

# TEXAS CONSTRUCTION ASSOCIATION

## NEWSLETTER

Spring 2014

REPRESENTING TEXAS SUBCONTRACTORS AND SUPPLIERS

### BRIAN CHESTER TO LEAD TCA

Brian Chester, Vice Chairman of the Texas Construction Association's board of directors, was elected chairman at the January meeting of the board of directors. Chester is Executive Vice President of United Mechanical in Dallas. He represents the North Texas Chapter of the American Subcontractors Association on the TCA Board.

Chester succeeds Todd Hewitt who served as TCA chair in 2012 and 2013. Hewitt represents the Central Texas Subcontractors Association on the TCA board. He has been a board member since CTSA became a Member Association of TCA. Hewitt is President of Texas Fifth Wall Roofing Systems.



*Todd Hewitt (R) receiving Chairman Service award upon retirement from TCA Chairman Brian Chester (L).*

Other changes on the TCA board....

Before stepping down, Hewitt welcomed Roger Fisher II, President of Qualtex, Inc. as the new representative for the Painting & Decorating Contractors of America. Carolyn Barten of Schnurr, Inc. was the former representative.

In addition to Chester, the new officers of TCA are: Ken Boen of Boen Plumbing in Waco. Boen will serve as Vice-Chairman. He represents the Plumbing-Heating-Cooling Contractors of Texas. The new Secretary is Victor Longo of National Terrazzo, Tile, and Marble in Houston. Longo represents the Southwest Terrazzo Association. Jerry Bratton of Bratton Steel in Dallas. Bratton will serve as Treasurer. He represents the Texas Structural Steel Institute. ★

### Election Results 2014 Primaries

Nine incumbents in the Texas Legislature lost their re-election bids in the March primary election. They were Sen. John Carona, Reps. George Lavender, Lance Gooden, Ralph Sheffield, Diane Patrick, Linda Harper-Brown, Bennett Ratliff, Naomi Gonzalez, and Lon Burnam. Three others, Lt Gov. David Dewhurst, Sen. Bob Deuell and Rep. Stefani Carter, were forced into a runoff.

The runoff is scheduled for May 27th, 2014.

Here is a rundown of the primary election results for statewide races:

#### Statewide

**U.S. Senate:** Republican Sen. John Cornyn cruised to victory in the primary. On the

Democratic side, David Alameel will face Kesha Rogers in a runoff.

**Governor:** Republican Attorney General Greg Abbott and Democrat Sen. Wendy Davis both easily won their primary races and will square off against one another in the general election, as expected.

**Lt. Governor:** In a surprise, Sen. Dan Patrick, a Tea Party favorite, led all comers in the GOP primary. He will face sitting Lt. Gov. David Dewhurst in a runoff. The winner will square off against Democrat Sen. Leticia Van de Putte in November.

**Attorney General:** Ken Paxton and Dan Branch will compete in a runoff. Paxton was endorsed by U.S. Sen. Ted Cruz. Democrat Sam Houston awaits in November.

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# TCA BOARD

## OFFICERS

Brian Chester - Chair  
American Subcontractors Association  
North Texas Chapter

Ken Boen - Vice Chair  
Plumbing-Heating-Cooling  
Contractors of Texas

Victor Longo - Secretary  
Southwest Terrazzo Association

Jerry Bratton - Treasurer  
Texas Structural Steel Institute

Raymond Risk - President / CEO  
Texas Construction Association

## DIRECTORS

Mackie Bounds  
American Subcontractors Association of Texas

Keith Colvin  
Texas Iron Workers Employers' Association

Roger Fisher  
Texas Council - Painting & Decorating  
Contractors of America

Gil Heldenfels  
Precast Concrete Manufacturers' Association

Mike Kanetzky  
National Electrical Contractors Association

Chris Lambert  
Central Texas Subcontractors Association

Tim Riley  
DFW Drywall & Acoustical  
Contractors Association

David Stone  
Fire Sprinkler Contractors Association of Texas

Lindsey Stringer  
Texas Masonry Council

Vacant  
Mechanical Contractors Association of Texas

Allan Woodruff  
Texas Crane Owners Association

Jerry Wright  
Texas Glass Association

## LEGAL COUNSEL

Richard Thomas  
Thomas, Feldman, & Wilshusen

## Message from the President

It's an election year. For many people, the mid-term elections typically are not quite as exciting as a Presidential election year; however, for those with a penchant for mudslinging, the campaigns leading to the Texas primaries this year proved to be more exciting than usual. Read the election results in this issue.

The members of the TCA Political Action Committee provided endorsements for the primary elections and will soon be looking at the runoff and the fall general elections. Thanks to the members of the PAC for the valuable service you provide for our members.

