



## Franchise Tax Elimination Moves Forward

*Senate approves bill to cut, and eventually eliminate tax*

It won't happen for a while, but a bill approved by the Texas Senate may eventually eliminate the state's franchise tax.

Several things need to happen first, including sustained economic growth, which would mean sustained tax revenue growth for the state to cover the cost of eliminating the franchise tax over the next ten years.

"This legislation provides tax relief and leaves more revenue available for other needs," said Sen. Jane Nelson, the author of the bill, SB 17.

SB 17 would not cut the tax rate during this budget cycle, but it could cut the tax in future years, as long as the comptroller expects state revenue to grow by at least five percent. Once that level of growth has reached 50 percent of the revenue growth over that five percent threshold would pay for franchise tax reductions. That would continue until the tax is eventually eliminated.

Last session, lawmakers approved a 25 percent cut in the franchise tax rate. That saved businesses an estimated \$2.6 billion, but the tax still brought in around \$7 billion to the state. The current version of the tax was originally passed in 2006 during the school finance special session.

Quoted in the Texas Tribune, Texas Taxpayers and Research Association President Dale Craymer said: "It has no impact on the current budget, it only triggers when revenue is available." Acknowledging that the current legislative session, with lawmakers strapped for cash, was "a tough time to be talking about tax relief," Craymer called Nelson's bill "the most appropriate way to phase out this tax."

"We certainly support anything lawmakers can do to cut the tax burden on businesses in Texas," said TAB President Chris Wallace. "We see this bill as the best way to



### WORKFORCE Q&A

*What Should Employers Consider When Responding to Employees Engaging in Alleged Political Commentary, Protests and Work Walk-Outs?*

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### UPCOMING EVENTS

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### TAB MISSION

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



Melodie Craft, Littler

## ***What Should Employers Consider When Responding to Employees Engaging in Alleged Political Commentary, Protests and Work Walk-Outs?***

2017 has seen an increase in discussion of political issues in many workplaces as well as marches, protests and work walk-outs as opposition to the current political environment.

When evaluating how to respond to these issues when they affect the workplace, employers should consider several things. First, the courts have previously held that employees (whether in a union or non-union environment) are engaging in protected “mutual aid or protection” under Section 7 of the National Labor Relations Act when they seek to “improve their lot as employees through channels outside the immediate employee-employer relationship.” The National Labor Relations Board (NLRB) has therefore found certain political activity to be protected as sufficiently employment-related (such as participating in a rally concerning sick leave, minimum wage or immigration reform), while finding that certain other activity is not (such as protesting health care staffing levels to improve patient safety). Thus, if the employee’s alleged political activity relates to labor and working conditions (and it is not done through improper means), it may be protected.

Second, employers should be advised that employees may not use improper means to engage in political activity. The NLRB’s General Counsel memorandum provides support for employers dealing with work walk-outs and no-shows as a means of political protest—provided the employer is applying a neutral work rule. Therefore, if an employer has a neutral work rule regarding discipline for no call/no show, work walk-outs, and the like, it can enforce those rules against employees who fail to show to work or walk-out of work as a political protest.

Employers in most circumstances should not discipline or retaliate against employees who engage in NLRA-protected political protests or comments off duty and on their own time. Employee conduct on the job, depending on the claimed advocacy issue and the method of protest, may be protected or not. Employers should consult with counsel and create a plan to deal with political activity in the workplace.

### ***Employment Relations questions?***

***Don't forget to call TAB's Employment Relations Hotline for your next HR Question at (844) 507-9391 or email [TABemplaw@jacksonlewis.com](mailto:TABemplaw@jacksonlewis.com).***

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# First Ever Texas Energy Day a Success

## TAB was one of the sponsoring organizations

TAB and more than 25 other organizations brought a celebration of the Texas energy industry to the State Capitol for the first-ever Texas Energy Day on March 22. Texans traveled to Austin to share with their lawmakers why oil and natural gas matters to them, their families and the state.

