initiatives have either not been proposed or have been rejected by senior management due to budgetary reasons;
4) It would be unlikely that my company would use outside safety consultants to assist us in maintaining a safe workplace; and
5) Senior management is actively involved in developing policies designed to maintain a safe workplace.

While the absolute value assigned to each statement is important, the focus of this section is to describe the relative differences in answers provided by subscribing and nonsubscribing firms. Previous research has found that when self-reported data regarding workplace safety or disability management initiatives are provided by employers, there tends to be a slight upward bias to the scaled response.[58] Provided the upward bias is uniform across the various populations of interest (e.g., subscribers and nonsubscribers), the relative differences in responses will be reliable measures of variation between the employer groups.

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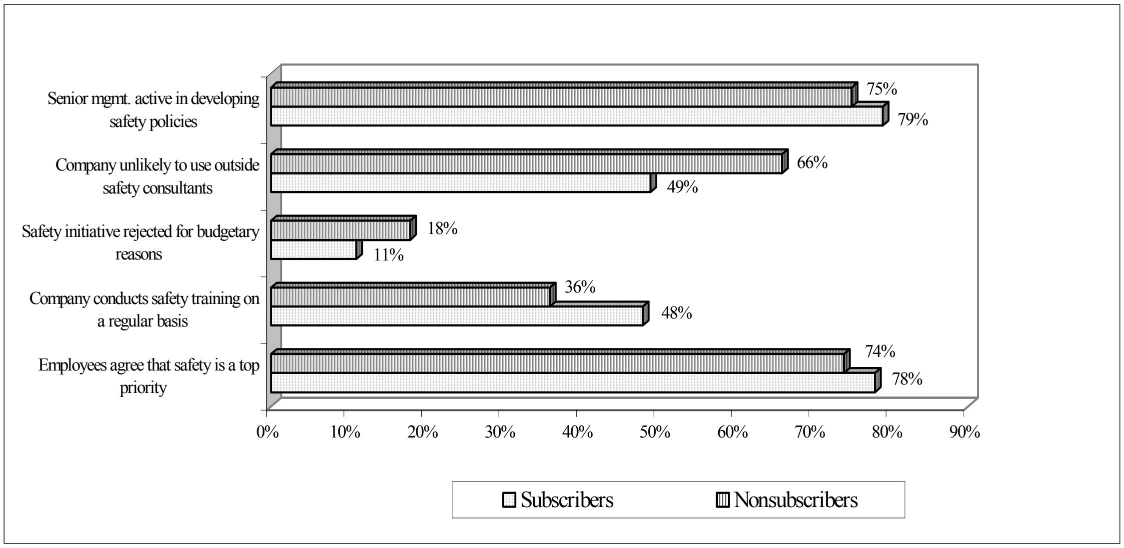
[57] See Shields, Joseph, Xiaohua Lu and Gaylon Oswalt, 1999, Workers' Compensation Deductibles and Employers' Costs, *Journal of Risk and Insurance*, Vol. 66, No. 2: 207-218. Also see Research and Oversight Council on Workers' Compensation, *Certified Self-Insurance and the Frequency and Severity of Workplace Injuries* (1997).

Figure 31 illustrates the percentage of subscribers and nonsubscribers in agreement (i.e., answered 4 or 5 on a five-point scale where 1 means “not at all agree” and 5 means “strongly agree”) with a variety of statements related to workplace safety. The vast majority of both subscribers and nonsubscribers felt that their employees would agree that workplace safety is a top priority, that senior management is actively involved in the development of workplace safety policies, and that safety initiatives have *not* been rejected by senior management due to budgetary reasons.[59] However, significant differences are observed in two specific areas: 1) subscribers are more likely to conduct workplace safety training on a regular basis; and 2) subscribers are less likely to be averse to the use of outside safety consultants to assist the company in maintaining a safe workplace.

[58] See Hunt, H. Allan, and Rochelle V. Habeck, *The Michigan Disability Prevention Study* (W.E. Upjohn Institute for Employment Research, May 1993).

[59] Nonsubscribers tended to have slightly stronger feelings about the issue. Almost two-thirds (63 percent) of nonsubscribers strongly agreed that employees would feel that safety is a top priority at their company compared to 58 percent of subscribers. Likewise, a higher proportion of nonsubscribers (9 percent) strongly disagreed with the statement versus 4 percent of subscribers.

Figure 31
Percentage of Nonsubscribers and Subscribers in Agreement With Various Statements Related to Workplace Safety



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

As was the case with return-to-work programs, some of differences between safety initiatives implemented by subscribers and nonsubscribers disappear when large subscribers are compared to large nonsubscribers. For instance, overall a relatively low percentage of employers agree that safety training is provided to employees on a regular basis and subscribers are more likely to agree with the statement. However, the vast majority of both large (i.e., 50 or more employees) subscribers (71 percent), and nonsubscribers (80 percent) agreed that regular safety training was provided.

The same is not true for the use of outside consultants. Subscribers, regardless of size, are less likely to be averse to using outside safety consultants than are firms that have opted out of the WC system. This may be a result of employers with WC coverage having access to free, or less expensive, safety consultation services through TWCC; while nonsubscribers must pay market prices for outside safety consultants which may be cost prohibitive.

Texas employers were also asked if they actively utilize labor-management safety committees to develop workplace safety policies. Overall, 15 percent of Texas employers said they use these safety committees. Subscribers (18 percent) were found to be more likely to use labor-management safety committees than were nonsubscribers (10 percent). However, this statistic is driven primarily by differences between small subscribing and nonsubscribing employers. For firms with less than 50 employees, 15 percent of subscribers use labor-management committees compared to 9 percent of small nonsubscribers. Similarly larger proportions of subscribers (42 percent) and nonsubscribers (43 percent) with 100 or more employees utilize these committees to formulate workplace safety policies.

VII. CONCLUSION

According to 2001 estimates, 35 percent of Texas employers do not carry workers' compensation insurance, and they employ 16 percent of the Texas workforce. This represents the lowest rate of nonsubscription since the state's workers' compensation reforms went into effect in 1991. The current rate of nonsubscription stands in contrast to 44 percent in 1993, when it was first measured.

The ROC's 2001 survey of 2,808 Texas employers shows that nonsubscription rates varied across firm size, with larger employers significantly more likely to purchase WC coverage than were smaller employers. Variation also existed across industries, with nonsubscription lowest in mining (12 percent) and highest in retail trade (48 percent).

