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BUSINESS REPORT



Crunch Time

The 2013 Session Winds Down

As with every Session, major issues are left to be resolved in the closing hours of this 2013 Legislative Session.

So far, this session has been a real mixed bag. Funding for water and transportation is still unfinished; a retreat on graduation requirements in conference committee; and a business tax cut plan that is less than half of what it once was is moving through the system (see page 3 for the latest on the tax cut).

“It is still too early to tell how all these issues will end up,” says TAB President and CEO Bill Hammond. “I think HB 5, the bill that weakens graduation requirements, is my biggest disappointment this session. I knew going into the season that the number of standardized tests would be reduced, but HB 5 went to an extreme in not only reducing tests but changing the classes required to graduate high school. That is a bad deal for our students and for Texas businesses that need an educated workforce.”

TAB is actively working on all of these issues, no matter where they stand in the process. With only days left, there is still a chance to improve all of these pieces of legislation before they go to the Governor’s desk.

“If the Governor is sent HB 5, and it still contains measures that lower the state’s graduation requirements, TAB will work hard to ensure it is vetoed,” asserts Hammond.



Lawmakers wrapping up regular Session work

In addition, using the Rainy Day Fund to pay for water and transportation projects has been a tough sell this session. “There will be no better time than now to set up these revolving funds to pay for future water and transportation projects,” Hammond says. “There, however, is still reluctance by some members to spend any Rainy Day Fund money,

WORKFORCE Q&A

If an employee posts something on social media that embarrasses or portrays the company in a negative light, can we fire him?

(see page 2)

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TAB MISSION

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

WORKFORCE Q&A



*Christopher Ziamba,
Monitor Liability Managers*

If an employee posts something on social media that embarrasses or portrays the company in a negative light, can we fire him?

The biggest concern for employers dealing with social media issues is the National Labor Relations Board (NLRB). You likely crafted your social media policy to protect your reputation and the privacy of your employees, customers and/or clients. But regardless of the intentions, the NLRB is striking down many policies, saying they violate Section 7 of the National Labor Relations Act. Section 7 says employees are entitled to engage in “concerted activities,” such as taking steps to bring in a union or discuss wages and working conditions.

Let’s look at what happened at Applebee’s recently:

The customer, a church pastor, wrote a note on her bill in response to the restaurant’s practice of adding an 18 percent gratuity for large parties. The note read: “I give God 10%. Why do you get 18?” When a waitress posted a photo of that bill on a social media site, the customer saw it and complained to restaurant management. The waitress was then fired for the post.

On its Facebook page, the casual dining chain posted this excerpt from its employee handbook:

“Employees must honor the privacy rights of Applebee’s and its employees by seeking permission before writing about or displaying internal Applebee’s happenings that might be considered to be a breach of privacy and confidentiality.” The policy goes on to specify: “Employees who violate this policy will be subject to disciplinary action, up to and including termination of employment.”

Does it look familiar? Your company may have a similar policy. The problem, says the NLRB, is in requiring the employee to ask the employer’s permission before posting anything. They argue this could deter concerted, protected activity and be a violation of Section 7.

So, there is no easy answer to the question. It can depend on the circumstances of the situation and the wording of your social media policy. The bottom line is employers need to constantly monitor social media activity about their company or brand, so that they can be alerted to employee activity that needs to be addressed. They should also provide their employees with in-depth training on social media expectations and guidelines.

Also, make sure your business is covered for issues that can arise from social media. Check with your agent or broker to be sure that your Employment Practices Liability insurance policy offers coverage for social media issues.

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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Business Tax Cut Moving

One Of The Issues That Could Cause A Special Session.

The House has approved the business tax cut bill, HB 500, but it wasn't as inclusive as TAB or the Governor would have liked it to be.

As passed by the House, the bill offers less than \$700 million in tax relief and does not include the \$1 million deduction from the franchise tax for businesses making \$20 million or less.

"That deduction is the largest part of the tax relief package and the one thing that will benefit small business the most," states TAB President and CEO Bill Hammond. "We need that part of the cut to be returned to the bill before it passes the Senate and goes to a conference committee."

It is also an issue that could land lawmakers back in Austin this summer for a special session. Governor Rick Perry told the *Texas Tribune*, "It should be no surprise that if folks want to go home at the end of this legislative session, send me \$1.8 billion worth of tax relief, send me a balanced budget that has no fee increases for transportation and \$2 billion of infrastructure for water, and everybody can go home and enjoy their summer."

Earlier this month, TAB launched an email campaign to lawmakers in support of the Governor's version of the tax cut plan that would include the \$1 million deduction. The campaign resulted in close to 900 messages being sent to Representatives and Senators.