**SAVING MONEY?** This past December on my way to Irving, I picked up a printing/copying job at Office Depot in Waco. The charge was \$172.93. When the TCA store purchasing card discount was applied to the purchase, the total changed to \$84.76. The TCA National Commerce Group program provides savings in-store or online for a large number of products and services at Office Depot. Is your company registered for this TCA Member Benefit? For more information, contact TCA Vice President Jeff Webb. His email is [jwebb@texcon.org](mailto:jwebb@texcon.org). Or see the Member Benefits page in the Membership Center of the TCA web site, [www.texcon.org](http://www.texcon.org).

I acknowledge the brilliant work Gina O'Hara has done as Master Agent for the TCA-Texas Mutual Workers' Compensation program. This TCA Member Benefit program is in its 11th year and is now the largest construction safety group at Texas Mutual. Gina has just been awarded Safety Group Marketer of the year by Texas Mutual. It's her 2nd time to win it. She won last year. TCA members win every year due to her work on the TCA WC program. Thanks, Gina!

*Raymond*

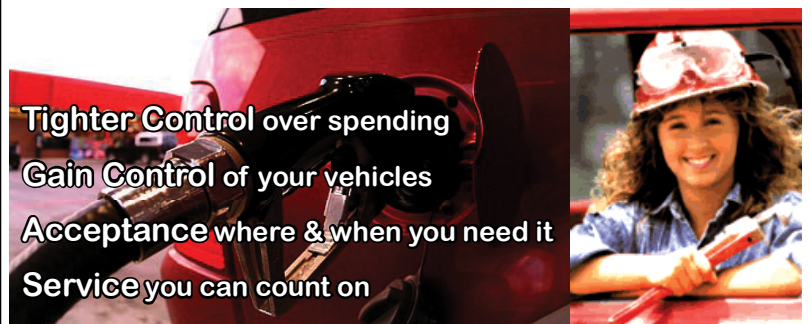


### **Take Advantage of TCA's WEX Fuel Card Program** Discounted Pricing on Fuel Management

Get all of the tools you need to reduce costly waste and save up to 15% on fuel management costs.

WEX's fuel card program gives you security by helping to protect against unauthorized spending and gives your drivers the convenience of being able to fill up just about anytime and anywhere they want.

**Contact Patrick Finnegan at TCA**  
[pfinnegan@texcon.org](mailto:pfinnegan@texcon.org) or 512-473-3773



In 2013, the Texas Legislature passed a number of bills that will impact the construction industry. Below is a brief description of each of the bills that went into effect on September 1, 2013 and January 1, 2014.

## Construction Laws Effective 9/1/13

### State Breach of Contract

The state no longer has immunity from being sued for breach of contract in disputes of \$250,000 or more. For disputes under \$250,000, the state office of administrative hearings, commonly known as SOAH, will continue to be the venue. This bill affects claims arising from contracts executed on or after September 1, 2013. HB 586 by Representative Paul Workman (R-Austin) and Senator Bob Deuell (R-Greenville)

### Career and Technical Education Programs in Public Schools

Public schools students now have curriculum flexibility in high school graduation requirements that, in part, will pave the way for career and technical education programs in the state's public schools to train and prepare students for various certifications and careers in the different segments of the construction industry as well as in other Texas industries and professions. HB 5 by Representative Jimmie Don Aycock (R-Killeen) and Senator Dan Patrick (R-Houston)

### Alternative Project Delivery

Minor adjustments were made to the law dealing with alternative project delivery methods that was passed in 2011. The adjustments were based on the experience of governmental entities and their request for minor changes to the 2011 law. HB 1050 by Representative Bill Callegari (R-Katy) and Senator Troy Fraser (R-Horseshoe Bay)

### Roofing Contractors Prohibited From Acting as Insurance Adjusters

The Insurance Code was amended to make clear that a roofing contractor cannot adjust or advertise to adjust claims for properties which the contractor is the contractor of record. HB 1183 by Representative Ryan Guillen (D-Rio Grande City) and Senator Eddie Lucio, Jr. (D-Brownsville)

### License Not Required for Certain

### Rainwater Treatment Installations

Individuals are not required to be licensed for rainwater treatment installations, exchanges, services, or repairs, other than the treatment of rainwater to supply a plumbing fixture or appliance. HB 2062 by Representative John Davis (R-Houston) and Senator Larry Taylor (R-Friendswood)



### Additional License Not Required for Installation of a Thermostat

A person licensed to provide private security services will not be required to be licensed as an air conditioning and refrigeration contractor in order to perform the limited work related to the installation, repair, replacement, or modification of a thermostat or other temperature control interface. HB 2294 by John Kuempel (R-Sequin) and Senator John Carona (R-Dallas)

