



TEXAS  
ASSOCIATION OF  
BUSINESS

THE TEXAS STATE CHAMBER

# KEEP TEXAS WORKING

2017 PRIORITIES

85<sup>th</sup> LEGISLATIVE SESSION

# KEEP TEXAS WORKING

The Texas Association of Business (TAB) is proud to present its legislative priorities for the 85<sup>th</sup> Legislative Session. For over 90 years, TAB has been on the forefront of ensuring Texas is the best place to work, run a business and raise a family. We do this by supporting initiatives that encourage economic growth and provide good paying jobs for more Texans. We also do this by opposing legislation that threatens the economy of this state.

TAB is and has always been a bipartisan advocacy organization consisting of over 4,000 large and small business members and over 200 local chamber partners. TAB's Board of Directors approved an agenda that aggressively protects the Association's pro-Texas, pro-jobs philosophy.

This publication is an extensive list of TAB's priorities, which is a snapshot of the issues that TAB fights for in any given legislative session.

In a poll of TAB's Board of Directors in which they were asked to rank the priorities for the 85<sup>th</sup> Legislative Session, the following issues overwhelmingly ranked as the most important:

- Criminal Justice,
- Economic Development,
- Education and Workforce Readiness,
- Taxation, and
- Transportation.

While TAB will continue to work on all business issues, this is a good snapshot of the concerns that Texas business owners face every day.

The Texas Legislature has a large task this session to address all the critical business issues, but they also have a great opportunity to make legislative decisions to preserve and improve the economic prosperity for all Texans. Every day, TAB will be at the Capitol fighting for business interests, and we appreciate all the TAB member support that allows us to do so.

# CRIMINAL JUSTICE

Texas has made great strides in the area of criminal justice reform, but more must be done. Texas still has the most prisoners of any state even though it has reduced its incarceration rate and closed three prisons. One of the biggest victories in the area of criminal justice reform last session was the decriminalization of truancy for juveniles. The Legislature also adjusted property theft thresholds for inflation, which should push incarceration rates down in the years to come.

In Texas, 48.5 percent of prisoners are incarcerated for non-violent offenses, costing taxpayers almost \$4 million per day. TAB believes that non-violent offenders, especially first-time offenders, should continue working, paying bills and taxes, keeping up with child support and maintaining other financial and personal commitments. With business paying the majority of taxes in this state, TAB believes that the fight on crime should be smarter, be focused on public safety and be geared towards rehabilitation more than punishment when appropriate. TAB supports the following criminal justice measures:

## **Bail Reform**

Support legislation that will promote granting Personal Recognizance bonds for those accused of non-violent misdemeanor offenses who can prove an inability to pay bail. Judges and magistrates shall still jail or require bail for those accused of non-violent misdemeanor offenses that are felt to pose a threat to the community and/or are felt to have little chance of returning to court.

## **Community Supervision**

Support legislation to utilize probation and state jail felony community supervision as a part of a sentence to increase access to employment, housing and other critical tools to reduce rates of rearrest and reincarceration.

## **Criminal Records**

Support efforts to ensure that criminal records made available to potential employers are accurate.

## **Driver Responsibility Program (DRP)**

Support efforts to abolish DRP, which is a double penalty, in tandem with identifying a new funding mechanism for trauma centers, which currently receives funding from the DRP. While the DRP was a well-meaning idea created in 2003 to fund trauma centers, it has many unintended consequences. The reality is the DRP is making Texas more dangerous by creating severe economic hardship, putting more unlicensed drivers on the road, and limiting employment opportunities.

## **Education & Training**

Support efforts that prioritize educational and vocational programs for individuals, which are proven to reduce re-offending and increase workforce participation. The harder it is for someone to find a job after release from prison, the greater the chance he or she will end up going back to prison.

## **Mental Health**

Support efforts to treat offenders with mental health issues and ensure that services are readily available when released. Adults with untreated mental health and substance issues are 20 to 25 percent more likely to be rearrested.

## **Participation Credits**

Support efforts to allow the Texas Department of Criminal Justice to provide the timely award of credits for participation in self-improvement programming within state jails.

## **Penalties**

Support legislation to downgrade first-time minor drug possession offenses and allow courts to divert individuals to a treatment program when the offender is deemed by the court not to be a threat to public safety. Use the savings derived from diversion to strengthen existing treatment programs in the community or create tailored treatment programs, as necessary, to address possession offenses.

## **Property-Related Offense Thresholds**

Support legislation to address property offenses by updating damage thresholds in light of inflation and updating monetary thresholds for property-related offenses that have not changed in 20 years.

## **Raise the Age**

Support legislation that allows 17-year-olds to be treated in the juvenile system when appropriate, while giving judges authority to transfer those younger than 18 into the adult system on a case-by-case basis.



# ECONOMIC DEVELOPMENT

Texas has received numerous honors in recent years including the “Best State for Business,” #1 for private sector job growth, the top exporting state for 14 consecutive years and the “Top State for Fortune 500 Headquarters.” To continue to be a national leader in economic development, we must take steps in the 85<sup>th</sup> Legislative Session to maintain that leadership role by investing in future job and economic growth. We must provide the state and local entities tools to compete for corporate relocations and expansions. In addition, TAB will work hard to “Keep Texas Open for Business” by ensuring that businesses (which make up more than 60 percent of the tax base) are heard regarding any proposed legislation that hinders employers from being able to recruit talent.

Much of Texas’ progress in the past decade is attributable to Texas’ commitment to economic development, so it is the focus of TAB to continue to support measures that provide businesses in Texas a competitive advantage when making decisions to invest capital. TAB supports the following measures in the area of economic development:

## Economic Development Programs

Continue support for state and local tools used to compete for corporate expansions/relocations and job growth, such as the Texas Enterprise Fund, the Texas Enterprise Zone Fund and the tax incentives available under the Texas Economic Development Act under Chapter 313 of the Tax Code. TAB supports refreshing the Texas Enterprise Fund with adequate funding to keep it competitive by maintaining a \$200 million balance at the beginning of each biennium.

## Education Tax Incentives

Support legislative efforts to provide tax incentives to encourage business participation in education initiatives.

## Feeding Texas Program

Support an increase in funding from \$6.9 million to \$22 million for the biennium for Feeding Texas’ Surplus Agricultural Product Grant Program.

## Innovation

Maintaining a vibrant and innovative economy will be dependent on our ability to create and cultivate innovation-intensive companies, and greater research and commercialization capacities.

- Support investment in world-class research to spur groundbreaking innovation, including the Governor’s University Initiative.
- Support the promotion of and leveraging partnerships between private industry and academia, thus bridging the gap between innovation occurring on the campuses of Texas universities and the marketplace.
- Provide pilot proof of concept funding to accelerate university tech transfer and commercialization.
- Maintain R&D tax credit.
- Oppose any unnecessary regulations or legal requirements that increase cost, reduce consumer choice, hamper innovation, and limit technology advancement and availability.



## Investment Capital

Support entrepreneurs and small businesses via a healthy ecosystem of capital to attract, grow and retain companies in Texas. Innovative, high-growth companies require significant and specialized capital resources.

- Establish and promote slight preference for in-state money managers over out-of-state managers in public investment, all other investment objectives and past performance being equal.
- Support the development of a domestic venture industry through the use of long-term incentives.
- Support investment in rural Texas.

## Religious Freedom Restoration Act (RFRA)/Recruitment of Talent

Oppose legislation that would broaden the current RFRA or other legislation that is seen as discriminatory and would impact workforce recruitment and/or cause a negative economic impact on the state.

## Rural Economic Development

Support state-appropriated economic development funds for rural areas. Also, support expansion of the ability of the Texas Agriculture Finance Authority (TAFAs) to finance economic development activities in rural areas and streamline TAFAs to make it more “user-friendly.”

## Sales Tax for Economic Development

- Support continued use of a locally approved  $1/2$ -cent sales tax collected by cities to fund economic development efforts.
- Oppose efforts to reduce local control of these funds or efforts to limit the uses of these funds. Because these funds are local funds, taxpayers should retain the right to manage their use so long as they are used for economic development purposes.
- Support the removal of county average wage restrictions that limit a local government’s use of these funds for local job training purposes.
- Support efforts to clarify that the purpose of the sales tax funds is to serve as economic development tools and to prevent raids on the funds for projects that are not related to economic development.

## Skills Development Program

Support increased funding for the Skills Development Program administered by the Texas Workforce Commission. Maintain Skills Development Fund grants at the Texas Workforce Commission to improve workforce training.

## Support TexasOne™

Support the mission of TexasOne™, which is to create a public-private partnership to market Texas in a dynamic and competitive manner. TexasOne™ is funded through private contributions by businesses, organizations and individuals interested in the promotion of the business climate, economic development and job creation the state of Texas.

## Tax Abatements & Other Economic Development Incentives

Continue to support local control and flexibility in the use of tax abatements, tax increment financing, reinvestment zones and other incentives to promote economic development and job creation.

## Telemarketing

Support efforts to develop additional jobs while maintaining the more than 300,000 jobs held by Texans in the telemarketing industry. Support better enforcement of existing fraud and consumer protection laws while opposing efforts to impose additional regulatory burdens on businesses that use telemarketing. Support adequate resources for law enforcement and various state agencies to eliminate fraud and provide protection to Texas consumers and businesses while not placing undue restraints on legitimate telemarketing businesses.

## Texas Commission on the Arts

Support increased funding for the Texas Commission on the Arts to foster the growth of the arts and culture industries throughout the state, resulting in job creation and increased cultural tourism.

## Texas 2050 Plan: A Framework for Long-Term Economic Growth

Support Texas 2050: A Framework for Long-Term Economic Growth in order to continue the level of economic development success that Texas has received in recent years. The plan, developed and endorsed by a broad-range of statewide business groups, includes taking a long-term view of human capital, investment capital, innovation, education, tools to compete and infrastructure.



# EDUCATION & WORKFORCE

Public education in Texas is more important than ever. TAB will work to promote quality education across the state, working to raise education standards and align skills to better prepare our children. This ranges from supporting full-day Pre-K programs to increasing rigor in the high school curriculum. TAB will continue to advocate for changes in the educational system to ensure that a greater number of students graduate from high school career or college ready and fully support the 60x30TX plan, in which 60 percent of Texans aged 25 to 34 hold a post-secondary degree or certification by the year 2030. In addition, TAB supports the following education initiatives:

## **60x30TX Plan**

Support an education plan in which 60 percent of Texans between the age of 25 and 34 hold some kind of degree or post-secondary certification by the year 2030.

## **Academic Excellence**

Support excellence initiatives aimed at moving students from minimum expectations to maximum achievement. Support rewarding districts for students who complete more rigorous high school courses.

## **Accountability**

Oppose any measures that weaken the current education accountability system. Oppose any additional monies into education without reform.

## **Adult Basic Education (ABE)**

Support ABE that focuses on serving students who will be able to acquire the level of basic skills needed to enter the workforce.

## **Alternative Certification**

Support additional alternative certification programs that provide school districts flexibility in hiring qualified people holding bachelors' degrees or higher who pass certification exams and any additional teacher training to be determined by a school district.

