



TEXAS

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BUSINESS REPORT



Changes Needed to Train our Workforce *Comptroller's report lists recommendations.*

Because of smart, business friendly policies in Texas, our state continues to lead the nation in job creation. That doesn't mean we should lay back and celebrate. According to a report released by Texas Comptroller Susan Combs, there is a need to expand and diversify our educational and training pathways to meet employers' demands for a highly-trained workforce.



Report: better training for workers needed

“Low costs, business-friendly regulation and a large, young and willing workforce have made Texas one of the few bright spots in a chronically weak national picture,” Combs said. “But to close the skills gap, we must ensure our young people can acquire the tools sought by Texas employers and assist them in refining and upgrading those skill sets throughout their careers.”

For Texas education, business and legislative leaders who want

to effectively provide meaningful post-secondary training opportunities for workers — no matter where they are in their careers — Combs is making these recommendations:

- ★ Texas needs a sustained information campaign to encourage students to pursue Career and Technical Education (CTE) and industry-specific certification programs.
- ★ Texas should consider continuing to increase the number of Texas Early College High School campuses as approved by the Texas Education Agency (TEA), if evidence shows their ongoing effectiveness.
- ★ Texas should increase the accessibility of Adult Education Provider services.

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WORKFORCE Q&A

My company is about to aggressively hire and will likely hire from competitors. What can the company do to best position itself against potential claims by these competitors?

(see page 2)

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*To make the Texas
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WORKFORCE Q&A



Jacqueline C. Johnson,
Littler Mendelson, P.C.

My company is about to aggressively hire and will likely hire from competitors. What can the company do to best position itself against potential claims by these competitors?

The following “guidelines” or recommendations are designed to help avoid unnecessary legal disputes and should not be misinterpreted as definitive statements about what is legal versus illegal. First, interviewers need to focus on the candidate’s general skills and abilities and not on whether the candidate will be able to transfer from his or her prior employer. Similarly, the interviewers should not ask about the competitor’s confidential or proprietary information. Second, the candidate needs to be cautioned that the company does not want the candidate to: disclose any confidential information related to prior employment; propose or suggest any movement of business or of employees from the prior employer; or discuss pending business proposals of the prior employer, etc. Third, the candidate should be asked about any non-competition and non-solicitation agreements. The candidate should look through handbooks, manuals, codes of conduct and incentive plans, as well as free-standing agreements. If post-employment restrictions are located, the company should ask the candidate whether the document is designated as confidential (as is sometimes the case with documents containing compensation/incentive information). If so, the company should ask the candidate to disclose only the restrictions or redact the document. The restrictions then need to be evaluated by legal counsel for enforceability, taking into consideration applicable law. The company should encourage the candidate to seek his or her own legal advice as to whether he/she can accept and perform the job without violating the agreement, or whether the agreement is enforceable. You should caution the candidate against relying solely on your company’s opinion that the non-compete is unenforceable or that a particular job does not violate it. Finally, if a decision is made to hire the candidate, the offer letter should outline any limitations being placed on the job to accommodate post-employment restrictions and should reinforce the prior instructions against use or disclosure of confidential information belonging to prior employers.

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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TAB Honored with Advocacy Award

Hammond: Advocate of the Year

The state's largest organization representing nurse practitioners, the Texas Nurse Practitioners (TNP) is recognizing TAB CEO Bill Hammond with the TNP Advocate of the Year award.

"You have long advocated for full practice authority for nurse practitioners, and this award is but a small recognition for the work you have done to help our profession," said TNP President Michael Hazel in a letter announcing the honor.

The award will be presented in September at the TNP Annual Conference Legislative Dinner in San Antonio.

"TAB has long advocated for increasing the responsibilities of nurse practitioners in our health care system," said Hammond. "Much of the credit for this award

goes to our former health care government affairs manager Kandice Sanaie and Dr. Ron Luke, who heads up our health care committee. Our new health care government affairs manager Amanda Martin will continue that work this legislative session. We believe an increased role for nurse practitioners in our health care system will make care available to more people and improve continuity of care. We also believe this will help control health care costs, which will benefit employers by helping to control the cost of health insurance."

Nurse practitioners are playing a vital role in improving health care in rural Texas. One example is a program

started this year in rural East Texas. Traveling clinics in Cherokee County are seeing a high volume of patients. Elaine Ballard, nurse practitioner, told KETK Television that the traveling clinics are meeting needs that have traditionally gone unmet. The traveling clinics provide primary care services, immunizations and screenings for a number of diseases including diabetes. One very important aspect, the clinics do this at an affordable price.

