



Employer Participation in the Texas Workers' Compensation System

2022 Estimates



**Workers' Compensation
Research &
Evaluation Group**

Texas Department of Insurance, Division of Workers' Compensation
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**Division of Workers'
Compensation**

Per Chapter 405 of the Texas Labor Code, 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:

- Delivery of benefits.
- Litigation and controversy related to workers' compensation.
- Insurance rates and rate-making procedures.
- Rehabilitation and reemployment of injured employees.
- Quality and cost of medical benefits.
- Employer participation in the workers' compensation system.
- Workplace health and safety issues.
- Other matters related to the cost, quality, and operational effectiveness of the workers' compensation system.

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Acknowledgments

The Workers' Compensation Research and Evaluation Group would like to thank Dr. Kirby Goidel and the staff at the Texas A&M University, Public Policy Research Institute for successfully administering the employer participation survey.

Conrado Garza managed the project, conducted the analyses, converted statistical results into tabular and graphical output, and interpreted the results. Botao Shi and Hari Luintel provided valuable editorial comments.

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Introduction

Texas enacted the first workers' compensation laws in 1913, and since then, Texas has held fast to the principle that employers should be allowed to choose whether or not to offer workers' compensation to their employees. While private employers can choose to provide coverage, public-sector employers are required to provide it.

Workers' compensation pays for the medical treatment of a work-related injury or illness and replaces some of an employee's lost wages. Businesses that do provide coverage are called "subscribers." Those that do not are called "non-subscribers."

The first study in Texas to estimate the percentage of employers that are "non-subscribers" to the Texas workers' compensation system was done in 1993.

Survey Sample and Data Methods

The Texas Department of Insurance, Division of Workers' Compensation's Research and Evaluation Group designed the survey and pulled a random sample (by industry and employment size) of Texas employers from Texas Workforce Commission data. The Public Policy Research Institute at Texas A&M University completed 1,619 interviews with these year-round private-sector Texas employers.

Key Findings

Employer subscription rate: The employer subscription rate increased to 75% in 2022 from 72% in 2018.

Employees working for subscribers: The share of employees that work for subscribers increased to 83%, the highest in 12 years.

Employer size: Subscription rates among small employers decreased while staying stable for large employers.

Industry with largest subscription rates: Mining/Utilities/Construction

Reasons for not subscribing: The most common reason non-subscribers gave for not having workers' compensation coverage was that they had too few employees.

