

TEXAS CONSTRUCTION ASSOCIATION

NEWSLETTER

Summer 2013

REPRESENTING TEXAS SUBCONTRACTORS AND SUPPLIERS

Legislature Passes Bills to Benefit Construction Industry

Before the regular session of the 83rd Texas Legislature convened on January 8, 2013, the staff and members of TCA worked for over 1½ years preparing for the session. That work included acquainting state senators and representatives with subcontractor and supplier issues and seeking their support of TCA's legislative agenda. The work also entailed a large number of meetings to discuss TCA initiatives with both allies and opposition groups to determine if common ground could be reached on legislation that was eventually filed during the session.

In 2011, TCA and the construction industry went into the session with a very ambitious legislative agenda that included six major issues to be addressed. Despite significant opposition to those initiatives, subcontractors and suppliers were successful in passing legislation on four of those major issues. Not wanting to let up its advocacy efforts, TCA embarked on another ambitious agenda in 2013 that included five high priority issues and three additional construction-related issues.

In addition to TCA's priority issues and other construction-related issues, there was one major issue the TCA Board of Directors believed was paramount to any other advocacy work in 2013—to preserve the success and progress that was gained in 2011 and not allow those gains to be diminished through legislative action. We are very happy to report that none of our gains from 2011 were lost.

When the 83rd Texas Legislature adjourned its regular session *sine die* on May 27, 2013, TCA could not claim legislative victories on its five high priority issues. TCA was instrumental, however, in helping several bills pass that are of significance to the construction industry. Those bills will be discussed in this article.

One of the many positive items TCA can take away from the 2013 regular session is that there was a marked increase in the level of legislative knowledge of and support for the issues that are so vital to the success of the Texas construction industry. Passing legislation takes time. In 2013 the groundwork was laid for future success on TCA's high priority issues. TCA will build on the positive outcomes of this session and will continue to work hard during the legislative interim as we look toward a successful session in 2015.

TCA Priority Legislation That Will Become Law

State Breach of Contract

HB 586 by Representative Paul Workman (R-Spicewood) and Senator Bob Deuell (R-Greenville)

Through the years, the Texas legislature has passed bills to waive immunity for cities, counties, school districts and junior colleges to lawsuits filed by private citizens for claims for breach of a written contract. This legislation waives the state's immunity in construction contract disputes. For disputes of \$250,000 or



Representative Paul Workman (R-Spicewood)

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. Effective 9/1/13

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Message from the President

This year's regular session of the Texas legislature was marked by relatively peaceful cooperation between the Republicans and Democrats. Also, the state's coffers were higher than last session and that allowed for an easier budgetary process. Ah, when money isn't tight, people breathe easier.

Business saw revisions in the state's business revenue raiser, the franchise tax. For many, the tax will be lowered. For construction companies, TCA, working with other construction associations, completed a 2-year effort with the Comptroller to reverse an unfavorable interpretation of the cost of goods sold calculation. We were successful in our efforts. George Rendziperis, J.D. from Padgett Stratemann gives a full update in this issue.

While a few of TCA's issues passed, regrettably our highest priority issues did not. Indeed, we were disappointed that the legislature did not take positive action on some of our most important issues. However, we are pleased with our successes, and with the progress that was made toward passing our high priority issues in the future.

As of this writing, the first called session of the 83rd Legislature just ended. The second called session began on July 1. Several issues are on the table and the governor may add more. We'll be watching and so should you.

I am hopeful you'll have a wonderful summer!

Raymond



Is **this** your health care benefit plan?

Get more through your TCA member program

The Texas Construction Association has joined forces with Humana to offer a multi-faceted health care program at discounted rates to its members. Higginbotham Insurance Agency has Texas statewide offices providing sales and service for this exclusive program.

