



# TEXAS

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# BUSINESS REPORT



## TAB Supports “Texas Back To Work” *Dewhurst Plan Helps Unemployed Get Jobs*

Texas has weathered the financial crisis better than any other state in the America, but times are still tough for employers and the unemployed. Whether it's shedding jobs or losing jobs, businesses across Texas have felt the pinch.

TAB takes seriously its mission to make Texas the best business climate in the world. In times like these, that means getting Texans back to work. That's why the Association is proud to support the “Texas Back to Work” program, which allows Texas employers to receive a wage subsidy of up to \$2,000 for hiring unemployed workers.

This two-year program was set in motion by Lt. Gov. David Dewhurst and funded by the Texas Legislature in 2009. “Texas employers are standing strong during tough economic times,” said Dewhurst. “Businesses small and large can earn Texas Back to Work incentives to expand their operations and offer new opportunities to unemployed Texans.”

The goal of Texas Back to Work is to find jobs for those receiving unemployment insurance and were previously making less than \$15/hour. The program returns tax dollars directly to private-sector employers to offset the cost of new hires.



There are safeguards in place to ensure that employers keep the previously unemployed hire on-board, as the money is dispersed over time to prevent fraud.

The program has already been a success, as more than 2,500 Texans have been hired with the support of Texas Back to Work. By doing it ourselves, the Texas way,

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### WORKFORCE Q&A

*Can an employer in Texas adopt a mandatory direct deposit policy for payment of all wages to employees?*

(see page 2)

### TAB JOB BANK

*The Texas Association of Business is proud to partner with Jobing.com to create a new Texas job bank. Stay up-to-date on job postings and apply directly for jobs across Texas. Check it out at <http://facebook.com/txbiz> under the “Jobs” tab.*

### TAB MISSION

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

# WORKFORCE Q&A



Rebecca L. Baker,  
Bracewell & Giuliani LLP

## **Can an employer in Texas adopt a mandatory direct deposit policy for payment of all wages to employees?**

There is not a well-defined answer as to whether or not the Texas Labor Code permits employers to utilize mandatory direct deposit; however, it is likely permissible pursuant to certain conditions. In 2003, Texas law was amended to add a direct deposit provision to Section 61.017 of the Texas Payday Law. The language provides that an employer may elect to pay wages by direct deposit to employees who maintain suitable bank accounts, as long as the employer gives at least 60 days' advance written notice

of the adoption of the direct deposit wage payment system and obtains from the employees whatever information is required by their banks to commence such deposits.

Pursuant to this language, if an employer has an employee that already has an existing bank account, it appears to be acceptable under Texas law to require the employee to accept his or her wages by direct deposit. However, there is some ambiguity regarding this provision because the language states that an employer "may elect to pay wages" by direct deposit, but does not expressly provide that the employer can make direct deposit a condition of employment. Furthermore, while the law states that the employer can elect to use direct deposit for employees with existing bank accounts, it is silent as to whether an employer can require an employee who does not maintain a bank account to open one.

Furthermore, there are federal laws that impact the legality of mandatory direct deposit. For example, the Department of Labor makes it clear that an employer cannot force an employee to accept direct deposit where related bank fees will effectively take the employee's wages below minimum wage. This is more likely to be a concern in the context of employees whose rate of pay is close to minimum wage. Moreover, the Equal Employment Opportunity Commission has explained that mandatory direct deposit could have a disparate impact on minorities. In addition, pursuant to Federal Deposit Insurance Corporation regulations, an employer cannot require employees to maintain bank accounts at a specific financial institution.

Accordingly, while it appears there is nothing in Texas law that prohibits employers from adopting mandatory direct deposit policies as long as they adhere to the standards in Section 61.017 of the Texas Payday Law, employers should consider the circumstances carefully before adopting such policies.

