



Subcontractors Association of the Metroplex

PUNCH LIST

The voice of the Subcontractor's Industry

LEGISLATIVE SEASON IS UPON US - AGAIN!



Subbie Sam Says.

Thankfully, we live in Texas. Our legislators really do care what we think and they'll listen to you if you just take the time to communicate with them!

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Next Month: SAM's Famous Lien and Bond Claim Seminar, November 3, 11:00 am-3:00pm

Do you ever get the feeling you've been there, done that? Sometimes, that's how it feels when we look forward to a new legislative session.

The 85th Regular Legislative Session convenes on January 10, 2017, and as usual, we are hoping for some legislation which will be useful and beneficial to subcontractors, while we fear new obstacles to our businesses.

As Members of the Subcontractors Association of the Metroplex, we are all beneficiaries of the legislative advocacy provided by the Texas Construction Association (TCA). The TCA has numerous issues of benefit to trade contractors it will be advocating before the legislature. Key among these:

MECHANICS LIEN LAW REFORM

The "1200 pound gorilla" in the upcoming session's legislative agenda for the TCA is a comprehensive effort to reform the Texas mechanics lien law. It is generally acknowledged among construction law experts that Texas' mechanics lien law is among the most complicated (if not the most complicated) in the country. Its greatest defect - a lien claimant can do everything "right" under the time frames set forth in Chapter 53 of the Property Code, and yet have an enforceable lien as to little or none of the money it is owed.

Prior efforts to secure lien law reform have achieved various degrees of progress before dying without passage. Key legislators have told the stakeholders on this issue (principally, subcontractors, general contractors, project owners and title companies) that, if another bill to reform the mechanics lien law was to have a chance of passage, it needed to represent significant consensus. So, with that charge, a number of construction industry representatives came together during the inter-session period after the gavel fall on the 84th legislative session in 2015, and prepared an outline for a compromise bill.

The new bill would simplify the lien law considerably, providing for the creation of online tools for project information to be published by project owners, with an incen-

tive to provide information by shortening the time window for filing of "Notices of Furnishing." Subs would benefit from a "one notice" system to notify owners through licensed Lien Agents. Importantly, the new law does away with the "fund trapping" concept, while providing for construction project owners to be able to protect themselves from exposure by better communication with the contractor team as to funds owed.

A key challenge is the shift of risk for policing payment to the Owners - but responsible project owners have been doing this for years, and a more consistent system will improve communications and encourage project owners to be more careful in qualifying the contractors they hire.

This fundamental change to the lien law in Texas would benefit responsible industry participants at all levels - owners, contractors and trades - and TMC members should support the initiative.

ATTORNEY FEES

Texas law now allows for recovery of attorney fees in suits to collect for unpaid labor performed or materials furnished. This recovery is now allowed against an individual or a corporation, and the TCA is seeking a revision to allow for recovery against any individual or legal entity.

RESPONSIBILITY FOR DEFECTIVE PLANS AND SPECIFICATIONS

Texas law often holds contractors responsible for defects in construction based on construction documents prepared or procured by the owner or the owner's agent or design professional. The TCA is advocating for the construction team to be relieved of liability for construction defects due to erroneous documents furnished by the owner.

SCHOOL BACKGROUND CHECKS

Workers on certain public school construction projects have to pass background checks, and with over 1,200 school districts in Texas setting requirements for the background checks, the cost in time and money for vetting thousands of construction workers is enormous - an expense that gets passed to school districts in higher construction costs. TCA is seeking

a statewide, uniform, and portable system of background checks, for simplicity and efficiency.

STATE BREACH OF CONTRACT

State law allowing for lawsuits against the state for breach of contract claims need tweaking, to allow for attorney fee recovery, use of the State Office of Administrative Hearings, and change order recoveries, and the TCA is working on this issue.

WORKER CLASSIFICATION

Employers are required by law to classify its workers on construction projects as employees or independent contractors, but limited enforcement of the law means there are many "independent contractors" whose ambiguous status places responsible employers at a competitive disadvantage. TCA is advocating for better enforcement of the law to stop the violators, while avoiding harsh treatment of those who properly use and classify independent contractors.

We should be prepared to support state-level legislation to improve our overall business climate - so, be active and be ready to answer the call.

MAKE YOURSELF HEARD

It's important that you support legislation, and there are a couple of important ways you can do it. First of all, make sure that you know who your legislators are, in both the House, and the Senate, and make sure they know who you are, as well. Our state legislators are keenly interested in the issues that affect you, because Texas is a business-from the state, and because legislators want successful businesses for the state and for their districts. They also know that you, as an employer, have a meaningful influence over the attitudes and, potentially, the votes of a number of employed people.

