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## Speaker Straus's Appointments Complete Sunset Commission Line-Up

Speaker Joe Straus (R-San Antonio) has announced the appointment of three members of the Texas House of Representatives and one public member to the Sunset Advisory Commission. Each appointee will serve a four-year term.

The speaker's appointees are:

- Representative Dennis Bonnen (R-Angleton)
- Representative Rafael Anchia (D-Dallas)
- Representative Byron Cook (R-Corsicana)
- Mr. Lamont Jefferson, San Antonio

Rep. Bonnen will serve as vice-chair of the Sunset Commission. Bonnen, a banker, is currently serving his seventh term as a legislator. He is chair of the House Land and Management Resource Committee.

Rep. Cook, a rancher and businessman, was first elected to the Legislature in 2002. He currently chairs the House Environmental Regulation Committee.

Rep. Anchia is an attorney who is serving his third legislative term. He serves as vice chair of the House Pensions, Investments and Financial Services Committee.

Mr. Jefferson, who will serve as the public member, is a partner in the San Antonio office of the law firm Haynes and Boone. He is the brother of Texas Supreme Court Chief Justice Wallace Jefferson.

The new appointees join Representatives Linda-Harper Brown (R-Irving) and Carl Isett (R-Lubbock) who currently serve as House appointees on the Commission.

In making the announcement, Speaker Straus said, "I am confident these leaders are committed to promoting accountability in state government and know they will give this important task the time and attention it

deserves. As we prepare for the 2011 legislative session, it's absolutely vital that the Sunset review process save taxpayer dollars by reducing waste and inefficiency."

Speaker Straus's appointments complete the line-up of the Sunset Commission, which is charged with the responsibility of reviewing the operations and efficiency of state agencies. The Commission is made up of ten members of the Legislature and two representatives of the public who are appointed by the Lt. Governor and Speaker of the House.

Typically each agency undergoes Sunset Review once every twelve years. The Division of Workers' Compensation (DWC) is among the agencies that will be reviewed by the Legislature during its regular session in 2011. The Commission is scheduled to take public testimony for its review of the DWC, Texas Department of Insurance and the Office of Injured Employee Counsel on May 25-26. The panel will then meet on July 6<sup>th</sup> to adopt "commission decisions" that are recommendations for changes and that will be the basis for sunset legislation that will be considered during the 2011 legislative session.

For more information on the Sunset Commission, you may visit: [www.sunset.state.tx.us](http://www.sunset.state.tx.us).

#### 2009-2010 Sunset Advisory Commission

Senate	House
<ul style="list-style-type: none"> <li>• Sen. Glenn Hegar (R-Katy)-Chair</li> <li>• Sen. Juan Hinojosa (D-Mission)</li> <li>• Sen. Joan Huffman (R-Houston)</li> <li>• Sen. Robert Nichols (R-Jacksonville)</li> <li>• Sen. John Whitmire (D-Houston)</li> <li>• Charles McMahan Public Member</li> </ul>	<ul style="list-style-type: none"> <li>• Rep. Dennis Bonnen (R-Angleton) Vice Chair</li> <li>• Rep. Rafael Anchia (D-Dallas)</li> <li>• Rep. Byron Cook (R-Corsicana)</li> <li>• Rep. Linda Harper-Brown (R-Irving)</li> <li>• Rep. Carl Isett (R-Lubbock)</li> <li>• Lamont Jefferson Public Member</li> </ul>

#### Interim Study Charges Released for Texas House Committees

House Speaker Joe Straus (R-San Antonio) has released the interim charges for House committees. The topics usually provide a preview of issues that will likely dominate the legislature's agenda during its next regular session. The next regular session of the Texas Legislature begins in January of 2011.

The interim charges requested by House Business and Industry Chairman Joe Deshotel (D-Beaumont) affecting nonsubscribers that were reported by Work Comp Central last month were not among those announced by the speaker.

The House Business and Industry Committee did receive an interim charge to study the impact of a Texas Supreme Court decision in *Entergy v. Summers*. The issue addresses a Texas Supreme Court decision giving premises owners protections from lawsuits by declaring that they are general contractors and not third parties that can be sued by an injured employee if they are covered by a workers' comp policy. A bill to overturn the court's decision was considered but did not pass the legislature last session.

Nonsubscription was mentioned in committee hearings prior to the 2009 session and during the debate of the "Entergy" bill on the House floor as members discussed the adequacy of benefits in the state's workers' compensation system. During the debate, questions were raised about whether benefits would need to be increased to compensate injured workers who could no longer seek damages from premises owners. During that discussion, questions were raised about the possible need to require all employers to participate in the state's workers' compensation system in order to spread the costs that might be necessary to provide higher benefits.

In one other interim charge of interest, the House Judiciary and Civil Jurisprudence Committee was asked to study the use of arbitration in Texas and the effect of arbitration on state jurisprudence.

For the complete listing of the House's interim charges go to:  
<http://www.house.state.tx.us/committees/charges/81interim/interim-charges-81st.pdf>

The Senate has yet not released its interim charges.

