



Ranking Member Priorities

What is important to you this session?

The results of a membership survey show education is the top priority for Texas Association of Business members this legislative session. Education was followed in order of importance by taxation, transportation, healthcare and regulatory reform.

“Education being the top priority is not a surprise,” said TAB CEO Bill Hammond. “Everyone in the business community is worried about where the next generation of workers will come from and whether our schools are doing a good job preparing that next generation. Considering the number of career and college ready graduates remains at a dismal 26 percent of those students graduating high school, that concern is justified.”



Education tops TAB member priorities.

There were three education priorities identified in the survey:

- Create a public school accountability system that is transparent for communities and parents with an A-F grade-rating system of campuses;
- Advocate for additional incentives for quality Pre-K, as Governor Abbott proposed; and
- Oppose the repeal of in-state tuition for undocumented students attending institutions of higher education who graduated from a Texas high school and are in the process of obtaining legal status.

WORKFORCE Q&A

One of my employees is in a same-sex marriage and he/she has requested leave to care for his/her spouse. Is he/she entitled to leave under the Family Medical Leave Act (“FMLA” or “Act”)?

(see page 2)

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TAB MISSION

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

WORKFORCE Q&A



Rea Fernandez, Associate
Littler from Houston

One of my employees is in a same-sex marriage and he/she has requested leave to care for his/her spouse. Is he/she entitled to leave under the Family Medical Leave Act (“FMLA” or “Act”)?

As of March 27, 2015, the answer is yes if you are a covered employer and the employee satisfies the other requirements under the FMLA. On Feb. 23, 2015, the U.S. Department of Labor published a new rule, which redefined “spouse” under the Act. “Spouse” now means “the other person with whom an individual entered into marriage as defined or recognized under State law for purposes of marriage in the State in which the marriage was entered into.” This new definition extends

leave rights and job protection under the FMLA to eligible employees in same-sex marriages entered into in a state that legally recognizes such marriages, regardless of where the employee currently works or resides.

As background, the FMLA covers private sector employers with 50 or more workers and provides 12 workweeks of unpaid leave to an eligible employee to, among other things, care for a spouse with a serious health condition. To be eligible, an employee must have worked for that employer for at least 12 months; have worked at least 1,250 hours during the 12 months prior to the start of the leave; and work at a location with at least 50 employees or within 75 miles of such a location. 29 C.F.R. § 825.110.

Previously, same-sex couples could only avail themselves of FMLA protected leave if they lived in a state that acknowledged same-sex marriages. Under the old “state of residence” rule, Texas employers were not required to offer FMLA protected leave to employees in same-sex marriages because Texas does not recognize same-sex marriage.

As of March 27, 2015, however, all married same-sex couples will be entitled to FMLA protection, regardless of their state of residence. Under the new “state of celebration” rule, an employee’s FMLA eligibility turns on whether the state where the couple was married recognizes same-sex marriages. If so, then an employer must provide leave rights and job protection to that eligible employee.

In short, after March 27, 2015, eligible employees in same-sex marriages who work or reside in Texas may now take advantage of spousal FMLA leave. In light of this new rule, employers should review and revise their FMLA leave policies to ensure that FMLA benefits and protection extend to *all* eligible employees and should train its supervisors and human resources personnel on this recent change in the law.

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***

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The Fight for Ex-Im Continues

TAB continues working with partners like the Texas Association of Manufacturers and the U.S. Chamber of Commerce to convince Congress to reauthorize the Export-Import Bank (Ex-Im Bank).

“We are working to set the record straight,” said TAB CEO Bill Hammond. “The belief that the Export-Import Bank exists to hand out favors to big business could not be farther from the truth. The fact is the Export-Import Bank offers loan guarantees that are paid back by businesses. These loans make it possible to expand trade and support thousands of jobs in Texas and across the country. Washington, DC based think tanks, like the Heritage Foundation, are apparently more interested in generating donations to their coffers through their false headlines and fear mongering about the Export-Import Bank than they are about protecting and growing jobs in Texas. The Export-Import Bank is one of the few federal programs that work and actually makes money, instead of draining taxpayers’ dollars. It is time for people to learn the truth about the bank, and it is time for Congress to reauthorize its operation.”

