

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
WEEKLY UPDATE**



P.O. Box 784 • Tallahassee, FL 32302 • Phone: (850) 224-7173 • Fax: (850) 224-6532 • Internet: <http://aif.com> • [fbnnet.com](http://fbnnet.com)

**Source: Curt Leonard, Manager – Governmental Affairs  
Associated Industries of Florida  
and  
Jere Moore, AIF Reporter**

*For the Week of April 2 – 6, 2001*

## **WORKERS' COMPENSATION REFORM**

On Wednesday, April 4, Associated Industries of Florida (AIF) was disappointed with the uneven work of the House Insurance Committee in its consideration of its workers' compensation reform bill, PCB 01-04. The committee failed to produce a bill that fundamentally reforms a sinking workers' compensation system. Worse yet, in attempting to compromise on every issue, the committee somehow managed to produce a bill that will only further *increase costs* to Florida's employers and accelerate the system's collapse into fiscal disarray.

The Committee, chaired by Rep. Leslie Waters (R-Largo), actually adopted an amendment by a voice vote, scuttling language in the bill to reduce attorney's fees, which are an enormous cost-driver to the system under current law. However, on a roll call vote, the committee edged back and the amendment failed. The committee also adopted an amendment further liberalizing the law by permitting *more* injured workers to achieve the "permanent total disability" designation. Adopting this amendment was totally at cross-purposes with the original intent of the draft bill and the report of the Workers' Compensation Task Force recommendations. Florida is already second only to Colorado in the percentage it pays in indemnity benefits for permanent total disability.

The committee also cast aside a compromise AIF had offered on closing the exemptions from required coverage currently enjoyed by the construction industry. Instead, the committee opted for yet another study of the issue. This much studied "issue" is draining an estimated \$1 billion in premium dollars out of the workers' compensation system due to egregious and aggressive fraud. Finally, the committee lamely agreed to a compromise that combines private and public mediation on workers' compensation cases, further increasing costs to Florida's employers.

On three of the four key issues, the committee failed to act on behalf of effective reform, on behalf of Florida's employers and employees, and it nearly blew the fourth issue.

**The bill is next scheduled for a hearing by the House Competitive Commerce Council, chaired by Rep. J. D. Alexander (R-Winter Haven).**

**AIF would like to see workers' benefits increased, but costs in the system must be decreased through significant reform. AIF hopes that the Council will be able to make substantive changes to the bill that will provide for real reform to a system under great stress, for the benefit of both Florida's employers and employees.**

## **Cabinet Reorganization**

On Monday, April 2nd, the Senate Banking and Insurance Committee approved CS/SB 1970 & 164 by Sen. Jack Latvala (R-St. Palm Harbor), chairman of the committee. The committee's approval of the bill was another step in the implementation of the 1998 constitutional revision merging the offices of the Comptroller and Treasurer into one position, known as the Chief Financial Officer. The bill passed by a vote 9 – 2.

The bill implements the constitutional revision by placing the regulation of banks, insurance and financial services under the elected CFO.

On Thursday, April 5, the House Council for Competitive Commerce approved PCS/CS/HB 681 by Rep. Fred Brummer (R-Apopka) and others also written to carry out the 1998 constitutional revision to merge the offices of Treasurer and Comptroller. This bill brings the Cabinet functions of those two positions together as Chief Financial Officer and creates a separate department under the Governor and Cabinet to carry out their regulatory functions.

Also on Thursday, at the request of Comptroller Bob Milligan, the Senate Governmental Oversight and Productivity Committee approved a version similar to the House position, SB 1886 by Sen. Debby Sanderson (R-Fort Lauderdale). However, it is important to remember, the same committee adopted an entirely different plan, CS/SB 1970 and 164 by Sen. Jack Latvala (R-Palm Harbor) last week, that places the financial and regulatory functions and responsibilities solely under the elected Chief Financial Officer.

As the session progresses, AIF hopes that the Senate will opt for the merits of SB 1886 as the best possible arrangement for the state of Florida.

**AIF supports the CS/HB 681 and SB 1886. Both versions provides for the simplification and consolidation of governance, a desire expressed by the vote of the people in 1998, while at the same time providing for the necessary public and legislative oversight of the executive director and, by extension, the department deputy selection process. In addition, this structure provides for a fair and equitable regulatory environment for the insurance, securities and banking industries while in no way diminishing the historic oversight and enforcement authority practiced by the current Treasurer and Comptroller.**

## **CIVIL SERVICE REFORM**

On Wednesday, April 4, tensions continued to boil over an unprecedented “temporary restraining order” issued by a judge Tuesday afternoon forbidding a meeting of the legislature’s Joint Committee on Collective Bargaining. House and Senate leadership was at a loss to find a precedent for such a court order. At issue is Governor Bush’s “Service First” civil service reform proposal.

Both the House and Senate Appropriations Committees have budgeted an across the board 2% raise for state employees for the next fiscal year. However, under the Governor’s plan, if adopted, across the board raises will ultimately be done away with and replaced with an arrangement where employees actually receive bonuses or pay raises based on performance. The state employees’ union, the American Federation of State, County and Municipal Employees (AFSCME), scurried to a “special master” or referee to review the proposal. The special master held that the Governor’s plan was, in his words, “Service Worst” and not a good plan, especially in light of the currently proposed 2% pay raise.

