



TEXAS

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BUSINESS REPORT



It Is Dry Out There

Passing Proposition Six Is a Must in November.

The statewide water planning process passed the Legislature in 1997. Imagine the millions of people who have come to Texas since then. Imagine the thousands of new businesses and industries that have come to Texas since then. All of that growth takes water, yet the state has never funded the statewide water plan.

Because of that growth, and to help ensure future growth, that reality has to change. The good news is, we can change it by approving Proposition Six on the November constitutional amendment ballot. If passed, Proposition Six will create a revolving loan fund using \$2 billion of Rainy Day Fund money. That \$2 billion will remain in perpetuity to continue to fund new water projects for decades to come.

“Other states have been using the image of Texas as a hot, dry desert for years against us,” said Bill Hammond, President and CEO of the Texas Association of Business. “Those states want to show their plentiful sources of water. Of course, those states are still having trouble keeping and attracting jobs because of their tax and spend policies, which is Texas’ biggest advantage. Imagine the economic engine we could have, if you combine that advantage with a plentiful water supply. That is exactly what Proposition Six will do.”

Massena, New York, is a perfect example of using water to sell itself as a place for business growth and expansion. Massena’s number one sales pitch is the fact that electricity is cheap because it is produced through hydroelectric power from the St. Lawrence River. It also promotes a high quality of life, partly because of water recreation. A third selling point is the ability to ship goods



Texas is filling up with dry, cracked earth

WORKFORCE Q&A

Do employers have to file their wage reports and pay taxes online now with TWC? Also, is it true that employers might lose chargeback protection even if they win an appeal?

(see page 2)

SAVE THE DATE

2014 TAB Annual Conference
February 5 and 6

New location: Sheraton Austin at the Capitol, 701 East 11th Street, Austin 78701

There are big changes coming in 2014, and you will want to attend to hear about them and to learn how you can get involved in the big issues facing Texas and the nation.

For more information or to register for the conference and a guest room visit www.txbiz.org

TAB MISSION

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

WORKFORCE Q&A



Tommy Simmons, Legal
Counsel to Commissioner
Hope Andrade

Do employers have to file their wage reports and pay taxes online now with TWC? Also, is it true that employers might lose chargeback protection even if they win an appeal?

The Texas Workforce Commission (TWC) will publish proposed new rules for wage reporting and unemployment tax payments. Under the new rules, all employers will need to file their wage reports and pay unemployment taxes electronically, unless they obtain a “hardship exemption” from the Tax Department. The link for accessing the electronic wage reporting and tax payment portal at TWC is <http://www.twc.state.tx.us/ui/tax/unemployment-tax-services.html>. At that link,

users with existing online accounts may conduct their business, and new users can sign up for an electronic account. Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin, Texas 78778; faxed to (512) 475-3577; or emailed to TWCPolicyComments@twc.state.tx.us. The Commission must receive comments postmarked no later than 30 days from the date this proposal is published in the Texas Register.

Another very significant change in unemployment compensation law has taken effect in Texas. Starting with unemployment claims filed on or after Oct. 1, 2013, an employer will be denied chargeback protection in the event that it successfully appeals an adverse ruling, if TWC finds that the original payment of benefits to the claimant was the result of an untimely or inadequate claim response by the employer, and that the employer has shown a pattern of untimely or inadequate claim responses in the past. Under the new law, a “pattern” exists if at least two prior findings have been made that the claim response was untimely or inadequate. A claim response is “inadequate” if it “merely alleges that a claimant is not entitled to benefits without providing sufficient factual information, other than a general statement of the law, to support the allegation.” While no proposed rules have yet been published to interpret the new statute, it is clear that an “adequate” response will be seen as something that contains enough information about potentially disqualifying facts behind the work separation that TWC would be on notice that the claimant’s qualification for benefits is in legitimate doubt. Thus, any claim response should be timely and contain something substantial and factual beyond a mere statement that the employer disagrees with the claim and does not feel that the claimant deserves benefits.

