



UI Battle Heats Up In Texas Legislature

TAB Leads Efforts To Kill New Job Tax

Despite facing enormous pressure from union interests and the media, Governor Rick Perry made a bold move to reject the federal stimulus dollars tied to unemployment insurance (UI) benefits. This swift action proved to be Act One in the drama unfolding over accepting the money.

The federal government is offering the state of Texas over \$550 million to address unemployment. The catch: In order to receive the money, the Texas Legislature would have to adopt radical changes to the unemployment system that would cost employers across the state hundreds of millions of dollars. This job tax would increase unemployment, as employers continue to struggle to keep their businesses thriving in this tough economy.

Once the federal money runs out, employers and entrepreneurs who are the life-blood of our economy would be left to make up the breach, estimated to be \$80 million annually.

The Texas Association of Business led the charge by drawing attention to this important issue, noting that the federal government's strings-attached money served only to further state dependence on Washington.

A groundswell of interest grew, as TAB engaged the Legislature, testified before the Select Committee on Federal Economic Stabilization Funding, developed a six-



Governor Rick Perry announces his rejection of federal dollars that hinged on radical changes to the Texas unemployment insurance system.

point plan to overhaul our state's unemployment insurance system and mobilized our vast network to contact their leaders in opposition of accepting these funds. In the past weeks, TAB efforts have led to concerned citizens sending thousands of e-mails to their lawmakers.

Within days, Governor Perry announced his rejection of the unemployment stimulus funds in

WORKFORCE Q&A

We are moving our plant to a different site. If some of the employees choose not to travel to work at the other site, will they be able to collect unemployment benefits if they quit?

(see page 2)

CAP AND TRADE

President Obama's climate plan could cost industry close to \$2 trillion, nearly three times the White House's initial estimate of the so-called "cap-and-trade" legislation, according to Senate staffers who were briefed by the White House.

*Washington Times
March 18, 2009*

TAB MISSION

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

WORKFORCE Q&A



*Bruce A. Griggs
Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.*

We are moving our plant to a different site. If some of the employees choose not to travel to work at the other site, will they be able to collect unemployment benefits if they quit?

The Texas Unemployment Compensation Act allows for differing interpretations regarding when an employee is eligible for unemployment benefits based on a voluntary separation of employment that results from a plant's relocation. The answer depends on the **distance between the old and new locations** of the plant and the **extent and availability of the employee's means of transportation** to the new location.

As a general rule, if a plant relocates to another city or state, it is likely that the employees will be eligible for unemployment benefits. More specifically, a distance of ten miles between the old location and the new location is typically considered a reasonable distance to expect that an employee can travel; eighty miles has been considered unreasonable.

The availability of public transportation and shared transportation (i.e. car-pooling) can render an employee ineligible for unemployment based on plant's relocation. For example, if an employee is able to carpool with a co-employee who lives near that employee's home, the employee will most likely not be eligible for unemployment benefits (so long as the distance between the locations is reasonable). If that employee cannot reasonably access or rely on public transportation or car-pooling to travel to the new location, he or she will probably be eligible for unemployment.

In short, the answer depends on the distance between the old plant and the new plant and the individual employee's access to available means of transportation.

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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Unemployment Insurance Battle

continued from page one

a Houston press conference at a local hardware store.

“Texans who hire Texans drive our state’s economic engine. During these tough times, Texas employers are working harder than ever to move products to market, make payroll and create jobs. The last thing they need is government burdening them with higher taxes and expanded obligations,” Governor Perry said.

“Our state is home to one of the most robust economies in the world because of fiscal responsibility, fewer taxes and the character of our hardworking men and women,” said TAB President Bill Hammond. “Governor Perry’s decision to reject this portion of the federal stimulus package will safeguard Texas’ successful economy for years to come.”

In short order, bills were filed in the House and Senate to circumvent the Governor’s decision and look for methods to accept the money. Leading the pack of anti-employer measures was legislation filed by Rep. Joe Deshotel and Sen. Kevin Eltife. As of this writing, Deshotel’s HB 2623 and Eltife’s SB 1569 have been passed out of their respective committees and are eligible for consideration by the House and Senate imminently.

The question over whether the state can remove strings from accepting the money has launched the issue into the forefront of the policy arena. In recent weeks, the TAB has stood alongside business organizations, think tanks and legislators denouncing the short-sighted UI

legislation that would create a permanent tax increase on employers if left to the Legislature to repeal.

