

# Employer Participation in the Texas Workers' Compensation System: 2004 Estimates

Texas Department of Insurance  
Workers' Compensation Research Group  
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# Brief History of Nonsubscription in Texas

- Private sector employers have been allowed the option of whether to purchase workers' compensation (WC) insurance since 1913.
- Texas is currently the only state that allows any private-sector employer the option of not purchasing WC insurance or become “nonsubscribers” to the state WC system.
- Several states' laws have numerical exceptions that allow small private sector employers to be “nonsubscribers.”
- The first study in Texas to estimate the percentage of employers that are “nonsubscribers” to the Texas WC system took place in 1993 with follow up studies conducted in 1995, 1996, 2001 and now 2004.

# Presentation Overview

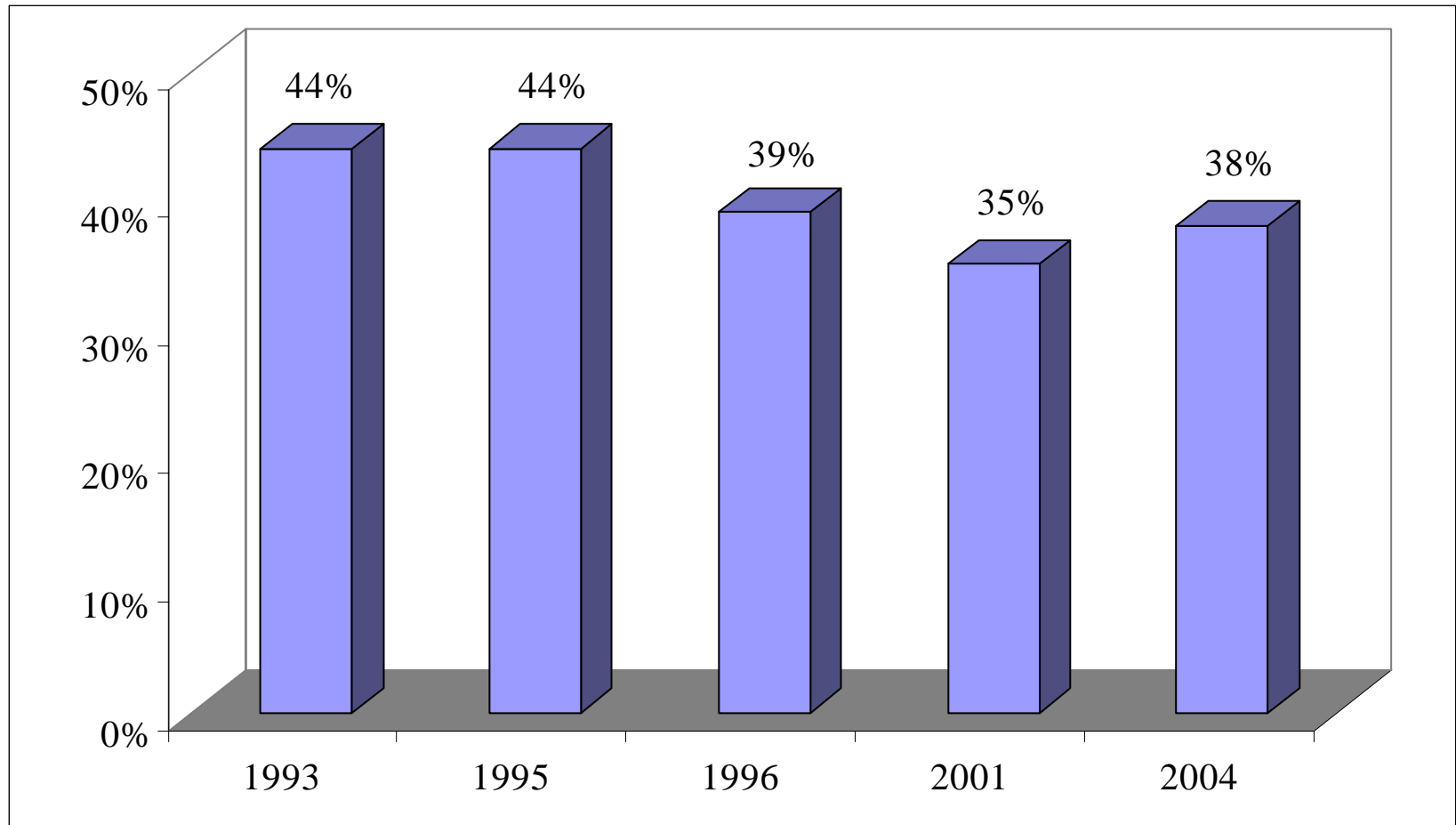
- Overall employer nonsubscription rates and employee WC coverage rates;
- Medical and wage replacement benefits provided by nonsubscribers;
- Use of liability waivers and arbitration by nonsubscribing employers; and
- Satisfaction levels of subscribing and nonsubscribing employers.

# Survey Sample and Administration

- TDI made slight modifications to the survey instrument previously developed by the Research and Oversight Council on Workers' Compensation (ROC)
- TDI pulled a random probability sample (stratified by industry and employment size) of Texas employers from Texas Workforce Commission (TWC) data
- TDI and the Public Policy Research Institute (PPRI) at Texas A&M University completed 2,884 interviews with year-round private sector Texas employers during June –August 2004
- Employer nonsubscription estimates have a +/- 2.4% margin of error at the 95% confidence interval

