



# TEXAS

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# BUSINESS REPORT



## The Future of Health Care

### *What The U.S. Supreme Court Ruling Means To Your Business.*

The U.S. Supreme Court ruling upholding the Affordable Care Act is going to mean some tough decisions in the future for business owners.

TAB President and CEO Bill Hammond reacted to the ruling by saying:

“It is disappointing that the U.S. Supreme Court has upheld the Affordable Care Act, especially as it pertains to the individual mandate. The business community has always been very concerned about the cost of the law, the economic effect it will have on the country when fully implemented and the effect on employees trying to navigate a complicated and confusing system. Unless Congress takes action to replace this plan with something that is more workable, we will see many jobs lost, and many businesses that offer insurance to their employees now will drop that coverage. Congress shouldn’t be allowed to dictate the day to day lives of Americans and of business, and that’s what this ruling allows. There is still time for Congress to fix this before full implementation in 2014, and we will be working hard to make sure that happens.”

While there is always hope that the law will be changed or repealed after November, it is probably not wise to put all of your eggs in that basket.



*There are many unanswered health care questions*

Businesses should begin thinking about what they will do when the law is fully implemented in 2014.

There are many choices that are possible depending on the size of your business. Businesses with fewer than 50 employees don’t have to provide health care coverage under the law, but many already do that so. Those businesses could decide to drop coverage, possibly giving employees a raise to cover the cost of the employee buying insurance from a health care exchange.

For businesses with 50 employees or more (up to 30 employees won’t count against you), the choices become a little more overwhelming and complicated. Those companies must provide

## WORKFORCE Q&A

*My company has a longstanding policy to terminate any employee who is on a leave of absence that exceeds one year. I've heard that these policies are coming under attack from the Equal Employment Opportunity Commission (EEOC). Do we need to change our policy?*

(see page 2)

## SAVE THE DATE!

### **TAB Second Annual BACPAC Golf Scramble**

Thursday, September 27

Falconhead Golf Club  
Austin, TX

Contact Lori Buntin  
([lbuntin@txbiz.org](mailto:lbuntin@txbiz.org))  
for event and sponsorship information.

## TAB MISSION

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

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C.B. Burns,  
Kemp Smith, El Paso

***My company has a longstanding policy to terminate any employee who is on a leave of absence that exceeds one year. I've heard that these policies are coming under attack from the Equal Employment Opportunity Commission (EEOC). Do we need to change our policy?***

Possibly. There are competing forces at hand with respect to these types of "neutral" leave of absence policies. The Texas Supreme Court and other lower appellate courts in Texas have specifically held that these types of neutral policies, if uniformly applied to all employees on leave regardless of the reason, are legitimate and act as a bar to a workers' compensation retaliation lawsuit. In other words, if all employees, whether on leave for personal medical reasons or for work-related injuries, are terminated upon expiration of the maximum leave period, then an employee with a work-related injury who is terminated does not have a workers' compensation retaliation claim. However, the EEOC has been challenging these types of policies on the grounds that extension of a leave of absence may be a reasonable accommodation for a disabled employee on leave. The EEOC's position is that an employer who thus automatically enforces such a policy would run afoul of the EEOC. To avoid problems with the EEOC, it would be prudent to evaluate each situation when an employee's leave is soon expiring to determine whether a specific and finite extension of the leave might be necessary to accommodate a disabled employee. Courts, however, have held that a request for indefinite extension is not a reasonable accommodation.

### ***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***

# Holding Schools Accountable

## Groups Say No New Money Without Accountability.

At a time when school districts and school boards are demanding changes that could water down the state's accountability system, they also are demanding more funding. Members of the Texas Coalition for a Competitive Workforce say those two requests don't mix.

The Coalition, which includes TAB, held a news conference at the State Capitol to say that schools shouldn't get new money without maintaining a strong school accountability system.

"What we see here are school districts wanting more money without having a way to measure whether that investment is working or not," said Bill Hammond, TAB President and CEO. "We

must ensure the state has an effective way to measure whether or not increased investment in education is working, and you can't do that without a strong accountability system."

