

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
WEEKLY UPDATE**



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For the Week of March 19-23

COURT REFORM

On Monday, March 19th, [CS/HB 367](#) by [Rep. Fred Brummer \(R-Apopka\)](#) was discussed in the [House Rules, Ethics and Elections Committee](#) for the purpose of establishing the rules for its debate on the House floor. The rule for the bill's consideration on the floor then moved to the [House Procedural & Redistricting Council](#) for final adoption. The rule adopted for consideration on the floor designated the bill as "closed." "Closed" means that the bill will not entertain any amendments, but will simply be considered on an up or down basis, as written. This provides for a clean debate on the merits of the bill instead of dealing with numerous and tangled amendments that are designed for the purpose of slowing the debate or creating confusion.

As you may recall, the bill changes the law as it relates to the selection of Judicial Nominating Commission. 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 21, The House waived a "no-amendment" rule that was governing the consideration and debate of the bill to hear an amendment by [Rep. Joe Negron \(R-Stuart\)](#), an attorney, that dramatically altered the bill. The amendment stipulated that the Judicial Nominating Commissions be appointed by three members appointed by the Governor, three by the Speaker of the House and three by the President of the Senate. It failed on a voice vote. The bill then rolled over to “third reading” for final consideration by the House.

On Thursday, March 22, the House passed CS/HB 367 by a vote of 65 – 50. Nine Republicans shifted to the opposition on [CS/HB 367](#). They were Reps. [Nancy Argenziano, Crystal River](#); [Jeff Atwater, North Palm Beach](#); [Michael Bennett, Sarasota](#); [Marty Bowen, Winter Haven](#); [Larry Crow, Dunedin](#); [Paula Dockery, Lakeland](#); [Frank Farkas, St. Petersburg](#); [Heather Fiorentino, New Port Richey](#); and [Sandra Murman, Tampa](#).

The issue now moves to the Senate for consideration.

AIF supports the bill as an important reform to a court system that is drifting further and further into the role as arbiter of what is good or bad law, instead of simply evaluating the constitutionality of law as set forth by the legislature and the will of the people.

CIVIL SERVICE REFORM

On Monday, March 19th, [HB 369](#) by [Rep. Mario Diaz-Balart \(R-Miami\)](#) was discussed in the [House Rules, Ethics and Elections Committee](#) for the purpose of establishing the rules for its debate on the House floor. The rule for the bill’s consideration on the floor then moved to the [House Procedural & Redistricting Council](#) for final adoption. HB 369 is designed to reform the State of Florida’s civil service system. The State civil service employee remains trapped in an antiquated, creaking system that promotes inefficiency, largess and inhibits outstanding performance and commitment. As a result, according to the Florida State University’s annual public policy survey, more than 60 percent of the public does not trust state government to what is right most of the time.

Rep. Diaz-Balart's bill does the following:

- Develops a statutory framework that enables "at will" employment for all of Florida's state employees – the same status as private sector employees.
- Provides for group and individual performance-based bonus systems instead of across-the-board pay increases.
- Eliminates the practice of "bumping," where a senior employee moved from a position can take an equal or lower position anywhere within the system at the same pay grade, pushing out an employee with lesser seniority status, although the employee may be better suited for the position. That bumped employee must then scout about looking for someone else to bump.
- Revises Florida's compensation for state employees in key management and particular skill-set positions.

Business people in this state continually are frustrated by a state system that seems unable to master simple, common operations. Hopefully, these reforms will provide for relief from a system that is burdensome and costly to the business community and to the employees themselves.

On Wednesday, March 21st, HB 369 survived an attempt at a hostile amendment during its "second reading" and was then sent to "third reading" for final consideration on Thursday. An amendment by [Rep. Lorraine Ausley \(D-Tallahassee\)](#) to retain the present requirement that the manager show "just cause" for dismissal [was voted down 75-43](#). "Just cause" is a much higher legal standard and would confer on the state employees a status of virtually guaranteed employment – totally counter to the original intent of the bill.

On Thursday, March 22nd, on final consideration, HB 369 Republican was passed by a vote of 74-43.

The current state civil service system is hopelessly antiquated, promoting inefficiency, largesse and it does little to motivate or reward excellence. The state performs countless operations and services, many of which include interaction, regulation, enforcement and service to the business community. A streamlined, competitive, highly qualified and justly compensated state work force would be of great benefit to the business community, therefore, AIF supports HB 369.

WORKERS' COMPENSATION REFORM

On Tuesday, March 20, the [House Insurance Committee](#) the issue of workers' compensation reform continued to be workshopped. When an issue is "workshopped," the committee discusses the more difficult issues related to a bill without taking a vote. Workshopped today was the "controversial" draft bill. A committee bill has already been drafted containing the non-controversial issues – issues or provisions that do not have active opposition. The controversial bill, unsurprisingly, contains those provisions that are essential to *real* reform of the system and they are also the most difficult politically.

The draft controversial bill discussed today has many of the elements supported by AIF for reforming the workers' compensation system. The draft contains an elimination of the attorneys' hourly fees and provides for their compensation on a contingency basis. The draft also provides for making employers' participation in managed care under workers' compensation voluntary. Issues that AIF supports and remain to be added to the bill are privatization of mediation, the elimination of the construction exemptions and a new definition of permanent and total disability. Chairman [Leslie Waters \(R-Largo\)](#) asked that amendments to the draft bill be submitted by March 26th. AIF will draft amendments to address these outstanding issues.

The so-called "Workers' Advocates" organization that represents the attorneys that specialize in workers' compensation law, have been intransigent every step of the way during these workshops. They have effectively refused to negotiate on any significant issues and would prefer it best if the business community would go away while the whole system crashes down around employers and their employees. Their only notable position is that workers' benefits should be increased.

