



Let's Talk

TAB launches speakers bureau

In an effort to better spread the free enterprise message of the Texas Association of Business, TAB is launching a speakers bureau.

"I've always said the strength of TAB is its members," said TAB CEO Bill Hammond. "We want to be able to use that strength to spread our message and recruit new members."

Members of the speakers bureau will be spread across Texas and be available to speak at local groups, such as civic organizations and chambers of commerce.

"We don't expect our members to be experts on every issue," said TAB President Chris Wallace. "What we want are people willing to share the story of TAB and tell their business colleagues why TAB is making a difference for their business."

"The speakers bureau was the brainchild of immediate past board chair Terri Ricketts," said Wallace. "Since it was proposed, Sharon Berger and Paula Romano from our staff have worked tirelessly to put this together."

So far, more than 40 people have expressed interest in joining the speakers bureau. "That is certainly not the final number," said TAB Member Services Manager Sharon Berger, who is coordinating the formation of the speakers bureau. "We are hoping to keep growing the speakers bureau in order to cover as many areas and speaking requests as possible," Berger continued.

"The mission of the speakers bureau is two-fold," said Wallace. "First, build membership. There is strength in numbers. We want to have more members in all areas of the state, not just in the major metropolitan areas. Second, we want to develop a stronger grassroots network. When it comes time to fight a battle in the Legislature, we want to be able to show lawmakers that there are voters in their



TAB President Chris Wallace is one of the driving forces behind creating the new TAB Speakers Bureau.

WORKFORCE Q&A

Is it true that a new federal law requires me to revise all of my confidential information agreements with employees and my whistleblowing policies?

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UPCOMING EVENTS

2016 TAB NATIONAL AFFAIRS CONFERENCE

*Tuesday, May 24 - Thursday, May 26
Washington, DC*

For a full list of events please visit

WWW.TXBIZ.ORG/EVENTS

TAB MISSION

To make the Texas business climate the best in the world.

WORKFORCE Q&A

Is it true that a new federal law requires me to revise all of my confidential information agreements with employees and my whistleblowing policies?

Not exactly, but it is something to seriously consider.

The 2016 Defend Trade Secrets Act (DTSA) went into effect on May 11, 2016, and it requires employers wanting to avail themselves of certain remedies under the DTSA to provide notice of its whistleblower immunity provision in any contract entered into or updated with an employee after the DTSA's effective date.

In short, the DTSA's whistleblower immunity provision provides that an employee cannot be held criminally or civilly liable under federal or state law for disclosing a trade secret within certain limitations. If an employer fails to provide notice of these limitations, then the employee may have an argument that a disclosure that exceeds the limitations is excusable. Consequently, providing employees with notice of the limited whistleblower immunity in both agreements and whistleblowing policies is a useful step to take. This is not only because it allows you to retain the attorneys' fees and exemplary damages remedies the DTSA provides, but also because it has the practical effect of putting employees on notice of the limitations of the DTSA's whistleblower immunity provisions.

The DTSA's remedies do not replace or eliminate those provided for under existing Texas law. Consequently, if you elect not to provide the notice described in the DTSA, you will still have remedies under state law and some remedies (such as injunctive relief and ordinary damages) under the DTSA. Keep in mind that the DTSA was passed to help provide a more uniform trade secret protection law for multi-state companies to use because of the difficulties that arise with potentially conflicting state laws on trade secrets. And, in addition to providing a new avenue to seek relief in federal court, the DTSA has a unique seizure feature that can allow law enforcement authorities to seize trade secrets from an accused misappropriator under certain extraordinary circumstances. Thus, the DTSA does have valuable attributes that Texas state law does not have.

Employment Relations questions?

***Don't forget to call TAB's Employment Relations Hotline for your next HR Question
1.800.856.6721, ext. 164 or E-mail smcgee@txbiz.org***



Scott McDonald, Shareholder in Dallas, and Allan Neighbors, Shareholder in Houston with Littler Employment and Labor Law Solutions.

