

## Greater Houston Partnership's Economic Update

Houston is likely to see significant job losses and a prolonged drain on its economy from the COVID-19 coronavirus. That was one of the major takeaways from a virtual presentation by Patrick Jankowski, Partnership Senior Vice President of Research, on March 31. Jankowski discussed his latest analysis of COVID-19, collapsing oil prices, the imminent U.S. recession, and their impact on Houston's economy. Jankowski stressed that because of the unprecedented and ongoing nature of the situation, predicting the economic impact is difficult at this time. "With the situation changing daily, we can't really get a good read on what's actually going on yet," he said. Jankowski referenced the next Bureau of Labor Statistics' jobs report, which will be based on the number of employees on payroll during the second week of March and won't include the waves of layoffs that happened during the third and fourth weeks of March. It won't be until the April report is released in early May when we will see the real impact on the job market.

"We are coming off a period of 113 consecutive months of job growth, the longest expansion in US history and a phenomenal jobs report," Jankowski said. "Last week we saw 3.3 million claims for unemployment benefits, and I believe that number will only rise as more people are laid off, the system becomes less overloaded and people figure out how to apply for benefits." Given the single week of job losses based on the initial claims for unemployment insurance in Texas and Houston's share of Texas' jobs, Jankowski estimates mid-March losses in the region will be around 37,945 jobs. Jankowski noted that measures to combat the coronavirus are also combating the economy. He referenced the U.S. GDP forecasts from major financial institutions that estimate a decline in GDP for the first quarter of the year that continues through the rest of the year. "From my perspective - yes, we are in a recession and the situation will worsen in Q2," Jankowski said. "We hope to have some growth in Q3, but we will end of the year worse off than at the beginning." Add that to the drop in oil prices and the Texas Railroad Commission being asked to regulate crude oil production for this first time since the 1970s, Jankowski believes the crude collapse will only add to Houston's misery.

Jankowski mentioned the Partnership's survey of its small business members and found that 29% were unable to deliver goods or services, 59% are operating below half capacity and the most concerning, that 41% can survive only 1 to 4 weeks. He also highlighted industry sectors that are most at risk during this initial period and the 777,000 jobs tied to those sectors. The sectors include those impacted by social distancing (like retail), those whose services can't be delivered remotely (such as plumbers and other home services), those that aren't considered essential (such as the arts), and most small businesses (that tend to operate on thin margins). "If this virus continues after May, every job is at risk, every sector is at risk," Jankowski stressed. "And even if you are working from home and able to provide services to some degree, you may be affected. We will see additional layoffs to what we've already experienced."

There are two ways to predict how Houston will fare – looking at models based on assumption or based on history. The Institute for Regional Forecasting shows 18 different scenarios of how the virus and oil prices will play out, with the most likely scenario from their prediction showing Houston down by 44,000 jobs. On the other hand, The Perryman Group's model is forecasting 256,000 jobs lost. “These are two very different forecasts and you’re really seeing that uncertainty play out in these models,” Jankowski said. By referencing the history of recessions Houston has experienced, Jankowski estimates Houston's jobs loss will hover between 150,000 jobs and 350,000 jobs. “Given how Houston fairs when oil is faring badly and then when the US economy is not doing well, we are likely to look like between 2008-09 Great Recession and oil bust we had in the 1980s,” Jankowski said. With a job loss of 13.2% from 1982, that amounts to about 417,450 jobs today. Using the Great Recession benchmark of 4.5%, that loss is closer to 142,325 jobs.

With the tensions between Saudi Arabia and Russia spilling onto the world stage and affecting the price of crude, Houston has already felt the effects. On March 30 of this year, the price of oil closed at \$21.07 a barrel. During that same month in 1982, the price was \$10.25 but adjusted for inflation, it closed at \$24.37 a barrel. “We can expect crude to slowly climb back into the low \$30s by mid-summer without a Russia-Saudi deal,” Jankowski said. “We'll see any jobs we regained from the 2014 fracking bust disappear and a leaner, smaller industry in the next two years with more consolidations and bankruptcies taking place.”