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Allyn Baskerville, Owner and Chief Engineer of ADS Networking

CYBER SECURITY

Selena Zarate brought us another outstanding program for September. Allyn Baskerville of ADS Networking traveled down to Dallas from Oklahoma to deliver a comprehensive program on Cyber Security. Allyn showed us the threats to our private business and personal information and gave us a number

of safeguards to protect our money, our privacy, and the information that our customers trust us with. Allyn explained what the criminals do with the information that they can steal from us as well as some of the steps that we must take to protect ourselves. He pointed out that thieves are even using scan-

ners to scan our credit card strips while they are in our wallets and in our pockets!

If your company would like some of the best computer security in the world, Allyn's the one to call. For information on how to reach him contact the SAM office or Selena Zarate at Groves Elec

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Lawrence Otto of Midway Sealcoating

A great way to be heard by your legislator, and have a lot of fun in the process, is to participate in the TCA Walk on the Capitol, January 31-February 1. TCA-affiliated subcontractors from all different trades converge on Austin, and circulate as a group talking to legislators from all over the state to make sure they are well-educated about subcontractor/trade

contractor issues. You will find that the legislators and their staff really do care what you have to say, so it's important you keep them informed. Next, don't forget that, when the TCA comes knocking and looking for a contribution to the TCA PAC, don't be afraid to contribute. TCA has become a vibrant force in the Texas legislature, and is the only voice that is tightly focused on the issues

that matter to us the most, and advocacy on this level requires the ability to make targeted contributions to friendly legislators, and to pay lobbyists whose job it is to make sure that our voices are heard. Donate early, and donate often.

Spike Cutler of Cutler-Smith is SAM's General Counsel

SAVE THE DATE—SUBS WALK ON THE CAPITOL

Save the date of January 31 and February 1 to make a difference in the fate of your company as it is controlled by the laws of the State of Texas. The TCA-PAC is hosting its bi-annual **Roundup and Walk on the Capitol**.

Mid-afternoon Tuesday starts out with a legislative briefing by the TCA lobbyists. Tuesday evening is the reception for the TCA-PAC contributors to meet with many legislators and fellow PAC supporters. Wednesday, January 1 the TCA members descend on the Capitol to meet with their legislators and their staff.

It is advisable to set up an appointment with the legislators that you wish to visit on January 1, but if you can't do this, the legislator's staff will spend time with you, and you will probably have an introduction to your representative or Senator.

The host hotel is the Doubletree Guest Suites, 303 W. 15th Street and it's a short walk to the Capitol. They are offering rooms for \$219 + tax through Monday, December 31 or until the TCA block is full. Ask for the Texas Construction Association rate at (512) 505-4067.

If the block is full, there is parking at the hotel, and there are many other options for hotels in Austin.

Come join your SAM team in Austin. You will make a difference!



Rocky Epps of Complete Landsculpture

Right → Clem Lesch and brothers terrorizing Mongolia.

Clem is from PCL Contract Bonds and is a long time board member of SAM and represents SAM on the Legislative committee for the TCA



Sam says:

SAM is your best source of information for the Subcontracting Industry

What Employers Need to Know Regarding Pregnancy Discrimination!



The Pregnancy Discrimination Act of 1979 (PDA) protects women from discrimination based on pregnancy, childbirth, or related medical conditions. Pregnant women who can work must be permitted to work on the same conditions as other employees. When they are not able to work for medical reasons, they must be afforded the same rights, leave privileges and other benefits as other workers who are disabled from working.

What are Some Reasonable Accommodations for Pregnant Employees?

- Redistributing marginal or nonessential functions (such as lifting) that a pregnant worker cannot perform, or altering how an essential or marginal function is performed.
- Modifying workplace policies, such as allowing a pregnant worker more frequent breaks or allowing her to keep a water bottle at a workstation even though keeping drinks at workstations is prohibited.
- Modifying a work schedule so that someone who experiences severe morning sickness can arrive later than her usual start time and leave later to make up the time.
- Allowing a pregnant worker placed on bed rest to telework where feasible.