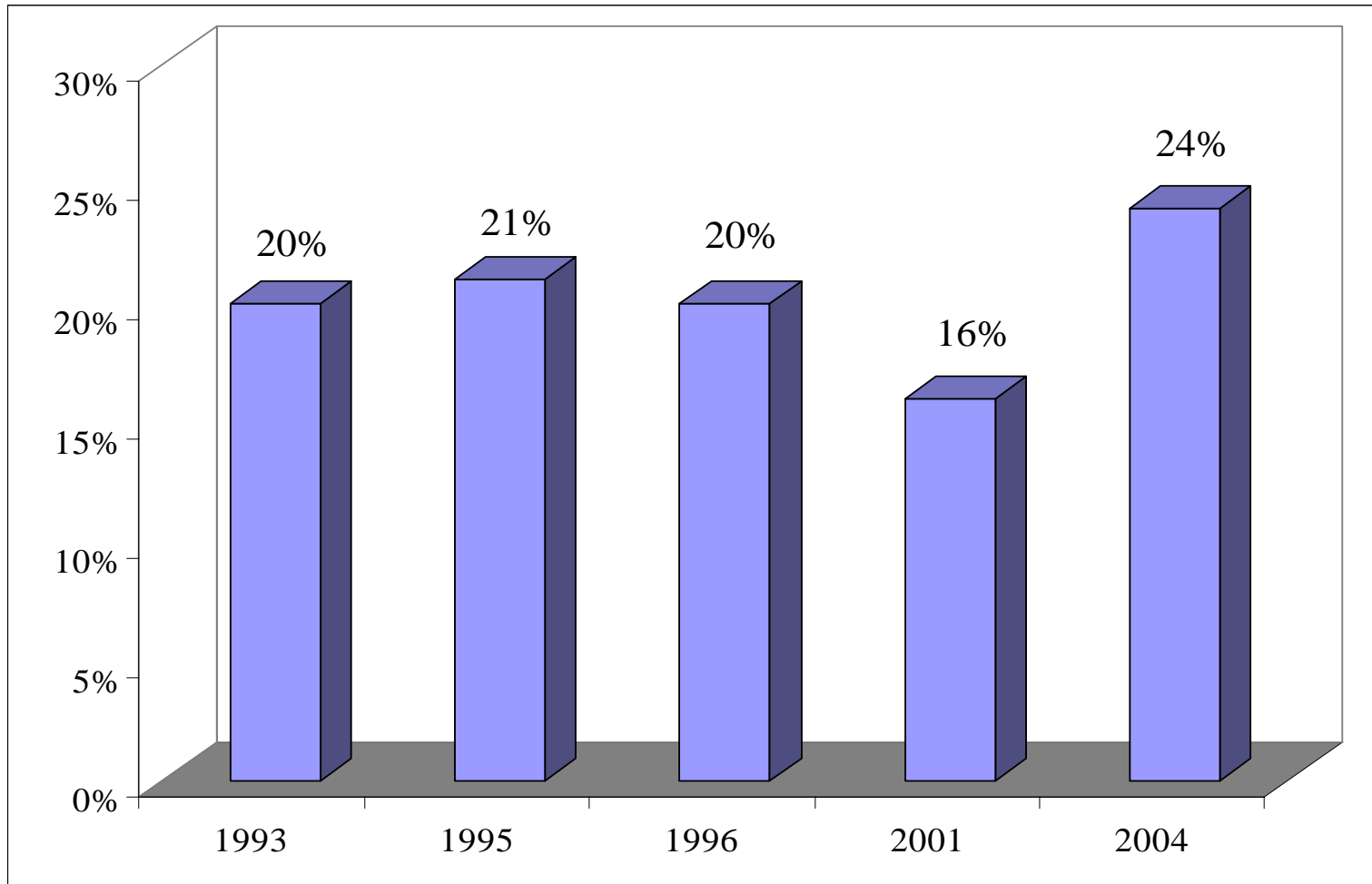
# Overall Nonsubscription Estimates

# Percentage of Texas Employers That Are Nonsubscribers, 1993-2004



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, 1993 and 1995 estimates from the Texas Workers' Compensation Research Center and the Public Policy Research Institute (PPRI) at Texas A&M University; 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and PPRI; and 2004 estimates from the Texas Department of Insurance Workers' Compensation Research Group and PPRI.

# Percentage of Texas Employees That Are Employed by Nonsubscribers, 1993-2004



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, 1993 and 1995 estimates from the Texas Workers' Compensation Research Center and the Public Policy Research Institute (PPRI) at Texas A&M University; 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and PPRI; and 2004 estimates from the Texas Department of Insurance Workers' Compensation Research Group and PPRI.

# Percentage of Texas Employers That Are Nonsubscribers by Industry, 2004 Estimates

<b>Industry Type</b>	<b>Nonsubscription Rate</b>
Agriculture/Forestry/Fishing/Hunting	39%
Mining/Utilities/Construction	32%
Manufacturing	42%
Wholesale Trade/ Retail Trade/Transportation	40%
Finance/Real Estate/Professional Services	32%
Health Care/Educational Services	41%
Arts/Entertainment/Accomodation/Food Services	54%
Other Services Except Public Administration	39%

Note: Industry classifications were based on the 2002 North American Industry Classification System (NAICS) developed by the governments of the U.S., Canada and Mexico, which replaced the Standard Industrial Classification (SIC) system previously used in the U.S. As a result of this change in industry classifications, industry nonsubscription rates for 2004 cannot be compared to previous years.

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



## Percentage of Texas Employers That Are Nonsubscribers by Employment Size, 2004 Estimates

<b>Employment Size</b>	<b>Nonsubscription Rate</b>
1-4 Employees	46%
5-9 Employees	37%
10-49 Employees	25%
50-99 Employees	20%
100-499 Employees	16%
500 + Employees	20%

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

## Percentage of Texas Employers That Are Nonsubscribers by Employment Size, 1993-2004

<b>Employment Size</b>	<b>1993*</b>	<b>1995</b>	<b>1996</b>	<b>2001</b>	<b>2004</b>
1-4 Employees	N/A	55%	44%	47%	46%
5-9 Employees	N/A	37%	39%	29%	37%
10-49 Employees	N/A	28%	28%	19%	25%
50-99 Employees	N/A	24%	23%	16%	20%
100-499 Employees	N/A	20%	17%	13%	16%
500 + Employees	N/A	18%	14%	14%	20%

Note: \* Nonsubscription estimates for 1993 were based on different employer size categories than were used in later years so they are not directly comparable.

Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, 1993 and 1995 estimates from the Texas Workers' Compensation Research Center and the Public Policy Research Institute (PPRI) at Texas A&M University; 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and PPRI; and 2004 estimates from the Texas Department of Insurance Workers' Compensation Research Group and PPRI.

