



Texas MERIT+SHOP Journal

July 2012

Defending the Rights of Merit Shop Contractors

Also In This Issue:

Texas Finally Holds
Primary Election

ABC of Texas'
Legislative
Priorities for 2013

One on One
Interview with State
Representative
John Kuempel

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John Taylor

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Kuempel discusses his
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4 Letter From the ABC of Texas Chairman

5 Letter From the ABC of Texas President

6 Texas Finally Holds Primary Election
It's about time! Texas holds primary election and ABC of Texas wins 31 of the races in which it participated. Find out the results and what these wins (and losses) mean for Merit Shop Contractors.

8 ABC's Legislative Priorities of 2013
Although it's only mid-year, ABC of Texas is looking towards 2013 and planning its top four priorities. Learn about these priorities and how they can affect your business in the coming year.

9 Fighting the Good Fight for Merit Shop Construction
Learn how members of ABC are working to keep the Obama Administration from giving the unions an unfair advantage.

10 One-on-One with Texas Representative John Kuempel
Texas Merit Shop Journal sits down with Texas Representative John Kuempel who discusses his view of the free enterprise system, stepping into his father's role, and his view on the Texas Economy.

12 Legislative Interim Studies
Learn about Interim Studies that are of interest to the construction industry and the Merit Shop Philosophy.

14 Remembering John Taylor
ABC of Texas recently lost a part of the family, ABC Texas Coastal Bend Chapter President John Taylor. Learn about John's career and his passion for life and for ABC's mission.

15 ABC of Texas: Taking the Risk, Reaping the Reward
TEXO VP of Government Affairs, Jack Baxley, discusses the secret of success for ABC of Texas' increased sphere of influence this year.

16 ABC Chapter Initiatives Around the State
Learn about ABC Chapter Initiatives in your area.

INSURANCE & BONDING FIRM PROFILE:

Texas Merit Shop Journal features McGriff, Seibels & Williams Construction Risk Services (13)

INDEX OF ADVERTISERS

ABC South Texas	17	Marek Brothers Systems, Inc.	11
Cokinos, Bosien & Young	11	Marsh & McLennan Agency	15
Infinity Construction Services, LP	9	McGriff, Seibels & Williams, Inc.	13
ISC Constructors	5	Repon, Inc.	2

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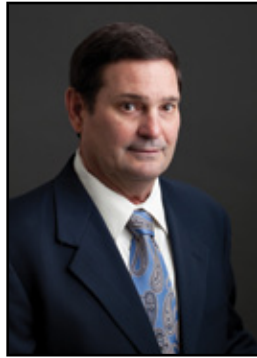
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Letter From the Chairman



GREMILLION

Dear ABC of Texas Member,

I would like to thank all of those who were involved with candidates in the recently held primary elections. The runoff and general elections are still ahead, and it is so important for each of us to volunteer with and help the pro-business candidates in our area. Elections are so critical in maintaining a pro-business climate and support for free enterprise principles in Texas. If you were not involved in the primary election you still have time. Remember, "Get Into Politics or Get Out of Business". In this issue of Texas Merit Shop Journal you will find articles about how to get involved and the results of the primary elections.

Another way to get involved in the election process is by contributing to the ABC Political Action Committee (PAC). PACs serve a critical role in our ability to be successful in the Texas Legislature. First, we have to elect the right people to be successful. Second, we need to help re-elect the candidates who have been supportive of our issues. Third, because of the short duration of each session, we compete with the other interest groups in having our issues considered. If we are not involved with the candidates during the elections we risk being last in line for attention and consideration of our issues. Simply put, those who are active in the election process get more face time during the session. We have to be part of the election process, both individually and through ABC, to be successful in the Texas Legislature. I encourage you to contribute to your local chapter PAC and even consider a direct contribution to ABC PAC (our State PAC) and let us put your money to work for you. Please contact Jon Fisher at jon@abctexas.org if you wish to make your contribution to our State PAC.

Our next Board meeting is August 29th. We will be further developing our plan to focus on our priorities for the 2013 session. If you have any input please contact the State Board members from your chapter.



Michael A. Gremillion
2012 ABC of Texas Chairman
Vice President – Houston Office
ISC Constructors, LLC

Learn more about ABC of Texas, visit our website at www.abctexas.org.

Letter From the President



FISHER

Dear ABC of Texas Member,

Well, we finally got the primaries finished, with the exception of a number of runoffs. If it seems like a long time between the first primary and the runoff, remember, we have soldiers overseas who need time to vote—that's the new federal law!

In this issue, Mike Toomey discusses the primary results, and I write about our Priority Legislative Issues for 2013. There are a number of issues I did not address in this article—Statute of Repose, CIP Standards, Trust Fund/Retainage, State Breach of Contract, Lien Law Reform, Cooperative Purchasing Networks, and Lender Notice. I plan to discuss those briefly in the November issue.

But, before you dive into this issue and hang on every word, I want to ask you to do one thing if there is an opportunity in your area. Pick one primary runoff race for an ABC-supported candidate and get involved! Remember, not all runoffs involve candidates with different philosophies—some are about who will be better positioned in November to win the seat; some involve two candidates who may be equally suited to serve and geographical differences may come into play; and some involve candidates with clear differences.

How do you find which candidates ABC is supporting? Well, even we don't know that for sure yet, but by the time you get this issue, your Chapter President and State Board Members will know. The runoffs begin July 23 (early voting) and early voting ends on July 27. The election date is July 31.

This election, we hope to have Chapter Presidents emailing members about candidates we support in your area prior to the beginning of early voting.

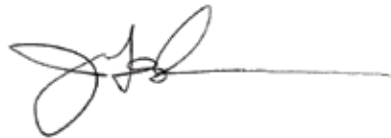
We need you to pick a candidate, if there is one in your area, and contact the campaign and volunteer to help—even if it is just one day.