Strangely, the judge actually issued the temporary restraining order, telling the legislative committee it couldn’t meet. The legislature held that the judge’s ruling was “bizarre” and met anyway.

The House has already approved the House version of the Governor’s plan, HB 369, by Rep. Mario Diaz Balart.

The plan calls for a top to bottom reform of the state’s antiquated civil service system. The personnel portion of the proposal would move about 16,300 Career Service employees in the “Selected Exempt” class, where they could be fired or reassigned without appeal rights. Conversely, the selected exempt classification provides full health benefits and a block of vacation days up front. Most state employees aspire to rising to the select exempt classification. In addition, Governor

Bush's plan would lower the standard for firing employees from "just cause," such as gross incompetence or outright insubordination to "reasonable cause." Conversely, managers under the plan would be able to distribute bonuses or raises without promoting employees out of their current positions.

The plan also eliminates the unseemly practice of "bumping" where if an employee's position is eliminated or reclassified, that employee can find any lower position they have held previously or are qualified for, and move down to that job, keeping their current salary, and "bump" the employee with less seniority out of that position. The newly "bumped" employee then peers further down the food chain, looking for yet another employee to bump.

On Thursday, April 5, a virtual filibuster by Sen. Al Lawson (D-Tallahassee) blocked a vote Thursday in the Senate Governmental Oversight and Productivity Committee on the bill to improve service to taxpayers from state employees, SB 466 by committee Chairman Rudy Garcia (R-Hialeah). The delay in approval is temporary. The bill can come up at the committee meeting next Tuesday or, with the approval of Senate President John McKay (R-Bradenton), can be withdrawn from the Governmental Oversight & Productivity Committee and sent directly to the Appropriations Committee.

**AIF supports the Governor's Service First plan. Not only does it hold the prospect of treating our civil service employees better; it promotes efficiency and accountability within the civil service system. Florida's employers, who interact with the state every day, would benefit tremendously from a motivated, lean and highly professional state employee force. In addition, the savings realized to the state in state employee reductions and added efficiency would save employer's tens, even hundreds of millions of tax dollars in the long term.**

## **NURSING HOME CARE REFORM**

On Wednesday, April 4, the Senate Judiciary Committee wrestled for three and a half-hours Wednesday with the nursing home bill, CS/SB 1202 by Sen. Ginny Brown-Waite (R-Brooksville), but managed to leave the pivotal litigation issues unresolved. The committee was about to vote on the key but contentious issue of limiting punitive damages against nursing homes when Chairman Locke Burt (R-Ormond Beach) stopped the action until next week. The committee approved amendments from Sen. Walter "Skip" Campbell (D-Tamarac) to establish a nursing home joint underwriters association (JUA) assessing companies writing liability insurance in the state, except for homeowner's liability, and to requiring the nursing homes to carry liability insurance of \$250,000 per patient and \$500,000 per event. In each case, the panel ignored objections from the nursing home industry.

As AIF has communicated before, a JUA is not any kind of real solution to the insurance liability crisis in Florida. Florida's weak, current law makes every nursing home a poor risk for liability insurance. JUA's are designed to operate in a competitive market with a true mixture of good and bad risk, which helps washout the cost to the carriers. In addition, the premiums charged by the JUA will ultimately be cost prohibitive to the homes.

**In the end, the Committee will ultimately have to make hard decisions regarding tort reform for nursing home care. There is no easy way out. If the issue is "compromised" too much, the long term care insurers will simply not return to Florida, which they have vacated in droves, because their exposure will have simply not been changed. The numbers do not lie. Liability insurance costs are doubling and tripling for homes, insurers have left Florida, and homes are facing financial crisis. We hope the committee will see fit to do what it has to do next week.**

## **STUDENT DISCIPLINE LIABILITY**

On Monday, April 2, SB 1876 by *Sen. Anna Cowin (R-Leesburg)* was temporarily postponed in the Senate Education Committee. "Temporarily postponed" is legi-speak meaning that the bill was not discussed or voted on by the committee.

The bill is designed to deter meritless lawsuits and to sanction deliberately false reports against educators. Sen. Cowin's legislation provides liability protection for education entities or its employees for taking action regarding control, grading suspension, expulsion or discipline of students while students are on the property of the educational entity and under the supervision of the educational entity or its employees.

The filing of meritless lawsuits against school districts, teachers and administrators, and other school employees interferes with attempts to insure the quality of public education, particularly where such lawsuits arise out of the good faith efforts of educators to maintain classroom discipline or address threats to student safety.

We are disappointed that the bill was considered today and we hope that the committee's action does not suggest a lack of support by the committee members or the sponsor.

**Ensuring the quality of primary and secondary public education is a compelling state interest and of utmost interest to the business community. An educated populace is essential to the political and economic health of the State of Florida.**

## **GOVERNMENT ACCOUNTABILITY**

The House Judicial Oversight Committee approved HJR 689 by Rep. Rob Wallace (R-Tampa), on Tuesday, April 2nd. The Joint Resolution 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. Currently, as with any bill, only a simple majority is required for a law to win adoption. If approved by the House and Senate, the proposed amendment would go to the voters for approval in 2002.

**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.**

The Senate Governmental Oversight & Productivity Committee passed SB 822 on Thursday, April 4th. 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.

**Associated Industries of Florida supports the provisions of the 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.**

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**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](mailto: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.