Texas Energy Day participants urged lawmakers to hold fast to the policies that have allowed Texas to safely harvest the state's natural resources, creating hundreds of thousands of good jobs and providing critical state and local tax revenue. In fiscal year 2016, the Texas oil and natural gas industry paid \$9.4 billion in state and local taxes and state royalties – amounting to \$26 million a day to state and local coffers.

“Texas leads the nation in oil and natural gas production, pipeline miles and refining capacity, not only because we are blessed with abundant natural resources, but also because Texas is teeming with determined and innovative people,” said Sen. Craig Estes, chairman of the Senate Natural Resources Committee. Rep. Drew Darby, chairman of the House Energy Resources Committee added, “It’s Texans that make the Texas oil and natural gas industry so strong. I’m proud to stand with them on Texas Energy Day and to do my part to help keep the Lone Star State on top.”

Visitors to Texas Energy Day exhibits on the Capitol grounds got a bird’s eye view into the tremendous innovation that is driving oil and natural gas production, transportation and refining, according to Todd Staples, president of the Texas Oil & Gas Association.

“The innovation on display today reinforces that we do not live in an ‘either

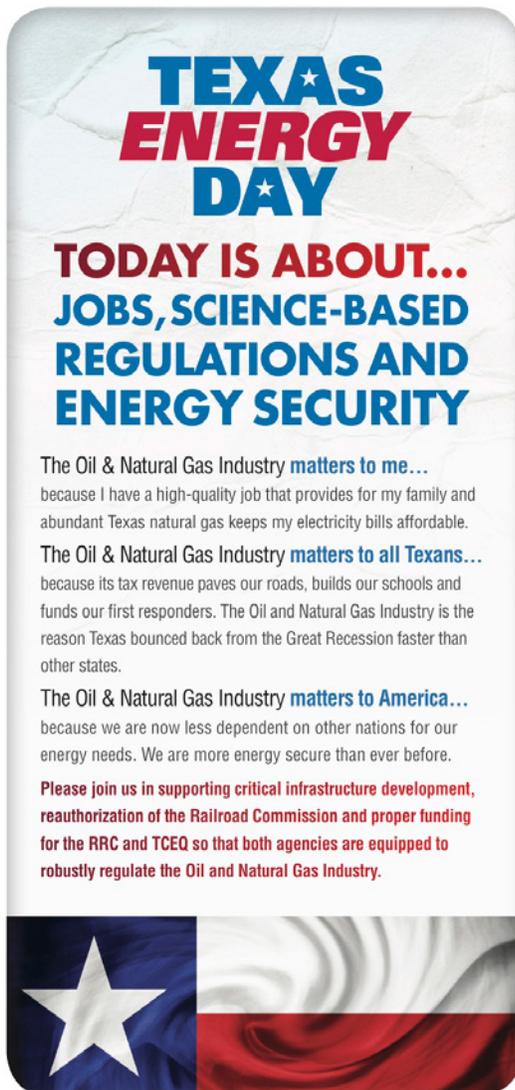
or’ world where you have to choose between energy and the environment,” said Staples. “While protecting and improving our environment, innovation allows us to produce more energy, create more jobs and bolster our energy security. Texas oil and natural gas is securing our economy, our environment and our future.”

Examples of innovation exhibits included a virtual reality tour of an off-shore rig, an in-line inspection tool that can measure pressure and detect leaks from inside a pipeline, a pump truck used in hydraulic fracturing (fracking), a data van used to remotely monitor oil and natural gas operations and models that show how wells are constructed with layers of concrete and steel pipe.

“The Texas energy industry continues to be the backbone of the Texas economy and a key to economic freedom for Texas citizens,” said TAB Vice President of Governmental Affairs Stephen Minick. “The Texas Association of Business is proud to partner with other organizations to celebrate Texas Energy

Day at the State Capitol. This special day reminds people of the importance of our energy heritage and our energy future.”

