



Talking Points Newsletter *Volume #33*

TSiB's Talking Points Newsletter covers recent top industry articles in the following categories:

- Insurance Market
- Construction Industry
- Claims
- Trends

This newsletter is a guide to assist you on the most important current events. We share insight on each topic and how it can affect you directly.

If you have any questions about any of these articles, other insurance and surety concerns, or have specific topics you would like to learn more about, please reach out to us directly at contact@tsibinc.com or visit [our website](#).



Insurers Provide Q4 2023 Results

Major insurance companies reported their financial results for Q4 2023, as well as their annual results.

TSIB Talking Point: The insurance companies reported significant reductions in their Combined Ratios, which is a standard measurement of profitability that shows underwriting income and investment income against losses paid.

Over the last year, there have been signs indicating the hard market may be over, even though insurers and reinsurers are still looking for rate increases. However, if the losses stabilize and the investments remain attractive, the market may soon begin to shift from rate increases to gaining market share. This is a big factor in what drove the last soft market cycle.

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- [Zurich posts record profit, announces \\$1.25 billion share buyback | Business Insurance](#)
- [AIG income rises, D&O premium declines | Business Insurance](#)
- [Sampo posts profit of over \\$396 million | Business Insurance](#)
- [QBE Insurance's profit more than doubles | Business Insurance](#)
- [Swiss Re profit soars | Business Insurance](#)
- [Allianz Q4 profit nearly doubles | Business Insurance](#)
- [Tokio Marine's profits grows by nearly 61% | Business Insurance](#)
- [Everest profit surges on stronger underwriting, investment returns | Business Insurance](#)
- [CNA posts 54% profit increase in Q4 | Business Insurance](#)
- [Progressive Q4 Net Income Up 141% as Combined Ratio Exceeds Goal for 2023](#)
- [Hartford reports 30% profit increase for Q4 | Business Insurance](#)
- [Allstate reports \\$1.49 billion net income in Q4](#)
- [Zywave Europe Front News \(advisen.com\)](#)
- [Berkshire posts record profit on insurance, investments | Business Insurance](#)



7 Ways Davis-Bacon Changes Could Cost Contractors

The Davis-Bacon and Related Acts (DBRA) is a 40-year-old law that governs the way wages are paid on federal and federally assisted construction projects. There were some changes to the law in October 2023 in anticipation of the increase in federally funded projects as a result of the Infrastructure Investment and Jobs Act. These changes were to provide greater clarity and bring them up to date for a “modern economy. The impact of these changes include:

1. **Expansion of the work site-** This now includes work done off-site.
2. **Additional job coverage-** Flagger, truck drivers, or material suppliers are now included.
3. **Prevailing wage standard-** The way Prevailing Wage is determined will change under the new rules and will likely add significant additional labor costs to federal and federally assisted projects moving forward. It will be important to note these changes when bidding on these types of projects.
4. **Recordkeeping-** Given the new requirements for enhanced recordkeeping, these new changes will likely add additional administrative costs to maintain the data, which will need to be stored for at least 3 years. Additional information may need to be captured.
5. **Green Sector-** The Department of Labor (DOL) has amended the definition of “building or work” to include projects that install solar panels, wind turbines, broadband installation, and EV charging stations. Green projects will now be subject to cost increases.
6. **Fringe Benefits-** The DOL has always required fringe benefits to be paid to covered workers. Now the DOL is asking contractors to track whether these benefits are paid for DBRA or non-DBRA covered hours.
7. **Enhanced enforcement, increased damages, or costs-** Contractors that do not comply with these new rules may subject themselves to very costly penalties. In addition, the contractor risks a 3-year debarment from Federal contracts and Federally assisted contracts with no option for early removal of the debarment.

TSIB Talking Point: While the Davis-Bacon Act has been around since 1980s, this new update has been issued at a time when the DOL is anticipating a major increase in the number of Federal, and Federally assisted projects as a result of legislation like the Infrastructure Investment and Jobs Act.

It is important to note that there are significant penalties for not complying with these rules and contractors should make sure that they understand the impact of these changes.

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Bad Bets on Additional Insured Obligations to Defend and Indemnify

Additional insured (AI) coverage is a common trigger of coverage disputes. The fact of the matter is that not all AI forms are created equally. To create additional insured coverage, typically, a policy is endorsed to extend coverage to another party. In most cases, there is a requirement that there is a signed, written contract requiring that party to be added to the policy as an additional insured.

The signed contract is the first step in the process. There are varying endorsements that provide AI coverage for ongoing operations and others extending to completed operations. Sometimes, the coverage is provided for liability for bodily injury or property damage caused in whole or in part by the additional insured's acts or omissions. Other forms state the coverage is provided for liability for bodily injury, property damage, arising out of the additional insured's work.