# Reasons Why Employers Purchase WC or Become Nonsubscribers

# Top Five Primary Reasons Why Subscribing Employers Said They Purchase Workers' Compensation Coverage

Primary Reasons Given by Surveyed Employers	Percentage of Subscribing Employers Surveyed
Employers were concerned about lawsuits	30.1%
Employer's industry considered high risk and employees require workers' compensation coverage	11.4%
Employer needed workers' compensation coverage in order to obtain government contracts	11.0%
Employer had confidence in the administration of the Texas workers' compensation system	9.2%
Employers were able to self-insure through the Texas Workers' Compensation Commission Certified Self-Insurance Program or able to use deductibles or other premium discounts to reduce workers' compensation insurance costs	8.9%

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

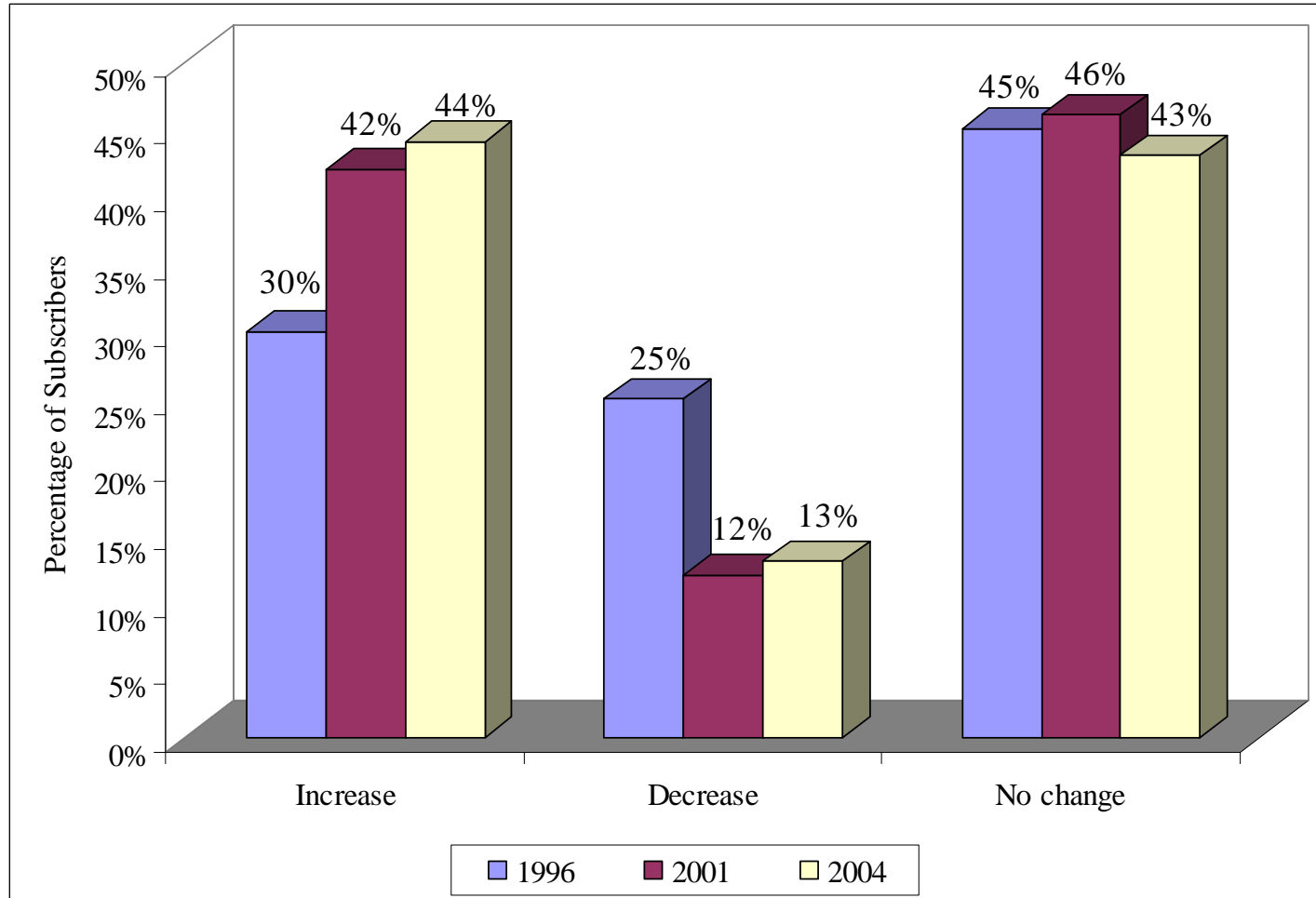
# Top Five Primary Reasons Why Nonsubscribing Employers Said They Did Not Purchase Workers' Compensation Coverage

<b>Primary Reasons Given by Surveyed Employers</b>	<b>Percentage of Nonsubscribing Employers Surveyed</b>
Workers' compensation insurance premiums were too high	37.9%
Employer had too few employees	21.1%
Employers not required to have workers' compensation insurance by law	9.8%
Medical costs in the workers' compensation system were too high	4.9%
Employer had few on-the-job injuries	4.7%