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Texas' Business Climate Remains Strong

CEOs say we're number one....again

Chief Executive Magazine has ranked Texas as the best place for business for the 12th consecutive year.

"For the 12th straight year, CEOs across America have agreed there is no place better for conducting business than Texas," said Gov. Greg Abbott. "Our winning formula is simple - low taxes, reasonable regulations and investment in a quality workforce. As Governor, I will continue to promote policies that attract businesses looking to expand or relocate their operations, ultimately creating even more jobs and opportunity for Texans."

TAB CEO Bill Hammond, speaking as part of a *Texas Tribune* panel on the Texas economy, agrees with Governor Abbott. "I think we are deserving of the rankings. Not to say that there aren't problems, but Texas is a great place to raise a family and grow a business. We have enormous advantages. We have low taxation; we have reasonable regulation; we have growth which feeds on itself. People come to Texas because there are jobs."

How do we keep our momentum going?

Hammond said taxes are one place to look. "I would end the inventory tax. We're one of the few states that do that," said Hammond. "I would take Chapter 313, which is basically the school property tax abatement that the

local districts can make a decision to do, and expand it to include expansion and retrofitting of machinery. In Louisiana, there's a ten-year abatement of property taxes. Not only does it apply to the initial investment, it applies to expansion and retrofitting. Companies like AMD and TI, chipmakers, probably every four or five years are replacing their machinery and equipment and that's not eligible for an abatement."

Abatements are criticized by some as costing money, but Hammond disagrees with that argument. "Abatements don't cost money, they make money. When school districts give an abatement, they get the capital into their districts, and they get the auxiliary investment by other businesses that are going to service the business getting the abatement. It doesn't cost the taxpayers money, it makes them money."

Another key is improving our education system. "For the last few years we have been relying on a net migration from the northern states of skilled labor, but that's not going to continue forever," said Hammond. "We think that only one in four kids who graduate high school is at a point academically where they can go to a community college without having to take remedial courses. It's not sustainable without dramatically increasing the productivity of K-12."

It will take some work for Texas to maintain the top spot. According to *Chief Executive Magazine*, the competition is closing in. "Texas and Florida top the list, as they have every year for the past 12 years that we have conducted this survey. Despite having been hit hard by the shale energy bust, Texas is still held in high esteem by CEOs for its favorable economic reforms. But each year, Florida steadily edges up in the qualitative measures. The Sunshine State added 1 million private-sector jobs over the last five years, cut taxes 50 times and got rid of 4,200 burdensome regulations. In 2014, it surpassed New York as the third-biggest state for companies to flourish."

[CLICK HERE](#) to see the full list. [CLICK HERE](#) to read the full story.

Let's Talk

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districts who are engaged and involved."

Soon, TAB will begin promoting the speakers bureau to local civic groups, clubs and chambers across the state and begin setting up dates. Berger will coordinate between requests for presentations and individual bureau members. TAB staff also will be putting together sample presentations and powerpoint templates to help individual members customize their own presentations and speeches.

"What we are trying to do here is spread the gospel of free enterprise," said Hammond. "It is critical that more people hear our message and join the cause of keeping the Texas economy strong and improving our business climate."

"Our board has wanted us to use our members more as the face of TAB," said Wallace. "This effort is a way to do that. It is one thing to hear from a TAB staff member talking about the association. It is another to hear from a local business colleague whom you have known for years. It brings the association down to a very personal level. We think that will resonate with people and make them want to join the association and work for our legislative agenda. It will show them first hand the impact that TAB has on the process and on their business."

"We have a limited travel budget and this is a big state," said Wallace. "Our staff can't be everywhere at all times. I am very proud that our members are stepping up to represent the association in this new endeavor."



Texas Tribune's Evan Smith, state Sen. Konni Burton, R-Colleyville, Bill Hammond CEO of the Texas Association of Business, Greg LeRoy of Good Jobs First, and state Rep. Jason Villalba, R-Dallas talk about the Texas economy.

MEMBER PROFILE

Electromedical Products International Inc.

