



March 27, 2009

I could start this week's bulletin with a good news/bad news joke, but the bad news isn't funny!

SB 1119 (phantom damages) was reported from the Senate State Affairs Committee and is eligible for consideration by the full Senate on Monday. I personally visited 19 Senate offices Thursday morning and early afternoon, reinforcing our previous group visits with Texans for Lawsuit Reform and the Texas Civil Justice League. We think we have at least 12 blockers. We might see on Monday! Senator Joan Huffman is our Senate champion on this bill.

In addition, the House Committee on Judiciary and Civil Jurisprudence is hearing the House versions of both phantom damages (HB 1956) and asbestos causation (HB 1811) on Monday (along with 13 other bills). Our industry group, led by TLR, has visited with 5 members of that committee this week and will visit with 2 more on Monday. We have already met with the chairman.

But, we did see our Trust Funds bill heard before a Subcommittee of the House Committee on Business and Industry on Tuesday. Thanks to Jason Walker (substituting for Ben Wescott) and Richard McCormack (both from the Greater Houston Chapter) for coming to Austin to testify for the bill. For those who haven't followed what we've done on this bill, this is the result of a lot of preparation involving compromise and hard work by all of the ABC of Texas team. We also now have the support of both Texas Construction Association and Associated General Contractors-Texas Building Branch.

Committee hearings this week:

Monday, March 23

Senate State Affairs heard the asbestos causation bill (SB 1123) and reported the phantom damages bill (HB 1119). This meeting was a big disappointment since the judge distributing the asbestos cases testified in favor of the bill (although he registered "on" the bill).

Tuesday, March 24

House Business and Industry Subcommittee on TRCC, Property, Landlord and Tenant Issues heard SB 1513—one of ABC's priority legislative issues dealing with trust funds. ABC of Texas had 2 witnesses for this bill (see note above). There was no opposition.

Committee hearings next week (as of today):

Monday, March 30

Senate Government Organization will hear Senator Mike Jackson's SB 1110 (Alternative Delivery Systems). Kathy Acock of the ABC of Texas Board (from the South Texas Chapter) will testify.

House Judiciary and Civil Jurisprudence will hear both HB 1811 (asbestos causation) and HB 1956 (phantom damages). ABC of Texas is working with both

TLR and TCJL to visit with committee members who we feel should oppose the bills.

Wednesday, March 31

House Licensing and Administrative Procedures will hear HB 1807 (cranes) at 8:00 a.m. We think we have witnesses against that bill—I am waiting for Chapter Presidents to get back to me. There is also a plumber bill up, **but we do not have enough responses to establish a position (HB 2697)—one chapter for, one against. And, we do not have any arguments against the bill (or a witness identified) from the chapter opposing the bill—thus, even if we get enough votes to oppose, we will not be able to without a reason.**

The ABC of Texas Board will meet on Wednesday, March 25. This special legislative meeting was designed to make mid-course adjustments, review progress thus far, and plan for the rest of the legislative session. It was not a usual business meeting. Among the items we discussed were how we can better secure witnesses for hearings where we oppose bills and how to make better use of VoterVoice (specifically, how to get better response from ABC members). We also discussed trying to better prioritize bills over the next week or so.

It is important to continue to emphasize that we can be most effective as an organization if we get **well-reasoned arguments against passage** and **witnesses that can testify if the bills are heard**. And, delivering positions in a timely manner allows us to potentially delay and better prepare for hearings (and know what our position is before a bill is heard). Although positions were not requested until Monday, two chapters—Greater Houston and Central Texas—have responded (see note on HB 2697 in House Licensing above) and took opposite positions. And, no chapter has given us any arguments against passage or ways to fix any of the bills. That handicaps us considerably unless we have witnesses who can appear at the hearing. **Of course, we need both arguments or ways to fix and witnesses if we are opposing a bill.**

Below is a brief summary of action or relevant information on ABC of Texas' Priority Legislative Issues:

Immigration—ABC of Texas is opposing 2 of the 3 immigration bills sent to the Chapters for positions. Those are HB 48 by Rep. Debbie Riddle (knowingly employing persons not legally in the United States) and HB 266 by Rep. Leo Berman (comprehensive bill that would punish employers). ABC of Texas ended up supporting HB 128 by Rep. Burt Solomons (prohibiting the issuance of licenses to those not legally in the country), although the vote was close. That bill was heard last week and is still pending. ABC of Texas is taking a leadership role in opposing state action on illegal immigration and will be joining other TEIR members in weekly meetings to coordinate efforts. We are obviously against all bills that would cancel business licenses for employing illegal aliens since there is no system for protecting employers from honest mistakes and avoiding employment discrimination.

