



Two Priorities, Two Outcomes

This Session's Work On Water And Transportation.

The top two monetary priorities for the Texas Association of Business ended with two very different outcomes this legislative session; but the fight may not be over.

"We were very encouraged at the start of the session that we would get funding for both water and transportation. In the end, we did get some funding for both, but not what we hoped for on transportation," says Bill Hammond, TAB President and CEO. "We support the new money that will be used to fix roads damaged by fracking truck traffic, but we were hoping for more money and a longer term vision for transportation funding."

Water funding was a clear victory for TAB. The goal at the beginning of the session was to fully fund the statewide water plan using \$2 billion from the Rainy Day Fund, and that is exactly what will happen if the public supports that funding in November.

"Our work is only half done in regards to water funding," explains Hammond. "Now, we have to campaign even harder so that Texans will understand how critical it is to put the money into the newly created water fund to get local water projects built. I think it is an argument that we can easily make, but we can't take anything for granted."

Gov. Rick Perry has already signed HB 4, which sets up the new funds to be used to back bonds to build local projects. "Water is an essential part of everyone's life, and ensuring adequate supplies means continued job creation, stronger communities and healthier families for decades to come," Gov. Perry said. "HB 4 will help to secure our water supplies for generations, even through rapid population and economic growth, by creating new funds that will support local and regional projects and lower the cost of issuing bonds for much-needed water projects."



This traffic jam will not get better without new resources

WORKFORCE Q&A

How will the Uniform Trade Secrets Act affect Texas business?

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TAB MISSION

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



A. Robert Fischer,
Jackson Lewis LLP, Austin

How will the Uniform Trade Secrets Act affect Texas business?

Texas has joined 47 other states and the District of Columbia in adopting the Uniform Trade Secrets Act (now only New York and Massachusetts, which protects business information through another statute, have yet to pass some version of the Uniform Act). The new law, Texas Senate Bill 953, which will go into effect on September 1, provides a number of protections for trade secrets in Texas.

“Trade Secrets” is defined as business information, including “a formula, pattern, compilation, program, device, method, technique, process, financial data, or list of actual or potential customers or suppliers” that is (a) valuable; (b) is not generally known to, and is not readily ascertainable by proper means by, others (e.g., competitors); and (c) is subject to reasonable efforts to maintain its secrecy.

Highlights of the statute include:

- ★ The availability of injunctive relief to prevent the actual or threatened improper use or disclosure of trade secrets.
- ★ The ability of courts to condition future use of a misappropriated trade secret on paying a royalty.
- ★ The ability of courts to assess damages based on actual loss caused by misappropriation and the unjust enrichment caused by misappropriation.
- ★ The availability of double damages in cases of willful or malicious misappropriation.
- ★ The availability of attorneys’ fees to prevailing plaintiffs, and to successful defendants for claims brought in bad faith.
- ★ The presumption of secrecy in trade secret litigation, including instructions to courts to preserve secrecy through attorneys’ eyes only orders, in camera hearings, and sealing records.

With respect to contractual, rather than statutory, protection of business information, Texas courts have viewed non-compete agreements with increasing favor in recent years. Even with the increasing acceptance of non-competes in Texas, the new trade secret statute is important because of the added protections and remedies it provides, and because some employers still do not use non-competes.

In order to increase the chances that their business information will be given trade secret protection, Texas employers are well advised to take steps to demonstrate their efforts to maintain the secrecy of such information.

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 Relief Passes

Lawmakers And Governor Perry Take Steps To Keep Texas Businesses Strong.

It took a lot of negotiating and surviving a filibuster threat, but Texas businesses will be getting some much needed tax relief.

HB 500 will mean a rate reduction, a new \$1 million deduction, a tax break for new businesses relocating to Texas and it keeps the \$1 million exemption. HB 800 targets companies doing research and development, and HB 1133 is targeted to new investment in Internet technology.

“Overall, we are extremely pleased with this outcome,” says Bill Hammond, President and CEO of the Texas Association of Business. “These combined tax cuts will mean over \$1 billion for business in Texas. That money can be used to expand businesses and create jobs. There is also a great incentive for out-of-state businesses to set up shop in Texas and bring new jobs with them. This is a win for all Texas businesses.”

HB 500 will lower franchise tax rates by 2.5 percent for the next two years. That means a 2.5 percent reduction in the first year and a total of five percent in the second year of the plan, which takes effect January of 2014. If your small company makes less than \$1 million, you still will not have to file franchise taxes. If your company has fewer than \$1 million in deductions, then you can round up and deduct a full \$1 million from your return.

“That will be the biggest savings to businesses across the state,” argues Hammond. “Many of our members feel their tax bill is too high. I think this will make a difference.”

HB 500 also targets new businesses moving to Texas from other states, allowing a one-time deduction for moving expenses. “Texas is already an attractive state for businesses looking to relocate,” says Hammond. “This will certainly make the state even more attractive.”