"These kinds of services, that help people who otherwise wouldn't have regular access to health care, is one of the big reasons TAB has supported expanding the role of nurse practitioners," said Hammond.

Nurse practitioners also are making it possible to bring health care to new locations

in the city. For example, North Texas there are alliances between major health providers and big retailers like CVS, Wal-Mart and Walgreens to open more clinic locations within those stores. Similar clinics are open in larger grocery store locations like H-E-B Plus.

"With the uncertainty that many people are feeling about the future of their health care, I think seeing these new and convenient ways to get health care services will put some minds at ease," said Hammond. "Many of these things wouldn't be possible without the work of nurse practitioners and changes in state law that TAB, TNP and other organizations have pushed for."



TAB CEO Bill Hammond named Advocate of the Year

Unemployment

continued from page one

- ★ Texas should track involvement and completions in industry-based certification programs.
- ★ Texas should consider incentives for companies that adopt apprenticeships, and it should also develop an information campaign to encourage program adoption.

"The tremendous growth we are seeing in Texas and the strong business climate are great for all of us, business owners and employees alike," said TAB CEO Bill Hammond. "What we cannot do is stand by and not develop the kind of training programs and other educational opportunities that we need to train our workers of the future. It is essential to our future economic growth."

According to a 2012 Dallas Federal Reserve roundtable, employers said they had trouble "finding workers with sufficient skills for higher level technical jobs, such as those in machinery, engineering and programming." The report points out that in the current environment, technical skills must be continually upgraded and that tomorrow's jobs will come with the expectation of lifelong learning.

Texas has led the nation in job growth in recent years, but the report cites its educational attainment as lagging — a source of worry, since 85 percent of jobs in 2014 require some post-secondary education. "Part of our problem goes back to the fact that we are not graduating career or college ready students from our high schools," said Hammond. "We must do a better job of preparing our students to get the post-secondary education that is required to get a job in today's economy."

MEMBER PROFILE

JCM Industries – Nash, Texas

JCM Industries is one of TAB's newest, and oldest, members. JCM Industries in Nash, near Texarkana, recently rejoined TAB, but altogether JCM Industries has been a member of TAB for more than 20 years.

JCM Industries is a family business. Ron Collins is the President and CEO; his wife, Julie Collins, is the Vice President of Human Resources; and his sister-in-law, Cynthia Goerke, is Executive Vice President. Not only are they members of TAB, but Mr. Collins is on the U.S. Chamber Small Business Council and has been on that council for nearly two decades.

Because JCM Industries is a family business, Ron, Julie, Cynthia, as well as other family owners who do not work directly for the company treat their employees like family. In fact, they have been responsible for educating over 40 children of their employees by offering them scholarships. "Because we are in a rural community, we want to take care of our families and make sure they have a good place to work and have a means of educating their kids" said Ron Collins. "Education is so important for families; if you can do that, then you're making a difference in your community, and you're making a difference in your workforce."

JCM Industries was incorporated in 1976. As a leading fitting manufacturer, JCM recognized that the piping industry had two demands. First, a quality product designed to work efficiently and economically. Secondly, a product delivered when needed. JCM built its business on these two simple, yet vital foundations and continues to provide exceptional products with unsurpassed service.

With customers anywhere in the world, when an emergency hits, JCM will shut down all other operations to respond to the crisis. "We really pride ourselves in taking care of emergencies," said Ron Collins. "Some of these emergencies are really amazing. You'll see them on CNN and all of the news channels. We get into these projects that are very complex. We have a lot of high skilled engineering and welding capabilities here. We help guide our customers through our part and their part so everything comes together. We will make certain that we get our part done and get the special fitting to deal with the emergency out the door."

Ron Collins just returned from Washington D.C., where he was working for changes in American Iron and Steel (AIS) requirements that were part of the 2014 federal appropriations act. "The government is saying that in order for companies who are using state revolving funds to finance any part of a water or wastewater project that they have to have all of the iron and steel manufactured in the United States. What this does is restrict us to only parts available in the United States, so it limits us on what we can supply and how we can supply the fitting. This legislation has unintended consequences. It is really a hidden tax on municipalities. If we use only domestic parts (not all parts are domestically available) or we have to have them special made, they cost more, and we have to pass that along. The extra cost is sometimes as much as 10 times the cost of the part. I now understand how a hammer for the government can cost \$300."

When you talk to Ron you understand he is a very proud business owner, who loves what he does. "What we do, we do exceptionally well and we're able to ship products all over the world because we're in a league of our own for our specialty services. We pride ourselves in being in the water industry and being able to service a service industry. Our growth has been phenomenal and it's because of the employees we have and their attitude. We don't leave work until a job is done."