## **Alternative Public School Accreditation**

Support a voluntary method of accreditation for public schools, by the Southern Association of Colleges and Schools Council on Accreditation and School Improvement (SACS CASI).



## **Arts Education**

Support high-quality fine arts education instruction and learning in all schools through the employment of certified arts education teachers and partnerships with community arts organizations. Maintain current fine arts education requirements.

## **Career & Technology**

Support career and technology education in conjunction with public schools and community colleges where appropriate to meet the needs of Texas employers.

## **Career & Technology Funding**

Support legislation that tightens controls on career and technology money allocation. Support requiring districts that receive funding for career and technology to offer courses that prepare students with on-site or virtual on-site training rather than traditional classroom settings. Encourage increased funding for on-line curriculum and on-line testing.

## **Classroom Size Mandate**

Support legislation that creates flexibility for school districts in the requirement that kindergarten through 4<sup>th</sup> grade classrooms are comprised of no more than 23 students to one teacher, allowing school districts to use the 23:1 mandate as a district average.

## Communities in Schools

Maximize and fund the Communities in Schools program in Texas, a dropout prevention organization that focuses on helping young people to successfully learn, stay in school and prepare for life.

## Community Colleges

Support education at the community college level as an important contributor to training students for jobs in the workforce and providing a path for certification.

## Computer Science

Support efforts to expand access to computer science and programming skills in kindergarten through 8<sup>th</sup> grade and incentivize districts to offer rigorous high school computer science courses. Support efforts to close the critical gap of trained and certified computer science teachers.

## Dropout Prevention

Support measures that financially reward campuses for retaining students beyond the ninth grade.

## Effectiveness

Support efforts that would specifically include effectiveness as part of the criteria in the evaluation of teachers.

## Full-Day Pre-K

Support the funding of full-day Pre-K programs for all school districts for currently eligible students. Support efforts of school districts to provide afterschool care for working parents in the Pre-K programs.

## Funding Higher Education

Support legislation funding of Higher Education based on the completion of courses, not based upon classroom attendance on the 12<sup>th</sup> day of the semester.

## GO Centers

Support the continuation of funding for GO Centers that serve as primary points of coordination between the College for Texans campaign (to increase college enrollment) and local communities.

## Higher Education System

Support reasonable regulatory and legislative oversight of the Higher Education System, coupled with clear statements of goals, expectations and accountability of results. Support collaborative approaches among Texas' higher education institutions in research and development funding strategies, technology deployment and distance education in order to avoid duplication and waste and create an affordable environment.

## Incentives for Math & Science Teachers

Support teacher advancement initiatives, like differentiated pay, to help alleviate the shortage of math and science teachers in our public schools.

## Internships

Support a franchise tax credit or other tax credit for companies offering an internship or apprenticeship for high school students in a recognized Career and Technology Education (CTE) pathway program. Support similar credit for companies offering internships for college students.

## Local Control

Support measures that give school districts the flexibility to meet the needs of their students. Support at-will employment for teachers, removing the state from setting the terms and conditions of employment.

## Non-Traditional Students

Support measures that encourage non-traditional students to complete their education and obtain valuable workforce skills. Support affordable, flexible pathways and increased financial aid to increase completion rates among this growing student population.

## Parent Trigger

Support this innovation in education reform that was recently passed into law in California. With the Parent Trigger, when half of the parents whose children attend a failing public school sign a petition requesting reform of the school, the school must either shut down, become a charter school or undergo one of two other types of reform. The Parent Trigger has the potential to turbo-charge the transformation of education in every state by bringing grassroots regime change to public education.

## Parental Involvement

Support measures encouraging parents to become active partners with their children's teachers and administrators.

## Pay for Performance

Support legislation that allows school districts to financially reward campuses that achieve exemplary student performance.

## Physical Education

Support recess and other physical activity as part of the school programming to promote health and wellness.

### **School Choice Pilot Program**

Support implementation and evaluation of a well-designed school choice pilot program, allowing students in low-performing or unsafe public schools to attend public or qualified private schools of their choice. The pilot program must be of sufficient magnitude to assess the impact a choice program would have on the students and the public school system.

### **School Spending**

Support legislation requiring more financial transparency in school spending, allowing taxpayers to see how their investment is being managed. Support an audit system for programs' specific success to ensure funds are spent on the intended programs.

### **Skills Development Program**

Support increased funding for the Skills Development Program administered by the Texas Workforce Commission. Maintain Skills Development Fund grants at the Texas Workforce Commission to improve workforce training.

### **Taxpayer Savings Grant Program**

Support efficiency and school choice in public education. Support legislation that would create a grant program that would give parents up to 60 percent of the cost of tuition to be used at a private school. This program will provide parents with more choices in educating their children and produce significant cost-savings to the state, which can be dispersed to other students in the public education system. The grant program will also create competition among the education community.

### **Tax Incentives**

Support legislative tax incentives to encourage business participation in education initiatives.

### **TEXAS Grants**

Support funding levels for TEXAS Grants that would provide scholarships for 100 percent of renewal and initially eligible students.

### **Texas School Ready!™**

Support high quality Pre-K initiatives and legislation that put children on a pathway toward academic achievement. Programs such as Texas School Ready!™ demonstrate strong accountability that leads to lasting results. TAB believes that these results ensure that children achieve their highest potential and become a successful part of Texas' workforce in the future.

### **Technology Workforce Development Grant Program**

Support the continuation of funding for the Texas Technology Workforce Development Grant program, which is awarded for computer science and electrical engineering instruction at various institutions of higher education in Texas.



# EMPLOYMENT RELATIONS

Employer input into the adoption of laws and regulations that affect labor policy is critical. Too often, laws passed with good intentions have proven to be confusing and costly to the employer and do little for the employees the laws were meant to serve. The voice of business was heard at the Capitol last session when legislators passed legislation to change incentives on when a claimant receives waiting week benefits within the Unemployment Insurance (UI) System and closed a loophole in the Labor Code to help employers not be liable for faulty claims.

TAB will be fiercely protecting employers' rights to choose how employees are hired. In addition, TAB will fight to give employers more tools to protect their employees from workplace harassment and violence. TAB also supports the following measures:

## **Arbitration**

Oppose any effort to modify the Halliburton Case where the Supreme Court upheld an employer's right to establish a mandatory arbitration program applicable to at-will employees.

## **Devolution of Federal Programs to the States**

Support transferring control over federally mandated programs like unemployment insurance to states, thereby reducing employers' tax burdens and increasing local control over workforce-related programs.

## **Duration of Benefits**

Limit UI benefits to 20 weeks if the state's average unemployment rate for the year preceding the calendar year in which the claim takes effect is below five percent.

## **Drug Testing**

Oppose attempts to restrict the rights of employers to conduct random and/or universal drug testing of employees.

## **Drug Testing for UI Beneficiaries**

Support legislation that provides that a claimant who fails or refuses to submit to an employer-required drug test that is a condition of the job offer or refuses the offer of work without good cause would disqualify the claimant from receiving unemployment benefits.

## **Employer Control Over Work Environment**

Support efforts to maintain employers' prerogative to control the workplace, thereby creating a safe, satisfying and harmonious working environment.

## **Employer Hiring Practices**

Oppose efforts dictating how private employers interview and hire candidates for employment.

## **Employment-at-Will**

Oppose legislation that would erode employment-at-will as a right for all Texas employers and employees.

## **Ergonomics**

Oppose legislation and regulations on a federal level that would increase the already-considerable burden on employers regarding Occupational Safety and Health Administration (OSHA) requirements.



### **Fair Labor Standards Act (FLSA) Reform**

Support efforts to reform the wage and hour laws by allowing more flexibility for employers and employees in hours worked during a pay period before mandating overtime pay. Provide more freedom and flexibility to classify workers as exempt from overtime requirements.

### **Family & Medical Leave Act (FMLA)**

Oppose efforts to modify the FMLA, and oppose any initiatives to require employers to pay for FMLA leave with unemployment insurance taxes.

### **Fraud Control**

Support legislation to allow the Texas Workforce Commission (TWC) to hire outside contractors on a pay-for-performance basis to assist in efforts to detect and remedy unemployment benefits fraud.

### **Human Rights Act**

Oppose expansion of the current coverage of the Texas Human Rights Act that may cause additional litigation.

### **Injunctions**

Support allowing an employer to seek an injunction on behalf of an employee to end workplace harassment without creating a new liability for employers.

### **Living-Wage Ordinances**

Oppose piecemeal mandates that vary from city to city requiring employers to pay a wage level higher than the federally required minimum wage.

### **Minimum Wage**

Oppose arbitrary increases in minimum wage that cannot be supported by improvements in productivity and that deprive many entry-level workers of job opportunities.

### **Pay Equity**

Strongly support the current law on pay equity.

### **Payday Law Reform**

Support reform of the Payday Law to achieve greater consistency with provisions of federal law and follows U.S. Department of Labor (DOL) guidelines or federal court decisions under the FLSA. Support legislation to eliminate the Payday Law's applicability to non-wage benefits, including vacation pay, sick pay, etc., and issues relating to employee classification under wage and hour laws. Support capping the amount of wages that may be claimed under the statute.

### **Public Collective Bargaining Rights**

Oppose any expansion of collective bargaining rights in the public sector since the current system adequately provides for employee participation without the potential for disruption of services.

### **Property Rights of Business Owners**

Oppose the expansion of legislation previously passed that allows legally-owned firearms to be stored on company-maintained parking lots.

### **Right-to-Work**

Support efforts to keep Texas a right-to-work state and oppose agency shop legislation.

### **Subsidized Training Wage**

Support legislation to allow employers to apply part of their unemployment insurance taxes toward the cost of training workers for their businesses.

### **Unemployment Insurance Reform**

Strengthen overpayment recovery statutes to prohibit waiver of overpayments. Revise the Texas Unemployment Compensation Act's (TUCA) definitions of "able and available" to meet the revised standards in federal law.

### **Unemployment Savings Accounts**

Support fundamental changes in the unemployment insurance system that would abolish traditional federally controlled unemployment insurance programs in favor of establishing individual Unemployment Savings Accounts (USAs) for employees. These would be available if needed for unemployment, training or as a supplement to retirement income.

### **Union Dues Check-Off**

Oppose efforts to allow public employees, or to require private employers, to subsidize or promote labor unions or similar organizations through payroll collection of dues and contributions.



# ENERGY

TAB's priorities for energy regulation will continue to focus on the use of valid scientific and technical evidence in evaluating the impacts of new laws and regulations affecting our energy economy. A primary goal of our efforts will be to ensure that energy costs remain affordable and that Texas businesses can hope to make capital investments and grow jobs as a result of reasonable energy prices.

For the 85<sup>th</sup> Legislature, TAB will be specifically addressing the issues related to the federal imposition of the Clean Power Plan and similar regulations to increase federal control of the state's electric industry, impede our oil and gas economy and increasingly use the Endangered Species Act to negatively affect business expansion and property use in Texas. We will also work to ensure a reauthorization of the Texas Railroad Commission through the Sunset process that is consistent with our priorities. TAB supports the following measures:

## Electricity Costs

To ensure that Texas continues to grow and that businesses can continue to expand and attract new investments, the state must consider the overall, delivered cost of electricity and the establishment of regulatory policies that allow for appropriate capital investment in Texas' electric infrastructure. Electricity costs and a reliable electric grid system are key inputs to the success of Texas businesses.

