

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
DAILY BRIEF**



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COURT REFORM

The Senate Judiciary Committee adopted a compromise version of CS/SB 822 by *Sen. Anna Cowin (R-Leesburg)* today to bring more public accountability to bear on the selection of the state's judges. The bill, as amended by the committee, would reduce Judicial Nominating Commission membership from nine to seven and have the governor appoint all seven. Under the amendment, the governor would appoint three lawyers from candidates by the Florida Bar, another lawyer and three non-lawyers of the governor's choosing. The Bar would submit three nominees for each of the three Bar vacancies, and the governor could reject all three as many times as it takes to get an acceptable nominee. *Sen. Walter "Skip" Campbell (D-Tamarac)*, sponsor of the amendment, said, "This is a worked out compromise." He said he offered the plan to keep the Bar involved in the process and to avoid perhaps a "worse" amendment (for the Bar) further down the road.

Under current law, judicial nominees are sent to the governor by the judicial nominating commissions comprised of three appointments from the Florida Bar, three by the governor and three selected by the first six. The House version was passed by the House and is now pending consideration in the Senate, CS/HB 367 by *Rep. Fred Brummer (R-Apopka)*. CS/HB 367 simply gives all nine judicial nomination slots to the governor to appoint.

Opponents of the reform efforts opine that, “everything is fine,” and that these reform efforts are “politically motivated.” “Politics are being introduced into the sanctified chambers of the courts!” is the accusation. This is a false and hollow claim, and a legislator who is also an attorney and a member of the Florida Bar usually extends it. The facts are, unlike forty years ago, the Florida Bar is a politically charged organization, which conveniently also holds tremendous sway over the selection of judges in Florida. The Florida Bar is, in fact, a “special interest” whose interests do not always align with the popular or expressed will of the people. They are not scientists, they are not objective scholars and they do have a political agenda. To pretend otherwise is foolhardy. Given their exaggerated influence on the judicial nominating process, judges have been and are being selected that have a profoundly ideological view and interpretation of the law.

Our system of governance is designed to create “tension” between the three branches of government and “tension” between the government and competing interests groups. Right now, there is no “tension” between the judiciary and the voters. In far too many cases, the judges airily rule by decree. The House and Senate bills are a valuable and just exercise in reintroducing the necessary political “tension” and accountability to the courts without lurching towards a directly elected judiciary. AIF supports these efforts.

Tort Reform

Speaking of difficult judges, the Supreme Court of Florida refused to hear a case overturning an AIF supported 1999 law that helped shield Florida’s employers from frivolous and excessive law suits and damage awards. The court’s 6 – 0 decision returns the case to the 1st District Court of Appeal. The 1st District had originally taken a pass on the case, asking that the Supreme Court to review it because of its importance.

This issue came about when Circuit Court Judge Nikki Clark struck down the tort reform law earlier this year.

The tort reform law was struck down based on a technical judgement made by Judge Clark. The Florida Constitution requires that a new law be limited to a single subject. Despite the fact that three Florida Supreme Court rulings in the past 20 years have held that “tort reform” constitutes a single subject, Judge Clark held that the reform law violated the single subject requirement. Judge Clark did not rule on the substantive merits of the tort reform law.

The 1999 reforms, despite the furious opposition of the trial bar and largely hostile media coverage, were passed with the intent of making Florida tort law consistent with tort law common throughout the United States. The law levels the playing field for all parties in a civil suit and ensures fair compensation for the injured plaintiff. The law also lends predictability to Florida's legal system, a must for employers who watched with horror as Florida's legal system began to awkwardly blend into an adjunct of the Florida Lottery for plaintiffs and their attorneys.

AIF hopes for a thorough and methodical review of the 1999 law by the court.

EQUITY IN LIQUOR LICENSES

SB 1312 by *Sen. Burt Saunders (R-Naples)*, a bill related to public health, was amended to today by the Senate Judiciary Committee in an effort to repeal a reprehensible tax on the hospitality industry. In the 2000 session, the legislature passed a new fee increase on new and existing businesses who need a quota liquor license for their business plan. This new law resulted in an increase in liquor license transfer fees from approximately \$27,000 to \$91,000, which is collected by the state upon transfer of the license.

Not only is this astronomical new tax driving the cost of entering the market higher, it has raised the prices of all quota licenses, which has had a predictable, negative impact on the cost of business and the pricing of products to consumers.

This new fee increase creates higher prices for consumers and creates an uneven competitive edge for license-holders who are not required to pay this high tax because the state issued their license in advance of an arbitrary date and therefore are "grandfathered" in. AIF supports this amendment and the repeal of this punitive and reckless tax.

