

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

Texas Department of Insurance
Workers' Compensation Research and Evaluation Group

February 2019

The Research and Evaluation Group

Under Texas Labor Code Chapter 405, the Workers' Compensation Research and Evaluation Group at the Texas Department of Insurance is responsible for conducting professional studies and research on various system issues, including:

- the delivery of benefits;
- litigation and controversy related to workers' compensation;
- insurance rates and rate-making procedures;
- rehabilitation and reemployment of injured employees;
- the quality and cost of medical benefits;
- employer participation in the workers' compensation system;
- employment health and safety issues; and
- other matters relevant to the cost, quality, and operational effectiveness of the workers' compensation system.

Information in this report can be provided in other formats by contacting the Texas Department of Insurance.

For more information, email WCResearch@tdi.texas.gov

This report is available online at www.tdi.texas.gov/wc/regulation/roc

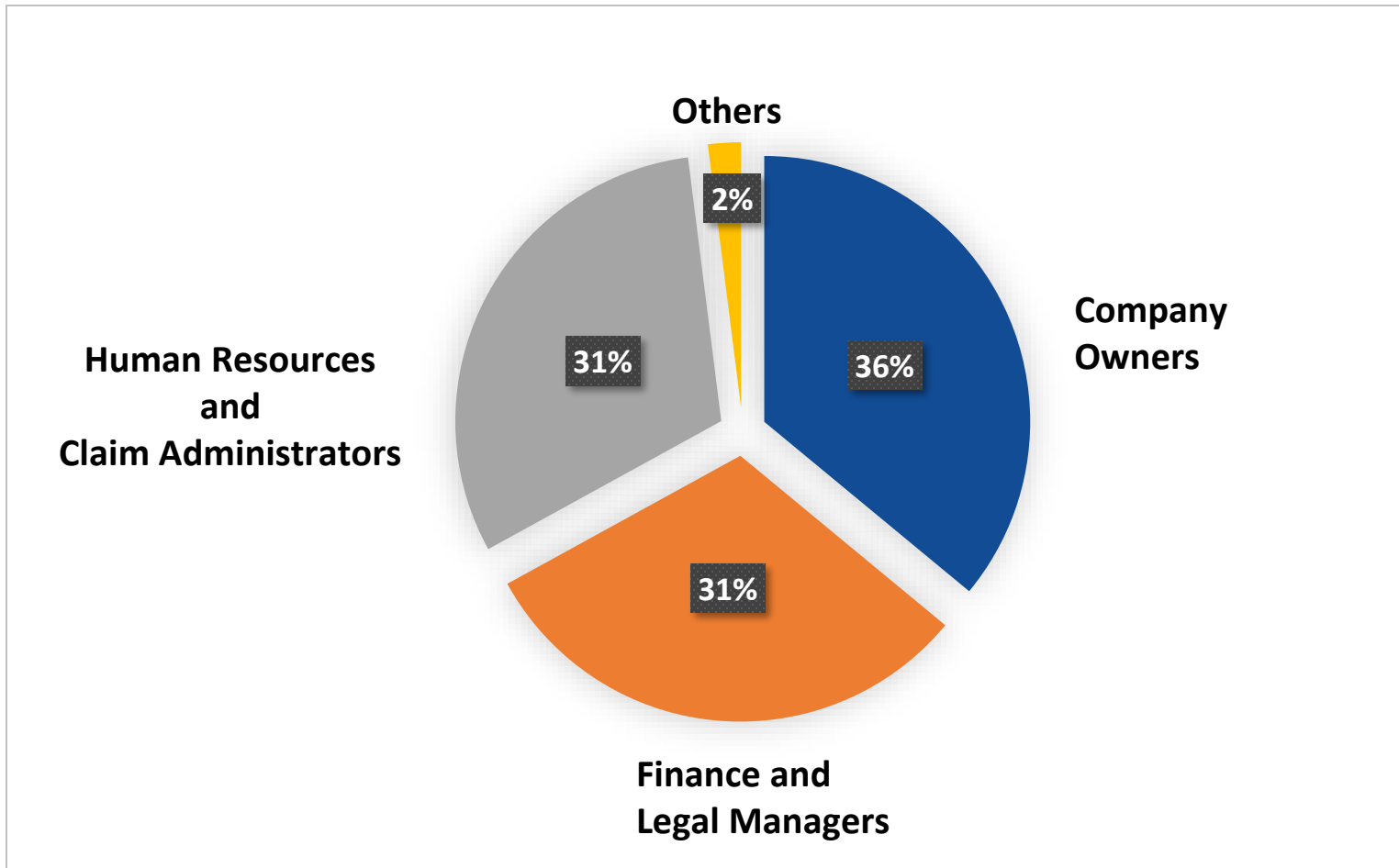
Brief History of Non-Subscription in the Texas Workers' Compensation System

- Private-sector employers have been allowed the option of whether to purchase workers' compensation insurance since 1913.
- Texas is the only state that allows private-sector employers the option of not purchasing workers' compensation insurance or becoming “non-subscribers” to the state system.
- Several states' laws have numerical exceptions that allow small private-sector employers to be “non-subscribers.”
- The first study in Texas to estimate the percentage of employers that are “non-subscribers” to the Texas workers' compensation system was conducted in 1993 with 11 follow-up studies between 1995 and 2018.

Survey Sample and Administration

- The Workers' Compensation Research and Evaluation Group (REG) pulled a random probability sample (stratified by industry and employment size) of Texas employers from Texas Workforce Commission data. They also designed the survey instrument.
- The Public Policy Research Institute at Texas A&M University completed 2,377 interviews with year-round private-sector Texas employers during June – September 2018, 1,711 of which were subscribers and the remaining 666 were non-subscribers.
- REG analyzed the survey data, calculated the estimates, and reported the results.
- Employer non-subscription estimates have a +/- 2.5 percent margin of error at the 95 percent confidence interval.

