



TEXAS

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BUSINESS REPORT



TAB Board Endorses All Amendments Early voting begins Oct. 21; Election Day is Nov. 5

The TAB Board has endorsed all nine constitutional amendments on the November ballot. “We are fighting the hardest for proposition six,” said Bill Hammond, TAB President and CEO. “That’s the amendment that will provide funding for future water projects and make our state’s water supply more secure.”

All nine propositions are explained below. The explanation is continued on page three.

Proposition One:

The constitutional amendment authorizing the Legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a member of the armed services of the United States who is killed in action.



Proposition 6 will help ensure a stable water supply.

What it does:

This amendment makes it possible for the surviving spouse of a member of the armed services killed in action to get a property tax exemption if that spouse hasn’t remarried.

Proposition Two:

The constitutional amendment eliminating an obsolete requirement for a State Medical Education Board and a State Medical Education Fund, neither of which is operational.

What it does:

This is one of those language clean up amendments that takes out references to two defunct state agencies.

WORKFORCE Q&A

Can an employer require someone who handles food to take an HIV or AIDS test?

(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.

continued on page 3

WORKFORCE Q&A



Kimberly Cheeseman,
Norton Rose Fulbright

Can an employer require someone who handles food to take an HIV or AIDS test?

Generally, an employer cannot require an employee or applicant, including those in the food industry, to take an HIV or AIDS test, unless certain stringent requirements are met.

Under Texas law, an employer cannot require a person to undergo any medical procedure or test to determine whether the person has HIV or AIDS, unless the employer provides that the procedure is necessary as a bona fide occupational qualification (BFOQ) for which there is no less

discriminatory alternative. TEX. HEALTH & SAFETY CODE ANN. § 81.102(a)(5)(A). A BFOQ is defined as a “qualification that is reasonably related to the satisfactory performance of the duties of a job,” and “for which there is a reasonable cause for believing that a person of the excluded group would be unable to perform satisfactorily the duties of the job with safety.” Id. § 81.101(3).

Employers should also be aware of the American with Disabilities Act, a federal statute that prohibits discrimination on the basis of disability in the employment context. 42 U.S.C. § 12112(a). Individuals with HIV or AIDS are protected by this statute. See *Bragdon v. Abbott*, 524 U.S. 624 (1998). Assuming an employer establishes that HIV or AIDS testing is necessary, the employer can only conduct the test after making a conditional offer of employment, and only if the test is required of everyone entering the particular job category. 42 U.S.C. § 12112(d)(3). If an applicant tests HIV-positive, the reason for not hiring the individual must be job-related and consistent with business necessity. Id. § 12112(b)(B). HIV-positive status alone can almost never be the basis for a refusal to hire after a post-offer medical examination. Further, HIV and AIDS are specifically not included on the Centers for Disease Control and Prevention list of infectious and communicable diseases that are transmitted through the handling of food, making it harder for employers in the food industry to justify HIV or AIDS testing as job-related.

Although HIV or AIDS testing is prohibited for the most part, any employer deciding to go forward with testing should consult counsel beforehand.

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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TAB Board Endorses All Amendments

Election Day is November 5.

Proposition Three:

The constitutional amendment to authorize a political subdivision of this state to extend the number of days that aircraft parts that are exempt from ad valorem taxation due to their location in this state for a temporary period may be located in this state for purposes of qualifying for the tax exemption.

What it does:

Supporters say the current 175-day limit is too short since aircraft parts are held in warehouses for many months before they are used. This amendment would extend that time limit on taxation to almost two years.

Proposition Four:

The constitutional amendment authorizing the Legislature to provide for an exemption from ad valorem taxation of part of the market value of the residence homestead of a partially disabled veteran or the surviving spouse of a partially disabled veteran if the residence homestead was donated to the disabled veteran by a charitable organization.

What it does:

This allows for a new property tax exemption for disabled veterans that would transfer to the spouse of those disabled veterans upon their death as long as the spouse doesn't remarry.

