



## Health Care Crossroads

### *Texas Business Not Thrilled With ACA.*

The Affordable Care Act (ACA) again takes center stage across the country and here in Texas. Many of you participated in a survey by the Comptroller's Office. It found that the vast majority of you feel the law, if it takes full effect in 2014, will be bad for business.

Texas Association of Business President and CEO Bill Hammond said that the law has already had an affect on hiring. "Based on this survey, there's no conclusion other than the Affordable Care Act has put a damper on hiring at a time when the federal government should be doing everything to increase hiring." So far, 12.5 percent of the businesses have reduced staff because of health care reform; another 25 percent think they will have to reduce staff in the future if the law takes full effect; and 36.5 percent say it won't affect their staffing or hiring practices.

The main question now is: Will the law be upheld?

The U.S. Supreme Court will have to answer that question. The Court spent almost a week hearing arguments about the constitutionality of the law or lack thereof. It is very hard to read what the High Court might do just from listening to the arguments and questions asked by the justices, but after it was all over, some analysts felt that the chances the law would be found unconstitutional were good.



*ACA in the hands of the US Supreme Court*

If the law is upheld, according to the Comptroller's survey, 65 percent of Texas businesses feel the law will be bad for business while, only 3.4 percent thought it will be good.

Another result of the survey is that almost a quarter of businesses say they will reduce or eliminate healthcare coverage in the next two years if the law stands.

## WORKFORCE Q&A

*The National Labor Relations Board is making some changes to Notice Posting Requirements. What does that mean for my business?*

(see page 2)

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## TAB MISSION

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

# WORKFORCE Q&A



Alex Stevens,  
Haynes and Boone, LLP

***The National Labor Relations Board is making some changes to Notice Posting Requirements. What does that mean for my business?***

***What does my company need to know about the new NLRB notice posting rule?***

Effective April 30, 2012, the National Labor Relations Board (NLRB) will require employers to post a notice informing employees of their rights under the National Labor Relations Act (NLRA), including their right to unionize. This requirement applies to all employers subject to the NLRB's broad jurisdiction, including nonunionized employers and employers in "right to work" states like Texas. Employers who typically communicate with employees via internet or intranet sites must post an electronic notice there as well. Finally, if 20% or more

of your workforce is not proficient in English and speak another language, you must also post a notice in that language.

***What rights do employees have under the NLRA?***

As the poster explains, the NLRA protects employees' rights to organize, join or assist a union, and to bargain collectively with the company regarding wages, benefits, and other working conditions. Employees may also engage in "protected concerted activities," such as discussing wages or other conditions of employment with their co-workers or a union, taking collective action to improve their working conditions, and wearing union buttons, hats or pins except under "special circumstances," which the poster leaves undefined.

***What happens if my company does not post the notice?***

Employees and unions can file unfair labor practice charges against employers who fail to post the notice or otherwise violate employees' NLRA rights. In these cases, the Board may find that the failure to post the notice was an unfair labor practice, and seek a court order requiring the company to post the notice. Further, if other charges are filed against the company, the Board may regard the failure to post as evidence of the employer's anti-union animus.

***What are the larger implications of this rule?***

When the Board proposed this rule, it asserted that American employees were "largely ignorant" of their NLRA rights, and unable to "assess employer anti-union propaganda, thus diluting their right to organize." The Board made similar comments about employees who have remained nonunion, stating that their "ignorance leads to the underutilization of legitimate workplace protests, of the voicing of group grievances, and of requests for outside help from government agencies or other third parties." As this inflammatory language makes clear, this requirement is another effort from the current Board's pro-union majority to facilitate union organizing campaigns while increasing group grievances in nonunion settings. The poster will likely result in more questions about the NLRA, increased interest in unionization, and more frequent unfair labor practice litigation. Employers, now more than ever, should examine their potential vulnerability to a union organizing campaign and the effectiveness of their supervisory workforce in dealing with this subject.

***For additional information on posting requirements see Page 5.***

***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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## **Future of Healthcare In Court** *continued from page one*

“That is what I have thought would happen for some time now,” said Hammond. “Many businesses will find it cheaper to simply pay the penalty to the government, drop coverage, and let their employees find insurance through exchanges. I don’t think that’s the answer, but that will be the result if we allow this law to take effect.”

State Comptroller Susan Combs writes in the report that she is surprised that businesses are this apprehensive about the Affordable Care Act. “While we expected to find some skepticism regarding health care reform among respondents, the overwhelming weight of opposition was truly surprising.”

As you might expect, the largest fear is higher costs. The number one concern mentioned by those who think the law will have a negative impact on business say it will increase insurance premiums, with some fearing increases as high as 50 percent. Only a few businesses, 8 percent, thought the costs would actually come down, and 12 percent said the law was worth it no matter what it cost.

