



# TEXAS BUSINESS REPORT

A Publication of the Texas Association of Business  
Volume 29 | Issue 1 | January 2014 | [www.TXBIZ.org](http://www.TXBIZ.org)



## Victory over the NLRB *Poster rule is struck down by court.*

The National Labor Relations Board's rule that businesses hang posters informing workers of their rights to unionize and strike has been struck down by an appeals court. The NLRB missed a deadline to file an appeal with the U.S. Supreme Court, which means the lower court ruling striking the poster rule down will stand.

"This is a major victory for business," said TAB President and CEO Bill Hammond. "TAB joined with other national organizations to challenge the rule and we are very pleased with the outcome of this case."

The original ruling against the poster said that the poster was an infringement on the free speech rights of employers. A second court ruled that the NLRB overreached its authority by issuing the poster. Two NLRB appeals of those rulings failed.

"This victory was hard-fought," said National Association of Manufacturers President and CEO Jay Timmons. "We began the litigation in 2011, but thanks to the efforts of NAM staff, our legal team and the financial support of our members, we prevailed, pushing back on the NLRB's overreach, safeguarding our members' First Amendment rights and saving manufacturers from an onerous and unfair mandate."

### Employee Rights Under the National Labor Relations Act

The National Labor Relations Act (NLRA) protects the right of employees to organize and bargain collectively with their employers, and to engage in other protected concerted activity in aid of their mutual respecting in one of the three activity. Disputes involving the NLRA are unrelated from certain types of employee and union interactions. This poster gives you specific information about your rights under the NLRA. If you have any questions about specific rights that may apply to your particular workplace, contact the NLRB, the federal agency that investigates and enforces compliance under the NLRA, using the contact information provided below. You can also go online to [www.nlrb.gov](http://www.nlrb.gov) for more information.

Under the NLRA, you have the right to:

- Organize a union or negotiate with your employer concerning your wages, hours, and other terms and conditions of employment.
- Form, join or assist a union.
- Designate co-workers or representatives of employees when choosing to contract with your employer setting your wages, benefits, hours, and other working conditions.
- Refuse to accept pay rates and other terms and conditions of employment or union representing with prior or written notice.
- Take action with co-workers to increase or decrease compensation or benefits by forming other unions, making work-related complaints directly with your supervisor or with a government agency, and requesting help from a union.
- Strike and protest, separately or as part of a larger or broader strike or picketing.
- Choose not to do any of these activities, including remaining a member of a union.

Under the NLRA, it is illegal for your employer to:

- Prevent you from talking, directly or indirectly, to a union during non-work time, such as before or after work or during break times, or from distributing union literature during non-work time, such as posting union literature on a break room.

Under the NLRA, it is illegal for a union or for the union that represents you to discriminate with your employer by:

- Threatening or threatening, in order to gain your signature, to force you to join.
- Threatening or threatening to discriminate against you if you do not join.

Under the NLRA, it is illegal for your employer to:

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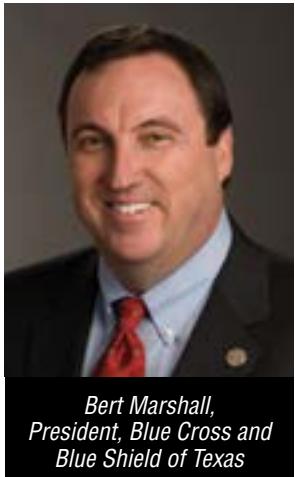
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# WORKFORCE Q&A



Bert Marshall,  
President, Blue Cross and  
Blue Shield of Texas

**Effective Jan. 1, 2014, most U.S. citizens and lawfully present individuals are now required to have a minimum level of health care coverage. According to the Affordable Care Act, how much is the penalty if a person does not get health insurance coverage in 2014?**

Beginning in 2014, most people who choose to go without coverage will pay a tax penalty, unless they are part of an exempt group or qualify for an exception.

The shared responsibility penalty is the lesser of:

- ★ The sum of the monthly penalty amounts for each individual in the shared responsibility family; or
- ★ The sum of the monthly national average Bronze plan premiums for the shared responsibility family.

