



Time to think about ObamaCare

What will you do about health insurance?

A recent survey by Newtek Business Services found that most small business owners aren't thinking much about their health insurance future, and how it could change within a year. That's partly because of the fact that most folks think that health insurance choices are 2013-2014 problems.

Part of the health care reform law will be up for review by the US Supreme Court in a few short weeks. The Court could strike down the part of the law mandating that everyone have health insurance. While that might be viewed as a good thing, it might also mean a fundamental change in insurance coverage. Private insurance companies will have a smaller pool of people to spread a greater amount of risk, due to no pre-existing conditions limitations, etc. With the government setting up insurance exchange programs, many private insurers may decide to get out of the traditional insurance business and simply become exchange administrators, or only offer supplemental insurance. What that will do for your choice of insurance and your costs isn't known at this point.

The Newtek survey showed that 88 percent of small business owners believe that people shouldn't be forced to have health insurance, and 91 percent believe that they will not have to purchase health insurance from the government. Of course, that number depends on what the US Supreme Court decides and how private insurance companies react to that decision.



"The problem with the whole health insurance question is that there are no good answers right now," said Texas Association of Business President and CEO Bill Hammond. "It's hard to plan ahead when the whole insurance and health care industry is in flux, waiting on the High Court to rule, and then waiting to see how the whole system reacts to that ruling."

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WORKFORCE Q&A

I heard that the National Labor Relations Board (NLRB) recently announced changes to union election proceedings. What happened?

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SAVE THE DATE

TAB's Annual Conference is coming up February 1 & 2 in Austin. Hear from State leaders and from the candidates for U.S. Senate. We will also look at the future demographics of Texas and what that means to your business, and you will also hear from the State's media leaders. Check the insert inside for more information and to register for this can't miss event.

TAB MISSION

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

WORKFORCE Q&A



Alf Southerland,
Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.

I heard that the National Labor Relations Board (NLRB) recently announced changes to union election proceedings. What happened?

On November 30, the NLRB Board voted to revise the process for union representation elections, shortening the time from the filing of the election petition until the actual vote is held and thereby making it easier for unions to win elections and more difficult for employers to communicate with employees prior to the vote. These changes follow submissions to the NLRB of over 65,000 written comments on the proposed rule and public input gathered at a two-day hearing in July. The vote was on a “scaled back” final rule, not the proposed rule published in the Federal Register, which “will remain under consideration by the Board for possible future action.”

In its vote, the NLRB Board resolved to prepare a final rule to be published in the Federal Register that makes the following key changes to the current representation election procedures:

- ★ Elimination of current procedures providing for pre-election appeals to the Board from the actions of the Regional Director on the election petition and providing instead only for a single, discretionary appeal of pre-election and post-election issues after the votes are cast.
- ★ Elimination of current requirements that a vote cannot be held sooner than 25 days after the Board’s Regional Director issues a Direction of Election. As a practical matter, this means that elections will be held sooner after the Direction of Election than was previously the case, although the precise length of time may vary in each case.
- ★ Clarification that a pre-election hearing is to determine only whether a question concerning representation exists and that the hearing officer has authority to limit evidence taken at the hearing that does not have relevance to a genuine issue of fact material to that issue. This means that many issues of individual voter eligibility as opposed to voting unit composition may be deferred to the post-election procedures rather than litigated prior to the vote.

Some of the most onerous and unfair provisions of the original proposed rule, which produced a hail of criticism from the business community in the comments filed with the Board this past summer are tabled for now. These include:

- ★ The requirement that a hearing be held within seven days of the filing of a union’s representation petition.
- ★ Allowing the union’s petition to be filed electronically rather than the current practice requiring filing by hand or regular mail.
- ★ The requirement that unions be given employees’ email addresses and telephone numbers prior to the election. Currently, the union receives a list of eligible voters from the employer prior to the election containing the employees’ full name and residence address but not their email address and telephone number.
- ★ The requirement that the voter eligibility list be given to the union within two work days of the Direction of Election instead of the current rule allowing seven work days.

Even though the Board now proposes a rule that is less onerous to employers than its original rule, which would have reduced the time from filing of the election petition to the holding of the vote to as little as 10-21 days, the new rule still substantially shortens the period from filing of the petition to the date of election from the current Board target of 42 days. Elections will be held quicker than before, the precise period being determined by the circumstances in each case. Following the vote, the NLRB will proceed to draft a final rule limited to those proposals, likely in December and will “defer the remainder of the proposed rule for further consideration.” In the meantime, business groups will continue to attempt to block enactment of the rule by, among other strategies, supporting passage of the Workforce Democracy and Fairness Act (H.R. 3094).

