



TAB, Gov. Perry Fight Against ObamaCare

Health care proposals are disaster for TX employers

Since ObamaCare was first unveiled earlier this year, the Texas Association of Business has been a vocal opponent against the creation of government-run health care insurance. Subsequent grassroots movements across the nation have catapulted health care into the forefront of the nation's political conversation.

The Obama Administration faced a tough summer weathering intense criticism, and is now shoring up its base to push through their desired health care overhaul.

House Speaker Nancy Pelosi has made clear in her public comments that any bill without a "public option" plan will not pass in the House. Meanwhile, Democratic Senate Finance Committee Chairman Max Baucus (D – Montana) said that a plan with a public option component "cannot pass the Senate."

In a recent editorial, former Senate Majority Leader Tom Daschle (D – South Dakota) came out in favor of health care reform on party lines. Vulnerable Democrats have resisted these tactics to date, but the state of health care reform is more precarious than ever.

In battling the White House plan, TAB President Bill Hammond participated in a recent press conference in opposition to ObamaCare alongside Governor Rick Perry, the Texas Public Policy Foundation and the accomplished doctors of the Austin Heart Hospital.



Governor Perry and TAB President Bill Hammond (background) at a recent health care press conference

Hammond laced into the ObamaCare "public-option" health care proposal that would shift billions of dollars of Medicaid expenses to the state. "The Congressional health care bill is nothing short of a Scud missile aimed at the small business community," said Hammond.

WORKFORCE Q&A

We are looking at ways to improve our company's viability in these tough economic times, and there just seems no way to do that without small-scale layoffs. Is there anything we can do to protect ourselves?

(see page 2)

WHEN IN ROME...

"The budget should be balanced, the Treasury should be refilled, public debt should be reduced, the arrogance of officialdom should be tempered and controlled, and the assistance to foreign lands should be curtailed lest Rome become bankrupt. People must again learn to work, instead of living on public assistance."

- Cicero - 55 BC

TAB MISSION

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

WORKFORCE Q&A



Bruce Burdett
Frost Insurance

We are looking at ways to improve our company's viability in these tough economic times, and there just seems no way to do that without small-scale layoffs. Some of the most vulnerable employees have been here a long time, and we are concerned about liability, even though we feel we have a strong business case for downsizing. Is there anything we can do to protect ourselves?

Many employers, even small ones, are concerned about the increasing number of discrimination and employment lawsuits. Age discrimination filings last year increased 28.7%, and overall discrimination claims (age, gender, race, national origin, disability, etc.) during the same period were up 15%, according to the U. S. Equal Employment Opportunity Commission. So this is a serious question and, with the biggest driver of claims activity being unemployment, it's not likely to go away in the near future.

Your best defense is employment practices liability (EPL) insurance, though a recent survey released by the Chubb Group of Insurance Companies indicates that a whopping 63% of companies do not have it. The three main reasons given by employers for declining this coverage are (1) the perception that their particular risk is low, (2) the assumption that they are covered under other policies, and (3) affordability.

Risk is greater now than ever with increased attention being given to discrimination laws, widening employer liability and making it easier for employees to file claims. Employment practices are not generally covered by workers' compensation, liability and umbrella policies, though many employers believe they are. And perhaps the biggest reason to consider EPL insurance is that you can't afford not to. The average total cost of an EPL-related claim is \$63, 114. When a jury is involved, costs skyrocket to an average of \$200,000.

The good news is that EPL insurance comes with several options, and consultation with an experienced broker can help any company make smart, affordable choices. One way to limit the cost is by choosing lower limits of protection, though at least \$100,000 in limits is often recommended. Another way to is to consider whether you need EPL as a standalone product, or if you would benefit from combining it in a package with other coverages, such as directors and officers liability, fiduciary liability, crime, fidelity and other employer risks.

Perhaps the best way of limiting your exposure to employment practices claims is to prevent them with proactive, up-to-date human resource policies and loss prevention strategies, another advantage of seeking advice from a risk management professional. In today's political and economic climate, better safe than sorry.