### **Work-Related Fatalities Decline in Texas**

Work-related fatalities in Texas decreased by 13 percent, from 528 to 457, between 2007 and 2008 according to statistics released by the U.S. Department of Labor, Bureau of Labor Statistics. The decline was less than the 20 percent reduction seen nationally.

According to a summary of the statistics prepared by the Texas Department of Insurance-Division of Worker's Compensation (TDI-DWC), the leading cause of fatalities in the state continued to be transportation-related which accounted for a total of 44 percent of all work-related

deaths, an increase of four percent over 2007.

Assaults and violent acts accounted for the second leading cause of fatalities in 2008 combining for a total of 17 percent of all work-related fatalities. According to the report, work-related homicides dropped from 70 to 55 between 2007 and 2008, a decrease of 20 percent.

The TDI-DWC summary also found:

- the number of fatalities from fires and explosions increased from 17 in 2007 to 23 in 2008
- the largest number of fatalities was experienced by motor vehicle operators who saw a 30 percent increase over 2007 deaths
- the number of fatalities resulting from exposure to harmful substances or environments decreased by 52 percent

To view the TDI-DWC summary go to:

<http://www.tdi.state.tx.us/news/2009/news200935.html>

### **1-2-1 Claims and JI Companies Join Alliance**

1-2-1 Claims of San Antonio and JI Companies of Austin are the latest companies lining up to support the Alliance's efforts to preserve nonsubscription in Texas.

**1-2-1 Claims** is a third party administrator specializing in Texas nonsubscriber benefit administration. The company touts an adjusting staff with more than 20 years experience per adjuster. 1-2-1 Claims is proud of the personalized service it offers, allowing claims to be processed in shorter periods of time and questions to be handled quickly while providing increased focus on the government compliance duties of their clients. The company is experienced in both ERISA benefit plan administration and Occupational Accident Policies provided by larger carriers. It offers the knowledge to blend the two into a single successful program. 1-2-1 Claims is a certified Historically Underutilized Business (HUB) and Women's Business Enterprise (WBE)

For more than 24 years, **JI Companies** has served commercial and public entities and associations throughout Texas and surrounding states, providing high quality risk management and claims services. JI has extensive experience in developing and managing property & liability and occupational injury (including workers' compensation and nonsubscriber) programs. The company's strong customer focus is evident in its integrated, single source capabilities, ensuring clients can meet all of their program needs while having full-time online access to all claim file data and reports as well as a close working relationship with claims adjusters and account management personnel.

## **Swine Flu Update**

According to the Centers for Disease Control, the number of doctor visits, hospitalizations and deaths related to the H1N1 virus decreased in the beginning of November. While this is good news, the number of flu-related illnesses is much higher than usual for this time of year. CDC posts updates on the spread of the H1N1 virus nationwide as well as information on how to prevent infection on its web site at <http://cdc.gov/h1n1flu/>.

Texas's current allocation of H1N1 vaccines is 4.2 million; however, distribution of the vaccine has been slower than anticipated. At this time, vaccines are only being administered to members of specific high risk groups such as pregnant women, children under the age of 6 months, health care workers and emergency personnel.

As more doses of the vaccine arrive, people interested in receiving it may locate a participating provider by zip code through the Texas Vaccine Locator, which is available at [www.texasflu.org](http://www.texasflu.org).

## **Improve Health and Lower Costs with Wellness and Prevention Programs**

The Wellness Council of America (WELCOA) reports that obesity-related diseases cost \$150 million per year in health care expenditures. Additionally, obesity- and smoking-related illnesses account for 65-70 percent of all health care costs. Workplace wellness and disease prevention programs can work to reduce these costs.

Virtually all workplace wellness programs focus on diet, exercise and stress relief as their core components. In doing so, they address the underlying factors of four of the top ten causes of death in the US.

Financial savings are an added benefit of well-managed wellness and prevention programs. WELCOA studies found that companies can achieve a 3 to 1 return on investment in wellness programs. Additionally, more than 400 individual medical studies have shown that these programs really do work.

It is difficult to accurately measure the financial savings of wellness programs, but there are clinical results that can be determined. According to WELCOA, wellness program participants report measurable health benefits such as lower blood pressure, lower cholesterol, and weight loss.

One example of a successful workplace program was implemented at Capital Metropolitan Transit Authority (Capital Metro) in Austin as part of the "Steps to a Healthier Austin" initiative funded by the CDC. The

program provided employees with consultations from wellness coaches and personal trainers, two 24-hour fitness centers, personalized health assessments, workshops, dietary counseling, and cash incentives.

The results of the program were dramatic. Employees' overall health and fitness improved, leading to a 25 percent decrease in absenteeism and a total return on investment of 2.43.

Private companies are also investing in wellness programs for employees. According to the Dallas-Fort Worth Business Group on Health, 80 percent of their member companies offer some sort of employee wellness or disease management program. A report published in the "Dallas Business Journal" found that most companies are not cutting back or eliminating the programs despite the economic downturn.