<u>Subscription History and Price Sensitivity.</u> Whether they choose to opt in or opt out of the WC system, most employers tend to stand by their decision. The majority of Texas employers have either always been subscribers to the WC system (60 percent), or have never been subscribers (26 percent). Of the remaining 14 percent that have been both, 9 percent are currently nonsubscribers but were once in the WC system, while 5 percent are currently subscribers but had previously opted out. This apparent stability could change, however, since a significant proportion of current subscribers (48 percent) indicated that they would seriously consider dropping their WC coverage if premium costs rose by some increment up to 20 percent – not an unlikely scenario in coming years. In fact, 42 percent of the subscribers surveyed reported that they had experienced an increase in their most recent WC insurance premium, compared to 30 percent that reported such an increase in 1996.

<u>Alternative Occupational Benefits.</u> Even though nonsubscribing employers are not required by law to pay occupational injury benefits, more than half (56 percent) provide some type of medical and/or income (i.e., wage replacement) benefits to their injured workers. Since larger-sized employers are more likely to pay such alternative

occupational benefits, the vast majority of the nonsubscriber workforce (80 percent) is covered by some type of benefit plan. However, there is some concern that of those nonsubscribing employers who pay benefits, only 35 percent have a written plan to do so. This may be an issue of concern to policymakers since without a written occupational benefit plan, employees may not have any assurances of the type and extent of benefits they will receive if they are later injured on the job. Additionally, the fact that only one out of every five nonsubscribers who pay occupational benefits indicated that they used an ERISA structured alternative occupational benefit plan may add to this concern since ERISA sets uniform benefits and financial stability standards.

Liability Waivers. Some nonsubscribing employers with these alternative plans have asked their employees to sign waivers under which the employee relinquishes his or her right to sue the employer over a work-related injury or illness, in exchange for participation in the nonsubscribers' occupational benefits plan or a higher level of plan benefits. The 77th Texas Legislature, through the passage of HB 2600, prohibited these types of pre-injury liability waivers. The survey revealed that liability waivers have not been used extensively by nonsubscribing firms in Texas. Only 7 percent of nonsubscribers indicated that they asked employees to sign liability waivers. Since waivers were used more frequently by larger firms, an estimated 18 percent of the nonsubscriber workforce was employed by firms that used liability waivers.

Of those employers that utilized liability waivers, the overwhelming majority (92 percent) indicated that the waiver was typically signed before the worker had sustained an on-the-job injury. Interestingly, though the majority of nonsubscribers who used waivers indicated that there was no financial incentive (e.g., more comprehensive occupational benefits) offered to employees to sign the waiver, 77 percent of the firms that used waivers estimated that more than three-quarters of their employees signed the agreement.

Almost a quarter (24 percent) of current subscribers indicated that they would be likely to drop their WC coverage if they were allowed to use pre-injury liability waivers, an option that is now clearly prohibited by law (Article 16, HB 2600, 77th Texas Legislature). Since HB 2600 did not contain provisions for informing employers of the change, the waiver issue may linger until the awareness issue can be addressed.

Satisfaction with Subscriber/Nonsubscriber Experience. The study found that satisfaction levels are relatively high among Texas employers whether they are in or out of the WC system. Interestingly, satisfaction is higher among larger nonsubscribers than larger subscribers. This may be due to the fact that nonsubscribers have made a conscious decision to opt out and develop their own alternative occupational benefit plan, and thus feel more ownership of their program than do subscribers in the statutorily driven WC system.

Areas for Future Research. As noted previously, the fact that only 35 percent of nonsubscribers who pay benefits to injured workers have a written occupational benefits plan suggests a considerable amount of variability and/or uncertainty in benefit delivery compared to the statutorily-prescribed system. Previous ROC studies (in 1994 and 1997) indicate that injured workers employed by nonsubscribers are generally satisfied with their post-injury treatment. However, further research is needed to gauge the adequacy of the benefits provided by nonsubscribing employers, dispute resolution options, return-to-work patterns, and current satisfaction levels for employees of nonsubscribers.

Another key issue to examine is the degree to which cost shifting may be occurring into other payer groups or social systems (e.g., community hospitals, Social Security, etc.). As this study noted, group health insurance is the second-most utilized method for covering occupational injury medical costs, suggesting that a significant degree of cost shifting to the group health arena is occurring in Texas.

This study also points out an additional area which may be of concern for insurance regulators and policymakers: the current state of insurance rates and the propensity of employers to consider leaving the WC system if rates continue to rise. As noted, increasing numbers of employers are reporting recent increases in WC premiums, and almost half of current subscribers indicated that they would seriously consider dropping their WC coverage if insurance premiums increased by up to 20 percent.

APPENDIX A

SAMPLING AND WEIGHTING PROCEDURES

APPENDIX A:
SAMPLING AND WEIGHTING PROCEDURES

In an effort to make the 2001 nonsubscription estimated comparable to earlier studies, this study utilizes a similar research methodology to that employed in the 1995 and 1996 nonsubscription studies released by the Texas Workers' Compensation Research Center and the Research and Oversight Council on Workers' Compensation (ROC). Appendix A outlines the sampling and weighting procedures utilized in the study.

The Sample

A randomized probability sample, stratified by employer size and industrial classification, was drawn from the unemployment insurance employer database collected and maintained by the Texas Workforce Commission (TWC). A total of 63 strata were included in the sample. For purposes of unemployment insurance, the vast majority of non-federal employers must provide employment and payroll information to the TWC.[60]

Using Standard Industrial Codes (SIC) found in the TWC data, ten industrial divisions were identified:

- Agriculture, Forestry, and Fishing;
- Mining;
- Construction;
- Manufacturing;
- Transportation and Public Utilities;
- Wholesale Trade;
- Retail Trade;
- Finance, Insurance, and Real Estate;
- Services (excluding public educational services); and
- Public Administration and Public Educational Services.

Since the objective of this study was to provide nonsubscription and employee coverage estimates for year-round employers, only businesses with at least one employee in each of the four quarters of 2000 were included in the sampling frame.[61] Survey respondents who indicated that they were self employed or an independent contractor and had no employees were not included in the final survey results.

Public administration (employers with SICs 91-97) and a subsection of the educational services sector (employers with SICs 821-823) were not included in the sampling frame.[62] Because of laws governing workers' compensation coverage in Texas, it is assumed that all of these employers have workers' compensation coverage. Employers with either missing or nonclassifiable SICs were also excluded from the sampling frame.

