



Speaker Pelosi Passes “Worst Bill Ever” *Continuing Health Care Battle Puts Texas At Risk*

After the Senate Finance Committee kicked out a health care reform bill that incrementally moved toward a more center-left bill than the original blatant anti-business legislation, Speaker of the House Nancy Pelosi put her foot down. Her version of the health care reform bill maintains the public option, erased any hint of progress, and has been dubbed by pundits as the “worst bill ever.”

The bill making its way through the Senate requires states to expand Medicaid for people who live at 133 percent of the poverty level. Democrats in the House want to raise the requirement to 150 percent of the poverty level. A recent *Washington Post* guest editorial penned by former Speaker of the House Newt Gingrich and Texas Governor Rick Perry calls the health care overhauls the “largest unfunded mandate in American history.” In addition, it outlines that even Texas, which has a \$9 billion Rainy Day Fund, would not be able to absorb these additional costs.

PelosiCare would establish a government-run health insurance option, which threatens all private health insurance and would lead to health care rationing. Government bureaucrats will administer the option and negotiate rates for providers that participate in the government-run health care.



The legislation also “requires employers with annual payrolls of \$500,000 or more to provide health insurance to their employees or pay a payroll tax of up to 8 percent,” according to the *Washington Business Journal*. Companies who are struggling to stay afloat will undoubtedly shed workers and benefits in order to make up for the money lost by the payroll tax. Employers would pay \$135 billion in penalties over the next decade to pay for this job tax, according to the non-partisan Congressional Budget Office.

WORKFORCE Q&A

I'm afraid my employees are Facebooking and Tweeting when they should be working. What can I do, and are there any legal risks or issues I should be concerned about?

(see page 2)

DID YOU KNOW?

As of this publication's writing, the United States National Debt is \$11,984,097,990,748.74. Based on current population projections, each citizen's share of this debt is \$39,006. The national debt has increased at a rate of \$3.87 billion per day since September 2007.

TAB MISSION

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

WORKFORCE Q&A



Joe Miguez
Littler Mendelson P.C.

I'm afraid my employees are Facebooking and Tweeting when they should be working. What can I do, and are there any legal risks or issues I should be concerned about?

Social networking websites like Facebook, Twitter, and MySpace are an unavoidable aspect of American social life. Without proper safeguards, they can also be a huge burden on businesses. Time spent by employees on such social networking sites can create a huge drain on productivity and divert valuable network bandwidth and computer resources.

Employees' use of social networking sites in the workplace raises a number of potential legal risks for employers. For example, an employee's posting of improper comments about his or her coworkers on such sites could give rise to state or federal law claims of discrimination, harassment, or retaliation, as well as defamation, intentional infliction of emotional distress, and other state law torts. An employee's sharing of his employer's non-publicly available financial or strategic information among Facebook friends or Twitter followers could give rise to liability for violation of insider trading laws, just as his unauthorized sharing or misuse of his employer's (or its customers') business information and intellectual property could result in lawsuits ranging from trademark or copyright infringement to trade secret misappropriation.

A few simple steps can help lessen these risks. Many companies are adopting, and requiring their employees to sign and acknowledge, "social networking policies" that restrict the time and manner in which employees can access such sites, remind employees of their responsibility to comply with other company rules and policies (including anti-discrimination/anti-harassment, confidential information, and privacy policies) when using social networking sites or personal blogs, and reaffirm the company's expectations regarding non-work related use of company time and property. Others are utilizing internet "speed bumps," which remind employees that when they are visiting web sites they must comply with company's policies. Whether your business adopts such measures, or opts for the more extreme (and more risky from a legal perspective) measure of imposing a complete ban on such websites, it is very important to make sure that those limitations are applied equally to all employees. A private employer's failure to ensure such equality can itself result in possible liability under labor and civil rights laws. Notwithstanding such policies, managers and human resources professionals may also incur liability by using improper or deceptive means in an attempt to monitor employees' private accounts on social networking sites.

One final note: The spread of social networking sites like LinkedIn and Yammer, which are specifically aimed at businesses and employees, is a growing trend. Although such sites may yield benefits to workers and companies, it is important that employees using such sites be reminded of their general duty to follow all applicable laws and company policies.

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PelosiCare Raises Taxes On Small Business Owners

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The workers who no longer have employer-based health insurance will be hamstrung by their options and will likely choose government-run health care. This “robbing Peter to pay Paul” tactic will eventually kill off private insurance, thus eliminating choice and innovation.