Employment Relations questions?

**Don't forget to call TAB's Employment Relations Hotline
for your next HR Question
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TEXAS BUSINESS REPORT

Volume 24 | Issue 9
September 2009

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Texas Business Report (ISSN0892-6816) is published on the 15th of every month by Texas Association of Business, located at: 1209 Nueces Street, Austin, TX 78701. Subscriptions are available at a rate of \$2.00, which is deducted from TAB members' annual dues. Articles may be reprinted with permission. Legislative advertising paid by TAB.

Periodicals Postage Paid at Austin, Texas.
POSTMASTER - Send address changes to:
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ObamaCare Hurts Texas Employers

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“White House scare tactics and Congressional bullying are simply distractions from the fact that a government-run health care system would disrupt coverage for millions of Americans and shift an inordinate burden onto the states,” Hammond continued.

Governor Perry cited the multi-billion dollar burden Texas would inherit as one of the driving factors behind his opposition to the federal proposals. “It’s clear Washington has no interest in allowing states to develop their own tailored solutions to problems that affect their citizens,” Governor Perry said.

Donna Arduin, a partner at Arduin, Laffer & Moore Econometrics, spotlighted the additional \$285 billion ObamaCare would add to the federal deficit over the next ten years.

For Texas businesses, ObamaCare would add an eight percent tax for employers who did not offer health insurance, which would likely lead to companies shedding workers in these tough economic times.

Democrats have demonized health insurance companies and Republicans for their resistance to health care overhaul; however, key components to bi-partisan cooperation like tort reform and increased private competition were immediately dismissed by the Democratic leadership.

TAB favors federal tort reform to reduce the costs doctors pay for medical malpractice insurance; increasing competition by allowing consumers to purchase health insurance across state lines; making health care costs more transparent; removing draconian government mandates that drive up health insurance costs for all consumers;

and, most importantly, empowering employees and consumers with health savings accounts and high-deductible health insurance plans.

These specific ideas to lower health care costs have been championed by state leaders, nationally recognized business leaders like Whole Food CEO John Mackey, and political heavyweights like former Alaska Governor Sarah Palin.

“For Texas businesses, ObamaCare would add an eight percent tax for employers who did not offer health insurance, which would likely lead to companies shedding workers in these tough economic times.”

- TAB President Bill Hammond

According to the most recent polls, 52% of Americans are against the President’s plan for a “public option” plan. On the eve of a major address on health care reform by President Barack Obama, a dramatic shift in the Administration’s policy focus is expected. Some have speculated that the White House will start from scratch with more financially stable proposals. Others are convinced that any “compromise” ideas would be superficial in nature simply to give President Obama a much-needed victory.

TAB will continue to monitor and update you on what’s happening in Washington on this important issue. For more information about the federal health care proposals being debated in Congress, please visit www.txbiz.org.

Spotlight on Texas Business

You’ve heard from us just how robust and successful our state economy is. Here are just a few of the positive distinctions and headlines the Texas business climate has received this year.

No. 1 state “Where the Jobs Are Going”
(*Time*, May 2009)

No.1 state for business and job growth for 4th consecutive year
(*Chief Executive*)

Best State for Doing Business
(*Directorship Magazine*, June 2009)

2009 Best Business Climate
(*Business Facilities*, July 2009)

5 Texas Cities Among Top 10 U.S. Metros, Overall Economic Performance
(Brookings Institution, June 2009)

[Texas is] one of “Five States That Will Lead Us Out of Recession”
(CNBC, June 2009)

Top 2 areas for Corporate Facility Project Attraction [1. Houston 2. Dallas]
(*Site Selection*, March 2009)

Top 5 “Healthiest Housing Markets for 2009” [1. Houston, 2.Austin 3.Fort Worth, 4.San Antonio, 5. Dallas]
(*Builder*, February 2009)

#2 on Fortune’s “100 Best Companies to Work For” list
(with 23 companies, *Fortune*, January 2009)

#1 U.S. Relocation Destination, 4th consecutive year
(Allied Van Lines’ 41st Annual Magnet Report)

Foreclosure rate far below the national average
(*New York Times*, August 2009)

Special Thanks to Employment Law Handbook Editors

The Texas Association of Business thanks the editorial team who participated in the *2009-2011 Employment Law Handbook*, the only, comprehensive handbook written by Texas labor law attorneys that focuses exclusively on the needs of our state's employers.