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***

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TAB STATEWIDE OFFICERS

Brett Graham, *State Chairman*
Rudy Oeftering, *Chair Elect*
Carl Erhart, *Treasurer*
John Bass, *Secretary*
Bill Hammond, *President*

TAB TEAM CONTACTS

Sandra McGee, *Senior Vice President*
Employment Services & Finance
smcgee@txbiz.org

Dan Cahalen, *Senior Vice President*
Membership Development
dcahalen@txbiz.org

Aaron Cox, *Vice President*
Chamber Relations
acox@txbiz.org

Cathy DeWitt, *Vice President*
Workers' Compensation, Tort Reform and
Employment Relations
cdewitt@txbiz.org

Stephen Minick, *Vice President*
Environmental Quality and Energy
sminick@txbiz.org

Kandice Sanaie, *Governmental Affairs Manager*
Insurance & Health Care
ksanaie@txbiz.org

Nelson Salinas, *Governmental Affairs Manager*
Education
nsalinas@txbiz.org

Robert Wood, *Communications Director*
rwood@txbiz.org

Lori Buntin, *Events Director*
lbuntin@txbiz.org

TAB REGIONAL OFFICES

Central Texas Area

Ron McGill
rmcgill@txbiz.org - (254) 913-0752

North Texas Area

Mark Sadowski
msadowski@txbiz.org - (214) 906-3361

Northwest Texas Area

Marshall Jeffus
mjeffus@txbiz.org - (940) 642-5428

Southeast Texas Area

Miles Resnick
mresnick@txbiz.org - (409) 363-1481
Russ Penson
rpenson@txbiz.org - (816) 286-9122

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Driving the Message Home

Austin and Dallas Drivers Greeted with Sobering Higher Ed Numbers.

TAB, in hopes of spurring some debate and media coverage, has taken out billboards for the day in Austin and Dallas and put some surprising numbers on them.

The billboard in Austin, on the upper deck of Interstate 35 just north of the UT Austin campus, featured the very low Austin Community College completion rate:



4% OF ACC STUDENTS GRADUATE IN 3 YEARS. IS THAT A GOOD USE OF TAX \$? TX ASSOCIATION OF BUSINESS.

The billboard in Dallas, on Central Expressway southbound near Forest, had similar numbers for the Dallas County Community College District.

8% OF DCCCD STUDENTS GRADUATE IN 3 YRS. IS THAT FAIR TO THE STUDENTS? TX ASSN OF BUSINESS

TAB President and CEO Bill Hammond said those graduation rates aren't fair to students or taxpayers. "Through this billboard and other education efforts, we hope people realize that the number of students entering college and other institu-

tions of higher learning and those leaving with degrees and certifications just don't add up. I think the public will be surprised at what they see and will start demanding a better product from our schools."

The billboards are getting the message out, with stories in the *Houston Chronicle*, *Austin American-Statesman* and KLBJ Radio, to name

some of the media outlets that have reported on the effort.

"College isn't for everyone, and I understand that," said Hammond. "We should be doing a better job identifying students who should be in college and students who should be in other kinds of job training programs."

One factor causing these low completion numbers are students getting discouraged and dropping out because they aren't ready for college in the first place. "When you have around 13 percent of students graduating 'college ready' from our high schools you have a problem," said Hammond. "That number should be closer to sixty percent. We must do a better job of getting our kids ready for higher education."

ObamaCare

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There are a few things that we do know. According to a *Wall Street Journal* article (What The Health Care Law Will Mean for Your Small Business, published December 7, 2011) no firm is mandated to provide insurance, but in 2014, only the smallest businesses will be exempt from penalties if they don't. You will also have to have the right kind of insurance that meets a definition of "minimum essential" and "affordable coverage". Employees can get help with the cost of health insurance through the state exchange, once it is set up.

No one really knows where the US Supreme Court will fall on the individual mandate issue. One thing that we do know is that sole proprietorships will have to have coverage, which will most likely have to be purchased through the exchange, if the individual mandate is upheld. Not having coverage will mean a fine of \$695.00 or 2.5 percent of your income, whichever is greater. There are a few exceptions to that, but not many.

These changes will likely have a profound impact, not only on your business, but also on the State's budget. If the law remains as is, Medicaid costs to the State will likely skyrocket, meaning the real possibility of major cuts to other services or talk of new taxes.