One of the biggest determining factors in an economic rebound will be the level of fear people still have around the virus, Jankowski said. Even on the downward slope people will practice at least a degree of social distancing. He reiterated the damaging shock to consumer confidence the virus has caused. “The economy really won't be able to recover until people feel comfortable spending again. However, if there's one word I would use to describe Houston, it would be resilient,” Jankowski said. “We've been through five downturns since the 1980s and yet the economy is larger now and more diverse than ever before.”

### Coronavirus by the Numbers per John Hopkins University

As of 4/2/2020

	Cases	Deaths	Recovered
<b>World</b>	952,171	48,320	202,541
<b>United States</b>	216,722	4,443	8,672
<b>Texas</b>	4,607	68	

<https://coronavirus.jhu.edu/map.html>

## Houston Region Saw Sharp Rise in Coronavirus Cases in March, Passing 1,000

On March 4<sup>th</sup>, authorities announced the first positive case of the new coronavirus in the Houston region. Case counts increased slowly; it took two more weeks for the area's numbers to surpass 50. Then the daily increase started to pick up. The total number of cases passed 100 after two more days, neared 500 after another week, and, at month's end, surpassed 1,000. Nine deaths were linked to the virus. While the numbers fall short of representing how many area residents are actually sick from COVID-19, the steep climb reflects more than the expansion of testing, said Philip Keiser, the local health authority for Galveston County. "There's more people being infected; that's the only way you can explain that," he said. "The numbers are increasing and they're increasing rapidly." Government officials in the Houston region – which includes Harris County, where most of Houston sits, and the seven counties surrounding it – make it difficult to get a broad view of who is getting infected and how. Each jurisdiction shares information about its cases differently with the public. The City of Houston and the counties of Harris, Fort Bend, and Galveston stopped providing individual case data and are now only showing jurisdiction-wide summaries, using different methods of categorization. Specific demographics requested by the Houston Chronicle were not provided. City spokesman Scott Packard said their epidemiologists were sharing that information with the state. But what is clear is the region is now grappling with that steeper climb, meaning stretched epidemiology teams have even more people to try to track. "It's quite difficult, honestly," said Yaneth Calderon, health and human services spokeswoman for Fort Bend, where a third epidemiologist was brought in to help the county of 740,000. "The numbers are increasing and so the workload is increasing as well." While the Houston area is not experiencing the surge in cases found in viral hot spots like New York City and New Orleans, the region's future is uncertain as urgent calls for social distancing continue. More than 100 new cases have been identified daily in the Houston region since last week. And while government officials at the start of March connected the region's first dozen infections to fateful trips on a Nile River cruise in Egypt, many more cases in recent weeks have been attributed to what's called "community spread." This began with the March 10<sup>th</sup> diagnosis of a Montgomery County Man – a local police officer – who became critically ill after attending the Houston rodeo. His case prompted the rodeo's closure to prevent more people from getting sick. Dr. Robert Atmar, infectious disease specialist at Baylor College of Medicine, believes the decision to cancel the famed rodeo after a week and a half did the most to curb the initial spread. Otherwise, the Houston area might have more in common with New Orleans, where thousands flocked in late February for Mardi Gras. The city had more than 2,200 cases as of April 1<sup>st</sup>, compared with Houston's 377. New York City had 41,771 cases as of 5 p.m. March 31<sup>st</sup>, with 1,096 dead. "The good news is that we're at least a week or more behind and, in the case of New York City, several weeks behind," Atmar said. "I hope we never catch up." On March 31<sup>st</sup>, the region's total number of cases stood at 1,153, partly the result of testing that has become more widely available. Four government-run or privately supported testing sites were operating in Harris and Fort Bend Counties, while Montgomery County officials could not offer mass testing "because of the scarcity of test kits." Sick residents there were told to stay home unless their symptoms were "SEVERE," in which case they were told to call their healthcare provider. "Since there are no approved treatments for COVID-19, there is no need to be tested," officials in that suburban county of 550,000

said in a news release. Less-populated rural counties such as Chambers, Liberty, and Waller still had recorded fewer than 10 cases each by the end of March. Galveston County, which extends from the Gulf Coast toward Houston, had the most cases per capita, about 3 for every 10,000 residents. By the end of March, around 10 percent of the total number were deemed recovered – meaning the patients tested negative for the virus twice, 24 hours apart, or their symptoms went away. Mayor Sylvester Turner believed cases in Houston would peak around May 2. The region braced to see if the steep rise in case numbers would flatten.