- Continue the promotion of competitive electric markets in all areas of the state to spur fair competition in the best interest of all consumers, energy producers and businesses.

- Promote a balanced approach to cost efficient expansion of the electric grid system by regulated utilities to improve and expand the system in order to maintain reliable service.
- Implement new technologies that are market-ready to encourage energy efficiency and to meet the state's growing energy needs.
- Allow for appropriate expansion and mitigation of transmission congestion without unduly burdening the existing customer base.
- Create incentives for the development of generation capacity in places that minimize the overall cost to produce and deliver the electricity.
- Oppose policies that work to increase electricity costs without a corresponding benefit or that favor one technology or group of customers over others through manipulation of markets.

## Energy & Economic Development

- Support healthy economic growth in Texas by promoting the production of adequate supplies of all forms of energy at competitive prices.
- Oppose increased taxes and fees on energy sources with the exception of fees that will be dedicated to regulatory programs that will improve the oversight and approval of energy development projects.
- Eliminate tax inequities between energy sources.
- Discourage the use of subsidies that distort market economics.
- Encourage the conservation of resources.
- Balance environmental quality objectives against the actual impacts of energy production and usage and the public welfare benefits of lower energy costs.

## Federal Climate Change Regulations

Oppose any efforts to establish in Texas statute regulatory mechanisms that are intended to achieve compliance with the federal "Clean Power Plan" or similar U.S.

Environmental Protection Agency (EPA) climate change regulations until all legal challenges to such regulations have been exhausted and Texas has agreed that development of a compliance plan is in the state's interest. Support efforts to encourage voluntary, free-market solutions to energy conservation and demand response that save businesses money, maximize investment in energy infrastructure and promote competitive economic development in Texas.



## Federal Mandates that Impede Texas Energy Businesses

Texas is the leading energy producing state by a large margin and fuels much of the energy needs of the nation, providing energy security and innovating key advances in energy technology. While numerous federal mandates that threaten to undermine Texas' energy industries are appropriately identified in TAB's national policy agenda, TAB supports state policies, wherever feasible, that counter any such damaging federal mandates or regulations that interfere with state authority over its energy industry, such as:

- Prohibitions on crude oil or LNG exports;
- Closing off access to federal or state lands for energy exploration or production;
- Unnecessary environmental rules targeting energy extraction and production; or
- Misguided federal tax policies that distort competitive electric markets by subsidizing intermittent renewable energy to the detriment of more reliable forms of generation.

## Fuels Diversity

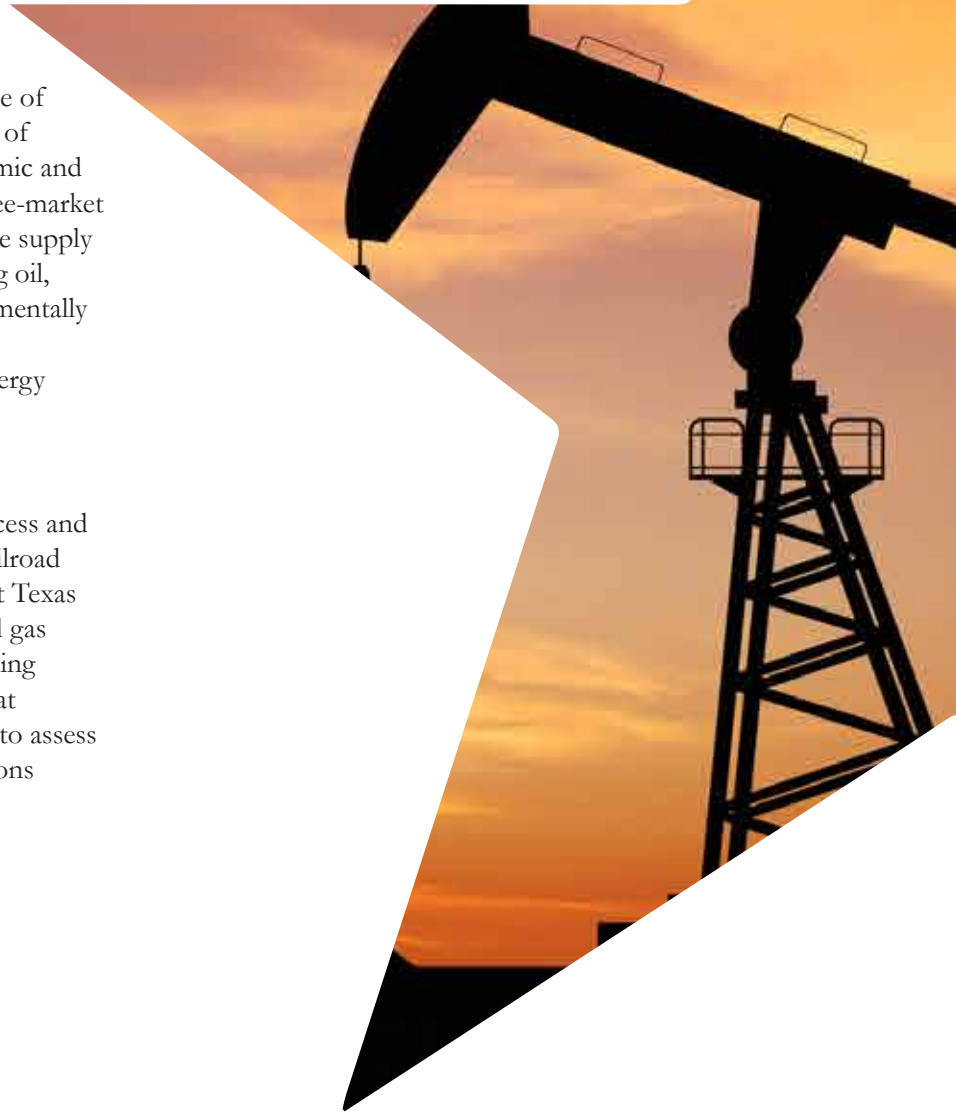
Oppose legislative efforts that would require the use of specific fuels for industrial sources for the purpose of forcing technology. Support the removal of economic and supply barriers that distort fuel competition and free-market influences. Support legislative efforts to increase the supply of energy using a diverse mixture of fuels including oil, natural gas, coal and nuclear, applied in an environmentally safe manner and coupled with encouragement of conservation and the practical use of renewable energy sources.

## Oil & Gas Regulation

Support efforts to maintain the contested case process and staffing of hearings examiners within the Texas Railroad Commission. Also, support maintaining the current Texas Railroad Commission bonding structure for oil and gas operators, and oppose increased or expanded bonding requirements. Support an enforcement program that ensures regulatory compliance, and oppose efforts to assess penalties, fines or other sanctions for minor violations without affording due process to any operator or respondent.

## Preemption of Local Oil & Gas Regulation

Oppose any efforts to establish or expand by statute the authority of a local government to promulgate regulations related to oil, natural gas or other mineral resource exploration or development activities that would preempt uniform, statewide regulation by the Texas Railroad Commission or other state regulatory agencies or be inconsistent with existing state regulatory programs.



# ENVIRONMENTAL QUALITY

Consistent with past sessions, TAB's priorities for environmental quality regulation continue to focus on the use of sound scientific evidence in decision-making, reasonable and achievable goals for pollution reduction based on technical merit, protection of competitive opportunities and advantages for Texas businesses and a proper understanding of both the costs and benefits of environmental regulations.

For the 85<sup>th</sup> Legislature, TAB will be specifically addressing the issues related to the challenges of meeting more stringent federal air quality standards and funding for the state agencies whose permitting actions and other approvals are necessary to infrastructure investment and job growth. TAB supports the following measures:

## Access to Research

Support legislation to require that research data and analysis relied upon as the basis for proposed regulations by state and federal environmental agencies be made available for review by the regulated community before a regulation can be adopted or prohibit the adoption of regulations for which supporting data are not publicly available.

## Ambient Environmental Standards

Support the development of ambient air quality or other standards that are based on sound scientific evidence that is comprehensively peer-reviewed, technically feasible and economically practical. Oppose the imposition of any enforceable ambient standard that is based on conservative screening levels for pollutants, rather than demonstrated health risks. Support the Texas Commission on Environmental Quality's (TCEQ) need for funding where monitors are necessary to characterize ambient air quality and to oppose the Environmental Protection Agency's (EPA) recent attempts to designate areas as nonattainment based on modeling, not actual air quality.

## Clean Air Attainment

- Support efforts to achieve attainment of national ambient air quality standards that help near non-attainment areas stay in attainment, ensure that the responsibility for emission reductions is shared equitably among all emission sources and provide sources of emissions the maximum flexibility in obtaining permit authorizations in order efficiently achieve reductions.
- Support efforts by the Legislature to establish the authority of the TCEQ to acknowledge the contribution of foreign sources of air pollution, incorporate foreign contributions into Texas' air quality implementation plans and petition the EPA for approval of such plans.
- Support efforts to ensure that the TCEQ adopt flexible, aggressive plans for the approval of emission reduction credits to ensure the maximum degree of economic growth and business development in air quality nonattainment areas.

## **Contested Case Hearings on Environmental Permits**

Monitor recent reforms to the contested case hearings process for environmental permits and continue to support any further improvements that will prevent abuse of the process, ensure fairness, reduce time frames wherever practical and allow Texas to remain economically competitive for new capital investment and job growth opportunities. Further, oppose any legislation that would repeal or weaken recent reforms to the process or expand the scope of current provisions related to standing or opportunity to contest a permit as a designated party.

## **Cost of Federal & State Regulations**

- Support Texas law that requires state environmental agencies to estimate the cost and net benefits to regulated entities before adopting any major proposed rule.
- Support any changes in law that will simplify, consolidate or otherwise streamline the process of assessing regulatory costs and benefits without compromising the ability of an agency to produce a comprehensive and accurate assessment.
- Oppose legislation that places additional requirements on business and industry without a firm technical basis or appreciable benefit to the environment.

## **Cumulative Effects**

Oppose efforts to condition approval of permits on a review of all cumulative effects of other emissions that precludes the opportunities for economic growth, places the burden of attainment on new facilities and decreases incentives for demonstration of new control technology.

## **Emission Limits**

Oppose arbitrary emission limits established in statute that do not provide flexibility for site-specific conditions and future development of best practices or best control technology standards.

## **Endangered Species Conservation Plans**

Support efforts by business and industrial interests to enter into endangered species conservation plans that will meet the requirements of federal and state agencies and allow continued use and development of private property by businesses. Support continued efforts by the Legislature and appropriate state agencies, consistent with TAB priorities, to coordinate to ensure that endangered species regulatory decisions are based on valid scientific evidence and an accurate and comprehensive assessment of all economic impacts and that the interests of Texas property owners, taxpayers and businesses are represented before federal decision makers.