In 2014, the penalty is \$95 per adult and \$47.50 per child (with the penalty for a family capping at \$285), or 1 percent of income, whichever is greater. In 2015, the penalty is \$325 per adult and \$162.50 per child (with the penalty for a family capping at \$975) or 2 percent of income, whichever is greater. In 2016, the penalty is \$695 per adult and \$347.50 per child (with the penalty for a family capping at \$2,085) or 2.5 percent of income, whichever is greater. However, neither of these penalties may exceed the cost of the national average of the lowest Bronze metallic plan on the Health Insurance Marketplace. These penalties will increase each year.

It's important to note that some people are exempt from the Individual Shared Responsibility tax penalty because of financial hardship, religious beliefs, incarceration, or if they are members of an Indian tribe.

The Affordable Care Act is perhaps the most sweeping reform in the history of our nation's health care system. As an employer and community leader, it's important to understand the many aspects of the law and keep your own employees educated on the facts.

**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](mailto:smcgee@txbiz.org)**

# TEXAS BUSINESS REPORT

**Volume 29 | Issue 1**  
**January 2014**

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*Texas Business Report (ISSN0892-6816) is published on the 15th of every month by Texas Association of Business, located at: 1209 Nueces Street, Austin, TX 78701. Subscriptions are available at a rate of \$2.00, which is deducted from TAB members' annual dues. Articles may be reprinted with permission. Legislative advertising paid by TAB.*

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POSTMASTER - Send address changes to:  
Texas Business Report,  
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# A Message from Chairman Dale Young

It is an especially high honor to serve as Chairman and leader of the Texas Association of Business (TAB) in 2014. I am humbled by the huge responsibility and inspired by the enormous opportunity.

Texas has so much going for it. We are the envy of the country. Texas is an exceptionally dynamic place to do business. Our leading economic position in the country is driven by low taxes, a business friendly environment and forward thinking leadership.

We must work collectively to protect and enhance our competitive advantages. Our goal of promoting the interests of business ensures Texas is on the leading edge.

As entrepreneurs and business leaders, we are charged with continually contributing to positive advancement of business interests in Texas. TAB has the blueprint for success embedded in its culture. Bill Hammond, our CEO, and his outstanding team get it. They lead the association with style, class and distinction. When TAB talks, leaders in government listen.

What makes TAB different than all other organizations, is the large number of issues that we focus on. No one else takes on the major issues of education, transportation, healthcare, water, the environment, taxes, and government regulation all at the same time; but TAB does. That is because all of these issues have an affect on the economy and on your business. Without a good education system, the workforce suffers. Without transportation, goods don't get to market and workers don't get to the job; growth stops without an adequate water supply; and so on.

There also is no other organization with the track record of success TAB

has on working our issues. In 2013, TAB successfully led the effort to pass a constitutional amendment that will fund local water projects and an amendment that will be voted on in November of this year that will mean a new funding source for transportation projects. We still face huge challenges in 2014 in many areas at both the state and especially the federal level. TAB must and will continue to have a seat at the table and lead the charge for these important issues.

We are out front on the issues that affect our membership. TAB is a great resource for its members and business in general. The value is real.



TAB 2014 Chairman Dale Young

I am excited about the future of the Texas economy because of TAB. We must be thoughtful, careful, thorough and strategic as we vet the issues of our times. The positions we support will be impactful and powerful. To be successful, we need engaged members, collaborating for success. TAB must continue to promote big picture thinking. Collectively, we can and will get the job done for our companies, families and state.

Let's work together to make a great Texas Association of Business greater!

## NLRB Victory *continued from page one*

rule, Mom and Pop shops, small businesses, larger companies – even some religiously-affiliated organizations – would have been forced to comply.

"Eight federal judges in two federal appeals court circuits have considered the NLRB's rule and all eight judges have found the rule to be unlawful in whole or in part," said Mix. It appears the unanimous voice of the judiciary has forced the Obama Labor Board to back down from its attempt to empower union bosses yet again at the expense of the rights of employees and employers."

The NLRB rule would have required employers who have never committed a violation, or even been accused of unfair labor practices, to post an incomplete notice about employee rights. The rule also stipulated that employers who did not comply would be guilty of violating federal labor law.

The rule provided no corresponding requirement to give employees information about how to exercise their rights to refrain from union membership and forced political activity, or to remove a union from their workplace.

"I believe this was another example of this administration using a federal agency to push its political agenda," said Hammond. "We have seen this practice from agencies like the Environmental Protection Agency as well, and I'm sure we will continue to see this happen. What TAB will continue to do is challenge this policy through rule practice whenever it threatens the well-being of Texas businesses."