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Looking Back on the 83rd Legislature

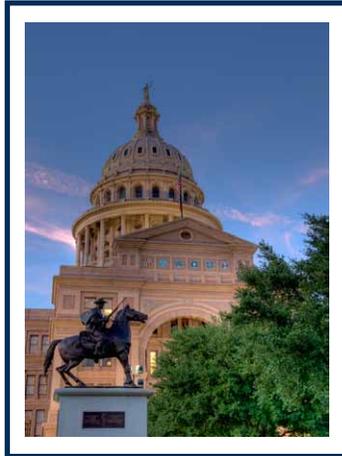
Looking back, the 2013 regular session is most notable for its lack of fireworks. Unlike some of the recent legislative sessions, there were few key contentious issues facing the legislature. The state had a healthy budget surplus, so the legislature was not forced to make deep spending cuts as in recent sessions, and redistricting was not on the agenda (although it was considered during a called session immediately after the regular session). Another key reason for the relative tranquility is the governor did not declare any emergency items at the beginning of the session. Under the Texas Constitution, in the first 60 days of the regular session the legislature may only consider items that the governor declares an emergency. In 2011 the governor declared numerous emergency items, many of which appealed to the base of the Republican Party and proved to be divisive in both the House of Representatives and Senate.

There were also 41 new members in the House, as well as six new members in the Senate, four of whom previously served in the House. The new House members appeared to concentrate on building relationships with their colleagues, instead of fighting partisan battles that some expected. In that spirit, the House adopted “purple Thursday” with all members encouraged to wear purple that day of the week. At the same time, the legislature continues to be overwhelmingly Republican, with 95 Republicans, out of 150 members in the House, and 19 Republicans out of 31 members in the Senate. This advantage allowed Republicans to set the agenda for the session and prevent certain issues from receiving full consideration.

Although the legislature did not address as many high-profile issues as it has in the past, it passed numerous pieces of legislation that will impact our state. Below is a summary of some of the key issues the legislature addressed.

Due to the current multi-year drought, a key issue that was addressed was funding the state's water plan. HB 4 created the State Water Infrastructure Fund for Texas. There is a concurrent constitu-

tional amendment that will go before voters this fall that will give voters the opportunity to place \$2 billion from the Rainy Day Fund (the state's “savings account”) into the Infrastructure Fund for Texas. This money will be used to finance water infrastructure projects that were laid out in the 2012 state water plan.



Identified as a priority entering the session, efforts to increase funding for road construction and maintenance fell short. There were a variety of bills filed that would have created revenue to fund transportation, including increasing vehicle registration fees. With the legislature hesitant to create any new fines or fees, these measures failed to pass and funding for transportation fell far short of the \$4 billion the Texas Department of Transportation says it needs to maintain the current level of traffic congestion. As of this writing, lawmakers are meeting for a second called session. Transportation infrastructure funding is one of the three items currently on the call.

The budget surplus allowed the legislature to restore \$3.9 billion of the \$5.4 billion in cuts made to public education last session. Some education advocates sought an even greater amount of education funding, citing the continued growth in student population. The legislature also made significant reforms to public education. Responding to criticism that public schools are spending too much time “teaching to the test,” the legislature reduced the required number of standardized tests needed to graduate from 15 to 5; high school curriculum requirements were also

reformed to allow students more flexibility in determining the courses they take. There is more on education legislation in this newsletter.

The surplus also allowed the legislature to provide over \$700 million in tax relief by amending the franchise tax. HB 500 made permanent the exemption for businesses that have less than \$1 million in gross receipts and gives a \$1 million exemption for small businesses. The bill also provides temporary rate cuts of 2.5% and 5% over the next two years, as well as targeted deductions for specific industries. See the article regarding the impact of HB 500 on the construction industry in this newsletter.

Looking to spur continued economic development, the Legislature passed HB 3390, which extends the Economic Development Act. This act allows school districts to offer property tax abatements on land that will be used for new business investments that will “enhance the local community, improve the local public education system, create high-paying jobs, and advance the economic goals” of Texas.