## **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](mailto:smcgee@txbiz.org)**

# TEXAS BUSINESS REPORT

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## Spotlight On Jobs: *Socialize Your Recruitment Strategy*

*By: Theresa Maher  
Director of Job Seeker Relations  
Jobing*

Social media seems to have taken the world by storm with sites like Linked-In, Facebook, Twitter, and the endless library of Internet blogs. Today, it is easier than ever to share and collect information with individuals across the globe or in your own backyard; and it seems those not getting on-board are destined to be left behind as technology continues to advance. But, social media tools are not only for Generation Y to send photos of their latest haircut or update their dating status, they are a legitimate way to extend your company brand and reach out to a targeted candidate pool faster and more effectively than ever.

You may be asking how social media can play a valuable role for human resource professionals. It's very simple; to get ahead you should be socializing your recruitment strategy. There are many different ways to use social media outlets to improve your practices. Utilizing social media profile pages can create a great viral marketing brand for your organization, targeted at attracting the right type of candidate.

It also allows candidate interaction which, combined with tools like video, can offer the best information to help job seekers decide if they would be the best for your company.

Recruitment blogs are also a great way to position your organization as an industry leader and begin engaging interested

candidates. Using sites like Twitter can also contribute to a strong brand message, when a well thought out communication strategy has been put in place to provide your community with concentrated pieces of information. With so many social media options available, there is a combination that will work for your organization to help strengthen and define your company brand to ultimately give you better recruitment results.

As a valued member of the Texas Association of Business, you are eligible for discounts when you post any open positions on <http://txbiz.jobing.com> (or can find the link thru [Txbiz.org](http://Txbiz.org), scroll to bottom and select HR products link.

We know jumping into the world of social media can be overwhelming. If you would like more information on creating a social recruitment strategy for your organization, please visit [www.jobingtech.com](http://www.jobingtech.com).

Jobing.com and Jobingtech.com are initiatives of the Jobing Foundation, which creates programs, provides volunteer opportunities, and offers scholarships in our local Jobing communities. We believe that when we focus our social responsibility efforts towards mission-driven activities, we can have a greater impact as well as make an investment in our local Jobing communities' workforce.



## Back To Work *continued from page one*

our State was then able to access a \$24.3 million federal grant to expand the program and serve even more employers.

"Lt. Gov. Dewhurst and the Texas Legislature deserve a tremendous amount of credit for creating and executing this innovative program to help employers and employees alike," said TAB President Bill Hammond. "Putting men and women who have been caught in the crossfire of a bad economy back into jobs should be our state's top priority. This program goes a long way to seeing that mission through. The Texas Association of Business proudly stands behind the efforts of Lt. Gov. Dewhurst."

The Texas Unemployment Compensation Trust Fund is seeing a \$233 per week savings per Texas Back to Work participant for each week that the person was back on the job instead of collecting an unemployment check.

The program, though, is not only good for the state's coffers, it's good for the employees. Participants, on average, earn \$137 per week more in wages and benefits than they would have had they remained jobless, receiving unemployment checks.

For the great potential the program has, it has not yet been utilized to its full potential. That's why TAB is proud to use its media channels to draw attention to this important program.

To learn more about this innovative initiative, please visit the Texas Workforce Commission's online home at <http://www.twc.state.tx.us>.

# MEMBER PROFILE

## Durham-Ellis Pecan Company

For **Durham-Ellis Pecan Company, Inc.**, 30 years of success comes from outstanding, quality products and great customer service.

The Durham Ellis legacy began in 1928, when W.M. Durham, Sr., had a vision of providing people with the freshest, highest-quality pecans and founded Durham Pecan. During the Great Depression, jobs were scarce. To help his community, Mr. Durham had people come to the plant, pick up a grocery sack of pecans, take them home and crack them. They would then, bring them back shelled and were paid by the pound.

Today, the company uses state of the art shelling equipment along with hand inspections to ensure the highest quality. Tucked snugly in the hills of Central Texas in the small community of Comanche, the Durham-Ellis Pecan facility covers over 130,000 square feet.