Proposition Five:

The constitutional amendment to authorize the making of a reverse mortgage loan for the purchase of homestead property and to amend lender disclosures and other requirements in connection with a reverse mortgage loan.

What it does:

Older Texans have had the ability to use reverse mortgages as retirement income for several years in Texas.

This would expand what a reverse mortgage could be used for, allowing that money to be used to buy residential primary homestead property. There is also a required educational aspect for those seeking to use a reverse mortgage in this way, and required notice by lenders on the foreclosure process.



Proposition Six:

The constitutional amendment providing for the creation of the State Water Implementation Fund for Texas and the State Water Implementation Revenue Fund for Texas to assist in the financing of priority projects in the state water plan to ensure the availability of adequate water resources.

What it does:

This proposition provides a funding mechanism for future water projects by creating the State Water Implementation Fund for Texas. That revolving fund will be used to back bonds that will pay for water projects laid out in the statewide water plan by the Texas Water Development Board.

Proposition Seven:

The constitutional amendment authorizing a home rule municipality to provide in its charter the procedure to fill a vacancy on its governing body for

which the unexpired term is 12 months or less.

What it does:

This proposition gives cities more options in dealing with short-term governmental vacancies. Currently, the law requires a special election no matter the length of the unexpired term is. This would allow cities to amend their charters to specifically deal with short-term vacancies.

Proposition Eight:

The constitutional amendment repealing Section 7, Article IX, Texas Constitution, which relates to the creation of a hospital district in Hidalgo County.

What it does:

While this sounds like something that would limit the creation of a Hidalgo County Hospital District, it will actually do just the opposite. This amendment will give those local residents more flexibility in creating a new hospital district to meet the needs of an area with a high uninsured rate.

Proposition Nine:

The constitutional amendment relating to expanding the types of sanctions that may be assessed against a judge or justice following a formal proceeding instituted by the State Commission on Judicial Conduct.

What it does:

Currently, there are a limited number of sanctions that the State Commission on Judicial Conduct can consider against a judge or justice, including public censure, retirement, or removal from the bench. This amendment would add other sanction alternatives, such as, additional training or education, public admonition, warning or reprimand.

MEMBER PROFILE

Denver City Dreaming – Bobby & J.M. Trent, an Entrepreneurial Story

Living the American dream, no matter how cliché the expression, is a goal most people aspire to accomplish. The late J.M. Trent, former owner of Trent Motor Co., saw the opportunities laid out in front of him, and wasted no time creating the life he wanted and deserved. He passed his superior work ethic on to his son Bobby, who followed in Dad's footsteps as the current owner of Trent Motor Co, Inc. and numerous other businesses in Denver City.

J.M. moved to Denver City in 1945 to work in the oil fields. A couple years later, he bought a Chevron station, and by 1951 he was able to open Trent Motor Co. Being a true model of perseverance, J.M. wanted to share other lessons with his children, particularly, responsibility. Not long after he got his own business ventures underway, J.M. bought his children, including eleven-year-old Bobby, a SnoCone stand to run. Bobby not only ran that stand but began dabbling in his true passion: fixing and selling cars.

Bobby also got himself a job at the local grocery store, where he worked through high school. He started college in Odessa and soon married. With his life's needs changing, his financial situation needed to change with it. After learning of a greater opportunity at a more lucrative grocery store, Bobby decided to try his luck there. Always a hard worker, Bobby approached the manager of the grocery store, who was more than reluctant to hire him. Bobby said, "Just give me a week, or a day even--I'll work for nothing, to show you what I can do." Bobby was an obvious asset and was hired immediately. He quickly moved up the chains of command in the grocery world, but his dream, his calling, was still out there.

"If you want it, you earn it," is something J.M. had told Bobby, and it stayed with him. In 1963, J.M. asked his son to come back to Denver City to work for him, so he did. In 1967, they formed Trent Motor Co, Inc. Bobby bought the remainder of the stock when J.M. retired in 1974.

