

Texas Construction Association Grassroots Political Program

Three years ago the Texas Construction Association began an aggressive grassroots political program to bring their members and their legislators closer together. "Besides the normal campaign and political contribution activity, in the past three years, we have had close to 30 receptions in the homes of subcontractors for state legislators and more are planned for the future," said Raymond Risk, President of the Texas Construction Association.

A long time ago, U.S. House Speaker Sam Rayburn said, "All politics is local." Legislators tend to listen with a greater intensity to someone from the District they represent than to someone from Austin. TCA's program is intended to acquaint legislators with their subcontractor and supplier constituents and the issues that concern them and affect their businesses.

Keith Colvin, the Chairman of the Board of TCA, says that "if you wait until the legislative session begins to acquaint yourself with your legislators and to educate them about your issues, you are probably already too late to be effective." Colvin explained that with so short a time frame as the 140-day legislative session along with nearly 6,000 bills being considered, you have to do much of your work before the legislative session begins.

Reception Program

The centerpiece of the Grassroots program is the reception in the home of a subcontractor. A subcontractor or supplier (and spouse) who is a constituent of the legislator hosts a recep-

tion in their home.

Invitations are prepared and sent to subcontractors and suppliers who live in the area. The reception is usually during the week in the early evening. These are informal affairs with hors d'oeuvres and beverages. Everyone attending is encouraged to bring a contribution. Everyone meets the legislator, and usually the legislator will make a few informal remarks. A trend at each of the receptions is that everyone winds up in the kitchen area (where the food and drinks are located) and the reception usually runs overtime.

Bob Lightfoot of Chero-Key Piping, who has hosted two receptions, said, "They are a great opportunity to talk with legislators one on one. When we hosted Joe Nixon, I got to speak to him for over an hour." Likewise, others who have hosted receptions say that they now consider themselves to be on a personal basis with the legislator they hosted. They consider themselves to be friends in addition to constituents of the legislator.

Old Fashion Blocking and Tackling

In addition to the receptions, the TCA members and staff are involved in many traditional grassroots activities. These include volunteering in legislator's campaigns, licking stamps, putting together campaign signs, putting up campaign signs, making phone calls and other necessary campaign tasks.

One TCA member even appeared



Bob and Carolyn Lightfoot with Representative Joe Nixon at a reception in their Houston home.

in a campaign commercial for a state senate candidate. (Note: he was cast as a farmer in a pick-up truck—not as a subcontractor! He is now kidded about being typecast).

Sometimes the volunteer tasks can be unusual and sometimes downright harrowing.

Harold Freeman, in the government relations department at TCA, recounts taking a couple days off from work last winter and volunteering in a

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Member Mentions

ASA North Texas

ASA North Texas announces the election of Mike Chambers (Engineered Retaining Wall Systems) to serve on the National Board of ASA, 2004-2006. Mike has served on the ASA North Texas Board for several terms, 1996-2002 and is now serving a term from 2002-2005. He served as Chapter President 1998-1999. He has also served on the Legislative, Membership, Marketing, Budget & Finance, and BPI Committees.

APHCC

APHCC would like to announce some recent awarded members:

- APHCC Texas Contractor of the Year - Steve Burch (Modern Plumbing, Pasadena)
- APHCC Texas Associate Member of the Year - Federated Insurance
- APHCC Texas Contractor Member of the Year - Jo Rae Wagner (CTO, Inc. - Harlingen)

Congratulations to all the winners.

GRASSROOTS

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state senate campaign in the Texas Panhandle. One day his job was to be the driver of a twenty-five foot recreational vehicle carrying the senate candidate's wife and three house members on a 300-mile tour of small towns in the Panhandle. What they did not know was that he had never driven an RV before and that during the tour a "Blue Norther" blew in with steady 25-30 mile-per-hour winds. One gust involuntarily moved the RV from the right hand lane and placed it in the left hand lane. Luckily it was a four-lane stretch of road with little traffic. The tour ended safely with no casualties and the supported senate candidate later won the election.