Employer size was determined by averaging employment across all four quarters of 2000. Industry classifications were determined by the SICs contained in the TWC data. An individual business was defined by a unique Federal Employer Identification Number (FEIN). It was assumed that if a business had an individual FEIN, it probably also had the ability to make WC coverage decisions for that site location (e.g., independently owned and managed franchises). For firms with multiple locations, the SIC from the location with the largest number of employees was used to represent the business. For sampling purposes and for estimating nonsubscription rates, the following employer size categories were utilized:

- 1 to 4 employees;
- 5 to 9 employees;
- 10 to 49 employees;
- 50 to 99 employees;
- 100 to 499 employees;
- 500 to 999 employees; and

[60] Those excluded from unemployment insurance reporting requirements include the following: 1) employers subject to the Railroad Retirement Act; 2) self-employed and unpaid family workers; 3) churches and some nonprofit organizations; and 4) small employers not meeting the minimum payroll threshold.
[61] The calculation of nonsubscription rates for seasonal employers is outside the scope of this study. In 1995, the Texas Workers' Compensation Research Center estimated that 52 percent of seasonal employers in Texas were nonsubscribers to the Texas WC system and 48 percent were subscribers.
[62] Vocational Schools (SIC 824) and School and Educational Services, Not Elsewhere Classified (SIC 829) were included in the services sector of the sampling frame because all of these firms cannot reasonably be assumed to be subscribers.

- 1000 or more employees.[63]

A total of 2,896 completed interviews were targeted and a total of 15,839 pieces of sample were provided to obtain the necessary completes. Table A1 provides population estimates by industry and employer size for year-round Texas employers. Table A2 provides a breakdown of the targeted number of completed surveys and the number of businesses actually interviewed. Large businesses were oversampled relative to their proportion in the Texas employer population. This was done to ensure that adequate sample sizes with which to profile these employers and to improve the accuracy of the employee coverage estimates.

Weighting and Error Estimation Design

Estimated nonsubscription rates were weighted to adjust for the oversampling of large businesses and the assumed subscription status of public administration and educational services employers. There were two types of estimates of interest in this study: 1) the percentage of employers; and 2) the percentage of employees that work for those employers. The distinction was, for example, "35 percent of the firms indicate that they do not have workers' compensation insurance" vs. "16 percent of employees work for firms not covered by workers' compensation insurance." The two corresponding estimators are presented below.

First, the sampled companies were each assigned a sampling weight because the sample design deliberately over-sampled larger firms and smaller occupational strata. This provided a more efficient sample that allowed for the accurate reflection of the infrequent but very important large companies and smaller industrial groups, but required that a weight be used when using the sample to estimate the population parameters for firms.

In the following discussion, we assumed that the parameter to be estimated is the percent of companies not having workers' compensation. The logic is the same for any other proportions from the sample, including any subsets of the sample. A random sample of companies was selected from within each stratum. Each sampled company within a stratum was assigned its

[63] For the purposes of estimating nonsubscription rates, the two highest employer groups, 500 to 999 employees and 1000 or more employees were collapsed iinto a new category: 500 or more employees. This was necessary due to the relatively small number of employers in those size groups.

sampling weight in the stratum. That is, the weight w_{hi} for the i^{th} company sampled from stratum h, $h = 1,\ldots,63$, is

$$w_{hi} = \frac{N_h}{n_h}$$

where N_h is the total number of companies in stratum h, and n_h is the number of companies sampled from stratum h.

Then an unbiased estimator of the percent of companies that do not have workers' compensation insurance is given by

$$\hat{p}_c = \frac{1}{N}\sum_{h=1}^{63}\sum_{i=1}^{n_h} w_{hi}\, y_{hi}$$

where $y_{hi} = 1$ if company i in stratum h did not have workers' compensation insurance and is equal to zero otherwise. Here $N = \sum_{h=1}^{63} N_h$ is the total number of companies in the population. The standard error estimate for $\hat{p}_c$ was directly computed via SUDAAN software for the stratified random sample design involved. Note that the key for employer-based estimates was to code the attribute of interest as 1 or 0 depending on whether the company possessed the attribute or not (i.e., had WC coverage or not).

Next, the percent of employees who were not covered by workers' compensation insurance was estimated using the employee-based weights. For employee-based estimates, data were collected by assuming that if a company provided WC coverage, then all the employees of the company were covered equally. This was equivalent, in sampling methodology, to sampling all employees from a sampled company. Thus, employee-based estimates were created by multiplying a company's sampling weight by its number of employees. Summing over all sampled companies provided an estimate of the total number of employees with that attribute.

The estimators described above are complex statistical estimators. Thus, standard error estimates for $\hat{p}$ were computed via SUDAAN software estimation procedure given "without replacement" sample design. The Taylor linearization technique was used in this estimation process to compute standard error estimates.

Tables A1 and A2 provide the employer and worker population data, as well as the number of completed, by strata, which were used to calculate the weights for the study.

Table A1: Statewide Population of Non-Seasonal Texas Employers and Employees (Bold) by Industry and Firm Size

Number of Employees	Industry										
	Public Adm., Educ. Svc.	Agriculture	Construction	Finance	Manu-facturing	Mining	Retail Trade	Service	Trans-portation	Wholesale Trade	TOTAL
1-4	978	7,522	14,054	18,463	6,277	2,307	23,700	76,564	7,175	16,261	173,301
	2,440	**18,400**	**34,717**	**39,299**	**15,878**	**5,109**	**59,784**	**162,567**	**16,839**	**36,736**	**391,769**
5-9	600	2,716	6,387	4,032	3,645	778	11,465	23,716	2,668	6,185	62,192
	4,200	**18,666**	**44,400**	**27,214**	**25,808**	**5,411**	**79,868**	**162,519**	**18,606**	**42,910**	**429,602**
10-49	1,545	2,185	7,457	3,700	6,353	964	13,557	22,040	3,650	7,001	68,452
	38,541	**40,496**	**156,469**	**79,372**	**144,334**	**20,832**	**287,259**	**443,791**	**79,049**	**144,155**	**1,434,298**
50-99	571	154	1,076	652	1,524	173	1,951	3,020	686	941	10,748
	40,480	**10,467**	**74,722**	**45,428**	**106,845**	**12,198**	**133,803**	**211,231**	**48,236**	**64,657**	**748,067**
100-499	779	89	746	592	1,544	142	1,253	2,734	630	694	9,203
	171,573	**171,199**	**140,745**	**117,931**	**323,395**	**29,292**	**246,003**	**552,087**	**127,379**	**133,470**	**1,859,074**
500-999	184	7	55	77	187	31	156	372	74	65	1,208
	128,812	**4,828**	**39,258**	**51,166**	**130,689**	**22,515**	**104,446**	**259,040**	**52,889**	**44,626**	**838,269**
1000	207	1	30	52	131	25	162	271	72	27	978
and over	**757,885**	**1,659**	**72,915**	**134,633**	**301,020**	**48,561**	**723,268**	**696,134**	**262,305**	**59,782**	**3,058,162**
TOTAL	4,864	12,674	29,805	27,568	19,661	4,420	52,244	128,717	14,955	31,174	326,082
	1,143,931	**111,715**	**563,226**	**495,043**	**1,047,969**	**143,918**	**1,634,431**	**2,487,369**	**605,303**	**526,336**	**8,759,241**

