



# 88th LEGISLATIVE SESSION REVIEW



**ABC Texas**  
Associated Builders and Contractors

**AD<sup>✓</sup>OCATE FOR THE MERIT SHOP**



# 88TH LEGISLATIVE SESSION RECAP



**Thanks to our advocacy efforts, ABC Texas secured wins for the construction industry and our free-market policies.**



**8,046** Bills Filed



**1000+** Bills Tracked and Monitored for the Construction Industry



**171** Offices Visted



**100+** ABC Members at Legislative Day Conference



ABC Texas President Geoffrey Tahuahua testifying for priority bill HB 1864 in Texas House Committee on Business & Industry. HB 1864 would clarify in the Trust Funds Claim Act that Trust Fund claims are re-assignable and ensure that downstream vendors get compensated and bad actors are pursued.

A review of the 88th legislative session bears witness to the remarkable impact of Associated Builders and Contractors of Texas. Together, we have shaped a legislative landscape that supports our members and paves the way for continued growth and success for the State of Texas.

As the dust settles on this historic session, ABC stands tall, having secured critical victories for the construction industry in Texas. Our effective advocacy efforts have safeguarded the livelihoods of countless contractors, reinforcing Texas as a beacon of opportunity for construction professionals statewide.



Legislative Day Kick Off with breakfast at the Headliners Club and thoughts shared from Mike Toomey, ABC National Board Member Milton Graugnard, and ABC Texas Board Chair David Smith

# OUR TEAM

## ABC TEXAS STAFF



### **GEOFFREY TAHUAHUA | PRESIDENT**

As President, Geoffrey oversees all legislative and political efforts for ABC in Texas. ABC Texas is comprised of over 1,700 members across eight chapters and represents all specialties within the Texas construction industry, including the industrial and commercial sectors.

Geoffrey lives in Dripping Springs with his wife and two sons, where he also serves on the Dripping Springs City Council.



### **ANA GRACE HUSTED | DIRECTOR OF ADVOCACY AND OUTREACH**

Ana Grace Husted is Director of Advocacy and Outreach for ABC Texas. Grace assists with our Government Affairs efforts and manages ABC Texas' outreach and communication to our members across the state.

Grace was promoted at the end of 2023 to Director of Advocacy & Outreach after having served as our Policy Intern during the 88th Legislative Session. Grace is a graduate of Texas A&M's Mays Business School with a degree in Management and a focus on Pre-Law.

## LOBBY TEAM



### **MIKE TOOMEY | TEXAS LOBBY PARTNERS**

Mike Toomey currently serves as Partner for Texas Lobby Partners. Prior to that, Mike served in the Texas House of Representatives for three terms and is the only individual to have served as Chief of Staff for two Governors (Perry & Clements). In 2020, Mike served as Senior Advisor and Chief Operating Officer to Governor Abbott's Strike Force to Open Texas.



### **CARRIE SIMMONS | TEXAS LOBBY PARTNERS**

Carrie Simmons joined Texas Lobby Group in fall of 2014 and was named #1 "Rising Lobby Star" by Capitol Inside. Prior to joining TLG, Carrie started as a legislative aide in the Texas House of Representatives, and later as an account associate at Elizabeth Christian Public Relations and Affairs firm. Carrie holds a degree in Public Relations from the University of Texas at Austin.

## ABOUT ABC TEXAS PRIORITIES

Our priorities are determined through a collaborative process that involves listening to the ideas and experiences of our members. Our legislative task force and board of directors then transform these insights into actionable priorities, which go beyond simply taking a position on bills. This approach ensures that our organization's focus aligns with the collective aspirations of our membership and the construction industry.

### TEXAS REGULATORY CONSISTENCY ACT – HB 2127

Rep. Dustin Burrows (HD-83) | Sen. Brandon Creighton (SD-4)

**PASSED** – Effective September 1, 2023

Brought regulatory uniformity and consistency to the state of Texas while asserting Texas' authority by prohibiting cities from adopting ordinances, resolutions, orders, or policies on certain matters.