Most campaigns will be doing telephone canvassing, block walking and have sign crews. But, if you cannot do any of those, consider making a personal financial contribution and getting to know the candidate (or officeholder) personally. Your industry will benefit from your efforts. And, if enough of us participate in elections, we will grow stronger and more influential as an association.

As always, if you have comments, feel free to contact me, your Chapter President, or your State Board Members. The ABC of Texas Board meets next on August 29th. As usual, we'll have a full agenda.

By the time you receive this issue, I will have served 4 years as President of ABC of Texas. I doubt anyone could have enjoyed my tenure as much as I have. You're a great group to represent, and I appreciate the opportunity.

But, we've got more to do. Let's get back to work!



Jon Fisher
ABC of Texas
President

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TEXAS FINALLY HOLDS PRIMARY ELECTION



The State of Texas has finally had their primary election! In races that ABC of Texas participated in, we won 31, lost 4 and supported 11 who made runoffs. Of those 11 who made runoffs, the ABC supported candidate finished first in 6 of those. Five of those runoffs feature incumbents and of those, ABC supported 4 incumbents (all incumbents finished first, but unless the incumbent has a lot of new territory, that is not necessarily good news). Six of those races in runoffs were open seats, and ABC supported the eventual front-runner in only 2 of those. This election cycle was interesting because, as you will recall, redistricting – an every ten year occurrence – was wrapped up in numerous court battles. Now the verdict(s) are in!

THE RESULTS

House of Representatives

Seven incumbents were defeated in the Texas House. The most prominent included some powerful incumbents. First, House Public Education Chairman Rob Eissler (R-Woodlands) lost to Tea Party challenger Steven Toth. Senior member Vicki Truitt (R-Southlake), Chair of House Pensions and Investments, lost to Giovanni Capriglione.

Other incumbents such as Leo Berman (R-Tyler) and Wayne Christian (R-Nacogdoches) were also defeated. In another highly watched race between two incumbent Republicans in East Texas, James White prevailed over Licensing and Administrative Procedures Chairman Mike “Tuffy” Hamilton. Two first term members, Barbara Nash (R-Arlington) and Marva Beck (R-Centerville), both lost in their newly drawn districts.

Perhaps the best news of the night was the victory of House Appropriations Chairman Jim Pitts (R-Waxahachie) over a crowded field. Pitts won easily with 60% of the vote, avoiding a run-off.

Other Committee Chairs easily won re-election. Those include: House State Affairs Chairman Byron Cook (R-Corsicana), Natural Resources Chair Allan Ritter (R-Nederland), House Ways and Means Chairman Harvey Hilderbran (R-Kerrville), Economic and Small Business Development Chairman John Davis (R-Houston), Government Reform Chairman Bill Callegari (R-Houston) and Land and Resource Management Chairman Rene Oliveira (D-Brownsville).

House Speaker Joe Straus (R-San Antonio) won handily in his district’s primary race.

Public Safety Chairman Sid Miller (R-Stephenville) and General Investigating Chairman Chuck Hopson (R-Jacksonville), both face run-offs in their Republican primaries. Representative J.M. Lozano (R-Kingsville) and Representative Jim Landtroop (R-Plainview) will also face run-offs.

The following incumbents also prevailed in their House Primaries: Dan Flynn (R-Canton), Lance Gooden (R-Terrell), Bryan Hughes (R- Marshall), John Otto (R-Dayton), Paul Workman (R-Austin), Ralph Sheffield (R-Temple), Doc Anderson (R-Waco), Myra Crownover (R-Denton), Marisa Marquez (D-El Paso), Doug Miller (R-San Marcos), Diane Patrick (R-Arlington), Bill Zedler (R-Arlington), Dan Huberty (R-Humble), Jim Murphy (R-Houston), Dwayne Bohac (R-Houston), Debbie Riddle (R- Houston), Mando Martinez (D-Weslaco), Tracy King (D-Eagle Pass), Lon Burnam (D-Fort Worth), Alma Allen (D-Houston), and Garnet Coleman (D-Houston).

Rematches

In re-match elections, freshmen Republican House Members David Simpson and Charles Perry easily won again over former State Reps. Tommy Merritt and Delwin Jones, respectively. On the Democratic side, in another rematch, Representative Borris Miles again beat former State Representative Al Edwards of Houston. Former House Member Chris Turner (D-Arlington) beat former House Member Paula Pierson in an open seat in the Democratic primary.

Congratulations to the 16 Representatives-Elect of the Texas House of Representatives (Primary winners with no General Election opponents):

- HD 3 Cecil Bell (Republican)
- HD 6 Matt Schaefer (Republican)
- HD 9 Chris Paddie (Republican)
- HD 15 Steven Toth (Republican)

- HD 20 Marsha Farney (Republican)
- HD 33 Scott Turner (Republican)
- HD 35 Oscar Longoria (Democrat)
- HD 57 Trent Ashby (Republican)
- HD 69 James Frank (Republican)
- HD 70 Scott Sanford (Republican)
- HD 75 Mary Edna Gonzalez (Democrat)
- HD 92 Jonathan Stickland (Republican)
- HD 98 Giovanni Capriglione (Republican)
- HD 101 Chris Turner (Democrat)
- HD 106 Patrick Fallon (Republican)
- HD 110 Toni Rose (Democrat)

The races below will have a run-off in July (In addition to the four previously mentioned):

- HD 12 Republican – Tucker Anderson/Kyle Kacal (New District)
- HD 23 Republican – Wayne Faircloth/Bill Wallace (winner will face Craig Eiland)
- HD 24 Republican – Greg Bonnen/Ryan Sitton (Open Seat)
- HD 26 Republican – Jacquie Chaumette/Rick Miller (Open Seat)
- HD 40 Democratic – Terry Canales/Auggie Hernandez (Open Seat)
- HD 67 Republican – Jon Cole/Jeff Leach (Open Seat)
- HD 68 Republican – Trent McKnight/Drew Alan Springer (Open Seat)
- HD 91 Republican – Stephanie Klick/Kenneth Sapp (Open Seat)
- HD 95 Democratic – Nicole Collier/Jesse Gaines (Open Seat)
- HD 114 Republican – Bill Keffer/Jason Villalba (Open Seat)
- HD 115 Republican – Steve Nguyen/Bennett Ratliff (Open Seat)
- HD 117 Democratic – Philip Cortez/Tina Torres (winner will face John Garza)
- HD 137 Democratic – Jamaal Smith/Gene Wu (Open Seat)

The Senate

The Texas Senate will have a record-setting number of new members. Former State Representatives Larry Taylor (R-Friendswood), Kelly Hancock (R-Fort Worth), Charles Schwertner (R-Georgetown), Ken Paxton (R-Plano) and Mark Shelton (R-Fort Worth) easily won victory. Each of these members have very conservative voting records from their days as Texas House members.