Immediately following the regular session, Governor Perry called the legislature back into session. The governor defines the agenda for each called session and the initial “call” was limited to making permanent the redistricting plans drawn by a three-judge federal panel for the 2012 elections. The judges invalidated the Legislative and Congressional maps the legislature developed in the 2011 regular session, citing the maps did not comply with the Federal Voting Rights Act. The federal judges drew maps specifically for the 2012 elections.

The call was later expanded to include funding transportation infrastructure projects; regulation of abortion procedures, providers and facilities; and establishing a mandatory sentence of life with parole for a 17-year-old offender who commits a capital felony. When the first called session ended on June 25, only redistricting bills had passed. A second called session began on July 1. All three of these issues will be addressed again in July. ★

Construction Industry Successful in Negotiations with Comptroller



George Rendziperis, JD
is senior manager,
state and local
tax services at
Padgett Stratemann.

Effective June 5, 2013, the Texas Comptroller has 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.

This change has taken over a year of negotiations and meetings between the Construction Industry and the Comptroller. The Construction Industry did not feel that the Comptroller was interpreting Texas Code §171.1012 correctly resulting in certain costs (supervisory costs) being disallowed by the Comptroller as a valid Texas COGS deduction.

The Texas Construction Association and other associations and members of the Construction Industry scheduled meet-

ings with the Comptroller to discuss its policy and educate the Comptroller on the construction industry's practices of allocating costs incurred to its various jobs. As a result of the dialog with the Comptroller, the Comptroller put a hold on all audits of construction companies in order to understand these industry practices.

Under the Comptroller's former policy, it interpreted Texas Code §171.1012 that the only allowable direct labor costs were employees directly working on the job site (i.e., putting hammer to nail). This interpretation resulted in the Comptroller disallowing various expenses as Texas COGS.

Under the revised rule, a taxpayer may include as COGS labor costs, other than service costs, that are properly allocable to the acquisition or production of goods and are of the type of costs subject to IRS Regulation §1.460-5 as direct labor costs, indirect labor costs, employee benefit expenses, or pension and other related costs, regardless of whether the taxpayer actually capitalizes these costs for federal income tax purposes.

Labor costs include W-2 wages, IRS form 1099 wages, temporary labor expenses, payroll taxes, pension contributions, and employee benefits expenses including per diem reimbursements for travel expenses. Labor costs that do not meet the definition above may be

deductible under another provision of the rule.

The revised COGS rule added a definition of "service costs." Service costs may be taken as indirect COGS subject to the 4% limitation. Service costs are indirect labor costs and administrative overhead costs that can be identified with a service department or function, or that directly benefit or are incurred by reason of a service department function. A service department includes personnel (including costs of recruiting, hiring, relocating, assigning, and maintaining personnel records or employees); accounting (including accounts payable, disbursements, and payroll functions); data processing; security; legal; general financial planning and management; and other similar departments or functions.

The revision of Margin Tax Rule section 3.588 is a change of policy by the Comptroller as a result of the hard work, effort and dedication of the Texas Construction Association and other associations and members of the construction industry. The revised rule should create consistency among taxpayers and the Comptroller regarding the application to labor costs.

In other Texas tax news, the governor has signed House Bills 500 & 2766. These have direct implications for construction companies and are discussed below.★

Legislature Makes Major Changes to Franchise Tax Law

Construction Industry Fares Well

With strong encouragement from various business interests, the Texas legislature passed House Bill 500 during the 83rd Regular Legislative Session. The bill retained several of the House's industry specific fixes and included the Senate's temporary across the board tax cut of 5% that is phased in over two years (2.5% first year and 5% second year), revenue permitting. Major details that affect construction companies are:

- Effective January 1, 2014
- Temporary reduction in the 1% and .5% tax rates: 1st year a 2.5% reduction and 2nd year 5% reduction subject to the Comptroller certifying that

revenue is available to allow for the 5% reduction.

