

ASSOCIATED INDUSTRIES OF FLORIDA

LEGISLATIVE DAILY BRIEF



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LONG TERM CARE

The House Council for Healthy Communities approved the nursing home reform bill, HB 1879 by the Elder and Long-Term Care Committee, Monday after adopting a series of amendments that gutted some key provisions in the bill. The handwritten amendments were available only to the council members, and the general audience knew only what the members explained about their contents. One amendment offered by *Rep. Ken Littlefield, (R-Zephyrhills)* removed the retroactive application of the limit on punitive damages. The limits would begin July 1, 2001. Despite objections that the retroactive requirement was the only way nursing homes could work through \$1 billion in pending claims and be able to buy insurance again, the amendment was adopted without objection. *Council Chair Nancy Argenziano (R-Crystal River)* who led the charge to push through the amendments, offered an amendment to treat Assisted Living Facilities (ALF) differently from nursing homes in litigation, applying to ALF's considerably weakened legal protections.

As you may recall, the bill was amended in the House Council for Ready Infrastructure last Friday to incorporate provisions on tort reform supported by Associated Industries of Florida. However, the amendments to the bill "traveled" with the bill to its hearing today. The bill was not made a "committee substitute" where the bill is redrawn and the amendments are incorporated into the body of the bill. This was done to save time in the waning days of session, since drafting a "committee substitute" takes a couple days in normal circumstances and time is in short supply. The amendments eliminating the retroactive application of the punitive damages cap and weakening protections for assisted living facilities adopted today will also be "traveling" with the bill as well for its hearing tomorrow, in the House Council for Fiscal Responsibility. Mechanically, this places the bill in a better posture to again amend the bill to correct the damage done in today's committee.

Fully aware of this dynamic, Chairman Argenziano pushed hard to get the bad amendments incorporated as a committee substitute, but after much give and take, Majority leader and Council member, *Rep. Mike Fasano (R-New Port Richey)* prevailed in convincing the Chairman to not take that route. We thank Mr. Fasano for his wise counsel to the Council.

As AIF and nursing home care providers work to wrestle a workable and substantive product through the legislative process, it is plain that democracy is not always pretty. The House leadership has done an admirable job so far in showing the way for this bill these many weeks.

General revenue is actually a relatively small slice of the budget expenditure pie for Florida. Many of the expenditures by the state are trust funded, designated for a specific purpose and cannot be shifted about without an act of law. Medicaid is funded out of a mix of state and federal dollars. The state Medicaid dollars come out of general revenue. Nursing homes are funded out of the Medicaid monies. If there is a crisis in nursing home care it is the state, and the dollars in general revenue that must pay. A shortfall of a billion dollars in the Medicaid dollars, such as we have this year, can have an enormous ripple effect throughout the budget, the state's tax policy and ultimately, the business community. We pay the taxes. While we do not support the actions of the council today, AIF supports nursing home care reform legislation for the reasons stated above.

OTHER ISSUES

HB 1383 by *Rep. Jim Kallinger (R-Winter Park)* won approval in the House State Administration Committee today. The bill, entitled the Reasonable Attorney Fees for Taxpayers Act, establishes exactly what it says, reasonable attorney fees. As the election battle in November aptly demonstrated and the tobacco litigation fight showed in ugly bright colors a few years ago, private attorneys can and do cart away a lot of money when the state contracts with them for legal representation. The bill establishes some parameters for fees and reporting requirements so the state is not left paying fees for private jets and pizza parties.

SB 910 by *Sen. Jim King (R-Jacksonville)* revising administrative procedures for the business community, particularly small employers, was amended and adopted in the Senate Judiciary Committee today. The bill redefines the term "small business party" for purposes of the Florida Equal Access to Justice Act and revises requirements for pleadings, motions, and other papers filed under the Administrative Procedure Act. The bill redesignates summary hearings as expedited hearings and provides procedures for conducting those hearings. The bill provides for recommended orders and final orders and revises standards for awarding attorney's fees. The bill is an attempt by Sen. King to expedite a process for small business and developers that has become burdensome, nettlesome and cost prohibitive. The bill seeks to correct these problems without sacrificing the broader concerns related to the environment and the community.

The budget battle continues. The House has yet to announce its budget conferees for the negotiating sessions that must occur between the two chambers to reconcile differences in their respective budgets. The Speaker wants roughly \$350 million in tax cuts. The Senate provides no tax cuts in its budget. There are now openly expressed concerns by legislators that they will be unable to finish session on time, which is supposed to conclude on May 4th. The House believes that there are roughly \$400 million in “local projects” or “turkeys” for Senate members that are ripe for the plucking to fund the tax cut.

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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