All but Schwertner (now officially Senator-elect Schwertner) will face a general election opponent, but the districts are considered solidly Republican. Shelton—who will face incumbent Senator Wendy Davis (D-Fort Worth) in the General Election—is perceived to be the most competitive of the General Election races in the Senate.

Most of the Senate incumbent races turned out to be a cakewalk. Republican Senators Nichols, Williams, Duncan, Estes and Seliger all easily won by huge margins.

The exception to the cakewalk was incumbent Jeff Wentworth's seat in San Antonio. The long-term incumbent faced the most highly contested race—with two opponents. The votes split among the three—Wentworth, former-Railroad Commissioner, Elizabeth Ames Jones and Dr. Donna Campbell. Wentworth will face a run-off with Campbell.

Statewide Races

The biggest news of the night was the race to replace Kay Bailey Hutchison for U.S. Senator (in the Republican Primary). Lt. Governor David Dewhurst was hoping to get above 50% to avoid a run-off. But in such a crowded field, it didn't happen. Dewhurst will face former Solicitor General Ted Cruz in July.

In the Democratic party race for the same U.S. Senate seat, Paul Sadler will face Gary Yarbrough in a run-off.

In other news, both races for Railroad Commissioner will go into a run-off for the same reason; such crowded fields make it difficult for one candidate to get over the 50% hump. Christi Craddick will face former House member Warren Chisum for one Railroad Commissioner Position; Incumbent Barry Smitherman will face Greg Parker in the other position.

Keep in mind, following redistricting and a slew of retirements, as evidenced above, Texas will have a new and different legislature next time around.

Stay tuned for the July 31st Run-offs...

For the election results in their entirety you can go to:

<http://enr.sos.state.tx.us/enr/>

ABOUT THE AUTHOR:

Mike Toomey is the longtime ABC of Texas lobbyist and has the distinction of being the only individual in Texas history to have served as chief of Staff for two Texas Governors. He is a former State Representative from Houston and was voted in Texas Monthly magazines "Top Ten Legislators". Mr. Toomey is a strong supporter of Tort Reform in Texas and is widely acknowledged as one of the most respected and effective lobbyists in the State of Texas.

ABC's Legislative Priorities For

I keep hoping that as we increase our legislative successes, our list of priorities will get shorter. Well, that just doesn't seem to happen. In April, the Board set a list of priorities that will again stretch our resources.

The top four priorities are Tax Issues, Statutory Employer, Workforce Issues and Immigration. This article will briefly discuss the top 4; the other issues will be covered in an article in the November issue.

Taxes: We have been working with the Comptroller's office to clarify some concerns about certain on site supervisory labor being deducted as cost of goods sold under the franchise tax. There is also an interim study on tax issues being conducted by the House Ways & Means Committee. Next session promises to be ripe for the Legislature to address some taxation issues, and we need to be prepared to respond. We have secured additional technical resources to help in that effort—Ryan Co. They are the best tax consultants in the business. We are partnering with 3 other construction associations—AGC-TBB, TCA & the Texas Association of Builders (homebuilders)—in that effort. The number of tax issues is yet to be defined, but the construction industry needs to be prepared to protect its members' interests.

Statutory Employer: This issue will not go away until we are successful. Currently, owners frequently require contractors to indemnify them against lawsuits by employees for injuries. Although the direct employer is covered by Workers' Compensation, injured employees can sue third parties (the owner, for example) for injuries. These agreements force contractors to pick up that liability, so we end up paying twice for an injury—once through our Workers' Compensation insurance and again in a third party lawsuit. Since Workers' Compensation involves a quid pro quo for employers (who guarantee payment without regard to contributory negligence) and employees (who get paid regardless of fault), it is inappropriate for there to be other avenues of recovery, especially those passed on to companies who are paying for Workers' Compensation coverage. The principle of statutory employer provides that if an owner requires all workers on a site to be covered by Workers' Compensation, then the owner is the statutory employer and Workers' Compensation is the sole remedy. Some have argued that lifetime disability payments are inadequate and injured workers need the option of third party lawsuits. Thus, it is likely that any move to establish this principle will involve a discussion of lifetime disability payments under Workers' Compensation which could mean a slight rate increase. Because of the possibility of a small rate increase, some business associations (whose members are not subject to indemnification agreements) may oppose any change in rates, no matter how small.



Workforce: Although we have made some gains in dealing with public education providing opportunities for career preparation, much remains to be done. We have been advocating that applied science and math courses (Career and Technology Education or CTE) be available to qualify for the 4 X 4 high school graduation requirements (4 English courses; 4 Social Studies courses; 4 Math courses; and 4 Science courses). We also need to recognize that not all post-secondary education needed for careers involves a degree from a four year university. In the past, advocates of rigor and college preparation and advocates of CTE have been talking past each other. We must bridge communication gaps to continue to make progress.

Immigration: Immigration issues seem to be at the forefront of many campaigns—including most of those who we have supported for public office. We need to be sure that this momentum does not result in new state laws that make inadvertent violators of those employers who comply with federal law in good faith and are the victims of fraud. While our membership generally supports many initiatives relating to addressing illegal immigration, we remain concerned about new state laws that target employers who are already subject to federal law and its sanctions. Any new layer of regulation has the potential to add opportunities for union or competitor harassment through a complaint process.



