

# **Texas Labor's Goals in the 2009 Legislative Session**

## **Prepared by Texas AFL-CIO**

### **Why These Goals?**

During the 81st Texas Legislative Session, the United Labor Legislative Committee (ULLCO) will promote legislation that improves the quality of life for all Texas, with a focus on working families. Conversely, we will oppose legislation that impairs workers' lives. Specifically, ULLCO seeks improvements in wages, benefits and working conditions for employees in Texas, and we believe the best chance for such improvement lies in the right to bargain collectively.

In times of economic crisis like the one before us now, labor unions assume a special level of importance and are essential to workers' path to prosperity in a democracy.

As the Rev. Martin Luther King Jr. once said, when recalling the Great Depression:

"The nation...reeled and tottered almost to total collapse. The labor movement was the principal force that transformed misery and despair into hope and progress. Out of its bold struggles, economic and social reform gave birth to unemployment insurance, old age pensions, government relief for the destitute, and above all new wage levels that meant not mere survival, but tolerable life. The captains of industry did not lead this transformation; they resisted it until they were overcome."

ULLCO is a coalition of both Texas AFL-CIO member unions and unaffiliated unions that join for the purpose of promoting legislation. In pursuing pro-worker goals, the United Labor Legislative Committee (ULLCO) joins hundreds of other groups and lobbyists who register with the Texas Ethics Commission for the benefit of their respective constituencies.

Our goals can be short-range or long-range, of broad or specialized concern, ambitious for change or protective of a positive status quo. But our goals aim for a better future not just for unions and not even just for current workers, but for all the people of Texas.

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## How Does ULLCO Operate?

The United Labor Legislative Committee takes positions on legislation and adopts and activates lobbying strategies.

ULLCO's member organizations vote to support or oppose legislation. To preserve a strong consensus, ULLCO's rules require a two-thirds vote to take action on a bill or resolution. Individual union organizations reserve the right to take independent positions on legislation. On rare occasions, a union that belongs to ULLCO may take an opposite stance on a bill.

All labor lobbyists are paid by their own organizations and not ULLCO. When ULLCO takes a position, member lobbyists are assigned to make contact with legislators on behalf of ULLCO.

ULLCO meets at Texas AFL-CIO headquarters on the morning of each day the Legislature is in session – usually one hour before the House or Senate convene in full session, whichever is first. Observers are welcome.

In the 2009 session, ULLCO will adjust to changing circumstances and change emphasis when necessary. As foreseen in January, some of the leading issues for organized labor are on the following pages.

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## LEGISLATIVE GOALS

### **Workers' Compensation**

Workers' compensation remains an issue of critical importance to working families in Texas. Despite the reforms of HB 7, significant challenges must be met if the system is to address the needs of injured workers adequately.

Texas is the only state in the nation that allows employers the option of not providing workers' compensation insurance for employees. In recent years, non-subscription has become a more permanent and widespread feature of the landscape in Texas. The Texas AFL-CIO believes that providing basic workers' compensation insurance for injured workers should be made mandatory.

At the very least, the Legislature must take steps to ensure it has the information it needs to make informed policy decisions on non-subscription by collecting data necessary to analyze the consequences of a voluntary workers' compensation system. ULLCO will support efforts to curb the most blatant abuses suffered by injured workers at the hands of employers who do not carry workers' compensation and to stiffen penalties for non-compliance with notice and reporting requirements.

In addition, we remain concerned that the network medical model has not afforded sufficient choice to injured workers. ULLCO will support legislation that directs and empowers the Texas Department of Insurance to require greater choice.

ULLCO supports legislation increasing benefits for injured workers. Research has shown that benefits in Texas have not kept pace with inflation and injured workers are at risk of falling further behind. Efforts to raise benefits significantly last session stalled. Insurance company profits are at very high levels. It is time to pass on some of the benefits of cost-saving legislation to injured workers.

In addition to these proactive legislative efforts, the Texas AFL-CIO will monitor all workers' compensation legislation with an eye toward keeping injured workers as the focus of a system that delivers fairness and dignity.