## **Environmental Audits**

Support Texas law that encourages environmental compliance by allowing the use of a self-evaluation privilege that protects a company's voluntary environmental and health and safety audits from being used in legal actions against the company under certain conditions.

## **Environmental Justice**

Support the granting or renewal of permits on environmental and health-based standards, and oppose permit programs that favor any community strictly because of its racial or economic demographics.

## **Environmental Regulatory Structure**

Support an environmental regulatory structure that bases state law on the enactment of federal environmental laws and regulations so that consistency is maintained, regulation occurs at the state level and the maximum flexibility is afforded to Texas businesses as long as equivalent environmental protection is achieved. Support efforts to require that local governments operating under enforcement authority granted by the Legislature operate under the same policies and criteria utilized by state agencies operating under the same authority. Oppose expanding the environmental authority of local governmental entities, particularly where such authority is duplicative or inconsistent with state regulation.

## **Environmental Standards**

Support reasonable incentives for the development and demonstration of new energy or pollution reduction technologies that do not distort the market place. Oppose mandates for specific technology or environmental controls that are not cost effective or which can be implemented only if new technology is developed.

## **Fund Balances**

Oppose any effort to reduce the budget of a fee-funded regulatory program for the purpose of redirecting the fee revenues to another purpose. Support efforts to reduce unobligated fund balances in regulatory fee funds by reducing fees to match expenditures and eliminate overpayments by affected businesses and industries. Support legislative efforts to more clearly identify the source of funds for regulatory programs and fees that unfairly recover more than the costs of the programs they pay for and to establish accounting systems that segregate appropriate regulatory fees from general revenue funds.

### **Local Enforcement**

Oppose any efforts to weaken or repeal the provisions of HB 1794 (84<sup>th</sup> Legislature) related to penalties recovered through local enforcement authorized under state law. Support legislation that will ensure that either enforcement of state law will be undertaken by state agencies or that local governments initiating enforcement under state law will be required to adhere to the same enforcement policies and criteria that are applicable to state agencies.

### **Preemption of Local Environmental Regulation**

Oppose any efforts to establish or expand by statute the authority of a local government to promulgate environmental regulatory programs that would preempt uniform, statewide regulation by TCEQ or other state regulatory agencies or be inconsistent with existing state regulatory programs.

### **Recycling or End-Use Programs**

Support industry-initiated programs for the voluntary recovery or take-back of consumer goods. Oppose mandatory programs that impose costs or prohibit the use of products solely for controlling personal behavior. Oppose mandatory recycling programs that impose enforcement liabilities or penalties for the disposal of materials in properly permitted and operated landfills or other waste management facilities designed to safely receive the materials.

### **Regulatory Fees, Taxes & Funds**

Oppose any new taxes to pay for additional environmental regulatory programs. Oppose the imposition of any new fees to recover the cost of regulatory programs unless the program can be shown to clearly address a critical environmental or public health need. Fees should only be assessed to recover the actual costs imposed on government by the activities of the regulated entities, must reasonably allocate costs between members of a regulated universe and must be adjusted periodically to actually match agency budgets and legislative appropriations.

### **Regulatory Responsibility**

Support legislation that affirms the rights and powers of the state government and limits intrusion by federal agencies in the state's implementation of delegated environmental programs.

### **Streamlining the Permit Process**

Support legislation to streamline the permitting process to ensure that businesses can maintain environmental compliance and at the same time minimize roadblocks that result in expensive procedural delays.

### **Texas Emissions Reduction Plan (TERP)**

Support legislation that will make the funds available to aid compliance with enforceable federal ozone air quality standards in all nonattainment areas of Texas and ensure that any authorized use of TERP funds must result in emission reductions that contribute to attainment efforts and are competitive in terms of costs versus benefits.



# GENERAL BUSINESS

Some legislation doesn't fit into one specific category but is still critical to business and the economy of Texas. TAB tracks hundreds of bills every legislative session to ensure the ability to do business is not hindered by unneeded or overbearing rules and regulations and that the regulations we have help foster the best business climate possible. TAB's general business priorities include:

## Administrative Hearings

Support reforms to the administrative hearings process within the State Office of Administrative Hearings (SOAH) for licensing, tax enforcement or other business-related actions that will prevent abuse of the process, ensure fairness, reduce time frames wherever practical and allow Texas to remain economically competitive. Support changes to the administrative hearings process to ensure that the executive or appointed head of an agency referring a matter to a hearing can overrule a proposal for decision by SOAH only with a reasoned justification.

## Auto Insurance Choice

Support changes in state law allowing drivers to choose between the current system, in which they can sue for non-economic damages, and a new system under which they would waive the option to recover non-economic damages.

## Civil Liability for Businesses

Oppose legislation that would create a new cause of action against Texas employers that choose to disallow guns at their place of business.

## Coastal Barrier

Support the feasibility study, planning, engineering and funding of a coastal barrier that will protect the vital industrial base of the Texas Gulf Coast from catastrophic storm damage.

## Contracting

Oppose legislation that restricts the ability of private parties to contract.

## Corporate Sale of Liquor

Support free-market principles for the corporate sale of liquor. Texas is the only state in the nation that disallows publicly traded companies from selling liquor. There is no business case for doing so, except allowing the government to narrow competition through mandates.

## Immigration Reform

Oppose measures that attempt to resolve federal comprehensive immigration reform at the state level. TAB supports and advocates for comprehensive immigration reform at the federal level and supports measures that are within the purview of the state authorities, such as human trafficking and property crimes.

## Industrial Facility Operation in Emergencies

Support clarification of the law relating to plant closures during emergencies. There is current confusion over how individual facilities will interface with government agencies during evacuation orders, including personnel availability for safe shutdowns who stay at the plant during emergencies and who need to return to work for timely plant startups.

## Industrial Facility Security

Oppose industrial facility security legislation at the state level to avoid the piecemeal effect of different requirements in each state, and support reasonable legislation at the federal level.

## Insurance Fraud

Support anti-fraud insurance legislation and enforcement. Fraud costs Texas businesses and individuals millions of dollars in the insurance marketplace.

## Mineral Rights

Support mineral owners' access as they exercise their mineral rights while ensuring fair treatment for surface landowners.

## No Pay, No Play

Support reforms that would prevent uninsured motorists from collecting pain and suffering damages if they are in an accident with an insured driver.

## Outsourcing & Offshoring

Oppose legislation that infringes on a company's right to outsource resources. Outsourcing (contracting out a non-core function of a business such as accounting or payroll) is not a new phenomenon. Nor is the fact that some of this work is conducted outside of the U.S. (offshoring). Offshoring has been a relatively small fraction of U.S. job loss and accounts for less than one percent of all U.S. jobs. Both outsourcing and offshoring are tools companies use to remain competitive in a world market and to preserve manufacturing jobs in Texas and the U.S.



### **Professional Licensing**

Oppose any legislation that would further regulate the activities of a private corporation or other business entity, including the activities of the full-time employees or other personnel under the direct supervision and control of the business entity, by requiring the employees to hold professional licenses. Licensing should only be required where deemed appropriate and where it would affect the public at large.

### **Private Property Rights**

Support private property owner land management for species, rangeland and natural resources. Oppose state acquisition or conservation of private or state lands for parks, wildlife management areas or conversion easements unless certain criteria are met. These criteria include consent of all the surface and mineral owners, funding for appropriate long-term land management and an economic analysis of the impact of conservation to local and state governments including education.

### **Procurement**

Re-visit SB 20 (84<sup>th</sup> Legislature) due to its hindrance on communication between state vendors and state agencies. TAB encourages establishing a new framework for better collaboration between the public and private sectors to ensure that rules are clarified for greater communication between government and business outside of the open procurement process.

### **Property & Casualty Insurance**

Oppose legislation that would create a prior approval insurance regulatory structure. TAB believes that the marketplace is the best mechanism for determining the right rate for insurance policies. Oppose any additional regulations on companies that could substantially hurt business and job-growth in Texas.

### **Public Information Laws.**

Oppose legislation that would make private entities subject to open records laws or force the release of proprietary information in governmental entities' contracts with businesses.

### **Record Votes**

Support the recording of legislative votes on second reading during and after floor debate in the Texas Legislature.

### **Relocation of Facilities in Municipal & State Rights-of-Way (ROW)**

Support a return to the long-standing state law whereby utilities that have placed facilities in public ROW to serve the state's citizens are not forced to pay for relocations required by governmental entities for improvements and projects beyond normal roadway widening and straightening.

### **Right-of-Way (ROW) Fees**

Support legislation to promote fair policies and criteria to be used by municipalities in the determination and assessment of ROW fees and ROW crossing fees payable by telecommunications providers, electric utilities and pipeline companies with facilities in a public ROW. Support limiting such fees to a city's cost of administration and maintenance of the ROW and requiring that such fees be assessed in a competitively neutral manner.

### **Sarbanes-Oxley**

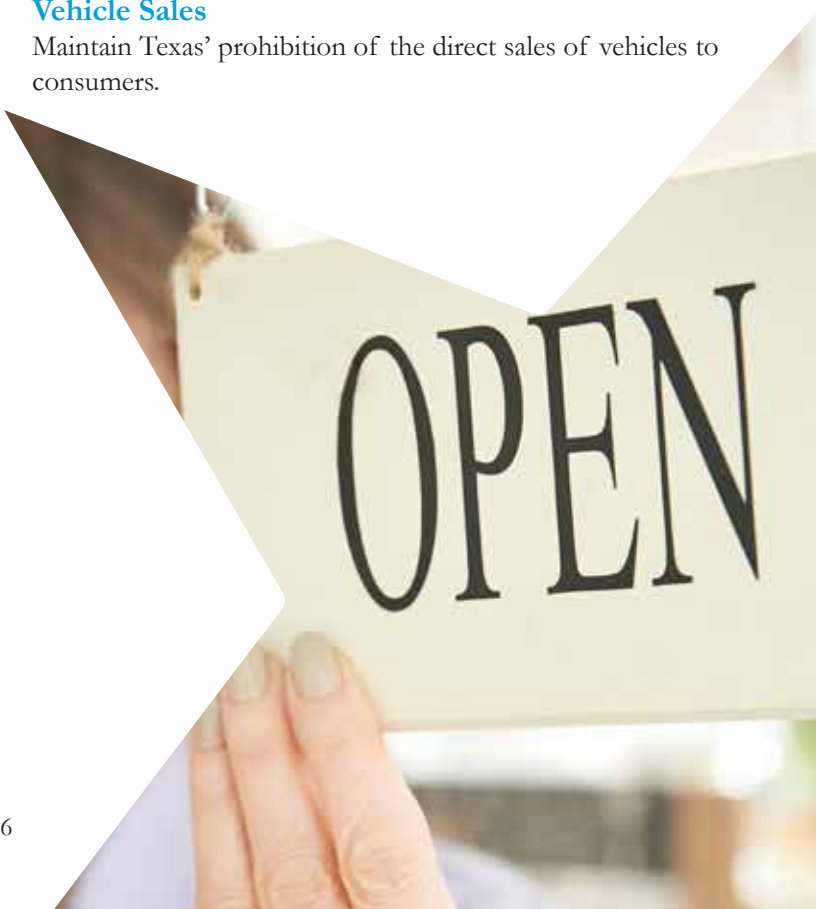
Oppose efforts to enact a "Sarbanes-Oxley" law on the state level. The federal Sarbanes-Oxley Act of 2002 and subsequent regulations establish unnecessary stringent corporate reporting requirements and stiff penalties for corporate accounting fraud and do not need to be duplicated at the state level.