More than a savvy businessman, Bobby Trent has an inspiring sense of community. Back in the early 2000's, Denver City High School was going to shut down their GM Auto Tech program. Bobby believed in the importance of that program, and how it readied so many young minds for the future. He contacted past teachers and friends from around the state and went to the school board. Bobby Trent saved the GM Auto Tech program. His sentiment being, "You have to have qualified people in your business and community, who want to stay and build a life. We have opportunities here. Some of the students we sponsored went on to college, graduated, and work with us today. Eighty percent of our business is from repeat customers. We're friends and family."

"We all need help, and TAB gives business a collective voice."

*- Bobby Trent,
Owner
Trent Motor Company, Inc.*

Bobby understands and appreciates the value of the Texas Association of Business. There is only so much one person can do, and like his rallying to save the GM Auto Tech program, he knows results come from strength in

numbers. "We all need help, and TAB gives business a collective voice."

Together with his wife, Charlene, Bobby owns multiple businesses today. He doesn't feel bogged down. "However, I consider myself the luckiest person in the world. For more than 50 years, I feel I have never had a job, because I love what I do...I can't say I haven't had any challenges over the years – I've had a bunch, but I overcame them to pursue my dream."



Bobby Trent (right) being presented with a 25 years of service GM plaque by GM District Manager, Ron Flecha, in 2010.

TAB Board Supports Merger

After a unanimous vote by the TAB Board to support the merger between American Airlines and U.S. Airways, Attorney General Greg Abbott announced that the Texas involvement in the federal lawsuit blocking the merger, had been settled.

“The board’s vote to support the merger of American Airlines and U.S. Airways and oppose the federal lawsuit blocking that merger was a decision made to support a Texas business. The mission of the Texas Association of Business is to support policies that foster business growth and strength in Texas, and the board feels that this merger will do that,” said TAB President and CEO Bill Hammond shortly after the board vote. “We realize that there is a political aspect to this issue, but it is not the intent of TAB or its board to be seen as supporting one candidate over another as a result of this vote. This vote is strictly about supporting the interests of Texas’

businesses, which is our core mission.”

The Board vote was taken on a Friday, and by the following Tuesday the settlement between the state and American was announced. “From the beginning, our focus has been on maintaining service to rural airports in Texas, and protecting Texas jobs,” said Attorney General Greg Abbott. “This agreement ensures that thousands of jobs will remain in Texas and that Texans traveling by air – especially those who fly in and out of rural cities across the state, including members of the military – will continue to benefit from daily flight service. The settlement secures common-sense concessions that are in the best interests of our great State.”

The settlement calls for the merged American Airlines/ U.S. Airways to keep its headquarters in the Dallas/ Fort Worth area and to continue to serve 22 airports across the state.

TAB GOLF



Golfers enjoy this year's TAB Tournament.



Our tournament winners Richard Evans, Trevor Rice and Kevin Crusier. Brad Tegeler was also on the team.

Statement of Ownership, Management, and Circulation of the Texas Business Report as Required by the United States Postal Service.

The Texas Business Report, publication number 7761, is a monthly publication of the Texas Association of Business, with 12 issues published annually. The cost of annual subscriptions is \$2 of TAB member dues. The annually-required publication paperwork was filed with the USPS on **September 30, 2013.**

The Texas Association of Business is headquartered at 1209 Nueces Street; Austin, TX 78701, where the Texas Business Report is also published and edited. Texas Association of Business and Bill Hammond hold ownership of the Texas Business Report. Editor of the publication is Robert Wood, TAB Communications Director, who also serves as the publication contact person at 512-637-7709. There is no Managing Editor for the publication. There are no known bondholders, mortgagees, and other security holders owning or holding 1 percent or more of total amount of bonds, mortgages, or other securities for the Texas Business Report.