"We vigorously oppose this one-way street toward higher funding. Our group supports action in the court and the Legislature to require greater efficiency and productivity in our public education system," said Hammond. "Only after fiscal efficiency is improved and our commitment to accountability is reaffirmed can we begin to discuss an appropriate level of funding for public schools."

"We will strongly urge our business community friends and other taxpayers who pay a great part of

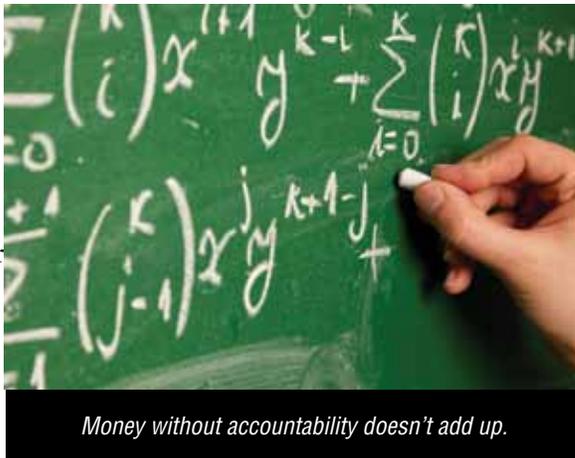
the freight to oppose any further spending increases requested by bureaucrats who are arguing for less accountability," said Bernie Francis, CEO of Business Control Systems of Dallas and Chairman of Texas Business Leadership Council Education Task Force.

"We are here to say that this is not acceptable," said Texas Institute for Education Reform Chairman Jim Windham. "Many of us and the organizations we represent have

supported the growth in education funding over the years to support enhanced accountability for student achievement growth, but we will not continue to do

so in the light of the breach of faith in the consensus on the advancement of accountability for results."

This accountability system has played a crucial role over the past 20 years as students have made impressive advances in achievement. Based on data from state and national exams, African-American and Hispanic students have improved by as much as 2 to 3 grade levels in reading and mathematics during that time. Overall student achievement has improved, and the dropout rate has steadily decreased. Based on this data, it is clear that accountability pays dividends; our students and educators are capable of meeting more challenging goals; and Texas is poised to continue as a leader in developing and implementing sound public education policy.



*Money without accountability doesn't add up.*

# Future Of Healthcare

*continued from page one*

affordable health care coverage or pay a penalty, but in some cases the penalty will be less costly than providing insurance. In most cases the penalty will be \$2000.00 per full-time employee. If a company wants to take extra steps to not be covered under the new law one option would be splitting a company into separate pieces and keeping those new companies under 50 employees each.

There are even fewer decisions to make for employers with more than 200 full-time workers. Businesses with more than 200 employees that offer coverage will be required to enroll new employees into their plans and continue coverage for current employees. Employees, however, may opt out of coverage.

Governor Perry has announced that the state will not expand Medicaid eligibility and will not establish a state-run health insurance exchange. In a letter to Health and Human Service Secretary Kathleen Sebelius the Governor said "I oppose both the expansion of Medicaid as provided in the Patient Protection and Affordable Care Act and the creation of a so-called 'state' insurance exchange, because both represent brazen intrusions into the sovereignty of our state." The Governor went on to say in the letter, "I will not be party to socializing healthcare and bankrupting my state in direct contradiction to our Constitution and our founding principles of limited government."

# MEMBER PROFILE

## Esparza's Restaurante Mexicano – Famous for Tex-Mex, Known for Margaritas

“Corporate Culture, Community Caring, Classic Character” is the tagline the Grapevine Chamber of Commerce uses to describe its community. Those exact characteristics are what allowed Steve Brown, owner of Esparza's Mexican Restaurant, the opportunity to launch his first business venture 27 years ago. At the ripe age of 15, Steve was indoctrinated in the restaurant business by the Ojeda family, owners of Ojeda's Mexican Restaurant. He worked his way from bussing tables to management. Such experiences planted the seed for Steve's vision of Esparza's. Grapevine's quaint community, along with the idea Steve had for the available building, brought him from Richardson to the mid-cities to open Esparza's in 1985.