No job is too big for JCM Industries



JCM Industries from the air

Labor Law Pioneer Dies

Longtime TAB member and friend Frank Manitzas died on July 18. He was a pioneering labor and employment law attorney and one of the people who established the Texas Board of Legal Specialization. He was a charter member of the specialization program and was board certified in labor law. He also served as an attorney with the National Labor Relations Board.

Not only was he successful in his professional life, but he also had a 58 year marriage to Mary Ellen Manitzas, four children and six grandchildren.

“Frank was very devoted to his family and to his legal work,” said TAB CEO Bill Hammond. “During his career, Frank donated probably thousands of hours of free legal work to make sure people got the help they needed. He had a very caring heart, and it showed in both his personal and professional life. Frank will be greatly missed by all of us who knew him at TAB and all of us whose lives were touched by his kindness and generosity.”

2014 Employment Relations Symposium a Big Hit



Symposium Chair C.B. Burns

This year’s Employment Relations Symposium was a major success for everyone involved in the event. Attendees heard the latest information on the laws and policies that effect HR professionals and received continuing education credit as well.

The date for next year’s Employment Relations Symposium has already been set for July 8-10, at the Hyatt Regency River Walk in San Antonio.

Among the speakers, Jackson Walker L.L.P. attorney Jay Rutherford, whose presentation, “Get Mad, But Don’t Get Even: The Danger of Retaliation and Whistleblower Claims,” discussed what courts are saying about retaliation and

whistleblower claims and how to avoid (or at least defend) these dangerous claims. Dan Dargene from Ogletree Deakins talked about the National Labor Relations Board and how NLRB is proactively trying to change how everyone does business.

Making a return to this year’s conference were printed copies of the Texas Employment Law Handbook, which had been an exclusive on-line publication for a couple of years. See the insert in this month’s Texas Business Report to order your copy.



Retiring Texas Employment Law Handbook Editor Brian Greig was honored during the symposium.

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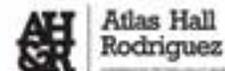
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Talk **About** Business

The New Accountability: When Numbers Lie



Bill Hammond, TAB CEO

The Texas Education Agency believes that the vast majority of our campuses, around 85 percent, are “meeting standards.” A little under nine percent aren’t “meeting standards,” or as the TEA would put it, “require improvement.” So, are the standards really being met?

Schools are certainly not meeting the standards of employers. At least 60 percent of the jobs being created now require some kind of post-secondary degree or certificate. If a student is not career or college ready when they graduate high school, that means they are not ready to begin the post-secondary training needed to get one of those jobs

High school should be about graduating students who are ready to enter college or the workforce. Only 75 percent of ninth graders graduate in four years, and only 25 percent of them are ready for a good job or college. As the economy evolves, this is catastrophic for our state and our children.

With the new accountability system, it is very easy for a student to be considered career or college ready - too easy in my estimation. Students must only pass two of the five

end-of-course exams required to graduate high school to be considered career or college ready. That sets up a system where a student can be considered career or college ready and not even be qualified to graduate high school. If less than a quarter of our young people graduate high school ready for a truly good job or college, how in the world can we tolerate the state saying 85 percent of our school campuses “meet standards?”

We also must remember the passing standards for these tests. To pass the algebra test for example, students only have to get 37 percent correct. To be considered ready for college, that number should be at least 60 percent; however, if that were the passing standard only around 30 percent of students would be able to pass.

We also must remember that there is a growing number of students being raised in poverty attending our public schools. How will Texas move forward if we don’t make sure these children are getting a quality education? The answer is really simple. We won’t.

School districts get extra money from the state to educate children who are being raised in poverty, and justifiably so. What isn’t fair for these children is

that the school districts, while getting extra money to educate them, are not being held accountable for actually doing that job.

If we are to move the academic performance of all Texas students to a level which will meet the needs of employers in the future, we simply must hold all public school campuses accountable. The current system does not achieve that goal. It reminds me of a soccer league for small children where scores are not recorded and everyone gets a trophy at the end of the season. We are not giving our schools anything to strive for. There is no difference in the “meeting standards” ranking that would let you know if your school is top rated or barely scraping by.

An honest evaluation would discover that far more than around nine percent of campuses “require improvement.” If Texas is going to continue to be an economic leader in the decades to come, our public education system must look at itself without a candy-coated shell. An honest accountability system doesn’t cost more, but it will drive academic performance and keep us competitive and economically strong.