Survey Respondents Percentage by Company Position: 2018



Note: Based on 2,377 completed interviews of Texas private sector employers during June – September 2018.

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

Executive Summary

- Overall, the employer subscription rate fell from 78 percent in 2016 to 72 percent in 2018, but these two years remain the highest subscription rates since 1993.
- The percentage of Texas private-sector employees working for subscribers remained stable at 82 percent.
- In 2018, non-subscription rates increased among small employers and remained stable among large employers.
- The primary reasons subscribers say they buy workers' compensation coverage are the ability to provide medical care to injured employees through networks and the lower premium rates.
- The primary reasons non-subscribers say they do not buy workers' compensation coverage were that they had too few employees and few on-the-job injuries.
- Among large subscribers in 2018, the percentage that experienced premium decreases was the highest in eight years, the percentage that experienced increases was the lowest in eight years, and the percentage with unchanged premiums increased by 4 percent from 2016.

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

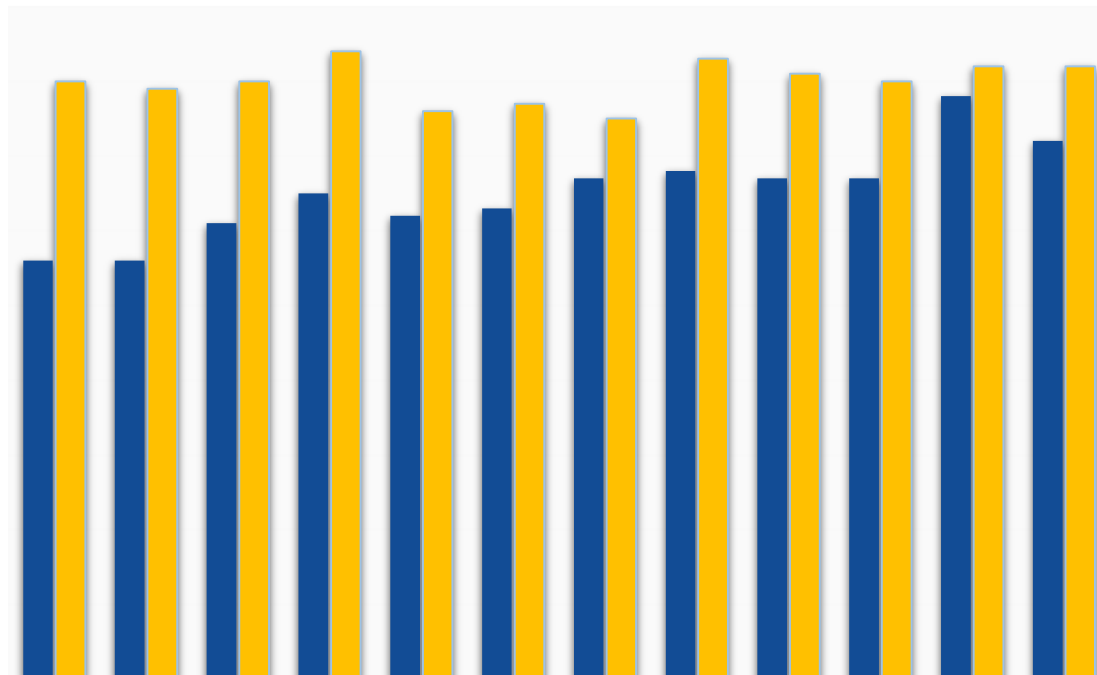
Executive Summary (Continued)

- Overall, Texas non-subscribers report higher levels of satisfaction than subscribers.
- An estimated 64 percent of employees employed by non-subscribers are covered by non-subscriber alternative occupational benefit plans that pay either medical or wage benefits, or both to injured employees.
- Generally, more than 45 percent of Texas non-subscribers say they are extremely or somewhat knowledgeable about the workers' compensation reporting requirements.

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

Overall Subscription Estimates

Percentage of Texas Private-Sector Employers That Are Subscribers and Texas Employees Employed by Subscribers: 1993-2018