Located on East Worth Street--just a short walk from Main Street--the restaurant occupies a renovated, late 1800s house inside the city's Historic District. Steve fell in love with the house and its potential. Starting with only 15 employees, Steve's ever growing dream now employs over 70 people. In 2006, he invested over a million dollars in renovations, expanding his bar and kitchen. Along the way, he created an additional 55 jobs when he opened Guero's Mexican Grill in Coppell. Both restaurants are known for their atmospheres, whether dining or watching “can't miss” sporting events on the numerous high definition televisions.

The long-time success of Esparza's has given Steve the ability to make outstanding contributions not only to the Grapevine Chamber, but also to the community. Thusly, both Steve and Esparza's were voted into the Grapevine Chamber of Commerce Business Hall of Fame. “Steve is a wonderful

community partner. He steps up when asked with a what-can-he-do-to-help attitude, not what-is-in-it-for-him,” Chamber President RaDonna Hessel says of Steve. “He is just always there.” To show his appreciation, Steve had a plaque made thanking the community for the recognition and placed it over the restaurant's entrance.

***“TAB is very important to all business. It allows them to have a much larger impact than they ever would as an independent business. Without TAB, who's going to speak for me?”***

***- Steve Brown,  
Owner  
Esparza's Restaurante  
Mexicano***

A long-time member, Steve serves as an at-large member of the TAB Board of Directors. “TAB is very important to all business. It allows them to have a much larger impact than they ever would as an independent business.” Steve added, “Without TAB, who's going to speak for me?”

Few independently owned restaurants are better known than Esparza's. With its warm atmosphere and fantastic food and drinks (especially the hot sauce and margaritas), Esparza's has a little something to offer everyone. Esparza's and Guero's have established traditions for many in the metro area, and both are arguably hard to beat any

day or night of the week. Because of Steve Brown and his motivation to carry out his dream, more than 125 jobs have been created in Texas.



*The patio at Esparza's Restaurante Mexicano*

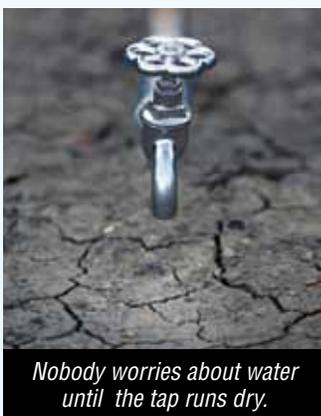
# Our Dry Future

## How To Avoid Going Waterless

The old saying “there are two things you can’t avoid, death and taxes” should probably be revised to include water. Nothing happens without it, including economic development.

The state has a good water plan to deal with the future needs of Texas – one of the fastest growing states in the country, but there’s a problem. The plan isn’t funded. How the plan should be funded is going to be a big question during the next legislative session.

“It’s a conversation we are having within the TAB Water Committee,” said Steve Minick, TAB Vice President of Governmental Affairs. “The end result may be a recommendation from the Water Committee to the full TAB Board to support a revenue package to fund the plan.”



If the Legislature is not going to use general revenue to fund the water plan, Texas has to look for alternatives. Of course, any proposal to increase state revenues will be difficult to pass in 2013. “One option is to simply put a surcharge on everyone’s water bill,” said Minick. “As an alternative, you could repeal the sales tax exemption for retail and wastewater service. Currently, water is the only utility you don’t pay sales tax. You could also extend the sales tax to include bottled water.” In fact Minick said many people don’t realize there’s no tax on bottled water, but if you freeze water and sell ice, it is taxed.

One advantage of a surcharge on bills is that you get almost everyone who uses water to pay something toward the future of the state’s water supply and our economy. “Even most farmers are retail water customers of

somebody. The number of people who are off the grid, as far as water, is very tiny,” said Minick.

The real issue is whether lawmakers will establish a source of revenue to fund the plan. New taxes are highly unlikely at this point. “Even something not labeled a tax (like the water bill surcharge) is going to be difficult,” said Minick. “At some point, you just have to do the math. With an increasing demand and decreasing supply, water will

cost far more money if we do nothing than if we start funding the plan now. We do know that not meeting our future water needs isn’t a solution. Without water, the state will no longer grow and the economy will suffer dramatically.”

