

Options to Workers' Compensation: Preliminary Industry Aggregate Data Reflects Positive Outcomes for Injured Workers and Employers

(revised July 11, 2016)

Executive Summary: Employers today are more aware of their brand value and most important asset – healthy, productive employees. Many of these employers (including dozens of Fortune 500 companies) manage “Option” injury benefit plans as an alternative to the Texas and Oklahoma workers’ compensation programs. Texas is widely recognized for the outstanding performance of its workers’ compensation system, and the Oklahoma workers’ compensation system has dramatically improved in the past two years. Nevertheless, the data presented below demonstrates that Option injury benefit plans, when compared to workers’ compensation, result in:

- **Shorter disability durations,**
- **Faster return to work,**
- **Fewer claim disputes,**
- **Lower total employer cost,**
- **Comparable defense litigation costs, and**
- **Faster claim payouts and closure.**

Background: PartnerSource does not pay claims or otherwise originate claims data for injuries under workers' compensation systems or "Option" injury benefit plans. Employers that have elected an Option to Texas and/or Oklahoma workers’ compensation commonly work with nationally-recognized third party claim administrators, successfully resolving tens of thousands of employee injury claims every year. For many years, PartnerSource has received and analyzed Option claims data from these employers and third party administrators. Using principles developed in consultation with independent actuaries, the data is collected, sorted and analyzed by the PartnerSource Information Services Team and compared to historic workers’ compensation data supplied by the employers or otherwise in the public domain.

Description of Information Presented: Charts I through VI below present Option program data that spans across several industries, including trucking/distribution, retail, manufacturing, restaurant, healthcare and hospitality. Charts VII.A, VIII – XI below do not rely on any PartnerSource data. These charts focus solely upon employer cost and were developed by PartnerSource based on information in the Aon Risk Solutions 2014 Retail Benchmark Analysis, Workers’ Compensation, December 2014, by Tim Banick and Andrea Bode. Chart VII includes two views of claim closure rates, one for retailers from Aon and one for multiple industries from PartnerSource. Although we have attempted to accurately reflect information in the Aon report, no guaranty is made and these summaries have not been reviewed or endorsed by Aon.

Further data analysis, studies and reports, and background information on the reasons for these system performance differences can be found in:

- **“The Option Resource Guide”** from the Association for Responsible Alternatives to Workers’ Compensation at <http://arawc.org>.
- **“Options to Workers’ Compensation: Public Policy Analysis”** from PartnerSource at http://www.partnersource.com/media/25227/optionstoworkers_compensationpublicpolicyanalysisrev12.1.15.pdf,
- **“Frequently Asked Questions on the Oklahoma Option”** at <http://www.partnersource.com/media/23221/faqonoklahomaooption14-1215.pdf>, and

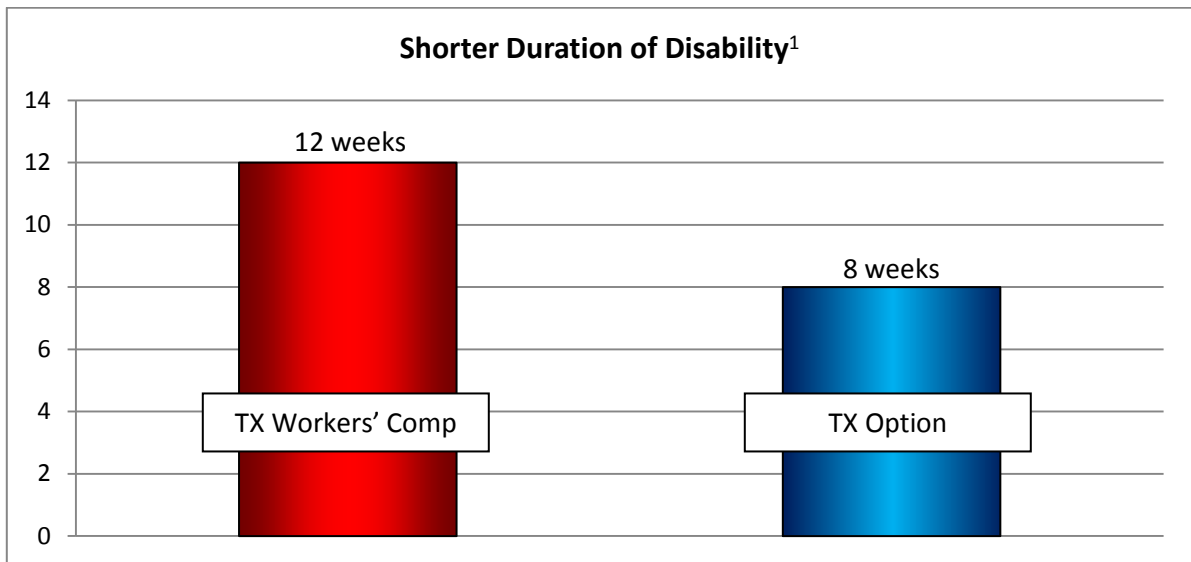
More Transparency and Studies: Employers and industry supporters of Options to workers’ compensation support more public disclosure of program terms, claims data and other information, and are actively working to achieve it. Additional analyses and reporting of Option program claims data by both interested and independent sources is encouraged.