Grassroots Schedule

The Grassroots program begins when the legislative session ends. After the session, TCA members and staff spend their time thanking those legislators who have been helpful during the session. These activities can include a fundraising reception, participation in one of the legislator's events (there is photographic evidence of Raymond Risk of TCA on a horse at one west Texas Legislator's round-up), speaking and being honored by one of the member subcontractor/supplier associations, or simply visiting the legislator in his or her district.

The winter and spring activities include the TCA endorsement of can-

didates who have contested primary races. TCA members and staff will be involved in supporting those endorsed candidates. Activities may include hosting a reception, putting together and distributing signs, providing information to our membership about TCA endorsed candidates and turning out the vote of our members.

During the summer and fall, attention is focused on the general election in November. Candidates are endorsed and supported in their campaigns. Attention is also paid to legislators who may not have races in the fall but are key legislators for the construction industry in the upcoming legislative session beginning in January. Meetings with legislators are set up to discuss legislative issues expected to be considered.

The Legislative Session

During the legislative session, those TCA members who have been active in the Grassroots Program follow up with the legislators they have gotten to know. Many come to Austin during the "Texas Construction Association Legislative Day" and meet with their legislators. Some will attend the Committee meetings when legislation important to the construction industry is being considered. Hopefully when all is said and done, many will return to Austin for the bill signing ceremonies for legislation supported by Subcontractors and Suppliers.

And When the Session Ends, It All Begins Again.

Primary Races: Majority of TCA Endorsed Candidates Win

State Legislative Races

The TCA PAC endorsed 31 candidates in State Legislative Primary races and came out with 27 of the endorsed candidates winning and only four losses.

The winners in the State House included tort reforming Rep. Joe Nixon of **Houston** who won his Republican primary race by a 2 to 1 margin over a trial lawyer supported candidate. Also Rep. Allan Ritter of **Beaumont**, who is in the lumber business, won re-election over former State Senator David Bernsen. Rep. Tommy Merritt of **Longview** won re-election to the house. His family business produces insulation products for the building industry.

In the Senate, Kel Seliger (R-**Amarillo**) won an open seat in the **Panhandle/Permian Basin** region. He and his family own Lake Steel in Amarillo and sell steel. TCA was very active in supporting Senator Seliger. Senator Zaffirini (D-**Laredo**), Senator Gallegos (D-**Houston**) and Senator Van de Putte (D-**San Antonio**) all won primary races. Senator Seliger and Senator Van de Putte will also face general election opponents in the fall.

It was a tough election for seven Democratic incumbent House members who were defeated in their primary. Incumbent House members who lost were Rep. Jaime Capelo (**Corpus Christi**), Rep. Miguel Wise (**Weslaco**), Rep. Timoteo Garza (**Eagle Pass**), Rep. Glenn Lewis (**Fort Worth**) Rep. Ron Wilson (**Houston**), Rep. Roberto Gutierrez (**McAllen**) and Gabi Canales (**Alice**). No Republican incumbent lost in the Republican Primary.

Congressional Races

Probably because of the recent Congressional redistricting, there were more primary races than usual. In the **Dallas** area, State Rep. Kenny Marchant of **Carrollton** won a Congressional seat formerly held by Congressman Martin Frost (Frost is running in CD 32 against Congressional Sessions in the fall).

Marchant does not face an opponent in the fall. Congressman Ralph Hall of **Rockwall**, who recently switched from the Democratic Party to the Republican Party, easily won the Republican Primary nomination for CD 4.

In the **Houston** area, former State Judge Ted Poe received almost 60 percent of the vote to win over five opponents in the Republican primary. He will face Democratic Congressman Nick Lampson in the fall. Incumbent Democratic Congressman Chris Bell lost in the primary to former Judge Al Green (not the singer). In a new district that stretches from NW **Houston** to NE **Austin**, Austinite Mike McCaul won a runoff for the Republican nomination. McCaul faces no opposition in the fall.