Electromedical Products International Inc. (EPI) designs, manufactures and distributes prescription medical devices for the treatment of anxiety, insomnia, depression and pain management. EPI is a global enterprise with distribution worldwide. Their Alpha-Stim® AID and Alpha-Stim® M are used by physicians, psychologists, other healthcare professionals and their patients. Focusing on the Department of Defense and Veterans Administration, there are more than 100 American Veterans Affairs and military medical centers that have ordered Alpha-Stim for post-traumatic stress disorder (PTSD), insomnia and pain. The British, Japanese, Israeli and other foreign military medical personnel also utilize the technology.

Dr. Daniel L. Kirsch developed Alpha-Stim technology and founded EPI in 1981. Dr. Kirsch is a world-renowned neuroscientist, board certified pain specialist and award winning medical educator with over three decades of experience in the electromedical field. He developed Alpha-Stim's patented waveform as a safer and potentially more effective way to activate neuronal receptors than by using drugs.

Over the years, the company has enjoyed exponential growth in sales while the size of the actual device has shrunk from a table top model about the size of an old IBM typewriter weighing 40 pounds to the pocket sized versions of today. The current models are about the size of a smartphone. The device functions via small electrodes, similar to clip-on earrings placed on the earlobes for anxiety, depression and insomnia, or hand held probes for pain. The procedure is completely painless. It takes about 20 minutes a day to treat mood and sleep problems, and about 5 – 10 minutes to treat pain. Alpha-Stim technology is supported by over 95 studies, more clinical

research than any therapeutic medical device in its class. These studies can be viewed at www.alpha-stim.com.

EPI relocated its headquarters from Los Angeles, CA, to Mineral Wells in 1994. EPI employs 27 people in the home office with over 50 distributors in the USA as well as distribution in Canada, Europe, the Middle East, China, Japan and South Korea to name a few. Brochures and

operating instructions are available in 19 languages. EPI is an engaged community partner with programs that provide aid and support to clubs and organizations that share EPI's dedication to improving the quality of life for all people in North Texas, as well as supporting Service Members and veterans nationally alone and together with medical charities such as Semper Fi Funds, the American Red Cross and The American Institute of Stress. Most recently, after receiving a request from Japan's Self Defense Force, EPI donated ten devices for the earthquake relief effort in Japan.



The mission at EPI is to provide a proven, safe and effective treatment choice for neurological and psychological disorders that offers lasting results. Alpha-Stim is a disruptive technology, offering a choice beyond medications which have dangerous side effects, tolerance and addiction, and often don't work for their intended use. People often say that Alpha-Stim results are amazing; it makes a very real difference in the lives of those who use it.

Because there are always people in pain, people who are depressed or anxious and can't sleep, EPI forecasts years of continued growth and expansion. EPI President Tracey B. Kirsch, a member of the Board of Directors of The Texas Association of Business, places great value on TAB membership. TAB membership keeps the company informed of the business climate in Texas and Washington, so that it can focus on what it does best-- providing Alpha-Stim technology to improve the quality of people's lives.

A Win for Common Sense Regulation

Texas Supreme Court Sides with BCCA on Local Air Enforcement

The Texas Supreme Court ruled in April that the city of Houston overstepped its authority by trying to regulate industrial facilities and penalize companies in criminal court that allegedly violated state emission guidelines.

The ruling came as part of a lawsuit filed by the BCCA Appeal Groups, made up of a coalition of businesses, including TAB member ExxonMobil. TAB has helped work on this issue and supported the lawsuit.

“What the city of Houston was trying to do was create a parallel regulatory and enforcement process on top of what the state already does,” said TAB Vice President of Governmental Relations Stephen Minick. “The city process would have duplicated state authority and created a potential double jeopardy for criminal penalties for violations of state rules. That was unnecessary, and we are happy that the Supreme Court ruled in favor of the BCCA.”

The city of Houston had argued that it was proper to enforce state standards that the Texas Commission on Environmental Quality was not

enforcing. Attorney Robert Higgason, quoted in the Texas Tribune, argued “if the TCEQ is letting something go, and not enforcing its own standards, there’s something wrong with that.”