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

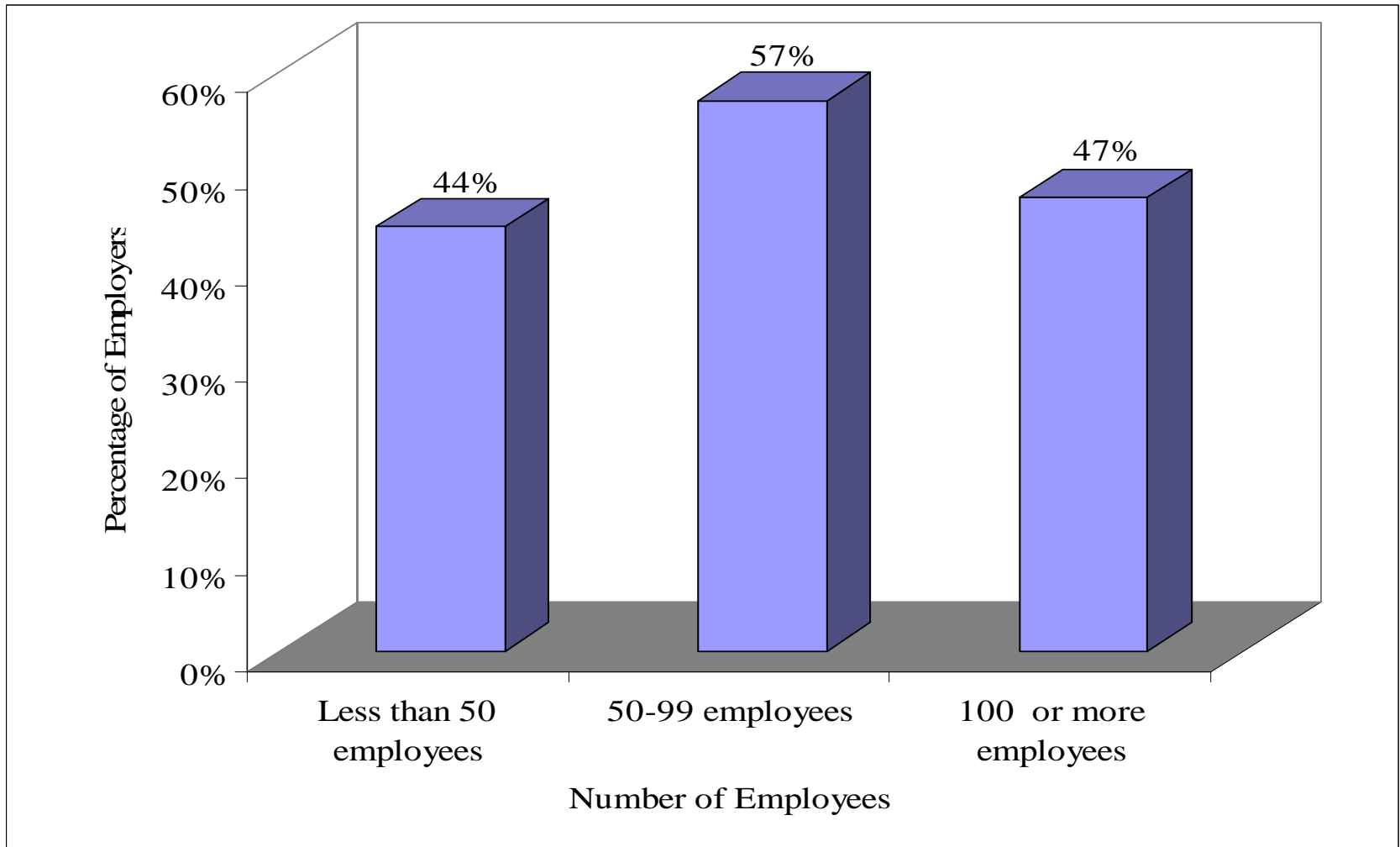
# Texas Employers' Experiences with Workers' Compensation Insurance Costs

# Percentage of Subscribing Employers That Have Experienced a Change in Their Workers' Compensation Insurance Premium Compared to Previous Policy Year



Source: *Survey of Employer Participation in the Texas Workers' Compensation System*, 1996 and 2001 estimates from the Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute (PPRI) at Texas A&M University; and 2004 estimates from the Texas Department of Insurance Workers' Compensation Research Group and PPRI.

# Percentage of Subscribers That Indicated They Experienced a Premium Increase by Employment Size



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



# Average Premium Increase for Employers That Reported a Recent Increase in Their Workers' Compensation Premiums in 2004

<b>Size of Recent WC Premium Increase</b>	<b>Percentage of Subscribing Employers Surveyed in 2004</b>
Less than 10 percent	50%
11-15 percent	14%
16-20 percent	12%
21-30 percent	8%
31-40 percent	4%
41-50 percent	5%
More than 50 percent	7%

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

# Average Premium Decrease for Employers That Reported a Recent Decrease in Their Workers' Compensation Premiums in 2004

<b>Size of Recent WC Premium Decrease</b>	<b>Percentage of Subscribing Employers Surveyed in 2004</b>
Less than 10 percent	60%
11-15 percent	16%
16-20 percent	5%
21-30 percent	8%
31-40 percent	5%
41-50 percent	6%
More than 50 percent	Less than 1%

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

# Percentage Increase in Premiums Subscribing Employers Say Would Cause Them to Seriously Consider Dropping Workers' Compensation Coverage

<b>Size of Potential WC Premium Increase</b>	<b>Percentage of Subscribing Employers Surveyed in 2004</b>
Less than 10 percent	20%
11-15 percent	16%
16-20 percent	17%
21-30 percent	13%
31-40 percent	5%
41-50 percent	2%
More than 50 percent	3%
Would never consider dropping WC insurance	24%