“The Texas economic miracle is no miracle. It is the result of sound public policy that promotes job creation and job retention,” said Tony Bennett, President of the Texas Association of Manufacturers. “Many businesses, both large and small, rely on the Ex-Im Bank. It has helped over 1,000 Texas companies finance \$19 billion in exports. More than half of these exporters are small businesses. Approximately one-quarter of all Texas manufacturing jobs rely on exports. Texas is the nation’s number one exporting state, and the largest user of Ex-Im Bank. We must continue to create jobs and to drive economic growth. We need Ex-Im Bank to do that.”

The bank faces a June 30 deadline for reauthorization. Without the loan guarantees provided by the bank thousands of jobs could be lost as businesses that rely on foreign trade cut back or shut down.

The bank has an incredible track record. Its loan default rate is only 0.2 percent per quarter, and last year the bank made over \$1 billion.

“You would think that a program like that would enjoy widespread support with members of Congress claiming to be fiscal conservatives,” said Hammond. “It is hard for me to understand why this has generated such a fight. This is clearly a program that works and works well. It is clearly a job creator, and it is clear that without it, thousands of jobs are in jeopardy.”

The problem is there are few alternatives if the bank is allowed to expire and close. “There is really no replacement for those funds and loan guarantees,” said Hammond. “Without those funds it is doubtful that a lot of these small businesses,



TAB continues to fight for the survival of the Ex-Im Bank

many minority owned, will be able to continue with the business they are doing. They will be forced to cut jobs or shut down without this critical help. Congress should not be in the business of picking winners and losers here; it should be in the business of providing programs that spur economic growth; and that is what the Export-Import Bank is all about.”

TAB members can help this effort. If you want to know more about the issue please log on to our website, www.txbiz.org, and take a look at the new Ex-Im Toolkit. After you learn more please sign the letter of support to members of congress by [clicking here](#).

QUOTES

“The creation of these review committees will effectively reinstate social promotion. It also reduces the value of the diploma for all those who worked hard in school and proved their skills on these tests.”

– TAB CEO Bill Hammond in the *Dallas Morning News*.

“Our policies emphasize tolerance and inclusiveness, and prohibit discrimination based on age, gender, race, religion, sexual orientation, or any other improper standard.”

– TAB President Chris Wallace in *Texas Monthly's Burka Blog*.

“Put me in the camp of Bill Hammond, president of the Texas Association of Business and a former House member, who said in today’s DMN article: “it will signal to the 90 percent of kids who passed the tests that the goof-offs in class who never paid attention now get a bye from the Legislature.”

– *Dallas Morning News* Editorial by Sharon Grigsby

Ranking Member Priorities

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On the taxation issue, members want to maintain a fair tax environment for business by opposing changes that add additional burdens on business, including increasing the homestead exemption.

“The problem with a homestead exemption increase is there is no limit on how high that will go,” said Hammond. “As the homestead exemption increases, the tax burden on businesses will increase to make up the difference. That is not good for Texas. We need a tax structure that takes some of the burden off of businesses that already pay over 60 percent of the taxes in Texas.”

Transportation is third on the list. Members’ support funding for transportation infrastructure that will adequately meet the needs of Texas businesses and employees as well as the demands of a growing Texas economy.

“I think the Legislature understands this priority and will take steps to meet our funding goals this legislative session,” said Hammond. “While there is still a disagreement between the House and Senate on how we get to our goal, I believe that, in the end, we will get there.”

Affordable healthcare for businesses and employees came in as the fourth most important priority. Members point out that they want to:

- Create an affordable and accessible health care system by increasing the number of primary care doctors and Advanced Practice Registered Nurses, utilizing and expanding current telemedicine technology and protecting consumers from balance billing;

- Curb prescription drug abuse by modernizing and reforming the Texas Prescription Monitoring Program to ensure a healthy and productive workforce; and
- Reform prompt pay penalties in order to reduce costly litigation that ultimately raises health insurance premiums for employers and consumers.

