



May 8, 2009

There are 3 bad things that are happening or could happen imminently:

- The battle lines have been drawn over protecting tort reforms and court decisions—and we've known it all session. Once we were able to contain the bad trial lawyer initiatives, we would face them all over again when the Texas Department of Insurance Sunset Bill gets to the House floor (a Sunset bill must be passed or the agency ceases to exist). We anticipate SB 1007 to be on the House Calendar on Tuesday, May 19. The trial lawyers have been preparing for this fight on the House floor all session while business groups were busy fighting individual bills. Although this was known to be coming up, the business groups had no choice but to concentrate precious resources on fighting the bills individually. The big fight awaits us! We anticipate amendments on *Entergy* and phantom damages as well as other issues. Our success may very well depend on the individual association members' responses to appeals for grassroots contacts! These legislators have been lobbied hard—they need to hear from the voters! ABC of Texas will send out a VoterVoice Call to Action next week. This may be the most critical appeal to date!
- HB 4097, which would limit the HB 4-created Multi-District Litigation (MDL) Panels use to only cases involving asbestos, silica and pharmaceuticals, is going to be set for the House Calendar next week (or so we are told). This is an apparent reaction to MDL's use in hurricane claims. Currently, the four hurricane MDLs combined have approximately 60 cases, 44 of which are filed by one plaintiffs' attorney (currently the legislative director of the Texas Trial Lawyers Association).
- HB 1956 (*Entergy*) might get set for House action. We are told it is being talked about.

Any bill passed by the plaintiffs' bar this session will be used to fund opponents for pro-business legislators.

These issues could go down to the wire. We may not win them all in the Legislature. But, we will try!

Committee hearings this past week:

Tuesday, May 5

House State Affairs—SB 1110 by Senator Mike Jackson (House author, Rep. Charlie Geren) dealing with Alternative Delivery Systems was heard Tuesday night about 9:30 p.m.. The only opposition was KBR (Patrick Eno) and Gordon Bowman from the City of Austin.

Committee hearings next week (as of today):

Tuesday, May 12

Senate Business and Commerce—We anticipate that HB 1513 will be reported from the Senate Business and Commerce Committee this week. It has no opposition. We believe this bill got caught up in some end-of-the-session competition between the House and the Senate (the Senate not wanting to pass House Bills until more Senate Bills get passed—this happens every session).

When the Legislature convenes on Monday, there will be only 22 days left inclusive.

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

Immigration—The only immigration bill “with legs” is SB 2568 by Senator Dan Patrick. It does not appear that a bill will come out of the House State Affairs Committee.

Alternative Delivery Systems—SB 1110 by Senator Mike Jackson was heard in the House Committee on State Affairs on Tuesday. We anticipate the bill being reported next week.

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 was heard in House committee on April 6. The House Bill was reported from committee last week, despite the Senate Bill also being in that committee. That appeared to be a tactic to try to get early consideration of the House Bill (set on the House Calendar). But, that effort has been abandoned due to the heavy load facing the House. Efforts will now focus on getting SB 555 set for House action after next week (the House will be focusing on House Bills up until the Thursday deadline for House Bills on 2nd Reading). ABC of Texas is also an active participant in joint efforts led by Texans for Lawsuit Reform and TCJL to oppose any erosion in tort reform this session and to protect favorable court decisions. As mentioned above, HB 1657 (Entergy) came out of committee 2 weeks ago—it may get set for next week. SB 2063 is the Senate version. It has not yet been heard in committee. ABC of Texas has been working with TLR and TCJL to secure 11 “blockers” to prevent Senate consideration. Our Senate “champion” is Senator Tommy Williams. We are working the House Calendars Committee to try to keep the House Bill from being set.

Trust Funds—HB 1513 by Rep. Wayne Smith and SB 1137 by Senator Mike Jackson. The House bill has been passed and the Senate bill was heard in committee. The House bill should come out of Senate committee next week.

Prevailing Wage—HB 1042 by Rep. Tan Parker was heard in the House Committee on Technology, Economic Development and Workforce. The author, Rep. Tan Parker is Vice Chair of the committee. A late hearing spelled doom for the bill. Rep. Parker is considering proposing an interim study which could give us traction for some changes in the future.

Trades Legislation—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). We worked with NCCER also. We have added language to the bill which allows ABC Chapters' NCCER programs to qualify. We also worked with the IEC on some language dealing with legislative intent. This bill was reported from House Committee this week with our language.

But, HB 1807 dealing with cranes and HB 2600 dealing with sheet metal workers were also reported. We are trying to hold those bills in the House Calendars Committee.

As stated above, on Monday, May 4, there will be only 22 days left inclusive.

Here are some critical deadlines coming up next week:

- Tuesday, May 12—Last House Regular Calendar with House Bills must be printed and distributed
- Wednesday, May 13—last House Consent Calendar with House Bills must be printed and distributed
- Thursday, May 14—Last day for House to consider House Bills on 2nd reading
- Friday, May 15—Last day for House to consider consent bills

If a House Bill is not finally passed by the House by Friday, it is dead (except for Local Bills which have a deadline of Friday, May 22).

As the session winds down, the issue list gets smaller. The workload does not get lighter, it just gets more focused!