FISHER

ABOUT THE AUTHOR:

Jon Fisher has been President of ABC of Texas since mid-2008. Prior to that he was senior vice president at Texas Chemical Council. He has led ABC of Texas in preparing plans for legislative sessions and participation in the Texas elections. Most recently, he helped ABC of Texas prepare a Strategic Plan for the next 4 years with emphasis on the next 2 years. To contact Jon, email jon@abctexas.org.

Fighting the Good Fight For Merit Shop Construction



Associated Builders & Contractors has been extremely busy fighting for the Merit Shop over the past few months. In an effort to keep the Obama administration from tilting the construction industry and giving unions an unfair advantage, ABC is fighting for Merit Shop contractors on several fronts.

U.S. District Court for the District of Columbia ruled the “Ambush Election” rule is invalid and no longer in effect.

First in the Courts

ABC and the Chamber of Commerce took lead roles in the U.S. Court of Appeals for the D.C. Circuit which granted an injunction to postpone the NLRB requirement to post a notice describing selected employee rights to form a union. This final rule which was issued on August 30, 2011 was referred to as the “Notification of Employee’s Rights”. The court stated the NLRB did not have the authority to require employers to post the notice. We are waiting to see if the NLRB will appeal this decision.

Back to the Congress

ABC worked very hard to win a close 211-209 vote on the Bartlett Amendment on May 17th. This amendment would prohibit PLAs on certain federal work. While this is not a complete ban on PLAs, it is a partial victory in the fight against PLAs.

Next in the Congress

ABC is working with a broad coalition to pass H.R. 735. This resolution will make it illegal to have a PLA on Federally funded projects. Project Labor Agreements (PLAs) are requirements to use only labor forces that adhere to the local union agreements. This gives union contractors an unfair advantage when bidding work against open shop contractors who must pay into union benefit programs while maintaining their open shop benefits. If this bill passes the House vote it will move to the Senate where the work to affect a positive outcome will be very difficult.

These are just three victories and ongoing work in an unending stream of bureaucratic rules and regulations and proposed legislation that makes things more difficult for open shop contractors and unfairly favors unions. These are the ways that ABC helps its members and the construction industry.

Back to the Courts

ABC was successful in stopping the NLRB’s illegal requirement to change the rules regarding union elections. In December 2011, a two person NLRB issued a final rule that would allow union representation elections to be expedited and not allow time for employers to educate their employees about the pros and cons of unionization. This “Ambush Elections” rule would have unfairly favored the unions in winning elections. On May 14, the

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HAMLEY

ABOUT THE AUTHOR:

Russell Hamley is President of the Greater Houston Chapter of Associated Builders and Contractors. Russell has been with ABC since 1996. Prior to ABC, he spent two years at AGC and 17 years in the construction industry working with several contractors and developers, including Hines and Century Development. In addition, Russell has been elected to three terms as the Mayor of Jersey Village.



One on One With...

STATE REPRESENTATIVE JOHN KUEMPEL

John Kuempel was sworn in on December 30, 2010 to the 81st Legislature and is serving his first term as State Representative from District 44. The district is comprised of Gonzales, Guadalupe, and Wilson Counties.

John received a Bachelor's Degree from the University of Texas at Austin. He was born and raised in Seguin and was one of the Top-Ten graduates of Seguin High School. He was active in high school sports, playing football and baseball before becoming a walk-on member of the University of Texas football team.

Since his college graduation, John has been employed as a Salesman at Commercial Metals Company in Seguin.

During the 82nd Session, John was appointed by Speaker Straus to serve as a member of the Cultural, Recreational and Tourism Committee and the Licensing and Administrative Procedures Committee. In June 2011, John was appointed to serve on the Energy Council, a non-profit organization that helps promote a balanced national energy strategy and related environmental policies at the state level. Upon completion of the 82nd legislative session, Representative Kuempel was honored with the 2011 Legislative Champion Award given by the Foundation Appraisers Coalition of Texas for his tireless efforts in reforming Appraisal Management Companies in Texas and authoring legislation to protect appraisers and consumers in the state.

Like his parents, the late Edmund Kuempel and Roberta Blumberg Kuempel of Seguin, John is actively involved in his community. He is a member of the Seguin Rotary Club, the Guadalupe Valley Medical Center Capital Campaign Committee, the Guadalupe County 100 Club, the Seguin Outdoor Learning Center Board of Directors, and the Texas Farm Bureau.

John is an avid outdoorsman and serves as a Texas Parks & Wildlife Honorary Game Warden. He is also a member of the National Rifle Association.

John and his wife, Michelle, have been married 11 years and are parents of seven-year-old twin boys. They are active members of Faith Lutheran Church in Seguin where Michelle, a former librarian, teaches Sunday School.

The couple supports several local charitable entities such as Guadalupe Regional Hospice, Seguin Education Foundation, Pitching for Pups (Seguin Police Dept. K-9 Fundraiser), Tejas Literacy Club, and the Texas Agriculture Education and Heritage Center. In addition to his other activities, John has found time to coach his sons' Little League baseball team.

Q: Please describe your business background.

A: I have been employed by Commercial Metals for 19 years. During that time, I have been involved in management and sales in both the commercial construction industry and in the transportation industry in Houston, Atlanta, Austin and Seguin.

Q: What is your view of the free enterprise system?

I have always supported a limited government and believed that government regulation should revolve around protecting against fraud, deceit, and theft. I believe it is important for a government to create a business climate that attracts new companies and encourages growth through comfort and confidence in the free enterprise system. Government should not be in competition with private business and should provide fair and predictable regulation along with limiting and/or eliminating frivolous lawsuits.

How do you believe the Legislature did last session in addressing our state's needs?