In 1976, Mr. Durham's son-in-law, **Odie Dollins**, joined the family business. To broaden the business, Mr. Dollins bought a small roasting facility in Comanche in 1989, so that they could roast all of their own products. Wanting to expand into other areas, he bought the Fort Worth, Ellis Pecan Company, better known as Ellis, in 1996.

With over 20 years experience in leadership of the business, Mr. Dollins purchased the business from the family estate in 1996 and is currently the President. Prior to working in the pecan industry, Mr. Dollins' formal training was as a CPA, which led to a brief career with the FBI.

Durham-Ellis has stores located in Comanche and Fort Worth, which sell a range of more than 200 products, including fresh pecans, an extensive variety of all kinds of nuts, fruits, candies, salsas, and other unique gifts. The company sells its products globally by providing products for wholesale, fundraising and corporate gifts.

“Our customer service is above reproach, we still talk directly with customers, no one goes into voice mail unless that is what they want,” says Mr. Dollins, “We have outstanding quality products and competitive pricing.”

Dollins credits the integrity of their company for sustained their relationships with long time customers such as: Luby's, Blue Bell, Mrs. Baird's Bakeries, Lammes' Candies, Central Market, Brookshire Brothers, United Grocery, H-E-B, Whole Foods, and many others.

Durham-Ellis, along with their industry, has been effected the most in the last year by increased regulation and being required to have a third-party audit, which is very intensive and very expensive.

The company keeps close tabs on issues that are taking place in Austin and in Washington.

*“Everybody recognizes that with politics you need to have some kind of representation. For us, **TAB is the only real voice in Texas and Washington.**”*

**Odie Dollins**  
**President & Owner**

“The consequences of the new health care mandate, taxes, ‘cap and trade’ issues and how it will all effect our business naturally concerns us all,” said Mr. Dollins.

“Everybody recognizes that with politics, you need to have representation. For us, **TAB is the only real voice in Texas and Washington,**” Mr Dollins continued.

Mr. Dollins and Durham-Ellis Pecan Co., Inc. were the Regional Winner of the 2009 Texas Small Business of the Year Award by the Texas Association of Business.



# The 31<sup>st</sup> Annual Texas Employment Relations Symposium Wrap-up

Last month, over two hundred human resource professionals, attorneys and CPAs from all parts of Texas gathered in San Antonio to learn from experts and develop workplace strategies for their perspective employers. The Texas Association of Business (TAB) and the Texas State Council of Society of Human Resource Management partnership developed a program tailor made for those needing to be apprised of the latest rules, regulations as well as workplace trends.

“Protecting employers from lawsuits is critical,” said TAB President Bill Hammond. “Many employers, especially small ones, are just one lawsuit away from being out of business and the HR professional is the first line of defense. This conference is geared to arming employers with the right information.”

Every year the symposium receives accolades for stellar programming at an affordable price. Much of this is due to TAB’s Labor Law Committee Chair, Jeffrey Londa, who for 18 years has developed the agenda, recruited the speakers and kicked off the event. Jeff is a shareholder of Ogletree, Deakins, Nash, Smoak & Stewart, PC, one of America’s leading labor and employment law firms. To mention a few of Londa’s accomplishments, he has been listed as a “Super Lawyer” for four years running in Texas Monthly (2004-2008) and is listed in the top tier Texas employment lawyers in the Chamber’s USA Client Guides (2004-2008).

At the symposium, Jeff was recognized for his almost two decades of service to the Texas Association of Business. As Chairman of TAB’s Labor Law Committee, Londa

helps set the legislative priorities of the Association as well as lead the symposium effort. This is Jeff’s last year to spearhead the event. He will hand over the reins to another active TAB Board Member, C.B. Burns, partner at the El Paso-based firm, Kemp Smith.