- Substitutes the current \$1 million small business exemption for a revised taxable margin calculation based on the lessor 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, COGS or Compensation.
- Provides that taxable entities that are primarily engaged in transporting aggregates or barite can exclude

from total revenue subcontracting payments made to independent contractors for delivery services.

- Provides that relocation costs by new entities to Texas may deduct the relocation costs in the first filed franchise tax return.
- Creates a new tax credit for certified rehabilitation of certified historic structures only for returns filed for report year 2014.
- Provides that subcontractor payments related to real property improvements and remediation projects can be deducted from total revenue. (HB 2766) ★



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Benefits for Construction Industry Continued...

Career and Technical Education Programs in Public Schools

HB 5 by Representative Jimmie Don Aycock (R-Killeen) and Senator Dan Patrick (R-Houston)

With the aging of skilled workers in the construction industry, Texas public schools need to establish career and technical education programs to train and prepare students for various certifications in the different segments of the industry. **HB 5** will provide 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, professions and careers. The bill also reduces the emphasis on testing by decreasing the number of end-of-course examinations required for graduation. Passage of this legislation was, in part, a result of advocacy efforts by the Jobs for Texas Coalition, a group of 22 industry trade associations in Texas. TCA is a member of the Jobs for Texas Coalition. Some portions of the bill were effective 6/10/13, with other provisions effective 9/1/13.

Worker Classification Under Government Contracts

HB 2015 by Representative John Davis (R-Houston) and Senator Kirk Watson (D-Austin)

This legislation amends the Texas Labor Code to require 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. **HB 2015** also requires a subcontractor employer under that contract for public work to classify properly an individual as an employee or independent contractor. An employer who misclassifies is subject to a \$200 fine for each individual misclassified. Effective 1/1/14

Construction Industry Legislation That Will Become Law

Exclusion of Certain Flow-Through Funds from the Franchise Tax

HB 2766 by Representative Todd Hunter (R-Corpus Christi) and Senator John Whitmire (D-Houston)

This legislation 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. Effective 1/1/14

Alternative Project Delivery

HB 1050 by Representative Bill Callegari (R-Katy)

This bill was filed in order to make minor adjustments 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. Representative Callegari also authored the 2011 legislation. Effective 9/1/13

"Ensuring the proper classification of workers is an important issue for Texas employers and employees. I am proud that the Legislature passed House Bill 2015, which will allow for greater enforcement of worker classification laws in connection with governmental contracts. I hope that this bill will be seen as a starting point that can be used to help build support for broader worker classification bills in future legislative sessions."



Representative John Davis (R-Houston)

TCA High Priority Legislation That Did Not Pass

Retainage Trust Fund

HB 3316 by Representative Jim Keffer (R-Eastland).

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. 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.

HB 3316 would have required the owner to set aside in a separate trust 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 trust account can be a simple bank checking or savings account and does not require a lawyer-prepared trust agreement. As an alternative to setting aside the retainage each month, **HB 3316** would have allowed the owner 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.

In 2011, **HB 1425**, the retainage trust fund bill by Senator Jeff Wentworth, was approved by a Senate committee, the full Senate and a House committee only to die on the House Calendar in the final days of the session. In 2013, **HB 3316** was approved by the House Business & Industry Committee and set for one of the last Calendars in the House toward the end of the session. Trey Martinez Fischer, a state representative from San Antonio, raised a point of order late in the evening of the last day for House bills to be considered by the House. The point of order dealt with a drafting error on the part of legislative drafters in the bill analysis that accompanied the bill for consideration by the House. The point of order was sustained by the Speaker and the bill died there.

Worker Classification

HB 1925 by Representative John Davis (R-Houston) and **SB 676** by Senator John Carona (R-Dallas)

Misclassification of employees as independent contractors reportedly is widespread in the construction industry in Texas.

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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.