I think we did the fiscally responsible thing at the right time. Each legislature faces its own challenges and we were able to balance our budget without raising taxes and without raiding the economic stabilization fund. We were faced with some very tough decisions to make, but I believe the choices we made have encouraged growth and will help better situate our state in the future. In particular, the tort reform legislation, better known as the Loser Pays Law, will go a long way in helping businesses defend against frivolous lawsuits.

You came to the Texas Legislature under unfortunate circumstances—the untimely passing of your father, longtime friend of ABC Edmund Kuempel. What was it like stepping into your father's shoes and serving on the committee he used to chair?

First and foremost, it was an extremely humbling experience to be elected by the constituents of HD 44 in the special election to fill my father's unexpired term. My dad was elected for his 15th term in the Texas House so the legislature has been a part of my life for 30 years. Needless to say, I was accustomed to it. I can

honestly say that I was not surprised by any of the experiences or processes, and that is a testament to Edmund including me in the process throughout his tenure. My wife, Michelle, and I are very lucky to have my mother with us in Seguin. She has been an invaluable resource concerning the demands and challenges of the position, and we are very grateful for her willingness to do so.

The national economy has been faltering, what is your view of our state's economy?

In respect to the other states, we are in an enviable position. We have been able to grow our state's economy by attracting business with the commerce friendly climate that we have created, and it is important that we continue to stay creative and pro-active with that attraction. Responsibly managing the state's budget will be a challenge in the future, but one in which I believe we can be successful. In my home county, Guadalupe, we have created close to 3,000 jobs over the last three years. We continue to attract businesses that previously did not have a presence in our state.

What were your personal priorities last session and how did they fare?

It was extremely important to me that District 44 have a continuity of representation after the passing of my father. I worked hard in maintaining community and state relationships that my father and I had created over the last 30 years, as well as building new ones. Taking care of our children, our community and our conservative values were all priorities last session, and it was imperative that my district needs were identified and that those needs were followed with solutions. Looking back on what we were able to accomplish not only for the entire state, but for District 44, I would say we fared very well.

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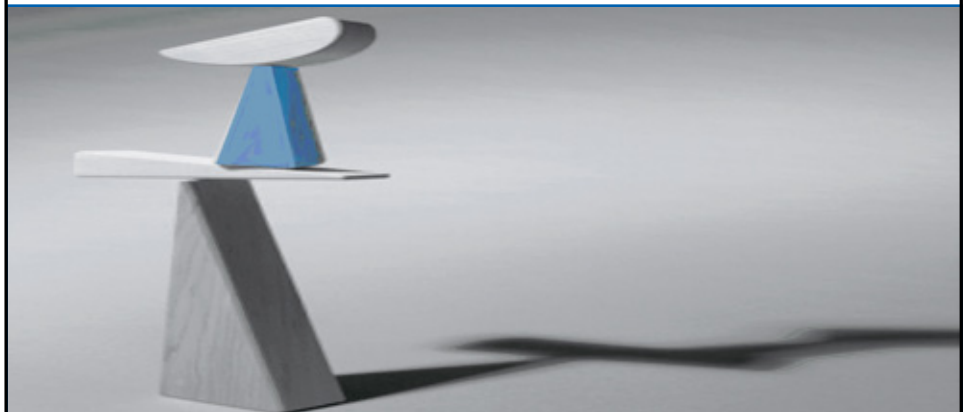


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Legislative Interim Studies

Interim studies by legislative committees are frequently used to more fully vet issues that the Legislature is unable to adequately address during a 140 day session every two years. These “charges” are assigned to Senate Committees by Lieutenant Governor David Dewhurst and to House Committees by House Speaker Joe Straus.

Many times these studies result in legislation, but occasionally they are used to continue to bring issues to the forefront. This article is not meant to deal comprehensively with interim studies, but to try to highlight a few that could be of interest to ABC members.

First, the Senate State Affairs Committee has been charged with looking at the Texas Workers’ Compensation system. One of the specific charges deals with the adequacy of income benefits for high-wage earners receiving the maximum compensation rate.

The Senate Business and Commerce Committee has been charged with looking at workforce training programs in Texas. At a hearing held earlier this year, representatives of ABC-related workforce training entities testified including Jane Hanna of the Construction Education Foundation of North Texas, Dr. Anne Matula of the Craft Training Center of the Coastal Bend, and Bob Parker, a Board member of ABC of Texas. This committee is also charged with studying the state’s approach to licensing and regulation of occupations to ensure public protection and eliminate unnecessary, overly restrictive, or anti-competitive regulation.

The Senate Government Organization Committee has been charged with studying the state bidding process and contract management protocols to ensure truly competitive bidding and the highest-quality service for taxpayers at the best price.

In an unusual move, House Speaker Joe Straus gave a general charge to all House Committees to find ways to increase transparency, accountability and efficiency in state government.

Probably most critical to ABC is the charge given to the House Ways and Means Committee to study the state’s tax structure, specifically, the impact of the state’s major taxes which include the sales tax and franchise tax as well as tax exemptions, exclusions, and credits. They are specifically charged with evaluating the franchise tax (margins tax) to determine whether the tax structure should continue to exist in its current form or in a revised form,

or whether the existing tax structure should be repealed and replaced with a different business tax.

The House Business and Industry Committee is charged with reviewing existing lien laws in Texas and making recommendations for improvement.

The House Committee on Government Efficiency and Reform is charged with examining and making recommendations on purchasing cooperatives, including the bid process and the role of inter-local contracts. ABC members may recall that the use of purchasing cooperatives for the procurement of construction services was controversial last session, and provisions addressing cooperatives in our Alternative Delivery Systems Bill had to be deleted to secure passage. The purchasing cooperatives are awarding contracts for construction services which then allow their members (local governments including school districts) to contract without any additional bidding or public notice. This committee is also charged with looking at the use of design-build and construction-manager-at-risk. This is likely because AGC of Texas (Highway Heavy) raised some issues last session because of concerns about some firms that performed both engineering and construction services.