## **Record High - 6.6 Million Americans Filed for Unemployment Benefits**

The last three weeks have marked one of the most devastating periods in history for the American job market, as first-time claims for unemployment benefits have surged more than 3,000% since early March. Businesses continue to lay off and furlough workers amid the coronavirus outbreak. 6.6 million US workers filed for their first week of unemployment benefits in the week ending March 28 — a new historic high. That was far greater than economists had expected. Unemployment claims at this level suggest a severe job market decline hardly any American alive has ever seen in their lifetimes. Economists characterized the increase as "monstrous," "stunningly awful," and "a portrait of disaster." Including the prior week's 3.3 million initial claims, Americans have filed nearly 10 million jobless claims in the last two weeks alone. Claims had been hovering in the low 200,000s each week preceding the coronavirus outbreak. This "tectonic shift" in the US labor market "implied a real-time unemployment rate of 10.1% at a minimum," said Joseph Brusuelas, chief economist at RSM. As companies continue to close their doors and shed workers to limit the spread of coronavirus throughout the population, more workers will need government aid to make ends meet. Brusuelas said in his view, the Trump administration should work on a next-phase fiscal aid package to "target plugging the holes that are being blown in state and local budgets, in addition to Federal Reserve purchases of state and municipal debt." The government passed the CARES Act to combat the effects from the coronavirus outbreak last week. The March jobs report, which is due Friday at 8:30 am ET, is not expected to look quite as dire. The Refinitiv consensus estimate is for a loss of 100,000 jobs, with the unemployment rate inching up to 3.8%, from its historic low of 3.5%. The March report will be more muted because the survey it is based on concludes around the middle of the month - which was before millions of Americans filed for unemployment benefits for the first time.

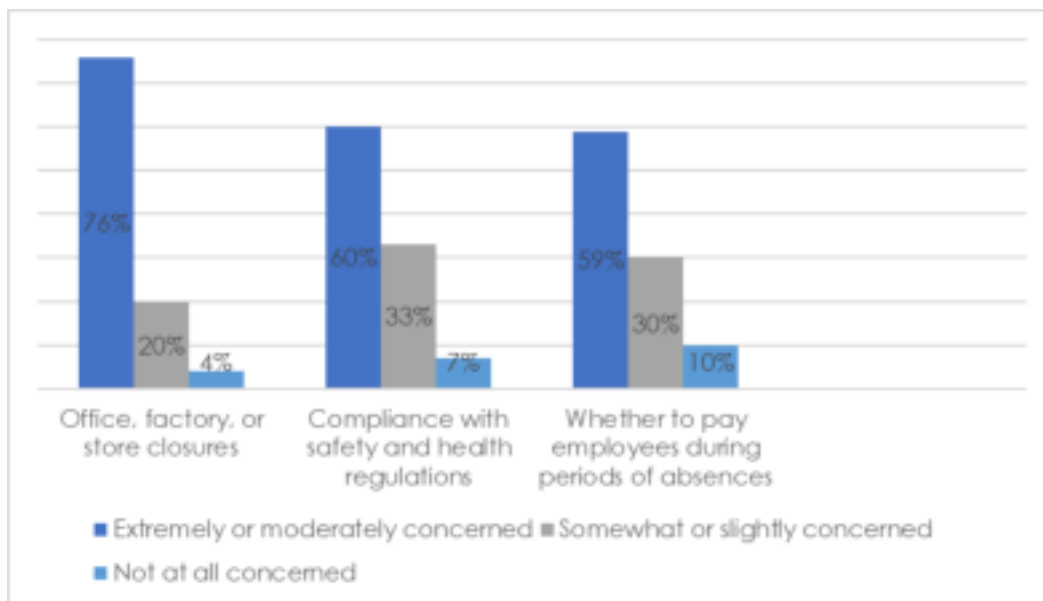
## **TWC Backdates Unemployment Claims**