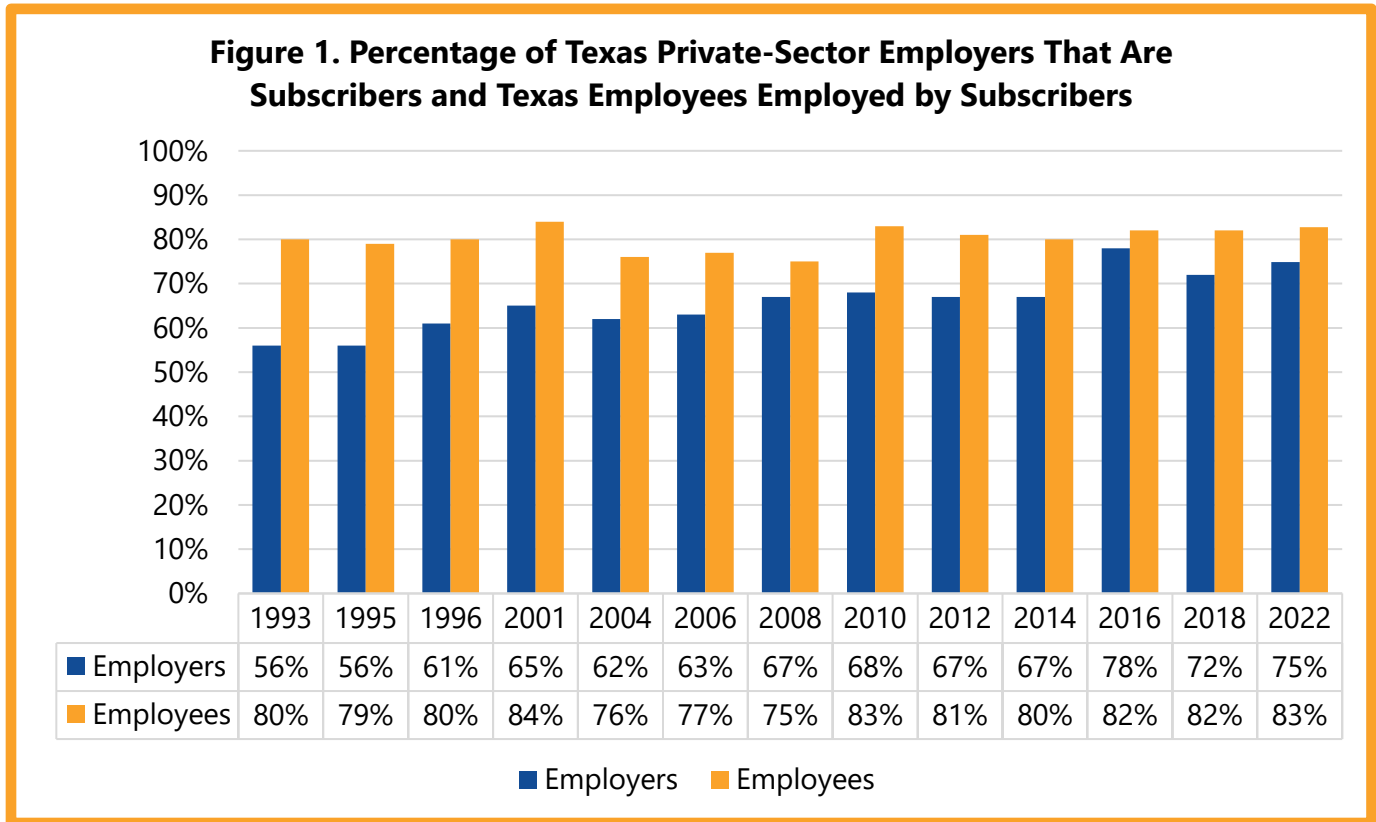
Alternative plans: Thirty percent of non-subscriber employers provided occupational benefits plans in 2022. This percentage has been relatively stable since 2012. Seventy-three percent of non-subscriber employees are covered by an occupational benefit plan in 2022. Alternative occupational benefit plans are benefit plans developed by non-subscribers (in-house or outsourced) that pay medical, wage replacement, or other types of benefits to employees injured on-the-job. These plans are not regulated by the Texas Department of Insurance, Division of Workers' Compensation.

Reporting knowledge: About half of non-subscribers said that they are extremely or somewhat knowledgeable about workers' compensation reporting requirements.