A recent study commissioned by the Texas Public Policy Foundation from the firm of world-renowned economist Arthur Laffer determined that accepting the federal dollars would lead to long-term consequences for employers.

The higher taxes will discourage employers from taking the risk of hiring more workers, effectively making the federal expansion requirements a job-killer.



TAB President Bill Hammond at a press conference asking the Texas legislature to reject UI stimulus funds.

Increasing benefits from government is not a long-term solution for an economy, and the answer to a tough economy is not more social programs. The best social program is a real job. Our focus should be on making it easier for employers to create and keep jobs, rather than on raising the cost of keeping Texans unemployed.

Be sure to visit www.txbiz.org for the latest developments on this important issue.

Turn Back The Clock *TAB's Founding Principles*

Adopted in 1922, these tenets guided the organization that would become the Texas Association of Business

- ★ Passage only of helpful fair laws—unalterable opposition to Communistic, Socialistic and Paternalistic legislation.
- ★ Assure capital, both inside and outside of Texas, of fair treatment when invested here, wholeheartedly welcoming new capital, new brains and intelligent effort.
- ★ Opposition to government in business. Tax money to be used only for legitimate tax purposes and not for capital account.
- ★ Adequate laws to protect investment in capital and labor but unceasing opposition to unnecessary bureaus, boards and commissions.
- ★ Stimulation of the continued development and use of Texas raw materials for industrial purposes.
- ★ Proper steps to acquire necessary data to make Texas a leading mining state.
- ★ Procuring of proper industrial and raw material survey of Texas.
- ★ Development of types of agriculture necessary for industrial advancement.
- ★ Proper consideration of industrial banking, particularly for Texas’ smaller cities.
- ★ Education of Texas people into the vast benefits to accrue from industrial progress. This making Texas industry-minded.

MEMBER PROFILE

Providence Risk & Insurance Services, Inc.

Providence is one of the state's first-class benefit administrators, helping injured workers get the treatment they need to get back on their feet and back to work.

Texas is the only state in the nation in which workers' compensation insurance is not mandatory. Based in San Antonio, Providence administers work related injury benefit plans for employers in Texas who have chosen to opt out of the workers' compensation system. Providence also administers self-funded group health benefit plans for Texas employers.

Providence was founded by Diana Craft, president of Providence Companies, in January, 1996. The following month she added her first employee, Peggy Byers. Since then, Providence staff has flourished to an impressive 85 and Peggy now serves as the company's vice-president, directing the organization's claims.

Over the past 13 years Providence has seen its clients focus more on safety and the benefits levels available to their employees if injured while on the job. Employers have learned that providing their injured workers with the best medical care available is more cost effective than selecting medical providers based on discounts.

Providence has grown in the face of some true challenges including: the rising costs of medical care - particularly inpatient hospital care, the rising costs of prescription drugs, and keeping the nonsubscriber option available in Texas.

Since its founding, Providence has been named as a Fast Track Company - one of the fastest growing companies in San Antonio, a Best Place to Work in San Antonio, one of the Largest Women-Owned Firms in San Antonio, and one of the Best Companies to Work for in Texas. Mrs. Craft received the *San Antonio Business Journal's* Women's Leadership Award for Business Growth, as well as the National Association of Women Business Owners' Entrepreneurial Spirit Award.

As of January 2009, Mrs. Craft has served on the Texas Association of Business Board of Directors. "Diana

embodies the entrepreneurial spirit and growth that happens as a result of a good business climate," said TAB President Bill Hammond. "It has been an honor getting to know her, and hers is a perspective that our leadership and staff truly value."

Mrs. Craft says that TAB and its staff have worked hard to keep our legislators aware of how important freedom of choice is to Texas business owners. If businesses in Texas did not have the choice to opt out of the workers' compensation system, the negative impact on our state would be extraordinary. TAB

also makes certain its lawmakers remain aware of the fact that twenty years ago workers' compensation costs in Texas were prohibitive, and that many businesses were prepared to leave the state if relief did not come soon. "The freedom of choice provides thousands of businesses with an option to continue operating in Texas," said Craft.