Table A2:
Sampling Distribution, Number of Employers
Targeted and Actual (Bold) Number of Completed Interviews

Number of Employees	Industry									
	Agriculture	Construction	Finance	Manu-facturing	Mining	Retail Trade	Service	Trans-portation	Wholesale Trade	TOTAL
1-4	75	200	75	80	50	155	200	95	90	1,020
	76	**201**	**75**	**80**	**50**	**156**	**201**	**95**	**90**	**1,024**
5-9	45	80	30	35	30	70	65	30	35	420
	45	**80**	**30**	**35**	**30**	**69**	**65**	**30**	**35**	**419**
10-49	40	80	30	65	40	75	55	30	35	450
	47	**87**	**32**	**67**	**45**	**77**	**59**	**35**	**35**	**484**
50-99	36	30	30	30	36	30	30	45	39	306
	36	**34**	**29**	**36**	**40**	**32**	**33**	**40**	**48**	**328**
100-499	30	35	30	30	35	40	30	50	40	320
	26	**38**	**33**	**30**	**29**	**40**	**31**	**51**	**42**	**320**
500-999	3	20	30	50	6	30	60	25	6	230
	1	**16**	**8**	**29**	**6**	**13**	**52**	**7**	**3**	**135**
1000	0	5	6	40	3	20	50	20	5	150
and over	**0**	**6**	**6**	**20**	**6**	**6**	**40**	**10**	**3**	**97**
TOTAL	230	450	231	330	200	420	490	295	250	2,896
	231	**464**	**213**	**297**	**206**	**393**	**481**	**268**	**256**	**2,808**

APPENDIX B

DATA COLLECTION

APPENDIX B:
DATA COLLECTION

A telephone survey of Texas employers was conducted by the Public Policy Research Institute (PPRI) of Texas A&M University between August 9, 2001 and October 31, 2001. The majority of employers were called between the hours of 8:00 a.m. and 5:00 p.m. In some instances, however, employers specifically asked that they be called back during the evening or weekend. Surveyors were instructed to ask for the person at the company who was responsible for purchasing WC insurance. Table B1 provides a distribution of survey respondents by job title/job function.

Table B1
Distribution of Survey Respondents by Job Title or Function

Title or Job Function	Number of Respondents	Percentage of Respondents
Benefits/Payroll Coordinator	626	22.6%
Owner/President/Manager	537	19.4%
Risk Manager/Safety & Training Director	315	11.4%
Human Resources Officer	264	9.5%
Senior Management (e.g., Corporate Officer, VP)	258	9.3%
Middle Management	234	8.5%
Office Manager	222	8.0%
Administrative Assistant	143	5.2%
Finance/Controller/Treasurer	83	3.0%
Workers' Compensation Specialist	20	0.7%
Claims Coordinator/Disability Administrator	17	0.6%
Other	50	1.8%

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute at Texas A&M University, 2001.

The survey utilized computer assisted interviewing software (CATI) to automate the question sequence and allow for online recording of responses. The Research and Oversight Council staff designed and pre-tested the survey instrument, and worked closely with PPRI staff throughout the fielding period.

PPRI was provided with a list of sampled employers stratified by size and industry. In the early days of the survey, the computer randomly selected employer telephone numbers from the sample. When the targeted number of completed surveys for a stratum was reached, that stratum was automatically assigned the lowest priority and the computer would no longer select numbers from that stratum. Strata in which the targeted number of completed surveys had not been reached were assigned the highest priority.

Call back requests were assigned a “call back” disposition within the CATI system. The disposition screen allowed the interviewer to enter specific instructions (such as the date and time requested for the call back) for the call back. The system automatically retrieved the telephone number at the requested date and time and put it into the queue for an interviewer who was logged into the system.

Bad, or disconnected, numbers were researched using (1) Phone Select – a CD database and (2) switchboard.com – a free Internet phone listing. If new numbers were found for an employer the record was retrieved and attempted. However, in most instances these searches did not provide useful information.

The procedure for handling refusals was as follows:

- Each refusal was called back three days after the initial contact.
- Five attempts were made to contact someone who could complete the survey. If no one was reached during those attempts, or if they refused a second time, the numbers were archived.
- However, as it became apparent that targets would not be reached for some stratum, additional attempts were made to convert refusals. Therefore there was an average of eight attempts per refusal rather than five attempts.

Sample Disposition

PPRI provided a methodological report on the conduct of the survey, and the methodology used to prepare weights for the study. PPRI also provided the ROC with weighted responses to each survey question.[64] The disposition of the overall sample and the number of attempts made are reported in Table B2.

[64] Public Policy Research Institute, Texas A&M University, *A Study of Participation / Nonparticipation in the Texas Workers' Compensation System: Methodology Report* (College Station, Texas, 2001).

Table B2

Sample Disposition and Number of Attempts

Final Disposition	Count	Percent	Average Attempts
No Answer/Machine	794	5.0%	5.8
Bad Numbers	2,738	17.3%	1.9
Call Back	4,622	29.2%	5.6
Complete	**2,808**	**17.7%**	**3.3**
Over Quota	94	0.6%	1.0
Refusals/Terminates	4,783	30.2%	4.3
Total	15,839	100.0%	4.1

Source: Public Policy Research Institute, Texas A&M University, 2001.

Confidence Intervals for Nonsubscription Rates

While the margin of error for the overall employer nonsubscription estimate is very low, +/-2.4 percent, at the 95 percent confidence interval, it is important to understand that the error rates for sub-populations (e.g., firm size and industry groups) are somewhat higher due to smaller sample sizes. Table B3 below presents relevant information for the industry and firm size nonsubscription estimates.

Table B3
Error Estimates for Industry and Employer Size Nonsubscription Rates

Sub-population	Nonsubscription Rate	Sample Size	Standard Error	Margin of Error (95% Confidence Interval)
Overall	35.2%	2,808	1.223	+/- 2.40%
Industry Categories				
Agriculture	35.3%	232	3.787	+/- 7.42%
Construction	28.7%	462	2.134	+/- 4.18%
Finance	28.4%	213	3.890	+/- 7.62%
Manufacturing	35.9%	297	2.846	+/- 5.58%
Mining	12.1%	206	3.095	+/- 6.60%
Retail Trade	48.3%	393	2.646	+/- 5.19%
Services	38.1%	481	2.485	+/- 4.87%
Transportation	28.8%	268	3.169	+/- 6.21%
Wholesale Trade	25.0%	256	3.153	+/- 6.18%
Employer Size Categories				
1 to 4 Employees	46.6%	1024	1.893	+/- 3.71%
5 to 9 Employees	28.8%	419	2.537	+/- 4.97%
10 to 49 Employees	19.1%	484	2.244	+/- 4.40%
50 to 99 Employees	15.6%	328	2.864	+/- 5.56%
100 to 499 Employees	13.1%	320	2.770	+/- 5.43%
500 or More Employees	13.7%	233	3.388	+/- 6.64%

Source: Research and Oversight Council on Workers' Compensation and Public Policy Research Institute, Texas A&M University, 2001.