The House Committee on Licensing and Administrative Procedures is charged with studying occupational licensing programs to determine their impact on consumers, competition, and the cost of services. They are also to explore the extent to which new licensing programs are necessary. They are also charged with studying the feasibility of streamlining the process to obtaining an occupational license and considering consolidating all occupational licenses under one state agency.

Of course, there are literally hundreds of other charges. Only a selected few were discussed in this article.



FISHER

ABOUT THE AUTHOR:

Jon Fisher has been President of ABC of Texas since mid-2008. Prior to that he was senior vice president at Texas Chemical Council. He has led ABC of Texas in preparing plans for legislative sessions and participation in the Texas elections. Most recently, he helped ABC of Texas prepare a Strategic Plan for the next 4 years with emphasis on the next 2 years. To contact Jon, email jon@abctexas.org.



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ABC of Texas Fondly Remembers John Taylor, ABC Texas Coastal Bend Chapter President



In the late morning of May 6, 2012, the ABC family lost long time Texas Coastal Bend President and supporter John Taylor. John lost his life in Port Aransas while doing the thing he absolutely loved out on the water, paddle-boarding. John Scott Taylor, known affectionately as “Jocko” by his friends, was born May 16, 1951 in Harlingen, Texas. He graduated from Harlingen High School, attended Sam Houston State University and graduated from Texas A & M University-College Station in 1975 with a Masters Degree in Architecture.

He began his career in Houston and then moved to South Padre Island working with architectural and construction firms designing and building schools and condominium projects. He then moved to Corpus Christi to start his own architectural firm. Several years later he moved to Heldenfels Brothers, then took the position of Construction Coordinator for Nueces County, he then moved to Zachry Construction Corporation where he served as Director for Business Development for South Texas.

In October 2003, he left Zachry and assumed the job of his dreams, President of the Associated Builders and Contractors Texas Coastal Bend Chapter (ABC-TCB). When John came on board with ABC-TCB, membership had dwindled from 140 to 85 due to the economic conditions at that time, and chapter finances had become a big concern. With sheer determination and lots of committed assistance, membership grew to 200 plus and the Chapter currently enjoys being one of the financially strongest chapters in the nation. During his tenure as President, John had received over 25 national, state, and local chapter awards.

John was also involved in his community. He served on the Planning and Zoning Commission for the City of Corpus Christi, sat on the Mayor’s Inter-Agency Task Force, was on the Board of Directors of the Corpus Christi Chamber of Commerce and served “at-will” as a construction consultant for most of the local governmental and higher education entities in Corpus Christi and the surrounding area. In addition, he was an active member of the Westside Business Association, the Rotary Club of Corpus Christi, the Wednesday Morning Group, the Friday Morning Group, the Corpus Christi Mustangs and the Corpus Christi Chapter of the American Institute of Architects (AIA). As President of ABC-TCB, John was a huge advocate for the Craft Training Center, doing everything he could to assist the youth and adults alike in finding a future in the skilled trades.

John enjoyed, even competed in, an array of water sports during his life. He pursued wind-surfing, Hobie-Cat sailing, surfing and his latest passion, paddle-boarding. He placed in many of the events in which he participated. He took surf trips any time he could and had the good fortune to surf locally and abroad. He loved the water so much, that he recently convinced his wife to purchase a cottage in Port Aransas where they spent every weekend they could. John was also a hunting enthusiast preferring using a bow and arrow over conventional hunting firearms.

In 1990, John married the love of his life, Pam. During their wedding ceremony, John uttered the words, “Hold on, Honey, this will be the ride of your life!” Pam soon brought John a son, Tyler, and from the day Tyler began walking, the two were inseparable. When his son became old enough and began participating in 4-H shooting sports, John traveled to every single event and became a skeet & trap enthusiast as well. John took great pride in the fact that Tyler was a four-time champion in 4-H Sports Shooting during his high school tenure. Tyler is now attending Texas Tech University – Lubbock.

John “Jocko” Taylor spent his ABC career championing the fight for opportunity for the small businessman. One of his greatest successes was a philosophy he held and which he made his daily objective. Simply put, it was to “just do the right thing”.



of Texas

Taking the Risk – Reaping the Reward

“One of the penalties for refusing to participate in politics is that you end up being governed by your inferiors.” – Plato

During the first half of 2012 we experienced an unknown in our Texas political process with the lack of established Senate and House districts. As a result several trade associations did not engage or provide funding to candidates due to the court battles being fought over the new re-districting maps.

As other groups worked to catch up after the courts ruled on the new district maps, your ABC of Texas legislative team had already developed key relationships and provided support to several primary candidates.

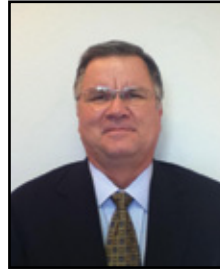
In the TEXO region during the months of February through May, Jon Fisher joined me on several occasions to interview candidates and provided support to their campaigns. By engaging candidates early in the process it gave not only the TEXO chapter, but more importantly ABC of Texas, the recognition needed to become a key organization to turn to for advice on business and construction related issues.

The results of the work put in on the front end of several candidates' campaigns paid off during the primary elections in May. The TEXO Chapter, working alongside ABC of Texas, supported 24 Texas House candidates with 20 winning their primary or advancing to the July 31st run-off election. In the Texas Senate races, all ten candidates won their elections.

With the support of our outstanding staff and consultants at ABC of Texas, we have been able to raise our sphere of influence with our elected representatives in the Texas legislature from North and East Texas. We have also been able to demonstrate to ABC members locally and statewide that their generous support of our Political Action Committees has paid dividends by the respect ABC of Texas has garnered.

But we must not back off the accelerator as it is clear that in a future environment, where governmental intervention and regulation will continue to increase, there will be a growing need for strong industry advocacy services.

TEXO members are proud to be a part of the federation of ABC Chapters known as ABC of Texas and stand committed to providing the support needed to move our legislative agenda forward, while protecting our free enterprise system.