Conditions and Limitations: This analysis relies upon common actuarial methods and assumptions. The results of the analysis are based on loss and exposure data provided to PartnerSource or in the public domain, without detailed verification or audit. Data presented in this report is based on ultimate developed losses, unless otherwise noted. No guaranty or warranty is provided and PartnerSource does not assume any responsibility for errors or omissions herein. Other conditions and limitations may apply.

I. Shorter Duration of Disability

For claims with 8 or more days of lost time:

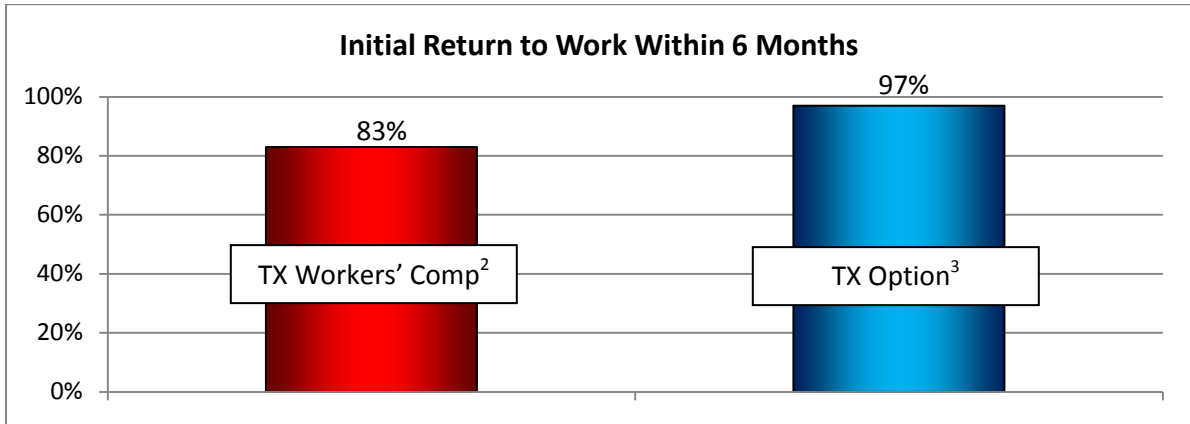
- a. The average time lost in workers' comp is 12 weeks.
- b. The average time lost in Texas nonsubscriber Option programs is 8 weeks.



¹Using a database of over 160,000 Texas Option injury benefit claims from 33 claims administration sources over a 10-year period (2005-2015) – without excluding any available data or source – PartnerSource compared statistics against information from the Workers' Compensation Research Institute and Texas Department of Insurance. See [Setting the Standard - An Analysis of the Impact of the 2005 Legislative Reforms on the Texas Workers' Compensation System - 2014 Results; Biennial Report of the Texas Department of Insurance to the 84th Legislature - Division of Workers' Compensation \(2014\)](#); [Return to Work in the Texas Workers' Compensation System, 2015](#); [WCRI Average Duration of Temporary Disability \(in Weeks\) for Claims with More Than 7 Days of Lost Time, 2013/2014](#). This data analysis relies upon established Texas workers' compensation system metrics and good faith comparisons to Texas Option data. This comparison was validated by [Leigh J. Halliwell, FCAS, MAAA](#), an independent actuary previously with the National Council of Compensation Insurance.

II. Initial Return to Work Within 6 Months

For claims with 8 or more days of lost time, the initial return to work rate measures the percentage of injured employees receiving income benefits who returned to work within six months of a work-related injury. The initial return to work rate at 6 months is 83% in Texas workers' compensation, compared to 97% under the Texas Option.

