

A S S O C I A T E D   I N D U S T R I E S   O F   F L O R I D A

# LEGISLATIVE WEEKLY UPDATE



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## FOR THE WEEK OF MARCH 12-16, 2001

### Budget/Tax Cuts

Late Thursday afternoon in a press conference, Sen. President John McKay (R-Bradenton) announced, with the concurrence of the Democratic minority leadership, that the Senate would be unable to support the Governor's recommended tax cuts. The Senate's position is based on budget math that has changed rapidly since January. The state is facing a \$1 billion shortfall in Medicaid funding and, in addition, the Revenue Estimating Conference, a consortium of state staff and economists, is predicting \$228 million reduction in next year's tax income due to a cooling economy.

The Governor's tax cut recommendations are primarily a further cut in the tax on stocks and bonds (the intangibles tax) and the so-called "sales tax holiday" which eliminates the 6% sales tax on clothes for one week. The intangibles tax cut would amount to \$222 million and the sales tax holiday would amount to \$48.5 million. The Senate President had already indicated on numerous occasions that his top priorities for the session included improving care for the elderly and disabled children. Both the House Speaker and Governor have indicated that they will work with Sen. McKay and share the hope that there can be some negotiated tax relief this session.

AIF is extremely grateful to the Governor and current and past legislative leadership that has already done so much these past two years to ease the burden on Florida's business community. We are very mindful of the many obligations that the state has in providing services to the elderly and children. While we believe that there remains compelling arguments for repealing the intangibles tax this year, we understand and appreciate the state's needs in the face of rapidly dwindling tax dollars. We will continue to monitor the budget process and the status of the state's income during the session.

**If the numbers move favorably, we will be the first in line advocating these cuts. If not, we support the necessary efforts to meet the state's current obligations and to improve care for our elderly citizens as part of the Nursing Home Care Reform legislation moving through the legislature.**

### Nursing Home Reform

On Wednesday, March 14<sup>th</sup>, 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 relating to lawsuit reform.

On Thursday, March 15<sup>th</sup>, the House Elder and Long Term Care Committee reviewed possible amendments to a proposed committee bill, ELT-01-01 on nursing home reform in preparation for a vote next Tuesday. Committee Chairman Carole Green (R-Ft. Myers) asked that interested parties provide the committee with their analysis of the bill. Ed Fortune, representing the Florida Health Care Association, said that the association would provide a written report, particularly addressing language in the bill that may actually increase the number of persons who can be sued.

We are convinced that once the committee and other legislators will have had a reasonable opportunity to explore all the options, they will agree with us and Florida's nursing homes will be saved. Quality of care will be improved and nursing homes will no longer face financial ruin through excessive litigation.

**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.**

## **Corporate Income Tax Credit**

On Tuesday, March 13<sup>th</sup>, SB 1048 by Sen. Ken Pruitt (R-Port St. Lucie) was approved by the Senate Education Committee by a vote of 7 – 4. The bill provides corporate income tax credits for corporate donations to non-profit scholarship funds. Opponents of the bill expressed concern that the scholarship monies could be used to allow children to relocate to other public schools or private schools. AIF supports this bill.

Many of the failing schools are predictably in the poorer sections of our state's towns and cities. Such scholarship funds will provide opportunities for these students from lower income neighborhoods to migrate to better schools in better areas.

**Philosophically, AIF believes that any proposals that would promote and encourage competition in the education monopoly would be of tremendous benefit to our students.**

## **Unemployment Compensation**

On Tuesday, March 13<sup>th</sup>, the Senate Commerce and Economic Opportunities Committee approved [SB 500](#) by Sen. Debbie Wasserman-Schultz (D-Pembroke Pines) by a vote of 6-3. AIF opposes this bill. The bill **prohibits** denying unemployment compensation benefits for leaves of absence relating to adopting or giving birth to a baby. While well intentioned, the bill is yet another layer on both the unemployment compensation system and a well-designed and thorough body of law related to promoting childcare found in both state and federal law.

**As a benefit extension, it is potentially a cost-driver to a system that only recently found itself on sound financial footing. We will continue to work for the defeat of this bill.**

## Court Reform

On Tuesday, March 13<sup>th</sup>, The House Council for Smarter Government approved HB 367 by Rep. Fred Brummer (R-Apopka) by a vote of 6-4. As we reported last week, under current law, the Governor selects three members, the Florida Bar Board of Governors selects three members, and those six members select three more members. Under HB 367, the Governor selects **all nine members**. Of the nine, five would have to be "actively practicing" lawyers and the other four lay persons. The bill stipulates that the Governor must make appointments to each JNC. They must include representatives of each of the circuits or districts that comprise the court for which the JNC will make nominations. The bill removes all current JNC members and permits the Governor to select replacements. The bill does not prohibit the Governor from re-appointing the members currently in service. Finally, the bill provides that the terms of the JNC members are concurrent with the term of the Governor. All member terms end at midnight on the evening prior to the inauguration of the Governor following the next general election.

On Wednesday, March 14<sup>th</sup>, the House Judicial Oversight Committee held a workshop, 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 a number of its 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 court system is warped, lacking any real 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. 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.

**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.**

## **Restrictions on First Class Care by Florida Doctors**

On Tuesday, March 13<sup>th</sup>, HB 159 by Rep. Marco Rubio (R-Miami) was passed by the House Council for Healthy Communities by a vote of 13 – 2. AIF opposes this bill. The bill busts an agreement the Florida Medical Association and the business community negotiated on the question of who is qualified within a Health Medical Organization (HMO) to make medical decisions on behalf of Florida patients. The bill passed in 2000 provides that all health plans are required to use licensed physicians rather than insurance personnel to make treatment decisions, or so-called "adverse determinations." HB 159 stipulates that only a *Florida* licensed physician can make determinations on a treatment plan. The committee passed the bill forgetting that the agreement was reached last year to ensure that consumers are protected from decision-making driven purely by cost, while at the same time giving the health plan the authority it needs to get the best, competitive and most efficient care.

There is nothing that indicates that there are any problems with the law recently enacted, as the bill sponsor admitted in the committee meeting. The bottom line is, the bill was introduced on behalf of the Florida doctors who wish to protect themselves from competition outside the state. Mr. Jon Shebel, AIF President and Chief Executive Officer testified in opposition to the bill, pointing out that such a proposal can only be about, "the money," since it is indefensible as a matter of public policy. We are disappointed in the committee's vote. We thank Rep. Ken Littlefield (R-Zephyrhills) and Rep. Curtis Richardson (D-Tallahassee) for their courageous votes against this bill.

**Ultimately, this bill denies Florida's health plans the ability to access and maintain ongoing consultations and relationships with first-class expert doctors throughout the country and the world.**

## **Movers Regulation Act**

On Wednesday, March 14th, [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 it, and then, a motion was made to reconsider the vote and leave the bill pending. Thus, it awaits reconsideration. Usually such a move is made to give the bill sponsor one last shot at

correcting any problems with the bill that the members of the committee may have with it.

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**

On Wednesday, March 14<sup>th</sup>, 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, the retail pharmacy establishments, are frustrated with the difficulty in bringing into Florida additional pharmacists to fill a growing need.**

Stay tuned to our daily brief and to our web site at [www.fbnnet.com](http://www.fbnnet.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](mailto: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://fbnnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.