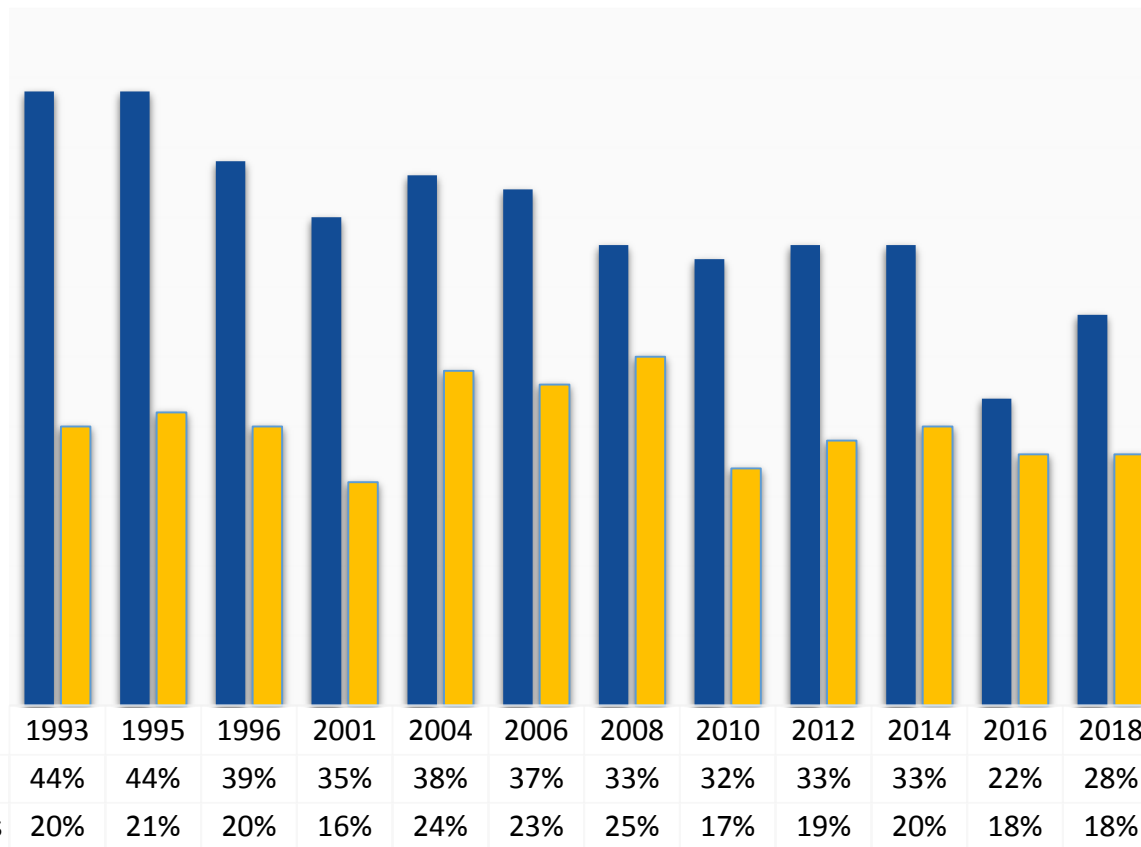


The 2016 and 2018 employer subscription rates were the highest since 1993.

	1993	1995	1996	2001	2004	2006	2008	2010	2012	2014	2016	2018
■ Employers	56%	56%	61%	65%	62%	63%	67%	68%	67%	67%	78%	72%
■ Employees	80%	79%	80%	84%	76%	77%	75%	83%	81%	80%	82%	82%

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

Percentage of Texas Private-Sector Employers That Are Non-Subscribers and Texas Employees Employed by Non-Subscribers: 1993-2018



The 2016 and 2018 employer non-subscription rates were the lowest since 1993.

■ Employers ■ Employees

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

Percentage of Texas Private-Sector Employees Employed by Subscribers and Non-Subscribers: 1993-2018



The percentage of employees employed by subscribers has been consistently 80 percent or more since 2010.

	1993	1995	1996	2001	2004	2006	2008	2010	2012	2014	2016	2018
■ Non-subscribers	20%	21%	20%	16%	24%	23%	25%	17%	19%	20%	18%	18%
■ Subscribers	80%	79%	80%	84%	76%	77%	75%	83%	81%	80%	82%	82%

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 - 2018 estimates from the Texas Department of Insurance Workers' Compensation Research and Evaluation Group and PPRI.

Percentage of Texas Private-Sector Employers That Are Non-Subscribers by Employment Size: 1995-2018

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

Percentage of Texas Private-Sector Employers That Are Non-Subscribers by Industry: 2004-2018

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

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

Reasons for Purchasing and for not Purchasing Workers' Compensation Coverage

Most Frequent Reasons Non-Subscribers Gave for Not Purchasing Workers' Compensation Coverage: 2006 - 2018

Primary Reasons Given by Surveyed Employers	Percentage of Non-Subscribing Employers						
	2006	2008	2010	2012	2014	2016	2018
Workers' compensation insurance premiums were too high	35%	26%	32%	15%	17%	18%	19%
Employer had too few employees	21%	26%	25%	17%	21%	26%	24%
Employers not required to have workers' compensation insurance by law	9%	11%	13%	17%	19%	24%	17%
Medical costs in the workers' compensation system were too high	4%	4%	5%	10%	16%	6%	11%
Employer had few on-the-job injuries	9%	9%	12%	17%	20%	18%	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 and Evaluation Group, 2018.