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

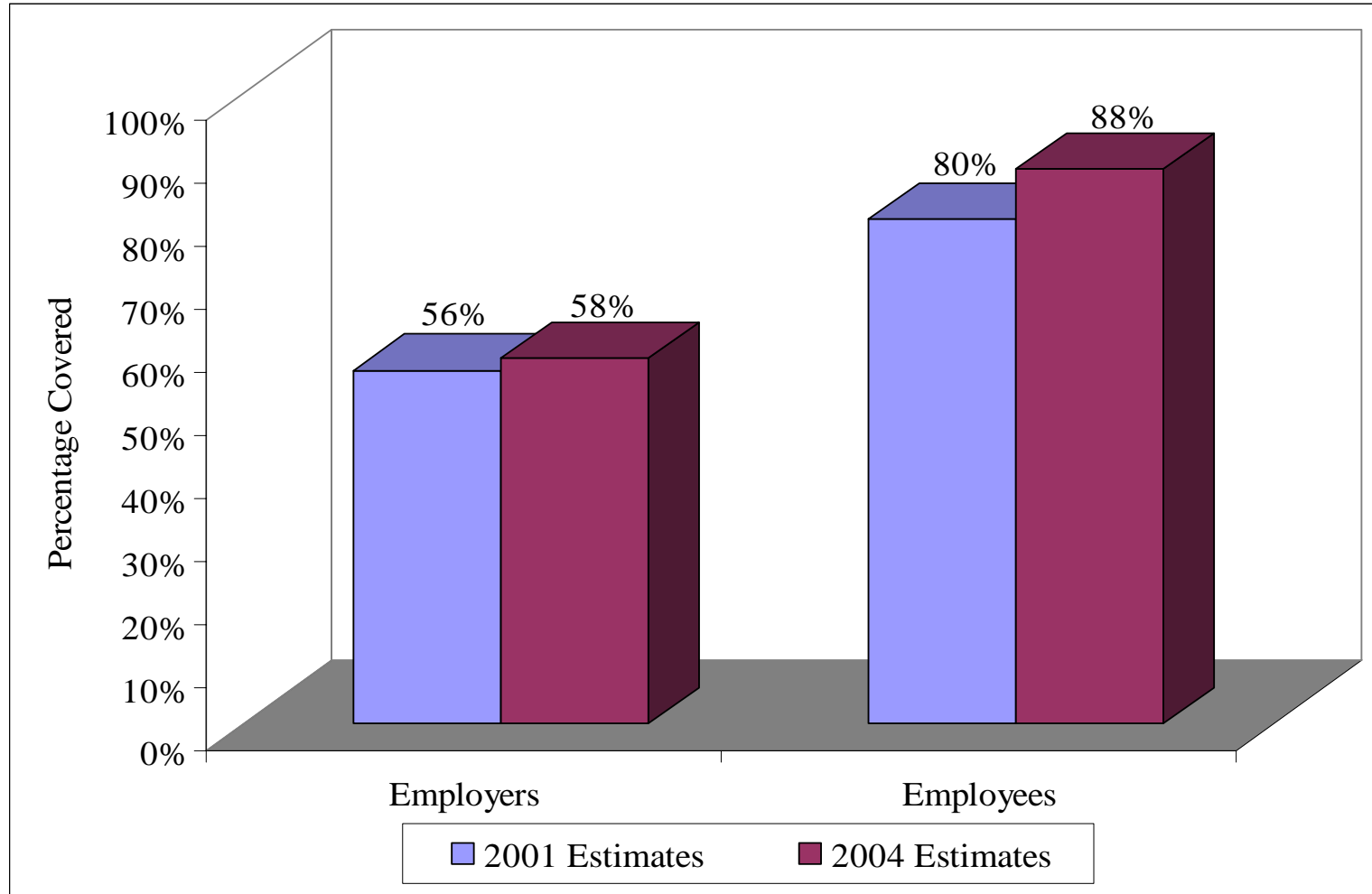
# Percentage Decline in Premiums Nonsubscribing Employers Say is Required To Induce Them to Purchase Workers' Compensation Insurance

<b>Size of Potential WC Premium Decrease</b>	<b>Percentage of Nonsubscribing Employers Surveyed in 2004</b>
Less than 10 percent	8%
11-15 percent	5%
16-20 percent	5%
21-30 percent	11%
31-40 percent	6%
41-50 percent	7%
More than 50 percent	21%
Would never consider purchasing WC insurance	37%

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

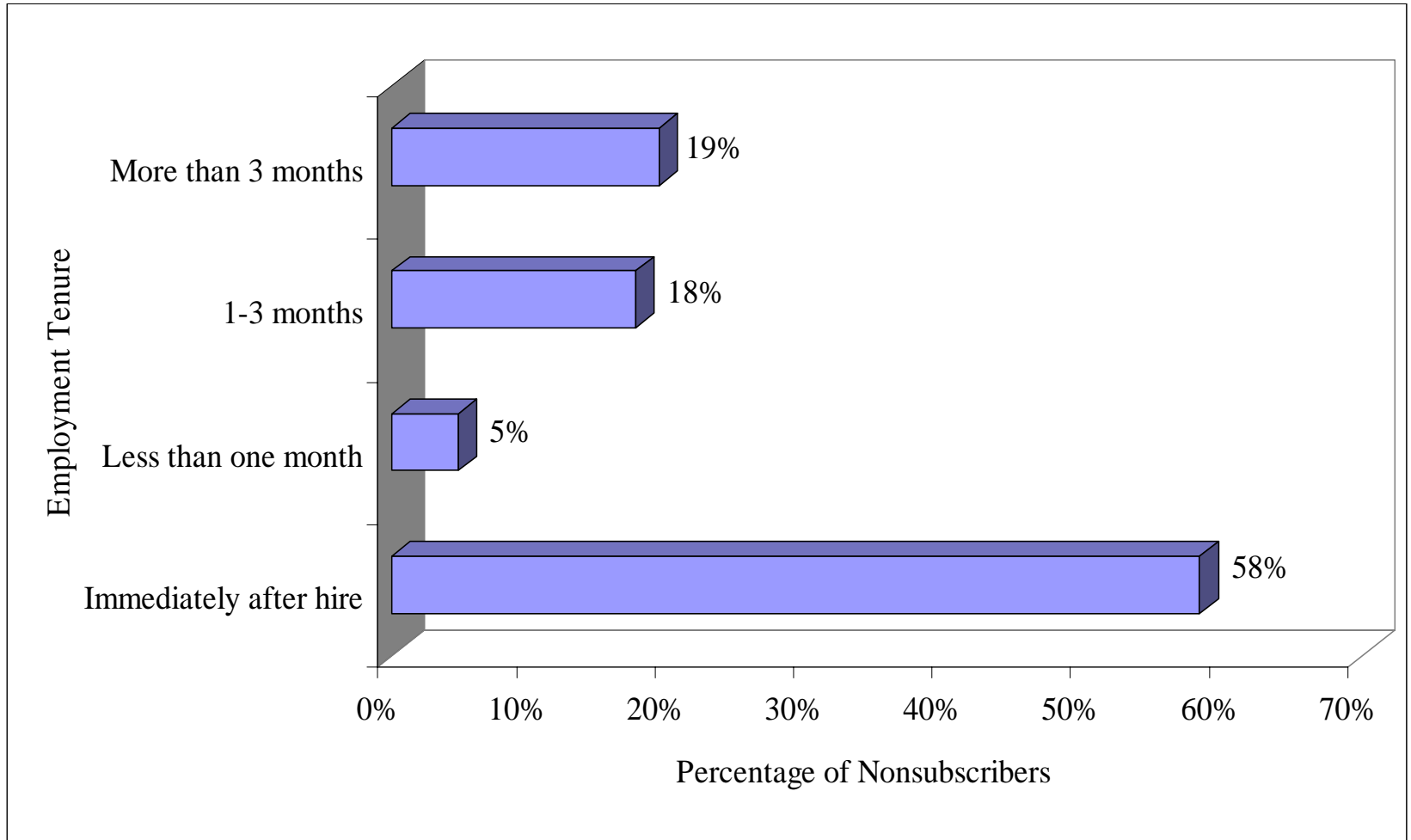
# Basic Information Regarding Benefits Provided by Nonsubscribers

