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**What's happening in Austin should alarm everyone in business!**

Senator Robert Duncan, normally a great friend of business and in the past a champion of tort reform, seems determined to roll back recent Texas Supreme court decisions that allow for summary judgment for asbestos defendants for which no scientific causal link can be shown and that provide statutory employer protection for premises owners who act as their own general contractors. In addition, he is strongly supporting allowing the recovery of “phantom damages” which include hospital discounts that no one owes.

And, there are more to come as the plaintiff bar continues its all-out assault on tort reform! We know of at least 4 more initiatives including doing away with pre-dispute arbitration agreements and allowing citizens to assume the power of the state in lawsuits against fraud and recover a part of the damages (bounty-hunter or Qui Tam). This is getting ugly.

SB 1119 (phantom damages) has been on the Senate Intent Calendar all week. It will be back on that calendar on Monday. The only reason it has not been voted on is that Senator Joan Huffman has managed to gather and hold (under intense pressure from Senator Duncan) what we estimate to be 13 blockers (only 11 are needed, but you need a “safety” margin sometimes). I personally visited 19 Senate offices last week, reinforcing our previous group visits with Texans for Lawsuit Reform and the Texas Civil Justice League.

And, SB 1123 by Duncan (dealing with asbestos causation) was reported from Senate State Affairs yesterday. That makes two active bills we will be trying to block next week. Senator Bob Nichols and Senator Joan Huffman are trying hard to gather blockers on this bill. We are not sure we can succeed due to the influence of Senator Duncan on his fellow Republicans. This should alarm those of us who are concerned about the bill to undo the *Entergy* decision since some of the same arguments will be used—he argues that the Texas Supreme Court is engaging in judicial activism by changing the law the Legislature intended (something that business groups vigorously disagree with).

In addition, the House Committee on Judiciary and Civil Jurisprudence heard 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, visited with 7 members of that committee before the hearing. We had already met with the chairman.

But, on the bright side, we did see our Alternative Delivery Systems bill heard before Senate Committee and get recommended for the Senate Local and Uncontested Calendar. Senator Mike Jackson is carrying that bill. ABC of Texas Board member (South Texas Chapter) Kathy Acock came to town to testify for that bill.

And, more good news—our Trust Funds bill (HB 1513 by Rep. Wayne Smith) which was heard before a Subcommittee of the House Committee on Business and Industry last Tuesday

was voted out of full committee in a formal meeting on the floor Wednesday after the full House met. 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. Thanks to a lunch meeting yesterday, we may also get the support of the Hispanic Contractors Association (they strongly support repealing the prevailing wage).

Committee hearings this week:

**Monday, March 30**

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

House Judiciary and Civil Jurisprudence will heard both HB 1811 (asbestos causation) and HB 1956 (phantom damages). ABC of Texas is working with both TLR and TCJL to oppose the bills.

**Wednesday, April 1**

House Licensing and Administrative Procedures will heard HB 1807 (cranes) at 8:00 a.m. Due to a family emergency, our witness was unavailable, but we worked with the Texas Crane Owners Association and the Associated General Contractors-Texas Building Branch to oppose the bill. ABC of Texas provided coordination efforts by hosting a conference call among the groups the day before the hearing.

House Business and Industry reported HB 1513 by Rep. Wayne Smith (Trust Funds).

House Business and Industry also reported HB 2623 dealing with Unemployment Insurance modernizations (which we oppose). This will would allow Texas to qualify for the federal stimulus money for Unemployment Insurance (\$555 million).

**Thursday, April 2**

Senate State Affairs reported SB 1123 relating to asbestos causation (see

above).

Committee hearings next week (as of today):

**Monday, April 6**

House Business and Industry will hear HB 4398 dealing with Workers' Compensation supplemental income benefits. Texas Association of Business has asked us to put in a card in opposition.

House County Affairs will hear HB 1507 relating to allowing large counties to regulate noise. We have 4 chapters neutral and 2 against. Since 1 chapter has not weighed in on the bill, according to our bylaws, we are neutral (2/3rds).

House Judiciary and Civil Jurisprudence will hear HB 818 (SB 555) dealing with Indemnification. Bob Parker, and ABC of Texas Board member from the Coastal Bend Chapter will be in town to testify.

**Tuesday, April 7**

House Business and Industry Subcommittee on TRCC, Property and Landlord and Tenant Issues will hear HB 3606 by Rep. Doc Anderson which prohibits doing away with secret ballots for union elections in Texas (this is largely symbolic, but ABC of Texas will support).

House State Affairs will hear a severe health preference bill which provides a state preference for bidders that provide health insurance for employers and their dependents. ABC of Texas will put in a card in opposition. **Our opposition would be stronger if we could get a witness!! Please contact me ASAP if you know of a potential witness.**

**Wednesday, April 8**

House Licensing and Administrative Procedures will hear HB 1854 relating to the registration of roofing contractors and HB 2600 relating to the licensing and regulation of sheet metal workers. **ABC of Texas will oppose both bills, but our opposition would be stronger with witnesses!!**

The ABC of Texas Board will meet on Friday, April 17. This will be a regular business meeting with legislative updates.

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. We continue to need both arguments or ways to fix and witnesses if we are opposing a bill. Most chapters are just sending us positions which severely handicaps our ability to impact the legislation.**

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 previously 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. No bad immigration bills have been set for hearing yet. Time is getting short and that is good for us. Since no bills have been set for hearing in House State Affairs for next week, it will be the week of April 13 before any can be set. That means that realistically, there are 4 more weeks for House bills to be heard in House committees (after next week), and the chance of passage declines as each week passes.

**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 was heard on Monday and reported from committee with a recommendation that it be placed on the Local and Uncontested Calendar. Kathleen Acock, a member of the ABC of Texas Board from the South Texas Chapter, was in town to testify. 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.

**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 will 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 (to our interests) House Committee. SB 2063 is the Senate version. It has not yet been heard in 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 last week and was reported from the full committee on Wednesday, April 1.

**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. The Hispanic Contractors Association has indicated they will support the bill.

**Trades Legislation**—We have circulated several bills to chapters for positions if we are not certain. Our biggest problem is securing witnesses and good arguments to oppose. Unfortunately, we begin scrambling for witnesses on Thursday and Friday for hearings the next Monday, Tuesday and Wednesday. That is just the process. The Senate only requires 48 hours notice! Thus, we will need witnesses at short notice on some of these bills. I have been working with Mike Gremillion and have engaged John Bernard and Kimberly Bernard from the Southeast Texas Chapter, as well as Bob Jett of the South Texas Chapter, to try to get some language to fix 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  
SB 1354 (plumber cleanup)--Neutral  
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 1507 (noise)—Neutral  
HB 1564 (strikers unemployment insurance)—Against  
HB 1606 (registration of construction manager-agents doing business with government)—  
Against  
HB 1807 (cranes)--Against  
HB 1854 (roofing contractor licensing)—Against  
HB 1971 (fire sprinkler technicians)—Against  
HB 2082 (local preference)—Against  
HB 2081 (SOAH for TDLR)—Neutral  
HB 2310 (TDLR powers)—For (with clarifications)  
HB 2600 (Sheet metal)--Against  
HB 2623 (Unemployment insurance “modernization”)—Against  
HB 4132 (Essen. Workers)—Neutral  
HB 4142 (theft of copper)—For  
HB 4377 (ombudsman)—For