HB 1925 would have amended the Labor Code to require a construction employer to properly report the employment status of each of its employees as required by the Texas Workforce Commission (TWC) rule and the Texas Unemployment Compensation Act. A construction employer who violates this law would be required to pay the TWC an initial violation penalty of \$100 for each employee not properly reported by the employer. For each subsequent violation, the employer would have been required to pay a penalty not to exceed \$1,000 for each employee not properly reported.

HB 1925 was heard in the House Economic & Small Business Development Committee, was voted favorably out of the committee by a vote of 7-0 and was sent to the House Calendars Committee where it remained until it died under House rules. The Senate Economic Development Committee conducted a public hearing on **SB 676** and the bill was never voted on by the committee.

Lender Notice to Contractors

HB 2180 by Representative Cecil Bell, Jr. (R-Magnolia) and **SB 295** by Senator Bob Deuell (R-Greenville)

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.

In 2011, a lender notice bill was filed, but the legislation did not pass. **HB 2180** and **SB 295** would have required lenders by law 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 would have allowed the contractor and subcontractors the opportunity to stop working on a project when this notice is given. Both bills were heard in the House and Senate committees, but neither one was voted out of committee.



Senator Bob Deuell (R-Greenville)

"Telling the truth about a given business situation is the decent and right thing to do. The opposition to lender notice that is based on speculation about subjecting lenders to potential litigation is a weak argument."

Lien Law Reform

SB 1281 by Senator José Rodríguez (D-El Paso) and **HB 3553** by Representative René Oliveira (D-Brownsville)

The original intent of the lien laws 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. Over time, through amendments to the lien laws, the intent of the lien laws has been lost because of different notice requirements placed on subcontractors and suppliers. Today, if the numerous notice and filing requirements in the lien laws are not followed as they are written they will 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 laws makes them confusing and makes the requirements in the laws hard to understand.

SB 1281 and **HB 3553** would have

revised the Texas lien laws so that the processes and procedures for subcontractors and suppliers to perfect and maintain their lien rights are easier to understand and are straightforward. The result would be that compliance under the laws would no longer be a stumbling block to trip up subcontractors and suppliers resulting in them losing the lien rights that are available to them.

Senator Rodríguez's staff arranged a number of meetings with stakeholders on the lien law reform issue in order to determine their responses to the legislation. Subsequent to those meetings, it was determined that there was not enough time to adequately address the issue and pass an extensive reform bill during the legislative session. All parties, including Senator Rodríguez and Representative Oliveira, believe that lien law reform should be addressed in a legislative interim study in order to bring all stakeholders to the table. The desired result of the interim study would be in the form of comprehensive legislation to be filed in the 2015 legislative session.

Consolidated Insurance Programs

In light of ongoing discussions with the Texas Department of Insurance, no legislation was filed to deal with consolidated insurance programs (CIPs). Instead, TCA will work with the agency to resolve our industry's concerns about these programs through rulemaking at the agency.

Consolidated insurance programs (CIPs) are insurance programs in which a principal, usually an owner or general contractor, provides insurance coverages that are bundled into one insurance program for a single construction project or multiple construction projects. They are also known as WRAPS, OCIPS, CCIPS, ROCIPS. The program typically provides coverage for each entity on the project, from the general contractor to the subcontractors and their employees, for general liability, workers' compensation, and builder's risk. When coverage on a construction project is provided through a CIP, savings are achieved through an economy of scale, and the general contractors and subcontractors are expected or

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Benefits for Construction Industry Continued...

required to lower their bids for the project to reflect the insurance costs they would have included in their bids. In many cases where construction projects are covered by CIPs, subcontractors do not have an opportunity to examine the policy or learn the extent of coverage provided by the CIP prior to bidding or beginning work on a project. Because of this lack of notice, a contractor or subcontractor does not have enough information to allow them to accurately predict the credits, deductibles, and other costs that may be assessed to them. Construction specifications for a construction project that may be covered by a CIP should provide notice that the project may be covered by a CIP. In addition, prior to the execution of a construction contract under a CIP, the persons entering into the contract should be provided written disclosures, which would include the scope of coverage and limits for each policy under the CIP.