# Effective Dates of New Laws

## Construction Laws Effective 1/1/14

### Worker Classification Under Government Contracts

Employers awarded a contract for public works must ensure that any individual performing services under the contract for that employer is properly classified as an employee or independent contractor. An employer who misclassifies is subject to a \$200 fine for each individual misclassified. The enforcing state agency, The Texas Workforce Commission, can also assess other penalties and interest. HB 2015 by Representative John Davis (R-Houston) and Senator Kirk Watson (D-Austin)

### Changes to the Franchise Tax Law

Institutes a temporary across the board tax cut of 5% to be phased in over two years. The current \$1 million small business exemption will be substituted for a revised tax calculation that a taxable entity will use to determine its taxable margin based on the lesser of 70% of the taxable entity's total revenue, or an amount equal to the taxable entity's total revenue minus \$1 million, or an amount computed by subtracting from total revenue the greater of \$1 million, costs of goods sold, or compensation. HB 500 by Representative Harvey Hilderbran (R-Kerrville) and Senator Glenn Hegar (R-Katy)

### Exclusion of Certain Flow-Through Funds from the Franchise Tax

Subcontractor payments related to real property improvements and remediation projects can be excluded in determining the taxable entity's total revenue for purposes of the franchise tax. HB 2766 by Representative Todd Hunter (R-Corpus Christi) and Senator John Whitmire (D-Houston). ★



# A Stroll Down Memory Lane

## Highlights of TCA Supported Legislation

### Texas Subcontractor Legislative Achievements

*TCA was established in 1998. Prior to that time the various Subcontractor Associations worked together informally on legislative issues. The following is a summary of the legislative accomplishments realized by the industry over the years.*



**1985** - Texas' first construction prompt payment law passed for public works projects.

**1991** - Texas Construction Venue Law passed. Gave contractors the right to file suit in Texas despite out-of-state venue clause in contracts. Construction indemnity bill that would ban broad form hold harmless clauses in contracts was introduced.

**1993** - The Private Work Prompt Pay Act for privately owned projects passed despite strong opposition. Revisions passed to Public Work Prompt Pay Act that closed the loopholes which allowed governmental entities to escape from the provisions of the



act. Work on construction indemnity bill gained strength.

**1997** - Surety Bill requiring companies issuing performance or payment bonds for construction projects to have a certificate of authority from the United States treasury

passed. Also, the bill required insurance companies to establish bonds on a project when the company is replacing a building to satisfy a claim instead of paying cash for the claim.

**1999** - A bill passed that amended the private work prompt payment act to provide for the right to suspend work if payment has not been received and to shorten the time for an owner to pay a contractor.

**2001** - TCA supported bills to require sureties to act in good faith when processing bond payment claims and require the surety contact information to be printed on the payment bond. Amendment passed to sunset bill that provided limitations on indemnification for state agency construction projects. Surety good faith and surety contact information bills passed.



**2003** - Bill passed that amends the public work prompt pay act. The bill provided a right to suspend work if the owner does not pay. Bill passed that overturned Texas Supreme Court ruling that gave counties sovereign immunity.

**2005** - A TCA supported measure passed that prohibits the assertion by any local governmental entity of a sovereign immunity defense in a construction contract dispute. Also, supported by TCA and passing, were measures restricting the filing of frivolous silicosis lawsuits, a measure that restricts a local governmental entity from providing construction services to other governmental entities, and a bill that substantially rewrote the workers' compensation law. TCA, working with other groups, helped to prevent the imposition of an onerous payroll tax as a method to finance the public schools.

**2006** - TCA worked with the Governor's Task Force and the legislative sponsors of the legislation that made a major revision in the business franchise tax during a Called Session of the 79th Legislature. At the request of TCA, the sponsors included a pro-



vision that allowed the construction industry to deduct the costs of materials as well as their labor costs when calculating the new business tax. This one change saved contractors and suppliers an amount equal to 1% of their material costs each year that they would have otherwise paid in franchise taxes. If a contractor spends \$1,000,000 per year in material costs, the savings in franchise taxes would total \$10,000 for that year. Also, an amendment was inserted in the tax bill at the request of TCA allowing the full deduction from its gross revenue calculation for a subcontractor's payments to lower tiered subcontractors.

**2007** - SB 324, the contingent payment bill, was passed and signed into law. This measure provides that a contingent payment clause is not effective 1) when the subcontractor does the work properly and the owner withholds payment because of actions of the general contractor or another subcontractor; 2) the owner/general contractor relationship is a sham; and 3) the enforcement of the contingent payment clause would otherwise be unconsciona-



ble. The clause is effective when the owner does not pay when the owner is insolvent; however the subcontractor can give notice to the general contractor after payment is

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not made in accordance with the prompt pay act that for future work the clause is not effective.

