



TEXAS

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BUSINESS REPORT



Business Groups Denounce ObamaCare *Law Is Poisonous Prescription For Texas Employers*

The Texas Association of Business (TAB), the National Federation of Independent Business - Texas (NFIB/Texas) and the US Chamber of Commerce recently held a joint-press conference to detail the effects that the health care reform bill, signed into law by President Barack Obama, will have on the small businesses of Texas.

Under the health care reform bill recently signed into law by President Obama, both premiums and uncertainty will rise in employer-sponsored health insurance plans. Employers with over 50 employees will be forced to offer coverage or pay a \$2,000-per-employee fine. Businesses will also face a \$3,000-per-employee fine if the coverage that they offer is deemed “unaffordable” for employees (if the employee opts-out and gets a subsidy in exchange). This means that an employer with low-income employees who offers comprehensive, affordable coverage could nevertheless be fined just as much as an employer who offers no coverage at all. In addition, it is estimated that 219,961 small businesses could be subjected to the fines. The percentage of employees working for small businesses which could be subject to the fine is projected to be 26.4 million workers, or 22 percent of the entire private-sector workforce.

“Over 90 percent of working families are employed by small businesses,” said TAB President Bill Hammond. “President Obama promised that he would focus on job recovery. Unfortunately, he has signed into law a job-killing piece of legislation



that, due to uncertainty and increased administration costs, will continue to freeze hiring for small businesses in Texas. For many months, employers have faced extreme ambiguity in how this bill would affect their businesses. The Obama Administration offered no quarter in their overzealous power-grab. As a result, this

WORKFORCE Q&A

What is the “Franken Amendment” and how does this new law impact employers?

(see page 2)

WARNING

“The Congressional Research service confirmed in a memo Wednesday that rapists and sex offenders may get federally subsidized Viagra and sexual performance enhancing drugs under the recently passed health care reform law...”

-- CRS: Health law may allow Viagra coverage for sex offenders, The Hill, April 7, 2010

TAB MISSION

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

WORKFORCE Q&A



*Brett J. Strand,
Cornell Smith & Mierl, LLP*

What is the "Franken Amendment" and how does this new law impact employers?

The Franken Amendment is a provision included in the Department of Defense Appropriations Act for 2010. Specifically, that federal statutory provision, which was sponsored by Senator Al Franken of Minnesota, requires any defense contractor that receives a contract awarded under the Defense Appropriations Act on or after February 17, 2010, to refrain from entering into any agreement with any of its employees or independent contractors that requires, as a condition of employment, that the employee or independent contractor agree to resolve

through arbitration any claim under (i) Title VII of the Civil Rights Act of 1964 or (ii) any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment or negligent hiring, supervision or retention. Further, the provision prohibits an employer with a covered contract from taking any action to enforce any provision of an existing agreement with an employee or independent contractor that mandates the employee or independent contractor to resolve any of the identified types of claims through arbitration.

Although many employers might assume the Franken Amendment is not a concern for them because they do not have a contract of over \$1 million with the Department of Defense, this new law also provides that, beginning 180 days after December 19, 2009, defense contractors will be required to certify that their subcontractors with subcontracts of over \$1 million on a defense project will also comply with these restrictions on arbitration agreements with employees and independent contractors.

Notably, while originally this legislation was characterized as just prohibiting employers from requiring employees making sexual assault allegations from arbitrating claims, the law appears to have much broader scope than that and extends to any (i) discrimination claim under Title VII and (ii) tort claims related not only to alleged sexual assault, but also to sexual harassment.

All employers should be concerned by the Franken Amendment because it demonstrates the widespread support in Congress for restrictions on workplace arbitration. There are bills currently pending in Congress would broadly prohibit mandatory arbitration in the employment setting.

For the time being, those employers with significant defense-related contracts or subcontracts should evaluate whether they are covered by the Franken Amendment restrictions and, if so, modify any arbitration programs they may have to comply with these restrictions.