To pay for all of this, for individuals who make more than \$500,000 or more annually, PelosiCare would impose a 5.4 percent tax. This surcharge would disproportionately punish the successful businessmen and women who help create American jobs.

TAB supports common sense approaches in reforming health care in America. Approaches such as letting families and businesses buy health insurance across state lines; establishing federal tort reform laws that will end the frivolous lawsuits that contribute to higher health care costs; increasing the disclosure of providers and carriers in pricing and performances; and continuing to give states the tools to create their own innovative reforms that lower health care costs.

The nation can learn from Texas’ tort reform experiment, which according to a noted economist, directly lead to nearly 500,000 new jobs since 1995, when initial headway in lawsuit reform was made. Tens of thousands of doctors have been attracted to Texas due to the results we achieved during the 2003 Legislative Session and the subsequent Proposition 12 approved by the people of Texas. In the year prior to the 2003 tort reform, Christus Health System spent \$153 million to defend against often-frivolous medical malpractice suits, according to former State Rep. Joe Nixon. Christus spent \$2.3

million on those expenses in 2008. The significant portion of the money saved has been reinvested into health-care expansion for Texans most in need.

Why then is there the hostility to tort reform? A PricewaterhouseCoopers recent study estimates that the costly procedures and tests doctors use to shield themselves from potential lawsuits is responsible for \$210 billion in annual health care spending. The solution is easy, but implementing reform conflicts with President Obama’s lawsuit abuse philosophy that caps on malpractice awards are unjust to those who are “harmfully wronged.” Obama likely has entrenched convictions on this issue, but it should be noted that the personal injury trial lawyers, who have made billions in malpractice suits and donate generously to Democratic campaigns, are against these caps as well.

“In the year prior to the 2003 tort reform, Christus Health System spent \$153 million to defend against medical malpractice suits ... Christus spent only \$2.3 million on those expenses in 2008.”

The Pelosi health care scheme is bad for America, bad for business and bad for families. The bill’s measures will punish employers, cause businesses to shed jobs and pass costs to individuals to pay for a government-run health care plan that they do not want.

For more information on federal health care reform, please contact Kandice Sanaie at ksanaie@txbiz.org.

BREAKING UPDATE

“The House passed its health care bill late Saturday night by a 220-215 vote, with 39 Democrats in opposition and one Republican supporting it. Senate approval is considered less certain due to opposition by all Republicans and some moderate Democrats.”

– CNN
November 8, 2009

“The U.S. House has narrowly passed a US \$1-trillion health-reform package that includes compulsory insurance, tax hikes for the wealthy and a clause to prevent insurers from rejecting customers with pre-existing conditions.”

– National Post
November 8, 2009

“After listening to thousands of my constituents and carefully reviewing the legislation, I have made a decision to vote ‘no’ on the House health care reform bill. Given the huge federal deficits facing our nation, I believe there is too much new spending in this bill.”

– Congressman Chet Edwards, sole Democrat to vote against PelosiCare

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TAB To Launch “Dream Big Texas” Program

The Texas Association of Business is proud to announce “Dream Big Texas,” a broad-based campaign to champion free enterprise in the lives of all Texans.

An offshoot of the US Chamber of Commerce “American Free Enterprise” initiative, “Dream Big Texas” will utilize TAB’s extensive policy, political and philanthropic influence to promote free market principles that are under attack from Washington.

In order to keep pace with growth and competition among states, Texas must produce nearly 2.5 million jobs in the next decade. Bigger government and onerous burdens on employers are stifling economic growth in these trying times.

Only the power of free enterprise can propel our state and nation to, again, lead the way as the world’s economic powerhouse.

Our program will begin with the formation of the Free Enterprise Legislative Caucus, a collection of the most pro-business legislators in the State House and Senate. The roll-out will continue by developing a scholarship program for high school students who demonstrate entrepreneurial promise, honoring the titans who have helped make our state the premier economy in the nation, generating a media campaign touting the power of free enterprise, working in cohesion with local Chambers, and touring the press outlets and media markets across Texas to spread the word.

“Dream Big Texas is the most important, most ambitious program that the Texas Association of Business has ever undertaken,” said President Bill Hammond. “Our goal is to deliver jobs to Texas by promoting

and reinforcing the power of free enterprise in the lives of Texans – from the store owner to the student hoping to get to college. For ‘Dream Big Texas’ to succeed, we need the time, effort and financial support of all of those who fear that our economic future is headed in the wrong direction.”