**2009** - Because of the broad language contained in the Texas Fraudulent Lien Act, an innocent mistake or error exposed the claimant to significant civil and criminal penalties. Many subcontractors and sup-



pliers were reluctant to file liens because of this exposure. The Act was amended to provide that a violation of the act involving a mechanic's and materialman's lien required the showing that the claimant filed the lien with an intent to defraud.

The Texas Construction Trust Fund Act (TCTFA) was amended to provide that funds subject to the Act are not subject to seizure by a claim by a bankruptcy trustee for an upstream payor who files bankruptcy. The Act was also amended to overturn an appellate court decision that limited a claimant's remedies for non-payment on a public project to the payment bond. The language change included providing that the remedies under the TCTFA and other remedies are in addition to any remedy provided by a payment bond.

Legislation was also passed providing that if a contractor or supplier prevails in a suit involving a construction contract with a local governmental entity, the contractor or supplier is entitled to recovery of its attorney fees from the governmental entity.

**2011** - Despite a Legislative Session that was filled with major statewide issues involving huge state budget issues and Legislative and Congressional redistricting, major legislation affecting the construction industry passed.

#### **Indemnification**

The enforceability of broad form indemnification and related additional insured endorsements for general construction work was limited by the legislature. While there are some exceptions in the bill for

types of projects and certain types of indemnity agreements, the bill's overall effect is to make unenforceable indemnification agreements that require a person to be responsible for another's negligent acts. There is a similar restriction on additional insured endorsements on the indemnitor's insurance policy. This legislation capped decades of work by the subcontracting industry in its repeated attempts at relief from indemnifications for negligence of others.

#### **Consolidated Insurance Programs**

The first successful legislative inroads into this area of insurance provided that a general liability policy issued under a consolidated insurance program must provide a minimum of 3 years of completed operations coverage.

#### **Retainage Lien**

The legislature saw fit to remove some of the harsh impediments in the law to give lien claimants a more reasonable path to placing a lien for retainage, while still maintaining protections for property owners.

#### **Lien Waivers**

The legislature passed a bill that prescribes conditional and unconditional statutory lien waiver forms for construction pay-



ments. Additionally, in most all cases, a person cannot waive a right to a mechanic's lien prior to receiving payment for work performed or materials supplied.

#### **Public-Private Partnerships**

This legislation established a process for governmental entities to contract with private entities to construct and operate a variety of facilities, TCA proposed an amendment that was accepted by the legislature to require performance and payment bonds to be in place before the start of any projects under the new law.

Other bills that passed included one dealing with alternative delivery system procurement for public work construction, the awarding of attorney fees in proceedings to foreclose a lien or enforce a bond claim, and the awarding of interest in a breach of contract lawsuit.

**2013** - Saw Legislative and regulation advances for the construction industry in several areas:

#### **Margins Tax**

Effective June 5, 2013, the Texas Comptroller revised Margin Tax Rule §3.588 concerning the Cost of Goods Sold (COGS) deduction. Under the revised rule, taxpayers may include as COGS both direct labor costs and those indirect labor costs, other than service costs, that are subject to capitalization under Internal Revenue Code (IRC) §263A and its regulations.

#### **State Breach of Contract**

This legislation waives the state's immunity in construction contract disputes. For disputes of \$250,000 or more, state district court will be an option for resolution of the claim. For disputes under \$250,000, the state office of administrative hearings, commonly known as SOAH, will be the venue.

#### **Career and Technical Education Programs in Public Schools**

This bill provides curriculum flexibility in high school graduation requirements to train and prepare public school students for various certifications and careers in the different segments of the construction industry as well as in other Texas industries, professions and careers.

#### **Worker Classification Under Government Contracts**

This legislation requires that employers awarded a contract for public works must ensure that any individual performing services under the contract for that employer is properly classified as an employee or independent contractor. An employer who misclassifies is subject to a \$200 fine for each individual misclassified.

#### **Exclusion of Certain Flow Through Funds from the Franchise Tax**

This bill provides that subcontractor payments related to real property improvements and remediation projects can be excluded in determining the taxable entity's total revenue for purposes of the franchise tax. ★



### Worker Classification

#### *The Problem*

Legislation was passed in 2013 that dealt with misclassification of employees for employers working under government contracts. In the private sector the practice continues and will continue. Misclassification of employees as independent contractors reportedly is widespread in the construction industry in Texas. When employees are not properly classified, tax revenue is lost as a result of unpaid state unemployment insurance taxes and federal employment taxes. Employers who misclassify their workers have a competitive advantage in bidding for jobs and divert work from employers who do pay taxes, overtime and workers' compensation premiums for their workers. In addition, the consequences for those employers violating the law are not strong enough to deter them from continuing the practice of misclassifying their workers.