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***

TEXAS BUSINESS REPORT

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jobless recovery will continue. At the very least, the hiring freezes that cripple the pocketbooks of the unemployed will continue because of this law. This legislation spits in the eye of those struggling to find jobs.”

“This healthcare reform bill is the biggest tax increase in American history. Small business is hit with new taxes, new reporting requirements, and more mandates and paperwork under a larger and more powerful Internal Revenue Service,” said Will Newton, executive director of NFIB/Texas. “Small business owners are overwhelmingly opposed to this new law and terrified of the impact it will have on their livelihood and the livelihood of those they employ.”

“This bill will hurt the prospects for job-creation even further,” said Pete Havel, Regional Director of the US Chamber of Commerce. “While we all agree on the need for common-sense changes, this bill does nothing to solve many of the most serious problems our health care system faces. Small business owners want to do right by their employees, but this bill will make health care benefits even more expensive. The House, the Senate and the President had an opportunity to go down the right path of creating a health care system that created new opportunities to cover the uninsured. Instead, they created job-killing legislation that will put health care benefits for millions at risk. In medical school, doctors are taught to first do no harm. It is time Washington learn this lesson as well.”

To learn more, feel free to contact TAB President Bill Hammond at 512/477.6721 or via e-mail at bhammond@txbiz.org.

Here are just a few of the headlines from our successful press conference:

Bill Hammond, president of the Texas Association of Business, called on Congress to either repeal or reform the national healthcare legislation. “For 14 months, small business owners and employees have worried and been concerned over the uncertainty of ‘Obamacare.’ The reality is like a scud missile landing on every business in Texas,” Hammond said. “It’s bad for Texas, it’s bad for Texas employers and it’s especially bad for Texas employees.”
-- **Texas Tribune**

Hammond said the answer was drastically less regulation, including allowing the purchase of insurance policies across state lines so that a consumer could bypass the regulatory safeguards in his home state and buy a cheaper product in another state that imposes less regulations on health insurance products.

He also said that national tort reform laws and permitting associations to offer health plans to their members would help.

-- Quorum Report

Instead of a nationwide health insurance system, they argued that a truly free market, without the 60-plus mandates already in Texas law and allowing companies to buy across state lines, is a better alternative. “We believe in the marketplace,” said Bill Hammond, president of the Texas Association of Business. “We believe insurance companies will respond to employers” in a competitive, interstate market. They spoke at a Capitol news conference to criticize the federal law, but the gathering also underscored objections of business groups to how the state Legislature has handled the issue.

-- **Austin American Statesman**



The Texas Association of Business achieved a social media milestone this past week, surpassing 1,000 followers on our official Facebook page. Our online team consists not only of the business leaders that have made our organization so successful, but also members of the Legislature, legislative staff, US Chamber of Commerce, journalists and politicians across the spectrum.

“When TAB began our foray into social media, we entered with the expectation that it would help brand our organization and allow us to reach the untapped Texas business community at large,” said TAB President Bill Hammond. “The result has blossomed into our social networking profile being at the vanguard of all Texas advocacy and member organizations. I am delighted that so many men and women across Texas have joined our online team.”

TAB has kept up with the demand of its users by providing frequent updates on the issues of importance to the business community. TAB’s online strategy engages its friends in the process, and has created an effective grassroots army that is one of the most successful arrows in its quiver. The cross-platform approach links together the TAB’s online home, www.txbiz.org, mainstream social media tools, the newly-developed TAB Network, the efforts of the government affairs division and event planning to move the organization forward.

To find out more, please visit www.txbiz.org, where you can find easy links to our Facebook and Twitter online profiles.