Their efforts are a true labor of love and each attorney willingly devoted their time and energy into making this book happen. Thanks to the following men and women who made this possible:

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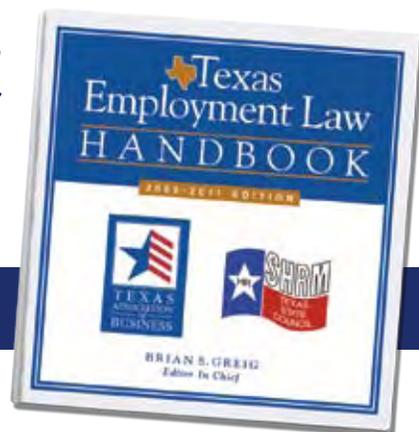
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Texas Employment Law Handbook

2009 - 2011



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

The Answers at Your Fingertips

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

The Texas Employment Law Handbook delivers practical, hands-on advice that you need to keep your business in compliance with the ever-changing state and federal labor laws. It is available in textbook format and will be available in a web-based format so no matter where you are or what you are doing you can have the answers.

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

A Reality Check for the White House



Bill Hammond, TAB President

For those following the Obama Administration's downward trajectory in the polls since Inauguration, it is astounding how quickly the dynamics that helped elect President Barack Obama have been so overexposed that he is struggling to maintain traction on his important legislative priorities.

How did this happen? The Obama Administration inherited the worst economic crisis in generations. It seems as though Obama misconstrued goodwill remaining from the campaign as a broad mandate to pursue a liberal agenda that will drive us further into economic peril. Since January, the White House embarked on a series of anti-business measures with enormous price tags. Trillions of dollars are at stake, and with each passing day – Americans are less eager to support the President's agenda.

The tenor of the political discourse in America has become increasingly contentious. I'm one of those angry at how our fiscal issues are being managed. But more than anything, people are worried that their government will fail them. Americans are worried that they will have to cough up more money to the government for less and less.

The most repeated concern from Texas Association of Business members is that the Administration's agenda will massively increase the size of government thereby sinking our nation further into crippling debt. These voices are not those of the executives of monolithic, multi-national corporations. They are families who have for generations owned super markets, companies that produce drilling materials, and businesses that make agricultural feed. Businesses like these are the fabric of our state's economy, and they provide the jobs that are helping people make it during these tough times. The Administration's priorities put all employers in the crosshairs.

If you are an employer, will the punitive measures health care overhauls impose force you to terminate employees? Will you have to wait for months to receive cancer treatment as you do in countries with similar government-run programs? If a radical climate change bill passes, will your electric bill skyrocket? If unions are able to leverage the "Employee Free Choice Act", will bloated benefits packages bring down successful companies as they did with GM? Should we be forced to pay for a bigger government we do not want?

Here are a few headlines that demonstrate how much we will be paying: *Washington Post* – White House Projects Budget Deficit to Soar to Nearly \$1.6 Trillion; *New York Times* – US raises estimate for 10-year deficit to nearly \$9 trillion; Bloomberg – Obama Raises '10 deficit outlook 19%.

It is embarrassing that some criticisms lodged against Obama deal with his birth certificate or whether it is appropriate for the President of the United States to encourage students to study hard when, in fact, there are so many legitimate issues on which this President must be held accountable.

The recent mortgage crisis saw the perfect storm of consumers wanting instant gratification and a banking system that was content to ignore potential consequences for the risk of cashing in now. President Obama's urgency to placate his liberal base is now causing a backlash among the independent voters who were essential to his election.

If the Administration pursues these reckless policies to accomplish now what we will have to pay for later – much like the housing crisis -- those who own our debt may foreclose on our country.