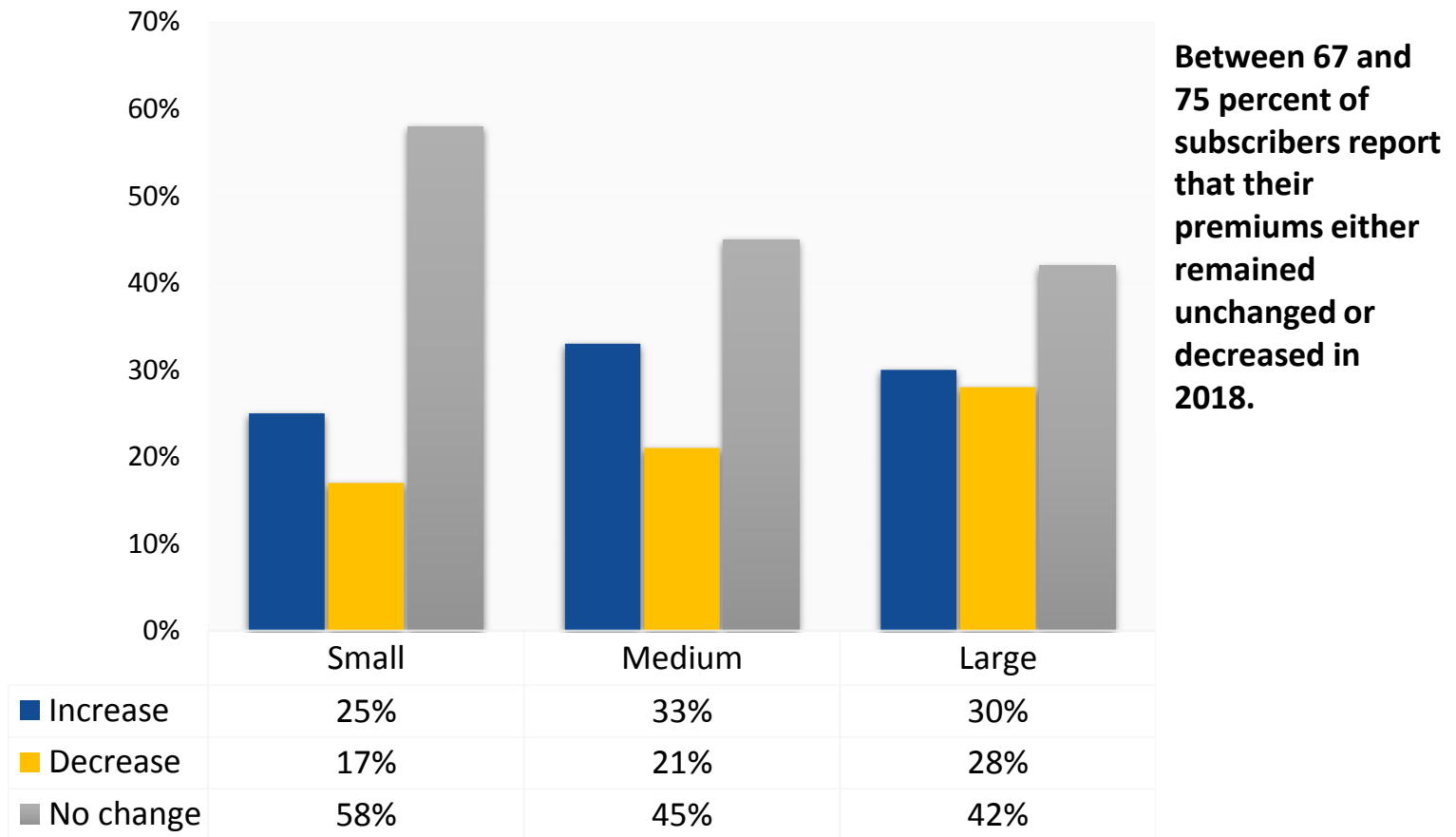
Most Frequent Reasons Subscribing Employers Gave for Purchasing Compensation Coverage: 2006 - 2018

Primary Reasons Given by Surveyed Employers	Percentage of Subscribing Employers						
	2006	2008	2010	2012	2014	2016	2018
Employer thought having workers' compensation was required by law	22%	25%	22%	19%	22%	20%	17%
Employer was able to provide injured employees with medical care through a workers' compensation health care network	20%	24%	27%	20%	22%	25%	20%
Employer was concerned about lawsuits	20%	14%	18%	21%	20%	20%	18%
Employer needed workers' compensation coverage in order to obtain government contracts	6%	3%	6%	9%	10%	11%	9%
Workers' compensation insurance rates were lower	N/A	2%	2%	11%	10%	10%	21%

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

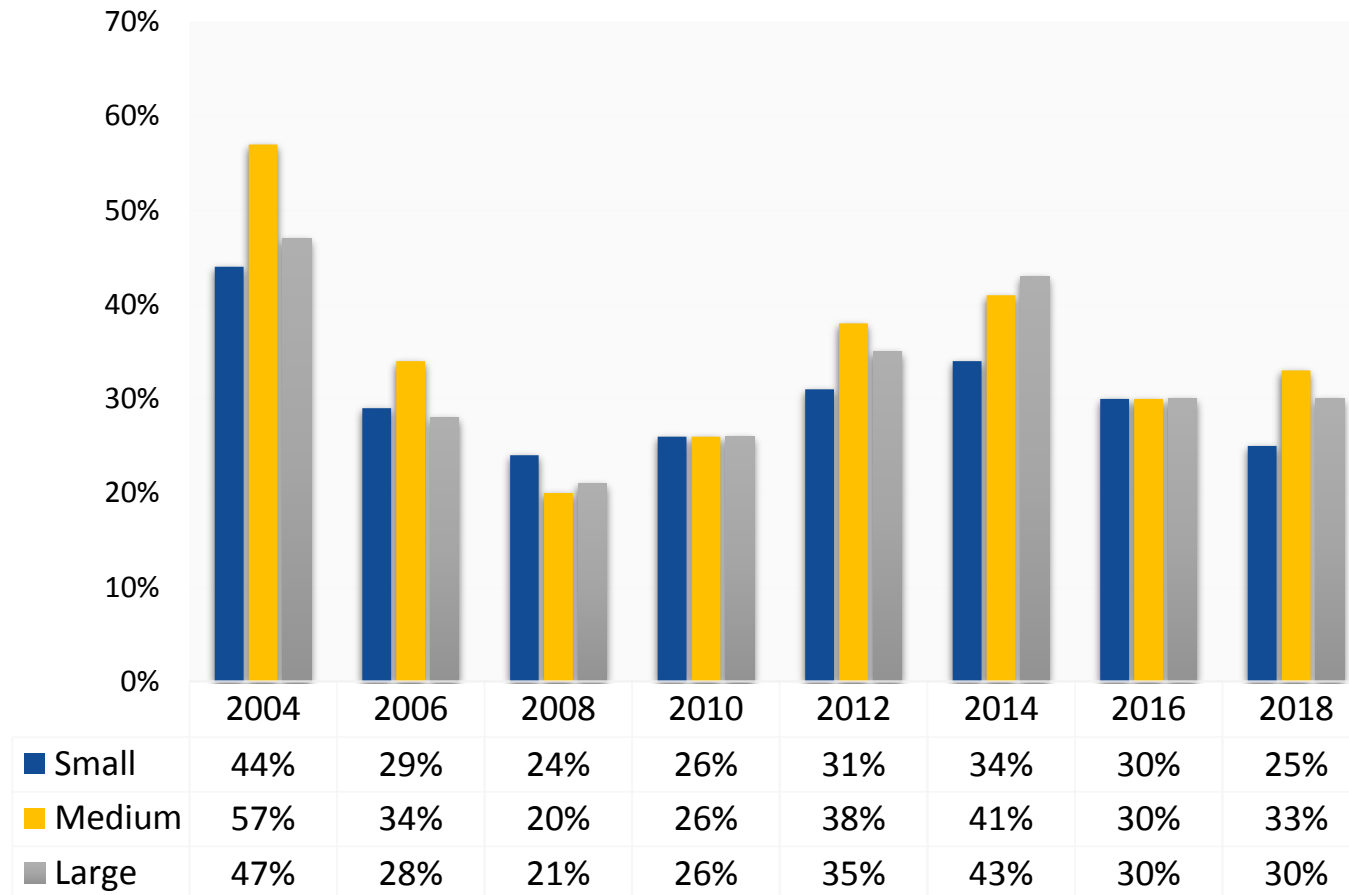
Employers' Experiences with Workers' Compensation Insurance Premiums