Legislation Affecting the Construction Industry That Did Not Pass

Elimination of Unnecessary Regulation of Various Occupations

HB 87 by Representative Bill Callegari (R-Katy)

This bill would have allowed an individual to engage in an occupation without being subject to any licensing regulations if it is proven that the regulations related to that occupation are substantially burdensome and unnecessary to fulfill the intent of the statute authorizing the regulation. The legislation grew out of an interim legislative committee on government reform's finding that occupational licensing programs administered by the state have grown to affect a significant portion of the Texas workforce. It is estimated that the state now regulates more than 500 types of occupations, representing jobs held by approximately 2.7 million Texans, or nearly one-third of the state workforce. The committee found that there is a compelling public interest served through occupational licensing programs, but greater occupational regulation has a negative impact for the state's workforce and consumers, especially in instances where these programs restrict an individual's entry into regulated occupations.

Relating to Interlocal Roofing Contracts
HB 123 by Representative Charles "Doc" Anderson (R-Waco) and **SB 438** by Senator Brian Birdwell (R-Granbury)

This legislation would have created a requirement that an interlocal contract between a governmental entity and a purchasing cooperative could not be used to purchase roofing materials or services from a person who provided consulting services to the cooperative for development of the Request for Proposals. It would have required cooperatives to consult a third party when seeking consultation on a bidding process to ensure competitiveness.

Mandatory Workers' Compensation for Building and Construction Contractors

HB 475 by Representative Armando Walle (D-Houston) and **HB 740** by Senator José Rodríguez (D-El Paso)

This legislation would have established mandatory workers' compensation coverage for all building and construction contractors in Texas. Currently, workers' compensation is mandatory on public construction only.

Mandatory Worker Safety Training for Government Construction Projects

HB 493 by Representative Armando Walle (D-Houston) and **SB 167** by Senator Bob Deuell (R-Greenville)

These bills would have required a contractor working on a construction project under a government contract to provide the contracting government entity with a certificate indicating each worker on that project has completed safety training before he or she may work on that project.

Requiring the Use of Domestic Iron, Steel and Manufactured Goods on Government Construction Contracts

HB 558 by Representative Yvonne Davis (D-Dallas)

This measure would require that government construction projects that will use iron, steel, and manufactured goods must include the requirement in all bids that the iron, steel and manufactured goods used must be produced in the U.S. Note that the language from **HB 558** was amended into the comprehensive water bill, **HB 4**. Any construction related to work on water infrastructure

covered by **HB 4** must meet this requirement. The sponsors of the amendment were Representative Davis and Representative Charlie Geren (R-Fort Worth).

Suspension of Professional Licenses for Employers Knowingly Hiring Undocumented Workers

HB 559 by Representative Cindy Burkett (R-Mesquite)

This bill would have called for the suspension of any license held by an individual if that individual knowingly hires a person unlawfully present in the U.S.

Licensing and Regulation of Foundation Contractors

HB 613 by Representative Rob Orr (R-Burleson)

This legislation would have established regulations and licensing of foundation repair contractors.

Licensing and Regulation of Roofing Contractors

HB 888 by Representative Kenneth Sheets (R-Dallas) and **SB 311** by Senator John Carona (R-Dallas)

This legislation would have set up regulations and licensing for roofing contractors, but would not apply to roofing services for new construction on a commercial or residential structure.

Providing Alternative Methods for Performance and Payment Security for Public Construction Contracts

HB 1134 by Representative Drew Darby (R-San Angelo) and **SB 638** by Senator Ken Paxton (R-McKinney)

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 the governmental entities listed above 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

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Benefits for Construction Industry Continued...

to do so. The consequences for inadequately securing a project could be substantial for the state and subcontractors if the private entity or its contractor fail.