Tony Bennett, president and CEO of the Texas Association of Manufacturers, noted that growth in Texas manufacturing is directly linked to oil and natural gas activity. “An abundance of inexpensive natural gas has lowered electricity and material costs for manufacturers who, in turn, use those cost savings to expand their operations and grow jobs in Texas,” said Bennett. “At the same time, manufacturers make everything from drill bits to steel pipe so increased activity in oil and natural gas production and transportation translates to increased manufacturing activity.”



**TEXAS ENERGY DAY**

**TODAY IS ABOUT... JOBS, SCIENCE-BASED REGULATIONS AND ENERGY SECURITY**

The Oil & Natural Gas Industry **matters to me...** because I have a high-quality job that provides for my family and abundant Texas natural gas keeps my electricity bills affordable.

The Oil & Natural Gas Industry **matters to all Texans...** because its tax revenue paves our roads, builds our schools and funds our first responders. The Oil and Natural Gas Industry is the reason Texas bounced back from the Great Recession faster than other states.

The Oil & Natural Gas Industry **matters to America...** because we are now less dependent on other nations for our energy needs. We are more energy secure than ever before.

**Please join us in supporting critical infrastructure development, reauthorization of the Railroad Commission and proper funding for the RRC and TCEQ so that both agencies are equipped to robustly regulate the Oil and Natural Gas Industry.**

### BRAGGING RIGHTS

In 2016, the Oil and Natural Gas industry paid **\$9.4 BILLION** in state and local taxes and state royalties. That's **\$26 MILLION** per day to fund our schools, roads and first responders.

### 96% OF PRODUCTS AND MATERIALS

we use every day like plastics, medicines, computers, live-saving devices come from oil and natural gas.

### RENEWABLE ENERGY is possible.

Technological advances are continually improving our environment. With the help of fracking and natural gas-fired power plants CO<sub>2</sub> levels are near **20-YEAR LOWS.**

### TEXAS RANKS #1

in oil and natural gas production, pipeline miles and refining capacity.

[www.texasenergyday.com](http://www.texasenergyday.com)

# MEMBER PROFILE

## James Hardie

James Hardie is the global leader in fiber cement technology and has been furthering founder James Hardie's innovative, entrepreneurial legacy around the world for more than 125 years. It invented fiber cement siding products in the early 1980s as a durable, lower-maintenance alternative to wood and vinyl. Its products combine innovation and versatility to offer a variety of design possibilities, matched with specific performance attributes relative to the climate where the product is being used.

Hardie's operations encompass the United States, Australia and New Zealand. James Hardie® Building Products also are now available in Asia, with a manufacturing plant in the Philippines; in Europe, its operations are headquartered in Amsterdam. In every country in which it operates, the goal is to remain at the forefront of the fiber-cement industry, capitalizing on its global leadership in products, manufacturing and technology for both new home construction and remodeling.

Innovation is vital to maintaining the company's preeminent position in the fiber-cement industry. Consequently, the company invests heavily in research and development, with a special emphasis on product quality and production efficiency to develop durable and low maintenance siding products and backerboard.

James Hardie Industries plc (JHIplc) was created in October 2012, after shareholders voted to accept a unanimous recommendation by the board of James Hardie Industries SE to restructure the company and establish a new parent company (JHIplc) incorporated in Ireland.

The new structure is designed to position the company for further international growth, and generate higher returns for shareholders than were possible under the previous structure. James Hardie Industries plc now heads the James Hardie group of companies, with operations around the world.

The predecessor of these modern companies was established more than 100 years ago, in 1888, when the enterprising young James Hardie left his family's tannery business in Scotland

and immigrated to Melbourne, Australia, in search of new opportunities. Capitalizing on his experience, James started a business, importing oils and animal hide tanning products.