Companies that choose to offer wellness programs still need to find ways to entice employees to participate in order to make their investments financial sound. Some companies offer financial rewards to employees who agree to sign up and complete a fitness benchmark study. Others offer rewards to employees for continued participation and health.

No matter how companies choose to offer wellness programs and recruit their employees to participate, results indicate that providing such programs is a sound financial investment.

### **Federal legislation being monitored by the Alliance is listed below:**

**HR 635** by Rep. Baca (D-CA)

**Description:** Establishes the National Commission on State Workers' Compensation Laws.

**STATUS:** Referred to the House Committee on Education and Labor on January 22, 2009.

**HR 991** by Rep. Gutierrez (D-IL)

**Description:** *Consumer Fairness Act of 2009* - Amends the Consumer Credit Protection Act to treat as an unfair and deceptive trade act or practice under federal or state law any written provision in a consumer transaction or contract that requires binding arbitration to resolve a controversy arising out of or related to the transaction or contract, or the failure to perform any part. Declares such a provision unenforceable. Permits a written agreement to determine an existing controversy by binding arbitration if the parties agree after the controversy has arisen.

**STATUS:** Referred to the House Committee on Financial Services on February 11, 2009.

**HR 1020** by Rep. Johnson (D-GA)

**Description:** *Arbitration Fairness Act of 2009* - Declares that no pre-

dispute arbitration agreement shall be valid or enforceable if it requires arbitration of: (1) an employment, consumer, or franchise dispute, or (2) a dispute arising under any statute intended to protect civil rights.

Declares, further, that the validity or enforceability of an agreement to arbitrate shall be determined by a court, under federal law, rather than an arbitrator, irrespective of whether the party resisting arbitration challenges the arbitration agreement specifically or in conjunction with other terms of the contract containing such agreement. Exempts from this Act arbitration agreements in collective bargaining agreements.

**STATUS:** Referred to the Subcommittee on Commercial and Administrative Law on March 16, 2009.

**HR 1237** by Rep. Sanchez (D-CA)

**Description:** *Fairness in Nursing Home Arbitration Act* - Provides that a pre-dispute arbitration agreement between a long-term care facility and a resident (or anyone acting on the resident's behalf) shall not be valid or specifically enforceable.

**STATUS:** Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law and the Subcommittee on Crime, Terrorism, and Homeland Security on July 23, 2009.

Referred to the Subcommittee on Commercial and Administrative Law on March 16, 2009.

**HR 3590** by Rep. Rangel (D-NY)

**Description:** *Patient Protection and Affordable Care Act* - This is the vehicle for the version of the health care reform proposals that will be debated in the Senate.

**STATUS:** Measure laid before the Senate by motion on November 21, 2009.

**HR 3692** by Rep. Dingell (D-MI)

**Description:** *Affordable Health Care for America* - House proposal for health care reform.

**STATUS:** Read the second time. Placed on the Senate Legislative Calendar under General Orders. Calendar No. 210.

**S 512** by Sen. Martinez (R-FL)

**Description:** *Fairness in Nursing Home Arbitration Act* - Provides that a pre-dispute arbitration agreement between a long-term care facility and a resident (or anyone acting on the resident's behalf) shall not be valid or specifically enforceable.

**STATUS:** Read twice and referred to the Committee on the Judiciary on March 3, 2009.

### **Important Compliance Information for Nonsubscribers**

State law requires employers in Texas that do not carry workers' compensation insurance to file DWC Form-5 with the Texas Department of Insurance-Division of Workers' Compensation (TDI-DWC). Additional information on DWC Form-5 is available at:

<http://www.tdi.state.tx.us/forms/dwc/dwc005nocov.pdf>.

Nonsubscriber employers with four or more employees are also required to use form DWC Form-7 to report each work-related injury resulting in more than one day of lost time, all occupational diseases of which the employer has knowledge (regardless of lost time), and all fatalities occurring during the calendar month. The completed form reporting all such injuries that have occurred during a calendar month must be filled with the TDI-DWC no later than the 7th day of the following month. For more information on DWC Form-7 go to:

<http://www.tdi.state.tx.us/forms/dwc/dwc7.pdf>.

Failure to comply with either requirement is an administrative violation and could result in administrative penalties. The Alliance encourages its members and all nonsubscribers to comply with these requirements.

Links to DWC-Forms 5 and 7 are available on the Alliance Web site at: [www.nonsubscriberalliance.org](http://www.nonsubscriberalliance.org).

#### **Future Board Meetings (All calls are 1:00 p.m. CST)**

- **January 20, 2010 – Conference call**
- **March 17, 2010 – Conference call**
- **May 19, 2010 – Conference call**
- **July 21, 2010 – Conference call**
- **September 15, 2010 – Conference call**
- **October 15, 2010 – Annual meeting in Dallas**



#### **The Texas Alliance of Nonsubscribers**

An employer-driven, nonprofit trade association dedicated to ensuring that nonsubscription interests are better prepared, more cohesive, and strategically proactive in preserving their choice to manage occupational injury claims.

P.O. Box 685227  
Austin, TX 78768

Phone: 512-480-0637  
Fax: 512-542-9977