This legislation would have amended the Transportation Code to require the performance and payment bond

required for comprehensive development agreements be issued by a corporate surety authorized to issue surety bonds in Texas. Under the bill, the amount of the bond or alternative form of security was to be sufficient to protect contractors, subcontractors and suppliers and would be equal to the cost of constructing the project. There was

language in the bill that provided an exception for a contract price that exceeded \$250 million in construction costs. In those instances, the required amount of security for the project would be set at not less than \$250 million. ★

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

Constitutional Amendments on Fall Ballot

The Texas Constitution provides that the Legislature, by a two-thirds vote of all members of each house, may propose amendments revising the constitution and that proposed amendments must then be submitted for approval to the qualified voters of the state. The regular session of the 83rd Texas Legislature passed 10 resolutions that, if passed, will amend the Texas Constitution. These resolutions will be on the November 5, 2013 ballot.

A brief description of each resolution is provided below. The full text of each resolution can be found at www.capitol.state.tx.us. At the home page, insert the bill number (HJR or SJR____) in the Search Legislation box and choose 83(R) – 2013 for the Legislature.

HJR 24 Would grant an ad valorem tax exemption on a residence homestead of a partially disabled veteran or the veteran's surviving spouse if the residence was donated to the veteran by a charitable organization.

HJR 62 Would grant a partial or full ad

valorem tax exemption on a residence homestead of the surviving spouse of a member of the armed services who is killed in action.

HJR 79 Would eliminate an obsolete requirement for a State Medical Education Board and a State Medical Education Fund.

HJR 87 Would authorize a home-rule municipality to provide in its charter the procedure for filling a vacancy on its governing body when a vacancy occurs for an unexpired term of 12 months or less.

HJR 133 Would authorize a political subdivision to extend the time for the exemption from inventory tax for aircraft parts temporarily located in Texas.

HJR 147 (Same as **SJR 54**) Would repeal the constitutional provision authorizing the creation of a hospital district in Hidalgo County.

SJR 1 Would provide for the creation of the State Water Implementation Fund

for Texas and the State Water Implementation Revenue Fund for Texas to finance priority projects in the state water plan.

SJR 18 Would authorize reverse mortgage loans for purchasing homestead property.

SJR 42 Would expand the sanctions that may be assessed against a judge or a justice following a formal proceeding instituted by the State Commission on Judicial Conduct.

SJR 54 (Same as **HJR 147**) Would repeal the constitutional provision authorizing the creation of a hospital district in Hidalgo County. ★



Educational Career and Technical Training Bills Passed

In addition to the passage of **HB 5** (discussed elsewhere in this newsletter), the legislature passed a number of bills that will further enhance the establishment of career and technical education programs to train and prepare students for various certifications in the different segments of the industry. Those bills are discussed below.

The Jobs and Education for Texans (JET) Grant Program

HB 437 by Representative John Davis (R-Houston) and by Senator Kel Seliger (R-Amarillo)

This legislation amends current law and authorizes the state comptroller to establish and administer the JET Grant Program to provide grants to public junior colleges and public technical institutes. Effective 9/1/13

Providing Information Regarding Employment Opportunities to Secondary School Students

HB 809 by Representative John Davis (R-Houston) and Senator Bob Deuell (R-Greenville)

This bill creates a process whereby the Texas Workforce Commission will provide information on projected employment opportunities in Texas to school districts for their use in planning and implementing career and technical education and training programs. Effective 9/1/13

Providing Information Regarding Postsecondary Education and Career Opportunities and Workforce Needs in Texas

HB 1296 by Representative Carol Alvarado (D-Houston) and Senator Larry Taylor (R-Friendswood)

This legislation seeks to provide information concerning Texas' projected workforce needs through a collaboration with the Texas Higher Education Coordinating Board, the Texas Workforce Commission, and other state agencies to assist Texas colleges and universities in planning degree programs and course of study offerings in order to meet the demand for workers in applicable industries. Effective 9/1/13

Increase Course Offerings in Career and Technology Curriculum

HB 2201 by Representative Marsha Farney (R-Georgetown) and Senator Eddie Lucio, Jr. (D-Brownsville)