### **Entergy v. Summers**

In the case of *Entergy v. Summers*, the Texas Supreme Court has gouged a giant hole in the legal protections for Texas workers by giving large business owners a technical loophole to escape the consequences of their own wrongdoing. The original decision, which amounted to judicial activism at its worst, deprived injured workers of key rights and basic protections while providing absolutely nothing in return. Under the decision, injured workers who have had the right to seek redress from the courts were relegated to an

inadequate workers' compensation system despite longstanding legislative intent to the contrary. If allowed to stand, the Entergy case would undermine one of the most critical aspects of ensuring a safe workplace and undermine legislative intent.

While the court has withdrawn its initial decision, the case is still pending. The Legislature must act to clarify that it remains the policy of this state that premises owners cannot legally escape the consequences of their wrongdoing simply by playing a legal shell game with their employees.

## **Public Education**

The current school funding system is the product of a short-term fix and is not geared toward a long-term push for world-class schools. The economic doldrums, in fact, threaten to worsen the chronic under-funding of Texas public education.

Since January 2003 we have defeated an onslaught of ill-advised legislation that would weaken contracts, due-process rights, and quality standards like class-size limits and teacher certification. In particular, we have successfully opposed school vouchers that would steer tax dollars from public schools to private schools that would be under significantly reduced state oversight.

In 2009 the Legislature should adopt these priorities:

### **IMPROVED WORKING CONDITIONS**

Our students deserve a top-quality educational team in every school. To recruit and retain top-quality personnel, lawmakers should enact:

#### **Comparable Pay for Teachers, A Living Wage For All Education Employees**

- ✓ Raise teacher pay to match comparable private-sector jobs, and guarantee a living wage for all education employees.

#### **Health Coverage as Good as the Governor's**

- ✓ Boost state funding for health care for all education employees, and reverse cutbacks affecting retirees;
- ✓ Provide fully paid coverage for every employee and 50 percent for their families.

#### **Better Pensions**

- ✓ Increase the state contribution rate (now 6.58 percent), provide an immediate cost-of-living increase for TRS retirees, and make future cost-of-living raises automatic;
- ✓ Reverse 2003-2005 laws that reduced benefits;
- ✓ Repeal federal offsets that cut earned Social Security benefits of Texas school employees;
- ✓ Let education employees directly elect a majority on the TRS board.

### **Due Respect and Due Process**

- ✓ Defend basic due process and benefits and extend them to all education employees, pre-K/16;
- ✓ Prohibit retaliation for exercising state-granted rights.

### **A Role in Local Policy-Making**

- ✓ Protect the ability of school boards to consult with an elected employee representative on policy;
- ✓ Let school boards bargain with an elected employee representative on local contracts—as police, firefighters, and other public employees in Texas already can.

## **IMPROVED LEARNING CONDITIONS**

To give every child a good education in a safe and orderly public school, legislators should:

### **Make Every School a Safe Haven for Learning**

- ✓ Bolster teachers' authority to remove disruptive students and guarantee notice of violent offenders;
- ✓ Provide funding and high standards for disciplinary alternative education programs;
- ✓ Ensure that every school has full-time school nurses to protect students' health;
- ✓ Ensure appropriate staffing to serve all students assigned to the regular classroom.

## **Ensure Quality on Every Campus**

- ✓ Provide the funds required to ensure academic excellence for every student with a multi-year plan to reinvest in public education, based on specific proposals for fair sharing of the costs:
- ✓ Guarantee state aid for school districts to keep up with enrollment growth, inflation, and rising state and federal requirements;
- ✓ Ensure universal access to pre-kindergarten and kindergarten for every child;
- ✓ Fully fund children's health insurance (CHIP);
- ✓ Provide comparable pay for teachers, living wages for all education employees;
- ✓ Guarantee decent pensions and health care for all education employees, active and retired;
- ✓ Fully fund community colleges, including employee benefits.
- ✓ Enforce class-size limits and extend limits to other grades, starting with pre-K
- ✓ Ensure teacher quality with: appropriately certified educators in every class; mentoring and ongoing professional education; and continued state tuition scholarships for educational aides;
- ✓ Reward school personnel for attaining higher skills (e.g., via National Board Certification) or taking on extra tasks (e.g., mentoring), and reject top-down "pay for performance" schemes;
- ✓ Enhance financial and professional support for adjunct faculty in higher education, and achieve a better balance between full-time and adjunct faculty; and
- ✓ Block vouchers and equivalent drains on public school funding

## **Broaden the Vision of High Performance**

- ✓ Reform test-driven school ratings to put testing back in its proper place:
  - End overreliance on a single test.
  - Restore classroom teachers' individual authority over instructional time.