In CD 25, which runs from **Austin to the Valley**, Congressman Lloyd Doggett won the Democratic nomination and Rebecca Armendariz/Klein won the Republican nomination. In CD 15, which runs from **Bastrop to the Valley**, Republican Michael Thamm won a runoff over Alexander Hamilton (not the original Alexander Hamilton). Thamm is a plumbing contractor and serves on the Board of Plumbing Examiners. He will face Democratic incumbent Ruben Hinojosa of **Weslaco** in the fall. Congressman John Carter of Williamson County will face a Democrat in the fall.

In the Congressional seat that stretches from **San Antonio to Laredo**, Cong. Ciro Rodriguez of **San Antonio**, at first beat Henry Cuellar of **Laredo** by 126 votes for the Democratic nomination for CD 28. However, after a controversial recount, Cuellar was declared the winner. A lawsuit is pending. Subject to the lawsuit, Cuellar will face Republican James Hopson in the fall.

Political Action in the Fall State Legislative Races

While the Senate will have four contested general election contests, over one-third of the House seats are

contested this fall. The majority of these races are likely to be one-sided affairs. Redistricting in the past decades has tended to make more districts solidly Republican or solidly Democratic. There are fewer so-called swing districts than ever before. However this year various events have created considerable uncertainty and controversy.

First, the Legislature failed to pass legislation in the most recent special session which was called for the purpose of eliminating the Robin Hood school funding system, reducing school property taxes and reforming our school finance system. Whether or not there will be another special session called this summer to address the issue is currently unclear.

Secondly, the Congressional Redistricting bill, passed in the Third Called Special Session last fall, created controversy and possible problems for incumbent legislators in both parties. The Democrats face issues involving their leaving the state and the Republicans have issues with unprecedented mid-decade redistricting.

Add to this the considerable flux on the national scene and incumbents in both parties may have more obstacles than they have encountered in recent elections.

There are 51-contested House seats in the general election. Because of retirements or defeats in the primary, there are five races with no incumbent. There are probably another 10 to 12 House Districts in which the incumbent received less than 55 percent of the vote in the 2002 general election. Many of these races may be closer than they were in the last election.

In the Senate, four incumbent senators face opponents. These are Republicans Kim Brimer (**Fort Worth**), Craig Estes (**Wichita Falls**) and Kel Seliger (**Amarillo**). Democrat Leticia Van de Putte (**San Antonio**) has an opponent in the fall. All are favored to win election.

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Texas Construction Association WorkSafe™ Program

According to the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor, occupational injuries and illnesses cost American businesses up to \$171 billion per year. **This money comes directly out of profits, drastically affecting company value and net worth.** In addition, a 2003 study by the Journal of the American Medical Association found that lost production time, including absenteeism and modified work schedules, cost businesses an estimated \$61 billion annually.

Implementing an organized safety and health program can dramatically reduce a business's work-related injury rate and ultimately have a positive effect on profitability. OSHA claims that workplaces can reduce their injury and illness costs by over 40 percent, simply by instituting a formal health and safety management system.

A New Partnership

The Texas Construction Association has recently announced a new cutting edge safety program for its membership. TCA recently formed an alliance with a workplace safety industry leader, WorkSafe™, and believes that their state of the art safety system will have a drastic effect on how TCA members look at safety and loss control. TCA President and CEO Raymond Risk says, "We are extremely excited about our new partnership with WorkSafe™ and believe the program will help TCA members save lives and money. We are proud to extend this opportunity to TCA members and feel the rewards of this partnership, both physical and fiscal, will be seen for years to come."

TCA's partner in this program, WorkSafe™, is a nationally recognized OSHA compliance and loss

control firm based in Dallas, Texas, with offices in other Texas cities. The firm has developed an innovative program that helps businesses offer a safer work environment, while controlling the ever-growing cost of work-related injuries and illnesses.

A Customized Program

The TCA WorkSafe™ program is not a "one size fits all" safety program. Each client receives a customized plan of attack tailored to its specific needs. This level of customization is made possible by utilizing thorough fact finding and analysis.