# Percentage of Nonsubscribers That Pay Occupational Benefits and the Percentage of Nonsubscriber Workforce Covered by Occupational Benefit Plans, 2001 and 2004 Estimates



Source: Research and Oversight Council on Workers' Compensation and the Public Policy Research Institute (PPRI) at Texas A&M University, *Survey of Employer Participation in the Texas Workers' Compensation System*, 2001; and 2004 estimates from the Texas Department of Insurance Workers' Compensation Research Group and PPRI.

# Average Employment Tenure Required Before Employees Are Eligible to Receive Occupational Benefits if Injured



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

# Medical Benefits Paid by Nonsubscribers

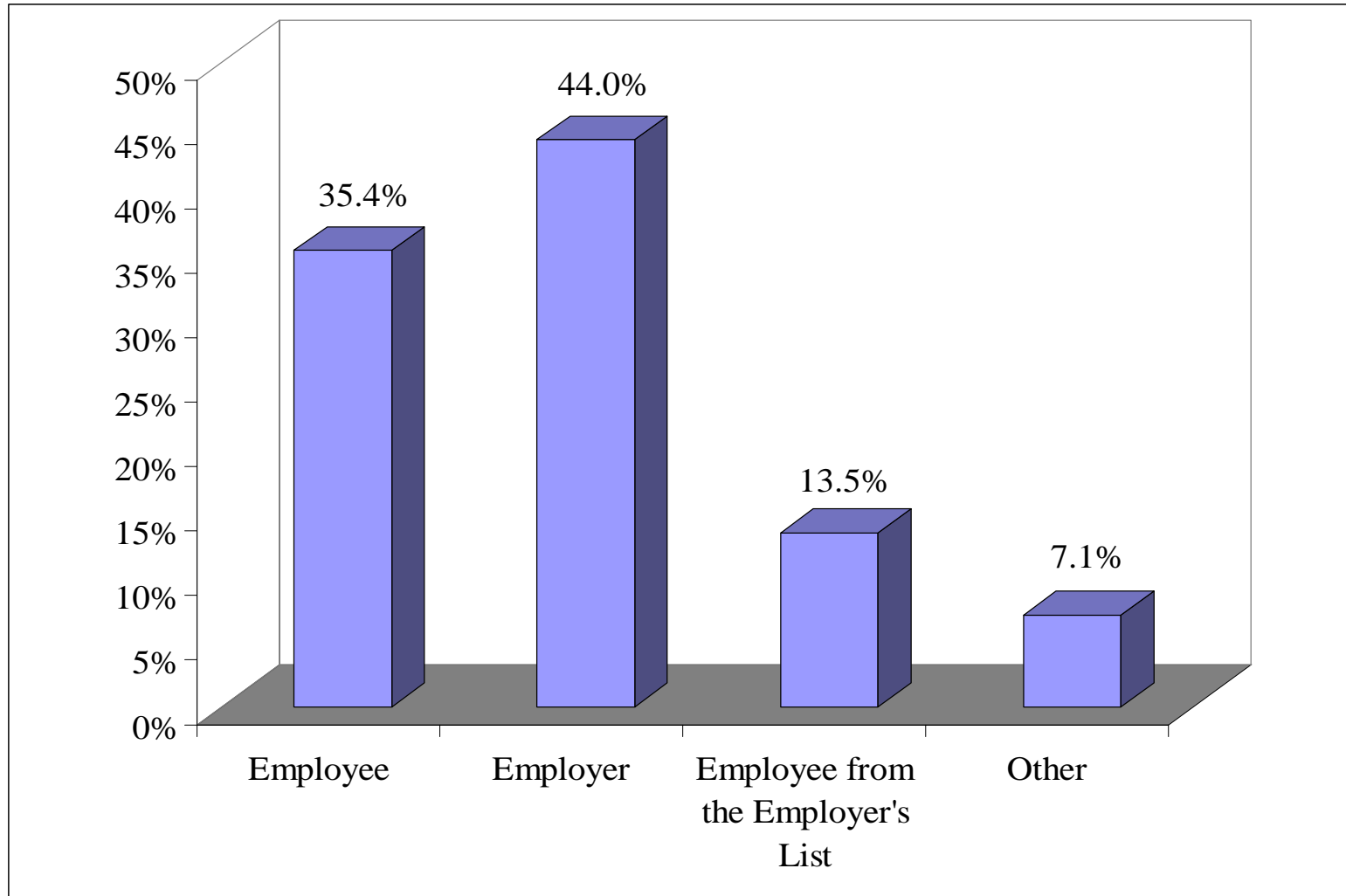
- Of those nonsubscribing employers that said they pay occupational injury benefits, 84 percent pay medical benefits
- Almost two-thirds (64 percent) of nonsubscribing employers that pay medical benefits said that they pay medical benefits for as long as medically necessary.
- Of those remaining nonsubscribing employers that cap medical benefits, 58 percent cap these benefits based on the amount of money spent on the medical treatment received by the injured employee, 32 percent cap these benefits based on the length of medical treatment provided to injured employees, and 9 percent use some other method.