BAXLEY

ABOUT THE AUTHOR:

Jack Baxley is Vice President of Governmental Affairs for TEXO, The Construction Association a chapter of the Associated General Contractors of America & Associated Builders and Contractors, Inc. Baxley has been with AGC for 23 years and is an active participant on several municipal and community related boards and commissions. In his duty as V.P. of Governmental Affairs Mr. Baxley is well versed in the laws, regulations and codes affecting the commercial construction industry on the local and state levels.



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ABC INITIATIVES AROUND THE STATE

TEXO CHAPTER

TEXO has had a very busy second quarter providing professional education, safety and business development forums as well as social networking opportunities. To date TEXO has 184 Contractor members and 1585 Subscribers.

The TEXO facilities, primarily the TEXO Conference Center, continues to be used extensively by member companies. The center was used 68 times by 42 different member firms.

As Safety remains a major focus and a valued service, several safety related forums and events were held during the quarter. TEXO member participation continues to be outstanding as 275 members attended three Safety/Superintendent Forums, 185 members attended three Latin Safety/Superintendent Forums and over 6,000 employees of TEXO member firms participated in the May 2nd Construction Industry Stand Down.

The TEXO Governmental Affairs program was very active in North and East Texas, participating in several candidate campaigns prior to the May 29th primary elections. TEXO contributed over \$130,000 in PAC funds to forty-three candidates. On June 7th the TEXO Chapter was the primary sponsor for the Texas House Republican Caucus Reception held in Fort Worth during the Texas Republican Party Convention.

On April 19th, 350 TEXO members celebrated industry accomplishments at the Annual Distinguished Building Awards night. Awards were presented to several outstanding construction projects, as well as individual achievement awards including the "Superintendent of the Year", and "Safety Superintendent of the Year".

TEXO members continue to have fun during the second quarter of the year by participating in three Social Networking events— Women's Forum Top Golf Event, Annual Motorcycle Rally & Cookout charitable fund raiser and the Young Constructors Council Softball Tournament.

TEXO continued to enhance its strategic alliances by presenting the TEXO/AIA Spring Forum focusing on North Texas 2040 and its Critical Infrastructure Needs. Over 100 AIA and TEXO members attended the event.

The Board of Directors, Officers and staff of TEXO are very proud of member participation within the association. As always they continue to strive to serve the membership through their vision of "Working together to Build the Best Contractor Community... through Unity and Leadership."



The Central Texas Chapter recently held a golf tournament at Gray Rock Golf Course. Thirty-one teams participated in the tournament which featured a long drive, closest to the pin, and a Tiger Woods hole.

ABC CENTRAL TEXAS CHAPTER

The Central Texas Chapter recently hired a new Education Director. Charles Klima comes to the Chapter from ATI in Waco where he was the Education Director. Charles has been working with schools around the state to help them with NCCER accreditation and student certification. ABC believes very strongly in safety, believing that all workers should have a safe place to work so that they can come home at night and be with their families. That is why the Central Texas Chapter offers over 100 safety classes each year via their training center. The Region VI OSHA Education Center at The University of Texas at Arlington is the top-ranked OSHA Education Center in the country. The Chapter also functions as a training center for UT Arlington in Austin.

The Chapter recently held a golf tournament at Gray Rock Golf Course. Thirty-one teams participated in the tournament which featured a long drive, closest to the pin, and a Tiger Woods hole. Henna Chevrolet sponsored a Hole in One for a Silverado Pickup. The first place trophy was won by the Glazer Distribution team.

On July 19th the Chapter will host a PAC Casino Night, featuring blackjack and craps tables, at the Hyatt Regency Hotel. Many sponsorships are available for tables and food. All the ticket sales with personal money will go to the PAC. A door prize drawing will be held at the end of the evening. Over 100 attendees are expected to try their luck at the Casino Night.

ABC INITIATIVES AROUND THE STATE



Members of the ABC Greater Houston Marketing Committee helped raise awareness about the Association at two recent industry events, the Industry Auto Show (pictured above) and the AIA Sandcastle event. Tent guests were able to participate in a variety of activities.

ABC GREATER HOUSTON CHAPTER

While the lazy days of summer have officially begun, things haven't slowed down at the Greater Houston Chapter! From PAC Clay Shoots to Sandcastle tournaments, marketing seminars to NCCER's Construction Site Safety Technician courses, every member of the Houston Chapter has found something to do this spring and early summer.

The ABC Greater Houston Political Action Committee has been busy balancing work with play over the last few months. The Spring Clay Shoot drew 80 shooters and over \$10,000 was raised during the event, which went to support candidates at the National level who promote the merit shop philosophy. During meetings, the PAC has screened candidates from the Houston area who ran for office in the Primary. An important PAC phone drive and call out took place during the June 21st PAC meeting, where phone contributions will be used to help take back the White House this November!

The Marketing Committee has done a phenomenal job of getting the ABC name out in the Houston area by hosting tents at two prominent events in May and June. The ABC hosted tent at the Construction Industry Auto Show at Reliant Stadium provided kids, and kids at heart, the opportunity to learn about ABC and also try their hand at giant Jenga and a putt-putt golf competition. A few weeks later the Marketing Committee set up another ABC tent at the 26th Annual AIA Sandcastle Tournament in Galveston, Texas. Tens of thousands of people passed by the spot on the beach and the lucky ones received ABC beach balls!

On May 12th, Young Professionals proved that serving the community can be fun too when they completed a 500-foot-long

fence for the Santa Maria Hostel, a Houston shelter for women and children working to overcome chemical dependency. Over 60 volunteers showed up despite the early morning rains. KBR generously contributed and cooked burgers for volunteers, and Astro Fence contributed the majority of the fence-building supplies as well as significant labor to ensure the success of this community service project.

The annual Legislative Conference in Washington D.C. is on the calendar for July 10th on Capitol Hill. Now is the time to make your voice heard and commit to taking back control of the White House and Congress. Book your flight today and join hundreds of other ABC members from across the nation in addressing important business and merit shop issues on Capitol Hill. Visit <http://events.abc.org/legcon/> for details and registration.

