

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
WEEKLY UPDATE**



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FOR THE WEEK OF APRIL 30-MAY 4, 2001

Friday evening, May 4th, at 8:58 p.m., the Florida Senate yawned and quit consideration of any further legislation, adjourning "sine die." This is Latin for roughly, "we're not meeting anymore." The Florida House, which had really just built up a full head of steam, was somewhat surprised to hear that the Senate had vacated the premises. Nonplussed, Speaker Tom Feeney continued to steer the House through what he believed was the necessary agenda of the chamber, hand-cuffed by the fact that no legislation could be further amended and sent back to the Senate for further consideration. The Florida House finally adjourned sine die just before Midnight. Thus the session ended, somewhat jaggedly, with some heroic steps taken on key issues while others were unnecessarily left behind.

The following is a quick summary of those issues of particular interest to Florida's employers that we reported to you during the 2001 session:

WORKERS' COMPENSATION REFORM

The Legislature left a lot on the table for the employees and employers of this state. The House simply ran out of time. The House was unable to get a carefully crafted compromise to the floor and back to the Senate partially due to the confusion caused by the FCCI Insurance Group, NFIB, FUBA, The Florida Chamber and the Florida Retail Federation, who got confused and did not understand the possible effects of the total bill, but relied on erroneous & inaccurate information supplied by the National Council on Compensation Insurance (NCCI). Due to the tactics used to kill the Senate bill and the actions of NCCI, AIF received a lot of pressure to drop the post-MMI indemnity benefit increase to injured workers.

The proposed increase in SB 1188 and HB 1927 that died would have doubled an injured workers' impairment benefits after maximum medical improvement. NCCI advised that this would cause anywhere from a 6 percent to a 6.7 percent premium increase. AIF believes that other changes in the workers compensation bill that died more than offset the increase. The number of injured workers that collect permanent total due to the fact there are few benefits after maximum medical improvement would have been reduced. The system will always find a way to cost shift when the benefits are not sufficient, and that is what Florida has done. It is the main reason, coupled with the substantial amount of litigation, that Florida has the highest rates in the nation but the lowest statutory

benefits. The benefits actually paid to injured workers, while not contemplated by statute, is equal to those of other states of comparable size and make-up.

The three problem areas - - - permanent total, attorneys' fees and the medicare reimbursement schedule in the Senate bill that would have increased the costs had already been worked out. Those who had not lobbied this issue all session, chose the last week of the session to try to kill the Senate bill. Of course, all of their antics played into the hands of the plaintiff attorneys who wanted to see no changes made to the lucrative system they have enjoyed and thanks to the above organizations, will continue to enjoy. With all of the chaos, one workers compensation bill did pass – it took two years, but a non-controversial bill did pass. It was HB 1803, which provides numerous administrative and procedural reforms which will be very beneficial to the system.

NURSING HOME CARE REFORM

In probably the major achievement of the session, CS/CS/CS/SB 1202 by Sen. Ginny Brown-Waite was passed on Friday, May 4th by a vote of 38 – 0 in the Senate and 109 – 8 in the House. As we have reported previously, the bill contained the necessary combination of both quality of care reforms and tort or litigation reforms necessary to preserve elder care for our seniors. The House and Senate leadership ultimately found \$72 million to fund the quality of care improvements mandated by the provisions in the bill. Thanks to the litigation reforms, this new money will not be going through the back door of the elder care facilities to the trial attorneys.

The bill is on its way to the Governor.

AIF advocated the adoption of this elder care reform package

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 had 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. AIF supported the nursing home care reform legislation because it is the right thing to do for our seniors and for Florida's employers.

SERVICE FIRST

In a major victory for Governor Bush, his proposed Service First civil service reform package enjoyed final approval by the House and Senate on Friday, May 4th. While the version adopted is indeed a weakened version of what his office originally proposed, it is a major first step in getting Florida's civil service system heading in the right direction. CS/SB 466 by Sen. Rudy Garcia (R-Hialeah) transfers over 16,000 middle managers into Select Exempt Service status. This status confers much better benefits to the managers

while at the same time making them "at will," employees, meaning they can be hired or fired like regular folks in the private sector.

The bill eliminates the loathsome practice of "bumping" where senior employees can take a comparable or lower position in the civil service food chain if their job is phased out by virtue of seniority and "bump" the employee aside currently in that position. The bill provides for performance bonuses, simplification of the state's job classification system and for more aggressive rewards for costs saving and efficiency.

The bill is on its way to the Governor.

AIF advocated the passage of this reform bill.

AIF supported the Governor's Service First plan as passed by the legislature, although AIF preferred the House version. 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, will benefit tremendously from a motivated, lean and highly professional state employee work-force. In addition, the savings realized to the state in state employee reductions and added efficiency will save employer's tens, even hundreds of millions of tax dollars in the long term.