The high court disagreed, ruling 8-1 that a lack of enforcement on the state’s part didn’t clear the way for the city of Houston to take its own action.

The Supreme Court argued that this also would set up an inconsistent enforcement of environmental rules across the state. “By authorizing criminal prosecution even when the TCEQ determines an administrative or civil remedy - or even no penalty at all - to be the appropriate remedy, the City effectively moots the TCEQ’s discretion and the TCEQ’s authority to select an enforcement mechanism,” wrote Justice Paul Green.

“Consistent enforcement of environmental rules is important to businesses in this state,” said Minick. “It would be hard to argue that we have a level playing field if every city in Texas decided to enforce state environmental rules in a different way, with different priorities of what rules they want to enforce.”



The Texas Supreme Court rules in favor of common sense environmental regulation in case involving the city of Houston.

QUOTES

“It’s like a debtor’s prison and the net effect is that you have enough people driving around without a driver’s license.”

– TAB CEO Bill Hammond in the *Amarillo Globe-News* speaking on the Driver Responsibility Program.

“EPA’s disapproval and the imposition of a Federal Implementation Plan exceed the agency’s authority. There is no reason for the EPA to take this action.”

– TAB CEO Bill Hammond in the *Mineral Wells Index* talking about a lawsuit challenging EPA’s takeover of the regional haze program.

“We think overall this is bad for business and bad for Texas.”

– TAB CEO Bill Hammond in the *Austin American Statesman* speaking during a hearing on the so-called “religious freedom” issue.



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Talk **About** Business

Locking Up the Innocent, Why We Need Bail Reform



Cathy DeWitt, Vice President
Governmental Affairs

Our criminal justice system is built on a very basic principle of innocent until proven guilty. It works well and creates fairness. Yet our bail system is tied to money and in many cases is anything but fair.

While our jails are not meant to house innocent people, many county jails are doing just that. In our major cities approximately 70 percent of people being held in county jails are awaiting trial despite the fact that people are presumed innocent under our justice system.

One of the biggest issues is with our mental health population sitting in jails. Instead of getting treatment, they are being stored away in a box awaiting trial for crimes they may, or may not, have committed -- crimes that may have been brought on by the mental issues that aren't being appropriately identified or treated within the county jail system.

The external consequences of jail are harsh. While they are in jail, they are not working. Many lose their jobs, their health insurance, can't make child support payments and are denied access to their families. Without a job, they can't pay rent or make house payments, so they may end up homeless by the end of the process.

A whole list of things that someone presumed innocent shouldn't have happen to them.

Keeping violent criminals who are a danger to others behind bars is paramount. But for the rest of the population, especially those who are innocent, there must be a better system than the one we have now. The system of today works mainly on the critical factor of whether you have money for bail or not.

Money is great motivator for many things. It can motivate people to show up for court, and the lack of money can keep violent criminals behind bars until trial. It also can punish the poor unfairly and destroy lives of people who don't deserve it.

There is a better way. The Laura and John Arnold Foundation has developed one possible solution: a Public Safety Assessment Tool. It takes the money out of the equation and replaces it with data. A judge would use a set of unbiased risk factors for each case to determine whether it is safe to release a defendant to await trial at home instead of in a county jail.

That would mean the defendant could potentially keep his or her job and other commitments while awaiting

trial; stay on schedule with medication and mental health treatment; and keep personal commitments with family.

It also would mean that those people who are dangerous would be kept where they belong, in jail removed from society, while they await trial regardless of how much is in their checking account.

Reforming the system in this way would take away much of the economic prejudice of the current system; save county taxpayers the cost of housing presumed innocent people; and make our justice system run more smoothly.

This kind of change won't be easy to implement. The current process means big money to some powerful interests. It, however, is something we must consider when the Legislature returns next year.

We all would like to think that we have the fairest criminal justice system in the world, and in many respects we do, but we can always do better. This would be one giant step in making the system more fair and our streets safe.

Texas has long been a leader in criminal justice reform. It is time to take the lead again.