MEMBER PROFILE

Evins Personnel Consultants, Inc. – Your Road To Success Starts Here

Mary E. Evins, CPC, CPES, Founder and CEO of Evins Personnel Consultants, Inc., is recognized as a leader in the personnel services industry. She was the twelfth person and first woman inducted into the Hall of Fame of the National Association of Personnel Consultants in 1999. Mrs. Evins has served on numerous boards and committees with the industry's national, state, and local associations; has chaired the National Ethics and Education Committees, and established the first arbitration committee for the industry. Mrs. Evins holds the distinction of being the only woman to chair any state's employment agency regulatory board, as well as past President of the Austin Personnel Association. In addition to industry activities, she has been active with the Texas Association of Business and the Better Business Bureau. As a long-standing member of the Speaker's Bureau, she has volunteered many hours addressing high schools and colleges throughout the State. Mrs. Evins is active in the management of the day-to-day operations of the Evins group of companies.

Evins Personnel Consultants, Inc. was founded by Mrs. Evins in July 1967. Evins is a Women Owned and Austin-based company with offices in Austin, Round Rock, Houston and San Angelo. Evins Personnel Consultants is ranked among the largest Women's Business Enterprises in Texas. Evins' size, reputation and name recognition has assisted with the recruiting and placement of all types of positions. Evins is committed to providing world-class human resource services and consulting.

The Evins group provides a variety of staffing related services to better serve both the client company needing qualified staff, and the job seeker searching for suitable employment. Evins Personnel Consultants provides job placement and recruitment services; Evins Temporaries provides temporary staffing; Evins Medical provides medical staffing services, and Exceptional Resource

Services provides a complete HR solution for its client companies.

Evins utilizes state of the art technology to better serve its clients. Evins actively networks with groups such as the Chamber of Commerce in Austin, Round Rock, San Angelo, Georgetown, Taylor and Hutto and the Greater Austin Hispanic Chamber of Commerce. Evins gives back to the community by providing services to

charitable organizations such as the MDA and the Salvation Army. Evins supports the Austin Human Resource Management Association (AHRMA), the Williamson County Human Resource Management Association (WCHRMA).

Evins says that like most other businesses, "taxes are our biggest challenge."

Evins Personnel Consultants relies on the Texas Association of Business (TAB) to stay current on legislative and other important issues. Evins appreciates the effort TAB puts forth in promoting business in Texas, the TAB Employment Relation Programs and Networking opportunities. Mary Evins says that

"TAB stays on top of legislative issues and is doing an outstanding job of promoting Texas. I like the programs they make available to their members. TAB is a good value!"

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***- Mary Evins,
Founder and CEO
Evins Personnel
Consultants, Inc.***

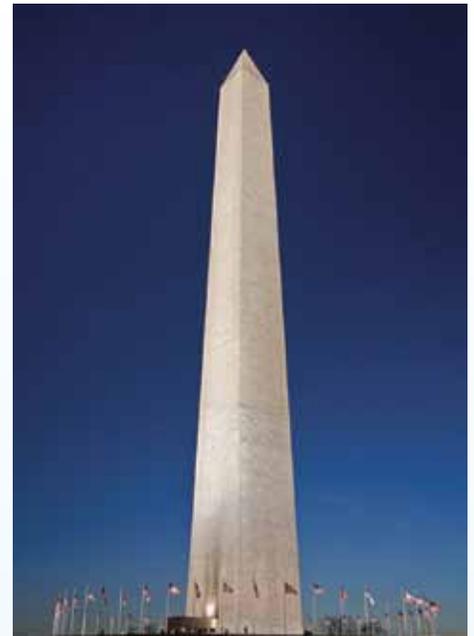




TEXAS ASSOCIATION OF BUSINESS

Biennial National Affairs Conference

May 10-12, 2010
Washington Marriott at Metro Center
775 12th Street NW
Washington, DC 20005



TAB National Affairs Conference & Board of Directors Meeting Registration Form

Please return form to: TAB • 1209 Nueces, Austin, Tx 78701 • Attn: Rachael Small 512.477.6721 ext113 • E-mail: rsmall@txbiz.org • Fax: 512.477.0836

Please reserve the following package(s) for the
Board of Directors Meeting on May 10

National Affairs Conference on May 11-12 EARLY

BIRD (Register by April 1st) \$425 each \$ _____

_____ Member Package at \$475 each \$ _____

_____ EARLY BIRD (Register by April 1st) \$375 each \$ _____

_____ Spouse Package at \$425 each \$ _____

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Monday, May 10th • 3:00 - 5:00 p.m.