“TAB’s Water Committee is convinced that it is pointless to talk about

economic opportunity if you don’t have the basic building blocks for it, and the first one is water,” said Minick. “The only reason we’re even talking about funding a statewide plan is to spread the cost out, enable cooperative efforts between cities, regions and water districts and lower the cost of funding future water projects for all of us who pay the bill.”

Many have argued that water supply is as important as any other use of state funds, and general revenue should be used to fund the water plan. “The reality is you can finance the state’s share of what’s in the water plan with a cash flow of \$150 million a year,” said Minick. “That is a very small part of total state expenditures. In the end, we must identify the most politically palatable option and implement it. Doing nothing is not in the best interest of businesses or employers in Texas.”

## QUOTES

**“Unless Congress is willing to forsake that dangerous game and adopt far-reaching solutions to our growing transportation crisis, this important pillar of our nation’s economic underpinning could be set for a collision.”**

– TAB President and CEO Bill Hammond featured in a guest column in the *Lubbock Avalanche-Journal*

**“Congress shouldn’t be allowed to dictate the day to day lives of Americans and of business, and that’s what this ruling allows.”**

– TAB President and CEO Bill Hammond reacting to the U.S. Supreme Court ACA ruling in the *Houston Chronicle*.

**“They’ve gone about scaring mom. They’ve told mom that Johnny is not going to UT because of the end of course exam.”**

– TAB President and CEO Bill Hammond statement from an *Associated Press* story on school accountability.



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# Talk **About** Business



Bill Hammond, TAB President

## Time To Advance, Not Retreat From Accountability

Texas has long been a leader in assessment and accountability in its public schools.

Yet, what we're seeing today is nothing short of a full-frontal assault on proven standards with demonstrable results.

Efforts to malign the state's assessment and accountability standards as "drill and kill" testing that "costs too much" and is a "perversion of their original intent" is nothing more than rhetorical warfare, full of flare but devoid of facts.

The fact is that accountability works and should be expanded, not dismantled.

Consider the National Assessment of Education Progress (NAEP) data that shows Texas' African American and Hispanic students are achieving over three grade levels higher in math than they were in 1992 when public school accountability and testing measures were first introduced.

Across the board, Texas' fourth and eighth grade students – African Americans, Hispanics and whites – have all made significant progress in math, outpacing national averages. Testing results show progress in fourth and eighth grade reading, as well.

Assessment and accountability are essential to postsecondary readiness, and postsecondary readiness is absolutely vital to the future of our state's economy.

That's why organizations like ours, along with many others in the business community, want state leaders to advance, not retreat from, the effective accountability measures that were established with broad-based, bipartisan support from the Texas Legislature.

STAAR (the State of Texas Assessments of Academic Readiness) gives Texas taxpayers, parents, students and educators the ability to fairly and scientifically measure whether we are succeeding in providing access to quality education and if we are preparing our children to be postsecondary ready, whether that's college, technical or trade school or other credentialing programs.

Yet, education bureaucrats appear to want to move away from a system of "trust, but verify" to simply, Trust us, just take our word for it that we're using tax dollars wisely and effectively delivering a quality education to every Texas student. That's simply not acceptable.

The STAAR accountability system will extend the progress already seen in lower grade levels to high school, helping to ensure that our state's students are well-equipped and prepared for future careers.

In addition to providing a more rigorous education and accountability system, STAAR end-of-course exams would actually reduce the cost and

administrative burdens associated with additional state-mandated testing by allowing for end-of-course exams to be administered as finals.

Last month, the Texas House Public Education Committee convened a public hearing to discuss the state's new assessment system for public schools, including testimony from some very vocal opponents aggressively working to do away with the system.

The tragic irony of that testimony and that public hearing date was not lost on me. It was Juneteenth. And, on a day that we commemorated the abolition of slavery, we also heard talk of dismantling and desolving the STAAR assessments and standards.

It is Texas' African American and Hispanic students who stand to lose the most if education bureaucrats and their allies are successful in their roll back or abandonment of the state's STAAR accountability measures for Texas public schools.

Given the great progress that we've seen with improved academic performance among African American and Hispanic students, I'd argue, too, that we're facing a real civil rights issue.

We need every child to succeed. Doing away with Texas' system of statewide accountability for our public schools is morally bankrupt.