



TEXAS

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BUSINESS REPORT



Keeping PACE With Growth

Saving energy and water while growing business

Two issues have forced Texans to think more about energy and water conservation. As the federal administration continues its battle against energy from fossil fuels, the only practical way to exist without the availability of dependable fossil fueled electric generation is to dramatically reduce the demand for electricity. Likewise, even with the recent rains, the drought years in Texas have made water supply development and conservation an essential focus of our economic planning.

The argument from those opposing fossil fuels or development of new water supplies has always been that conservation will save businesses money, so that the government is justified in mandating reductions in demand. The end result is many commercial products have been taken out of the market resulting in purchasing options being mandated by law.

Those who support mandatory conservation, however, either ignore or do not understand how a business operates and competes. Businesses survive by making wise choices about where to invest capital and energy or water conservation is the best place to invest capital, only when its rate of return exceeds all other potential investment alternatives. This is perhaps the principal reason that, as companies have struggled to continue an economic recovery, the total value of deferred maintenance on commercial and industrial property in the U.S. continues to climb to alarming levels. Those in the commercial property investment field have come to regard deferred maintenance as an increasingly dangerous threat to investment income if not properly evaluated and addressed. Much of this deferred maintenance is related to building components that directly affect energy and water utility consumption and the costs of doing business.



Businesses can save power and water and still grow.

WORKFORCE Q&A

What do Employers Need to Know About the Occupational Safety and Health Administration's (OSHA) Intended Use of the General Duty Clause?

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UPCOMING EVENTS

TAB is launching more regional chapter events to go with the statewide events that we have done for years. Information on all of those events, along with links to register for all of them, on our website. We invite you to go to our events page and explore all of the events in your area and sign up today.

WWW.TXBIZ.ORG/EVENTS

TAB MISSION

To make the Texas business climate the best in the world.

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WORKFORCE Q&A



Kaji Punam, Associate
Haynes & Boone, LLP

What do Employers Need to Know About the Occupational Safety and Health Administration's (OSHA) Intended Use of the General Duty Clause?

The Occupational Safety and Health Act (the "Act") promulgates how employers shall provide a safe workplace; however, the broad General Duty Clause under section 5(1)(a) of the Act allows OSHA to cite employers for failing to "furnish . . . a place of employment . . . free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."

Two examples of how the General Duty Clause can be used, and likely will be used increasingly, are: (1) to address exposure to hazardous substances, and (2) to address workplace violence. The Act establishes the Permissible Exposure Limit "PEL" for many hazardous substances.

However, OSHA contends that the established PELs are behind the times and need updating. With a new directive, OSHA instructed inspectors to cite employers under the General Duty Clause for exposure to hazardous substances even when no PEL is established. The inspectors can review the hazardous materials' Safety Data Sheets to determine exposure limits. Thus, employers should pay attention to the Safety Data Sheets and not rely alone on the PELs set forth in the Act.

The Act does not address workplace violence, a topic of increasing importance for OSHA. So, OSHA has used the General Duty Clause to cite employers for a failure to address workplace violence. In April 2015, OSHA issued guidance regarding workplace violence in the healthcare and social services industries, which have a higher rate of workplace violence. In *Sec'y of Labor v. Integra Health Mgmt., Inc.*, OSHRC, No. 13-1124, OSHA cited a healthcare employer under the General Duty Clause for the murder of an employee by a patient with a violent history, claiming that the patient's violent history presented a known hazard which was not abated. In September 2015, the Occupational Safety and Health Review Commission requested briefing on whether the General Duty Clause was lawfully cited.

In 2016, OSHA intends to issue a new directive, training OSHA inspectors on how to investigate workplace violence. The briefing from *Integra Health Mgmt.* and the upcoming directive from OSHA may provide further clarity on how OSHA will use the General Duty Clause to address workplace violence.

Employment Relations questions?

**Don't forget to call TAB's Employment Relations Hotline
for your next HR Question
1.800.856.6721, ext. 164 or E-mail smcgee@txbiz.org**

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Where Issues Come From

Ever wonder why we advocate for certain issues?