TOTAL PRICE \$ _____

Payment Options: Check Credit Card

Check payments must be received on or before April 23rd to confirm your registration.

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Washington Marriott at Metro Center TAB Room Rate: \$259/night
Reservation 1-800-228-9290 Group Code: TAB
Reservation deadline: April 19th www.Marriott.com

First Name* _____ M.I.* _____ Last Name* _____

Name as wanted on badge _____

Social security number* _____ Date of birth* _____

Title _____ Company _____

Address _____ City _____ State _____ Zip code _____

Phone _____ Fax _____

E-mail _____

U.S. citizen?* Yes No

Country of origin* United States Other _____

Spouse or Guest:

First Name* _____ M.I.* _____ Last Name* _____

Name as wanted on badge _____

Social security number* _____ Date of birth* _____

U.S. citizen?* Yes No

Country of origin* United States Other _____

**Required for security clearance to visit White House Grounds.*

TAB cancellations received after May 3, 2010 will not be refunded.
Substitutions will be accepted.



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Talk **About** Business



Bill Hammond, TAB President

Liberal Agenda for America: Destroy Middle Class

Value-added tax. The words should send chills down the spine of every American, but the Obama Administration's newest "save the world from itself" solution to its unfunded health care proposal suggests a value-added tax (VAT) just may be what is in store for us. A recent column penned by heralded policy expert Charles Krauthammer noted that atop the \$8 trillion in debt load America currently carries, the ObamaCare law will now add \$2 trillion in new entitlements and someone has to pay for it.

How can America possibly shoulder that kind of burden with its current system? Withdrawing from the fiscal restraint that should be priority number one in these economic times, the Obama Administration is erasing the Ronald Reagan legacy by creating swaths of new debt to finance his Euro-influenced vision for America.

There is, without question, the need to reform the health care system. However, Obama's affection for the European concept of a single-payer system generated the recent health care law. To fund this law, the Obama Administration has considered invoking the controversial value-added tax (VAT), which will add a levy on manufacturers at each stage of

production. For every stage, a new tax will be added. When consumers pay at the register, the manufacturers make up for their losses by passing the costs onto consumers. This regressive tax hits low-earning families the hardest. The working class will be forced to pay an even bigger portion of their income to taxes through increased prices for goods.

The VAT has been the third rail of American taxes, as it is so controversial it has never picked up any legislative momentum. Among European countries, it is the standard operating procedure. Since our health care system is based now on a European model, why not look to them for ways to finance it, the Administration thinks.

Here's what a VAT will do for the United States: Higher costs to consumers: check. Additional taxes on manufacturers: check. Manufacturers fleeing America in droves: check. And the worst of it: bigger government. One only needs to look at France and Germany to see that the growth of government has exploded since the introduction of the VAT.

Sounds like a good plan, don't you think? Speaker of the House Nancy Pelosi bets yes. In an appearance

on the Charlie Rose program in late 2009, Speaker Pelosi said that including the VAT in the nation's tax code was "on the table."

Knowing that even discussing a VAT before the passage of the health care bill could be damaging, the White House attempted to silence that discussion, enlisting budget guru Peter Orszag to say that the VAT was "popular with academics but not seriously considered by policy makers."

After the passage of ObamaCare, the opinion of Speaker Pelosi is being shared by the very people who tried to assuage VAT fears: the White House. Recently, White House adviser Paul Volcker said that "the United States should consider raising taxes to help bring deficits under control and may need to consider a European-style value-added tax," according to Reuters.

Rather than trimming the fat on spending, cutting exorbitant waste from earmarks, assessing health care reform in a manner best for consumers, the VAT is gaining traction as the go-to solution in Washington. Americans may soon have cope with costs of the VAT, sales taxes and income taxes. Haven't we fed the beast long enough?