Texas would have been the only state without tax credits for research and development had HB 800 not passed. Luckily it did. “Given the competitive nature between states to secure top companies performing cutting edge research, it was vital that Texas continue tax credits for those companies,” Hammond states.



“Without those credits, Texas could have lost high-paying jobs. That is something we cannot afford.”

HB 1133 will mean a new sales tax exemption for cable television, internet access and telecommunications services. “The idea behind this targeted tax cut is to generate new investment in these technologies in markets across Texas,” said Hammond. “This bill is costing the state \$100 million, and that cost is capped. I think that is a wise use of targeted tax cuts that will end up benefiting businesses and consumers in the long run.”

Water And Transportation

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The next step will be passing SJR 1, the state constitutional amendment that authorizes the Rainy Day Fund investment in the new funds, in November. “It won’t be easy, but I think that we can effectively explain to Texans as to why this issue is so critical to our future,” says Hammond.

It was a different ending for the transportation issue.

Hammond explains, “When Governor Perry made transportation infrastructure a priority in his State of the State address in January, we had high hopes that this would get full funding, but it did not work out that way.”

TAB supports adding transportation funding to the special session agenda, and has joined with Senators Tommy Williams and Robert Nichols in supporting a constitutional amendment that would set aside half of all future dollars that would have gone into the Rainy Day Fund and use that money for transportation projects instead.

The dedicating of these future dollars to transportation instead of putting that money into the Rainy Day Fund will also help to reduce the need to go into further debt to pay for new roads. “This will help reduce the burden on our children and grandchildren to pay for transportation projects that we need today,” argues Hammond. “If there is a way to reduce that burden and still build these projects, that is something that we should all get behind.”

MEMBER PROFILE

iKey – The Global Leader In Rugged Peripherals

Steve Meyer, a fifth generation Texan and a member of the Sons of the Republic of Texas, founded iKey in his garage almost twenty five years ago. Steve is an electrical engineer who quit his job at an international company to fill the need in the marketplace for rugged computer peripherals, such as keyboards. He had nearly run out of money and filled out an application to work at Sam's when his first order arrived. From that point on, the company grew quickly and is now the global leader in its space, selling products to more than twenty countries.

iKey, a valued TAB member, is the world's leading manufacturer of ruggedized computer peripherals built to withstand the harshest environments. iKey's 3,000 products include computer keyboards, tablet cases, and mice. iKey virtually created the rugged computer peripheral industry. The business provides innovative rugged solutions for most Fortune 500 industrial companies and has a large presence in the oil and gas, trucking, mining, medical, industrial, military, and public safety markets.

The oil and gas and mining industries value iKey products, for iKey keyboards and mice are the only products certified for underground mining use in the United States. Hospitals throughout the country use the company's medical-grade keyboards which have become a key part in many hospitals' infection control processes, as they are designed to withstand constant usage and cleaning. Furthermore, utility trucks and commercial vehicles utilize iKey products because their keyboards and mobile displays can withstand the vibration, extreme temperatures and spills associated with in-vehicle computing.

Each rugged iKey product is assembled by hand in the company's Austin, Texas headquarters. Because each piece is customized for the particular customer and industry, iKey prides itself in its reputation for manufacturing the highest quality product available in the market. This superior quality is evidenced by the fact that iKey sells its products to China and countries throughout the

world. In fact, Air Force One features an iKey keyboard; Wal-Mart forklifts use iKey products; and, vehicles in the fleets of the California Highway Patrol, NYPD, New Jersey State Police, NY Fire Department, French gendarmes, and the Amsterdam Flower Market include iKey keyboards.

iKey's latest product, the StreetCase, was a spectacular star at this year's MacWorld convention. The StreetCase is the first product on the market that instantly transforms an iPad or other commercial tablet into a rugged laptop.

With the click of a button, a tablet locks into a rugged polycarbonate case, giving the user the protection of an industrial-grade laptop at a fraction of the cost. The StreetCase shields the tablet from drops, vibration, extreme temperatures and can even be submersed in water without causing damage to the tablet. While there is huge industrial demand for the StreetCase, it will also be available to individual consumers.

Steve Meyer explains, "Being a Texan gave me the belief that I could create the rugged industrial keyboard industry when it didn't exist. Being a Texan provided me with the ability not to listen to naysayers. Texas leads the world in business. Throughout my international business travel, I have learned

that when you say 'Texas' people think 'business'. Bill Hammond and the TAB work every day to keep Texas that way."

"Throughout my international business travel, I have learned that when you say 'Texas' people think 'business'. Bill Hammond and the TAB work every day to keep Texas that way."

*- Steve Meyer,
Founder and CEO
iKey*



The StreetCase – iKey's latest product

Criminal Justice Success

Supporting criminal justice reforms was a new concept for the Texas Association of Business this session. But because of that support, it is being credited for the passage of many of the high-profile bills passing.