The Texas Workforce Commission said it will now backdate unemployment claims to the date that workers were laid off, in an apparent revision to its previous position. The agency will date payments for unemployment benefits from the time of the worker's separation of employment. The Texas Workforce Commission typically pays unemployment benefits starting from the week that claimants file their application. However, that procedure would mean many stand to miss payments, since the state's websites and phone lines are so overwhelmed that thousands are having trouble submitting their claim during the first week they became unemployed. Calls to the TWC rose "to the millions" within a week, state officials said April 1<sup>st</sup>, as business closures to

slow the spread of the virus leave hundreds of thousands of Texans out of a job. Cisco Gamez, spokesperson for the agency, said in a statement that unemployment benefits will now date back to the week of separation from employment, not the time the claimant filed for benefits. "We are finding claims and backdating those claims," Gamez said. "We are also notifying the individuals if we have their email address." The stimulus package passed by Congress requires that unemployment benefits for claims related to the coronavirus be paid retroactively. The act, signed into law last week, adds \$600 per week on top of what Texas and other states would usually provide. The TWC said that Governor Greg Abbott's disaster order allows the agency to backdate claims. If claimants applied for unemployment benefits before the stimulus package was passed, they don't need to reapply to get federal benefits. The TWC said it will notify people who are eligible for additional benefits by mail or electronic correspondence. The agency said in a release on April 1<sup>st</sup> that it is committed to responding to each case, "in as timely a manner as possible" to ensure every eligible applicant receives benefits. "Our top priority is to eliminate the backlog, get Texans registered and on the path to getting the benefits they need," said Ed Serna, TWC executive director in a press release on April 1<sup>st</sup>. "The sheer weight of the demand right now is unprecedented." To help relieve pressure on the call centers, Texas launched an automated virtual assistant to help Texans sign up for unemployment insurance. The chatbot can answer common questions about the unemployment benefits process. The state has also hired new workers, reallocated staff from other departments, and added new phone lines.

### Top Concerns of Employers in Response to the Pandemic

A survey conducted by Littler and completed by more than 900 employers based in North America and with operations around the globe gauged the top three areas in which employers are concerned about the workplace implications of the coronavirus outbreak:



## Frequently Asked Questions on Workplace Privacy, Employer Concerns and COVID-19

As COVID-19 continues to spread throughout the United States, employers that currently have employees reporting into their facility each day are being forced to consider stringent measures to protect the health and safety of their workforce. Medical information questionnaires, temperature screenings, self-reporting obligations, and even medical examinations are some of the measures being considered by employers as ways to prevent COVID-19 from entering into the workplace. However, even during this critical time employers cannot ignore the privacy risks associated with collecting medical information under state and federal law. Below are some answers to frequently asked questions about an employer's privacy obligations during this time.

### **1. In light of the COVID-19 pandemic, what health-related information can employers ask employees to provide?**

Employers can ask employees to provide the following information:

- A positive result for, or other diagnosis with, COVID-19;
- Symptoms of infection with COVID-19;
- "Close contact" with any person who has tested positive for, or has otherwise been diagnosed with, COVID-19 infection within the preceding 14 days;
- Whether the employee has been asked to self-quarantine by a health official within the preceding 14 days;
- Whether the employee has traveled to, or stopped over in, a country for which the CDC has issued a Level 3 travel health notice; and
- Depending on geographic location, whether the employee is considered "high risk" for COVID-19 infection, meaning over age 60, pregnant, or suffering from diabetes, lung disease, heart disease, asthma, HIV, or similar conditions.

### **2. Can employers take employees' temperature before permitting them to enter the employer's facilities?**

Yes. Employers should implement a temperature check protocol to ensure that temperature checks are designed to reduce the threat that an employee with COVID-19 poses to the workplace. Temperature checks should be reliable, effective, performed consistently, and respect employees' privacy. For example, all employees entering facilities should be checked only by trained personnel and the results should be treated as confidential. Employers can require employees to stay home from work if their temperature equals or exceeds 100.4°F and to report this symptom of COVID-19 to the employer.

### **3. Can employers require employees to be tested for COVID-19?**

Employers may be able to require employees to be tested if they have symptoms of COVID-19 and, nonetheless, assert that they are fit for work.

### **4. Does the Health Insurance Portability and Accountability Act (HIPAA) apply to the health information collected by employers?**

Generally, no. HIPAA imposes obligations to safeguard protected health information (PHI) only on *covered entities*, which are defined to include health plans, health care clearinghouses, and health care providers. Other laws, such as the Americans with Disabilities Act (ADA) or state confidentiality laws, may apply.