#### *The Solution to the Problem*

Legislation should be passed to amend the Labor Code to require a construction employer to report properly the employment status of each employee as required by the Texas Workforce Commission (TWC) rule and the Texas Unemployment Compensation Act. In any legislative solution, the construction employer who violates this law should be required to pay the TWC an initial violation monetary penalty for each employee not properly reported by the employer. For each subsequent violation, the employer should be required to pay a much higher penalty than the penalty imposed for the first violation of the law. The law should have safeguards to allow companies to continue using legitimate independent contractors on construction projects.

### Lender Notice to Contractors

#### *The Problem*

There is no law in Texas that requires a lender on a construction project to give any notice to subcontractors or prime contractors when a lender determines that it will cease or suspend funding a construction financing agreement. If prime contractors

and subcontractors are not made aware of the decision of a lender to no longer fund a construction loan, they will continue to work on a project, and may never receive payment for labor and materials expended on the project.

#### *The Solution to the Problem*

Legislation should be passed to require Lenders to give notice to prime contractors when the lender determines it will no longer disperse funds that are part of the loan for a construction project. The law should allow the contractor and subcontractors the opportunity to stop working on a project when this notice is given.



### Retainage Trust Fund

#### *The Problem*

Texas law requires a non-public property owner to retain from the contractor 10 percent of the construction contract price or value of the work, until completion of the work on the project. That 10 percent is called retainage. In situations where a lender is providing construction financing, typically the lender only funds a loan amount for 90% of the value of the work each month and does not fund the remaining 10% until the project is finished. If the owner of a construction project funds construction with a loan from a lender and the 10% retainage is not transferred to the owner each time the lender advances loan proceeds, then contractors, subcontractors and others entitled to the retainage often do not get paid if the owner defaults on the

construction loan.

#### *The Solution to the Problem*

Legislation should be passed to require the owner to set aside in a separate account the retainage amount not paid each month to contractors and subcontractors for construction costs during the life of a project to ensure that those contractors and subcontractors will be paid the retainage to which they are entitled. This account can be a simple bank checking or savings account and does not require a lawyer-prepared agreement. As an alternative to setting aside the retainage each month, legislative language should give the owner an option to purchase an inexpensive payment bond to ensure that contractors and subcontractors would be paid the full amount of the retainage they have earned and are owed.

### Lien Law Reform

#### *The Problem*

The original intent of the lien law as contained in the Texas Constitution was to provide a remedy for mechanics, materialmen and artisans to secure payment for labor, materials or machinery furnished in the improvement of property. Through amendments to the lien law over many decades, its intent has been lost because

of different notice requirements placed on subcontractors and suppliers. Today, the numerous notice and filing requirements in the lien law trip up subcontractors and suppliers, resulting in the loss of certain lien rights available to them. Many times the reason for subcontractors and suppliers not timely giving the required notice or perfecting their liens is that the current complexity of the lien law makes the law confusing and makes the requirements in the law hard to understand.

#### *The Solution to the Problem*

The Texas lien law should be revised so that the processes and procedures for providers of construction labor or materials to perfect and maintain their lien rights are easier to understand and are straightforward. The result would be that compliance under the law would no longer be a stumbling block to trip up a laborer or materialman result-

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# Safety

## Say Thanks to a Safety Committee Member!

TCA Safety Committee members play a pivotal role in keeping Texas workers safe and helping employers earn financial rewards for creating safe workplaces. In fact, employers who purchased workers' comp insurance policies through Texas Mutual earned \$175 million in dividends in 2013. The generous payback can be directly attributed in part to initiatives recommended by a small group of safety-minded employers - the TCA Safety Committee.

The six-member group is selected from employer representatives across the state. They volunteer their time to make recommendations about improving safety in the workplace. They include:

- **Dwayne Davis**  
Davis Electric, Wichita Falls
- **Travis Fromme**  
Zarsky Lumber, Victoria

- **Shaina Payne**  
Schmidt Electric, Austin
- **Sud Pugil**  
TE-KO Contractors, Houston
- **Lonny Schneider**  
Koy Concrete, Houston
- **Jerry Wright**  
AAA Glass and Mirror, Ft. Worth

During quarterly teleconferences, they review claims losses and look for trends to help employers keep their employees safe and their bottom line solid.

For example, they recommended a bi-weekly educational bulletin, now known as Toolbox Talks. The popular online newsletter is produced twice a month and covers relevant topics, such as Driving in Winter Conditions or Back Safety. The newsletters are reaching workers and employers, and generate an average open rate of 27 percent, which is quite significant for an online publication. Best of all, the tool is helping keep workers safer and allowing employers to reap benefits in the form of financial dividends.