# MEMBER PROFILE

## Burns & McDonnell – Making Successful Clients

From its beginnings in 1898, as a two-person firm started by two Stanford University graduates, Burns & McDonnell has become an internationally recognized engineering, architecture, construction, environmental, and consulting services firm. It has a major presence in Texas, with 500 employees and offices in Houston, Dallas, Fort Worth, and Austin. Collectively, the employee-owners in these offices have improved the quality of life for Texans in the areas of energy, transportation, power delivery, sustainability, and many others.

Leslie Duke brings a zest for entrepreneurship to her role as Burns & McDonnell's vice president, overseeing the Dallas, Fort Worth, and Houston offices. She has worked diligently to successfully manage transmission and distribution projects for many of the top refineries in Texas and numerous regional electric utilities.

Active in the American Society of Civil Engineers and the National Society of Professional Engineers, Leslie's membership with TAB is another way she keeps her finger on the pulse of the business climate in Texas.

"TAB not only works on behalf of businesses in Texas, it also is an excellent resource for business leaders to make informed decisions for the future," Leslie says. "Burns & McDonnell has more than 500 employees in Texas, and we're 100 percent employee-owned, so each of us is invested in the success of Texas."

Employee-ownership gives the company an interest in the success of every client and project. It drives employee-owners to be more engaged and responsive. More than 80 percent of its work comes from repeat clients, who recognize the difference an employee-owned firm brings to their projects.

Burns & McDonnell has helped improve congestion on major Texas highways, made the power systems at major Texas hospital systems more efficient and reliable, improved the delivery of vital energy resources, and

improved the delivery of electric power across the entire state of Texas. It has earned a reputation for working with clients throughout Texas and neighboring states to solve their most pressing engineering challenges. In the past six years, despite an economic recession, Burns & McDonnell has tripled the Houston, Dallas and Fort Worth based workforces, making Texas its fastest-growing region.

"Texas business is booming, and that's a result of all of us in Texas working together through TAB to provide the goods and services Texans need," Leslie says.

The firm's Texas offices share a strong commitment to giving back to the community through monetary and volunteer contributions. The Houston, Dallas, and Fort Worth employee-owners contribute to organizations like United Way, Habitat for Humanity and the Boys & Girls Clubs of America.

Burns & McDonnell is consistently recognized as one of the best places to work, ranking No. 18 on Fortune's "100 Best Companies to Work For" in 2013. It ranks in the top five percent of Engineering News-Record's Top 500 Design Firms and is among the leaders in many service categories. For the last three years, Professional Services Management Journal (PSMJ) has honored Burns & McDonnell with its Premier Award for Client Satisfaction.



*Burns & McDonnell was tasked with validating the infrastructure master plan for the Thermal Energy Company (TECO) in Houston, Texas.*

# Annual Conference Preview

The Texas Association of Business Annual Conference is set for Feb. 5 and 6. It will offer valuable information for your business, and an update on key political races.

"We are actually holding off on our BAC-PAC Board making decisions on endorsements in the Lieutenant Governor, Comptroller, and Attorney General races until those candidates are finished speaking at our conference," said TAB President and CEO Bill Hammond. "Those in attendance will have a chance to hear from the major candidates in those races in three separate forums. You will be able to compare the candidates side by side as they answer questions about the big issues facing the State of Texas."

The conference also will feature forums on navigating the new healthcare law, and you will hear an update on the changing demographics of Texas.

"In the past, the discussion on demographics has provided some of the most eye-opening information to our members, and led to some extremely interesting discussions," said Hammond. "I think this is some of the most valuable information those attending the conference will hear."

The conference is being held at a new venue this year, the Sheraton at the

Capitol, just a few blocks away from the Capitol building in downtown Austin.

"We are excited about the new location for this year's conference," said Hammond. "We remain in a location in downtown Austin which is convenient to the Capitol, many great restaurants, and other attractions that we invite you to visit while you are here. We want you to be informed and pick up some great information that will help your business, but we also want you to take some time to enjoy yourself, too."

Because we have just completed a legislative year, the conference also will include our awards reception,

where lawmakers will be honored for their support of business during the 2013 Legislative Session. Lawmakers will be presented with "Fighter for Free Enterprise" and "Champion of Free Enterprise" honors, based on their pro-business voting record.