### **Staff Counsel**

Oppose legislation to limit the use of staff counsel by insurance companies to defend policyholders.

### **Vehicle Sales**

Maintain Texas' prohibition of the direct sales of vehicles to consumers.



# HEALTH CARE

TAB advocates for the highest quality health care at the best cost available for both employers who provide health insurance to their employees and for the state taxpayers who fund Medicaid. TAB's legislative priorities are wide-ranging, covering issues such as access, transparency, health literacy and quality of service.

TAB will continue to work with the Legislature to improve health care delivery models, help consumers understand their role in their own health care, increase access to primary care and lower health care costs for Texas businesses. Expanding telemedicine in Texas and stopping balance billing practices are just a couple of examples of how we can achieve these goals. TAB's health care priorities are as follows:

## **1115 Medicaid Transformation Waiver**

Support an extension of the 1115 Medicaid Transformation Waiver and a call for negotiations between the Texas Health and Human Services Commission (HHSC) and Centers for Medicaid & Medicare Services (CMS) to develop an appropriate renewal of the waiver at the end of the extension period.

## **Access**

Increase access to choices of health care programs by supporting market-driven health care policies that maximize consumer and public benefit and allow for the continuation of employer-sponsored voluntary health care coverage. Encourage the establishment of programs that would allow employers selection of the highest quality benefits and the lowest, most competitive prices.

## **Administration**

Support legislation to improve the administration of health care services through the education of physician office staff and streamline the process to enhance outcomes and lower administrative burdens, such as encouraging providers to submit claims electronically. To the extent that they do not do so already, encourage insurance carriers and administrators to accept claims electronically.

## **Advanced Nurse Practitioners & Physician Assistants**

Support legislation that would expand the ability of advanced nurse practitioners and physician assistants to provide primary care and would reduce physician oversight requirements and other restrictions on their practice. Increase the supply of advanced nurse practitioners and physician assistants by expanding educational opportunities and by improving the practice environment.

## **Affordability**

Oppose any measure that increases health care costs for Texas employers and their employees and families. The high cost of health care services and health insurance is a primary contributor to the number of uninsured and to the rising percentage of budgets that households, businesses and government spend on health care. Support measures that would increase the efficiency and cost-effectiveness of health care services and health insurance.

## **Balance Billing**

Support legislation that prohibits health care providers and physicians from balance billing patients. Support placing limits on what out-of-network health care providers can charge, and support other legislation that will help eliminate the conditions in which balance billing occurs.

## **Consumer-Directed Health Care**

Support legislation to promote consumer-directed health care models. Encourage employees to be more involved in their health, and encourage education of employers and employees on actual health care costs and fees. Promote understanding of the maxim that a healthy employee and a healthy family create a productive workforce.

## **Consumer Credit Protection**

Support legislation that protects consumers from the submission of adverse credit reporting from medical bills when the provider did not give the allowable price that would be accepted as payment-in-full in advance of services rendered.

## **Consumer Information**

Empower employees and consumers with information regarding the cost and quality of health care services to allow consumers to make informed purchasing decisions. Support giving state agencies adequate funds to analyze and publish data in ways that stimulate improvements in quality of care and consumer comparisons. Support efforts to facilitate health plans providing members with information on the allowable amount and patient responsibility in advance of receiving services.

## **Contracting**

Oppose legislation that restricts the ability of health insurers to negotiate contracts with physicians and providers.

## **Corporate Practice of Medicine**

Support the repeal of the state prohibitions on the corporate practice of medicine, and support necessary safeguards in law to ensure physicians are not restricted from exercising independent medical judgment in diagnosing and treating patients.

## Employee Retirement Income Security Act (ERISA)

Preserve employer, employee and health care system benefits of ERISA by opposing any attempt to erode the federal preemption of state law relating to health benefit plans. Support legislation to vigorously protect the ability of ERISA employers to operate uniformly across state lines.

## Fraud & Abuse

Eliminate waste, fraud and abuse in Medicaid, the commercial employer-sponsored health care market and in the private sector health programs. Support legislation to ensure that prompt payment statutes do not result in the reimbursement of fraudulent claims. Support legislation to require health care providers to submit information to the state on financial relationships and utilization of services that will deter and detect improper activities.

## Freestanding Emergency Rooms

Support legislation that would prohibit a freestanding emergency room or hospital outpatient department from charging a facility fee unless it can show that the treatment rendered was beyond a doctor's office visit. Support greater transparency related to services provided at freestanding emergency rooms to ensure consumers understand the scope of services provided, potential costs and network participation. Require prominent signs to distinguish freestanding emergency rooms from urgent care clinics and to disclose hospital affiliation, if any. Support legislation to add freestanding emergency rooms, or any facility that charges a facility fee, to the balance billing mediation statute.

## Health Care Professionals

Support legislation and appropriations to expand the educational pipeline for physicians, nurses, physician assistants and other health care professionals by public colleges and universities. Specifically, TAB endorses policies that would:

- Support funding Texas Higher Education Coordinating Board studies to increase productivity and to reduce the cost of training health care professionals.
- Support legislation to prevent discrimination against nurse training programs based on clinical hours.
- Support six-year BS/MD programs to accelerate the production of physicians at a lower cost to the state.
- Support standardized pre-licensure training for RNs.
- Support state funding of additional residencies. In regards to the allocation of appropriations, TAB supports giving priority to providing state funding for medical residencies over additional state funding for medical schools.
- Support funding to increase the number of advanced practice registered nurses.

## Health Care Professional Licensing Agencies

Support appropriations that allow the professional licensing agencies to keep a larger percentage of the licensing fees they collect to improve processing of applications by providers and to conduct data collection, analysis, public information and oversight activities to improve the quality of health care for Texans.

## Health Literacy

Support legislation that ensures health literacy in Texas, including the taxpayer-funded health care enterprise system. Support the provision of plain language usage and disclosure of basic health information, including financial and quality information, whenever possible to expand the



capacity of individuals to make appropriate health decisions on an ongoing basis. Support the development of a “Health Literacy” curriculum that is a required course study for all health care professionals so they may help educate Texans on proper self-care, appropriate services and unwarranted spending on unnecessary or duplicative services.

### **HMO Contracting Abilities**

Support legislation that seeks to expand the definition of contracting entities in the HMO statute. Texas’ outdated and narrow statutory language needs to be updated to reflect current market practices and innovations.

### **Interstate Insurance**

Support legislation to allow Texans to purchase insurance policies, which have been approved by the insurance boards of any state and contain adequate consumer disclosure, across state lines, therefore increasing options for Texas citizens in purchasing health care policies.

### **Liability**

Prevent needless increases in cost and litigation through the expansion of any kind of medical liability. Support legislation to curb existing abuses and the filing of frivolous lawsuits.

### **Mandated Benefits**

Oppose any additional mandates on employers providing health care.

### **Medicaid**

Continue to support Medicaid managed care as a service delivery model. Support legislative policies that seek to create significant savings to the state and allow for flexibility, such as allowing managed care organizations (MCOs) to use their own formularies and their own prior authorization for prescription drug coverage. Encourage the transition of Medicaid managed care from the fee-for-service payment model.

### **Medicaid Expansion**

Support a private insurance model that includes copays and a sliding scale in order to reduce the number of uninsured Texans.

### **Patient Safety**

Support legislation to ensure patient safety and control costs by reducing the number of medical errors. Promote affordable, quality and safe health care. Encourage better monitoring and reporting of health professions by supporting legislation that provides for the release of

information regarding medical errors while balancing the need for health provider liability protections. Support legislation to provide immunity to providers for sharing information regarding physician performance.

### **Personal Responsibility for Health**

Support legislation and other state actions to encourage and equip each Texan to accept personal responsibility for his or her health throughout their lifetime, including health literacy.

### **Physician Self-Referral**

Support legislation and other state actions to collect data to disclose physician self-referral for all health care services, to enforce disclosure of self-referral to patients and health plans and to prohibit self-referral for those services where it has been shown that self-referral unnecessarily increases health care costs.

### **Price Controls**

Oppose government mandated price controls for medical products, health care provider services and health insurance.

### **Prompt Pay**

Support legislation requiring that notification of any late, inaccurate or non-payment of a health claim by a health care provider be made to the paying entity within 180 days of receipt of claim payment or written explanation of payment as long as claims were processed timely.

### **Regulatory Relief**

Support the mitigation of regulation on health care related issues impacting employers.

### **Quality**

Enhance quality in our health care system. Support legislation to provide a safe harbor for state-sponsored and private health plans to deny payment to health care providers for events for which the Medicare program denies payment to hospitals.

### **Specialty Prescription Trend**

Study the impact of specialty medicines on health care outcomes and costs over time. Examine recommendations to lower overall health care costs that balance the value of cures, quality of life, health outcomes and medical innovation with the necessity to manage costs.

### **Stop Loss Insurance**

Support legislation that would preclude harmful regulatory action that could limit access to stop loss coverage, ensuring that groups seeking to self-insure are able to access the necessary tools to do so.

### **Telemedicine**

Support the expansion of telemedicine as an affordable and accessible component of coordinated, efficient high-quality care. Support legislation that allows the commercial market the same, or greater, freedoms in this area than are found in the Medicaid program. Support the Federation of State Medical Board's interstate compact for medical licensure.

### **Transparency**

TAB favors relying on market forces to correct the major cost and quality deficiencies in the U.S. health care system. To allow the market to work, TAB favors requiring health care providers to publish on the Internet their prices in order to permit consumers to compare prices in advance of receiving scheduled services. "Price" is the amounts the provider accepts as payment in full for each service. TAB also favors legislation that increases the ability of health benefit administrators to assist consumers in using health benefits in a cost-effective manner.

### **Uninsured**

Support legislation that will reduce the number of uninsured Texans by increasing the affordability of health insurance and will allow the most efficient use of public, group and individual insurance arrangements within state budget constraints.

### **Waiver of Co-Payments**

Support legislation to stop providers from waiving or discounting co-payments for insured patients, in whole or in part, and encourage enforcement of existing laws.



# TAXES & SPENDING

TAB has always focused on supporting a tax structure that is fair and equitable to businesses in order to promote a sound economy and job creation, while still funding critical government services that benefit all Texans. TAB continues to oppose any tax that is not equitable, imposes hidden fees on businesses and makes Texas less competitive with other states.

Priorities for the 85<sup>th</sup> Legislature include continued support for reforming the franchise tax, including a research and development tax credit and a rebate of excess revenue to taxpayers. In addition, we will continue to oppose any effort to provide tax relief to residential property owners that simply shifts the burden to businesses that already pay a significant majority of the tax burden in Texas. TAB will also focus on legislation that will ensure fiscal responsibility at all levels of government and ensure that when debt financing is used to deliver major capital projects for the state, that such financing is the best long-term option. TAB will also continue its support for policies that ensure that dedicated revenues collected by the state are used for the purposes authorized by statute and that excess balances in funds and accounts are not used to justify higher spending limits. TAB's tax policy priorities include:

## Casino Gambling

Support casino gambling in order to reduce the franchise tax.

