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TO: Editorial Writers

RE: Repeal of Supreme Court's 'Entergy' Ruling (HB 1657, SB 2063)

The Texas Legislature is considering proposals to overturn the Texas Supreme Court's controversial worker-safety rulings in *Entergy v. Summers*. Our organizations and a bipartisan group of legislators have criticized the Court's harmful activism in this case and support bills to restore the worker-protection laws that *Entergy* usurped. *Entergy* must be overturned on the merits and to re-establish the legislature as the policy-making branch of Texas government.

This week bipartisan members of the House Business & Industry Committee unanimously approved HB 1657 by Rep. Helen Giddings over the opposition of two powerful business-lobby groups. This bill and its companion, SB 2063 by Senators Robert Duncan and Jeff Wentworth, merit your support for two reasons.

1. Entergy endangers worker and community safety. If the *Entergy* ruling stands, owners of industrial chemical, refinery and power plants will escape civil liability when they harm workers in industrial accidents. Such immunity recklessly removes a deterrent that encourages plant and community safety. Had the *Entergy* ruling been in effect at the time of the 2005 BP Texas City refinery disaster, for example, the contract workers injured by the explosion would not have been able to pursue claims against BP in civil court. HB 1657 and SB 2063 will restore Texas law to its pre-*Entergy* status. The bills have no effect on the liability protections historically granted to businesses and contractors through Texas' workers-compensation system.

2. Entergy legislates from the bench. In *Entergy* the Texas Supreme Court dispensed with the separation-of-powers doctrine, ignored legislative intent and rewrote Texas' workers-compensation laws. This overreach has drawn sharp rebuke from a bipartisan group of lawmakers. The legislature must either safeguard its lawmaking powers or cede them to judicial activists.

Overturning *Entergy* might be a legislative no-brainer but for the influence of two powerful business groups that applauded the Court's activism. Some legislators may be cowed by the opposition of Texans for Lawsuit Reform (which spent \$4.3 million in PAC money on Texas' 2008 elections)¹ and the Texas Association of Business. They are mischaracterizing efforts to overturn *Entergy* as "rolling back tort reform." Yet the statute in question was never part of any tort legislation. Through the *Entergy* ruling the Court altered the status quo. The repeal bills will restore worker safety-laws and re-establish the legislature as policy maker.

Contact us with any questions.

¹ Coincidentally or not, Texans for Lawsuit Reform PAC contributed a total of \$70,000 to four Supreme Court Justices in the 2008 election cycle.