# Medical Benefits Paid by Nonsubscribers

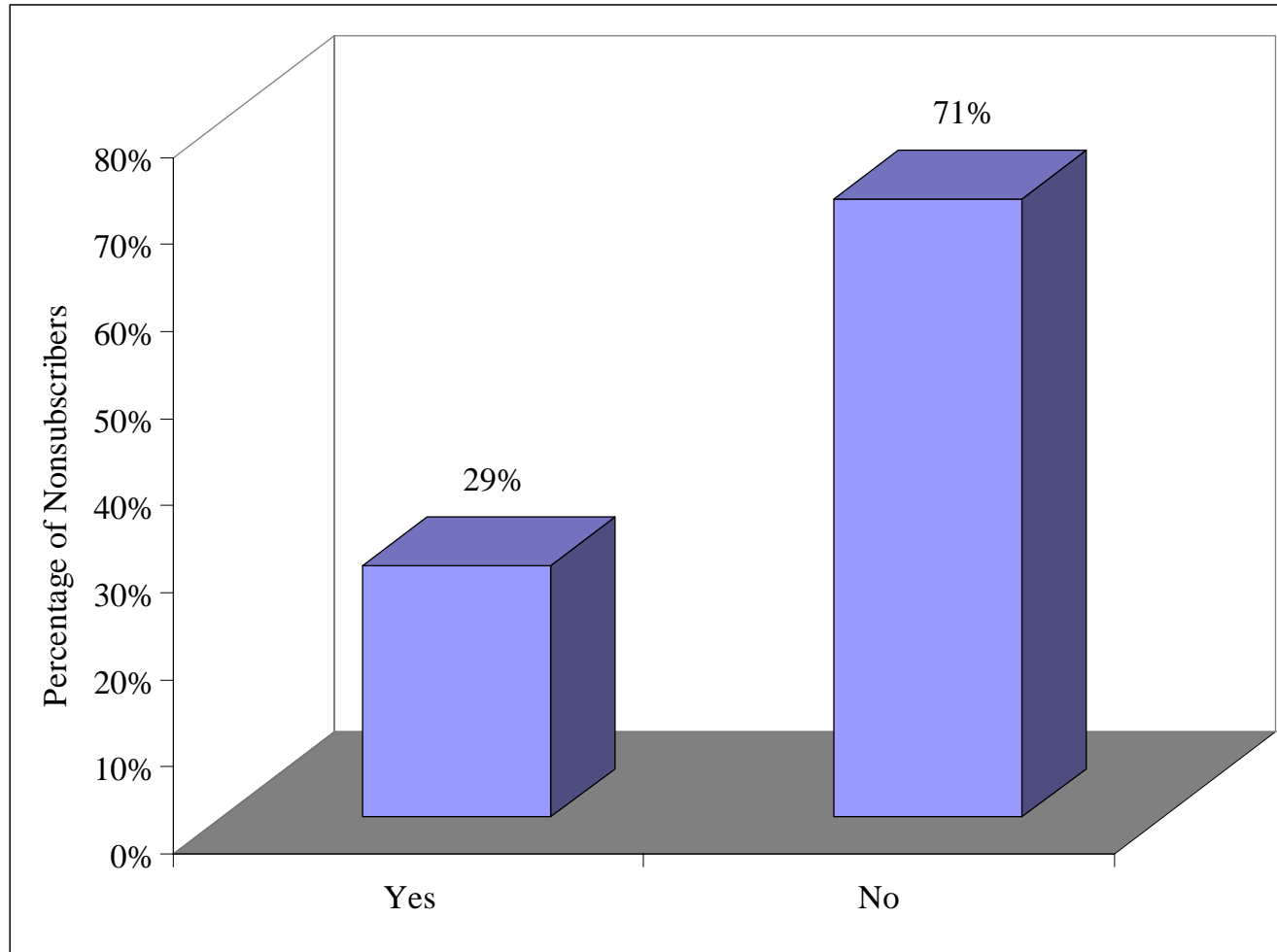
- For those employers that cap medical benefits based on the length of treatment:
  - 50% said they set this cap on a case by case basis;
  - 36% said the maximum cap is one year or less; and
  - 14% said the maximum cap is more than one year of medical treatment.
- For those employers that cap medical benefits based on the amount of money spent on medical treatment:
  - 49% said they set this cap on a case by case basis;
  - 46% said the maximum cap is \$50,000 or less; and
  - 5% said the maximum cap is more than \$50,000.