### **5. Can an employer disclose the identity of an employee who has tested positive for, or otherwise been diagnosed with, COVID-19 to co-workers who were in close contact with the infected employee during the relevant 14-day period?**

No. The ADA prohibits such a disclosure. However, the employer can provide co-workers with information that would help them evaluate the risk of infection.

**6. Can an employer disclose COVID-19 related health information to customers or vendors?**

No. The ADA does not permit employers to disclose an employee's medical information to an employer's customers or vendors. Employers can generally inform customers or vendors that an "employee has tested positive for COVID-19" or that an employee "has been exposed to COVID-19," but the employee(s) should not be identified.

**7. Can employers ask employees to consent to the disclosure to others of their identity and positive test for COVID-19 infection?**

The ADA's confidentiality provision does not have an express exception for disclosures with the employee's consent. Although there may be risk in relying on an employee's consent, that risk could be mitigated by taking steps, such as (a) obtaining the employee's written consent, (b) informing the employee that consent is purely voluntary and may be revoked at any time, and (c) limiting the disclosure that is the subject of the consent to specifically identified employees who were in close contact with the infected employee during the relevant 14-day period.

**8. Can employers perform temperature checks on, or provide questionnaires inquiring about, the medical health of their customers?**

Yes. However, any inquiry should be narrowly tailored to reduce the threat of COVID-19 infection, and employers should ensure that medical information received from customers is stored in accordance with any applicable state information security law.

**9. Does contracting COVID-19 constitute having a disability under the Americans with Disabilities Act (ADA)?**

For exposed employees who experience no symptoms, or only mild, temporary symptoms, COVID-19 standing alone likely would not qualify as a "disability" under the ADA, as temporary, non-chronic impairments with little or no long-term impact, such as pneumonia and influenza usually are not viewed as disabilities. However, an employee who contracts COVID-19 may be entitled to reasonable accommodation and protection under the ADA if the employee's reaction to COVID-19 is severe or if it complicates or exacerbates one or more of an employee's other health condition(s)/disabilities. The ADA requires employers to assess whether a particular employee is "disabled" under the ADA on an individualized basis, taking into account the employee's particular reaction to the illness, their symptoms and any other relevant considerations. In addition, COVID-19 may qualify as a disability under applicable state disability laws with definitions of "disability" that are less stringent than the ADA's definition.

**10. When should we require a fitness-for-duty test and/or return-to-work clearance?**

The ADA generally prohibits medical examinations and inquiries of current employees unless such examinations or inquiries are job-related and consistent with business necessity. An examination or inquiry is job-related and consistent with business necessity if the employer has reason to believe that the employee may have a medical impairment that restricts the employee's ability to perform essential job functions and/or may pose a "direct threat" of harm to the employee or others in the workplace. A "direct threat" is defined as a significant risk of substantial harm to the health or safety of the employee or others that cannot be eliminated or sufficiently reduced by reasonable accommodation. An employee likely would not be deemed to pose a "direct threat" due to COVID-19 unless the employee is known to have contracted the

virus, has come into close contact with someone known or likely to have the virus, or is exhibiting symptoms that may be associated with the virus. Employers may request a fitness-for-duty or return-to-work certification if an employee has been quarantined by a treating medical provider or public health official or the employer has placed the employee off work based upon reasonable, objective evidence that the employee may pose a direct threat of harm in the workplace. However, the certification should be narrowly tailored to seek information that is job-related and consistent with business necessity. Therefore, where the basis for seeking the medical information is rooted only in a belief that the employee may pose a "direct threat" of harm to others by spreading the virus but there is no indication that the employee has medical restrictions on performing essential job functions, the fitness-for-duty certification should be focused on whether or not the employee poses a direct threat in the workplace. Please note that the CDC's guidance discourages requiring a healthcare provider's note for employees who are sick with acute respiratory illness to validate their illness or to return to work, in order to reduce the burden on busy healthcare providers. Further, certain state and local agencies have issued either limitations on seeking some type of healthcare provider's note or certification or guidance similar to the CDC's guidance, due to the burdens created on healthcare providers during this time.

**Sources: Littler Mendelson P.C.; Houston Chronicle; Greater Houston Partnership; CNN; Johns Hopkins University**