CABINET REORGANIZATION

The legislature failed to enact any legislation to accommodate the 1998 Constitutional Revision Eight, restructuring Florida's Cabinet and the merging cabinet offices of the Treasurer and the Comptroller into one Chief Financial Officer. These constitutional revisions will become effective January 7, 2003. The new Cabinet structure will consist of the Governor, Chief Financial Officer, the Attorney General and the Agriculture Commissioner. The offices of an elected Secretary of State and Commissioner of Education will be eliminated from the cabinet. The language in Constitutional Revision Eight merging the cabinet offices of the Treasurer and Comptroller did not contemplate or provide direction as to how the statutory responsibilities currently assigned individually to the Treasurer and Comptroller should be treated. Therefore, the Florida Legislature has wide latitude in how the statutory functions of the Comptroller and Treasurer are collapsed together or removed from the Chief Financial Officer cabinet position.

The House proposal, HB 681 by Rep. Leslie Waters (R-Largo) created a reorganization of the Florida Cabinet that would feature an elected Chief Financial Officer who would execute the constitutional duties currently held by the Comptroller and Treasurer & Insurance Commissioner. Three appointed department heads, each overseeing insurance, banking and financial services, would perform the regulatory duties respectively. An executive director, appointed by the Governor and Cabinet and approved by the Senate would nominate the three department heads with final approval given by the Governor and Cabinet.

SB/CS 164 & 1970 by Senators Jack Latvala (R-St. Petersburg) and Steve Geller (D-Hallandale Beach) provided that the CFO would undertake the constitutional duties of treasurer and comptroller. The CFO's Department also would include divisions to regulate banks, insurance and securities. The CFO would appoint those division heads, who would be confirmed by the State Board of Administration (governor, chief financial officer and attorney general). The State Board of Administration would enjoy the power to terminate a division head. The division heads would have the authority for "final agency action."

The legislature will have to act in the upcoming session.

AIF supports the approach recommended by Comptroller Milligan as embodied in the House proposal. This proposed structure 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.

COURT REFORM

On Friday, May 4th, the legislature passed a compromise on court reform, passing CS/HB 367. In practical effect, the bill allows the governor to pick the make up of the 26 judicial nominating commissions that recommend candidates to the governor for vacant judgeships.

Under current law, the governor gets to pick only three of the nine commissioners for each commission. The Florida Bar appoints the other three and the six pick the remaining three commissioners. The bill passed gives five direct appointments to the governor. The governor will have to make the final four appointments from nominees submitted by the Florida Bar. However, the governor will be able to repeatedly reject the Bar's finalists until he sees candidates he deems fit for consideration.

While the change is not as far reaching as that originally supported by AIF, it is a move in the right direction to limit the input of the Florida Bar. Of course, the press has opined that "politics" has been interjected into the court selection process, as if the whole judicial nominating commission system was some kind of organic operation, untouched by human hands and conducted with holy motives. This is a predictable approach by the press which has always treated The Florida Bar, environmental groups, and the unions as "neutral" observers to the process as opposed to revealing them to be the politically charged, disciplined, well-financed and ideologically motivated groups they are. The Florida Bar's input needed to be limited because it is a private group with its own agenda, its own perspective and its own priorities, priorities that do not always embrace those of the public at large and is certainly opposed in many instances to the business community which is viewed as the "deep pockets" by both plaintiff and defense attorneys.

While it may have been a politically neutral organization in the past, suited for its role in assisting the governor's selections, that is no longer the case and it makes no more sense to give The Florida Bar a privileged position in selecting the candidates than it does giving such a place to the Sierra Club or the Kiwanis Club or Associated Industries.

AIF advocated the passage of this legislation.

As we have said before, The Florida Bar is not some neutral public policy think tank high on a hill thinking of ways to improve or lives. It is a special interest with a political agenda and particular opinions about the law and legal policy that can be and often is at odds with the popular will of the people. That is how we have a court system that is, in some cases, so utterly out of touch with the common man and seemingly at odds with the most fundamental values of free enterprise and fair play.

LIQUOR LICENSE REPEAL

On Friday May 4th, the legislature passed CS/HB 1471 by Rep. J. D. Alexander (R-Winter Haven), which among other things repeals 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 created higher prices for consumers and created 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 supported the repeal of this punitive and reckless tax.

EDUCATION GOVERNANCE

The Legislature voted to establish an appointed Florida Board of Education, abolish the Board of Regents and Board of Community Colleges, and create a 12-member Board of Trustees at each university on July 1, 2001. The appointed Board will share governance of schools kindergarten through graduate school with the elected State Board of Education, which is the governor and Cabinet, until January 2003. The elected Board will then be abolished under a 1996 constitutional revision. The transition will get plenty of supervision from the governor's office, education commissioner and a legislative Council of Education Policy and Research created by the bill. This very important reform to create seamless governance of Florida's schools, colleges and universities almost was lost in the shuffle at the final hours. The compromise bill developed to resolve minor differences between House and Senate versions was amended onto a bill adjusting the

pre-paid tuition program. It was the last bill passed, 70-45 by the House before it adjourned.