The second major figure in the company's history, Andrew Reid, was born on Jan. 24, 1867, near Linlithgow in Scotland. He knew James Hardie and maintained contact from Glasgow, where he worked as a shipping clerk. Encouraged by prospects

in Australia, Andrew arrived in Melbourne in March 1892 and soon after joined James Hardie's business, becoming a full partner in 1895. Andrew Reid was outgoing, energetic and visionary, and his talents combined well with Hardie's sound commercial judgement.

James Hardie retired in 1911 and sold his half of the business to Andrew Reid, whose family led the expanding business from 1911 until 1995, when his grandson John B. Reid retired.



*James Hardie pioneered the development of fiber-cement technology, and began designing and manufacturing a wide range of fiber-cement building products.*

A publicly-owned company, James Hardie Industries Ltd, was listed on the Australian Stock Exchange in 1951. In the following years, the company built up a diverse portfolio of building and industrial products businesses.

In the mid-1980s, James Hardie pioneered the development of fiber-cement technology, and began designing and manufacturing a wide range of fiber-cement building products that made use of the benefits that came from the product's durability, versatility and strength.

Using the technical and manufacturing expertise it developed in Australia, James Hardie Inc. expanded its operations to become a world-leading, specialized, high-technology manufacturer of a wide range of fiber-cement building materials.

Today, James Hardie Inc. is purely a fiber-cement business. It operates in markets around the world, with manufacturing operations in the United States, Australia, New Zealand and the Philippines. The businesses employ over 2,500 people who generate revenue of more than \$1.5 billion a year.

Visit [www.jameshardie.com](http://www.jameshardie.com) to learn more about James Hardie.

# In the House Now

## “Bathroom bill” moves out of Senate

The Texas Senate approved SB 6 by a 21-10 vote on March 15, sending the bill to the Texas House for consideration. TAB is a strong opponent of the bill because of the economic damage it could cause the state, and the damage it will cause to the state’s “open for business” reputation.

“We’re disappointed the Texas Senate would choose to pass discriminatory legislation like Senate Bill 6, despite clear indications that its passage will have an economic impact in Texas,” said TAB President Chris Wallace following the vote. “TAB remains committed to fighting and defending the Texas economy against bills that discriminate and run counter to Texas values.”

Before the vote, TAB sent a letter to the Texas Senate outlining those concerns. The letter states:

“During the testimony given on Tuesday, several convention and visitors’ bureaus documented losses from numerous organizations that have already indicated they will cancel their plans for Texas if SB 6 is passed. As of this writing, the likely direct spending losses total \$407 million, which equates to a total \$728.6 million in GDP impact when a standard multiplier is used.”

North Carolina’s Lieutenant Governor Forest acknowledged that HB 2 has “hurt North Carolina’s economy” and PolitiFact North Carolina found HB 2 cost the state between \$450 million and \$630 million and at least 1,400 jobs in less than one year.

If the negative impact to Texas mirrors North Carolina’s losses, it would

equates to up to \$1.59 billion of lost GDP in less than a year. You can see from the figures above that we are almost halfway to that figure, well before SB 6 had even reached the Senate floor.

“Our members believe everyone deserves to be treated fairly and equally, and we have heard what they know- equity and non-

discrimination is a twenty-first-century economic imperative,” said Wallace. “Senate Bill 6 is simply not worth the risk, and it will do nothing to improve personal safety.”

“Given the overwhelming economic evidence, and the clear rejection of the public safety argument from Texas law enforcement, Senate Bill 6 is a solution in search of a problem, and we hope that the Texas House will strongly reject this measure,” Wallace concluded.

That argument also was made in the letter to senators. It stated that given the overwhelming economic evidence and the clear rejection of the public safety argument from Texas law enforcement, we feel we must continue to advocate to Keep Texas Open for Business and to maintain our state’s reputation as a welcoming place for visitors and businesses.

TAB will continue to argue these points as the bill continues to move

through the process. We also would encourage you to contact your elected officials and let them know your feelings on this legislation.

