



TEXAS

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BUSINESS REPORT



TAB Leads Historic Education Coalition

Groups United For Accountability Draw Controversy

The Texas Association of Business and several influential business, public policy and civil rights groups joined together to form an historic alliance committed to raising public education accountability standards and reducing dropouts in Texas.

The group -- which consisted of TAB, the Mexican American Legal Defense and Educational Fund (MALDEF), the League of United Latin American Citizens (LULAC), the Center for Public Policy Priorities (CPPP), the Greater Austin Chamber of Commerce (GACC), the San Antonio Hispanic Chamber of Commerce (SAHCC) and Mothers Against Discriminatory Racism in Education and Society (MADRES) – came together as a part of the Association’s continuing efforts to prepare students for the workforce or college upon graduation.

Following the recent Texas Education Agency (TEA) release of the 2008 dropout figures, the issue generated press attention as the dropout rate would now figure into TEA accountability ratings for campus performance after a two-year delay in implementing this federal standard.

Last year, TAB was vocal in its opposition to TEA Commissioner Robert Scott’s last minute refusal to incorporate the dropout rate into the accountability ratings. Principal among the concerns was the manner in which minorities and economically disadvantaged students were allowed to be held to a lower standard.



In an interview with the *Austin American-Statesman*, TAB President Bill Hammond stated that ***“the number one policy issue facing Texas is that so few minorities graduate from high school in four years with a diploma that means something.”***

The staggering rates at which students are dropping out

WORKFORCE Q&A

Our company has more than 50 employees. I know that the new FMLA regulations became effective this year. Do we need to do anything now to comply?

(see page 2)

LONE STAR FACTS

(Texas) kept growing well after the country had dipped into recession. Its unemployment rate and foreclosure rate are both well below the national average. It’s one of only six states that didn’t run budget deficits in 2009.

*-- Editorial: “Blue-State Blues”
-- New York Times
August 3, 2009*

TAB MISSION

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

WORKFORCE Q&A



Ashley Scheer
Jackson Walker L.L.P.

Our company has more than 50 employees. I know that the new FMLA regulations became effective this year. Do we need to do anything now to comply?

The new FMLA regulations went into effect January 16, 2009. While the effect of these regulations is far beyond the scope of this article, there are several steps your company should take now, if you haven't already, to comply with the new regulations.

1. Revise your current FMLA policy in your employee handbook.

You need to ensure that the policy contained in your handbook is consistent with the new FMLA regulations, including the new types of FMLA military family leave. At a minimum, all of the information that is contained in the FMLA poster entitled "Notice to Employees of Rights Under the FMLA" should be included.

2. Post the new FMLA poster.

The new regulations require employers to post this "Notice to Employees of Rights Under the FMLA" in a location where it can be easily seen by employees and applicants for employment.

3. Train supervisors and human resource personnel to be aware of new regulations.

4. Begin using the new FMLA forms.

a. The Notice of Eligibility and Rights and Responsibilities form

This notice must be given to employees within five (5) business days of an employee's request for leave for an FMLA qualifying reason.

b. The Certification form

The Certification form should be provided to the employee, along with the Notice of Eligibility and Rights and Responsibilities form, within five (5) business days of an employee's request for leave for an FMLA qualifying reason. Employees must be given at least fifteen (15) days to return a completed certification.

c. The Designation form

The Designation Notice notifies the employee whether the leave is FMLA qualifying or non-FMLA qualifying, whether the employee will be required to substitute paid leave, and whether a fitness for duty certification will be required to return from leave. An employer must provide a Designation Notice to an employee requesting leave within five (5) business days after the employer's determination of whether the leave qualifies as FMLA leave.

5. Improve and document communications with employees about leave-related issues.

Finally, the new forms referenced above, are available on the Department of Labor website at www.wagehour.dol.gov.

Employment Relations questions?

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

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Education Coalition Aims To Stop Dropouts

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motivated TAB to reach out to organizations that often have philosophical differences with the Association yet agree that more must be done to improve education standards.

The coalition spotlighted education opportunities for improvement within the current accountability framework:

- ★ Develop a simplified, accurate calculation of the Texas public school dropout rate.
- ★ Improve standards on minimum skills tests used in current model, which currently awards “Academically Acceptable” ratings to campuses that pass only fifty percent of students in science subject areas.
- ★ Include the academic performance of English Language Learner (ELL) students on English language proficiency tests and state standardized tests and other measures in the state accountability system.
- ★ Continue to include dropout rate when assessing accountability ratings.
- ★ Raise awareness that a recent academic evaluation shift to a growth model for academic evaluation that measures student progress based on projected future success will cause an inflated spike in accountability ratings.

“I am honored to stand with some of the most influential policy, civil rights and education organizations in Texas. These groups recognize the transformative power of education,” said Hammond. “TEA deserves credit for including the dropout rate, but anyone familiar with the calculation knows that their statistics

are not accurate. We must create a more transparent system if we are to move forward in developing a world-class public education system for our children.”