“We believe if these steps are taken there is a better chance that the cost of healthcare and

health insurance could at least stabilize,” said Hammond. “Of course, that also is controlled by what the federal government does on the issue, something that our Legislature has no control over.”

The final priority on the list is regulatory reform. The goal is to reform the permitting process to create a fair, predictable and timely regulatory environment. That would

ensure Texas is competitive with other states for business investment.

“I think lawmakers will pass some sort of regulatory reform this session,” said Hammond. “The question is how much, and will it be enough to make Texas more competitive? There are bills out there that will make the regulatory climate in Texas much more competitive with other states. Our job is to reinforce this message with lawmakers.”



Taxation is the number two legislative issue for TAB members.

TAB Launches New Higher Education Partnership with WGU Texas

The Texas Association of Business is constantly working to ensure Texas has an educated workforce. Now, thanks to a new partnership with WGU Texas, TAB members and their employees can get discounted tuition to continue or complete their college degrees.

WGU Texas is a nonprofit, online university designed to expand access to higher education for Texas residents. Established by the state of Texas through a partnership with nationally recognized Western Governors University, WGU Texas offers more than 50 accredited bachelor's and master's degree programs in high-demand career fields in business, K-12 teacher prep education, information technology and health professions, including nursing.

“This is an extremely important partnership and will allow the thousands of TAB members and their employees to gain valuable education while staying on the job,” said TAB CEO Bill Hammond. “TAB has always been about finding solutions to challenges facing the Texas workforce and business community. This opportunity with an innovative partner with proven results like WGU is a prime example of that work.”

WGU Texas uses an innovative approach known as competency-based education, which measures knowledge and learning, not seat time. Learning is fixed, but time is variable, giving WGU Texas' students greater flexibility and ability in earning their degrees. WGU Texas pairs competency-

based education with a mentor-guided education model that has helped the university earn high marks in several national surveys and studies.

“We're thrilled to partner with TAB to make degrees in some of the state's most high-demand fields more accessible and affordable for Texans,” said WGU Texas Chancellor Veronica “Ronnye” Vargas Stidvent. “Our graduates also are earning high marks from their employers. In national surveys, employers say WGU graduates meet or

exceed expectations and are well prepared for their jobs.”

Texas Association of Business members and their employees who enroll in a degree program at WGU Texas are encouraged

to apply for scholarships through the WGU Institutional Partners Scholarship program. Once enrolled, verified and approved, TAB members/employees will receive the scholarship via tuition credit. The scholarship is renewable for up to four terms based on satisfactory academic progress.

“TAB has been a supporter of WGU Texas ever since former Governor Perry announced its creation in 2011,” said Hammond. “We feel this is a very important education alternative that offers an affordable and flexible way for busy, working adults to earn their degree while balancing work and family responsibilities at the same time.”

To learn more about WGU Texas, visit www.texas.wgu.edu.



MEMBER PROFILE

Jackson Walker L.L.P. is a Texas-based law firm with a national presence and global reach. With more than 350 attorneys, we're one of the largest law firms in the state, and we provide comprehensive services in a broad range of practice areas.



*Jackson Walker Managing Partner
Wade Cooper.*

For more than 125 years, Jackson Walker has played a vital role in the growth and development of Texas business. Since our founding in 1887, our attorneys have represented some of the most influential companies in the state in key industries that shaped the course of Texas history, including railroads, the media and oil and gas exploration. Today, we remain firmly rooted in Texas, with offices in Austin, Dallas, Fort Worth, Houston, San Angelo, San Antonio and Texarkana.

Over the years, we've grown with our clients. Our practice now spans the globe, and our corporate clients include some of the biggest names in business. We represent approximately 230 of the Fortune 500 companies and 50 of the Fortune 100. Internationally, Jackson Walker attorneys have represented clients in more than 85 countries and territories, and we are a founding member of Globalaw™, a worldwide network of law firms with offices throughout the U.S. and in over 165 cities internationally. At the same time, we're a good fit for smaller companies, and our clients include family-owned businesses, local and regional government agencies, individuals and nonprofit groups.

While our practice has grown, our commitment to clients remains the same: to provide practical, effective solutions that add value and address their specific objectives.