Overall Subscription Estimates

Subscription Rates

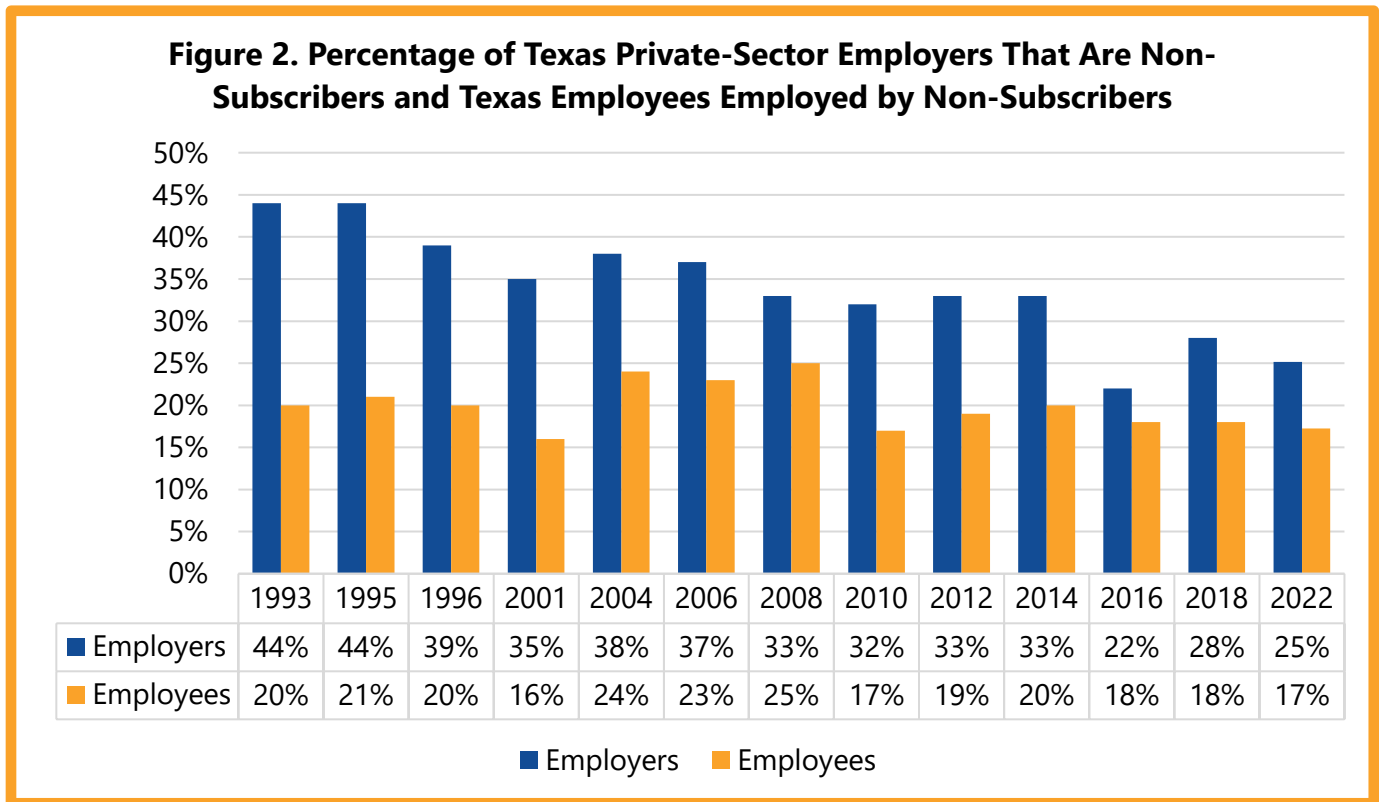
Figure 1 shows that the percentage of Texas employers that are workers' compensation subscribers and the percentage of employees who work for a subscriber both increased in 2022. The employer subscription rate increased three percentage points to 75% in 2022 and the percentage of employees working for subscribers (83%) was the highest in 12 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 and Evaluation Group, 2022.

Non-Subscription Rates

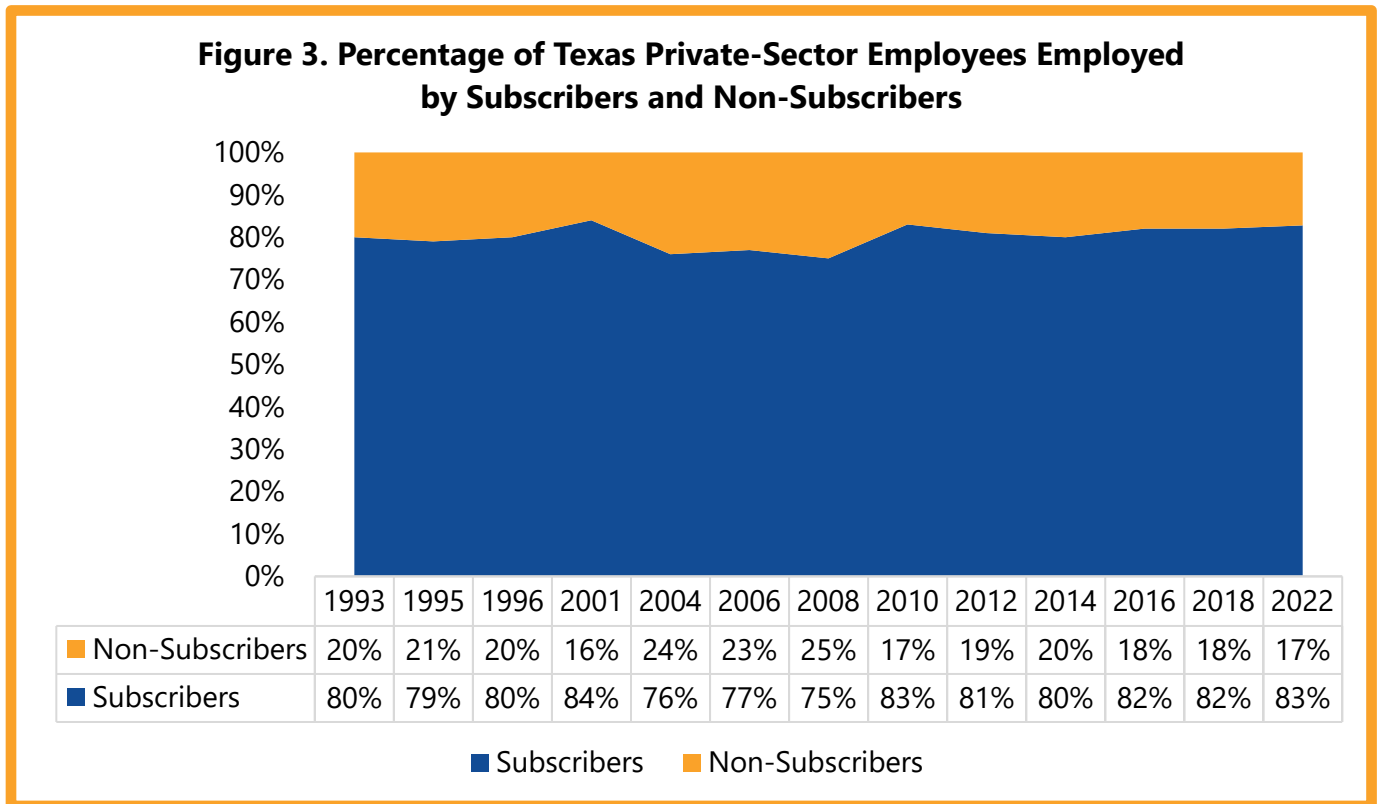
The percentage of employers that choose not to subscribe to workers' compensation has decreased since 1993. As Figure 2 shows, the percentage of private-sector employers that are non-subscribers decreased to 25% in 2022 and the percentage of Texas employees working for non-subscribers has remained stable since 2010.