AIF would also like to see workers' benefits increased, but costs in the system must be decreased through significant reform. Simply increasing benefits would be like arranging the deck furniture on the Titanic.

NURSING HOME CARE REFORM

On Tuesday, March 20th, the [House Committee on Elder and Long-Term Care](#) made little progress toward enacting a bill to resolve the nursing home crisis. In the final 50 minutes of a two-hour meeting, the panel approved a series of amendments offered by the Agency for Health Care Administration to PCB ELT 01-01 to clarify the agency's role in enforcing regulations. [Chair Carole Green \(R-Fort Myers\)](#) said she, like others, was disappointed the panel did not make more progress but the committee would try again next week to complete amendments to the bill. Thirty-eight amendments have been considered, and some of them are still pending.

Unless sanity is restored to the system, the costs of the providing nursing home care to Florida's citizens and to every business will continue to escalate. Next year we may not be looking at tax reductions, but rather tax increases due to a system that, under current law, is a bottomless pit. Enacted must be quality of care reforms, which the nursing home industry supports, and lawsuit reforms, that provide for reasonable standards and caps that other health care providers enjoy under current law. Under current law, nursing homes have the barest of statutory protections against frivolous lawsuits. Unlike doctors and hospitals, nursing homes are an inviting target and a segment of the trial attorney community has made millions exploiting the law, driving up costs to nursing homes and making many virtually uninsurable.

INDUSTRIAL SALES TAX EXEMPTION

On Tuesday, March 20th, in the [House Fiscal Policy and Resource Committee](#), [HB 527](#) by [Rep. Rob Wallace \(R-Tampa\)](#) was passed. The bill changes s. 212.08(5)(b), F. S. to provide a full, rather than partial, sales tax exemption on industrial machinery and equipment used in expanding or existing spaceport and manufacturing facilities.

Under current law, the partial exemption only applies after the first \$50,000 in sales tax has been paid. The bill also originally removed the requirement that, in order to qualify for the exemption, the applicant must demonstrate the expansion of the facility will increase productive output by 10 percent. That requirement was reinstated in an amendment adopted today in the committee. With state revenues dropping this year, Chairman Wallace thought that the argument for the tax exemption would be more compelling if the 10 percent requirement remained in law. AIF agrees. The bill's next stop is the Fiscal Responsibility Council.

Southeastern states all provide such a tax exemption as proposed by Rep. Wallace's bill. As is the case with much of Florida's tax code, the tax under current law is a disincentive to smaller manufacturers who wish to grow and expand their operations. A full exemption will promote growth and jobs and at least place Florida on a more level playing field with other states when manufacturing operations are considering a move to the southeast, therefore AIF supports this bill.

PRESCRIPTION INSURANCE AND CONTRACEPTIVES

In yet another example of a string of bills designed to drive up the costs of employer-provided health insurance, [SB 168](#) by [Sen. Debbie Wasserman-Schultz \(D-Pembroke Pines\)](#) was heard and approved in the [Senate Banking and Insurance Committee](#) on Tuesday, March 20th. Basically, the bill requires any health insurer that provides prescription drug coverage must also provide coverage for oral contraceptives. Currently, the State of Florida has 51 mandates or requirements placed on health insurers. These 51 mandates are a list of things that health carriers must insure or cover, by law. Seemingly lost on people such as Sen. Wasserman-Schultz is the fact that only 40% of Florida's population has private insurance at this time and the numbers are dropping as costs of the insurance continue to spiral.

Such a mandate as requiring oral contraceptive coverage is yet another, simple increase in the cost to the carrier and Florida's employers. We are disappointed the committee passed the bill and AIF will continue its opposition to this well-intentioned, but bad bill.

Charter School Funding

Through miscommunication and oversight, a budget issue of great importance to AIF is on the cusp of turning tragic. 26,000 students enrolled in charter schools for, what would be on the government's calendar, the 2000 – 01 fiscal year. The Florida Department of Education projects an additional 50,000 will be enrolled for the 2001-02 fiscal year. Including the expansion of existing schools and new student station construction for early, middle and high school students, under the "one-fifteenth" Public Education Capital Outlay (PECO), the charter schools will need \$47 million for the 2001-02 school year. The current funding provided in the budget provides for fully funding the 26,000 student stations at \$20 million. However, what is needed is **\$47 million for the additional 50,000 students coming into the charter school program.**

The Department of Education originally underestimated the number of students that would need to be funded under the charter schools program. Department Secretary Charlie Crist has amended the Department's request to increase the budget amount to \$47 million. Unfortunately, the train seems to have left the station. The budget wheels are turning and the correction has neither shown up in the Senate or House budgets. This is despite the fact that the charter schools enjoy broad and bipartisan support. House and Senate leadership and rank and file members of the House and Senate have all enthusiastically expressed their continued support for the charter school effort. Almost unbelievably, even with the Education Secretary's support, House and Senate support, the lone documents, the budget bills, that decide the fate of the charter schools, sit unchanged with only \$20 million earmarked for funding.

First, AIF is advocating that the \$47 million be provided for the charter schools. For the future, AIF recommends and supports efforts to move charter school funding out from the General Revenue budget and into a recurring state budget-funding source. We also prefer such funding be bonded. Hair-raising episodes such as this where the wrong numbers were simply implemented, are no way to fund or expand an educational program that is enjoying great success and support from all corners.

AIF and its 10,000 employer members strongly support the continued development and growth of the charter schools effort. Many of AIF's members have plans or have openly expressed interest in supporting and setting up charter schools. Charter schools provide an outstanding opportunity for employer recruitment and retention of employees. These charter school endeavors are efficient, effective and can be placed on or near an employer's facility. Charter schools present an opportunity that is genuine and they should be routinely funded and not left to twist in the political winds session after session.

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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