Percentage of Subscribers that Experienced an Increase, Decrease, or No Change in their Premium by Employer Size: 2018



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

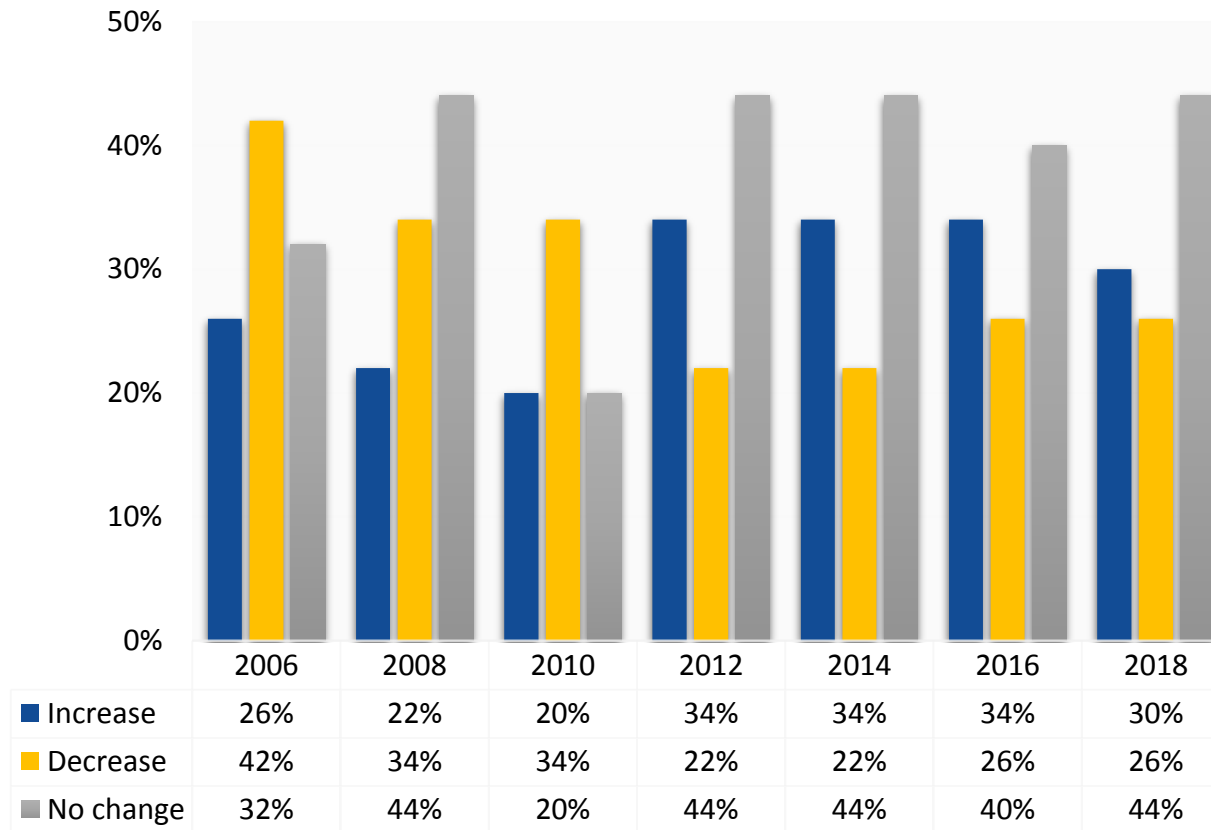
Percentage of Subscribing Employers that Experienced an Increase in Workers' Compensation Premiums Compared to Previous Policy Years by Employer Size: 2018



Among subscribers that experienced premium increases in 2018, the percentage of small employers decreased, the percentage of medium employers increased, and the percentage of large employers remained unchanged from 2016.

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

Percentage of Large Subscribers (500+ Employees) That Experienced a Premium Increase, Decrease, or No Change: 2006-2018



Among large subscribers in 2018, the percentage that experienced premium decreases was the highest in eight years, the percentage that experienced increases was the lowest in eight years, and the percentage with unchanged premiums increased by 4 percent from 2016.