- ✓ Establishes a more streamlined and efficient regulatory framework by promoting consistency across municipalities in Texas.
- ✓ Recognizes and provides support for unique challenges faced by small businesses.
- ✓ Creates a more business-friendly environment by reducing regulatory burdens, enhancing clarity, and fostering consistency in regulatory practices across the state.
- ✓ Allows for private entities (including associations) to bring a private cause of action against a municipality for an ordinance in violation of the law.

### RIGHT TO REPAIR – HB 2965

Rep. Cody Vasut (HD-25) | Sen. Brandon Creighton (SD-4)

**PASSED** – Effective September 1, 2023

Defined statute to clearly state that Chapter 2272 of the Right to Repair Statute cannot be waived by contract.

- ✓ Lowered number of frivolous lawsuits happening after school bond projects were completed by allowing the opportunity for any potential defects to be remedied.
- ✓ Protects general contractors by disallowing governmental entities from circumventing this chapter by requiring the waiver of this statute in contracts.
- ✓ Promotes transparency and accountability in government projects by upholding the principles and objectives of the Right to Repair Statute.

## NO DAMAGE FOR DELAY – HB 2265

Rep. Jeff Leach (HD-67) | Sen. Bryan Hughes (SD-1)

Passed the Texas House. Died in Texas Senate on Calendar

Prohibits Contractual language forbidding or limiting compensable damages for delays caused solely by the owner or its agent.

- Protects general contractors from being held financially responsible for delays caused solely by the property owner or their representative.

## ABILITY TO ASSIGN TRUST FUND CLAIMS – HB 1864

Rep. Shelby Slawson (HD-59) | Sen. Bryan Hughes (SD-1)

Passed the Texas House. Died in Texas Senate in Committee

Allows for the trust fund claim to be re-assigned to another party to the construction contract.

- Empowers general contractors and subcontractors by making the trust fund claim re-assignable and enhances legal remedies by allowing them to pursue individuals who have stolen money from projects.

## INTERNATIONAL PLUMBING CODE – HB 2689

Rep. Cecil Bell (HD-3)

Died in House Committee on Licensing and Administrative Procedures

Would have declared International Plumbing Code as the sole plumbing code in Texas

- Reduced confusion among contractors, builders, and regulatory authorities by consolidating the plumbing code under one code (the International Plumbing Code).
- Saved on costs that come from the use of multiple plumbing codes.
- Enhanced efficiency in the construction process by establishing a clear and consistent set of regulations to follow as less than a dozen municipalities utilize the alternative, the Uniform Plumbing Code.

## CHANGE ORDER LIMIT – HB 2854

Rep. Gervin-Hawkins (HD-120)

Died in House Committee on County Affairs

Increased the limit for change orders on government projects that required approval from the governing body.

- Increased current contract limit from \$1 million to \$5 million in recognition of inflation and labor challenges.
- Reduces administrative burden and delays by eliminating the need for repeated notices for public meetings and approvals by the governing body for contracts exceeding the change order limit.

## PREVAILING WAGE CALCULATION – HB 2429

Rep. Geanie Morrison (HD-30)

Died in House Committee on State Affairs

Clarifies the use of acceptable alternatives to determine the prevailing wage of public projects.

- Allows for general contractors to utilize regional surveys from the Texas Workforce Commission in determining a prevailing wage.
- Applies to counties with populations of less than 1,000,000.

## WAGE THEFT ORDINANCE – HB 3430

Rep. Briscoe Cain (HD-128)

Addressed through HB 2127

Asserts the state's authority in matters involving an alleged wage theft by pre-empting any local ordinance or enforcement of any local ordinance regarding wage theft.

## PROJECT LABOR AGREEMENT LOCAL PROHIBITION – SB 936

Sen. Kelly Hancock (HD-9)

Passed the Texas Senate. Died on Texas House Floor

Expanded current statute to include a prohibition on the use of Project Labor Agreements (PLAs) on projects that receive funding from local government entities and expanded prohibition to include projects that receive local funding.

- Promotes equal opportunity for all contractors by ensuring they all have the same opportunity to participate in the bidding process, regardless of labor affiliation.

All priority bills advocated by ABC Texas that did not pass this session will be given priority in the upcoming 89th legislative session in 2025. We remain committed to advancing these critical initiatives and will actively work toward their successful passage, ensuring that the interests and concerns of our members are effectively addressed in the legislative process.