Providence President Diana Craft (L) and Peggy Byers, the company's first employee and now-Vice President

FAST STATS

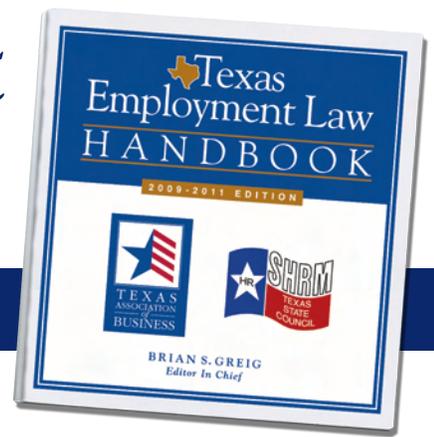
Member Name.....Providence Risk & Insurance Services
Hometown.....San Antonio

Year Business was Founded..... 1996
TAB Member Since..... 2007
Website www.pristx.com
Phone Number (210) 495-7595

Reason for Joining TAB "TAB and its staff work hard to keep legislators aware of how important freedom of choice is to Texas business owners."

Texas Employment Law Handbook

2009 - 2011



Trying to Keep up with Ever-Changing State Employment Law Issues?

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The Texas Employment Law Handbook is the ONLY Handbook written by Texas Labor Law Attorneys that focuses exclusively on the needs of Texas employers.

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The Texas Employment Law Handbook arms you with the information you need to keep you out of the courtroom. Earlier this year as well as last year, several critical cases

were decided that affect how you deal with employees and how you run your business. TAB's 2009 Employment Law Handbook puts all these new changes together with other in-depth advice.

TAB will now be publishing its handbook every two years. You will be updated on crucial changes within that time through TAB's web-based book that is available online.

View Chapter Summaries on the World Wide Web. If you haven't taken advantage of the Texas Employment Law Handbook, chapter summaries and author information are now available on TAB's website—www.txbiz.org.

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Talk **About** Business



Bill Hammond, TAB President

TAB Says No To Trial Lawyer Bailout

Since 2003, the tenor of economic legislation developed by the Texas Legislature has been defined by fiscal responsibility and a commitment to free market principles. This successful philosophy has been essential in the economic success Texas has enjoyed, but it is now under attack by the personal injury trial lawyer lobby that has spent millions of dollars to gain influence at the Capitol.

It was not so long ago that the corruption of the Texas court system was at the center of a *60 Minutes* expose that declared that “justice was for sale” in Texas. Cited among the principal reasons for the corruption was our state’s reputation as a haven for frivolous lawsuits.

Fortunately, Texas made the tough changes necessary to dramatically reduce lawsuit abuse. Tort reform has been responsible for the creation of 499,000 new Texas jobs according to noted economist Ray Perryman.

Lawsuit reform has taken a sledgehammer to the frivolous lawsuits that are the foundation of the personal injury trial attorneys’ outrageous legal fees. The trial lawyer lobby poured millions of dollars into the 2008 campaign cycle; desperately

hoping that putting more anti-business lawmakers in office would slow the extinction of their influence. They have placed the reforms enacted to eradicate lawsuit abuse in Texas in their crosshairs.

Riding the Obama wave of ballot success, the floundering trial lawyer lobby is using the gains it made in Austin to seek its own stimulus package by pressuring legislators to pass bills that would open the floodgates for lawsuits in Texas.

At a time in history when the global economy has hit the skids, our state should be doing all it can to create jobs, not pumping money into the pockets of trial lawyers.

In an alarming trend, anti-employer bills have received increased attention and support from lawmakers with pro-business records.

The Texas Association of Business has engaged its members, met with lawmakers and formed coalitions to urge the Legislature to defeat the following anti-employer bills:

CSSB 1123/HB 1811 lowers the causation standard in mesothelioma cases and opens the floodgates in Texas to meritless lawsuits.

SB 1119/HB 1956 would allow personal injury lawyers to sue for health care expenses that were never paid or incurred. Giving personal injury lawyers the right to sue for phantom health care expenses will only enrich them, while driving up health care costs for Texans.

SB 2063/HB 1657 allows injured parties to sue property owners even if they served as the general contractor, they supplied workers’ compensation benefits to the workers onsite and the claimant already received such benefits.

These job-killing bills are tantamount to a Trial Lawyer Bailout, which would roll back the good work of legislators in recent years to rein in lawsuit abuse and questionable lawsuits while protecting the rights of truly injured Texans to have their day in court.

Every session, the Texas business community fights to preserve positive, pro-business legislation. If the Legislature concedes an inch on these measures, the trial lawyer lobby would surely double their efforts to elect anti-business legislators, pushing our state one step closer to the days when justice was for sale.