WORKERS' COMPENSATION REORGANIZATION

The Senate Governmental Oversight and Productivity Committee approved SB 2224 by *Sen. Charlie Clary (R-Destin)* to transfer the Division of Workers Compensation to the Department of Insurance. *Sen. Al Lawson (D-Tallahassee)* offered an amendment at the behest of the AFL-CIO and the American Federation of State, County and Municipal Employees to protect the jobs of the division's employees, ensuring that all of them would be transferred to DOI.

The Legislature moved all other divisions except Workers' Compensation out of the Department of Labor and Employment Security last year in a move to abolish the department.

Supporters of Sen. Lawson's amendment complained that *all* the Division's positions would not be automatically transferred under the original bill. Some positions would have been eliminated. With the moving of the Division to the Department of Insurance, this made fiscal sense. It is important to remember this is not general revenue money. *It is employer funded by employer's premiums.* Unfortunately, the committee saw fit to subsidize duplicative and unnecessary jobs at DOI at the expense of the private employer's premiums.

EDUCATION REFORM

The House Education Appropriations Committee approved CS/HB 1533 by committee Chair Evelyn Lynn (R-Ormond Beach), which reorganizes education governance into a single system from kindergarten through graduate school, implementing the 1998 constitutional revision. The governor would be required to appoint the Florida Board of Education by July 1 and it would serve under the State Board of Education, the governor and Cabinet, until the constitutional revision takes effect in January 2003. The Board of Regents and state Board of Community Colleges would be abolished, and the governor would appoint governing boards at each university in July.

AIF supports the implementation of these very important reforms. Florida's employers need a first class education system. After all, today's students are tomorrow's employees. In addition, AIF hopes in the months ahead, the legislature and governor see to it that the state's community college system and its role in workforce development and training is fully funded and recognized. Currently, workforce development, adult training and specialized skill's training is a hodge-podge effort split unevenly between the community colleges and high schools and other entities. These efforts need to be consolidated under the community colleges to take advantage of their efficiency, facilities and superior resources.

GOVERNMENT

The Senate Judiciary Committee approved CS/SB 822 by *Sen. Buddy Dyer (D-Orlando)*. Among other provisions, the bill provides limitations on contingency fee contracts for private attorney services. The bill requires that a private attorney who contracts with the state maintain documents and records and that the attorney makes such documents and records available for inspection.

AIF supports the provisions of this bill outlined above. The Florida business community has a compelling interest in seeing to it that Florida's tax dollars are administered in a fair and equitable manner, particularly as it relates to any state legal action against a private sector entity. In addition, public scrutiny of the retention of private counsel and the contractual arrangements established may assist in insuring that the state does not gratuitously seek legal remedy without an adequate policy debate.

TAX LIMITATION

HJR 689 by *Rep. Rob Wallace (R-Tampa)*, which would require a three-fifths majority vote of the legislators in both the House and the Senate on a bill to raise taxes, or fees, or to repeal a sales tax exemption, was approved by the House Fiscal Responsibility Council today. Rep. Wallace, Chairman of the Fiscal Policy and Resources Committee, introduced the bill in an effort to make it considerably more difficult for the legislature to raise taxes, fees or to take away a sales tax exemption. Currently, as with any bill, only a simple majority is required for a law to win adoption.

SJR-1414 by *Sen. Bill Posey (R-Rockledge)*, the Senate companion bill, has not been heard in the Senate nor does it appear likely that it will be.

AIF believes this proposal has merit. Tax increases, fee increases and the removal of sales tax exemptions, are in many respects, all too easy for the legislature to adopt when the state's revenues tighten. A two-thirds vote, as opposed to a simple majority, would require the bill's sponsor or sponsors to make a more compelling and considered case for any proposed tax increase, fee increase or sales tax exemption removal. The state government's authority to tax or accrue the money held by businesses or individuals is a tremendous power. The authority should not be executed lightly.

OTHER ISSUES

- The Senate Judiciary Committee approved CS/SB 710 by *Sen. Victor Crist (R-Tampa)*; the Customer Service Standards Act. The bill requires state agencies to provide courteous treatment to citizens such as keeping track of complaints, putting someone in charge of resolving complaints, and answering telephone calls by the end of the next business day. In the absence of the Governor's "Service First" civil service reforms, this type of legislation actually has to be considered. Be assured, if the Governor's reforms are enacted, such a bill as this will be unnecessary.
- The Senate Governmental Oversight and Productivity Committee approved SB 878 by *Sen. Dan Webster (R-Winter Garden)* to provide liability insurance to teachers at the cost to the state to protect them from suits for their teaching duties.
- Given the impasse between the Senate and House budgets, rumors are rife that the legislature may have to extend in order to negotiate their differences. The House budget provides \$300 million in tax breaks, featuring a further repeal of the tax on personal investments of stocks and bonds. The Senate provides none.

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

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- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.