# Who selects the first health care provider?



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

# Is the injured employee responsible for paying a co-payment or deductible?



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

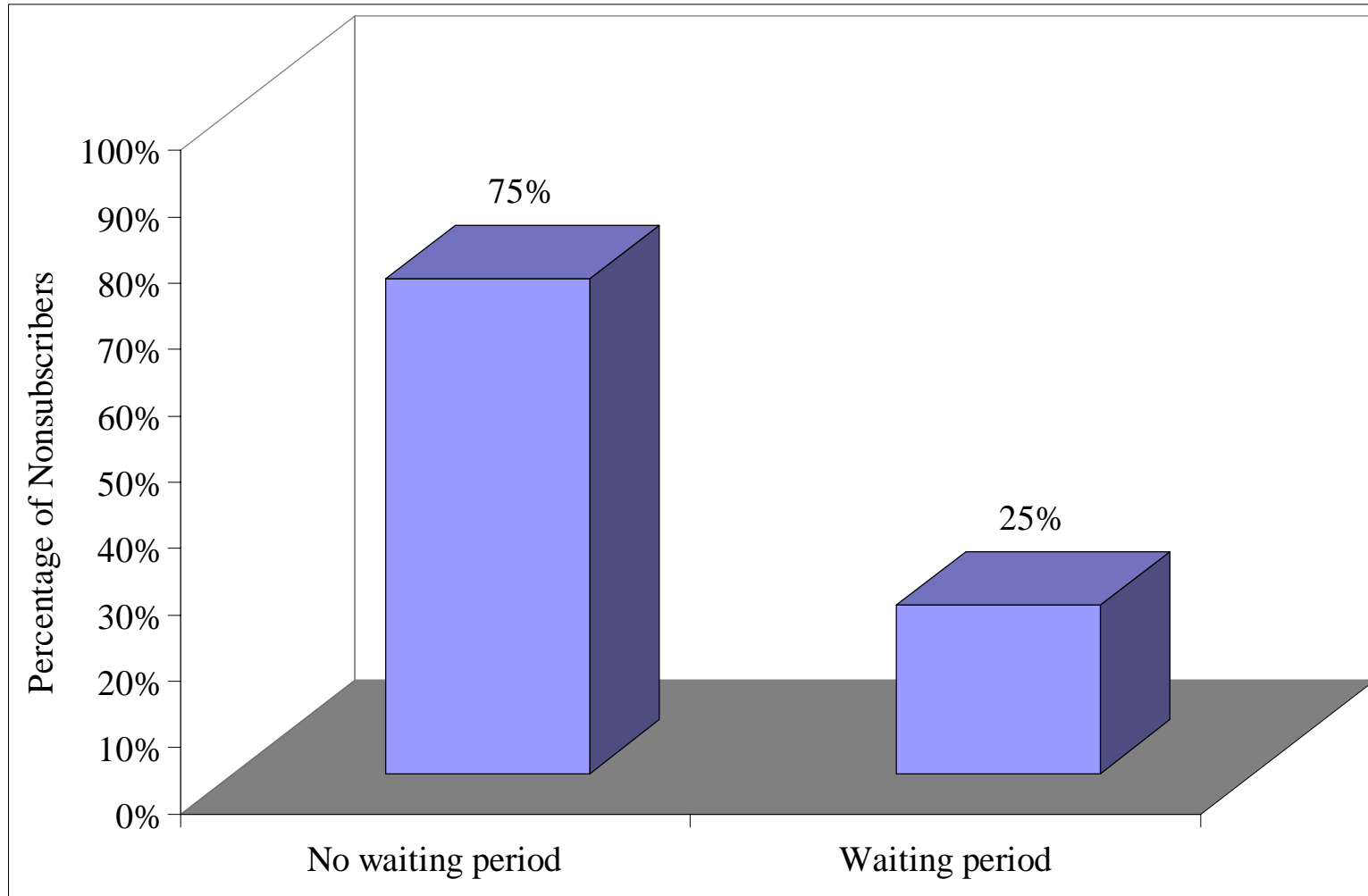
# Wage Replacement Benefits Paid by Nonsubscribers

- Of those nonsubscribing employers that said they pay occupational injury benefits, 69 percent said they pay wage-replacement benefits to injured employees.
- More than half (55 percent) of nonsubscribing employers said that they pay wage replacement benefits for the entire duration of an injured employee's lost time.
- Of those remaining nonsubscribing employers that cap wage replacement benefits, 53 percent cap these benefits based on a certain amount of time specified in the benefit plan, 30 percent cap these benefits based on the amount of money spent on the benefits paid to the injured employee, and 17 percent use some other method.

# Wage Replacement Benefits Paid by Nonsubscribers

- For those nonsubscribing employers that cap wage replacement benefits based on a certain amount of time specified in the benefit plan:
  - 6% said they set this cap on a case by case basis;
  - 68% said the maximum cap is one year or less; and
  - 26% said the maximum cap is more than one year of wage replacement benefits.
- For those nonsubscribing employers that cap wage replacement benefits based on a certain amount of money spent on the benefits paid to the injured employee:
  - 63% said they set this cap on a case by case basis;
  - 27% said the maximum cap is \$50,000 or less; and
  - 10% said the maximum cap is more than \$50,000.

# Is there a waiting period for wage replacement benefits?



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

# What is the waiting period for wage replacement benefits?

- 6% said they set this cap on a case by case basis;
- 12% said the waiting period is less than 7 days;
- 37% said the waiting period is 7 days; and
- 45% said the waiting period is more than 7 days.

# Use of Liability Waivers and Arbitration by Nonsubscribers



# Use of Liability Waivers by Nonsubscribers

- Overall, 6% of nonsubscribers said that they ask their employees to sign liability waivers, compared to 7% in 2001
- Despite the statutory prohibition of pre-injury waivers in 2001(HB 2600), 92% of nonsubscribers who said they used waivers, use pre-injury waivers.
- In 2004, 87% of nonsubscribers that currently use liability waivers said that if an employee signed a waiver, their benefits remained unchanged, compared to 76% in 2001.

# Use of Arbitration by Nonsubscribers

- Overall, 12.2% of nonsubscribers said that they ask their employees to sign an agreement stating that the employee will resolve disputes through arbitration
- 94% of nonsubscribers that use arbitration, ask their employees to sign these arbitration agreements pre-injury
- 38% said that an employee would not receive medical and/or wage replacement benefits if the employee did not agree to resolve disputes through arbitration

# Use of Arbitration by Nonsubscribers, *cont.*

- 85% of nonsubscribers that use arbitration, said that they do not require the injured employee to pay a fee to initiate an arbitration proceeding; however, for those that do require a fee, the fee is typically nominal
- Approximately 24% of employers with WC coverage said that they would be likely to drop WC coverage if they were allowed to require employees to use binding arbitration to resolve claim disputes
- An estimated 29% of the nonsubscriber workforce are employed by businesses that use either liability waivers or arbitration agreements

# Who generally serves as the arbiter in these disputes?

Types of Arbiters	% of Nonsubscribers That Use Arbitration
A member of the American Arbitration Association (AAA)	34.2%
A single employee who always serves as the company's arbiter	20.6%
A single employee, who is mutually agreed upon by the company and the injured employee	23.1%
A panel of employees, who are mutually agreed upon by the company and the injured employee	5.0%
Other	17.1%

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

# Satisfaction Levels of Subscribers and Nonsubscribers

# Percentage “Extremely” or “Somewhat” Satisfied: Subscribers vs. Nonsubscribers

- Overall Satisfaction:
  - Subscribers = 50%
  - Nonsubscribers = 61%
  
- Adequacy/equity of occupational benefits paid to workers:
  - Subscribers = 44%
  - Nonsubscribers = 52%

# Percentage “Extremely” or “Somewhat” Satisfied: Subscribers vs. Nonsubscribers

- Whether WC or occupational benefits plan is a good value for company:

Subscribers = 48%

Nonsubscribers = 65%

- Ability to manage medical and wage replacement costs:

Subscribers = 42%

Nonsubscribers = 61%

# Overall Satisfaction of Subscribers and Nonsubscribers by Employment Size



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



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