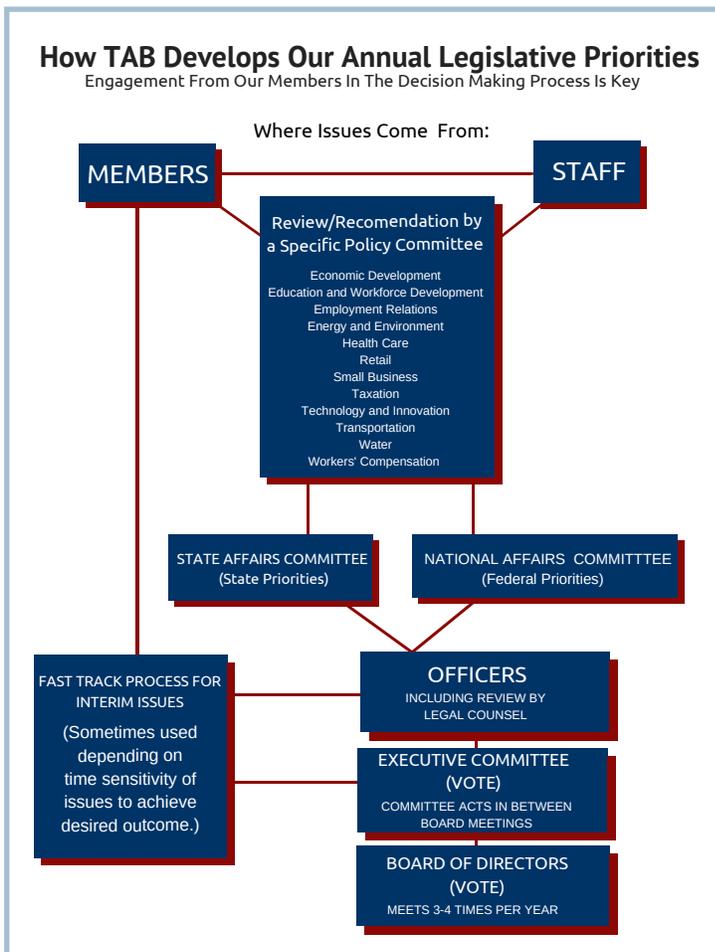
There is a process that every issue goes through before our Texas Association of Business lobby team goes to work on it.

Each issue comes from one of two places, members and/or staff. From there each issue is vetted through our committee process: first through the committee that deals with individual issues (like the transportation committee or environmental committee) and then is considered by the State Affairs or National Affairs committee.

From there TAB officers, the executive committee and eventually the full board consider the recommendations of those committees.

On some occasions TAB must act faster on breaking issues, and there is a policy in place to deal with those as well. That is the fast track procedure, which bypasses the committee process and goes directly to the officers, executive committee and in time, to the full board for consideration.

Any member may request an issue be considered. The key is to become involved in the committees that deal with issues that interest you or affect your business. You can get information on all of our committees and find a form to join committees on our webpage. Please [click here](#) to access that information.



TAB has a process to develop legislative priorities.

Keeping PACE With Growth

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In 2013, the Texas Legislature wisely addressed the need to encourage energy and water conservation, not through tax incentives or subsidies that distort free markets, but through a voluntary program that allows private property owners to make up their own minds as to what building improvements will conserve resources and reduce utility costs. With the passage of SB 385 in the 83rd Legislature, local governments now have the authority to allow commercial property owners to participate in an innovative program known as PACE – for Property Assessed Clean Energy. PACE allows commercial, industrial and multi-family property owners to obtain low-cost, long-term private sector financing for energy-efficiency (and water conservation) improvements to their properties through cooperation with their local governments.

By using PACE, a property owner can remove traditional obstacles to the financing of energy and water conservation projects by authorizing the repayment of a building improvement loan to be enforced in the same manner as a property tax. This small change has the large impact of making projects that were unlikely to be funded before now far more feasible. Under PACE, business owners can now conserve energy and water on a positive cash flow basis without having to tie up limited capital. PACE creates new demand for engineering, HVAC, plumbing, electrical, lighting and other contractor services and new

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MEMBER PROFILE

Lubbock Chamber of Commerce

Before Lubbock was on a map or Buddy Holly sang a note, when the words “Wreck ‘Em” were just words and only cotton grew, there was the Lubbock Chamber of Commerce.

For more than a century, the Chamber helped grow the city of Lubbock by promoting a strong business community through economic development, legislative involvement and bellowing voices.

Like most chambers, Lubbock’s was founded by the business community to create more economic opportunities, and so it did.

From the railroad that gave Lubbock a huge boost to the university that put it on the map, the Lubbock Chamber of Commerce has been a driving force in pushing the city toward prosperity.

Today, that proud tradition continues.

The Lubbock Chamber of Commerce has become the first and only Chamber to be both named Chamber of the Year by the Association of Chamber of Commerce Executives (ACCE) twice and recognized as a 5-Star Accredited Chamber by the U.S. Chamber of Commerce on two separate occasions.

As the largest business federation on the South Plains, the Chamber uses the force of its 2,000 members, representing more than 79,000 employees, to perpetuate necessary change and advocate on behalf of the thousands of job creators it embodies.

Seeing the gap in the Lubbock economy compared to other thriving Texas cities, the Chamber led a petition effort to put the sale of alcohol before voters. After a century of prohibition in the West

Texas town, the Chamber used scientific polling to gauge the community’s interest and need. Despite limited opposition, the ballot measure passed with overwhelming support.

Lubbock Chamber’s Executive Vice President Norma Ritz Johnson currently serves on the Board of Directors of the Texas Association of Business. TAB’s success in the 84th Legislature has provided opportunities to partner on key policy issues that directly impact Lubbock businesses. Eddie McBride, the Lubbock Chamber CEO, just finished serving as a TAB officer as the Texas Chamber of Commerce Executive (TCCE) Chair-Elect.



Lubbock Chamber staff with US Senator John Cornyn.

With a goal to strengthen and promote the businesses of the Hub City, the Lubbock Chamber offers members opportunities to grow their operations through networking, enhance their understanding of a particular industry or aspect of business through programs featuring prominent speakers and celebrate the community with events focused on unique characteristics of Lubbock.