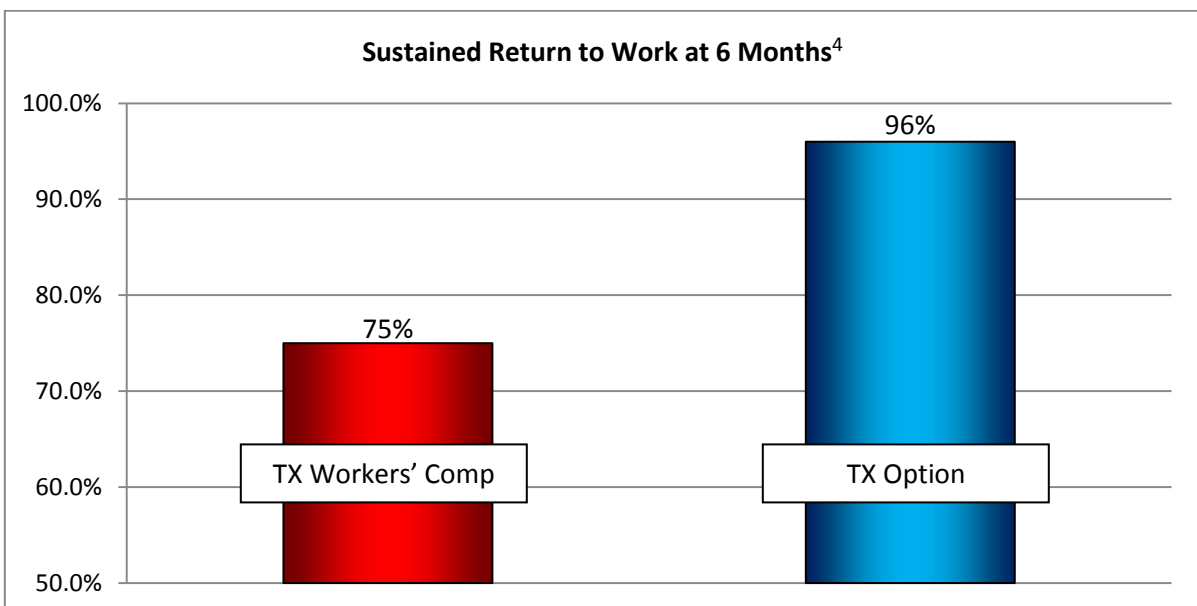


²See *Texas Department of Insurance Return to Work in the Texas Workers' Compensation System*, 2015, Slide 2, <http://www.tdi.texas.gov/reports/wcreg/documents/rtw2015.pdf>

³Texas Option claims with lost time payments to employees disabled for less than 8 days were excluded in order to accurately compare with the Texas Workers' Compensation system, where temporary income benefits begin after the 7th day of lost time.

III. Sustained Return to Work at 6 Months

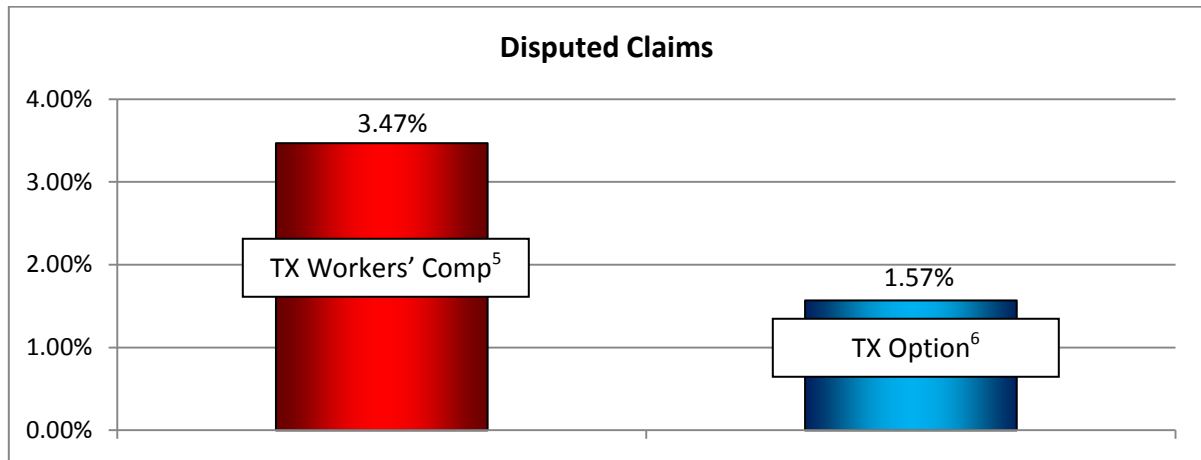
For claims with 8 or more days of lost time, the sustained return to work rate measures the percentage of injured employees receiving income benefits who have been able to sustain their return to work status. The sustained return to work rate at 6 months is 75% in Texas workers' compensation, compared to 96% under the Texas Option.