Stop by the TAB website (www.txbiz.org) or our Facebook page for the link to the *Wall Street Journal* story.

MEMBER PROFILE

Austin Glass and Mirror – A Reflection of Success

For over a quarter century, Austin Glass and Mirror has been putting up glass in buildings, big and small, across Central Texas. It's truly a family business, started by brothers Don and Jimmy Bayer. Over the years, the family has grown. Business partner Larry Morgan, who retired in 2007, brought in his son Shon and Don's three sons, Chris, Creig and Kevin, also work at the company.

It wasn't always easy. When the company started in 1984 there was a construction boom and plenty of work to go around, but by 1986 the bottom had dropped out. "Those first two years gave us enough stability to ride through that first hard curve," said Don Bayer. "Once we got through that, it was a matter of staying steady."

Another very tough time was the loss of original partner Johnny Kallus. "During that time, Dell Computers was expanding, and we had several large buildings we were working on," said Bayer. "Unfortunately, Johnny fell sick, and that was very difficult for us. To see him struggling with his illness while trying to keep the business going was very tough." Bayer said Kallus is still a big part of the business in spirit.

"Don knows firsthand the challenges facing business today," said TAB President and CEO Bill Hammond. "He's one of the folks who will tell you exactly how he feels about today's business environment and is a strong advocate for the changes needed to make that environment even better."

"I never knew what a strong force TAB is in shaping the future of Texas' business climate," said Bayer. TAB is a true powerhouse at the Capitol. I really appreciate having that kind of an organization fighting for my business."

Austin Glass and Mirror has grown a lot over the more than 25 years that it has been in business. The company was doing many smaller jobs, but branched out into larger construction and commercial jobs soon after

Morgan joined the team. "Larry's specialty was the bigger jobs. That gave us a boost to another level," said Bayer. The company also added the latest technology, a far cry from when it first started. "We used to run down the street to borrow a fax machine because we didn't have one at the shop."

Bayer said the success of Austin Glass and Mirror is also due to all of the people who have worked with the company throughout the years. That includes all of his employees, his customers and his suppliers. He said that without all of those people the company wouldn't be where it is today, 27 years after first opening its doors.

Bayer likes to remind people that this is truly a family business that extends far beyond blood relatives. "I enjoy working with the people we work with every day. Our employees, well, we've all sort of evolved into a family! It makes it nice to get up and come to work every day, and I hope they enjoy it as much as I do."

Bayer said he also knows that there will be a day when he won't be involved with the operations of the business, but he's comfortable in the family that will take it over when that time comes. "I want this to keep going, and with the boys, we are really blessed. I don't think it will be a problem when the day comes that they are running things, and we are on the sidelines watching."

"TAB is a true powerhouse at the Capitol. I really appreciate having that kind of an organization fighting for my business."

*- Don Bayer,
Co-Founder and President
Austin Glass and Mirror*



TAB President Bill Hammond, US Senator John Cornyn and Austin Glass and Mirror President Don Bayer

Chair Report: 2011 Chair Brett Graham



PRO-BUSINESS • PRO-TEXAS
FOR OVER 85 YEARS

Dear Fellow Texans,

For the past year, I have had the honor and privilege to serve as the State Chair of the Texas Association of Business. While I could not have envisioned the scope and magnitude of the task at hand, I am proud to have, in some small part, left my fingerprint on the shape of TAB.

Considering the drastic budget shortfall facing Texas Lawmakers, the 82nd Session was a huge success for businesses in Texas. By most accounts, the business climate was protected and the needs of our citizens were met without raising taxes. The legislature, among other things, resisted attempts to water-down the school accountability system, made improvements on tort reform, and passed reforms that will save the State hundreds of millions on Medicaid expenses. From my perspective, TAB had an extremely effective session, protecting Texas businesses from bad legislation.

There was also much work occurring away from the session. The State Board and TAB staff spent the year listening to the needs of the membership and taking action. Much of the year was spent working through a Strategic Planning Process, in hopes of setting a course for the Association for the next ten years. The result was 'The Lone Star Initiative', a plan for Texas and TAB through 2020. While the process took the better part of 2011 from start to finish, we did not wait until the end of the year to initiate the plan.

With the immediate need for action on education in the upcoming session, the first move came with the addition of Nelson Salinas, TAB's Education Lobbyist. In a session choked full of education legislation, Nelson proved critical in helping TAB achieve our considerably important agenda.