“We have a saying here that great lawyers are made by great clients, and we never forget what an honor and privilege it is to serve our clients by helping them achieve their business goals,” said firmwide managing partner Wade Cooper. “At the same time, our greatest challenge is to continually find ways to be responsive to our clients’ needs and equip them to succeed in a competitive and rapidly evolving business climate.”

TAB has contributed to the success of Jackson Walker and our clients by providing a strong voice of advocacy for Texas business. For more than 85 years, TAB has been on the front lines of the legislative, regulatory and judicial battlefields, fighting for every issue that affects business to ensure that employers’ opinions are being heard. Jay Rutherford, a partner in Jackson Walker’s Fort Worth office, has seen TAB’s impact firsthand through his longstanding involvement with the organization, which includes having served as Statewide Chair in 2007 and as Chairman of

the Tarrant County Chapter in 1999.



*Jackson Walker Partner
Jay Rutherford.*

“TAB provides an advantage to our clients by helping Texas maintain its competitive advantage and continue to be a great place to conduct business,” Mr. Rutherford said. “We are proud to be part of an organization that

had helped make the state’s economy the strongest in the world.”

For more information about Jackson Walker, please visit our website at www.jw.com.



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Talk **About** Business

Putting A Stop To Surprise Medical Bills



Bill Hammond, TAB CEO

When business owners provide health care coverage for their employees, they do their best to choose plans that not only cover the desired care, but also provide a degree of predictability in terms of cost. Unfortunately, there is a practice occurring across Texas that is surprising Texas employees and their families with unexpected medical charges. The practice is called “balance billing.” For recipients of health care, there is nothing “balanced” about the practice. In a nutshell, balance billing occurs when patients seek care at a medical hospital identified by their PPO plan as “in-network,” but are in fact treated by medical personnel who are “out-of-network.”

The result? Two separate medical bills— one for the in-network facility, and one for the out-of-network provider. The latter is the retail rate for services – sometimes hundreds of times the accepted rate. A patient admitted to a hospital for surgery may have checked in advance to ensure the hospital was in-network, but after his surgery, he may be surprised to find out that the anesthesiologist, who treated him, was out-of-network. His insurance plan may cover a portion of out-of-network charges, but the remainder is his to pay.

If physicians aren’t bound by an in-network contract, they can set

rates for their services beyond the going rate then charge patients every last cent that is not covered by insurance. According to a recent study by the Center for Public Policy Priorities, this practice is happening increasingly in Texas hospitals where a growing number of emergency room physicians are neither hospital employees nor contractually connected with some of the state’s biggest insurers. The study found that 23 Texas hospitals that have contracts with the state’s largest PPO plans do not have any emergency room doctors who contract with those plans.

Balance billing primarily happens when large out-of-network physician groups have an exclusive agreement, essentially a monopoly, with an in-network hospital. Texas already requires health plans to pay these providers what is usually and customarily charged in the market. In many instances, these physicians receive an even larger reimbursement than their in-network counterparts, yet they still balance bill consumers up to a bill amount that have no limits and no connection to underlying costs or market prices. It’s a growing problem that will likely continue here in Texas unless the Legislature takes some important steps to protect consumers during the 84th legislative session.

Over the past few sessions, the Legislature has worked to protect Texans by mitigating the impact of these rule changes, so there are some safeguards in place for health care consumers. For example, transparency has improved, with rules requiring health care organizations to provide more detailed information on procedure pricing to patients. Patients also received relief in rules that allow them to contest a balance bill amount through mediation when certain conditions are met, like a bill that exceeds \$1,000. Where it is available, mediation is working well to benefit both patients and providers. It is a simple process that doesn’t cost anything and saves money in the long run.

The Texas Association of Business hopes the Legislature will take additional steps this session to further protect consumers from “balance bill shock” by lowering the financial threshold required for mediation. Just as physicians should have recourse to pursue payments for their services, consumers should have access to mediation services to ensure their medical bills are fair and transparent. More expansive use of mediation will bring a higher degree of fairness to the situation and, ultimately, better protect Texans from surprise debt and lower health care costs for patients and businesses.