"There is no doubt that the work the Safety Committee performs is incredibly valu-

able," says Gina O'Hara, Master Agent for the group. "They've recommended important strategies such as webinars and bilingual Toolbox Talks. Their work has paid off for Texas employers and their employees from both a safety and a financial standpoint."

Many of the members have served on the committee for multiple years. Be sure and give a pat on the back and say "thanks!" if you know a Safety Committee member. ★

## Join the Safety Committee!

We are looking for some new Safety Committee volunteers. If your firm is safety aware and you'd like to help support your Safety Group, please consider volunteering your time. Meetings are held via teleconference each quarter and always last less than one hour.

*For more information, contact:*

Gina O'Hara  
Office: 512.330.9836, ext. 6324  
Cell: 512.415.6480

## Early Peek at 2015 Construction Issues Continued...

ing in the loss of lien rights. This can be accomplished while providing property owners mechanisms to assure a lien-free project.

## Large Construction Project Surety Bonds

### *The Problem*

Bonds are a commonly accepted method of providing performance and payment security for a public construction contract in Texas. A performance and payment bond

or alternative form of security is required of a private entity that enters into a comprehensive development agreement

with the Texas Department of Transportation (TxDOT), a regional tollway authority or a regional mobility authority. Current law authorizes these governmental entities to substitute any alternative form of security they determine to be suitable. Concerns have been raised that the law is vague and could cause the governmental entity to fail to obtain adequate security for a project without knowing that it had failed to do so. The consequences for inadequately

securing a project could put the state and taxpayers at risk if the private entity or its contractor fails.

### *The Solution to the Problem*

Legislation should be passed to amend the Texas Transportation Code to require the performance and payment bond required for the comprehensive development agreements be issued by a corporate surety authorized to issue surety bonds in Texas. The amount of the bond or alternative form of security should be sufficient to protect contractors, subcontractors and suppliers and should be equal to the cost of constructing the project. ★



Workers' Compensation Benefits *Exclusively* for Subcontractors

## Contract with us for group buying power

### Program highlights include:

- Program developed by subcontractors to benefit subcontractors
- Lower premiums due to group purchase power and larger premium discounts
- Coverage written in special Safety Group Program through Texas Mutual Insurance Company
- Aggressive claims and loss control services provided
- Participants eligible for Texas Mutual regular dividends\*
- Participants eligible for the special TCA safety group dividend\*
- Coverage is purchased through your agent with no reduction in commission
- Program has strong safety focus



To receive a quote, request that your agent send an application directly to Texas Mutual Insurance with a request for a quotation in the TCA WC Safety Group.

### Questions? Contact:

**Master Agent Gina O'Hara**  
**ohara@anco.com**  
**(512) 330-9836, ext. 6324**

\*By law, dividends cannot be guaranteed and are subject to the approval of the Texas Mutual Insurance Company Board of Directors.



# Political Action Committee Event



North Texas TCA Members came together at the top of Reunion Tower on February 20 to greet state elected officials from the area. Elected officials attended the reception hosted by 66 TCA members. After a great time over cocktails, the members bid



the officials farewell and then moved to the main event.

TCA Members Dennis Lewis, Brian Chester, Tim Cummings, and Mike McAdams led TCA Members in a robust evening of jovial fund raising for the political action committee.

Brian Chester, TCA Chairman, reported that the event set a record for subcontractor PAC fund raising and congratulated Ricky



Locke, event chair. With over \$220,000 raised at the event it greatly surpassed money raised at any TCA PAC events over the years.

As part of the fundraising event, participants were challenged to contribute money



to match pledges from various contributors. A "Wheel of Fortune" and bean bag toss were also part of the fund raising festivities, where participants spun the wheel or tossed the bean-bag to see how much they would be contributing to the PAC.

Congratulations to the sponsor ASA-North Texas and its members on their record-breaking PAC fundraising event! ★



## Upcoming PAC Events

- ASA-Houston – April 8, 2014
- Houston-Area Subcontractors Clay Shoot – August 26, 2014
- ASA-San Antonio – Early Fall
- Central Texas Subcontractors Assn – Late Summer or Early Fall

## The TCA Career Center Advantage

An important benefit of TCA Membership is our online employment resource, the TCA Career Center, which can help you streamline your hiring process by providing targeted access to the best job seekers in your field. The TCA Career Center can be found under the Member Benefits in the Membership Center at [www.texcon.org](http://www.texcon.org).

The TCA Career Center is a free service for job seekers that provides access to employers and jobs. As construction projects continue to grow in Texas, so does the need to employ talented workers. Members can use the TCA Career Center to post jobs on the

TCA website and search a collection of resumes stored in a resume database. In addition to posting their resumes, job seekers can browse and view available jobs based on the criteria and save those jobs for later if they choose. You can also create a search agent to provide email notifications of jobs that match the criteria.