⁴Using a database of over 160,000 Texas Option injury benefit claims from 33 claims administration sources over a 10-year period (2005-2015) – without excluding any available data or source – PartnerSource compared statistics against information from the Workers' Compensation Research Institute and Texas Department of Insurance. See [Setting the Standard - An Analysis of the Impact of the 2005 Legislative Reforms on the Texas Workers' Compensation System - 2014 Results](#);

[Biennial Report of the Texas Department of Insurance to the 84th Legislature - Division of Workers' Compensation](#) (2014); [Return to Work in the Texas Workers' Compensation System](#), 2015; [WCRI Average Duration of Temporary Disability \(in Weeks\) for Claims with More Than 7 Days of Lost Time, 2013/2014](#). This data analysis relies upon established Texas workers' compensation system metrics and good faith comparisons to Texas Option data. This comparison was validated by [Leigh J. Halliwell, FCAS, MAAA](#), an independent actuary previously with the National Council of Compensation Insurance.

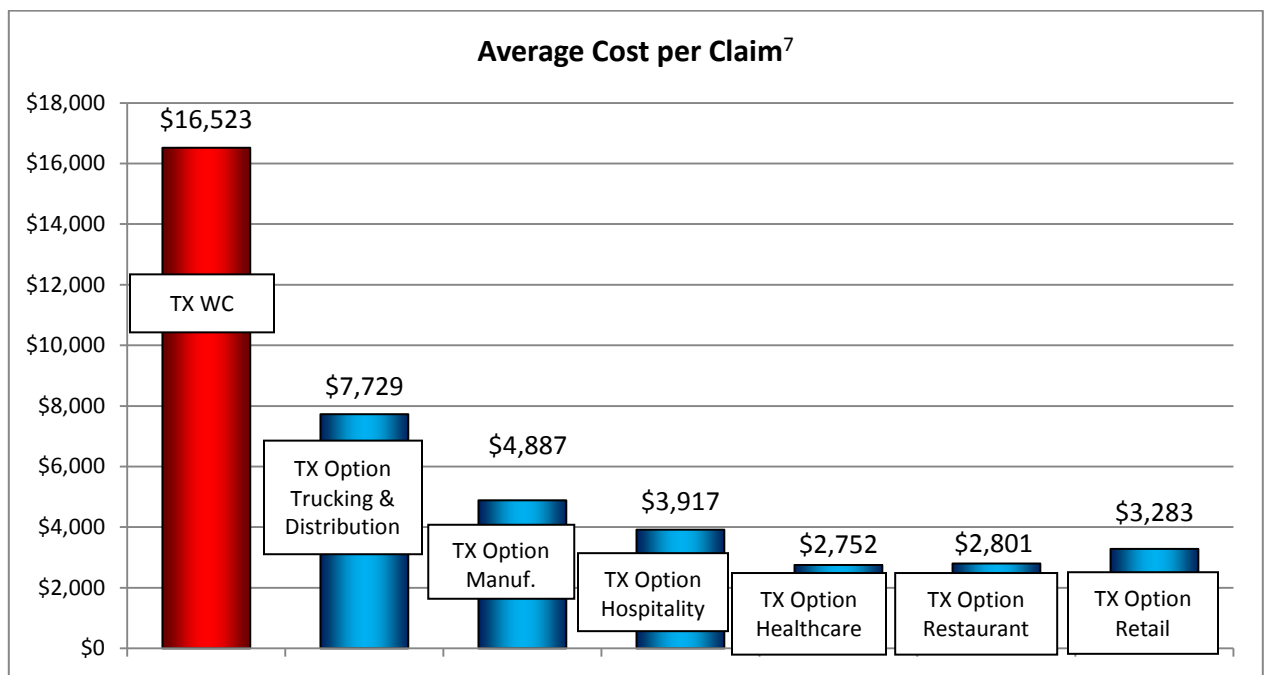
IV. Disputed Claims



⁵For Texas Workers' Compensation, a "disputed claim" is defined as any claim with a workers' compensation dispute proceeding. The average number of claims with a dispute proceeding from 2011 is 7,795. See <http://www.tdi.texas.gov/reports/wcereg/documents/ib-disputes14.pdf>.

⁶For Texas Option, a "disputed claim" is defined as any claim with attorney representation, plus any claim settled or litigated, plus any injury benefit claim denial that was appealed.