- Use multiple assessment tools to gauge growth and inform instruction.
- Prohibit "pay for test scores."
- Repeal laws forcing arbitrary school shutdowns and arbitrary removal of principals and faculty. Use supportive interventions for struggling schools.
- Stop inappropriate testing of students with disabilities and English Language Learners.
- ✓ Recognize multiple pathways to postsecondary readiness, including career and tech programs

## **Health Care**

ULLCO supports the availability of necessary health care and affordable prescription drugs for every Texan and looks forward to major federal progress in the availability of health care for all. For the 2009 session, we believe the Legislature should continue to restore full funding to the Children's Health Insurance Program as part of a plan to cover every child in Texas. ULLCO also supports CHIP rules that will make enrollment and renewal as simple and straightforward as possible for all eligible families. The CHIP program is the best idea yet to place decent health insurance in the hands of working poor families.

The Legislature needs to leverage public health care spending to demand better rates from providers and insurers for all state-related health care programs.

As an integral part of our health-care platform, ULLCO supports the efforts of Texas nurses to obtain legislation that sets a minimum ratio of registered nurses to patients in hospitals. Such legislation both assures the public of quality health care and protects the careers of nurses who are often asked to take on workloads that compromise their ability to provide expert care. The Texas AFL-CIO also supports legislation that would provide for safer workplace rules for nurses who must lift patients and are subjected to high risk of back injuries.

## **State and University Employees**

1. Approve and fund an across-the-board state employee pay raise that restores the standard of living for state employees. Include every state employee, including university employees.
2. Defeat all attempts to cut the state employee pension and health care plans or convert them to "defined contribution" systems. Fully fund the state employee

pension and health plans to guarantee quality, affordable health care and a secure retirement for all state employees, and to restore cost-of-living increases for retirees.

3. Cancel all plans to privatize, downsize, or dismantle state services, and defeat any new proposals for privatization. Restore full funding to rebuild the abilities of agencies and universities to provide quality services to the people of Texas.

4. Pass legislation to assure due process and just cause for state employees in all disciplinary and complaint/grievance procedures. Include a final appeal step outside the employee's agency or university.

5. Stop all plans for closure or consolidation of state schools for people with developmental disabilities. Fully fund and staff services at all levels, including state schools, to ensure real choice of placement for parents, guardians, and affected individuals.

6. Restore full state funding for higher education to keep our public universities public, assure affordable higher education for Texans, and provide fair pay and benefits for university employees.

7. Eliminate the AccessHR privatized human resources system in the human services agencies and restore state-operated human resources.

8. Defeat plans to close Texas Youth Commission facilities and increase funding to rebuild an agency that provides appropriate rehabilitation services for Texas youth. Include TYC staff in the LECOSRF supplemental retirement program.

## **Correctional Officers**

Working conditions have deteriorated for the state's correctional officers to the point where ULLCO believes the state faces a growing crisis. Evidence for this has been in a series of prominent violent incidents in the Texas prison system, unacceptably large rates of turnover among prison employees and a dangerous number of vacancies in correctional officer positions.

ULLCO recommends:

- ✓ A major pay increase for correctional officers that brings them substantially closer to the national average for pay in their field.
- ✓ A revised classification system that attracts employees and then rewards them for building seniority.

- ✓ An expanded training system that assures Texans that correctional officers are fully prepared for their jobs.
- ✓ Continued attention to protection of correctional officers from health and safety hazards.