Under this legislation, the State Board of Education will be required to ensure that at least six advanced career and technology education courses, including courses in personal financial literacy and statistics, will satisfy the fourth credit requirement in mathematics. Effective 9/1/13



Requiring the Collection, Analysis and Reporting for Certain Job Skills Shortage Information by the Texas Workforce Commission

HB 2478 by Representative Carol Alvarado (D-Houston) and by Senator Kirk Watson (D-Austin)

This bill seeks to ensure identification of current and potential job shortages by requiring the Texas Workforce Commission to collect, study and report annually to the Texas legislature and to the governor information regarding shortages in high-wage, high-demand occupations in the state. Effective 9/1/13

Allowing the Use of the Skills Development Fund to Support Joint Credit Courses Offered by School Districts Under Agreements with Junior Colleges

HB 3028 by Representative John Davis (R-Houston) and Senator Brian Birdwell (R-Granbury)

HB 3028 amends current law regarding the use of the skills development fund and other funds available to the Texas Workforce Commission to support certain joint credit courses offered by

school districts pursuant to agreements with junior colleges. Effective 9/1/13

Establishment of the Texas Workforce Innovation Needs Program

HB 3662 by Representative Travis Clardy (R-Nacogdoches) and Senator Kel Seliger (R-Amarillo)

This bill establishes the Texas Workforce Innovation Needs Programs to provide selected school districts, public institutions of higher education and private or independent institutions of higher education with the opportunity to establish innovative programs to prepare students for careers for which there is a demand in this state. Effective 6/10/13

Expansion of Opportunities for Students to Explore Career and Technical Education Programs

HB 842 by Representative Cecil Bell, Jr. (R-Magnolia) and Senator Bob Deuell (R-Greenville)

This legislation amends the Education Code to authorize the implementation of a program that gives students the opportunity to earn credit for a course or activity, including an apprenticeship or training, that satisfies a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree. The student will also earn credit concurrently toward both the student's high school diploma and post-secondary requirements. Effective 6/10/13

Establishing the Texas Fast Start Program to Promote Rapid Delivery of Workforce Education

SB 441 by Senator Brian Birdwell (R-Granbury) and Representative John Davis (R-Houston)

This legislation establishes the Texas Fast Start Program to promote the rapid delivery of workforce education and development to make available affordable certification programs in high-demand industries for the benefit of employees and employers in the state. Effective 6/10/13 ★



Monday, August 5, 2013

Houston Area Subcontractors

Clay Shoot

Fundraiser for TCA-PAC



Event Sponsor



Greater Houston Gun Club, 6700 McHard Road, Houston, TX 77053

REGISTRATION 1PM
SHOOTING EVENTS 2PM-5PM
DINNER & AWARDS 5:30PM

Includes: 1 round of Skeet for practice, Practice Flurry, Team Flurry, Annie Oakley, PAC Trap Event

Event Registration Form

Register online at www.texcon.org/clayshoot

Individuals and teams, including teams of less than four members, are encouraged to register now.
You may register a team without providing all team member names in advance.

Registered by (Name, Email, Company, & Telephone):

PRINT PLEASE All Requested Info: Shooter Name(s), Email, Company, Telephone w/Area Code

Shooter 1 _____

Shooter 2 _____

Shooter 3 _____

Shooter 4 _____

Fee per Shooter: \$200 #shooters _____ X \$200 per shooter = \$ _____

Personal Check Enclosed payable to TCA PAC **Personal Credit Card (below)**
No corporate payments, please.

Name on Personal Credit Card _____ Expiration Date: _____

Card Billing Address _____

Card No. _____ Card ID No. (3-4 digits) _____

Return completed form by July 29 to:

Texas Construction Association 1011 San Jacinto Blvd., Ste. 330 Austin TX 78701-2494
Or FAX to 512-473-3777 Questions: 512-473-3773 or espeight@texcon.org



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