"This will be an excellent chance for our members to meet lawmakers from across the state in a social setting," said Hammond. "This kind of contact for our members can prove to be very useful."

*To register for the TAB Annual Conference just visit the TAB homepage at [www.txbiz.org](http://www.txbiz.org).*

## DRUG TESTING DELAY

The new state law that requires limited drug testing for people receiving unemployment benefits in Texas was supposed to take effect Feb. 1, but that won't happen thanks to federal government inaction.

"The state law taking effect is contingent on the federal government coming out with guidelines for the testing," said Bill Hammond, TAB President and CEO. "The

federal government won't even publish the proposed rules from the Department of Labor until March."

TAB is asking that members of Congress and the Texas Legislature write the Department of Labor and demand action in a timely manner. "We also would encourage TAB members to let their elected officials know that this policy needs to be enacted," said Hammond.

## QUOTES

**"Unfortunately some who are opposed to funding have accused very solid conservative members of in fact not being conservative..."**

– Bill Hammond speaking to Texas Public Radio about the battle to fund infrastructure.



*TAB 2013 Chairman John Bass speaks with State Senator Kirk Watson at the 2013 Annual Conference.*

**"More than half of the students who show up at a community college in Texas have to take remedial classes, unfortunately the track record of those classes is not very good."**

– Bill Hammond speaking to WOAI Radio about changes that need to be made to remedial education.

**"Given the federal government's track record of expanding existing programs that stick the states with out-of-control costs (Medicaid expansion, for example), we feel this expansion should not happen until we know that our children are actually thriving in existing programs and are truly prepared to enter kindergarten."**

– Bill Hammond in the *San Antonio Express-News* expressing concerns about federal pre-k programs.



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TEXAS BUSINESS REPORT

JANUARY 2014

# Talk About Business

## Let the Punishment Fit the Crime



Bill Hammond, TAB President

Since the beginning of 2013, the Texas Association of Business (TAB) has been involved in the movement to reform our criminal justice system. Some might wonder why the business community cares about this issue.

There are three main reasons.

First, we spend somewhere between \$2.5 and \$3 billion a year incarcerating more people than any other state. Almost 140,000 people are in Texas prisons; another 11,000 are in state jails. That doesn't count the 1 million admissions to county jail every year. In excess of 45 percent of those who are in prison are there for a non-violent and non-sexual offenses. That population of non-violent offenders costs taxpayers \$3.4 million per day. Since the business community collectively pays the majority of taxes, business owners will certainly pay attention to a big ticket item like this one.

Secondly, business owners are Texas residents too, and they care about public safety. They care particularly about being able to operate businesses in communities that are safe and secure.

The third reason, is the availability of workers. Our emphasis at TAB, is ensuring that, when appropriate,

judges consider probation first for non-violent offenders, especially first-time non-violent offenders.

Probation offers a cost effective solution, \$3 per day versus around \$50 per day for incarceration. It also allows someone to continue working, paying bills, taxes, keeping up with child support, and maintaining other financial and personal commitments.

Probation is not a walk in the park; in fact some people choose a short time in jail rather than probation because it is a long-term commitment under strict supervision. People on probation are subject to random drug testing, strict reporting requirements to a probation officer, and the prospect of going to prison if they violate the terms of their probation.

This issue simply boils down to separating those we are mad at from those we are afraid of. Those whom we are afraid of, violent offenders, should be sent to prison and removed from society for a very long time. We have always supported that. Those we are mad at, non-violent offenders, should be given the chance at probation first.

For some crimes, we advocate that if offenders are successful at completing their probation, they should have

the opportunity to have their record wiped clean. Many times an offense that most would consider a youthful indiscretion or a simple mistake, would render an individual unable to get numerous jobs or obtain a commercial driver's license.

We should reform the parole system as well. A bus ticket and \$50 isn't the answer. We know now that the chances of someone who is released from prison re-offending and being sent back there are pretty high. We must do a better job reintegrating parolees into society and making them productive.

The biggest challenge for parolees is finding a place to live, because few will rent to them. We favor limiting landlords' liability for simply having rented an apartment to parolees, with some exceptions. This would not include people who have been paroled for violent crimes and sexual offenses.

We feel that people who have made a mistake, served their time, and are truly repentant, should be given the chance to have a meaningful life. That mistake should not forever limit their chances to make a living, support their family, stay off government assistance, do good work, pay taxes, and make a positive difference.