"We want to send a strong message that businesses in Texas need this

tax relief," says Hammond. "That relief will allow businesses to invest in themselves or help soften the blow of higher health insurance costs that we know are coming because of the Affordable Care Act. This tax cut is good for our economy and will mean new investments and jobs in the future."

Hammond explains, "We think that it is very important that Governor Perry is willing to call a special session to ensure that businesses in Texas get this tax cut. This commitment on this issue should send a message to lawmakers about how important it is to the economic future of Texas. Calling a special session on an issue is not something



that the Governor takes lightly. It has to be a very critical issue for him to make that kind of statement."

The tax issue is just one of TAB's priorities that could land lawmakers back in Austin over the summer. Water funding is another issue, and the House and Senate are working against serious deadlines to get the issue moving. As mentioned above, Governor Perry added water funding to his list of reasons he will call a special session if lawmakers cannot come to a decision during the regular session.

Crunch Time for Legislative Session

continued from page one

and the concern is large enough to have stalled legislation in the House. A group of House Democrats want to use Rainy Day Fund money to restore some cuts made to education last session. A Senate constitutional amendment exists (SJR 1) that addresses the concern of spending Rainy Day Fund money on roads, water and education. This bill may end up being the plan that passes, but we still have a lot of work to do to ensure that."

Since the Senate plan is a constitutional amendment, would be left the final decision to the voters of Texas this November. "It is certainly something we would campaign for and hope our members would strongly support," says Hammond. "Of course, the amendment has to pass first, and that is far from certain considering it must get a two-thirds vote in the House, something that is never easy to do on any issue that has a hint of controversy."

One question that is always asked during this time in a session: Will there be a special session? "I certainly think that we could have a special session if transportation and water funding are not addressed," Hammond answers. "It is strictly the Governor's decision, but I think those two issues are important enough to him personally that he would call a special session to deal with them."

MEMBER PROFILE

Cintra US – Building Roads and Creating Jobs In Texas

As the State of Texas continues to prosper economically, our infrastructure system must keep pace with the demands of rapid population growth and increased traffic. Amid such growth, it has become clear that major funding sources for highway development can no longer keep pace with our transportation needs. As taxpayer funds and public sources of revenue become increasingly tight, it is crucial that we leverage private sector dollars.

That's why the State of Texas has increasingly turned to globally respected companies like Cintra US to inject world-class experience and solutions into the State's infrastructure system. Austin-based Cintra US' business model leverages private investments to deliver long-awaited infrastructure years sooner, and at vastly reduced public costs.

It's no secret that drivers are spending more time stuck in traffic and less time at their children's soccer games, family dinners, volunteering or enjoying time with friends and family. Cintra US understands that motorists value their time and that innovative highway development can only be achieved when working hand-in-hand with visionary local and state leaders.

For great examples of Cintra's work, look no further than two projects currently underway in the greater Dallas-Fort Worth area to relieve traffic congestion along the northern corridors of both cities. The first project is the LBJ Express, which lies along the northern section of I-635. Cintra's ambitious project will double the existing capacity of the road, freeing up traffic in a high-growth area for years to come.

On the west side of the Metroplex, the \$2 billion North Tarrant Express Project is on schedule and already changing the landscape of this fast-growing region. Economic

development is occurring all along the 13.5-mile corridor, as restaurants, retail and other businesses jockey for position and prime location along this highway.

Perhaps more importantly, Cintra US' Texas infrastructure projects are on track to provide more than 450 contracts to Texas-based firms and will create more than 125,000 direct and indirect jobs in the coming years.

Cintra US' public-private partnership with the State of Texas to rebuild congested urban corridors has proven to be a national model for advancing critical infrastructure projects in the United States. As public-private partnerships continue to take the forefront in infrastructure development, Cintra US, with experience spanning more the 40 years of innovative highway development, is leading the way with creative and efficient projects that keep the Texas economy rolling – all while conserving our state's limited financial resources.



Work on the North Tarrant Express and LBJ Express in the metroplex



Cintra US is creating 125,000 Texas jobs

BUILDING TEXAS

Cintra US' Texas infrastructure projects are on track to provide more than 450 contracts to Texas-based firms and will create more than 125,000 direct and indirect jobs in the coming years.

Sen. Cornyn's Taxpayer Bill of Rights

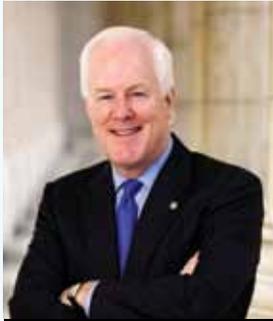
More time growing your business, less time dealing with the IRS

U.S. Sen. John Cornyn is starting another push for his *Small Business Taxpayer Bill of Rights*.