Caveats for Use of the Survey Responses

It is also important to note that the information compiled by this survey was self-report data, based on responses given to telephone interviewers. It is possible that respondents may not have known certain information or that information they provided may be inaccurate for other reasons.

The cooperation rate for this survey was lower than for similar surveys conducted in the past. The cooperation rate[65] for the survey was 37 percent, which is substantially lower than the rate of 76 percent observed for the 1996 study of nonsusbcription, also conducted by PPRI. The decreasing willingness of employers to cooperate on lengthy telephone surveys is a trend that has become evident in the last few years. The tragic events of September 11, 2001, which occurred in the middle of the fielding period for the survey, may have also had a negative impact on survey response rates. While it is unknown what influence, if any, this decreased rate of cooperation may have had on the survey results, the lower cooperation rate may suggest that the potential for bias is greater for this survey than it was for previous surveys.

[65] The Cooperation Rate is calculated as follows: 100 * Number of Completed Surveys / (Number of Completed Surveys + Number of Refusals and Terminated Surveys).

APPENDIX C

TELEPHONE SURVEY INSTRUMENT

APPENDIX C:
TELEPHONE SURVEY INSTRUMENT

***Opening*:** Hello, My name is ________________ and I am calling on behalf of the Research and Oversight Council on Workers' Compensation, a state agency. We are currently conducting a study of employer participation in the Texas workers' compensation system. This survey will collect important information about work-injury benefits which Texas employers are currently providing to their employees. The survey will be approximately 20 minutes long, and all your responses will be kept strictly confidential. May we begin?

Q1. Does (company name)_________ have workers' compensation insurance?

(If respondent answers NO – don't probe, just mark answer as NO and go to Q17).
If respondent volunteers that they are self-insured, ask if they are a certified self-insured employer through the Texas Workers' Compensation Commission Certified Self-Insurance program. If they answer YES THEY ARE A CERTIFIED SELF INSURED EMPLOYER, count this as a YES response and continue survey at Q2. If they answer NO THEY ARE NOT A CERTIFIED SELF INSURED EMPLOYER, count this as a NO response and go to Q17.)

Yes
No **(GO TO Q17)**
Dk/Rf (ASK FOR REFERRAL)

Q2. Has your company always had workers' compensation insurance coverage?

Yes **(GO TO Q8)**
No
Dk/Rf

Q3. Did your company *ever* have workers' compensation coverage in the past?
(SELECT ONLY ONE) (READ ANSWERS)

Yes, my business had workers' compensation coverage in the past
No, my business has never had workers' compensation coverage before **(GO TO Q7)**
Dk/Rf (GO TO Q10)

Q4. When did your company drop its workers' compensation insurance coverage? (if dropped more than once, list the most recent year)

(approx. year) _____ **(if year is before 1991, then go to Q7)**
Dk/Rf

Q5. Please rate the degree to which each of the following reasons influenced your company's decision to drop workers' compensation coverage in the past? **Use a scale of 1 to 5, where 1 means *Not at all Important* and 5 means *Extremely Important*. (Only one numeric response allowed for each reason listed) (RANDOMIZE LIST). ALLOW "Don't Know" and "not applicable" OPTIONS.**

Quoted premiums were too high
Medical costs in the system were too high
Dissatisfaction with the service provided by workers' compensation insurance carriers
Concerns about the Texas Workers Compensation Commission dispute resolution process
Administrative process associated with filing claims in the Texas workers' compensation system
Not required to have workers' compensation coverage by law
Company cost-cutting measure to be more competitive
Your company had too few employees
Your company's competition does not carry workers' compensation coverage so your company also has elected not to carry coverage to remain competitive
You feel your company can do a better job than the Texas Workers' Compensation System at ensuring that employees injured on the job receive appropriate benefits (medical and wage loss)
To have more control over the choice of medical providers used to treat on-the-job injuries
Your company had few on-the-job injuries
Your company felt that an alternative occupational benefits package, or ERISA plan, was a better value than workers' compensation coverage
Concerns about workers' compensation fraud
Due to an unexpectedly high workers' compensation losses, your company was designated a high experience modifier, which made insurance coverage unaffordable
Other reason (please specify)
Dk/Rf (GO TO Q7)

Q6. Which was the *primary* reason why your company dropped workers' compensation coverage? **(SELECT ONLY ONE) (RANDOMIZE LIST) (MAKE SURE THAT ONLY RESPONSES SELECTED IN Q5 ARE GIVEN AS OPTIONS IN Q6). ALLOW "Don't Know" OPTION.**

Quoted premiums were too high
Medical costs in the system were too high
Dissatisfaction with the service provided by workers' compensation insurance carriers
Concerns about the Texas Workers Compensation Commission dispute resolution process
Administrative process associated with filing claims in the Texas workers' compensation system
Not required to have workers' compensation coverage by law
Company cost-cutting measure to be more competitive
Your company had too few employees
Your company's competition does not carry workers' compensation coverage so your company also has elected not to carry coverage to remain competitive
You feel your company can do a better job than the Texas workers' compensation System at ensuring that employees injured on the job receive appropriate benefits (medical and wage loss)
To have more control over the choice of medical providers used to treat on-the-job injuries
Your company had few on-the-job injuries
Your company felt that an alternative occupational benefits package, or ERISA plan, was a better value than workers' compensation coverage
Concerns about workers' compensation fraud
Due to an unexpectedly high workers' compensation losses, your company was designated a high experience modifier, which made insurance coverage unaffordable
Other reason (please specify) ________
Dk/Rf

Q7. When did your company (re)purchase workers' compensation coverage? (if company is a certified self-insured after previously being a non-subscriber, ask for the year company became certified through the Texas Workers' Compensation Commission)

(year) ________ **(If company repurchased more than once, ask for most recent date of return) (if year is before 1991, then go to Q10)**
Dk/Rf

Q8. Please rate the degree to which each of the following reasons influenced your company's decision to (re)purchase or obtain workers' compensation coverage. **Use a scale of 1 to 5, where 1 means *Not at all Important* and 5 means *Extremely Important*. (Only one numeric response allowed for each reason listed) (RANDOMIZE LIST). ALLOW "Don't Know" and "not applicable" OPTIONS.**