Another major fear is uncertainty. Many businesses said that they aren’t sure yet what affect the new law will have on their business, or their employees, because so many of the rules that will govern how the Affordable Care Act will work haven’t been finalized. There is also uncertainty because of this year’s election, which could have a major impact on whether the law will take effect as is in 2014, or be changed or eliminated by a new president and Congress in 2013.

# MEMBER PROFILE

## TurnerDuran Architects, LP *Houston, Texas*

TurnerDuran Architects, LP traces its origin to 1984, when Greg Turner left the world of corporate practice to form his own firm in Houston. For nearly three decades, TurnerDuran and its predecessors saw consistent growth as the firm focuses on institutional and corporate projects. Today, the firm still maintains its focus in these same project areas, as well as on basic architectural services; moreover, the firm has grown to handle projects ranging from under one million dollars in construction cost, into the tens of millions.

Some of TurnerDuran's most recognizable projects include two on the lawn of the Texas State Capitol in Austin: the Texas Korean War Veterans Memorial and the World War II Veterans Memorial. Also included in their award winning portfolio are the First Colony Church of Christ (Sugar Land), the University of St. Thomas Landmark (Houston), Salvation Army Garden City Boys & Girls Club (Houston), Brazos Valley Schools Credit Union headquarters (Katy), St. Martha Catholic Church (Kingwood), Christ United Methodist Church (College Station), and the St. Agnes Academy Center for the Sciences (Houston).

The firm seeks to design "Projects with Significance." They define these as projects whose purpose possesses a meaning beyond functionality and profit; and those in which the entire process of involving their client's community benefits not only the project itself, but their whole organization as well.

Built upon a foundation laid by the firm's senior partners, TurnerDuran combines strong design and production capabilities with state-of-the-art technologies to deliver a wide array of architectural services. Jack Duran, a graduate of Texas A&M University who also earned a master's degree at Ohio State University, directs all aspects of project operations

for the firm, overseeing the multi-disciplinary teams who focus on results for their clients.

Greg Turner, with bachelor's and master's degrees from MIT, as well as an MBA from the University of Houston, oversees strategic issues, business development, and project analytical services. A published author of books and a contributor to national magazines, Greg's treatises deal with the broad scope of issues involved in the design and construction industries, as well as historical issues and trends related to the building endeavor. He has also led strategic planning efforts aimed at ensuring the long-term health of institutional bedrocks such as Chambers of Commerce, St. Mary's Seminary in Houston, and the MIT Alumni Association.

Having served as chairman and president of two Chambers of Commerce in Texas, and now as a board member at TAB, Greg has long recognized and valued the role that the free enterprise system plays in economic growth and vitality. Just as important, the prosperity to which it leads contributes mightily to the strength of the faith-based and non-profit

institutions which also undergird community well-being. For these reasons and more, Turner believes that it is essential to promote the engine of prosperity which has made our nation so great, and he is pleased to serve in an organization such as TAB which does such an outstanding job defending our economic freedom.

***"TAB does an outstanding job defending our economic freedom."***

***- Greg Turner,  
Founder  
TurnerDuran  
Architects, LP***



*Korean War Veterans Memorial at Texas Capitol*



*World War II Memorial*

# Texas 1 EPA 0

The Texas Association of Business is a supporter in the fight to keep Texas clean air rules intact. TAB feels that the Texas program has been successful in cleaning up the air, which it will continue to do, while at the same time protecting the Texas economy. A federal appeals court agrees.

The 5<sup>th</sup> U.S. Circuit Court of Appeals scolded the U.S. Environmental Protection Agency for rejecting the Texas plan after the EPA claimed that it didn't meet Clean Air Act standards.

The ruling by the Court didn't order the EPA to accept the Texas plan, but it did order another look by the EPA at the Texas rules and ordered a quick decision.

"This is a very important ruling in favor of Texas, and I am proud to say that TAB has been able to support our members and all business and industry in Texas as a party in this case," said TAB Vice President Steve Minick. "The Court clearly agreed

with what we in Texas have been saying all along, that the federal Clean Air Act gives the State of Texas significant authority for how best to meet federal air quality standards in Texas. We feel that the EPA is left with few alternatives, other than to reverse its initial decision and support what Texas is doing to clean up the air."

Minick feels that the Texas program is working and definitely meets the standards of the federal Clean Air Act. "The Texas program is making a significant difference, and it's about time the EPA recognizes that Texas has found a way to both clean up the air and keep the economy moving."

While this fight isn't over yet, it is certainly the closest Texas and the business community has come to keeping our state program in place, and showing the EPA that Texas can take the steps needed to clean up the air, without taking draconian measures that kill jobs and hurt the economy.