AIF supports these efforts to implement reform of our education system. Florida's employers need high quality, trained, and equipped people. These reforms are an important first step in improving the quality of potential employees for the business community and they brighten the future for all of Florida's citizens.

TAX CUTS

The bill, HB 251 by Rep. Beverly Kilmer (R-Marianna), establishing another tax-free holiday for back to school shopping would remove the sales tax from clothing costing less than \$50 and school supplies costing less than \$10 purchased during the nine days July 28 through Aug. 5. The House had sought a six-day holiday on clothes costing less than \$100.

The Senate version also prevailed on this year's cut in the intangible tax. Rather than reduce the rate from \$1 per \$1,000 of value of stocks, bonds and similar assets to 75 cents, the Senate raised exemptions from \$20,000 to \$250,000 for individuals and from \$40,000 to \$500,000 for married couples. It also granted a \$250,000 exemption to businesses. Since a taxpayer is not required to send in anything less than \$60, the change removes from the intangible tax rolls individuals with intangible assets of less than \$310,000 and couples with less than \$560,000. Sen. Walter "Skip" Campbell (D-Tamarac) complained that giving such high exemptions would make it more difficult to abolish the tax.

Before sending the bill, HB 21 by House Majority Leader Mike Fasano (R-New Port Richey), to the House, which pushed hard for the tax break, the Senate added some major amendments the House could either take or lose the whole bill. One would give corporations credit on their state income tax for donations to scholarship foundations that would help public school students move to better schools, either public or private. Another by Sen. Jim Horne (R-Orange Park) will give a sales tax exemption to non-carbonated, non-flavored water. A third, also by Sen. Horne, was barely mentioned in the last-minute consideration of the bill. It would help Florida begin requiring mail order and Internet sales companies to collect and remit sales tax. It directed Revenue Director Jim Zingale to enter the Streamline Sales and Use Tax Agreement with one or more states. The system developed by the National Conference of State Legislators would provide uniform tax rates and other procedures to simplify collection of sales tax by out-of-state companies and help overcome their objections that have kept Congress from requiring the collections.

AIF salutes the House and Senate leadership for further chipping away at the intangibles tax – a relic of the Depression Era that is punitive, inhibits the movement of capital, penalizes saving and investment, is double if not triple taxation and provides an enormous disincentive for corporate officers to relocate their companies to Florida.

Florida's participation in the Streamlined Sales Tax Project is the first step in having all the 45 states with a sales tax adopt a uniform system for the assessment and collection of the sales taxes. This procedure will relieve vendors from many of the existing burdens while placing Main Street, catalog, and Internet vendors on a level playing field so that no one has an economic advantage based on the collection or non-collection of sales taxes. In addition, the State of Florida will realize additional tax revenues if this uniform system is implemented.

UNIFIED COMMUNICATIONS TAX

The Legislature passed CS/CS/SB 1878 by Sen. Jim Horne (R-Orange Park) to consolidate seven taxes and fees into a single communications tax. The bill is designed to be "revenue neutral," in that by combining the taxes, taxpayers are not incurring greater tax liability. As we have reported before, the telecommunications explosion has created a nest of confusing taxes on various communication services. It is hard for the state to collect and it is even harder for taxpayers to identify exactly what they are paying. This tax creates equity in the collection and administration of the taxes and it gives taxpayers a better understanding of what they are paying, and indeed, creates more accountability with the Legislature.

A unification of the communications tax base under one simplified services tax provides equity among the telecommunications service providers, a tax process the consumer can understand and a more predictable revenue stream for the state and local government.

THE LEGISLATURE DID GOOD !!

Overlooked by all post session media reports is the fact that the Legislature "did good"--- - We would say "outstanding"" in terms of the myriad of major issues handled and the good public policy results attained. No one at AIF can remember any previous legislature handling successfully as many major public policy issues.

For those who feared the effect of term limits, please be rest assured that this legislature is even better because of the all the new faces. There were many freshman who quickly rose to "star status" and became key players on major issues.

Governor Jeb Bush again set a major and innoviative agenda for the legislature and he and Lt. Governor Frank Brogan, literally "walked the halls" to get the agenda passed. The results show their hard work paid off.

So foregt the usual negative reports the media---the Governor and The Legislature "Did Good" for Floridians.



Jon L. Shebel
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Stay tuned to our daily brief and to our web site at www.fbnet.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 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://fbnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.