



FOR MARCH 14, 2001

Nursing Home Care Reform

The Senate Health, Aging and Long Term Care Committee amended and then approved SB 1202 by Sen. Ginny Brown-Waite (R-Brooksville). At the Chairman's request, Sen. Brown-Waite offered amendments to strike all the language related to arbitration and lawsuit reform, reducing the bill to simply address issues related to quality of care. The Senate Judiciary Committee will address the issues related to lawsuit reform. AIF supported this move, believing that the Senate Judiciary Committee was probably better equipped to address some of the more controversial legal issues relate to lawsuit reform.

Sen. Walter "Skip" Campbell (D-Tamarac) aborted an amendment that would have established a state sponsored, carrier funded, insurer of last resort for nursing homes. This so-called Joint Underwriting Association (JUA) received vigorous opposition from insurance experts that testified that such a mechanism would simply be unworkable. After considerable testimony, the Senator withdrew his amendment. What is important to remember is that though a JUA is a workable and necessary insurer of last resort for workers' compensation insurance coverage, it clearly would not help nursing homes with their current insurance crisis. The weak, lawsuit-inviting, current law is the problem, effectively making every nursing home a poor risk and virtually uninsurable. A JUA is not supposed to provide insurance for an entire market, just the identified high-risk participants. Every nursing home is a high risk without lawsuit reform.

AIF believes that any reform effort must contain quality of care reform, lawsuit reform and alternative methods of care. With this, we will bring back the insurers to Florida and insure the efficacy of nursing home care. Without change, the nursing home care industry in Florida will collapse.

Court Reform

The House Judicial Oversight Committee held a workshop today, discussing and taking public testimony on a host of bills that have been introduced in the House to provide reform of Florida's court system.

The Florida Bar testified at length, with numerous representatives howling long and loud that everything in Florida is fine and that nothing should change.

The chief argument against the reform efforts is that, in sum, the process would be made more "political." The problem is that the current system is warped and seriously lacking accountability. Time and again, Florida's courts have struck down court cases or supported plaintiff's cases against the business community in clear violation of statute or the intent of the legislature. The will of the people is often foiled under the guise of special rights and

prerogatives granted to individuals at the expense of public policy that was argued, tested and passed into law. *Any mechanism that can both ensure that the courts are not a prisoner to fads or the temperament of the times yet not hostile to the will of the people would be a great improvement. The legislature has the right, authority and obligation to review these matters.*

Hank Fishkind & Associates conducted a study last year that showed that the average Floridian was "taxed" an average of \$700 a year to compensate for excessive and frivolous litigation against Florida businesses. In other words, Florida businesses are sued at such a rate that the cost must be built into the businesses' service or product for retail sale. Tort reform was adopted in 2000 to limit and reduce these costs to Florida's businesses and citizens. Predictably, Circuit Court Judge Nikki Clarke on appeal struck down this law just last month. If this case goes to the Florida Supreme Court, there is not even a remote chance that the law will be upheld. And business and Florida's citizens continue to pay.

AIF does take a dim view of efforts to set up a direct election of Florida Supreme Court justices. There is virtually no coalition of citizens and businesses that could possibly compete with the Florida Trial Bar money-machine. Campaigns would cost in the tens of millions of dollars and insure a court that would be openly and completely hostile to the business community and the fundamental rights of private property.

Movers Regulation Act

HB 237 by Rep. Jack Seiler (D-Ft. Lauderdale) failed to receive *reconsideration* by the House Agriculture and Consumer Affairs Committee today. The bill creates a regulatory scheme for moving companies in Florida. As we previously reported, the same committee heard the bill last week, defeated, and then, a motion was made to reconsider the vote and leave the bill pending. The bill, entitled, The Movers Regulation Act, was drafted in response to consistently fraudulent or deceptive practices by movers in the South Florida area.

There is no single body of law that regulates the moving industry, thus the Act's title. However, under the Florida Unfair and Deceptive Trade Practices Act, there are provisions available that would appear to allow legal redress for these fraudulent activities. In addition, the Florida RICO (Racketeer Influenced and Corrupt Organization) Act provides some legal avenues for addressing consistent and repetitive commissions of crime.

While AIF has no formal position on this bill, philosophically, we are uncomfortable with any additional layer of law being created for the expressed purpose of regulating a segment of the business community, unless it is absolutely necessary.

Pharmacy Licensure

SB 654 by Sen. Burt Saunders (R-Naples) received a favorable vote in the Senate Committee on Health, Aging and Long Term Care Committee. This bill creates licensure by endorsement for pharmacists in other states. In other words, it allows pharmacists in other states to relocate to Florida and to continue to practice professionally without having to "start all over" with Florida's professional licensure requirements. Every state in the country except for Florida and California provides licensure by endorsement. With a major and growing shortage of pharmacists in Florida, this bill, if passed, will assist tremendously in bringing more pharmacists into the state.

AIF supports this bill. Vital members of Florida's business community, retail pharmacy establishments are frustrated with the difficulty in bringing into Florida additional pharmacists to fill a yawning need.

Stay tuned to our daily brief and to our web site at www.fbnet.com as the legislature makes some very important decisions on the state's economy. These decisions will have a major impact on the business community and AIF will be reporting to you everything that happens.

This report was prepared by Curt Leonard, Manager – Governmental Affairs at Associated Industries of Florida (AIF). Please send your comments or suggestions to us at aif@aif.com or call the Governmental Affairs department at (850)224-7173.

- For more information on all of the important legislative information concerning the business community, go to our “members only” Florida Business Network web site at <http://fbnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.