While looking closely at the needs and wants of the community, the Chamber decided to ensure the power of progress remained in the hands of the public. Led by a group of business volunteers from throughout the community, a process to create a strategic vision for the city began, now known as Imagine Lubbock Together. What started with ideas scribbled on 24”x30” sheets of white paper are now eight key elements of focus that are slowly becoming the path to our future.

For more than 100 years, the Lubbock Chamber has been in the business of creating opportunities and will to continue to do so for the next century.

Keeping PACE With Growth

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business opportunities for local lenders even in parts of the state that may not be experiencing population growth or new building construction. Of benefit to everyone, the reductions in demand on power and water utilities mean that our investment in utility infrastructure can be stretched further and reduce the need for higher rates to finance new capacity.

What we need now is for local governments in Texas to authorize the use of PACE within their jurisdictions, so that property owners, contractors and lenders can realize the benefits. TAB has participated with other interested parties to create a toolkit that provides local governments

a blueprint for adopting PACE locally. Travis County and the City of Houston have both adopted PACE programs and other jurisdictions are working toward that goal. Since PACE conserves resources, saves money and puts more people to work without risking any public funds, there is no reason that others will not soon follow. If you are a commercial property owner, contractor, lender or local government leader, you need to understand how PACE works and how you or your community can benefit. You can review valuable information at www.keepingpaceintexas.org or contact Stephen Minick at (512)637-7707 or sminick@txbiz.org.

TAB Named Top Lobbying Group

Southern Political Report magazine has named the Texas Association of Business one of the South's top government affairs groups.

The magazine rates a top five for law firms that lobby, small lobbying groups and associations. TAB was one of the top ranked associations on that list.

"We work very hard to represent our members interests at the Texas Legislature," said TAB CEO Bill Hammond. "We have one of the best teams in Austin to do that, and I feel that is the number one reason to become a member and stay a member of TAB. If you want to make sure that your interests are represented at the Legislature there is no group that can do a better job of representing you than the TAB team."

The four other associations on the list included the Texas Oil and Gas Association, Texas Medical Association, Texans for Lawsuit Reform and Independent Colleges and Universities of Texas.

"TAB and the business interests of Texas had a good 2015 legislative session, and I believe that is due in large part to the work we did at the State Capitol," said Hammond. "Our team spent countless hours working to ensure our business climate would stay strong, and Texas would remain a primary destination to move, expand and grow businesses."





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Talk **About** Business

Do We Have To Sacrifice the Economy for Clean Air?



Bill Hammond, TAB CEO

The Obama Administration and the Environmental Protection Agency have cut ozone pollution levels to 70 parts per billion (ppb) across the country. There are a series of problems with that idea - the biggest would be the damage done to our economy.

We shouldn't ignore the progress that we already have made to clean up the air in Texas and elsewhere. Since 2000, ozone emissions in Texas have fallen 28 percent. While still not meeting the current 75 ppb standard, the air has significantly improved in Dallas/Fort Worth and Houston. San Antonio and Austin also have seen improvements, but San Antonio, along with El Paso, won't meet the new standard. Austin likely will meet the standard, but it will be by a razor-thin margin.

While our air has gotten cleaner, the number of asthma cases in Texas continue to rise, yet the EPA says it is lowering ozone standards to cut the number of people suffering from asthma. Using that logic, as our air has gotten cleaner, we already should have seen a decline in asthma cases. Instead, the Centers for Disease Control and Prevention reports an increase nationally of 4.3 million cases from 2001-2009.

So, why is that happening? A Johns Hopkins [study](#) of 23,000 inner-city children shows that indoor air pollutants and allergens like dust mites, pets, pests, molds and second-hand smoke contribute to the growing problem of asthma in those children. There also is an economic component to that study. It points out that many of these inner-city children live in poor neighborhoods and in older housing. Lowering ozone standards does not address those indoor air pollution problems, but could exacerbate the economic conditions hurting those children.

By implementing a clean air standard that will cost the economy billions and raise the cost of necessities like electricity, the EPA may be hurting the people they claim to be trying to help. People working their way out of poverty will see job opportunities dry up. Many will not be able to afford an electric bill that could go up close to \$750 for the average Texas family per year thanks to another EPA initiative, the Clean Power Plan. The slowing economy, job loss and higher cost of living created by these new rules could throw more people below the poverty line. I know

that is not the goal of the EPA and Obama Administration, but it could be the reality of their policies.

We should maintain the current standards because they are working. Our air is cleaner now than it was just 15 years ago. New technologies will continue to make our air cleaner. Old power plants are being replaced with new cleaner ones, and old cars are being replaced with new cleaner ones. Government regulation isn't the whole reason that is happening. Market forces and the economy play a huge part in that too. People want cleaner energy and cleaner vehicles, and industry is delivering products to meet that demand. While our air has gotten cleaner, the Texas economy has boomed. Texas has been a national leader in job creation and economic activity. That proves that we can clean up the air without killing the economy.

There is no reason why we have to choose one or the other. We can have both cleaner air and a powerful economy. The fact is, we already do. The EPA should let us keep it that way.