ABC TEXAS GULF COAST CHAPTER

The Texas Gulf Coast Chapter has had a busy spring filled with a variety of membership events that provided opportunities for fundraising for charities, informational lectures, and recognition. The 23rd Annual Cook-Off in March was one of the best attended ever. All 20-plus competitor spaces were filled and this increased

(Continued on page 18)



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ABC INITIATIVES AROUND THE STATE

the amount of monies collected for charities. The Chapter's April 18th Membership Event and Luncheon featured Dr. Nathan Mellor, President of Character First and Strata Leadership, LLC based in Edmond, Oklahoma. Members were highly complimentary of his presentation, "Character First: The C3 Concept and Making a Culture of Character", which explained that an organization's success is directly related to its integrity and its relationships, particularly with its employees. His leadership programs have been highlighted on CNN Inside Africa, FOX Radio and FOX News. The Chapter rounded out the spring season with a Supplier/Member Mixer that allowed several suppliers to showcase their wares and at the same time provided social time and door prizes for all those in attendance.

The Texas Gulf Coast's 9th Annual Inshore Fishing Tournament was the kickoff for the summer. A total of 58 anglers vied for over \$2000 in prize money and at the same time helped the Chapter raise more funds for annual charity collections. The Public Relations Committee works hard throughout the year with a variety of events that not only provide networking opportunities for members but also raise monies that support various charities in the community. At the end of the year, these monies are pooled and distributed to several worthy causes that are selected by the ABC Board.

The Chapter also recently celebrated the 35th Annual Craft Training Program Graduation. The celebration included a meal, awards, a speaker and door prizes to honor the group of 39 craftsmen. ABC is proud to recognize their hard work as well as that of their companies who support their training. Also invited to this celebration for their own recognition were 2 high school scholarship recipients for 2012. Each student will receive \$2000 toward tuition and books to be spent at the local community college toward a certificate in the construction trades area.

Finally, the Texas Gulf Coast Chapter would like to extend their deepest sympathies to the family of John Taylor and the Coastal Bend Chapter.

ABC SOUTH TEXAS CHAPTER

The Future Leaders Task Force (FLTF) has added an interesting twist to their monthly meeting agendas, legal issues and construction contracts, which has proven to be very successful and educational. The future leaders are knowledgeable about construction contracts to a certain extent, however, these monthly presentations go into greater detail providing the viewpoints from the supplier's, sub-sub contractor's, subcontractor's, general contractor's and owner's perspectives. As there is a good mix on the task force, they now have a better



The ABC South Texas Future Leaders Task Force (FLTF) had a social gathering at the San Antonio Gun Club in an effort to get to know each other better and discuss industry happenings. Everyone had a great time, and it turns out there are some great shooters on the Task Force.

understanding of the "other side."

In June, the FLTF had a social gathering at the San Antonio Gun Club to relax, bust a few clays and get to know each other a little better, and discuss industry happenings. Everyone had a great time and, as it turns out, there are some great shooters on the task force.

The Chapter is currently offering a monthly "Executive Legal Issues Seminar Series." Topics scheduled to date include:

- Structured Chaos – The initial days of a bankruptcy reorganization case and how they can adversely affect Liens and other rights.
- How Documentation Affects Your Company – legal, trial, payments, change orders, OSHA, DoL, construction delays, forensic technology, incident response, electronic discovery and application development.
- Reining In The Regulators: How To Play Against A Stacked Deck – union ambush elections, bannerings, salting, NLRB decisions, preemptive actions, and what you can/cannot say or do.
- Insurance and Contractual Risk Transfer – Spreading the Pain.

The annual Parking Lot Party, or "Sweatfest" as it is affectionately called, was revived after a one year layoff. This annual event is a free membership mixer hosted by the ABC-South Texas Chapter, ASA San Antonio Chapter, San Antonio Air Conditioning Contractors Association, Plumbing Heating & Cooling Contractors Association of South Texas, and the Builders' Exchange of Texas. Over 250 attendees had a great time winning door prizes, enjoying fajitas, cold beer & soft drinks, and just plain old visiting.

ABC INITIATIVES AROUND THE STATE



The ABC Mid Coast Chapter will soon be building a new building (rendering pictured above). The new building, which will be built by ABC members, will allow the Chapter to better serve the needs of the membership.

ABC MID COAST CHAPTER

The Mid Coast Chapter's 20th Annual Fishing Tournament was held on June 22nd and 23rd in Port O'Connor, Texas. This event is always a popular and long-awaited one for members and their guests. The event featured lots of raffles, door prizes, awards and great cajun seafood for the attendees.

The Chapter will host an upcoming Construction Site Safety Technician (CSST) class and anticipates a big response as they promote "Safety...A Way of Work...The Only Way To Work".

The Chapter's newest project is a new plans room service, printing and binding in volume, for members, owners, architects, engineers and developers.

The most exciting news for the Mid Coast Chapter is that after 30 years of renting office space, the Chapter is BUILDING A NEW BUILDING! Adding to the great news is the fact that ABC members will be building it!

Finally, the South Texas Chapter provided free OSHA 10 Hour and OSHA 30 Hour training for members of the University of Texas at San Antonio's (UTSA) ABC Student Chapter. This service has assisted the students in securing internships over the summer and employment after graduation.



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¹Figures based on 2007 STEP data compared to 2007 Bureau of Labor Statistics industry averages. ²Incidence Rate represents the number of OSHA recordable incidents per 100 employees per year. ³OSHA Citation Rate represents the number of citations per federal OSHA construction project. ⁴Experience Modification Rate (EMR) (MOD Factor) measures a company's safety performance against similar businesses over the past three years and is one of the factors used to determine workers' compensation rates. ⁵DART Rate represents the number of OSHA recordable incidents that involve "Days Away, Restrictions and Transfers" per 100 employees per year.

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