“I’ve worked with Jeff Londa for 10 years on this conference and I am amazed at how an attorney of his caliber is able to contribute countless volunteer hours and recruit the most knowledgeable and entertaining speakers in the business,” said Cathy DeWitt, TAB’s Vice President of Governmental Affairs. “His commitment to educating others on employment law matters is laudable and has made the difference for the thousands of HR professionals, CPAs and attorneys who have attended this event under his direction.”

New to the symposium were topics centered on the ever-changing business climate as well as changes in technology such as private text messaging, private email using company computers, and social networking. Bottom line: employers need to revamp their policies to include social networking, texting and the use of private email accounts on company computers. If you don’t let your employees know your expectations on these issues, you to could be subject to a lawsuit.

Symposium surveys of participants gave ringing endorsements of the quality of the programming. One participant wrote “many of the speakers were able to take very complex materials and turn it into something entertaining and easy to understand. I have always wanted to attend this conference and now that I have, I certainly will be a repeat customer.”

## SPECIAL THANKS

*to this year’s Symposium full conference sponsors:*

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## SAVE THE DATE!

Don’t forget to mark your calendar for the 33<sup>rd</sup> Annual Symposium, July 14-15, 2011, at the Westin La Cantera Resort in San Antonio



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# Talk **About** Business

## Time Is Wrong To End Bush Tax Cuts



Bill Hammond, TAB President

While America struggles to overcome the global economic crisis, expiration of the Bush-era tax cuts loom for families across the nation. The issue has been volleyed politically by Republicans and Democrats who are currently debating how to extend the tax cuts. The contention rising from the debate could ultimately mean that the tax cuts will expire for all Americans, which will lead to the mother of all tax increases.

According to a study conducted by the non-partisan Tax Foundation, average savings for middle-income families add up to \$1,540 annually. Allowing the Bush-era tax cuts to expire in the midst of economic instability like the one we are currently experiencing is a betrayal of middle-class America.

Speaker Nancy Pelosi and Treasury Secretary Tim Geithner have been advocates of allowing the tax cuts to expire, but rank-and-file Democrats are bucking the idea of raising taxes during such a deep downturn. Senate Budget Chairman Kent Conrad (D-ND) went against the party line, stating that “As a general rule, you don’t want to be cutting spending or raising taxes in the midst of a downturn.”

A recent column penned by Art Laffer, the father of supply-side economics (a/k/a – Reaganomics), was prefaced with a telling, dead-on quote from President John Kennedy who outlined the importance of fiscal responsibility and tax cuts when he said “Let me make clear why, in today’s economy, fiscal prudence and responsibility call for tax reduction even if it temporarily enlarged the federal deficit—why reducing taxes is the best way open to us to increase revenues.”

The tone of the debate has been shaped by the false populism of Democrats who want wealthy Americans over a barrel. What that mindset does not take into account is that the affluent have nearly unlimited resources like accountants and attorneys to avoid taxation. Laffer cites the public relations nightmare Senator John Kerry (D – MA) created when he purchased a \$7 million yacht and housed it in Rhode Island. Why did Kerry not house his yacht in Massachusetts where he lives? The tax-the-rich ideologue wanted to avoid a \$400,000-plus state sales tax and an excise tax of approximately \$70,000, according to Laffer. What’s good for the goose is not good for the gander in Kerry’s world.

President Barack Obama is behind renewing the tax-cuts (pause) to an extent. The Administration has pledged that no family with an income below \$250,000 will see an increase in taxes or new taxes. The words are soothing until one considers that the Administration has already broken their pledge with the added taxes generating from the new federal health care law.

Atop that individual example, Americans for Tax Reform has compiled a list of the tax increases signed into law by President Obama. How much stock should middle-income families place into the word of this President and this Congress to stick to their word when they have repeatedly broken their promises?

For today’s family, \$1,540 is a mortgage payment, several car payments, the start of a college fund or a family vacation. The sum can provide breathing room for families in an era when there are not very many bright spots from paycheck-to-paycheck.

Write your Congressman, Senator and President and tell them that you do not favor the expiration of the Bush-era tax cuts.