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, 2022.

Employees Employed by Subscribers and Non-Subscribers

Figure 3 shows that since 2010 the percentage of employees employed by subscribers has remained stable at 80% or higher.



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, 2022.

Non-Subscribers by Employment Size

Regardless of size, the rates of non-subscription among most employers continue to trend downward. The only category with an increase in non-subscribers was employers with 100-499 employees. Small employers, those with 1-4 employees, had the highest percentage of non-subscribers at 31% in 2022 (Table 1). Employers with 50-99 employees had the lowest percentage of non-subscribers at 7%.

Table 1. Percentage of Texas Private-Sector Employers That Are Non-Subscribers by Employment Size

Employment	1995	1996	2001	2004	2006	2008	2010	2012	2014	2016	2019	2022
1-4 employees	55%	44%	47%	46%	43%	40%	41%	41%	43%	31%	36%	31%
5-9 employees	37%	39%	29%	37%	36%	31%	30%	29%	27%	19%	27%	18%
10-49 employees	28%	28%	19%	25%	26%	23%	20%	19%	21%	10%	16%	13%
50-99 employees	24%	23%	16%	20%	19%	18%	16%	19%	18%	10%	10%	7%
100-499 employees	20%	17%	13%	16%	17%	16%	13%	12%	14%	11%	10%	12%
500+ employees	18%	14%	14%	20%	21%	26%	15%	17%	19%	19%	20%	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, 2022.

Non-Subscribers by Industry

Most industry groups saw a downward trend in non-subscriber rates. Mining/Utilities/Construction continued to have one of the lowest non-subscription rates among all industries, at 16% in 2022. When comparing 2018 to 2022, Wholesale Trade/Retail Trade/Transportation had the largest reduction in the percentage of non-subscribers from 33% to 19%. Agriculture/Forestry/Fishing/Hunting had the largest increase in non-subscriber rates, from 22% in 2018 to 29% in 2022.