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

Satisfaction Levels of Subscribers and Non-Subscribers

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

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

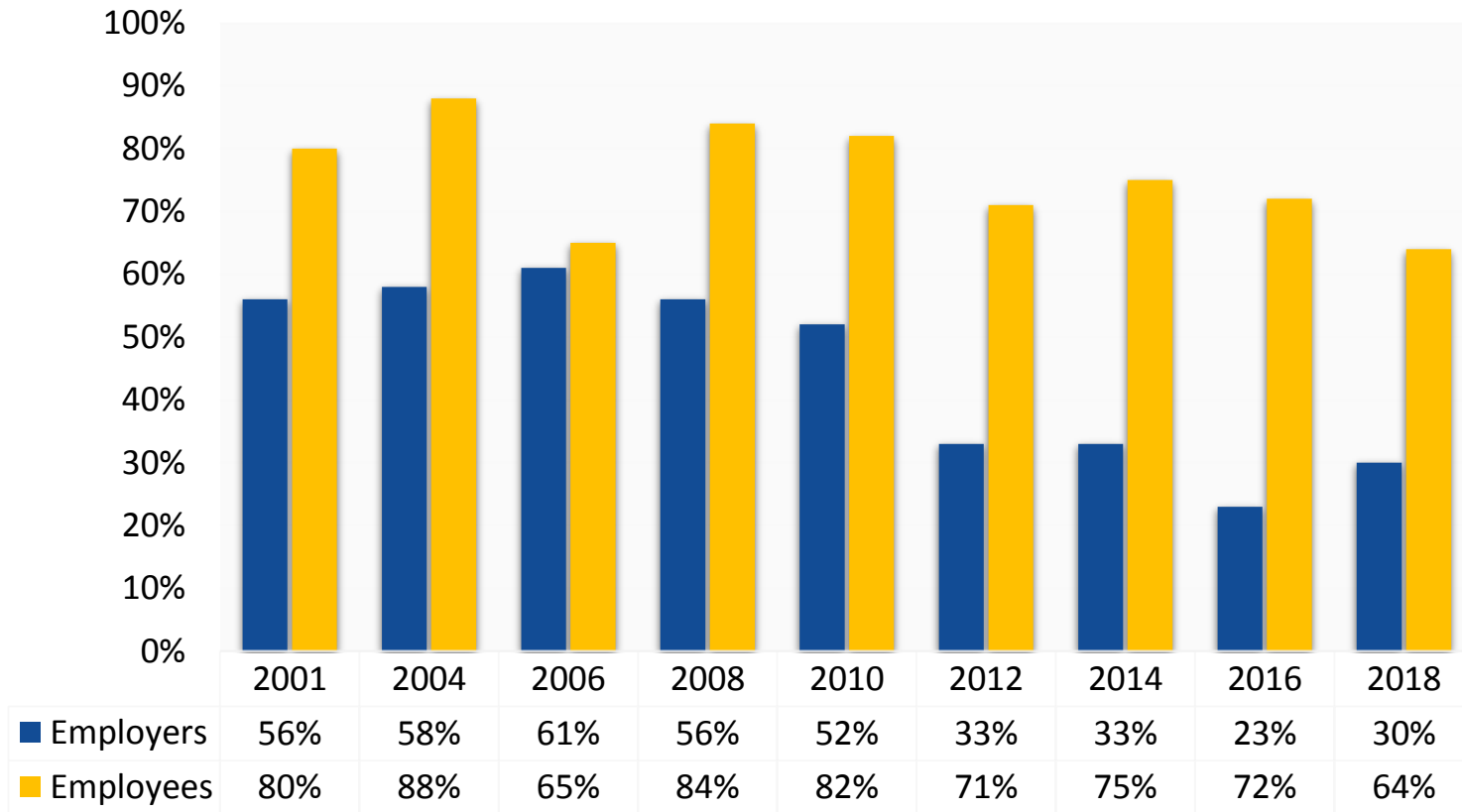
Non-subscribers generally express higher levels of satisfaction than subscribers.