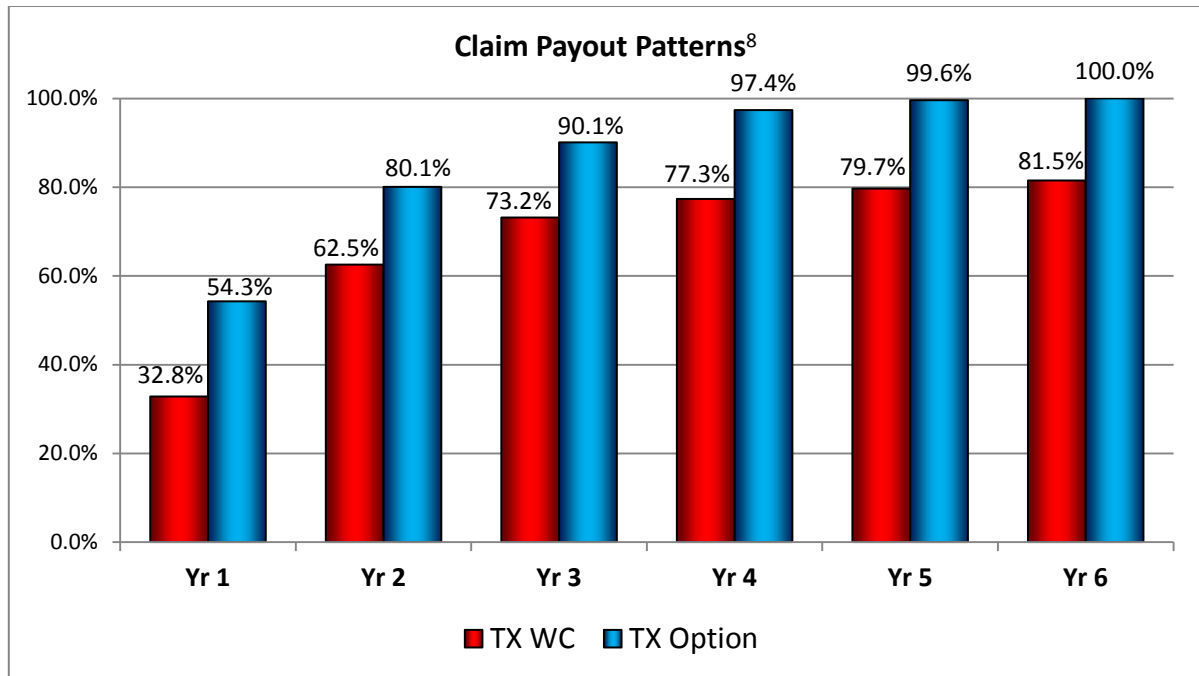
V. Average Cost Per Claim – Six Industries



⁷Texas Workers' Compensation average cost per claim is based on *NCCI 2015 Annual Statistical Bulletin*, Ultimate Average Cost per Case by Injury Type, pages 424-433. From page 399, "Direct

Defense and cost containments expenses (allocated loss adjustment expense) are not included.” Accordingly, an additional 15% was added for ALAE and losses were trended to 2016 cost levels. The Texas Option data presented from the PartnerSource Benchmark Studies for 2014-2015, has been trended and developed, including all allocated loss adjustment expenses (that is, defense costs, medical management costs, and any other expense allocated to the claim file).

VI. Claim Payout Patterns



⁸Texas workers’ compensation performance is based on data from *National Council on Compensation Insurance, Annual Statistical Bulletin, 2015 edition*. This chart indicates that on average, at the end of the first year, over half of the cost of the Texas Option claim has been paid, compared to only 32% of the workers’ compensation claim. At the end of year 3, only 10% of the Texas Option claim is still outstanding, while 27% of the workers’ compensation claim is still outstanding. By year 6, the Texas Option claim is completely paid, while the workers’ compensation claim still has 18% to go. Incurred loss development patterns are consistent with this paid loss development pattern.