For Employers the Advantage of using TCA Career Center over other



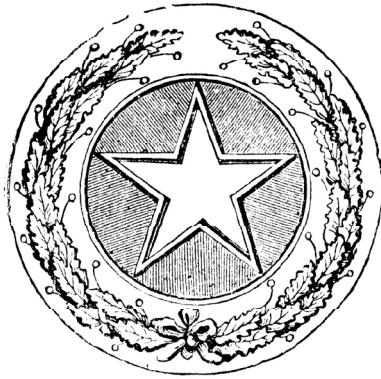
marketing approaches is, unlike other commercial job boards, the TCA Career Center targets a specific talent pool in the construction industry. So although employers may find fewer total applicants, those who do apply, will most likely match your requirements!

The TCA Career Center can be a great venue for promoting your company. Along with each job posting, you can include information about your company, your corporate logo, a google map to your location and a link to your website!

TCA encourages its members to use the TCA Career Center to attract potential job seekers! Go to the Membership Center at [www.texcon.org](http://www.texcon.org).







# High Priority Issues

## Legislative Interim

### Studies to Address TCA Issues

Although the Texas Legislature does not convene again until January 2015, the legislative interim, the time between legislative sessions, is an active time period for the legislature. During the legislative interim, the Speaker of the House of Representatives and the Lieutenant Governor issue “charges” to each of their respective legislative committees regarding issues they want the committees to address during the interim. Each of the House and Senate committees will convene public hearings in the spring, summer and fall of this year to address the charges given to each them. Interim studies can be broad or narrow in scope covering a number of issues or one specific issue. After the committees

conduct public hearings, the legislative committees may recommend legislation be filed to deal with the one or more of the issues they have reviewed.

In February, House Speaker Straus issued his interim charges for House committees. The House Business & Industry Committee received several interim charges, including two that are significant to the construction industry. The first charge calls for the committee to, “Review existing lien laws in Texas.” The committee staff has indicated that the House Business & Industry Committee will include the **retainage trust fund** and **lender notice** issues as part of the interim study on Texas’ lien laws.

In addition to the review of Texas’ lien laws, the House Business & Industry Committee will, “Examine the issues of **misclassifying**

**employees** as independent contractors on workers, employers, income tax withholding, and the unemployment insurance system.” As part of the study on misclassification of employees, the committee will also, “Review current statutory deterrents, including those required by HB 2015 (83R), and make recommendations for changes if necessary.” HB 2015 was the legislation passed in 2013 that dealt with misclassification of workers performing services in connection with governmental contracts.

As of the time of publication of this newsletter, the Lieutenant Governor has issued a few interim charges, none of which deal with TCA’s priority issues. Two issues of significance to our industry that are expected to be part of interim studies in the Senate are the retainage trust fund and lender notice issues.

TCA staff has initiated discussions regarding interim committee hearings with committee staff and will keep TCA members apprised of when and where hearings will take place. In addition, we will continue to monitor new interim charges issued by the Lieutenant Governor or Speaker of the House.

It is imperative that TCA members be present and testify or register their support for our issues at the upcoming interim hearings. TCA will also have experts presenting testimony at the hearings. ★

## Primary Results

### Continued from front page...

**Comptroller:** Sen. Glenn Hegar narrowly missed an outright win in the GOP primary (49.99% of the vote). Subsequently, second place finisher Rep. Harvey Hilderbran withdrew from the runoff. Debra Medina finished a distant third. Mike Collier was the only contestant in the Democratic primary.

**Land Office:** Republican George P. Bush coasted to victory, as expected. He will face Democrat John Cook in November.

**Agriculture:** Two former State Representative Republicans, Sid Miller and Tommy Merritt, will meet again in the runoff. On the Democratic side, Kinky Friedman and Jim Hogan will face each other in the runoff.

**Railroad Commission:** Another former Representative, Wayne Christian will face Ryan Sitton in the GOP runoff. The winner will face Democrat Steve Brown. ★



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# A CALL to ACTION!

## Now Is the Time to Meet with Your Legislators And Get Involved in Political Campaigns

The Texas Legislature will convene its Regular Session in January 2015. The Texas Construction Association will again be promoting a strong legislative agenda on behalf of the construction industry. The success of TCA's legislative agenda will be dependent on our members' involvement



in educating their state senators and state representatives about the issues that affect their day-to-day lives and their businesses and how the legislative agenda issues will affect their business and employees.