“I have had a number of people tell me that TAB brought new attention to these issues, and because of that attention, these bills got hearings and picked up support in the House and Senate,” says Bill Hammond, TAB President and CEO.

One success was SB 369 by Sen. John Whitmire, which would keep employer information off of sex offender registrations, making that information only available to law enforcement, not to the public. “TAB supported that bill because it means that businesses will be more likely to hire qualified people who are looking for a second chance,” explains Hammond. “Doing that is not being easy on criminals, it is being smart for business.”

TAB also supported HB 1188 that has gone to the Governor’s desk. That bill, by Rep. Senfronia Thompson, limits the liability of businesses who hire people who have served their time by stopping

lawsuits that are filed simply because the business hired someone who was convicted of a crime in the past.

TAB’s Government Affairs Manager Kandice Sanaie told the Texas Tribune that the goal was to make people more employable. “This is about saving tax dollars and putting people back to work,” Sanaie said.

Another bill supported by TAB, HB 1790, is designed to make it easier for ex-offenders to find work. It would turn some state jail felonies into misdemeanors if the offender successfully completes a term of community supervision. The thinking behind the bill is that if an offender can find a job they will be less likely to re-offend.

“Not every bill on our agenda passed,” says Hammond. “I do feel, however, that what was passed will largely benefit Texas businesses. We all know people who have made mistakes, and those people deserve another chance. We feel that these bills will give people that chance and will expand the pool of qualified workers at the same time. I see this as a win/win for businesses, Texas taxpayers, and for the criminal justice system.”

QUOTES

“We must have a way to fund new roads to deal with our growing traffic problem. Without these new projects, we risk our economic edge in attracting new investment, jobs and business to this state.”

– Bill Hammond in the *Austin Business Journal*, supporting and expansion of the special session to include transportation funding

“This legislation will not only put a new emphasis a drug-free workplace, but also will ensure that unemployment insurance benefits are truly utilized for those who truly are ready to work.”

– Bill Hammond in the *Austin Business Journal* on the passage of SB 21, requiring limited drug testing for unemployment insurance recipients

“The voters will have to vote to support setting up the fund to receive the money from the Rainy Day Fund and we will be working hard to make sure that happens.”

– Bill Hammond on KTBC Fox 7, talking about the passage of SJR 1, spending some of the Rainy Day Fund money to fund water projects



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Talk **About** Business

I for Incomplete



Bill Hammond, TAB President

If someone asked me how I would score this legislative session, I think the best grade that I would give would be an “I” for “incomplete.” While some things were accomplished, like a business tax cut, others, like transportation funding, were not.

While lawmakers were called back into an immediate special session for the issue of redistricting, it is our hope that other items will be added to the agenda for consideration. At the top of that list is increased funding for road construction, which the legislature essentially skipped over this session. Around \$450 million was put into the budget to fix road damage caused by fracking traffic, but that is nowhere close to enough to deal with our state’s growth.

There is a plan to bring in an additional \$1 billion every biennium for roads, SJR 2, sponsored by Senators Nichols and Finance Chair Williams. It would take half of the money earmarked for the Rainy Day Fund and put that money into the transportation fund instead. That would not cure the problem, but it would at least stop us from falling farther and farther behind.

Another major goal not achieved this session was tying higher education

funding to outcomes instead of just the number of bodies in a classroom. We strongly supported a bill that would have tied as much as 25 percent of the state’s funding to institutions of higher education, incentivizing them to increase their completion rates. These rates would not have to go up overnight, but there would have to be improvement shown for these schools to get their full amount of state money.

Current, four-year completion numbers show that we will need vast improvement if we are going to meet the needs of Texas employers in the future. Right now, around 30 percent of adults have some kind of post-secondary degree or certificate, and that number needs to grow to 60 percent. Keeping students in school and ensuring that they get those degrees and certificates should be the number one goal of our universities. I cannot think of a better incentive than money to move that priority right to the top.

I strongly support the Governor adding completion-based funding to the special session agenda because of its importance to Texas’ economic future.

As far as what legislation passed this session, we are extremely happy with the business tax cut that got through in

the final hours of the session, savings Texas businesses around \$1.3 billion. The franchise tax rate was reduced, both the \$1 million exemption and deduction were included and a separate bill reconstituting a research and development tax credit was approved. All of those things will greatly help to keep the Texas business climate strong.

While there have been some people circulating erroneous numbers about the state’s budget growth, let me assure you that the budget only allows for modest and needed growth. It is a very responsible document that meets the basic needs of the state.

Another major victory is the approval of a funding plan for the statewide water plan, using \$2 billion in Rainy Day Fund money to create a new fund to back bonds to build local water projects. That is exactly what the state needs to do to ensure that we have a reliable water supply to meet our future needs. Our job on this issue, however, is only halfway done. Now that the legislature has approved this plan, since it is a constitutional amendment, it will have to go before voters in November. A group is already gearing up to oppose this plan, and we must stay strong and work hard to ensure its passage.