"TAB strongly supports this concept," says TAB President and CEO Bill Hammond. "The idea is to spend more time growing your business and dealing with day-to-day operations and less time dealing with the IRS."

The bill lowers the compliance burden on taxpayers by creating a new alternative dispute resolution program. This will mean a faster resolution to audits; saving money and time. Additionally, it would eliminate installment payment agreement fees if those payments are made via bank debit for low income taxpayers.

Senator Cornyn's bill would strengthen taxpayer protections in several ways, including assurances that all appeals are handled independently.



U.S. Senator John Cornyn

By working to eliminate IRS abuses, the taxpayer Bill of Rights would ensure businesses are compensated when it is determined by a court that IRS legal actions are not substantially justified. Taxpayer access to the judicial system would also be enhanced, allowing taxpayers to

obtain a judicial review when the IRS fails to act within six months of a taxpayer's claim for abatement of interest.

"I think if you put together all of the things that this bill does that, you have a compressive reform plan that will greatly benefit small businesses

in Texas and all over the country," argues Hammond. "It is my hope that Congress will find time to deal with this issue, because this bill will certainly help grow the economy and create jobs, and that is something that every state needs."

QUOTES

"I don't understand why many of our lawmakers are dead set on running away from strong requirements meant to increase that number."

– Bill Hammond in the *Fort Worth Star-Telegram* referring to the expected drop in career and college ready graduates after the passage of HB 5

"It's necessary [because] unless we do something more than what we're doing now, in 50 years demand will be up by about 22 percent and supply will be down by about 10 percent. That's a disaster."

– Bill Hammond in the *Texas Tribune* on the need for funding the state water plan

"The point is that businesses in Texas do pay, by any measure, more taxes than individuals and homeowners pay in Texas."

– Bill Hammond in the *Austin American-Statesman's Politifact* feature, where that claim was found to be "Mostly True."

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Talk **About** Business

No Single Solution



Bill Hammond, TAB President

Have you been stuck in traffic lately? The answer is probably yes, even if you live in some rural parts of Texas.

Transportation infrastructure in urban areas of the state continues to struggle to keep up with the demands of a growing population. Now, thanks to renewed oil and gas production in South Texas, rural roads also are seeing more traffic, and some are even experiencing traffic jams. It's going to take more money and a different way of thinking to ensure we can all get around.

To show you how our roads are doing, the American Society of Civil Engineers recently gave Texas a grade on the condition of our infrastructure. That grade was a stunning D-plus. The good news is that lawmakers know this is a problem and are willing to put more money into the system, but the state cannot do it all by itself.

The Texas Association of Business supports many ways to get us the roads that we need to keep our economy moving. That includes finding new revenue, creating an infrastructure fund to back bond financing and developing more public/private partnerships. While the legislature debates various options for

additional transportation funding, one solution already is providing tangible transportation benefits to the State. Public/private partnerships are being used to develop billions of dollars' worth of highway projects, bringing the best of private sector efficiency and global experience to bear on some of Texas's most difficult transportation challenges. They are providing new ways to get around that will be faster and less congested and are making projects a reality years sooner than would otherwise be possible. Imagine being able to get to work or to your kids' soccer game without having to sit in traffic. That is becoming the reality for many Texans thanks to innovative partnerships with the private sector.

New transportation projects do not simply represent a way to get around in the present, they are an investment in the future. Leading global companies already have made a long-term commitment to Texas by investing in ground breaking public private partnerships in the State. These projects provide well thought out expansion of our transportation infrastructure, bringing increased economic development and new jobs, not to mention the jobs created when these projects are under construction.

The financial reality for the State is that the gas tax is no longer enough. Increased vehicle mileage per gallon and rising construction costs mean that we are driving more miles while getting less for our gas tax dollars. Both of these trends will continue. We can increase other revenue streams to fund roads and stop diverting money out of the transportation fund to pay for other things, but without the help of the private sector, it will never be enough.

There are currently two bills before the Legislature now to ensure the continuation of public/private partnerships. Both would extend the State's authority to enter into public/private partnerships for specific projects and ensure that we can continue to partner with leading global companies to make transportation investments where we need them the most. There is no single solution to our traffic problem, but there is a single result if we do nothing: a deteriorating roadway system that hinders growth and economic development in the state. That result costs all of us something, whether it's a damaged car or losing your job – nothing good will come out of it.