## Equity

Support legislative measures to equitably distribute the burden of business sector taxes among all businesses, including service and manufacturing. Also, support legislation ensuring that homeowners and businesses share support for public education.

## Fairness

Support the following Council on State Taxation taxpayer fairness proposals:

- Provide taxpayers equal interest rates on overpayments and underpayments;
- Provide for a 90-day protest period for taxpayers;
- Allow taxpayers an automatic filing extension with a federal extension; and
- Eliminate pay-to-play that currently requires Texas taxpayers to prepay tax or post a bond to obtain access to the trial court level.

## Federal Funding

Support state policies and programs that maximize the receipt and use of federal matching and other funds for state purposes.

## Financial Soundness for State Disaster Preparedness

Support improvements to the State General Fund to protect the state from significant losses in the event of a major hurricane in order to provide a more stable, well-protected coastal business environment, plan for quicker financial recovery and avoid increased business taxes in the event of a loss to the State General Fund.

## Fiscal Policy

Support requiring government at every level to practice fiscal responsibility. The Legislature should ensure that the basic and necessary functions of state government are adequately funded, while also ensuring that state agencies operate efficiently and effectively. State and local spending controls are desirable that restrict budget growth beyond appropriate population and inflation indices. The state should not use debt financing for any recurring operational expense and should use debt financing for critical infrastructure or capital projects only where the use of debt can be clearly shown to provide a positive return on investment.

## Franchise Tax

- **Wholesale and retail equity.** Support maintaining the current equal assessment rate for the franchise tax for both retail and wholesale entities and a graduated approach to the tax for businesses that have sales less than \$1 million.
- **Business losses.** Support authorizing a business's losses on the franchise tax to be carried forward for up to 10 years.
- **Exemption of flow-through funds.** Support an exemption from the franchise tax of all flow-through funds that are mandated by contract to be distributed to other entities.
- **Rebating excess revenue.** Support rebating any excess revenue collected from the franchise tax to those who paid it.
- **Research and development tax credit.** Support reinstating the research and development tax credit (provided under the previous franchise tax) and allowing it to be carried forward.
- **Compensation paid to independent contractors.** Support allowing businesses that elect to subtract compensation in computing their taxable margin to include wages and cash compensation paid to independent contractors if the total revenue of that business is below \$2 million.

## Gross Receipts Tax

Oppose the imposition of a gross receipts tax in Texas.

## Gross Receipts User Fees

Oppose any attempt to retroactively or prospectively impose a percentage of gross receipts user fee or street crossing surtaxes on the transmission of natural gas, crude oil petroleum products, petrochemicals and other goods, through pipelines.

## Incentives

Support government tax policies and incentive programs that are effective in increasing investment to create new jobs and greatly expand economic activity. Support specific exemptions, like those for manufacturing use, construction and electricity use, as well as reasonable abatements, enterprise funds, the Texas Moving Image Incentive Program and reinvestment zones.

## Inventory Tax

Support elimination or reduction of local inventory taxes. Texas is one of only six states that permit the levy of a property tax on inventories. This places the state at a severe economic disadvantage.

## Local Option Sales Tax

Oppose any additional local option sales tax increases above the current two percent cap.

## Location of Payor

Oppose any component of a business or franchise tax that penalizes those located in Texas.

## Mandates

Oppose unfunded government mandates that shift the cost of financing programs to either the private sector or other levels of government.

## Privatization

Encourage privatization efforts in government in order to increase efficiency and reduce government spending.

## Real Estate Transactions

Oppose mandatory price disclosure on commercial real estate transactions.

## Regulatory Fees & Taxes

- **New regulatory taxes.** Oppose any new taxes to pay for additional regulatory programs. Oppose the imposition of any new fees to recover the cost of regulatory programs unless the program can be shown to clearly address a critical public need. Fees should only be assessed to recover the actual costs imposed on government by the activities of the regulated entities. The fees must reasonably allocate the costs between members of a regulated universe, and they must be adjusted periodically to actually match agency budgets and legislative appropriations.
- **Fund balances.** Oppose any effort to reduce the budget of a fee-funded regulatory program for the purpose of redirecting the fee revenues to another purpose. Support efforts to reduce unobligated fund balances in regulatory fee funds by reducing fees to match expenditures and to eliminate overpayments by affected businesses and industries. Support legislative efforts to more clearly identify the source of funds for regulatory programs and fees that unfairly recover more than the costs of the programs that they pay for.



## Regulatory Policy

Support legislative efforts to maintain a regulatory climate that does not impose hidden taxes on employers through excessive fees and fines, but rather reduces excessive regulations to promote, rather than impede, economic growth and job creation.

## Split Roll

Oppose any plan that splits the property tax rolls either by rate or by making one a statewide tax. Oppose any tax plan or component that allows the state to treat businesses differently from homeowners.

## Small Business Tax Relief

Maintain franchise tax relief for small business.

## State Budget

- **Fiscal restraint.** Continue to support fiscal restraint in state spending and transparency in budgeting so that taxpayers know exactly what dollars are collected and where they are spent. TAB will continue to seek savings by focusing on increased efficiency in the use of state resources while simultaneously urging a reduction in the state's tax receipts.
- **Funds Consolidation.** Support repeal of the Funds Consolidation Act and the creation of appropriate dedicated funds to properly and accurately account for state income, appropriations and expenses. Support reforms to the biennial revenue estimate that ensure that revenue estimates delivered to the Legislature accurately reflect what funds may be used for. Support adjustments to spending limits based on whether the funds in question are general revenue tax dollars or dedicated funds to support specific programs.
- **Transparent budgeting.** TAB supports efforts to ensure that the Comptroller's Biennial Revenue Estimate clearly distinguishes the types of revenue included in the estimate and what limitations exist on the use of dedicated revenues. TAB supports the ongoing efforts to reduce the use of unobligated balances in dedicated funds for certification of the General Revenue budget and reasonable plans to prevent large balances from accruing in the future by expending the funds for the purposes authorized by statute or reducing tax or fee rates.

## State Spending on Medicaid & the Children's Health Insurance Programs (CHIP)

Support legislation that promotes budget certainty and budget savings at the state level. Seek federal flexibility to maintain control of state spending in Medicaid and CHIP.

## State Tax System

Support a balanced state tax system that encourages the savings and investment necessary for the creation of jobs and that does not place a disproportionate share of the tax burden on businesses. Any revision in the business tax structure should reduce the percentage of state and local taxes paid by business or be revenue-neutral and also reduce the administrative burden.

## Tax Equity

Support legislation that promotes equity in the taxing of insurers, recognizing that premium taxes result in higher costs for consumers.

## Tax Exemption for Pollution Control Equipment

Oppose attempts to repeal or weaken the property tax exemption for pollution control equipment.

## Video Lottery Terminals (VLTs)

Support legislation to allow the voters to decide whether to permit the installation of interactive video lottery machines with the funding to be dedicated to schools.

## Windfall Profits Tax

Oppose efforts to impose "windfall profits taxes" or to penalize companies for substantial and sudden profits.

## Votes

Support legislation that would require a two-thirds vote of the Texas Legislature in order to raise state taxes.





# TECHNOLOGY

The day-to-day operations and legal parameters of business are rapidly changing with the integration of technology. As a result, TAB has identified areas where we need to advocate for legislative changes necessary to keep up with the impact of technology in business. Cybersecurity, infrastructure and privacy are among some of the issues that Texas must address to stay competitive. TAB's priorities in the area of technology include:

## Cybersecurity

Support programs to increase awareness of how small- and medium-sized businesses can protect themselves from cybersecurity threats. Also, support efforts to increase the supply of a skilled workforce for the cybersecurity sector, including programs that effectively transition veterans into this sector.

## Infrastructure

Support efficient and effective infrastructure assets, including Information & Communications Technology (ICT), in order to help build capacity needed to accommodate our growing population and help us to remain competitive with other states.

## Internet Regulation

Oppose any attempt to apply state regulation to Internet services or providers. Government intervention in the broadband marketplace through the imposition of restrictive policies, such as measures to control how providers price, market and manage their products and services, would deter innovation, reduce competition and thwart continued investment in, and enhancement of, broadband networks.

## Patent Reform

Support patent reform at the state level to stop abusive patent litigation from harming Texas business. Patents are essential to innovation, and Texas needs to protect its current technology-based companies, as well as attract new ones. While legitimate patent infringement litigation is necessary to the protection of intellectual property, abusive patent litigation diverts valuable resources and focus away from research and development, hiring new employees, releasing new products or expanding a business to the Internet.

## Privacy & Information Practices

Encourage and support business efforts to develop and disclose comprehensive, market-driven privacy policies. Oppose efforts that would create a "patchwork-quilt" of state laws that would further impede the growth of Internet commerce. Work to ensure an environment that supports increased high-tech business development in Texas and the continued development of electronic business-to-business transactions.

# TORT REFORM

Through the passage of groundbreaking tort reform legislation that addressed medical malpractice, venue shopping, asbestos lawsuit abuse and other legal inequities, TAB helped bring balance to the Texas civil justice system. As a result of that legislation, the Texas economy is thriving.

Although Texas is a shining example of what others can do to reform their civil justice systems, we will still have battles to maintain our hard-fought reforms and correct additional burdens on the system, including insurance litigation abuse. The 85<sup>th</sup> Legislative Session should be no exception to the attack by trial lawyers to change the tide and bring more litigation to Texas. TAB will remain diligent in protecting these critical reforms and continue to fight for the following priorities:

## Alternative Dispute Resolution

Support legislation that creates mechanisms and incentives for the use of alternative dispute resolution.

## Civil Justice Reforms

Protect the comprehensive tort reform measures passed by the Texas Legislature that have gone a long way to building a fair, balanced civil justice system in Texas.

## Civil Penalties

Texas currently has over 1,500 statutes that result in civil penalties, some of which are burdensome for business. Support efforts to lessen or repeal various civil penalties throughout the various codes.

## Court Reorganization

Support reorganizing Texas' court system to allow for more uniform jurisdiction for Texas Courts.

## Hail Abuse

Support legislation to end rampant hailstorm lawsuit abuse and remove the incentive for trial lawyers to manufacture lawsuits, while allowing for continued consumer protection.

## Insurance Litigation (Health)

Support legislation to reduce litigation related to prompt pay penalties, which ultimately result in higher health insurance premiums for employers and consumers.

## Insurance Litigation (Property & Casualty)

Support revisions in the Texas Insurance Code that would:

- Limit the amount of legal fees that an attorney can recover in statutory actions;
- Limit the statutes of limitations for insured property damage claims to two years from the loss event;
- Require alternative dispute resolution between the property owners and their insurance companies when there is a difference of opinion on the value of the underlying property damage;
- Mandate a standard appraisal process to resolve disputes, with appropriate measures taken to insure that the umpires selected to mediate differences between the property owner's appraiser and the insurer's appraisers are qualified and unbiased; and
- Remove the provision requiring insurance companies to pay an 18 percent interest rate on total property losses if the damages awarded to the homeowner are higher than the amount deemed reasonable by the insurance company as a result of mediation or court litigation.