The advocacy work carried out on the local level when our members meet and talk with their elected officials is paramount to the success of the TCA legislative agenda. This local-level work is known as grassroots legislative advocacy and it is the most basic form of taking your case to your elected official and asking for his or her support to advocate for you. This kind of constituent advocacy is the most important work that members of an association can do to promote the passage of or the defeat of legislative initiatives impacting their lives and their businesses. Constituent input is the most pure form of advocacy that exists in the political process. When a grassroots advocacy program is embraced and carried out by members of an association, the success of that association's legislative agenda is more likely to be realized.

In addition, during the months leading up to the General Elections on November 4, 2014, another important form of grassroots advocacy is for constituents to volunteer their time and talents to help with their legislators' political campaigns. Campaign volunteers, among other things, put up yard signs, assist with phone banks and block walk to handout campaign material. You may volunteer for a few hours of work or, if you have the time, you may want to volunteer for more hours to help with a campaign. All you need to do is call your local candidate/legislator's campaign office and tell the staff that you want to do volunteer work for the campaign. Your offer of your time will be very welcome to the campaign and will be remembered by your legislator.

The following is a basic how to guide to set up a meeting with and

what to do when you meet with your legislator. Keep in mind, when you meet with your Senator or Representative it will be similar to a marketing meeting with another business person. The other person in the meeting just happens to be a legislator and you happen to be a constituent that lives or works in his or her legislative district. You are marketing your issues to the legislator. Make a sale!

### Overview

- The purpose of meeting with your legislator is to build a relationship with him or her so that you can easily contact that member when issues important to you are being considered by the Texas Legislature.
- Your mission for your meeting is to convey to your legislator what issue(s) you are passionate about and most effect you and your business.

- Remember that you and your business are important to your legislator-your legislator works for you, not the other way around.
- Your meeting with your legislator is about you and your interests.
- Talking about your issue or issues will help you to relax and speak from your heart without memorizing a lot of information.
- Connect your issue to personal experience. If possible, talk about others who have been harmed by situations that have arisen related to this issue. Connect this as a jobs issue. It costs you money.
- Prior to your meeting, familiarize yourself with TCA's legislative agenda in case your legislator asks you questions about any of those issues.

### The Basics of Setting Up a Meeting With Your Legislator

- Call the senator's or representative's district office and ask to schedule an appointment with your legislator at his or her earliest convenience.
- Identify yourself as a constituent – either because of where you reside or where your business is located (or both).
- Tell the legislator's staff person that you only need 15-30 minutes of your legislator's time.
- Ask the legislator's staff person what would be the easiest way for the legislator to meet with you-at the district office, for breakfast, for coffee or for lunch.
- The staff person you are talking to may ask if it would be all right for you to meet with a legislative staff person instead of the legislator.

*Continued on next page...*





- Say you would prefer to meet with the legislator and will do so at a time that is convenient for him or her.
- In the end, you may only be able to meet with a staff member. That's okay. Make the most of it!

### Preparing for Your Meeting With Your Legislator

- Remember that this will be YOUR meeting with your legislator.
- Write down the points you want to make in your meeting and review them prior to the meeting.
- Go online at [www.house.state.tx.us](http://www.house.state.tx.us) and click on "Members" or at [www.senate.state.tx.us](http://www.senate.state.tx.us) and click on "Senators". Once at either of the sites, click on your legislator and familiarize yourself with your legislator and his or her background.
- Review the TCA Legislative Agenda to be familiar with the issues.
- Call the legislator's district office a day or two prior to the meeting to confirm the day, the time and the place for the meeting.
- It's usually easier to get an appointment with your legislator during the interim period between legislative sessions.

### Meeting With Your Legislator

- Be on time for your meeting.
- Address your legislator as Senator \_\_\_ or Representative \_\_\_, unless he or she asks you to use his or her first name.



- One of the legislator's staffers may join the meeting.
- Introduce yourself and tell the legislator about you, where you live, where your business is located and how many people your business employs.
- Usually your legislator will ask you what you want to talk about or what he or she can do for you.
- Thank your legislator for asking and begin talking about your issue. Tell him or her that you have a problem related

to this issue and ask your legislator if they can help you.

- Don't be long-winded. Make your "pitch" as succinctly as possible.
- Be prepared for questions during your "pitch."
- If you don't know the answer to a question your legislator or their staff person asks, there is nothing wrong with saying, "I don't know, but I'll find the answer and get back to you."
- You may want to invite your legislator to visit your business.
- At the conclusion of the meeting, thank your legislator for taking the time to meet with you to talk about an issue that is important to you.
- Leave your contact information with your legislator's staff.
- Send a thank you note after the meeting and send any information that you were requested to send. ★

**THE TIME TO TAKE ACTION IS NOW! PREPARE THE WAY FOR A SUCCESSFUL LEGISLATIVE SESSION IN 2015!**

**VOLUNTEER NOW TO HELP YOUR LEGISLATORS' POLITICAL CAMPAIGNS!**

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