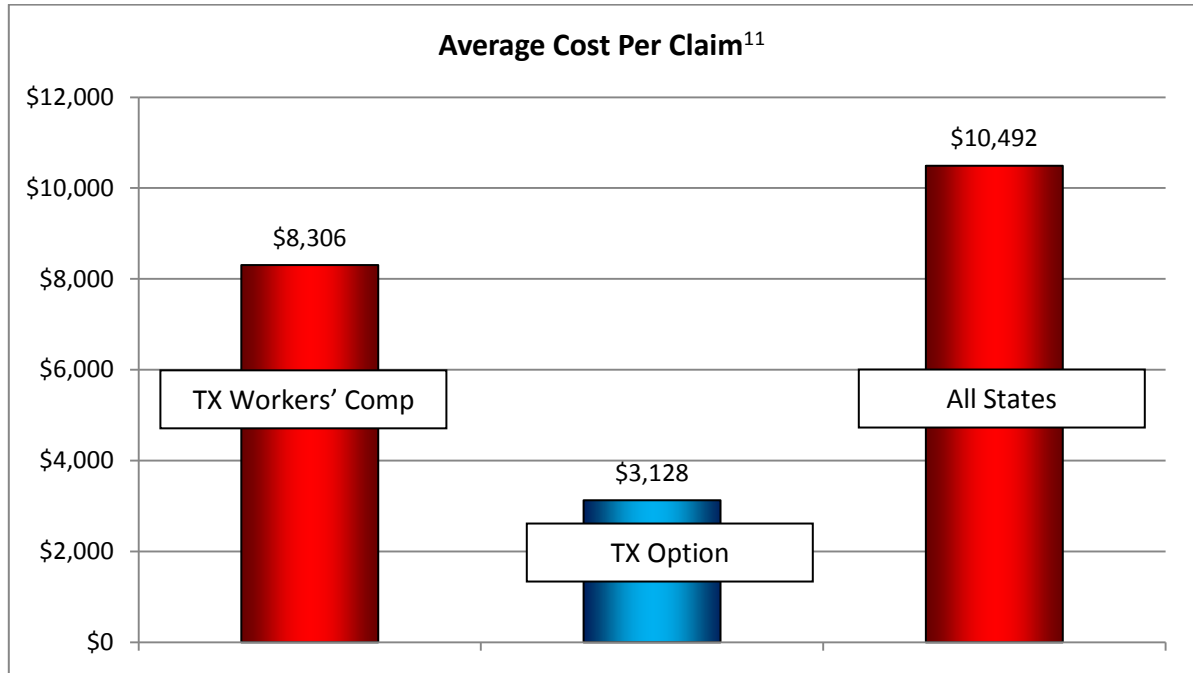
VII. Claim Closure Rates

Year		1	2	3	4	5	6
A.	Texas Workers’ Compensation – Retail ⁹	70.0%	94.7%	97.3%	98.9%	98.9%	99.3%
	Texas Option – Retail ⁹	80.2%	98.4%	99.6%	99.8%	100%	100%
B.	Texas Option – All Industries ¹⁰	97.2%	99.8%	99.9%	100%	100%	100%

⁹Aon Risk Solutions 2014 Retail Benchmark Analysis, *Workers’ Compensation, December 2014*, by Tim Banick and Andrea Bode, page 54, Retail Stores- Claim Closure Percentage As of a Point in Time. “Loss development patterns vary significantly for Texas non-subscriber programs. Both incurred and paid development patterns display much shorter tails than typical work comp loss development.” Page 3.

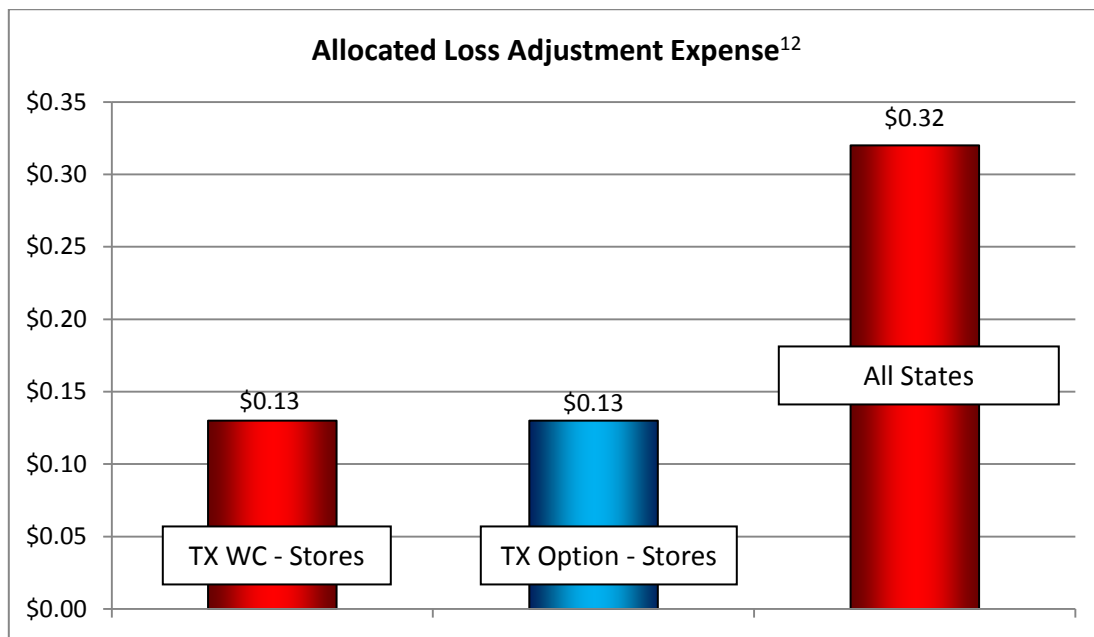
¹⁰This second chart depicts faster claim closure rates for PartnerSource clients' across all industries, including trucking/distribution, manufacturing, hospitality, healthcare, restaurant and retail.