While the differences in verbiage are subtle, their meaning and intent differ. Forms with the verbiage "arising out of" are typically interpreted more broadly. There, a casual nexus is needed to trigger defense and indemnification as an AI.

The wording "caused in whole or in part" requires a covered loss to be directly caused by the acts or omissions by the insured. Determining whether such a loss has occurred can involve a long legal process to determine whether the facts support coverage.

The nuances in additional insured language and the insurance carriers' obligations are sometimes at odds with one another. At times, the carrier will provide a defense to the upstream party as an additional insured under a reservation of rights. If during discovery it is learned that AI is solely negligent for the loss, the carrier will not provide indemnification. However, this is only if the AI is the sole negligent party, and the named insured did not cause the loss.

Accepting AI under a reservation of rights also yields higher carrier defense costs or insured costs with high retentions. The carrier must pay for the named insured's defense costs as well as the counsel handling the AI defense.

TSIB Talking Point: It is important to work with an educated broker who is knowledgeable in the varying AI forms available in the marketplace. Your broker should ensure that the insurance policy procured mirrors what is contractually required.

Claims advocacy is instrumental in directing the claim and expediting the acceptance of tenders by an insurance carrier. Strong advocates can also assist in the tender process for their insured's initiating appropriate risk transfer / AI coverage requests from downstream policies. Understanding risk transfer, policy language, and guiding insurance principles can positively impact this complex process. This can yield positive results, be it controlled loss expenses or reduced loss exposure.

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3 Emerging Risks: AI-Driven Civil Unrest, Heavy EVs, Solar Panel Safety

Technology is creating new markets at a rapid pace, including electric vehicles, solar energy, and generative AI adoption. Unfortunately, it comes with risks to the governments, insurance companies, and society.

Generative Artificial Intelligence (GenAI)- Although 1 out of every 3 companies regularly use technology to enhance their business function and improve productivity and profitability, GenAI has been used in a much more sinister way. In 2023, GenAI was used to create ransomware and phishing attacks that are more believable and to create realistic voices for scams. Threat to voice authentication for security devices has become real as is the increased risk of [civil unrest](#) and riots from the spreading of disinformation that is generated from a GenAI system.

Electric Vehicles (EV) and Infrastructure- By 2030 the International Energy Agency projects that 20% of vehicle sales in the U.S. will be EV. This increase raises concerns not only about the infrastructure to build charging stations, but the impact that these vehicles would have on the roads and bridges, as they are [typically heavier](#). According to the American Society of Civil Engineers, [43% of the U.S.](#) roads are in poor or mediocre condition. Electric vehicles are expected to add thousands of pounds to the roadways from their batteries and related accessories. This concerns engineers, as this excess weight will degrade roadways faster.

Solar Panels- There is some debate over whether solar panels cause fires. Although there does not seem to be a direct connection, the data supports the fact that solar panels are not a major factor in residential fires. However, in the instances where fires involved buildings with solar panels, the causes could be traced to faulty installation, the presence of flammable vegetation, component failures, and the use of solar panels as architectural components. These risks are troubling for the simple fact that as solar panel usage increases, the potential for contractors that are unaware of these tangential risks increases the likelihood of a faulty install that may lead to a fire.

TSIB Talking Point: Markets shift for many reasons. As the markets adjust to advanced technologies, the risks presented in this article show an increased risk of damage to people or property.

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Flying Taxi Company Third Stage Certification Approved by FAA

An Air Taxi Developer that is creating an Electrical Vertical Takeoff and Landing (eVTOL) air taxi, has received approval of their third of five stages for official certification.

The Federal Aviation Administration (FAA) has approved Joby Aviation's plans for the structural, mechanical, electrical systems, cyber security, human factors, and noise. The next stage will focus on the entire system and every component.

These air taxis are designed to carry a pilot and four passengers, making it the largest air taxi system currently being developed. The other systems in Germany and China are designed to be pilotless and carry one or two passengers. The next stage will focus on the entire system and every component.

Once the company receives their certification from the FAA, they plan to manufacturer no less than 500 vehicles a year in a factory in Dayton, OH. Should the next two phases go as planned, the company expects to see the first commercial use in 2025 or 2026.

TSIB Talking Point: Of course, having a flying vehicle that does not need a runway and can take off/land anywhere would have significant insurance implications. These possible futuristic new vehicles can potentially cause havoc. There will be more air traffic concerns, both in the air and on the ground. But the idea of bringing us a step closer to the Jetsons is pretty cool!

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