Lower insurance rates
Fear of lawsuits
Dissatisfaction with alternative occupational benefits package or ERISA plan
Workers' compensation insurance is a good value for my company
Your industry is considered high risk and your employees require workers' compensation coverage
Company philosophy to provide appropriate benefits to employees injured on the job
Ability to reduce insurance costs through deductibles or other premium discounts
Ability to self-insure through the Texas Workers' Compensation Commission Certified Self-Insurance program
Needed to have workers' compensation coverage to obtain government contracts
Confidence in the administration of the workers' compensation system
Other reason (please specify)
Dk/Rf (GO TO Q10)

Q9. Which is the *primary* reason why your company (re)purchased or obtained workers' compensation coverage? **(SELECT ONLY ONE) (ROTATE LIST) (MAKE SURE THAT ONLY RESPONSES SELECTED IN Q8 ARE GIVEN AS OPTIONS IN Q9). ALLOW "Don't Know" OPTION.**

Lower insurance rates
Fear of lawsuits
Dissatisfaction with alternative occupational benefits package or ERISA plan
Workers' compensation insurance is a good value for my company
Your industry is considered high risk and your employees require workers' compensation coverage
Company philosophy to provide appropriate benefits to employees injured on the job
Ability to reduce insurance costs through deductibles or other premium discounts
Ability to self-insure through the Texas Workers' Compensation Commission Certified Self-Insurance program
Needed to have workers' compensation coverage to obtain government contracts
Confidence in the administration of the workers' compensation system
Other reason (please specify) ________
Dk/Rf

Q10. Has your company seen an increase, decrease or no change in the premium paid for your most recent workers' compensation policy? **(SELECT ONLY ONE)**

Increase

Decrease

No Change **(GO TO Q12)**

Your company is a certified self-insured employer **(GO TO Q12)**

Your company has only just recently returned to the WC system and has not had an insurance policy renewal yet (GO TO Q12)

Dk/Rf (GO TO Q12)

Q11. Please indicate the percentage change in the premium paid for your most recent policy? ____________
(PLEASE BE SURE TO INDICATE WHETHER IT WAS AN INCREASE OR DECREASE IN THE PERCENTAGE WITH A PLUS OR MINUS)

Now I am going to ask you a short series of questions related to your satisfaction with various aspects of the Texas Workers' Compensation System.

Q12. On a scale of 1 to 5, where 1 means *Not At All Satisfied* and 5 means *Extremely Satisfied,* please rate your overall level of satisfaction with your experience in the Texas Workers' compensation system.

Q13. Please use the same scale of 1 to 5 where 1 means *Not at all Satisfied* and 5 means *Extremely Satisfied* to rate the following specific factors related to workers' compensation coverage in Texas. **(SELECT ONLY ONE NUMERIC RESPONSE PER ROW) (RANDOMIZE LIST). ALLOW "Don't Know" OPTION.**

	1	**2**	**3**	**4**	**5**
	Not at all **Satisfied**				**Extremely Satisfied**
Adequacy and equity of benefits paid to injured workers through the Texas WC System					
Degree to which WC coverage is a good value for your company					
Service provided by your WC insurance carrier (or third party administrator if self insured)					
The ability to effectively manage costs, both medical and wage replacement costs, related to on-the-job injuries					

Q14. If insurance premiums increased by any of the following increments, would you seriously consider dropping your WC coverage and become a non-subscriber to the Texas WC system? *Please say yes or no to the corresponding increase in WC premiums.* **(NOTE TO INTERVIEWER & PROGRAMMER: STOP AT RANGE THEY WOULD BE WILLING TO DROP OUT AND RECORD THAT AS THE RESPONSE)**

Less than 10%
10 to 15%
16 to 20%
21 to 30%
31 to 40%
41 to 50%
More than 50%
Would never drop my WC coverage to become a non-subscriber
DK/RF

Now I would like to ask you a series of questions related to liability waivers.

Q15a. *Pre-injury* liability waivers involve an agreement where, either at the time of employment or some time prior to the occurance of an on-the-job injury, the employee waives their right to sue your company over a work related injury and, in turn, receives benefits through an alternative occupational benefits plan provided by your company. On a scale of 1 to 5, where 1 means *Not At All Likely* and 5 means E*xtremely Likely,* how likely would you be to drop your workers' compensation coverage if you were allowed to have employees sign *pre-injury* liability waivers? **ALLOW "Don't Know" OPTION.**

Q15b. ***Now I will ask you a slightly different question about post-injury liability waivers***. *Post-injury* liability waivers involve an agreement where, either at the time of injury or some time after the occurance of an on-the-job injury, the employee waives their right to sue your company over a work related injury and, in turn, receives benefits through an alternative occupational benefits plan provided by your company. On a scale of 1 to 5, where 1 means *Not At All Likely* and 5 means E*xtremely Likely,* how likely would you be to drop your workers' compensation coverage if you were allowed to have employees sign *post-injury* liability waivers? **ALLOW "Don't Know" OPTION.**

Q16. On a scale of 1 to 5, where 1 means *Not At All Likely* and 5 means *Extremely Likely,* how likely would you be to participate in a managed care network for the medical treatment of work-related injuries?**. ALLOW "Don't Know" OPTION. (GO TO Q52)**

Q17. Has your company ever had workers' compensation insurance coverage?

Yes
No **(GO TO Q19)**
Dk/Rf (ASK FOR REFERRAL)

Q18. When did your company drop its workers' compensation insurance coverage?

(please specify year) ________
Dk/Rf

Q19. Please rate the degree to which each of the following reasons influenced your company's decision not to carry workers' compensation coverage. Use a scale of 1 to 5, where 1 means *Not at all Important* and 5 means *Extremely Important*. **(Only one numeric response allowed for each reason listed) (ROTATE LIST). ALLOW "Don't Know" OPTION.**

Quoted premiums were too high
Medical costs in the system were too high
Dissatisfaction with the service provided by workers' compensation insurance carriers
Concerns about the Texas Workers Compensation Commission dispute resolution process
Administrative process associated with filing claims in the Texas workers' compensation system
Not required to have workers' compensation coverage by law
Company cost-cutting measure to be more competitive
Your company had too few employees
Your company's competition does not carry workers' compensation coverage so your company also has elected not to carry coverage to remain competitive
You feel your company can do a better job than the Texas Workers' Compensation System at ensuring that employees injured on the job receive appropriate benefits (medical and wage loss)
To have more control over the choice of medical providers used to treat on-the-job injuries
Your company had few on-the-job injuries
Your company felt that an alternative occupational benefits package, or ERISA plan, was a better value than workers' compensation coverage
Concerns about workers' compensation fraud
Due to an unexpectedly high workers' compensation losses, your company was designated a high experience modifier, which made insurance coverage unaffordable
Dk/Rf (GO TO Q21a)