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

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

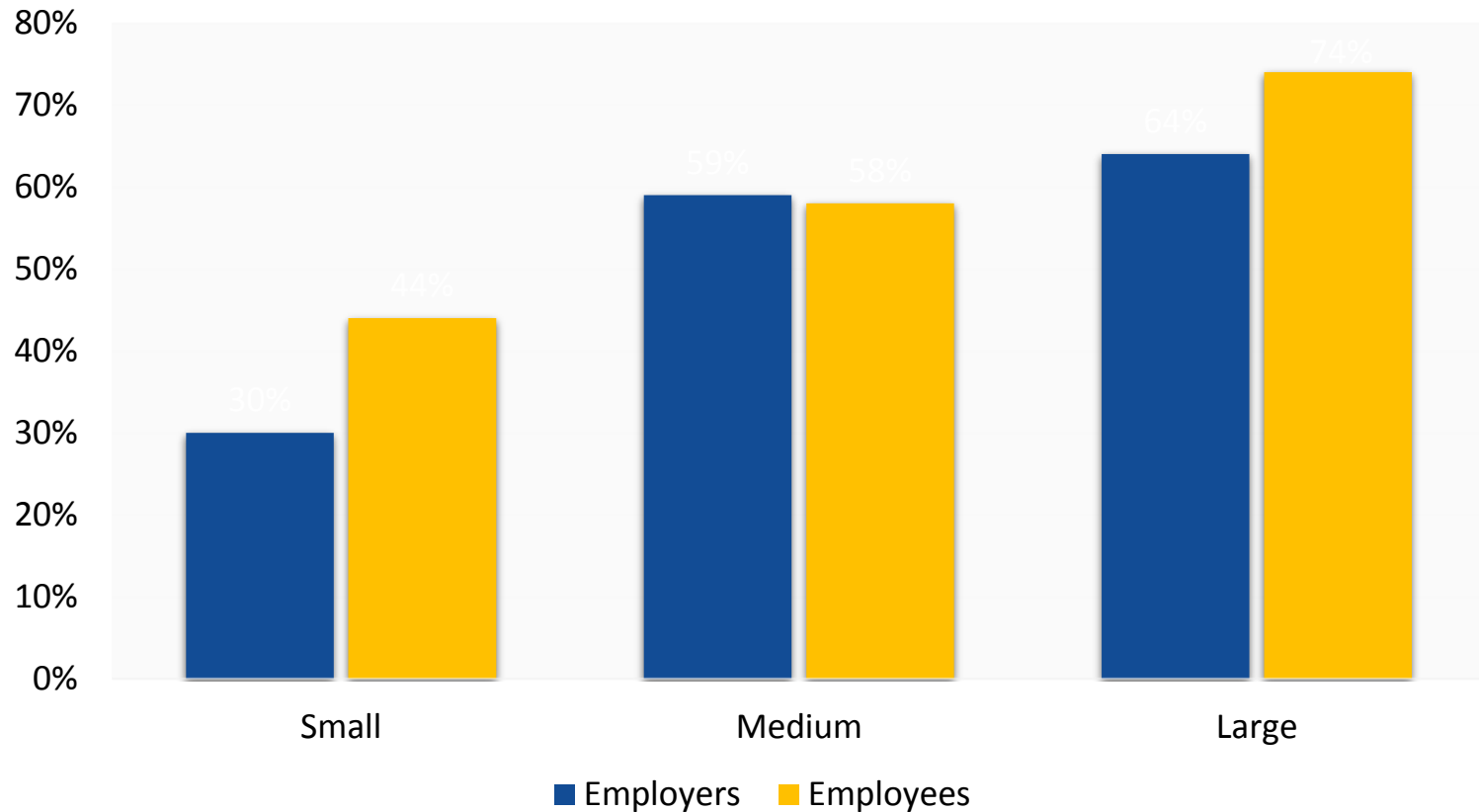
Non-Subscriber Alternative Occupational Benefit Plans

Percentage of Non-Subscribers That Pay Occupational Benefits and Non-Subscriber Employees Covered by Occupational Benefit Plans: 2001 – 2018 Estimates



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

Percentage of Non-Subscribers That Pay Occupational Benefits and Non-Subscriber Employees Covered by Occupational Benefit Plans by Employer Size: 2018 Estimates



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

Estimated Number (%) of Private-Sector Employers and Employees by Subscription Status: 2014-2018

Employers	Subscribers			Non-Subscribers		
	2014	2016	2018	2014	2016	2018
Number and Percentage of Texas Private-Sector Employers	238,000 (67%)	285,000 (78%)	267,000 (72%)	119,000 (33%)	82,200 (22%)	105,608 (28%)
Number and Percentage of Non-Subscribers with Alternative Plans	N/A	N/A	N/A	39,270 (33%)	18,906 (23%)	31,682 (30%)
Number and Percentage of Non-Subscribers Without Alternative Plans	N/A	N/A	N/A	79,730 (67%)	63,294 (77%)	73,926 (70%)
Employees						
Number and Percentage of Texas Private-Sector Employees	7.7 million (80%)	8.1 million (82%)	8.4 million (82%)	1.9 million (20%)	1.8 million (18%)	1.8 million (18%)
Number and Percentage of Non-Subscriber Employees Covered in Non-Subscriber Alternative Plans	N/A	N/A	N/A	1.4 million (75%)	1.3 million (72%)	1.2 million (64%)
Number and Percentage of Non-Subscriber Employees Without Non-Subscriber Alternative Plans	N/A	N/A	N/A	0.5 million (25%)	0.4 million (28%)	0.6 million (36%)

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

Non-Subscriber Alternative Occupational Benefit Plans: 2018

- When asked if their company had one or more work-related injuries within the last 12 months, **4 percent of non-subscribers said “yes.”**
- When asked if their company pays medical, wage replacement, or other types of benefits to employees injured on-the-job, **30 percent of non-subscribers said “yes.”**
- When non-subscribers with alternative occupational benefit plans were asked who administers the injured employees’ claims in their company, **68 percent said an employee, 16 percent said the company owner, and 11 percent said a third party administrator.**

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

Non-Subscribers Alternative Occupational Benefit Plans with Exclusions: 2018

Exclusions for Which the Non-Subscriber Benefit Plan <u>Does Not</u> Provide Coverage	Non-Subscribers with Alternative Plans
Chiropractic care	18%
Acupuncture	19%
Medical services or supplies which are experimental and investigational	14%
Injuries and deaths resulting from acts of foreign terrorism	8%
Other exclusions*	41%

Note *: Other exclusions include: travel reimbursement if the injured employee must travel to receive medical care; specific injury conditions such as occupational diseases or repetitive trauma; injured employee choice of doctor; injuries not reported on the same day they occurred; and injuries and deaths resulting from workplace violence.

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

Non-Subscribers Alternative Occupational Benefit Plans Reporting Requirements: 2012-2018

Injured Employee Reporting Requirements for Non-Subscribers Who Pay for Occupational Injury Benefits	Percent of All Non-Subscribers			
	2012	2014	2016	2018
Immediately/Same day	62%	64%	66%	61%
Within 24 hours/Next Day	24%	25%	19%	28%
Other (includes timeframes within 2 to 60 days)	14%	11%	15%	11%

Note: Approximately 30 percent of non-subscribers provide occupational injury benefits. They were asked how soon after an employee has been injured must he or she report the injury to be eligible for 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 and Evaluation Group, 2018.