Perhaps the loudest message that came from the Strategic Plan and TAB members was that their most concerning threat was not in Austin, but rather in Washington DC. The non-stop assault on Texas' economy and jobs from agencies like the EPA and NLRB have put federal overreach at the top of TAB Members list of concerns. For the first time in the 89 year history of the Association, TAB has taken the fight straight to DC. This summer, TAB launched its Texas Center for Federal Policy to advocate both for and against specific policies that impact Texas and American businesses and jobs. Wayne Franke, an experienced DC Lobbyist for many years, was added to help us get the message to not just the Texas Delegation, but to all congressional leaders.

In the coming months, TAB will begin to move forwards on some of the other key objectives of 'The Lone Star Initiative', including leading the charge on Transportation, leading development of a plan to meet the long term demand for water in Texas, and establishing TAB as the go to resource for businesses looking to strengthen their own positions. To accomplish these lofty but critical ambitions, we have set the goal of doubling our ranks to more than 6,000 Texas Businesses by 2020. Each business that joins with TAB not only protects its own interests but also empowers TAB to maintain Texas' reputation as a worldwide business leader. As TAB grows, so does the voice of Texas businesses.

As a result of my experience as State Chair, I have had the opportunity to visit with folks from all over this great state. The diversity of our businesses, the strength and determination of our citizens, and the contingent of hard working Texans like those serving on the board of TAB, are all determined to keep Texas the shining star of business and free enterprise. It is evident that Texans today have the same determined spirit as our founders had when they won the Texas Revolution in 1836. While I was educated on these things by my seventh grade Texas history teacher, Willa Dean Smith, seeing it with my own eyes was inspirational and heart-warming.

I would like to personally thank Bill Hammond, my fellow officers, and all of the staff at TAB for their support and confidence in me to get the job done. It has been an incredible experience, and I am appreciative to have had the opportunity to get in the fight to protect all Texas businesses.

Brett Graham
2011 TAB Board Chairman



1209 Nueces Street
Austin, Texas 78701
(512) 477-6721 phone
(512) 477-0836 fax
www.TXBIZ.org

Talk **About** Business

Primary Care a Primary Concern



Bill Hammond, TAB President

If you have a primary care provider, you are one of the lucky ones. If you are looking for one, good luck. They are becoming harder to find because Texas has a severe shortage of primary care providers, and it will only get worse unless the State does something to help the problem.

According to a report from the Primary Care Coalition, there are 25 counties that don't even have a primary care physician. We're not talking about specialists; these are family doctors. That means that some people can't even get basic health care in the county where they live. Some old get primary care from a nurse practitioner, etc.

Texas needs thousands of primary care providers over the coming years to ensure that its fast growing, underserved population has access to basic health care and doesn't end up someplace far more expensive, like the emergency room.

Texas faces a shortage of primary care doctors for several reasons. One is the Patient Protection and Affordable Care Act. Starting in 2014, as a result of the Act, the demand for health care will go up because more and more people will be eligible for the Medicaid program. Supply will not keep up with that demand.

Another contributing factor is that doctors are being forced to leave the State to complete their residency training. Studies show that the majority of doctors set up their practice in the state where they complete their residency. That means it's critical to keep those doctors here.

Keeping doctors here means creating more residency programs in the State. Texas could double the number of residency programs and still be behind New York and just ahead of California. Even Pennsylvania, which has the same number of medical schools as Texas, has well over 100 more residency programs.

You would think that increasing the number of medical schools would help too, but that isn't what is needed. In fact, we should reduce the number of slots at medical schools. Given the fiscal reality that the State faces, the money saved by reducing the number of medical school slots should instead be used to pay for the increased number of residency slots. Without enough residency slots, we are wasting taxpayers' money by paying for a portion of these doctors' training, and then watching them leave the State to do their residency programs and most likely not returning to Texas.

There are some other legislative alternatives too. Allow Nurse Practitioners and Physician Assistants to provide primary care and reduce restrictions on those practices. We could allow all hospitals to directly employ doctors and other healthcare providers, and expand the use of telemedicine, especially in rural areas. We should also utilize the skills of our military returning from Iraq and Afghanistan, recruit those field medics into our nursing and other medical programs, and develop streamlined training that builds on the skills that they already have.

We must also reduce the cost of medical training overall. Lawmakers and the Higher Education Coordinating Board need to work together to not only find ways to reduce the cost of training, but develop a seamless, six-year program to take students from Bachelors of Science degrees to Medical Degrees.

The Legislature took some big steps a few years back by reforming the State's medical malpractice laws, which helped bring in new and much needed specialists. It's time for lawmakers and higher education officials to take these next logical steps, or we will all suffer in the long run.