- Granting leave in addition to what an employer would normally provide under a sick leave policy.
- Purchasing or modifying equipment, such as a stool for a pregnant employee who needs to sit while performing job tasks typically performed while standing.
- Temporarily reassigning an employee to a light-duty position.
- Allow flexible schedules, reduced work schedules or flexible use of leave time.
- Provide a day shift, provide a straight shift instead of rotating shifts.
- Allow reasonable break time for an employee to express break milk each time the employee has a need to do so.
- Provide a private place, other than a restroom, to express break milk.
- Provide access to a refrigerator and a secure place to store expressed milk.
- Allow to travel with a cooler.

Best Practices

- Have a process in place for expeditiously considering reasonable accommodation requests made by employees with pregnancy-related disabilities, and for granting accommodations where appropriate.
- State explicitly in any written reasonable accommodation policy that reasonable accommodations may be available to individuals with temporary impairments, including impairments related to pregnancy.
- Make any written reasonable accommodation procedures an employer may have widely available to all employees, and periodically remind them that the employer will reasonably accommodate employees with disabilities who need them, absent undue hardship.

- Train managers to recognize requests for reasonable accommodations, to respond promptly to all requests, and to avoid assuming that pregnancy-related impairments are not disabilities.
- Make sure that anyone designated to handle requests for reasonable accommodations knows that the definition of the term "disability" is broad and that employees requesting accommodations, including employees with pregnancy-related impairments, should not be required to submit more than reasonable documentation to establish that they have covered disabilities.
- If a particular accommodation requested by an employee cannot be provided, explain why and offer to discuss the possibility of providing an alternative accommodations.

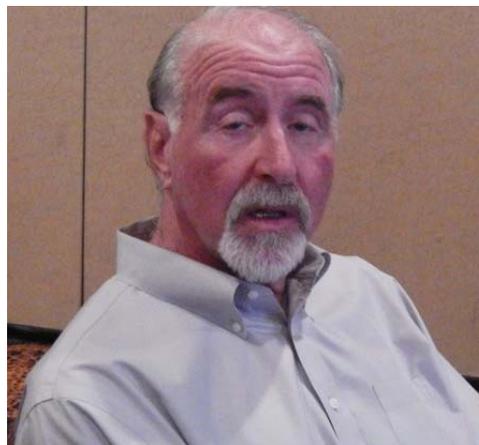
Furnished by Dr. Dee Ann Sanchez of DAS H.R. Consulting.



Past President and BPI Chair, James Mayhew gives us the low down on the lien situation.



Maria Groves of Groves Electric



Jeff Webb, Vice President of the TCA.
You talkin' to me?



Spike Cutler of Cutler-Smith



Subcontractors Association of the Metroplex



Pete Snider, Executive Director
18 Falcons View Pass
Heath, Texas 75032

Phone: (972) 771-0188
Cell: (214) 908-9248
E-mail: execdir@sam-dfw.org



The Subcontractors Association of the Metroplex was founded with the purpose of creating an affordable forum for Subcontractors to exchange information and learn from each other how to be better business men or women.

Sam is a member of the National Subcontractors Alliance, the largest Subcontractors association in the USA, and also a member of the Association of Specialty Contractors where we have a voice in National Legislation. SAM is also a member of the Texas Construction Association, the unifying voice of the trades in the Texas Legislature and as such all SAM members have access to all the benefits of the TCA.

Sam is also allied with the National Federation of Independent Business who has a voice in the Texas Legislature on small business issues.

Your Source for Subcontractor's information.



Visit us at:
<http://www.sam-dfw.org>



Our Association Officers

Paul Holden, Facility Construction Services
President and TCA representative

paulh@fcsdallas.com

jmayhew@apexservicesinc.net

James Mayhew, Apex Services, Inc. Immediate past President, B.P.I. Chair:

gardis@andersonpaving.com

Gary Ardis, Anderson Asphalt and Concrete Paving, Vice President

tmcsorley@secdfw.com

Member: Tim McSorley
Storage Equipment

carrie.edomm@astrosheetmetal.com

Secretary/Treasurer: Carrie Edomm
Astro Sheet Metal

Member: Selena Zarate
Groves Electric

selena@groveselectric.com

Member: Don Weempe

Associate Representative:

Clem Lesch
PCL Contract Bonds

clesch@pclbonds.com

MaryEllen Evens, Trade Management

Associate Representative: Program and Membership Chair

mevens@trade-mgmt.com

Legal Counsel: Spike Cutler
Cutler-Smith, PC

scutler@cutler-smith.com

If you're not a member of SAM, you should be.
Call Pete Snider for a membership application.
(972) 771-0188
Cell (214) 908-9248 or email to:
execdir@sam-dfw.org



**SUBCONTRACTORS—
THE ONES WHO RE-
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BUILDING**