To that end, Keep Texas Open for Business has launched an ad campaign in the Texas Tribune to make it easy for people to contact their lawmakers about this issue. The ad points to [THIS LINK](#) that allows anyone to send an email message about the economic damage

that SB 6 and other discriminatory legislation could cause to Texas.

You can read the full letter to the Senate by [CLICKING HERE](#).



## Franchise Tax Elimination Moves Forward

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do that under the current budgetary climate faced by the state. I’m very happy to see lawmakers recognizing that businesses pay the lion’s share of the tax load in Texas and that cutting that load will help stimulate jobs and keep our economy on track.”

With Senate approval, the bill now heads to the House for a committee hearing.



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# Talk **About** Business

## Private Sector Can Help Leverage Public Dollars, Address Traffic Congestion and Keep Our Economy Humming



Chris Wallace, TAB President

U.S. News & World Report recently gave Texas high marks for its economy and the fiscal stability of state government. All positive—except it wasn't. The same report pointed to the worsening—and in some cases, worst-in-the-nation—commutes in some Texas cities. Overall, Texas ranked 49 in the report's infrastructure category.

As anyone who drives can attest, mind-numbing traffic congestion is now the norm in many Texas communities. Adding to that misery is the knowledge that relief isn't in the cards any time soon, given limited tax dollars at all levels of government.

So, where does that leave us? What can we do to alleviate congestion—and get the kids to school on time and make a last-minute meeting across town?

One solution can be found in the private sector, specifically in leveraging the finances and innovations that business can provide in partnership with state and local governments.

Public-private partnerships (P3s) have already proven successful in the development of several Texas roadways. Take, for instance, the \$2.6 billion LBJ Express in North Dallas. This project was made possible by a P3 that allowed the state to leverage its funds to complete one of the most complex highway reconstruction corridors in the nation. This 13.3-mile, state-of-the-art highway opened in September 2015, three months

ahead of schedule and 10 years faster than a traditionally built project.

Since its opening, the LBJ Express has seen a 10 to 15 percent increase in the daily number of vehicles using the roadway, and overall congestion relief is averaging nearly 70 percent with speeds up by 15 percent across the entire highway.

Not only is the LBJ Express providing drivers with additional mobility solutions, but it has also attracted new development along the corridor.

We've seen similar results with another P3 roadway: the North Tarrant Express along I-820 and Airport Freeway in Northeast Tarrant County. During construction, the North Tarrant Express employed more than 2,000 Texans working for more than 100 Texas companies.

Since opening in 2014, nine months ahead of schedule, the North Tarrant Express has seen an overall increase in traffic of nearly 40 percent with congestion relief of approximately 70 percent and increased speeds of 10 percent or better.

The LBJ Express and North Tarrant Express are part of a regional network of highways being developed by the Texas Department of Transportation, North Central Texas Council of Governments, Regional Transportation Council and local counties and cities.

Similar P3 projects are being considered throughout the state, and one is already underway in Houston; there, the

approximately \$1 billion State Highway 288 is part of a larger effort to better connect the downtown business district and the Texas Medical Center with expanding residential areas of Harris and Brazoria counties.

These projects serve as models for how P3s for highway development can and should work. By capitalizing on the private sector's willingness to invest in innovative solutions to get Texans moving again, the state can leverage its tax dollars to provide needed roadways.

Thankfully, Texas legislators have filed a number of proposals this session to allow the private sector to continue to work to enhance Texas mobility. One such measure, House Bill 2861 by State Rep. Larry Phillips would authorize P3s for specific projects across the state.

At the Texas Association of Business, we ask all Texas legislators to support HB 2861 and similar measures to help build roadways, leveraging private dollars where possible.

With any luck, the next time U.S. News & World Report issues its state rankings, Texas will get top marks not only for our business climate and fiscal strength, but also for using all tools in the toolbox to fix our aging, outmoded roadways and, importantly, embracing all modes of transportation.