## Bills Affecting the Construction Industry

Along with our own priorities, ABC Texas diligently tracked and monitored bills that might affect the construction industry. The following are bills that passed this session that may affect the construction industry.

### ECONOMIC DEVELOPMENT INCENTIVES – HB 5

**PASSED** – Effective September 1, 2023

Rep. Todd Hunter (HD-32) | Sen. Charles Schwertner (SD-5)

***Relating to agreements authorizing a limitation on taxable value of certain property to provide for the creation of jobs and the generation of state and local tax revenue; authorizing fees; authorizing penalties.***

- This bill creates the successor to the previous economic development incentive program (Chapter 313) that expired at the end of 2022.
- Provides for tax incentives on certain business projects in exchange for capital investment and jobs.
- The Comptroller is tasked with developing administrative rules for the program, and those will go into effect on January 1, 2024.

### BUSINESS TRIAL COURT – HB 19

**PASSED** – Effective September 1, 2023 unless otherwise noted by the bill.

Rep. Andrew Murr (HD-53) | Sen. Bryan Hughes (SD-1)

***Relating to the creation of a specialty trial court to hear certain cases; authorizing fees.***

- Creates a new specialty business court with statewide jurisdiction over non-insurance business contractual disputes where the disputed amount is over \$10 million.
- Judges will be appointed by the Governor and confirmed by the Senate to serve two-year terms and must meet certain requirements including 10 years of specialized experience.
- Applies to civil actions brought on or after September 1, 2024.

### WORKERS' COMP CONTRACT LIMITS – HB 679

**PASSED** – Effective September 1, 2023

Rep. Keith Bell (HD-4) | Sen. Charles Schwertner (SD-5)

***Relating to limitations of the use of workers' compensation insurance experience modifier values in soliciting and awarding public construction contracts.***

- Prohibits the use of insurance experience modifiers in public and private construction

## LONE STAR WORKFORCE FUND – HB 1755

**PASSED** – Effective September 1, 2023

Rep. Angie Chen Button (HD-112) | Sen. Carol Alvarado (SD-6)

***Relating to the creation of the Lone Star Workforce of the Future Fund.***

- Established a fund managed by the Texas Workforce Commission to provide grants for technical training programs.

## CERTIFICATE OF MERIT FIX – HB 2007

**PASSED** – Effective September 1, 2023

Rep. Armando Martinez (HD-39) | Sen. Tan Parker (SD-12)

***Relating to a certificate of merit in certain actions against certain licensed or registered professionals.***

- Addressed the unintended consequence left from the 2019 legislative session on design-build projects, where the design professionals are often on the same team as the contractors. This created a dilemma by forcing some parties to admit liability (by getting a "certificate of merit" against their own team member) in their efforts to deny liability—which created insurance coverage issues.

## CONTRACTOR PROTECTIONS ON GOVERNMENT OWNED PROPERTY – HB 2518

**PASSED** – Effective September 1, 2023

Reps. Keith Bell (HD-4) | Sen. Robert Nichols (SD-3)

***Relating to required lease terms for public property leased to a nongovernmental entity; creating a criminal offense.***

- Adds additional protections for contractors and suppliers whose labor and materials are used for newly built improvements on public property that has been leased to a private entity.
- Requires that additional language be included in the lease agreement between a governmental entity and a private entity.
- This includes language that specifies that any construction on the leased property must be bonded and that the lessee must notify the governmental entity before construction begins so that the governmental entity may have an opportunity to verify the bonds.



## CONTRACTOR WORK OPT-OUT – HB 3485

**PASSED** – Effective September 1, 2023

Reps. Keith Bell (HD-4) | Sen. Nathan Johnson (SD-16)

***Relating to a contractor's or subcontractor's right to elect not to proceed with additional work under a contract.***

- Allows a contractor to elect not to proceed with additional work directed by a governmental entity if: the contractor has not received a fully executed change order for the additional work; and the aggregate or anticipated value of the additional work plus any other outstanding additional work requests exceeds 10% of the original contract amount.
- Also clarifies that a contractor who elects not to proceed with additional work directed by an owner or governmental entity is not responsible for damages associated with the choice not to proceed.