This provision could be replaced with a lower and reasonable interest rate equivalent to amounts earned on financial instruments, subject to a minimum of 5 percent and a maximum of 10 percent.

### **Judicial Selection**

Support legislation that creates a mechanism for the merit selection and non-partisan retention election of qualified jurists.

### **Jury Service**

Support legislation to reform jury service requirements to streamline the process and encourage jury service.

### **Legal Ethics Reform**

Support legislation to ensure that the process for disciplining lawyers is effective to prevent abuse.

### **Medical Malpractice**

Protect legislative reforms enacted to address rising medical malpractice insurance costs.

### **Patent Reform**

Support patent reform at the state level to stop abusive patent litigation from harming Texas business. Patents are essential to innovation, and Texas needs to protect its current technology-based companies, as well as attract new ones. While legitimate patent infringement litigation is necessary to the protection of intellectual property, abusive patent litigation diverts valuable resources and focus away from research and development, hiring new employees, releasing new products or expanding a business to the Internet.

### **Special Courts**

Support legislation to allow the Texas Supreme Court to create special courts and/or assign cases to specific courts in matters requiring medical or technical expertise.

### **Statutes of Limitation**

Oppose attempts to amend current law to extend statutes of limitations or timetables for filing a lawsuit.



# TRANSPORTATION

An adequate transportation system is absolutely essential to the movement of people, goods and services and the preservation of economic opportunity in Texas. It is TAB's position that all transportation policy decisions must be focused on increasing the efficient and cost-effective movement of commerce between our neighboring states and countries. We must identify the transportation system that Texas needs and then determine all reasonable means to pay for it.

All modes of transportation that support our economy and jobs deserve support, as well as maintenance and modernization of our existing infrastructure. All methods of finance, including toll roads, alternative methods of funding and state revenues will be essential to providing all levels of government – state, regional and local – the tools to plan, design and implement transportation projects that serve the needs of this state.

TAB supports the fair and equitable allocation of funds by TxDOT to local and regional transportation projects and appropriate, uniform regulation of innovative transportation services that meet the needs of commuters. TAB's priorities for transportation for the 85<sup>th</sup> Legislature are:

## System Needs

### Improved Transportation Systems

Support improved highways, ports of entry and other infrastructure that facilitates trade, increases the effective flow of goods and services, promotes tourism and increases public safety wherever these improvements can improve economic opportunity and state productivity.

### Toll Roads

Support the authorization and construction of toll roads. New capacity toll roads will provide motorists with choices in safe, reliable travel. User fees will support development, operations, financing and long-term maintenance of facilities that otherwise may not be feasible with traditional state and local resources. Any new toll roads must have local support and not reduce any existing non-tolled transportation options and infrastructure currently available to users in the applicable area.

TAB supports public-private partnerships that bring innovative methods to design, build, finance, maintain or operate an enhanced transportation system in order to meet the growing needs of Texas, while protecting taxpayer interests and property rights. Such partnerships should ensure that they do not preclude public ownership or operation of toll roads where they are supported locally and can be shown to be economically viable.

### Toll Road Operation & Administration

TAB supports efforts to establish uniform and fair operating and administrative procedures for toll roads and toll road authorities that:

- Maximize the seamless and transparent assessment and collection of appropriate tolls across multiple toll authorities;
- Encourage the payment of appropriate toll charges without excessive penalties and effective and efficient resolution of toll payment disputes; and
- Encourage uniform policies for safe and effective toll road operation, including those related to accident response, vehicle disablement or other appropriate vehicle operator requirements.

### Waterway, Port & Ship Channel Improvements

Support any opportunities available to the Legislature or state agencies to facilitate ongoing efforts to improve the maintenance and modernization of commercial waterways and ports. Support local communities seeking funding through the U.S. Army Corps of Engineers (USACE) or other sources, and support state agency review and coordination of federal or state permits or authorizations. Further, support the continued priority of use of the State Highway Fund (Fund 6) for marine transportation needs.

## Financing Options

### Bonds

Despite the appropriate concern over both state and local government debt, TAB supports the issuance of bonds as funding mechanisms for highway and related construction where the long-term financing of infrastructure makes financial sense, generates positive economic returns and provides adequate revenues to retire the obligations. We support the early retirement of transportation debt where financial analysis clearly shows that such options provide the best return on investment of transportation funds and adequate funds for long-term maintenance and operation are available.

## Local Participation

Support the continued use of local pass-through financing and other alternatives that enhance the ability of local communities to participate in the transportation planning, development process and funding options that address local and state connectivity needs.

## New Revenue Sources

The 84th Legislature made valuable progress in improving transportation funding in Texas without authorizing any new fees or taxes. With these efforts, however, we can only hope to maintain current levels of traffic congestion. In order to meaningfully reduce congestion and meet the needs of our growing population, new and sustainable sources of revenue are inevitably required. TAB will oppose any efforts to reduce the availability of recent revenue gains in attempts to fund other budget priorities.

## Public-Private Partnerships

Support the continued use of public-private partnerships and Comprehensive Development Agreements (CDAs), and enhance mechanisms that allow project sponsors to access private capital to supplement state or local funds to build infrastructure. We also support efforts to remove statutory or legislative restrictions or limitations on the number or nature of local comprehensive development projects where there is local support for such projects that address local or regional transportation needs.

## Vehicle Registration Fees

The successful efforts of the 84<sup>th</sup> Legislature to end fuel tax diversions and allocate sales taxes will go a long way in alleviating the significant funding shortfalls for transportation. However, these efforts will still not completely address the problem. TAB will continue to support additional alternatives, including an increase in vehicle registration fees, dedicated to transportation infrastructure, that will complement other sources of funding to ensure that Texas has a transportation system capable of maintaining and contributing to the continued growth of our state's economy.

## Cost Savings

### Outsourcing State Work

Support opening government monopolies to competition by comparing the cost of projects. If a business in the private sector can do the job better and at a lower cost than the state, then it should be outsourced. However, care should be taken to protect Texas businesses from competing with below-market priced materials and services from suppliers for whom subsidies provide an unfair pricing advantage over Texas suppliers.

## State Engineering Work/Design-Build

Support outsourcing the state's engineering work to the maximum extent feasible to reduce costs and save taxpayer money. Support the use of design-build procedures wherever they can be shown to reduce the total cost and/or time required to deliver transportation projects without negatively affecting the quality or performance of those projects.

## TxDOT Administration

### Priority of Transportation Projects

As TxDOT implements the provisions of HB 20 (84<sup>th</sup> Legislature), the consideration of prioritizing projects must reflect the actions of project participants to contribute financing. Regardless of other priorities for allocation of state revenues, projects should get funding priority if local or regional sponsors are willing to put appropriate local revenues into the mix and move forward. Support efforts to ensure that the allocation of state funds to transportation projects be fair, equitable and made without regard to the investments that local governments and local taxpayers have chosen to fund to meet local or regional needs.

### Sunset Review

Support a focused review of TxDOT functions and operations that builds on earlier reviews and recent legislative changes, and oppose any efforts to use the Sunset process or legislation as a vehicle for significant changes in policy direction unrelated to the mission of the Sunset Commission or other legislative initiatives more appropriately implemented through the regular deliberative legislative process.



## Transportation Regulation

### Eminent Domain

Support efforts to improve the eminent domain process that protect both the interests and rights of property owners, improve the efficiency of the process for any party acquiring property through eminent domain, reduce the costs of infrastructure projects to taxpayers and ratepayers and ensure a balance of interests between both public utilities and landowners. Oppose any efforts to unfairly or arbitrarily deny access to the eminent domain process to any class or type of utility or public infrastructure provider, whether public or private.

### Mobile Source Emissions—Texas Emission Reduction Plan (TERP)

- Support efforts to continue TERP funding beyond the current sunset date and oppose efforts to repeal the provisions for transfer of revenues from the State Highway Fund (Fund 6) to TERP from vehicle title transfer fees. Support efforts to amend the funds transfer authority between the Mobility Fund, Fund 6 and TERP that preserves the original intent that vehicle title fees be used for mobile source air quality programs without jeopardizing the underwriting of Mobility Fund bonds.
- Support the appropriation of available TERP revenues and account balances in whatever amounts are necessary to ensure appropriate progress toward compliance with federal ozone air quality standards, including new uses of the fund that can be shown to reduce emissions of ozone precursors cost effectively.
- Oppose any proposed additional uses of TERP funds that do not reduce emissions of ozone precursors and which are not competitive with other potential uses in terms of the costs of emissions reductions on a unit basis.

### Transportation Network Companies (TNCs)

Consistent with TAB's support of the successful efforts to adopt uniform, statewide requirements for liability insurance for TNC drivers in the 84<sup>th</sup> Legislature, we support comprehensive statewide regulation of TNCs that is uniform, supports consumer choice and personal responsibility, creates incentives for technical innovation, enhances job growth and public safety and eliminates unnecessary local government regulation.

### Vehicle Safety Inspections

TAB supports the repeal of the requirement for periodic safety inspections of non-commercial vehicles if:

- Valid data and analysis clearly demonstrate that repeal of the inspection requirement will in no way increase the risks of traffic accidents or public safety; and
- The funds derived from the safety inspections that are dedicated to air quality compliance programs are maintained and available to be appropriated for their intended purposes.



# WATER

Perhaps no other issue is as critical for all businesses in Texas as our water supply. The latest update to the Texas State Water Plan confirms that in drought conditions, Texas businesses do not have the water that is needed to sustain economic opportunity. The report projects that by 2060 water supplies will decrease by 10 percent, while our population will grow by 82 percent, from 25.4 million to over 46 million. The need for additional water in Texas during drought conditions will reach 8.3 million acre-feet.

Future water availability will depend on significant financial investment in water projects and infrastructure, measured in the tens of billions of dollars. The failure to meet this water demand by 2060 will mean the loss of \$116 billion in lost corporate and personal income annually and over 1 million jobs in Texas. Addressing the issue of water supply will help control costs, which will become exorbitant for all users when demand far exceeds supply.

Conservation of existing water resources, development of additional cost-effective supplies and sound scientifically based and economically rational standards for protecting water quality will be key to our ability to continue to attract business opportunities to Texas. TAB supports the preservation of the rights of senior surface water rights holders and efforts which will enable our groundwater resources to be developed in the most effective and efficient manner while preserving the rights of owners of land and water. TAB's priorities for water management policy are:

## Emergency Allocations of Water

Support efforts to ensure that the allocation of water during drought or other emergency conditions to meet critical public health and welfare needs is conditioned on recipients of water implementing the most stringent water conservation measures and allows for compensation to those water rights holders who surrender water to meet public emergencies based on true market value.