Q20. Which was the *primary* reason why your company does not have workers' compensation coverage? **(SELECT ONLY ONE) (ROTATE LIST) (MAKE SURE THAT ONLY RESPONSES SELECTED IN Q19 ARE GIVEN AS OPTIONS IN Q20)**

Quoted premiums were too high
Medical costs in the system were too high
Dissatisfaction with the service provided by workers' compensation insurance carriers
Concerns about the Texas Workers Compensation Commission dispute resolution process
Administrative process associated with filing claims in the Texas workers' compensation system
Not required to have workers' compensation coverage by law
Company cost-cutting measure to be more competitive
Your company had too few employees
Your company's competition does not carry workers' compensation coverage so your company also has elected not to carry coverage to remain competitive
You feel your company can do a better job than the Texas Workers' Compensation System at ensuring that employees injured on the job receive appropriate benefits (medical and wage loss)
To have more control over the choice of medical providers used to treat on-the-job injuries
Your company had few on-the-job injuries
Your company felt that an alternative occupational benefits package, or ERISA plan, was a better value than workers' compensation coverage
Concerns about workers' compensation fraud
Due to an unexpectedly high workers' compensation losses, your company was designated a high experience modifier, which made insurance coverage unaffordable
Other reason (please specify) ________
Dk/Rf

Q21a. Approximately what % of decrease in premiums, if any, would it take for your business to purchase workers' compensation insurance? **(SELECT ONLY ONE)**

Less than 10 percent **(GO TO Q22a)**
10 to 24 percent **(GO TO Q22a)**
25 to 50 percent **(GO TO Q22a)**
More than 50 percent **(GO TO Q22a)**
Would never purchase workers' compensation insurance **(GO TO Q21b)**
Dk/Rf (GO TO Q22a)

Q21b. If so, why?_______________________

Q22a. On a scale of 1 to 5, where 1 means *Not At All Likely* and 5 means *Extremely Likely,* if you were able to utilize managed care networks for the medical treatment of injured workers, how likely would you be to consider purchasing workers' compensation coverage**?** (**ALLOW "Don't Know" OPTION.)**

Q22b. If likely (Q22a=4 or 5), why? _____________

Q22c. If not likely (Q22b=1 or 2), why? ___________

Q23. Please rate your overall level of satisfaction with your experience as a non-subscriber to the Texas WC system, on a scale of 1 to 5 where 1 means *Not at all Satisfied* and 5 means *Extremely Satisfied*? **ALLOW "Don't Know" OPTION.**

Now I would like to ask you some questions about your company's policies relating to on-the-job injuries.

Q24a. Does your business pay benefits to employees injured on-the-job?

Yes **(GO TO Q24b)**
No **(GO TO Q44)**
Dk/Rf (GO TO Q44)

Q24b. Does your business have a *written company policy or procedure* to pay benefits to employees injured on-the-job? (NOTE TO INTERVIEWER: "POLICY" REFERS TO A WRITTEN COMPANY PLAN, NOT NECESSARILY AN INSURANCE POLICY)

Yes
No
Dk/Rf

Q25. How long must employees be on the job before they are eligible to receive occupational benefits related to an on-the-job injury?
Immediately after hire
Less than one month
1 to 3 months
3 to 6 months
6 to 12 months
More than one year
DK/RF

Q26. Did you utilize an ERISA structure when developing your company's occupational benefits plan for on-the-job injuries?
Yes
No
Dk/Rf

Q27. Does your company policy cover medical costs for injured employees?
Yes
No **(GO TO Q35)**
Dk/Rf (GO TO Q35)

Q28. Please answer yes or no to each possible selection.Is your company policy regarding medical costs for injured employees covered by: **(SELECT ALL THAT APPLY)**

Alternative occupational benefits insurance (NOT WORKERS' COMPENSATION INSURANCE, coverage for injuries suffered by employees while on the job)
Group health insurance
A special account that is self-funded exclusively
A special account that is self-funded and supplemented with excess liability insurance
Other (please specify) ________
Dk/Rf

Q29. Is the injured employee responsible for paying any medical expenses related to an on-the-job injury, through arrangements such as co-payment or deductibles?

Yes
No
Dk/Rf

Q30. Does the injured employee receive medical benefits, for as long as medically necessary, or are these benefits capped? **(SELECT ONLY ONE)**

Employee receives medical benefits for as long as medically necessary **(GO TO Q33)**
Employee benefits are capped
Dk/Rf (GO TO Q33)

Q31. Are these medical benefits capped: **(SELECT ONLY ONE)**

by the length of medical treatment received by the injured employee **(GO TO Q32a)**
by the $ spent on medical treatment received by the injured employee **(GO TO Q32b)**
Dk/Rf (GO TO Q33)

Q32a. What is maximum number of weeks allowed for medical treatment related to on-the-job injuries?**(SELECT ONLY ONE)**

# of weeks_____
Established on a case by case basis
Dk/Rf

Q32b. What is the maximum dollar amount that is allowed for medical treatments related to on-the-job injuries?**(SELECT ONLY ONE)**

# of dollars_____
Established on a case by case basis
Dk/Rf

Q33. Who selects the <u>first</u> health care provider for the medical treatment of on-the job injuries? **(SELECT ONLY ONE)**

Employee **(GO TO Q35)**
Employer
Employee, from a list of providers approved by the employer
Other (please specify) _________ **(GO TO Q35)**
Dk/Rf (GO TO Q35)

Q34. Can an employee change health care providers if he or she is not satisfied with the provider chosen by the employer or selected from an employer-supplied list?

Yes
No
Dk/Rf

Q35. Does your company policy cover the replacement of lost wages for injured employees?
Yes
No **(GO TO Q44)**
Dk/Rf (GO TO Q44)

Q36. **Please answer yes or no to each possible selection.**
Is your company policy regarding the replacement of lost wages for injured employees covered by: **(SELECT ALL THAT APPLY)**

Alternative occupational benefits insurance (NOT WORKERS' COMPENSATION INSURANCE, coverage for injuries suffered by employees while on the job)
A special account that is self funded exclusively
A special account that is self funded and supplemented with excess liability insurance
Keeping employees on the payroll or having their salaries supplemented to pre-injury levels
Other (please specify) _______
Dk/Rf

[ASK Q37 IF "ALTERNATIVE OCCUPATIONAL BENEFITS INSURANCE" IS CHECKED FOR Q36 OR Q28]

Q37. On a scale of 1 to 5 where 1 means *Not At All Satisfied* and 5 means *Extremely Statisfied*, please rate your level of satisfaction with the service provided by your insurance carrier for alternative occupational benefits for employees injured on the job,.