“Academic progress should certainly be included in any accountability model,” said Frances Deviney, Texas KIDS COUNT Director at the CPPP. “But to use it to inflate the TAKS passage rates does a disservice to the students and the schools by masking the true number of kids still struggling to meet the state’s academic standards and hiding the need for additional efforts and support.”

“We must create a more transparent system if we are to move forward in developing a world-class public education system for our children.”

**Bill Hammond,
TAB President**

The news conference drew significant media attention as representatives from the *Austin American-Statesman*, *Dallas Morning News*, *Fort Worth Star-Telegram*, *The Daily Texan*, *The Quorum Report* and *The Lone Star Report* were in attendance as well as several television and radio outlets.

The news conference prompted TEA chief Scott to issue a challenge to the business community to stop hiring dropouts. TAB responded swiftly condemning the proposal as being an anti-business idea that punishes the

very children that the system has left behind.

In a statement released the same day, Hammond called for a retraction of Scott’s suggestion, calling it an irresponsible idea.

“At a time when jobs are becoming increasingly scarce, it was irresponsible for Commissioner Robert Scott to challenge the business community to turn its back on dropouts and dramatically increase the Texas unemployment rate,” said Hammond. “A job can be the instrument of change necessary to get kids back into the classroom or on track to receiving a GED. As the largest business association in Texas, TAB knows the challenges facing the employers to find an educated workforce.”

Though the two have not always seen eye-to-eye, Hammond suggested that he and Commissioner Scott sit down to discuss in-detail ways that the business community and the education establishment can work together on education issues. Commissioner Scott has agreed to do so.

For over a decade, TAB has been an impact player on education issues, culminating in its instrumental

role in the recent passage of HB 3, the watershed education bill that overhauled the state’s accountability system and spotlights the need for career and technology education. The Association will continue to be on the forefront of public education issues that affect the business community.

To learn more about TAB’s ongoing efforts to improve public education, please contact Bill Hammond at bhammond@txbiz.org

MEMBER PROFILE

Allied Oilfield Machine & Pump *Making The Grade For Levelland*

This month, we proudly feature Allied Oilfield Machine & Pump, of Levelland, Texas. Allied recently was awarded the 2009 Texas Small Business of the Year after a statewide search conducted by TAB.

Allied is a full service company that provides design and fabrication of oilfield equipment, custom machine work, and pump sales and service. Allied has grown its customer base from initially facilitating the needs of West Texas and New Mexico to providing service across the continental United States and Canada.

President Joe Dee Brooks is one of Levelland's most respected businessmen. His extensive community service and realization of the needs of his industry has helped shape the City's economic landscape and put a premium on educating its youth. From the hospital board to the school board, Mr. Brooks serves on over twenty-six different boards in his community in his effort to make a difference.

A diminished field of qualified candidates to serve his industry, coupled with an increase in the number of high school dropouts, led Mr. Brooks to a creative solution to meet the needs of his community. He received permission to speak at-risk high school students, to provide them with an opportunity to develop skills while achieving their diploma. His offer was simple: compensation while studying in a structured environment and employment under the condition the students completed high school. As an additional incentive, he committed to pay their tuition to Levelland's local community college, South Plains Community College. Mr. Brooks has seen the challenges of the future and he is addressing those while serving many others in his community.

"I have been very fortunate that all my partners and bosses have been better businessmen than me and this recognition is a reflection of their experience and expertise and what they have taught me in the past," said Brooks. "This award is really about the sacrifice of my family, support of my friends and community, and most

of all my employees who work hard every day to make our business what it is."

"Every community should be as fortunate as Levelland to have a businessperson and entrepreneur like Joe Dee Brooks," said Mary Siders, President of the Levelland Chamber of Commerce. "He serves on numerous boards including our chamber board and if he sees a need in our town, he finds a way to make it happen. We applaud the Texas Association of Business for sharing with the entire state the story of Allied Oilfield Machine & Pump."

"Every community should be as fortunate as Levelland to have a businessperson and entrepreneur like Joe Dee Brooks."

***- Mary Siders
President, Levelland
Chamber of Commerce***

"Levelland's Allied Oilfield Machine & Pump has a rich history as a successful small business led by its remarkable leader Joe Dee Brooks," said TAB President Bill Hammond of the organization. "More than half the jobs created in the United States in 2008 were in Texas. Small business is the foundation on which that success has been built. Allied is a sterling example of the commitment to excellence and to community that makes the Texas business climate the best in the land."

Allied was featured in a recent *Lubbock Avalanche Journal* profile about the Small Business of the Year Award, which highlighted Brooks' efforts to steer children toward the classroom, the success the company has enjoyed throughout the years, and the agility with which the organization has responded in these tough times.



Joe Dee Brooks (center), President of Allied Oilfield Machine & Pump recently received the 2009 Small Business of the Year Award

2009 Employment Relations Symposium

Experts Discuss Workplace Changes Through Economic Prism

The 30th Annual TAB/ Society for Human Resource Management – Texas State Council (SHRM-TSC) Employment Relations Symposium held last month in San Antonio boasted near record-breaking attendance. Nearly 250 of the top business professionals, human resource managers, employment law attorneys and accountants joined at the Westin La Cantera for the two-day conference.