### **Fire Fighters**

ULLCO supports:

- ✓ Presumptive MRSA Legislation. The proposal would create a rebuttable presumption that if a fire fighter or EMS worker who is employed by a public employer contracts Methicillin-resistant Staphylococcus Aureus (MRSA), the exposure is in the line of duty.
- ✓ Presumptive Hepatitis "C" legislation. The proposal would create a rebuttable presumption that if a fire fighter or EMS worker who is employed by a public employer contracts Hepatitis "C," the exposure is in the line of duty.
- ✓ Clarification of several procedural aspects of the State Civil Service Act as it pertains to fire fighters.
- ✓ The status quo of the Commission on Fire Protection in the Sunset Review process.

### **Other Public Employee Issues**

ULLCO's additional priorities for all public employees include:

- The right to a contract. We oppose "employment at will" by the state or any political subdivision. The state ban on public employee collective bargaining should be lifted.
- The right of all public employees to designate any portion of earned income to organizations or agencies that do not claim the right to strike.
- Fair grievance procedures for all state and political subdivision employees.
- Continuation of strong fire, police and other public employee civil service.
- Improvement of retirement benefits for public employees through various pension plans. Increase the state contribution to ERS and TRS retirement funds.

- Protection of the right of public sector employees to run for and to hold public office.
- The promulgation of effective health and safety programs.
- Opposition to restrictions on a public employee's choice of residence.

## **Building & Construction Trades Issues**

Priorities for Building & Construction Trades' Workers include:

- ✓ Support legislation to improve the state prevailing wage law by:
  - a. Mandating enforcement of the prevailing wage law to make sure that all workers are classified and paid the correct hourly prevailing wage on all projects.
  - b. Using the same procedures for determining prevailing wages in the state and each political subdivision in the state by conducting wage surveys using the same procedures used by the US Department of Labor.
  - c. Mandating the use of Certified Payrolls for all contractors and sub-contractors that secure work on projects covered under the states prevailing wage laws for the state and each political subdivision in the state. Certified Payrolls should be treated as public records subject to Open Records Requests covered by State Law just as they are from the Federal Government.
  - d. Allowing the political subdivisions participation in the arbitration process between workers and employers.
- ✓ Support legislation to insure that employers classify building trades' workers as employees and not as independent contractors. Contractors that misclassify workers as independent contractors have an unfair bid advantage against contractors that play by the rules and pay their employee taxes, unemployment insurance and workers compensation. Criminal penalties and debarment should be included in any legislation against contractors that cheat the system and cheat the workers. The underground economy of misclassifying workers is depriving the state and federal government out of billions of dollars that reduces services to workers and taxpayers.

- ✓ Support licensing building & construction trades' workers to promote quality in construction and service work. Licensing would provide greater accountability to the public.
- ✓ Support the licensing of all contractors and sub-contractors that perform construction work in the state. The licensing requirement would include any type of construction work in both the commercial and residential industry.
- ✓ Support the use of "Best Value Contract Bidding" with procedures that are fair and equitable to all parties that bid on construction and repair work for public projects covered by the prevailing wage law of the state.
- ✓ Support the awarding public projects covered under the prevailing wage law only to contractors and subcontractors that provide health insurance to their employees and dependents.
- ✓ Require each political division of the state to allow only the use of apprentices, registered by the United States Department of Labor, at a lesser hourly pay rate than of the journeyman or mechanic on all public projects covered under the prevailing wage law. Contractors and subcontractors that do not sponsor a registered apprenticeship program must pay the prevailing wage as a journeyman or mechanic classification to any employee that performs occupational trade related work.
- ✓ Support "Collective Bargaining Carve Out" for employers and unions to set up their own voluntary workers compensation medical delivery and dispute resolution systems. This would show the emphasis that Labor and Management have in promoting safety in the workplace. This program would ensure that the best possible treatment is available to the injured worker by providing a better recovery time and quicker return to work.
- ✓ Support legislation that requires Workers Compensation in Texas for all employers and not allowing premise owners to be considered the employer for other than their own employees.
- ✗ Oppose any attempt to repeal the state's prevailing wage law.
- ✗ Oppose any attempts to replace the NFPA (National Fire Protection Association) Codes or other Building Codes with lesser codes when it affects the public welfare.