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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Congressman Hall Honored with Award

Hall receives Maurice Acers Lifetime Achievement Award.

The Texas Association of Business was proud to honor Congressman Ralph Hall with this year's Maurice Acers Champion of Free Enterprise Lifetime Achievement Award.

"Congressman Ralph Hall has been a fighter and champion for Texas and America all his life," said Texas Association of Business President and CEO Bill Hammond. "His priorities and accomplishments read like a list of business priorities and accomplishments."

Over the years, Congressman Hall has promoted science, technology, engineering and math (STEM) education; worked to ensure that sound science precedes any regulations imposed by the Administration; worked to advance research and development for new technologies to keep America competitive; and worked to increase production of America's abundant energy resources. Congressman Hall also has been a lifelong supporter of America's space program.

"In my mind, the hallmark of public service is to make the lives of our families better," said Hammond. "Congressman Hall has made it his lifetime goal to improve the lives of American families by creating jobs, improving education, and working to keep our economy strong and vibrant."

"We are all blessed to live in a country that allows individuals the freedom to pursue their dreams and goals," said Congressman Hall. "Coupled with the American values of hard work and perseverance, this has spurred American entrepreneurship and innovation – and it is part of what makes our country great. It is through the

combined efforts of people focused on protecting and encouraging free enterprise in our state and country that we continue to see a strong job surge in Texas, and for the ninth year in a row, *Chief Executive Magazine* ranked Texas as the number one state for doing business. We must all continue our efforts to support America's entrepreneurial freedom and individuals' creativity."



Former TAB Chair Rudy Oeffering and Congressman Ralph Hall

Hammond reminded those in attendance that there is someone very special who deserves the credit for Hall entering public life. "Credit his wife of 64 years, Mary Ellen, with convincing him to start his career in political public service."

He was first elected to Congress in 1980, and last December became the oldest U.S. Representative to cast a record vote.

"With a public service record like that, it is fitting that Congressman Hall is the recipient of this lifetime achievement award," Hammond continued. "He has done far more than simply achieve. He has made a tremendous difference in the lives of everyone in the Fourth District of Texas and this entire state and nation."

Water

continued from page one

internationally through a port on the river.

"Even with the New York tax structure, Massena has been able to find a strong selling point using water," said Hammond. "Obviously Massena's geography is unique, but the ability to use water and a stable water supply as a selling point for new business and industry, will work for Texas, but we have to pass Proposition Six to be able to do that."

On the other hand, a defeat of Proposition Six would send a disastrous economic message. "The message would be: don't come to Texas, we don't want to grow," said Hammond.

The lack of water and a stable water supply is already having an affect on Texas businesses. One recent example is the closing of Carlos 'n Charlie's restaurant on Lake Travis in Austin. Its business was based on being on the lake. People would pull up in their boats and eat or have a drink, but because of the ongoing drought Carlos 'n Charlie's hasn't been on the water front in years. The docks that used to fill with boats now sit on dry, cracked ground. The marina that used to be next door was moved to where there was actually water. Unfortunately, that wasn't an option for the restaurant.

"That is an easy example to point to," said Hammond. "I'm sure if you look hard enough, you can find others. I'm sure you could find stories about businesses not moving to a particular city because of water concerns or not expanding because of uncertainty about the future of the water supply. We must stop that uncertainty. We must pass Proposition Six in November."

MEMBER PROFILE

AAA Texas – Premier Roadside Assistance And So Much More

AAA Texas has been serving members since 1904 and today has more than 1.6 million members – and growing. As automobiles became more prevalent and affordable, so did the demand for emergency roadside assistance. AAA Texas quickly became the most trusted brand in providing roadside assistance and automotive services in Texas.