Contractor Licensing—Great news!!! AGC-TBB did not have the bill we had been opposing introduced this session. Congratulations to ABC of Texas members who provided assistance in pointing out the problems with that proposal.

Alternative Delivery Systems—SB 1110 by Senator Mike Jackson was referred to the Senate Committee on Government Organization and will be heard on Monday. HB 2106 by Rep. Charlie Geren was referred to the House Committee on State Affairs. There is a committee

substitute that has been circulated to ABC of Texas issue leaders. Kathleen Acock, a member of the ABC of Texas Board from the South Texas Chapter, plans to testify.

Indemnification/Workers' Compensation/Third Party Liability—ABC of Texas is supporting SB 555 by Senator Robert Duncan and HB 818 by Rep. Craig Eiland. The Senate bill passed on Wednesday, March 18. It should be heard in House committee on April 6. This bill is the result of negotiations among AGC-TBB, the Texas Construction Association and the TCJL. ABC of Texas is also an active participant in joint efforts led by TLR and TCJL to oppose any erosion in tort reform this session and to protect favorable court decisions. So far, we've been able to hold HB 1657 in an unfavorable House Committee. ABC of Texas is working with TLR to secure 11 "blockers" to prevent Senate consideration. Our Senate "champion" is Senator Tommy Williams. If Senator Williams can secure 11 identified blockers, it might prevent movement of the bill in the House.

Trust Funds—HB 1513 by Rep. Wayne Smith and SB 1137 by Senator Mike Jackson. The house bill was heard in subcommittee this week and should be reported from the full committee as soon as Tuesday, March 31.

Prevailing Wage—HB 1042 by Rep. Tan Parker was referred to the House Committee on Technology, Economic Development and Workforce this week. The author, Rep. Tan Parker is Vice Chair of the committee. Rep. Parker's office has contacted us about witnesses for the hearing.

Trades Legislation—Bills are starting to get introduced. We are circulating them to chapters for positions if we are not certain. We will need witnesses at short notice on some of these bills. I have been working with Mike Gremillion on language to deal with concerns about the electrical apprentice bill (SB 470).

In addition, ABC of Texas has taken positions on the following bills. For text of the bills, please see <http://www.capitol.state.tx.us/> --use the Search Legislation menu.

SB 127 (state building standards)—Against
SB 180 (State OSHA)—Against
SB 222 (prohibiting arbitration agreements in contracts)—Against
SB 229 (expanding availability of design-build)—For
SB 447 (allowing local preference in municipal contracts)—Against
SB 470 (elec. apprentice training)—Against
SB 496 (*Qui Tam*)--Against
SB 508 (local preference for bids)—Against
SB 555 (indemnification)—For
SB 648 (employee leave for special ed students)—Against
SB 692 (employee family leave)—Against
HB 48 (license suspensions for employing illegal aliens)—Against
HB 128 (checking immigration status for licenses)—For
HB 266 (punitive and expansive immigration bill)—Against
HB 303 (tax exemption for green buildings)—For
HB 308 (employer jury duty pay)—Against
HB 431 (state building standards—LEED)—For
HB 535 (preference for employers with health insurance)—Against
HB 707 (local preference for bids)—Against

HB 818 (indemnification)—For
HB 987 (comp. procurement and change orders for local gov'ts)—For
HB 963 (employee criminal history check for license—vol.)—For
HB 1005 (employee school leave)—Against
HB 1136 (drug testing for unemployment ins.)—For
HB 1173 (card check for Austin police and fire)—Against
HB 1209 (trust funds)—For
HB 1291 (disaster remediation contractors)—Against
HB 1564 (strikers unemployment insurance)—Against
HB 1606 (registration of construction manager-agents doing business with government)—
Against
HB 1854 (roofing contractor licensing)—Against
HB 1971 (fire sprinkler technicians)—Against