With regards to tax status, the purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes has not changed during preceding 12 months.

Statement of Ownership of the Texas Business Report, as a general publication, is required to be published and is included in the October issue. The Statement was signed by Robert Wood and dated **09-30-13**, certifying that all information furnished on the form is true and complete and with the understanding that anyone who furnishes false or misleading information on the form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).

	Average number of copies since October 2011	Number of copies for September 2012 issue
Total Number of Copies	4500	4500
*Mailed Outside-County Paid Subscriptions	3583	3725
*Mailed In-County Paid Subscriptions	262	256
**Paid Distribution Outside the Mails Including Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Paid Distribution Outside USPS	0	0
*Paid Distribution by Other Classes of Mail Through the USPS	0	0
Total Paid Distribution	3845	3981
**Free or Nominal Rate Outside-County Copies	145	141
**Free or Nominal Rate In-County Copies	18	20
**Free or Nominal Rate Copies Mailed at Other Classes Through the USPS	0	0
**Free or Nominal Rate Distribution Outside the Mail	0	0
Total Free or Nominal Rate Distribution	163	161
Total Distribution	4008	4142
Copies not Distributed	0	0
Total	4008	4142
Percent Paid	95.93%	96.11%



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Talk **About** Business

Quenching Our Thirst



Bill Hammond, TAB President

What is the one thing that every living thing needs? Of course, the answer is water. Texas is a fast growing state, and unfortunately, we have been a drier than normal state for quite some time. Because of that, we are beginning to see firsthand what the future might be like without the water resources available to meet our needs.

The good thing is, we can do something about this problem. Years ago, our state lawmakers put in place a plan to help meet the state's growing water needs, so that water would always come out of the tap when we turned the spigot. Now, because of our healthy economy and booming oil and gas business, we have the resources to fund that plan and ensure that we have water to meet our current and future needs.

Proposition 6 is a must pass item on the November ballot. It sets up a revolving fund to pay for local water projects to meet local needs. The \$2 billion in Rainy Day Fund money that we initially put into the new State Water Implementation Fund for Texas (SWIFT) will be invested, not spent. As I said, this will be a revolving fund, meaning money that is loaned out will be paid back and then used to make more loans in the future.

I've heard some people say that we have enough money to pay for this plan without using money from the Rainy Day Fund. That simply is not the case. If it was, we probably would have done that a long time before now. Lawmakers have been struggling to find new fees or taxes to pay for this plan since it was originally passed in 1997. This may be our only chance to fund it with existing revenues.

I've also heard people say we should just conserve water and not build a lot of new projects, like reservoirs, to increase our total supply. The truth is, we need both conservation and new supply. We cannot meet our growing needs without a combination of both.

Conservation also costs money. Saving the large amount of water that we must save isn't just a matter of low flow toilets. It is a matter of doing things like changing agricultural watering techniques and equipment, which takes money. It is a matter of researching new ways to use water more effectively, especially for heavy industrial users. Even finding new ways to reuse wastewater can cost money.

There has been a lot of talk about building desalinization plants to make use of water that is currently unusable.

That is certainly an option, but again, those plants are extremely expensive to build as are the pipelines or other delivery systems for that water once it is fit to drink. The bottom line is: We cannot reach any of our statewide water goals regarding supply or conservation without a significant funding source, and that is what Proposition 6 will give us.

It is my view that it would send a very bad economic message to the rest of the country and world if Proposition 6 is not approved. It would send a message that Texas is no longer interested in continued economic growth. We have worked too hard to build up the reputation of this state as the destination for new and expanding business to throw it all away now.

Proposition 6 also can be thought of as a job creator. It will take engineers to plan these projects. It will take construction crews to build them. New reservoirs also could mean new development and new business opportunities.

Proposition 6 makes good economic sense; it does not raise any taxes; and it is a conservative use of our money that will pay dividends to water ratepayers for decades to come.