Today, emergency roadside assistance remains the cornerstone of AAA Texas, not only to tow a disabled vehicle, but also by changing a flat tire, delivering gas, performing lockout service, or replacing a dead battery. In keeping pace with the changing times and new technology, AAA introduced the AAA OnBoard telematics device that can help roadside assistance run diagnostics remotely, and can also be used to locate a stolen vehicle. Parents also can program the device to monitor their teenager's driving performance. They now offer the AAA Mobile application for iPhone/Android phones, which features roadside service requests, member discounts, convenient trip planning, locating gas stations and electric vehicles charging stations.

“Our members are our driving force – without them we would not exist,” said Linda K. von Quintus, Vice President of Government Affairs. “We listen to our members every day and continuously take their pulse regarding service levels and the types of services and products that they want and expect. In addition to our 24-hour roadside assistance, we offer other automotive services through AAA's approved network of auto repair facilities. We attribute our longevity and success to our member relationships. Our members place their trust in us to be there when they need us most. It is part of our ongoing commitment to members to provide exceptional service and create members for life.”

AAA is not just a roadside service provider, other products and services also are available, including insurance: auto, life, homeowners/condos, renters, boat, and personal watercraft. Additionally, AAA is recognized

as one of the largest travel agencies in Texas, providing exclusive AAA tour and cruise discounts and auto travel planning. In select offices, members are offered financial planning products, credit cards and DMV services.

AAA is a longtime advocate for motorist issues, championing those issues that are important to our members. They offer community programs with the intent to help save lives through education and support legislation focused on traffic safety, transportation and driver safety issues.

AAA Texas became a member of the Texas Association of Business (TAB) because it is the most preeminent voice concerning business and infrastructure issues in the State of Texas. Von Quintus believes, “Under Bill Hammond's leadership, TAB is unsurpassed in effective advocacy on issues that are vitally important to this state retaining its “business friendly” climate. It is important that AAA is part of this influential voice in keeping Texas the best place to do business.”

AAA Texas' headquarters is located in Irving, with 28 branches across Texas. AAA Texas is part of the largest consolidated group of AAA clubs in the U.S. and is led by the Auto Club of Southern California. The group spans more than 20 states, and stretches from coast to coast.

“Under Bill Hammond's leadership, TAB is unsurpassed in effective advocacy on issues that are vitally important to this state retaining its “business friendly” climate.”

***- Linda K. von Quintus,
Vice President of
Government Affairs,
AAA Texas***



Emergency roadside assistance is the cornerstone of AAA Texas.

TAB Supreme Court Victory

On August 23, the Texas Supreme Court delivered an important decision affecting businesses seeking environmental permits in Texas. The Court overturned a decision of the Third Court of Appeals, that if left unchallenged, would have added even further uncertainty to an already complex and costly permitting system in Texas. TAB filed an amicus brief in support of the appeal and sought to have the decision of the lower court overturned.

The Third Court of Appeals had overturned an earlier district court ruling that supported the decision of the Texas Commission on Environmental Quality (TCEQ) to deny a request by the City of Waco for a lengthy and costly contested case hearing on the application of a dairy operation in the Bosque River Basin upstream of Waco, to amend its water quality permit. Waco based its request on the question of whether the facility could have water quality impacts on Lake Waco. The TCEQ, in exercising its discretion to grant a hearing request, noted that the amended permit was more stringent than the original would actually reduce the potential for waste discharges, and that the facility was not only miles from the Bosque River, it was over 80 miles from the City of Waco.

TAB has long argued that the current environmental permitting system in Texas is not only unpredictable and subject to procedural abuse, but that it creates a significant competitive disadvantage for companies in Texas compared to the far simpler permitting processes in other states. While companies

are subject to the opportunity for opponents of projects to request a contested case hearing, the TCEQ commissioners have the legal discretion to determine whether a requester meets the statutory definition of an “affected person” who has standing to make the request. This authority was established by the Texas Legislature to ensure that applicants were not forced into the delays and significant legal expenses of a hearing unless protestants could identify facts that were truly in dispute, and a specific, personal interest in the effects of the proposed activity.