## **ELECTRIC UTILITIES**

Workers and consumers in Texas must have the assurance that they will have access to safe, reliable electric power at affordable prices, and workers in the industry must be treated with dignity, fairness and respect.

ULLCO has consistently fought to ensure that the concerns of workers are addressed in the process of deregulation of the electric retail market. In our view, the promises of deregulation have not been realized in Texas. Consumers have not yet realized, nor are they likely to realize, any significant benefits from the deregulation process. To the contrary, they have suffered abuses that call for state intervention. Workers have faced layoffs and increasingly contentious labor-management relations. In addition, the financial health of major investor utilities in the state has been thrown into a question in an unprecedented way.

The Legislature in this session should not take any action that would accelerate or expand deregulation. In addition, ULLCO supports giving the PUC the tools to make sure sales and transfers of utilities and generation companies are in the public interest.

ULLCO supports the construction of nuclear power plants in Texas to provide clean power as part of the portfolio to meet the power needs of our state into the future. We also support efforts to develop other clean sources of energy and to encourage energy efficiency.

ULLCO will resist any effort to weaken the protections of Section 38.005 of the Utility Code, which requires utilities to maintain an adequate supply of trained personnel to meet safety and reliability standards.

## **Unemployment Insurance**

The unemployment insurance system continues to fail to meet the needs of Texas workers, currently ranking an abysmal 50<sup>th</sup> among the states in the percentage of unemployed persons who actually receive benefits. In today's dire economic reality, this is simply unacceptable.

Modernizing the unemployment system in Texas is critical not only to meet the needs of the unemployed, but to provide a critical economic stimulus to communities devastated by high unemployment. ULLCO supports the following measures:

- Adopt the Alternative Base Period;
- Remove the prohibition against part time workers' collecting unemployment insurance;
- Eliminate the six-week waiting period for spouses who must relocate because a spouse accepted work in another location;
- Approve legislation promoted by the United Auto Workers that would enable Texas workers who are idle because of strikes occurring in other

states but through no action of their own to collect unemployment insurance benefits.

Texas needs to act now on these measures. Because of federal legislation likely to be enacted, Texas will be eligible for hundreds of millions of dollars in federal money if these reforms are adopted.

ULLCO believes:

- ✓ Government-subsidized job training programs should be limited to fields that prepare workers for careers that offer living wages that are substantially higher than the minimum wage.
- ✓ Tax subsidies and abatements aimed at attracting jobs should be tied to specific performance goals that place added responsibility on the recipient of incentives.
- ✓ Welfare policies should ensure that placement of newly trained workers does not displace current workers in what would be a game of musical chairs.
- ✓ Affordable quality child care should be available to all working Texans.
- ✓ Job training programs in Texas remain a key in an era when working people may have several different careers in a lifetime. In addition, Texas laws should reflect the principle that a good day's work deserves a good day's pay: Those who work should receive living wages.

## **Worker Justice Rights**

ULLCO supports the right of all Texans to seek redress in the courts for injuries caused by personal or corporate misconduct. The right to hold wrongdoers accountable is a powerful means of assuring best practices when it comes to the safety of working people in their everyday lives.

ULLCO continues to oppose legislation aimed at protecting negligent third parties from legal action by injured workers merely because the employer carries workers' compensation insurance.

## **Transportation**

We support:

- ✓ Authority for the Texas Department of Transportation to levy administrative penalties for railroad violations.

- ✓ Enhanced railroad grade crossing safety, safe walkway conditions and continued funding of rail safety programs within the Department of Transportation.
- ✓ Continued inspection of hazardous materials on trains and other modes of public transportation, plus mandated medical monitoring of employees for hazardous materials exposure.
- ✓ U.S. Inspection of all trucks and trains entering the U.S. for safety and compliance with Texas and federal laws.
- ✓ Continued operation of trains with crews located in the cab of the locomotive.

We oppose:

- ✓ Triple trailers or increases in weight limits for trucks on our freeways.
- ✓ Legislation that allows business firms to “self-insure” themselves against workers’ compensation claims.
- ✓ Legislation that allows rail carriers to self-insure for medical coverage for FELA matters.