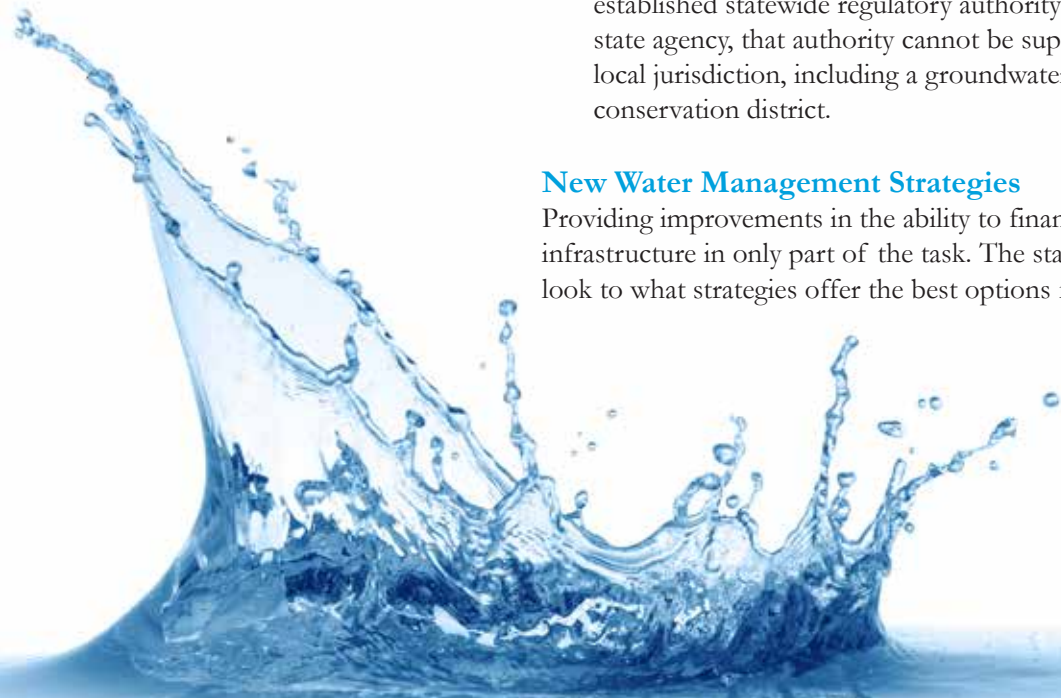
## Groundwater Conservation Districts

Recognizing that the most efficient utilization of the state's water resources will require some changes to the framework of groundwater management authorities, it will be the policy of TAB to:

- Support the authority of groundwater conservation districts that is consistent with recent court decisions that affirm the rights of property owners in the access to and use of their groundwater property rights;
- Support the consistent management and regulation of groundwater on the basis of defined hydrogeologic boundaries rather than arbitrary political jurisdiction boundaries;
- Support efforts to ensure that the authority and function of groundwater conservation districts fully supports reasonable measures to develop brackish groundwater sources through desalination or other technologies;
- Support efforts to ensure that the authority and function of groundwater conservation districts fully supports reasonable measures to enhance water supplies through aquifer storage and recovery; and
- Support efforts to clarify that where the Legislature has established statewide regulatory authority vested in a state agency, that authority cannot be superseded by a local jurisdiction, including a groundwater conservation district.

## New Water Management Strategies

Providing improvements in the ability to finance water infrastructure is only part of the task. The state must now look to what strategies offer the best options for the future



to provide both an adequate supply of additional water resources and the most cost-effective supply. To that end, the legislature will be examining new and evolving options, including desalination of brackish groundwater and seawater, aquifer storage and recovery and innovative reuse and conservation technologies. Full utilization of these strategies will require changes to the current legal, procedural and institutional water resource management framework, including the structure, function and authority of various water management entities, including groundwater conservation districts. In evaluating legislative proposals for addressing the state's water supply needs, TAB will support those measures that best ensure an adequate supply of water at a cost that is fair and supportive of both legal property interests and future economic growth.

### **Regulatory Fees, Taxes & Funds**

Oppose any new taxes to pay for additional water resource or water quality regulatory programs. Oppose the imposition of any new fees to recover the cost of water resource or water quality regulatory programs unless the program can be shown to clearly address a critical environmental or public health need. Fees should only be assessed to recover the actual costs imposed on government by the activities of the regulated entities, must reasonably allocate costs between members of a regulated universe and must be adjusted periodically to actually match agency budgets and legislative appropriations.

### **State Water Plan**

With the support of TAB and other interest groups, the 83<sup>rd</sup> Legislature passed HB 4 and SJR 1 and the voters in November 2013 approved the constitutional amendment that dedicated \$2 billion from the Economic Stabilization Fund for additional financial support for water infrastructure projects. In addition to our existing priorities for sound water resource management, TAB's policy focus must now include how the Texas Water Development Board (TWDB) implements HB 4/SJR 1 and what future legislative actions are required to ensure that the state's goals for a more dependable water supply are met.

The addition of \$2 billion and the financial management tools available in HB 4, in conjunction with the existing bond authority of the TWDB, are designed to provide incentives to local and regional water providers to pursue water supply and conservation strategies. It will be incumbent on TAB to monitor the implementation of HB 4 and support subsequent legislation that ensures that:

- Water providers in Texas are properly motivated to invest in water infrastructure;
- The state's financial assistance programs produce sufficient revenues to ensure a viable future for economic development in Texas; and
- Water resource financing plans distribute the costs fairly and equitably among all users and beneficiaries in the state.

### **State Water Rights**

In examining any new legislative proposals to promote alternative or innovative water supply strategies, TAB will:

- Oppose efforts to alter the existing structure of water rights laws in Texas in any manner that would weaken the legal and property interest of existing holders of water rights;
- Monitor the implementation of any programs to increase or enhance the enforcement of water rights, including new watermaster jurisdictions, to ensure that existing water rights are protected and that any costs of new enforcement programs clearly reflect the value of the resource and the fair allocation of costs among water right holders; and
- Oppose any efforts to modify or weaken the status of senior water rights as defined by the courts in the case of TCEQ v. Texas Farm Bureau.

### **Water Conservation**

In evaluating legislative proposals related to water conservation, TAB will:

- Support efforts to ensure that water users are required to develop and enforce stringent water conservation measures as a condition of receiving any state financial or technical assistance for water resource planning and development;
- Support efforts to ensure that water providers are able to establish rates for retail water use that appropriately balance both the need to recover the costs of water supply and delivery infrastructure and encourage necessary water conservation; and
- Oppose any efforts to establish or enforce water conservation measures that unfairly burden one class of water user or impose a disproportionate demand for water use restrictions on commercial or industrial users.



# WORKERS' COMPENSATION

It has been over a decade since the 2005 landmark House Bill 7 legislative reforms, and the Texas workers' compensation system has shown significant improvements in a variety of areas, including injury rates, employer participation, claims costs, return-to-work outcomes, access to care and insurance rates and premiums. TAB has worked closely with the Division of Workers' Compensation (DWC) to ensure that the system meets the basic legislative goals of providing adequate benefits to injured employees at a reasonable cost to Texas employers. TAB also champions nonsubscription in Texas as a way for employers to effectively manage care for their injured workers. TAB's workers' compensation/nonsubscription priorities include:

## **Drug Compounding**

Support legislation that aids in the safety of injured workers when compounding drugs. Support legislation that addresses the high cost of compounding.

## **Exemplary Damage Caps**

Oppose legislation to remove caps on exemplary damages in workers' compensation claims, and oppose any attempts to reverse the Rutiger decision.

## **Fraud Monitoring, Detection & Prosecution**

Support legislation that increases the Texas Department of Insurance's ability to identify and prosecute fraud and abuse within the workers' compensation system. Also, support incentives for the identification and successful prosecution of workers' compensation fraud.

## **Health & Safety**

Support cost-effective health and safety measures.

## **Illegal Drug Use**

Support legislation encouraging zero tolerance for the presence of alcohol or illegal drugs on the job. Support efforts to make the intoxication defense stronger.

## **Impairment Ratings**

Support legislation to maintain the objectivity of the workers' compensation system by ensuring that adopted medical impairment guidelines do not raise impairment benefit amounts. Oppose efforts to lower the impairment rating threshold for an injured worker to receive supplemental income benefits. Also, support continued monitoring of the income benefits system.

## **Indemnity Benefits**

Ensure that indemnity benefit changes are based on reliable data vetted by the employer and insurance community and that changes do not negatively impact return-to-work initiatives.

## **Mandatory Workers' Compensation**

Oppose legislative efforts to mandate workers' compensation coverage.

## **Mental Health**

Oppose legislation designed to expand mental health treatment guidelines or the inclusion of psychologists as authorized treating physicians.

## **Nonsubscription**

Oppose any legislation that would directly or indirectly hurt nonsubscription plans. Nonsubscription refers to a Texas-specific law that allows employers to opt out of providing workers' compensation benefits and create their own insurance plan to control costs and make injured workers whole.

## **Opinion of Chosen Doctor**

Support legislation to clarify that claimants may not appeal the opinions of their treating doctor in the areas of medical treatment, impairment and dispute process.

## **Over-Burdensome Laws**

Oppose legislation that imposes new laws or regulations on employers that are non-subscribers to workers' compensation.

## **Performance Based Oversight (PBO)**

Support efforts to eliminate PBO, which has been more of a regulatory burden than an effective tool to increase the quality of the workers' compensation system.

## **Physician Dispensing**

Oppose efforts to allow physician dispensing of prescription drugs.

## **Physician Training**

Support measures to increase training of medical providers in the inappropriate use of narcotics.

## **Regulatory Efficiency**

Support measures to increase efficiency in the operation and administration of the Texas Department of Insurance and within the DWC and reduce unnecessary administrative and legal burdens.

### **Retaliatory Discharge**

Support legislation to limit damages and restrict the scope of action filed by a terminated employee for workers' compensation retaliatory discharge.

### **Return-to-Work (RTW) Guidelines**

Support legislation to allow treating physicians and employers to use the same guidelines for RTW and treatment.

### **Settlements**

Oppose legislation that attempts to reintroduce lump sum settlements, including medical lifetime benefits, into the Texas workers' compensation system.

### **Statutory Employer**

Support and preserve the current regulatory structure that prevents lawsuits against employers and property owners who provide workers' compensation insurance.

### **Subrogation Rights**

Support legislation to maintain subrogation rights of employers and insurers in recouping money paid to claimants for third-party actions.

### **Subsequent Injury Fund**

Support legislation to secure the solvency of the Subsequent Injury Fund that does not require an increase in the maintenance tax.

### **Treating Physicians**

Support legislation that strengthens the role of treating physicians to ensure quality medical care and effective management of care for injured workers. Also, support clarifying current law regarding the authorization for a treating doctor.

### **Utilization Review**

Support legislation to promote utilization review as a method of cost containment and quality improvement.

### **Waiver**

Support legislation to specify that the defense of "no compensable injury" cannot be waived regardless of any time constraints.





TEXAS  
ASSOCIATION OF  
BUSINESS

THE TEXAS STATE CHAMBER

# 2017 PRIORITIES

## 85<sup>th</sup> LEGISLATIVE SESSION

1209 Nueces, Austin, TX 78701 | (512) 477-6721 | [www.txbiz.org](http://www.txbiz.org)