The appeals court ruled that the question of whether a person was entitled to a hearing, was an issue that itself could be subject to a contested case hearing, completely contrary to the Legislature’s intent that the Commission be able to use its discretion to reduce, not increase, the number of hearings. While TAB will continue to work to reform a permitting process that continues to be an obstacle to economic development, we applaud the Supreme Court in affirming the decision by the TCEQ and supporting the provisions of the law that protects businesses from unwarranted attempts to oppose regulated business operations.



QUOTES

“Piecemeal plans won’t fix this issue. Border security and additional avenues for legal immigration must work in tandem.”

– Bill Hammond, TAB President, in a *Waco Herald Tribune* column on immigration.

“Thank you, Bill Hammond, for your sensible thinking on immigration reform. Your position as president and CEO of the Texas Association of Business makes your views all the more relevant to immigration concerns.”

– *San Antonio Express News* reader Charles Schraub commenting on Bill’s immigration column.

“It will require a concerted effort on the part of the business and chamber community in Texas and other forward-looking organizations to make the case to the voters that this is something that absolutely needs to be done.”

– TAB President Bill Hammond in the *Houston Chronicle* on the transportation funding vote next November.



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Talk **About** Business

Support Builds For Repeal Of Health Insurance Tax



Bill Hammond, TAB President

When even supporters of federal health care reform are using phrases like “train wreck” to describe what is coming, business owners in Texas and beyond have real reasons to be nervous.

As many expected, the promises of the Affordable Care Act continue to fall far short of reality.

Yet, there's some good news to report; a growing chorus of bipartisan lawmakers are supporting the repeal of one of the Act's costliest and most misguided requirements: the \$100 billion Health Insurance Tax (HIT).

The HIT, if fully implemented, will cost hundreds of thousands of jobs, increase health care costs and hurt virtually all Texans.

By the most recent count, 218 members of the U.S. House of Representatives are cosponsoring a bipartisan bill to repeal the HIT. This high level of support is a critical benchmark -- the measure now has enough support to pass.

As the leader of the state's business and chamber organization, this is welcome news. The HIT is a punch in our economic gut none of us – businesses or consumers – can afford. And, lawmakers are finally listening.

The HIT is supposed to help pay for federal health care reform. Supporters of the tax call it a tax on health insurance companies, but the fact is this tax will be passed on to consumers and businesses through higher premiums for their own health insurance.

If Washington doesn't repeal the Health Insurance Tax, this unconscionable burden will fall squarely on the backs of small businesses and families – the very people that should be helped by health care reform but instead will be gravely hurt.

One study estimates the HIT will cost up to 250,000 jobs over the next eight years as businesses try to cope with the increased cost of insuring their employees.

Right here in Texas, that pain will be felt by the 353,000 small businesses that operate here and the 2.9 million Texans who work for a small business.

The non-partisan Congressional Budget Office in DC is on record saying, “fees would largely be passed through to consumers in the form of higher premiums for private coverage.”

That pinch through rising health insurance premiums is an expected increase of at least \$2,800 over the next

10 years for individuals and an extra \$5,000 for families.

In Texas, a state where we are fully committed to creating jobs and building a strong, vibrant, and diverse economy; this measure flies in the face of everything we have worked hard to build.

If we don't repeal the Health Insurance Tax, quality of care will decline and access to health care will be reduced. As businesses are saddled with increased costs, consumers see higher premiums; and insurers are forced to shift to lower-cost and ineffective models for delivery of health care.

There is work to be done to improve our health care system, both in access and affordability, but the HIT in federal health care reform is not the right approach. Let's instead focus on providing states the flexibility they need to reshape Medicaid to better serve our citizens, and to empower state leaders to develop innovative solutions for health care access and delivery of services.

We need to keep the pressure and the volume turned up on Washington. The message is simple: American businesses and families cannot take the HIT.