### **Minimum Wage**

ULLCO supports legislation to index the state minimum wage to inflation. This would avoid the long delays in raising the minimum wage and take the politics out of providing subsistence to low-wage workers.

ULLCO continues to support Living Wage and Equal Pay legislation as well.

### **Redistricting**

ULLCO continues to oppose partisan attempts to skew the process of redrawing political boundaries.

### **Election Law**

ULLCO continues to oppose efforts to erect hurdles to voting through partisan “Voter ID” proposals and the like, as well as bills that attempt to criminalize or thwart legitimate Get-Out-The-Vote activities.

### **Immigration Law**

ULLCO supports the national AFL-CIO's position that seeks legal status for undocumented workers who have worked hard, paid their taxes and contributed to their communities. The full menu of labor rights, including a minimum wage, a safe workplace and the freedom to form unions, should apply to immigrant workers. As such, ULLCO will oppose legislative efforts that would apply second-class status to immigrant workers in Texas.

## **Motion Pictures**

ULLCO supports the Moving Image Industry's proposals to improve the Incentive Program established in the 2007 session.

It has become clear that the current Texas Film Financial Incentives for production companies are not competitive enough to revitalize Texas's long-established film industry, which had been growing until the middle part of this decade. Many good jobs with benefits that would have been created in Texas are being taken to other areas where better incentives are available. One of the primary purposes of the incentive program is to prevent an exodus of the skilled crew base and to keep and grow businesses that support the industry.

## **Other ULLCO Areas of Interest**

While supporting continuing efforts to streamline the text of the Texas Constitution in a manner that does not change substantive law, ULLCO believes the Constitution fairly represents the long-standing wishes of Texans on how state government should operate and believes efforts to rewrite the Constitution may cause more harm than good. In particular, ULLCO adamantly opposes any effort to insert the so-called "right-to-work" law into the Texas Constitution.

ULLCO categorically opposes legislation that would single out labor unions by requiring them to obtain annual written permissions from members to exercise First Amendment rights to use voluntary dues money to participate in the political process. Such "Paycheck Deception" proposals amount to a partisan attack on labor unions.

ULLCO will work to ensure that the hate crimes law remains intact.

ULLCO supports expansion of the scope of the Texas Enterprise Fund to include grants for existing companies as a means of preserving jobs that offer strong wages and benefits. In a world of outsourcing, off-shoring and competition among states, a job saved is every bit as valuable as a job created. At the same time, ULLCO supports safeguards to ensure that any expenditures by the Enterprise Fund are connected to binding guarantees that middle-class jobs will be created or preserved.

ULLCO also supports:

- ✓ A property tax appraisal system that gives localities leeway to exercise “local control” to provide needed services and maintain equity for taxpayers. In particular, ULLCO opposes efforts to place artificial caps on appraisals or lower the threshold for calling tax rollback elections. On the flip side of the same coin, ULLCO opposes efforts to tie the Legislature’s ability to set statewide standards by passing a constitutional amendment that would bar “unfunded mandates”.
- ✓ The state’s decision to cancel the “Trans-Texas Corridor” amounts to a political acknowledgment that the emergence of privatized toll roads has raised fundamental problems. ULLCO continues to support a moratorium on and complete reevaluation of privatized toll roads in Texas, including a thorough examination of the limits such roads are placing on the construction of freeways that have traditionally been funded by federal, state and local resources.
- ✓ Environmental policies that protect jobs and respect the role of labor.
- ✓ Fair competition and continued expansion of jobs in the telecommunications industry.
- ✓ Legislation that would permit workers who do not have Social Security cards to present alternative proof of identity when applying for a Texas driver’s license.
- ✓ Legislation barring employers or governmental agencies from taking out secret life insurance policies – known as “dead peasant” policies – on employees and pocketing any proceeds when the employer has no legitimate insurable interest.
- ✓ Differential pay for workers who are required to speak a foreign language to perform their jobs.
- ✓ Lien rights for fringe benefit collection.
- ✓ Protection of local option on transit authority funding.