VIII. Average Cost Per Claim – Retail Stores



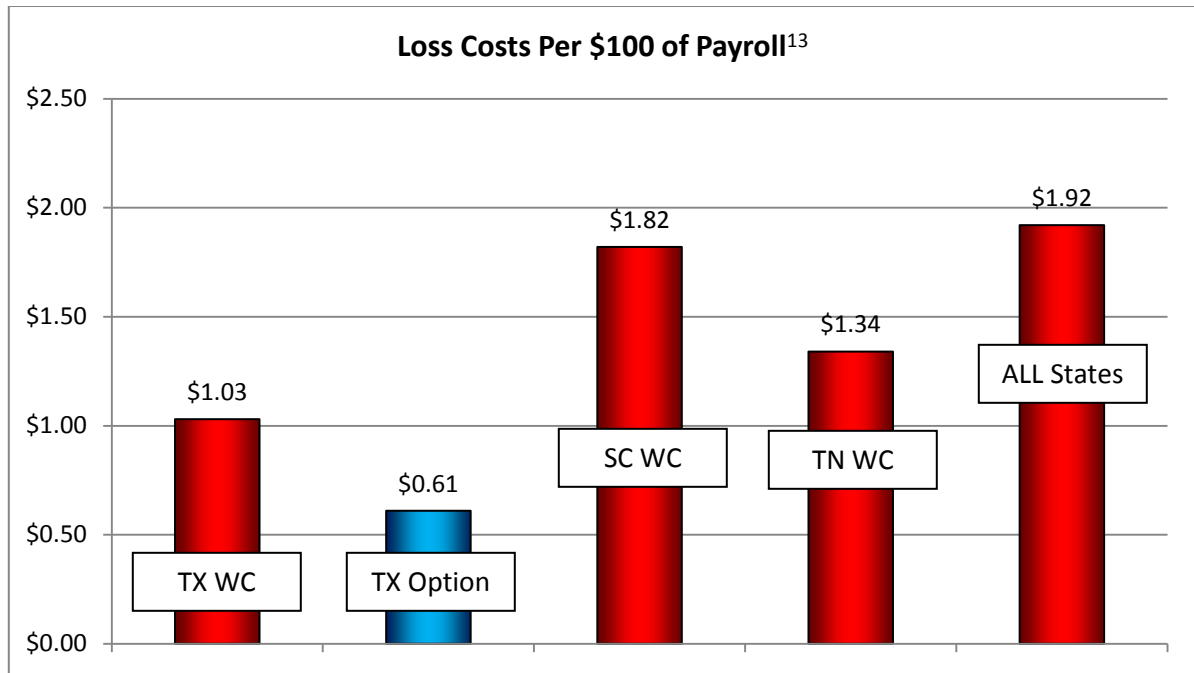
¹¹Aon Risk Solutions 2014 Retail Benchmark Analysis, Workers' Compensation, December 2014, by Tim Banick and Andrea Bode, page 27, Retail Stores, Average Severity Per Claim, Limited to \$1 Million Loss and Allocated Loss Adjustment Expense Per Occurrence Retention, 2/1/14-2/1/15. "A very favorable impact in loss severities and loss costs has been experienced by those retailers who have opted out of the Texas work comp environment and formed a Texas Non-Subscriber program. In the most recent years, retailers have experienced Texas non-subscriber severities and loss costs approximately 40% to 50% lower than retailers who subscribe to the work comp environment." Page 4.