A key component to the TCA WorkSafe™ program is a thorough, certified, job-hazard analysis. This analysis allows the engineers at WorkSafe™ to get an accurate reading of a company's strengths and vulnerabilities, and allows them to quickly address any problems or shortcomings they might find.

Training Management System

The analysis also provides vital information needed to design a unique training syllabus for each individual client. These specific training needs are easily met through the implementation of a customized Training Management System or "TMS." The TCA WorkSafe™ TMS offers employees a new and effective way of learning safety materials, while allowing administrators a paperless, hands-free method to manage training and records. The system is designed to function in virtually any environment by offering Individual, Group, and In-the-Field modes.

John Higgens with Saulsbury Industries says, "I am particularly pleased to see a computer-based program that allows each trainee to

progress through the training at his or her individual pace. Employees can train anywhere at any time. The versatility of the program makes this the best computer-based, safety-training program I have ever seen."

The combination of text, audio and video helps reinforce the learning for each student employee, while the easy to use interface and database tracks the student's every move.

Additionally, the TCA WorkSafe™ program will offer several other key products and services to help facilitate the benefits of a safe working environment. Some of these aids include: Written Occupational Safety and Health Programs, Mock OSHA inspections, formation and participation in Safety Committees, OSHA negotiations, and many more.

Changing Attitudes

The TCA WorkSafe™ program is not a one-time quick fix. **The program is designed to change safety awareness and attitude in a company from the top down.** Johann Wasserman, Chairman of WorkSafe™, says, "Our program is not stagnate, but rather evolves with a company's ever changing needs. The program becomes an integral part of daily operations."

The TCA WorkSafe™ program takes a proactive stance towards work-related injury and illness prevention. Keeping workers productive and, more importantly safe, is the ultimate goal.

For more information about this unique safety program, please call the TCA WorkSafe Safety Office at 1-888-345-0880.

2005 Texas Legislature

Issues of Concern for Subcontractors & Suppliers

January 11, 2005 marks the beginning of the 79th Texas Legislative Session. TCA has been at work getting ready for the session while also working on school finance issues the Governor has placed in his Called Session. Here is a highlight of some of the issues the TCA Board of Directors has approved for the 2005 session.

Limiting Use of Contingent Payment Clauses. Most contracts presented to subcontractors provide that the General Contractor does not have to pay the Subcontractor if the owner does not pay, even though the Subcontractor performs the work properly. This is a serious problem that must be corrected! A Subcontractor should be paid for properly performed work.

Prohibiting Indemnification Clauses. Another clause found in construction contracts provides that the Subcontractor indemnifies the general contractor or owner for its wrongdoing even though the Sub may have done nothing improper. These clauses should be made void. They are in direct conflict with the concept that a company should be responsible for its negligent acts.

Sovereign Immunity - Right to Sue Public Entities. A State Appeals Court in Dallas recently ruled that School Districts have Sovereign Immunity and they cannot be sued for Breaching their contracts. In April, the Texas Supreme Court heard a case involving a landscaper suing a city for breach of contract and the city has claimed immunity from suit. The right to a remedy must be restored. Sovereign Immunity for contractual disputes must be eliminated!

Workers Compensation Reform. Workers'



Compensation Premiums are on the rise again. The Workers Compensation Commission will be reviewed by the Legislature this interim and in the regular session in 2005. Changes should be made to strengthen health care cost containment measures and anti-fraud measures. Contractors and Owners in the contractual chain should be entitled to the same employer protections as the subcontractor employer who carries workers' compensation.

Owner Controlled Insurance Program. Last Session, TCA helped defeat legislation that would have required the use of OCIP's on every public project. While they may be beneficial on some very large projects, OCIPs should not be mandated on every project.

Limiting Use of Reverse Auctions. Reverse auctions are being used more often in construction contracts. Last Session a bill was considered

to require reverse auctions to be used on at least 10 percent of Public Projects. Reverse auctions are a public bid shopping procedure that creates havoc in an already complicated bidding procedure. Reverse Auctions are not a good procurement method for construction projects.