## CRIMINAL RECORD ACCESS – HB 4123

**PASSED** – Effective June 13, 2023

Rep. Ryan Guillen (HD-31) | Sen. Judith Zaffirini (HD-21)

***Relating to access to and use of certain criminal history record information.***

- Aligns state law to comply with the new requirements established by the Federal Bureau of Investigations (FBI) for conducting criminal background checks for employees as well as contractors.
- The bill applies broadly across dozens of industries, including construction.
- For contractors, there is a new requirement for contractors who may be working in schools and near children. The bill creates a new designation known as a “qualified school contractor.”
- The Department of Public Safety (DPS) and Texas Education Agency (TEA) will be developing rules together which will establish the formal process for contractors to comply.

## CAREER INVESTIGATION EXCUSES – SB 68

**PASSED** – Effective May 24, 2023

Rep. Andrew Murr (HD-53) | Sen. Judith Zaffirini (SD-21)

***Relating to excused absences from public school for certain students to visit a professional's workplace for a career investigation day.***

- Act allows school districts to excuse students from attending school for a career investigation day, where they can visit a professional's workplace to explore a potential career field.
- Students can be excused for up to two days during their junior year and two days during their senior year, as determined by the school district's policy and procedures.
- Additionally, students whose absences are excused for career investigation days cannot be penalized, and their attendance will be counted for calculating the average daily attendance. It is also mandatory that students will be given reasonable time to make up any missed school work.

## COURT EXPANSION: 15TH APPELLATE – SB 1045

**PASSED** – Effective September 1, 2023

Rep. Andrew Murr (HD-53) | Sen. Joan Huffman (SD-17)

***Relating to the creation of the Fifteenth Court of Appeals with jurisdiction over certain civil cases, the compensation of the justices of that court, and the jurisdiction of the court of appeals in this state.***

- Creates a new appellate court (the 15th Court of Appeals) with exclusive jurisdiction over cases involving the state, designated state agencies, their officers or employees, constitutional challenges to state statutes or rules with the involvement of the attorney general, and other matters as determined by law.

At the end of every legislative session, the Board of Directors for ABC Texas recognize certain legislators who supported our priorities or went above and beyond on a specific issue. There are two award categories:

- **Free Enterprise Champion**—Recognizes legislators who went above and beyond to defend the merit-shop construction industry and Free Enterprise (this is limited to no more than two Senators and no more than three House members).
- **Legislative Champion**—Recognizes legislators who supported our priorities and worked with us on improving legislation (no limit on number of awards).

## Free Enterprise Champion

Sen. Bryan Hughes  
Sen. Brandon Creighton  
Rep. Dustin Burrows  
Rep. Cody Vasut  
Rep. Todd Hunter

## Legislative Champion

### HOUSE

Rep. Cecil Bell  
Rep. Keith Bell  
Rep. Briscoe Cain  
Rep. Terry Canales  
Rep. Mark Dorazio  
Rep. Harold Dutton  
Rep. Barbara Gervin–Hawkins  
Rep. Craig Goldman  
Rep. Ryan Guillen  
Rep. Sam Harless  
Rep. Caroline Harris  
Rep. Cole Hefner  
Rep. Justin Holland  
Rep. Carrie Isaac  
Rep. Jeff Leach  
Rep. Geanie Morrison  
Rep. Andrew Murr  
Rep. Jared Patterson  
Rep. Richard Raymond  
Rep. Shelby Slawson  
Rep. John Smithee  
Rep. Ellen Troxclair

### SENATE

Sen. Carol Alvarado  
Sen. Paul Bettencourt  
Sen. Kelly Hancock  
Sen. Phil King  
Sen. Mayes Middleton  
Sen. Lois Kolkhorst  
Sen. Judith Zaffirini  
Sen. Pete Flores  
Sen. Kevin Sparks

The image shows the Texas State Capitol building in Austin, Texas, with a blue-tinted overlay. The building's iconic dome and the Statue of Liberty on top are prominent. The ABC Texas logo is centered over the dome. The logo consists of a stylized American flag icon to the left of the text "ABC Texas", with "Associated Builders and Contractors" written in a smaller font below it.

**ABC Texas**  
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[www.abctexas.org](http://www.abctexas.org)