## QUOTES

**"(This is) about creating a workforce that will meet the needs of our employers."**

– TAB President and CEO Bill Hammond, *Education Week*, "Business Group Urges Big Changes to Texas Math Standards."

**"Providing health insurance for so many people would be nice, but we can't afford it."**

– TAB President and CEO Bill Hammond, *Houston Chronicle*, "Only certainty from health care ruling is change."

### Order our updated Federal and Texas poster kit with the new NLRA posting which is required to be posted by April 30th!

#### Be in compliance with our newly updated Federal and State Combined labor law poster kit.

Your poster kit will include all the required posters for your state on one laminated poster (Texas state combined poster is 27" by 27") and all the required Federal postings on a 27 by 27 inch laminated poster. The new Federal Combined Poster includes the new NLRA Notice to Employees. (Effective April 30, 2012) The kit makes it easier to update your posters in the future. You will only have to replace the state poster for state changes and the Federal poster for Federal changes!

**The kit is the same price as our state/federal combination poster - \$29.95**

Contact us at  
**(800) 856-6721 ext.103** or  
go to **www.txbiz.org**  
to order your  
updated poster kit!



**"All of the practice tests, drill and kill, are imposed by local administration. So if school boards don't want that, they should instruct their superintendents to stop this nonsense."**

– TAB President and CEO Bill Hammond, *Houston Chronicle*, "School officials: High-stakes tests failing students."



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# Talk **About** Business



Bill Hammond, TAB President

## Accountability Is More Than Just A Test

You have probably heard this lately: standardized, high-stakes testing is bad for students and for learning. One study, Incentives and Test-based Accountability in Education, claims that test-based incentives have not increased student achievement enough to close the gap between the United States and the highest achieving countries.

One of the leading experts in accountability in the country, Eric A. Hanushek, cites a crucial flaw in that study. He states that just because accountability hasn't moved us to the top education system in the world, doesn't mean that our students in states with strong accountability systems aren't doing significantly better.

For example, that study would dismiss the remarkable gains our students in Texas have made, partly because of our accountability system. Just to illustrate, according to the National Assessment of Education Progress, our Hispanic eighth graders today are achieving more than three grade levels above where they were in math in 1992. Short-changing this progress is a slap in the face to the students and teachers who worked hard to make this amazing gain happen.

Further, Hanushek shows that Heinrich's assertion that accountability has yielded "little to no positive effects" is flat out wrong. The study uses a statistic, probably incorrectly, that is intended to show a low effect level.

Even assuming the level reported in the study, Hanushek and colleagues conclude that the current value of gains of this

magnitude would be over \$13 trillion. That's hardly "little to no positive effect."

Rather than toss out education accountability and risk losing these remarkable benefits, let's keep, and improve, accountability and fix its problems. If we want to prepare students for the modern workforce, we must do our best at setting the right standards, measuring whether students are learning those standards, and implementing consequences to improve performance where achievement does not measure up.

A lot of folks want to stop the practice of teaching to the test and excessive testing. So do I.

That's why I supported end of course exams for high schools. We agreed to get rid of TAKS and all the prep time and practice testing that took teachers and students away from teaching and learning in the classroom. We also hoped to get rid of duplicative finals, so that we could further decrease the amount of testing and the time away from simply teaching a curriculum aligned to the standards.

Yes, the end-of-course exam is set to count for 15% of the grade and for graduation. That is about how much most teachers have historically counted finals. The students, and the public, need to know whether they're on a path to postsecondary readiness. Surely, given the pitifully low levels of credential attainment in our state, we need to insist on greater alignment between K-12 education and standards geared to postsecondary readiness.

We have heard complaints that what children are being taught in class doesn't match up with some of the questions on the test. We also hear complaints from both parents and teachers that districts spent far too much time prepping for the test. Those are well founded concerns.

But instead of attacking the exams, we might consider different and more productive, approach which could include:

- 1) reviewing the state standards and the focus areas of the exams (which are online for anyone to look at);
- 2) insisting that local school districts align teaching to those standards; and
- 3) demanding that the districts abandon all test prep goofiness and promote effective instruction aligned to the standards.

As we argue over whether standardized tests are needed and whether we should keep the current accountability system, let's all remember something: Our students will face high-stakes tests for their entire lives. The stakes will not be whether their school or school district measures up. The stakes will be far higher: Whether they get a raise, get a promotion, keep their job, get a better job, or even if they have the skills to feed their family.

Without a good education system with measurements in place to improve it, we will not have an educated workforce. Without an educated workforce, jobs will leave Texas. That's why improving education, with a strong accountability system to measure that improvement, is so important to the business community and to our children's and grandchildren's future.