Table 2. Percentage of Texas Private-Sector Employers That Are Non-Subscribers by Industry

Industry Type	Non-Subscription Rate								
	2004	2006	2008	2010	2012	2014	2016	2018	2022
Agriculture/Forestry/Fishing/Hunting	39%	25%	27%	25%	29%	26%	14%	22%	29%
Mining/Utilities/Construction	32%	21%	28%	19%	22%	20%	19%	17%	16%
Manufacturing	42%	37%	31%	31%	29%	25%	21%	28%	22%
Wholesale Trade/Retail Trade/Transportation	40%	37%	29%	32%	26%	34%	20%	33%	19%
Finance/Real Estate/Professional Services	32%	33%	33%	33%	32%	29%	24%	21%	22%
Health Care/Educational Services	41%	44%	39%	32%	35%	41%	28%	39%	37%
Arts/Entertainment/Accommodation/Food Services	54%	52%	46%	40%	40%	39%	24%	32%	27%
Other Services Except Public Administration	39%	42%	36%	42%	49%	47%	22%	36%	38%

Source: Survey of Employer Participation in the Texas Workers' Compensation System, Public Policy Research Institute at Texas A&M University, and the Texas Department of Insurance, Workers' Compensation Research and Evaluation Group, 2022.

Reasons for Purchasing or Not Purchasing Workers' Compensation Coverage

Reasons Given for Not Purchasing Coverage

As Table 3 shows, the most frequent reason non-subscribers gave for not purchasing workers' compensation coverage was that they had too few employees (26%). One of the least frequent reasons they gave for not purchasing coverage was that premiums were too high.

Table 3. Most Frequent Reasons Non-Subscribers Gave for Not Purchasing Workers' Compensation Coverage

Reasons Employers Gave for Not Purchasing Coverage	Percentage of Non-Subscribing Employers							
	2006	2008	2010	2012	2014	2016	2018	2022
Workers' compensation insurance premiums too high.	35%	26%	32%	15%	17%	18%	19%	17%
Employer had too few employees.	21%	26%	25%	17%	21%	26%	24%	26%
Law does not require employers to have workers' compensation insurance.	9%	11%	13%	17%	19%	24%	17%	23%
Employer had to cut costs because of the pandemic.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	11%
Employer had few on-the-job injuries.	9%	9%	12%	17%	20%	18%	24%	23%

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, 2022.

Reasons Given for Purchasing Coverage

The most common reason (26%) that subscribers gave for purchasing workers' compensation coverage was that they were able to provide injured employees with medical care through a workers' compensation health care network (Table 4). The least common reason given for purchasing coverage was that employers needed workers' compensation coverage to obtain government contracts (10%).

Table 4. Most Frequent Reasons Subscribing Employers Gave for Purchasing Compensation Coverage

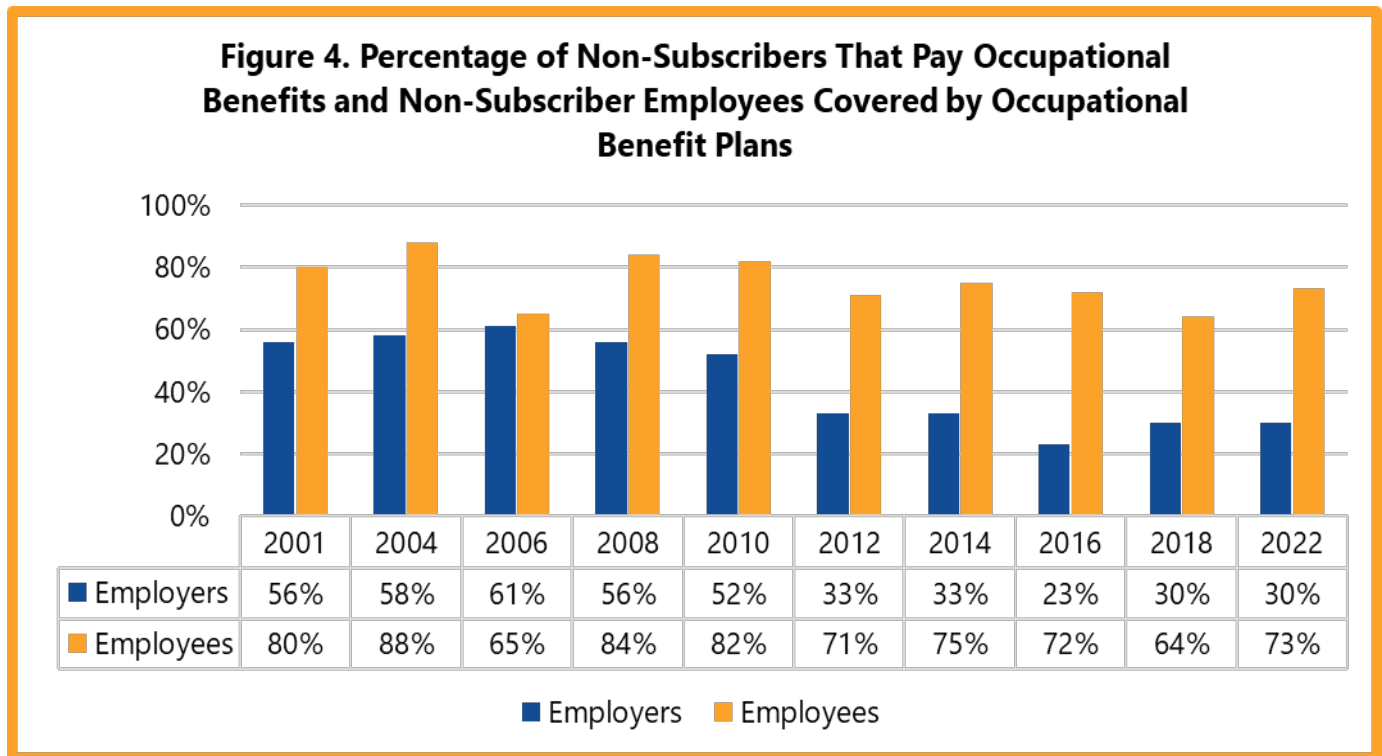
Reasons Employers Gave for Purchasing Coverage	Percentage of Subscribing Employers							
	2006	2008	2010	2012	2014	2016	2018	2022
Employer thought the law required them to have workers' compensation.	22%	25%	22%	19%	22%	20%	17%	25%
Employer was able to provide injured employees with medical care through a workers' compensation health care network.	20%	24%	27%	20%	22%	25%	20%	26%
Employer was concerned about lawsuits.	20%	14%	18%	21%	20%	20%	18%	18%
Employer needed workers' compensation coverage to get government contracts.	6%	3%	6%	9%	10%	11%	9%	10%
Workers' compensation insurance rates were lower.	N/A	2%	2%	11%	10%	10%	21%	13%