Here in Texas, we are facing assaults on all fronts as the PelosiCare health care insurance program would shift a multi-billion dollar debt onto the state, which will undoubtedly lead to taxes skyrocketing; “Cap & Trade” – known as the biggest tax increase in American history – would increase the electric bills of families and companies by over 30%; “Card Check” would destroy our state’s Right-To-Work status and give more power to the unions whose bloated benefits packages led directly to the destruction of the American automotive industry; and our federal deficit has led to our country’s debt being bankrolled by global competitors like China.

For the better part of a decade, Texas has been the beacon of the American economy. Named by countless publications as the best place in America to do business and home to more *Fortune* 500 companies than any other state, Texas has more to lose from these Washington onslaughts than any other place in the United States.

Should you have any input as to how the Association can enhance and improve the Texas economy, do not hesitate to share your thoughts with TAB President Bill Hammond at 512-637-7701 or via e-mail at bhammond@txbiz.org. TAB is proud to launch this initiative and welcomes your support.

TAB Instant Poll

Survey tracks support of Senate hopefuls

The Texas Association of Business hosted an informal poll asking its members and followers who they would want to be appointed in the event that Senator Kay Bailey Hutchison were to step down. If this were the case, Governor Rick Perry would then appoint her successor. The Association conducts these informal, non-scientific polls for fun, but it also provides an interesting snapshot on the people with whom the business community are familiar and trust.

We included all the major, announced candidates and added Lt. Governor David Dewhurst – to whom many point as a heavy favorite to be appointed or challenge in a special election.

David Dewhurst (R) 22.46%
Two-term Lt. Governor

John Sharp (D) 20.86%
Former Comptroller

Roger Williams (R) 17.75%
Former Texas Secretary of State

Elizabeth Ames Jones (R) 14.76%
Railroad Commissioner

Michael Williams (R) 11.02%
Railroad Commissioner

Florence Shapiro (R) 6.63%
State Senator

Bill White (D) 6.52%
Houston Mayor

Total Votes Cast: 935



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Talk **About** Business

TAB To Spotlight Future Of Texas Education



Bill Hammond, TAB President

As our nation's economy is showing signs of recovery, here in Texas, there is a burgeoning crisis we must address if our state is to be prepared for the eventual job recovery: the erosion of standards in our public school system.

If the business community is to maintain the level of job creation and success that has been a beacon of financial stability in these troubled times, the next generation must be prepared to graduate high school, enter the job market or pursue post-secondary education, and become productive members of society. To date, the State of Texas has failed our children.

Workforce readiness has been the driving priority behind the Texas Association of Business (TAB) legislative agenda for over a decade. Recent efforts by TAB have led to sweeping changes, but there is more work to be done.

This year, the TAB 88th Annual Conference, entitled "Preparing a 21st Century Workforce," will highlight the education challenges our state faces, including how we educate our booming population, tackling the shockingly high dropout rate, and creating an academic system

that accurately reflects student performance. Here in Texas, we know the challenges we face, and we stand ready to meet them. If our students continue to drop out at record rates or if our degrees mean less and less, Texas will lose its status as the best place in America to do business.

TAB has had a record of influence on important education issues. During the last legislative session, the Association was a driving force behind the fight for true academic accountability. When the session was adjourned sine die, House Bill 3 which overhauled accountability standards from having students meet minimum requirements to a system that aims to prepare students to be career or college-ready upon graduation; allowed rigorous and relevant career and technology education to expand in our schools; and maintained end-of-course exams in lieu of a single, high-stakes test was passed. This bill was a watershed victory for the Texas business community.

Now, the Association is focused on a different challenge. We have a true chance to cut future obstacles off at the pass if we change the entrenched bureaucracy that has instilled a culture

of mediocrity in our schools. When students fall behind, many drop out. Those students who stay the course often graduate with an education that has left them unprepared to meet the needs of an evolving job market that demands more complex skills.

The TAB Annual Conference showcases some of the state's brightest minds tackling these challenging workforce issues. **You have a chance to participate in that conversation by sponsoring a portion of this wonderful event. Sponsorships are available for a broad scope of our information panels and distinguished speaker series.**

TAB's Annual Conference will feature a cadre of the most influential leaders and policy experts to discuss what Texas can do. Among our distinguished guests include Governor Rick Perry, Lt. Governor David Dewhurst, prominent journalists, and policy experts from across the country.

The Annual Conference is the Association's most illustrious event, and it is the can't-miss public policy summit of the year. For more information, please visit www.txbiz.org. We hope to see you there.