TAB partners annually with SRHM-TSC to sponsor this informative event to provide the most up-to-date information for employment relations professionals across the state.

The atmosphere and tenor of the presentations dealt with the setbacks companies are facing as a result of the economic downturn facing the nation. Employers across the state are coping with ways to stay viable while providing jobs for families in need. Discussion centered on best practices to avoid layoffs and terminations for companies facing financial struggles.

Jennifer Youpa and Scott Sherman of Littler Mendelson PC highlighted the need for stringent control over non-personnel expenses, work sharing and changes to vacation plans as just a few of the alternatives to avoid losing employees.

In addition, changes handed down by the Equal Employment Opportunity Commissioner were explained in-depth by Jay Rutherford, a previous TAB Chairman and partner of the Jackson Walker LLP law firm, where he specializes in Labor and Employment Law.

The federal Employee Free Choice Act, better known as “Card Check”, was also a hot-button topic. “Card check” would make union organizing easier and some proposals would eliminate the secret ballot necessary for current union formation. Once a union is formed, if an employer and union begin the bargaining process and cannot reach agreement within 90-days, the parties will immediately begin mediation. If, after thirty days, no decision can be reached, the dispute is referred to arbitration.

Friday’s morning session led with a discussion between Dennis Herlong and Charles High of Kemp Smith LLP from the plaintiffs’ and defense lawyer perspective on what causes multi-million dollar verdicts in employment cases. Responses to worksite favoritism and an employee’s work record play a large part in jury decisions in cases where a plaintiff is awarded damages, whereas a defense lawyer can bolster their case by framing an incompetent employee as eager for a quick payday.

For companies that find layoffs unavoidable, Dennis Davis of Ogletree Deakins provided ways in which to terminate a staff member in a manner that respects their dignity, deals with the situation candidly, leaves little room for legal liability, and lessens the likelihood of belligerence from the laid-off employee.

“Collaborating with SHRM-TSC to make this event successful has been a winning combination for TAB and the employment relations experts involved,” said TAB Vice President Cathy

DeWitt. “As employers across the state are faced with the prospect of doing more with less in these tough times, this seminar is a valuable tool to professionals who are looking for new and innovative methods to save jobs and help their organizations thrive.”

Special thanks to this year’s full conference sponsors:

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SAVE THE DATE !

**Don’t forget to mark
your calendar for the
32nd Annual Symposium,
July 15-16, 2010, at the
Westin Riverwalk in
downtown San Antonio**



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Talk **About** Business

Angry About ObamaCare? I Am!



Bill Hammond, TAB President

House Democrats and the Administration have taken their efforts to pass ObamaCare to Defcom 1, blasting their opponents and referring to private insurance companies as immoral villains. Across America, the chickens are coming home to roost for senators and congressmen who are openly supporting the \$1 trillion-plus plan to shift health care under the umbrella of the federal government.

With Congress in recess, congressmen are now confronted with constituents who feel betrayed that their voices are not being heard by their representatives. Townhalls and protests across America have caught the eye of the media, yet the White House has consistently derided the opinions of those who oppose the Canadian-style single-payer system plan.

To what lengths will the Administration go to quash differing opinions? The White House has started a Big Brother-style Web site where people can rat out those who are not in lock-step with the Obama-Pelosi talking points. Senator John Cornyn has warned that the Administration may be creating an enemies' list. No matter how benign the White House's intentions, creating a clearinghouse by which fellow Americans can report their neighbors has more than just a

hint of Joe McCarthy politics at its worst.

Government monitoring of free speech is illegal and the White House should proceed cautiously. According to 5 U.S.C. § 552a, U.S. agencies, including the Executive Office of the President shall, "maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity."

What about the ObamaCare plan? Taking the baseline budget estimate of \$1 trillion, the numbers simply don't add up. For that outrageous cost, 30 million Americans would be left out in the cold without health insurance according to a recent report released by famed economist Dr. Arthur Laffer, the father of Reaganomics.

This does not take into account that the potential disruption of health care service for millions of Americans, which is simply too high a cost to bear for working families across the nation. According to a recent Rasmussen Report poll, only 23 percent of Americans believe that health care

costs will go down if "reform" passes Congress.

To that end, the Texas Association of Business has been vehement in its opposition to ObamaCare. Even before the government option plan became a viable option, a TAB poll of our members let us know that health care was the number one issue on the minds of employers. The Association wasted no time in activating our Voter Voice contact system to allow our members to easily contact their congressmen and senators. Thus far, the program has produced over 8,000 pieces of correspondence. TAB hosted conference calls with members of the local chambers of commerce throughout Texas. In a few short weeks, we will be hosting a health care summit in Dallas with political leaders so that you can make your voice heard.

TAB had a remarkable legislative session. We are now intent on stopping this dangerous health care proposal. Certain leaders have cast opposition to ObamaCare as the work of an angry mob. Well, the employers of Texas are angry, and if standing up against the government taking an even bigger chunk of the health care pie means one is part of a mob – let me announce that I am a founding member of that Angry Mob.