School Finance and Tax Reform. The Legislature may meet again in another Called Session to revamp the way Texas finances its schools. Ultimately, the Legislature will have to change the tax systems and this could change positively or negatively the impact of State taxes on your business. TCA worked hard during the last special session on School Finance and will be working to protect the interests of subcontractors if another special session is called by the Governor.

Bye-Bye, Paycheck

Companies are steadily replacing paper checks with bank payroll cards

Companies already using the Payroll Debit Card are: McDonald's, Lowe's, Sears, UPS, FedEx, Cingular Wireless, Blockbuster, Office Depot, and Coca Cola.

In today's very competitive business world, companies are constantly attempting to find ways to reduce cost, utilize their scarce resources more effectively and have an edge on their competition.

Mounting banking fees and employees attempting to cash their payroll checks are becoming an annoyance for businesses. Some employees do not have bank accounts (unbanked) and pay **2% to 3%** of their payroll check on payday and even up to **10%** at some check cashing locations!

In the construction business many employers are finding their cost escalating for processing employee paychecks. Time spent dealing with paycheck services or simply by the internal administrative staff adds up. As a result, an employer's field management staff is spending more time delivering paychecks. This equates to more cost, hidden expenses and time spent processing checks when field

staff should be on construction projects. How many times have your employees knocked off work early to get their paychecks?

Employers are moving to direct deposit and looking for an alternative to efficiently pay their firm's unbanked employees. The alternative is the Payroll Debit Cards.

Texas Construction Association is now providing a **cash payroll debit card** to member firms. This card will allow employers to reduce their overall payroll cost and allow employees to receive their pay each payday in a very efficient and secure method using the **Texas Construction Association Cash Card**. The employer pays a small monthly fee and fifty cents per pay period to load an employees pay onto card.

The employee can use the card to withdraw cash at a bank or at any ATM. He or she can purchase items in locations throughout their communi-

ty. For example, Wal-Mart allows payroll debit card purchases. Upon purchase, employees may also receive cash form their card. Using a card for purchases provides more security than carrying large sums of cash.

Employers can also use the card as a management tool for expense accounts for employees working on out of town projects. Using the TCA Cash Card will eliminate the open-ended exposure of credit cards.

For an overview of the benefits of the program, please read the advertisement within the newsletter.

Texas Construction Association has partnered with Hilb Rogal & Hobbs to provide TCA Cash Card service to TCA Member Firms. Rusty Donohue, Director of Payroll Benefit Cards, can be reached at 800-242-0097 or e-mail at rusty.donohue@hrh.com. He will provide you with information on this program and how it will benefit your firm.

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WE'LL SHOW YOU HOW!

TCA and Subcontractors Become Involved in the Recent Special Legislative Session

The Texas Construction Association was very involved during the recent special legislative session on school finance by providing information and data that showed the impact of the various business tax proposals being considered on subcontractors and the construction industry.

Various tax alternatives considered included a proposal for a payroll tax on every employee, a business activity tax, or an expanded franchise tax that would include partnerships and sole proprietorships.

Several Texas Construction Association members provided financial information on a confidential basis, which allowed TCA to provide comparisons about the impact

between the various proposals on our member's businesses. Comparisons were also made between the amount to be paid under the new proposed tax and what various subcontractors currently pay in state business taxes along with any savings from a proposed property tax reduction.

The subcontractor information was one of the few sources available to legislators that provided hard numbers and gave legislators an idea of the real world impact of the proposals they were considering. Most of the information otherwise provided to the legislature was generally based upon assumptions or merely anecdotal. Hard numbers were scarce during this abbreviated special session.

After several weeks of considering

different tax proposals and with the end of the 30-day special session nearing, both chambers adjourned without passing a School Finance bill. The House and Senate each appointed working groups to meet and consider various financing proposals. This process began in early June. Some type of broad-based business tax will likely be considered and coupled with other expanded taxes, such as sales and cigarette taxes.

It is not clear at this time whether another special session will be called or the Legislature will wait until the 2005 regular session of the Legislature to consider a School Finance Plan. A court case challenging the constitutionality of the current system is scheduled to begin in August.



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