IX. Legal Defense Costs – Retail Stores



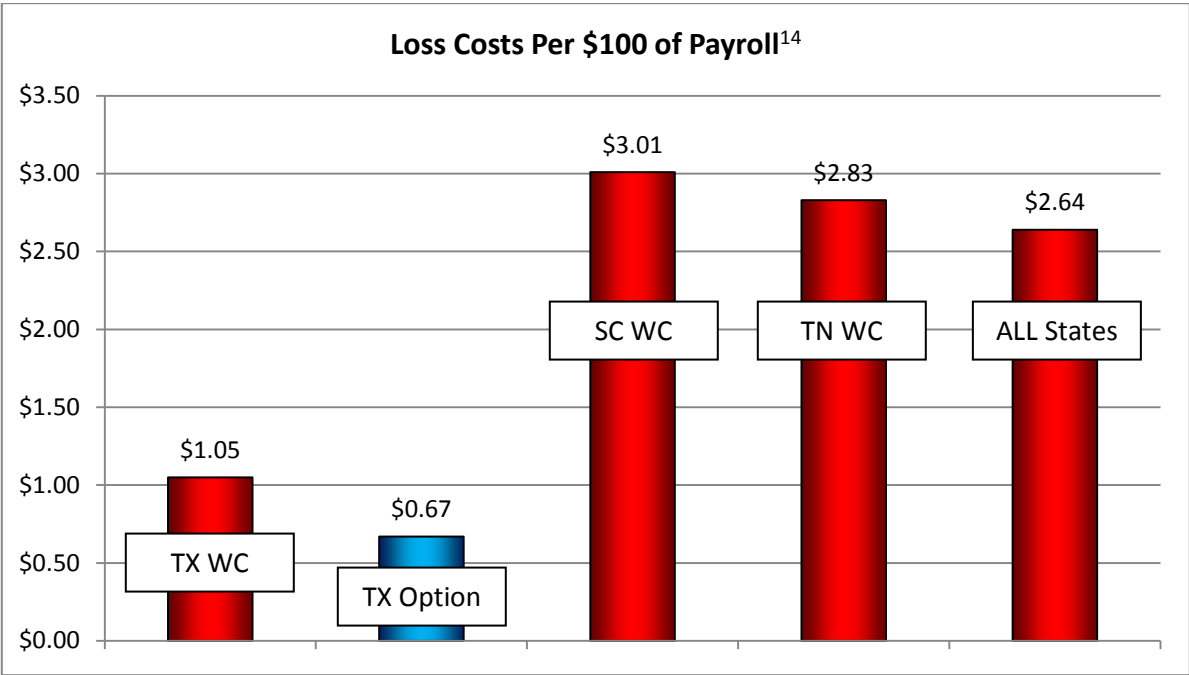
¹²Aon Risk Solutions 2014 Retail Benchmark Analysis, Workers' Compensation, December 2014, by Tim Banick and Andrea Bode, page 29, Retail Stores- Workers' Compensation Allocated Loss Adjustment Expense Per Hundred Dollars of Payroll, 2/1/14-2/1/15. "Typically, these costs are comprised of legal fees paid by the entity in investigating and defending specific claims." Page 28. "Texas (both subscriber and non-subscriber) litigated claim frequencies are much lower than All Other States." Page 4. However, both litigation frequency and costs for Texas workers' compensation and the Texas Option in retail stores were found to be equivalent. Aon found litigation frequency for distribution centers to vary widely by year. In some years, the rates were substantially higher in the Texas Option than in Texas workers' compensation. Page 99.

X. Loss Costs Per \$100 of Payroll – Retail Stores



¹³Aon Risk Solutions 2014 Retail Benchmark Analysis, Workers' Compensation, December 2014, by Tim Banick and Andrea Bode, pages 43, 44, and 62, Retail Stores, Loss Cost Per Hundred Dollars of Payroll, Limited to \$1 Million Loss and Allocated Loss Adjustment Expense Per Occurrence Retention, 2/1/14-2/1/15.

XI. Loss Costs Per \$100 Payroll – Retail Distribution Centers



¹⁴Aon Risk Solutions 2014 Retail Benchmark Analysis, Workers' Compensation, December 2014, by Tim Banick and Andrea Bode, pages 80 and 113-114, Distribution Centers, Loss Cost Per Hundred Dollars of Payroll, Limited to \$1 Million Loss and Allocated Loss Adjustment Expense Per Occurrence Retention, 2/1/14-2/1/15. Distribution centers normally distribute goods to retail stores and include warehousing operations, material moving, shipping and receiving, with more injury severity than the retail stores they support.