Medical Benefits Paid by Non-Subscribers: 2018

Of the 30 percent of non-subscribers that say they provide occupational injury benefits:

- 80 percent said they pay medical benefits for as long as they are medically necessary. This compares to 70 percent in 2016.
- 20 percent cap medical benefits based on the duration of treatment or amount of money spent on medical treatments or both. This compares to 30 percent in 2016.

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

Wage Replacement Benefits Paid by Non-Subscribers: 2018

Of the 30 percent of non-subscribers that say they provide occupational injury benefits:

- About 54 percent (55 percent in 2016) said they pay wage replacement benefits. This represents about 16 percent of all non-subscribers.
- Approximately 57 percent (55 percent in 2016) of non-subscribers who pay wage replacement benefits said their injured employees are immediately compensated for lost wages.
- The remaining 43 percent said there is a waiting period before wage replacement benefits begin:
 - 1-7 days (13 percent)
 - 8 + days (3 percent)
 - case by case (27 percent)

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

Wage Replacement Benefits Paid by Non-Subscribers: 2018

Of those non-subscribers that pay wage replacement benefits (16 percent of all non-subscribers):

- 79 percent said they pay wage replacement benefits based on the duration of lost time.
- 21 percent said their wage replacement benefits are capped by an amount of time specified in their benefit plan or the dollar amount of the benefits paid to the employee.
- 21 percent also have income benefits separate from wage replacement benefits for permanent physical impairments.
- 26 percent pay accidental death, dismemberment, or other benefits for serious injuries.
- 90 percent said wage replacement benefits are reduced by federal income taxes and social security taxes.

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

Non-Subscribers with Death and Burial Benefits: 2014-2018

Types of Death and Burial Benefits	Percent of the Non-Subscribers with Death and Burial Benefits		
	2014	2016	2018
Death benefits paid to the deceased employee's spouse	60%	70%	75%
Death benefits paid to the deceased employee's dependent children	42%	42%	54%
Death benefits paid to other beneficiaries (grandchildren, non-dependent parents)	29%	14%	22%
Benefit plan covers burial benefits to help pay burial expenses	37%	55%	51%

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

How Non-Subscribers with Permanent Impairment Income Benefits Pay Those Benefits: 2014-2018

How Non-Subscribers Pay Permanent Impairment Income Benefits	Percent of the Non-Subscribers with Permanent Impairment Income Benefits (see slide #32)		
	2014	2016	2018
Lump sum payments	34%	29%	36%
Installment payments over specified period of time	45%	52%	55%
Other (for example, settlement agreement with release of liability)	21%	19%	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 and Evaluation Group, 2018.

How Non-Subscribers with Alternative Benefits Plans Finance Occupational Benefits to Injured Employees: 2014-2018

Primary Ways Non-Subscribers Finance Benefits for On-the-Job Injuries	Percent of the Non-Subscribers with Alternative Benefit Plan (30% of all non-subscribers)		
	2014	2016	2018
Through a special account that is self-funded and supplemented with non-subscriber insurance, including excess indemnity insurance, standard occupational accident insurance, or some other alternative occupational benefits insurance	32%	29%	22%
Using the non-subscriber's group health insurance	13%	15%	26%
Through a special account that is self-funded exclusively by your company and not supplemented with non-subscriber insurance	22%	27%	20%
Other (company's account, sick leave, cash, savings plan between company and employee, etc.)	33%	29%	32%

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

Use of Arbitration Agreements by Non-Subscribers

Use of Arbitration by Non-Subscribers in 2018

- Overall, 15 percent of non-subscribers said that they ask their employees to sign an agreement stating that the employee will resolve disputes through arbitration.
- About 49 percent of large non-subscribers use arbitration agreements.
- Approximately 86 percent of non-subscribers that use arbitration ask their employees to sign arbitration agreements when the employee is first hired (pre-injury).

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

Use of Arbitration by Non-Subscribers in 2018

- About 32 percent of non-subscribers that use arbitration agreements said that an employee **would not receive medical and wage replacement benefits** if the employee did not agree to resolve disputes through arbitration.
- An estimated 68 percent of non-subscribers that use arbitration said an injured employee can **continue to receive benefits** even if the employee **does not agree** to resolve any disputes that arise from the work-related injury through mediation or arbitration.
- Overall, 63 percent of non-subscribers that use arbitration said an employee can **still be employed** by the company even if the employee **does not agree** to resolve any disputes that arise from the work-related injury through mediation or arbitration.
- About 35 percent of the non-subscribers that use arbitration agreements said they require the employee to **pay all or a portion** of the arbitration costs.

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

Employers' Knowledge About Workers' Compensation Reporting Requirements

Non-Subscribers' Knowledge About Workers' Compensation Reporting Requirements: 2018

Employers' Knowledge	Percent of all Employers Surveyed					
	Not at all knowledgeable		Somewhat knowledgeable		Extremely knowledgeable	
	2016	2018	2016	2018	2016	2018
All employers <u>without</u> workers' compensation insurance coverage must notify the Division of Workers' Compensation about their coverage status by filing the DWC Form-005.	56%	50%	30%	32%	14%	18%
Employers <u>without</u> workers' compensation insurance coverage with at least 5 employees must report <u>all</u> work-related deaths, occupational diseases, and injuries resulting in at least one day of lost time to the Division of Workers' Compensation by filing the DWC Form-007.	58%	51%	28%	32%	14%	16%

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



TEXAS DEPARTMENT OF INSURANCE

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