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, 2022.

Non-Subscriber Alternative Occupational Benefit Plans

Employers and Employees with Alternative Occupational Plans

Thirty percent of non-subscribers reported that they have alternative occupational benefit plans* for their employees, a percentage that has been stable since 2012. The percentage of non-subscriber employees covered by occupational benefit plans increased to 73% in 2022 from 64% in 2018.



Note*: Alternative occupational benefit plans are benefit plans developed by non-subscribers (in-house or outsourced) that pay medical, wage replacement, or other types of benefits to employees injured on-the-job. These plans are not regulated by the Texas Department of Insurance, Division of Workers' Compensation.

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, 2022.

Estimated Number and Percentage of Employers and Employees by Subscription Status.

The estimated number of Texas employers, both subscribers and non-subscribers, increased in 2022. As shown in Table 6, the percentage of employers that were subscribers increased three percentage points from 72% in 2018 to 75% in 2022. While the estimated number of employees working for subscribers and non-subscribers decreased in 2022, the percentages for both remained relatively stable.

Table 6. Estimated Number (%) of Private-Sector Employers and Employees by Subscription Status

Employers	Subscribers				Non-Subscribers			
	2014	2016	2018	2022	2014	2016	2018	2022
Number and percentage of Texas private-sector employers.	238,000 (67%)	285,000 (78%)	267,000 (72%)	322,406 (75%)	119,000 (33%)	82,200 (22%)	105,608 (28%)	108,382 (25%)
Number and percentage of non-subscribers with alternative plans.	N/A	N/A	N/A	N/A	39,270 (33%)	18,906 (23%)	31,682 (30%)	32,963 (30%)
Number and percentage of non-subscribers without alternative plans.	N/A	N/A	N/A	N/A	79,730 (67%)	63,294 (77%)	73,926 (70%)	75,419 (70%)
Employees	Subscribers				Non-Subscribers			
	2014	2016	2018	2022	2014	2016	2018	2022
Number and percentage of Texas private-sector employees.	7.7 million (80%)	8.1 million (82%)	8.4 million (82%)	6.7 million (83%)	1.9 million (20%)	1.8 million (18%)	1.8 million (18%)	1.4 million (17%)
Number and percentage of non-subscriber employees covered in alternative plans.	N/A	N/A	N/A	N/A	1.4 million (75%)	1.3 million (72%)	1.2 million (64%)	1 million (73%)
Number and percentage of non-subscriber employees not covered in alternative plans.	N/A	N/A	N/A	N/A	0.5 million (25%)	0.4 million (28%)	0.6 million (36%)	0.4 million (27%)

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, 2022.