Q38. If an employee misses work as a result of an on-the-job injury, is he/she *immediately* compensated for any lost wages or is there a *waiting period* before lost wage payments begin? **(SELECT ONLY ONE)**

Employee is immediately compensated for lost wages **(GO TO Q40)**
There is a waiting period before lost wage payments begin
Dk/Rf (GO TO Q40)

Q39. What is the waiting period before lost wage benefit payments begin? **(SELECT ONLY ONE)**

# of days_____
Established on a case by case basis
Dk/Rf

Q40. How soon after an employee has been injured must he or she report the injury to be eligible for lost wage benefits? **(SELECT ONLY ONE)**

# of days ________
Immediately/same day
Dk/Rf

Q41. Are wage replacement benefits paid for the entire duration of the worker's lost time or are they capped? **(SELECT ONLY ONE)**

Employee benefits paid for the duration of worker's lost time **(GO TO Q43)**
Employee benefits are capped
Dk/Rf (GO TO Q43)

Q42. Are these wage replacement benefits capped by: **(SELECT ONLY ONE)**

The duration of the worker's lost time
By the $ of benefits paid to the worker
Dk/Rf

Q43. Please use a scale of 1 to5 where 1 means *Not at all satisfied* and 5 means *Extremely Satisfied* to rate the following specific factors related to your company's experience as a non-subscriber to the Texas Workers' Compensation System. **(SELECT ONLY ONE NUMERIC RESPONSE PER ROW) (RANDOMIZE LIST). ALLOW "Don't Know" OPTION.**

	1	2	3	4	5
	Not at all **Satisfied**				**Extremely Satisfied**
Adequacy and equity of the alternative occupational benefits paid to injured workers through your company's plan					
Degree to which you feel the occupational benefits plan that your company has instituted is a good value for your company					
The ability to effectively manage costs, both medical and wage replacement costs, related to on-the-job injuries					

Q44. In the past 5 years, have any lawsuits been filed against your company by employees as a result of a work-related injury?

Yes
No **(GO TO Q46)**
Dk/Rf (GO TO Q46)

Q45. What was the outcome of these lawsuits? **(SELECT ALL THAT APPLY)**

How many were won by claimant_____(please specify number)
How many were lost by claimant_____(please specify number)
How many were settled out of court____(please specify number)
How many have a case still pending _____(please specify number)
Dk/Rf

Now, I would like to ask you a series of questions related to liability waivers. By liability waivers, we are referring to an agreement where the employee waives the right to sue your company over a work-related injury and, in turn, receives benefits through an alternative occupational benefits plan provided by your company.

Q46. Does your company currently ask employees to sign a liability waiver for any on-the-job illness or injury at your place of business?

Yes
No **(GO TO Q51)**
Company previously asked employees to sign a liability waiver
Dk/Rf (GO TO Q51)

Q47. Is this waiver typically signed: **(SELECT ONLY ONE)**

Before the worker has sustained an on-the-job injury
At the time of the injury
At some point after the worker has sustained an on-the-job injury
Dk/Rf

Q48. Approximately how long has your company asked employees to sign liability waivers? **(SELECT ONLY ONE)**

Less than one year
1-2 years
3-5 years
More than 5 years
Dk/Rf

Q49. If the employee signs the liability waiver, are their occupational benefits for on-the-job injuries: (SELECT ONLY ONE)
Enhanced
Unchanged
Decreased
Dk/Rf

Q50. In your estimation, what percent of your company's employees have signed a liability waiver? **(SELECT ONLY ONE)**

None
1- 10 percent
11-25 percent
26-50 percent
51-75 percent
More than 75 percent
Dk/Rf

Q51. On a scale of 1 to 5 where 1 means *Not At All Comfortable* and 5 means *Extremely Comfortable*, please rate your comfort level with the risk of lawsuit your company assumes by not carrying workers' compensation coverage, **ALLOW "Don't Know" OPTION.**

Now, I would like to ask you a few questions regarding safety initiatives and return-to-work programs.

Q52. Does your company have a written policy to assist injured workers to return to work?

Yes
No **(GO TO Q54)**
Dk/Rf (GO TO Q54)

Q53. Does this return-to-work policy include light, modified, or transitional duty for injured employees?

Yes
No
Dk/Rf

Q54a. Rate your level of agreement with the following statements related to workplace safety. Please use of a scale of 1 to 5, where 1 means *Strongly Disagree* and 5 means *Strongly Agree*. **(SELECT ONLY ONE NUMERIC RESPONSE PER ROW) (RANDOMIZE LIST). ALLOW "Don't Know" OPTION.**

	1	**2**	**3**	**4**	**5**
	Strongly Disagree				**Strongly Agree**
Employees of my company would agree that workplace safety is a top priority					
My company conducts workplace safety training on a regular basis.					
In the past two years, safety initiatives have either not been proposed or have been rejected by senior management due to budgetary reasons.					
It would be unlikely that my company would use outside safety consultants to assist us in maintaining a safe workplace.					
Senior management is actively involved in developing policies designed to maintain a safe workplace.					

Q54b. Does your company actively use a labor-management safety committee to develop workplace safety policies?

Yes
No
Dk/Rf

I appreciate your patience, the survey is almost over. Finally, I would like to ask you some demographic questions about your business. Remember, all your responses will be kept strictly confidential.

Q55. Which of the following best describes your title or job function? **(SELECT ONLY ONE) (ROTATE LIST)**

Benefits coordinator
Risk manager
Payroll coordinator
Human resources officer
Senior management
Middle management
Office manager
Administrative assistant
Owner
Other, please specify ________________________
Dk/Rf

Q56. Are your business headquarters in Texas?

Yes
No
Dk/Rf

Q57. Are all your employees based in Texas?

Yes
No
Dk/Rf

Q58. Approximately how many employees does your company currently employ in Texas? **(SELECT ONLY ONE)**

1-4 employees
5-9 employees
10-49 employees
50-99 employees
100-499 employees
500-999 employees
1000 + employees
Dk/Rf

Q59. How many years has your business been in operation? _____________

(please specify approximate # of years) __________
Dk/Rf

Q60. Would you be interested in participating in future Internet-based surveys related to workers' compensation and other business-related topics?
Yes **(GO TO Q61)**
No **(GO TO CONCLUDING PARAGRAPH)**

Q61. To what e-mail address would you like us to send invitations for you to participate in future studies? ____

This concludes our study. We greatly appreciate your participation. Thank you for your time and patience. Have a good day.