Non-Subscriber Alternative Occupational Benefit Plans

- Three percent of non-subscribers reported they had one or more work-related injury within the last 12 months.
- Thirty percent of non-subscribers paid medical, wage replacement, or other types of benefits to employees injured on-the-job.

Table 7. Non-Subscribers’ Alternative Occupational Benefit Plans with Exclusions

Things the Non-Subscriber Benefit Plan Does Not Cover	Non-Subscribers with Alternative Plans
Chiropractic care	13%
Acupuncture	20%
Medical treatment or supplies not provided by a health care professional who is approved under your non-subscriber benefit plan.	21%
Injuries not reported on the same day or same shift they occurred.	13%
Other exclusions*	22%

Note*: Other exclusions includes 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, 2022.

Table 8. Non-Subscribers’ Alternative Occupational Benefit Plans Reporting Requirements

Injured Employee Reporting Requirements for Non-Subscribers Who Pay for Occupational Injury Benefits	Percentage of All Non-Subscribers				
	2012	2014	2016	2018	2022
Immediately/same day	62%	64%	66%	61%	57%
Within 24 hours/next day	24%	25%	19%	28%	32%
Other (includes timeframes within 2 to 60 days)	14%	11%	15%	11%	11%

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, 2022.

Medical Benefits Paid by Non-Subscribers

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

- Sixty-seven percent said they pay medical benefits for as long as they are medically necessary. This compares to 80% in 2018.
- Twenty-four percent cap medical benefits based on the duration of treatment or amount of money spent on medical treatments or both. This compares to 20% in 2018.

Wage Replacement Benefits Paid by Non-Subscribers

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

- About 47% (54% in 2018) said they pay wage replacement benefits.
 - Seventy-eight percent said federal income and social security taxes reduced wage replacement benefits.
 - Sixteen percent also have income benefits separate from wage replacement benefits for permanent physical impairments.
- About 61% (57% in 2018) of non-subscribers who pay wage replacement benefits said their injured employees are immediately compensated for lost wages.
- The remaining 39% said there is a waiting period before wage replacement benefits begin:
 - 1-7 days (10%).
 - 8 + days (4%).
 - Case by case (25%).

Table 9. Non-Subscribers with Death and Burial Benefits

Types of Death and Burial Benefits	Percentage of Non-Subscribers with Death and Burial Benefits			
	2014	2016	2018	2022
Death benefits paid to the deceased employee's spouse.	60%	70%	75%	71%
Death benefits paid to the deceased employee's dependent children.	42%	42%	54%	27%
Death benefits paid to other beneficiaries (grandchildren or non-dependent parents).	29%	14%	22%	7%
Benefit plan has burial benefits to help pay burial expenses.	37%	55%	51%	13%

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, 2022.

Employers' Knowledge About Workers' Compensation Reporting Requirements

Knowledge of Reporting Requirements

The percentage of employers surveyed that said they were somewhat knowledgeable about workers' compensation reporting requirements has increased over time. In 2022, the percentage of employers that were not at all knowledgeable about the need to report coverage status dropped to its lowest percentage since 2016 at 49% (Table 10).

Table 10. Non-Subscribers' Knowledge About Workers' Compensation Reporting Requirements

Employers' Knowledge	Percentage of All Employers Surveyed								
	Not at all knowledgeable			Somewhat knowledgeable			Extremely knowledgeable		
	2016	2018	2022	2016	2018	2022	2016	2018	2022
Employers without workers' compensation must notify DWC about their coverage status by filing DWC Form-005.	56%	50%	49%	30%	32%	37%	14%	18%	14%
Employers without workers' compensation with at least five employees must report all work-related deaths, illnesses, and injuries resulting in at least one day of lost time to DWC by filing DWC Form-007.	58%	51%	45%	28%	32%	40%	14%	16%	16%

Note: On a scale of 1 to 5, where 1 means *Not at All Knowledgeable* and 5 means *Extremely Knowledgeable*, 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, 2022.



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