



FROM MARCH 20, 2003

## WORKERS' COMPENSATION

The House Select Committee on Workers' Compensation met tonight to discuss and vote on the committee's final report, which will be used to draft legislation. The report includes the following recommendations:

- eliminate hourly attorney's fees
- increase the compensation rate of non hospital providers while reducing the hospital reimbursement rate so that there is a zero sum gain
- remove the Social Security standard for permanent total disability
- end permanent total indemnity benefits at age 70; if the claimant was over the age of 65 when injured, he would be eligible for an additional five years of benefits
- eliminate construction exemptions, with an exception for up to three officers of a company who each own at least a 10-percent interest in the company

The committee would also require that claimants must make one filing for all claims that are ripe, due, and owing, rather than filing multiple claims, which delays resolution of cases and needlessly drives up costs. With respect to impairment benefits, the committee recommended an increase in payment from 50 percent to 100 percent of the claimant's full compensation rate. This provision should help to decrease litigation by increasing benefits to injured workers who are now poorly served by the system.

When the committee finished its work, the business community fared well. If the final bill that conforms to these proposals is enacted, it will reduce rates and reduce them significantly. Every one of the Coalition of Business and Insurance Industry's major proposals are in the report that will be presented to Speaker Johnnie Byrd (R-Plant City). The bill prepared from these recommendations is scheduled to be available on Monday, March 24. Chairman Dennis Ross (R-Lakeland) is to be commended for ensuring that all members of the committee had an opportunity to contribute to the committee's work and the final report is the product of consensus among the members.

*Go to <http://fbnnet.com/2003-Articles/WCissue2.htm> to read a thorough analysis of the select committee's report.*

**AIF supports legislation that will bring more employers into compliance with the workers' comp law, while reducing the amount of litigation over claims. Promoting greater fairness and efficiency in the system is necessary to curtail escalating costs for the business community, which can only come with a healthy insurance market.**

## MEDICAL MALPRACTICE

The Senate Health Aging and Long Term Care Committee considered a series of bills pertaining to medical malpractice reform, five of which were sponsored by the committee chair Senator Burt Saunders (R-Naples). In the aggregate, his bills encompass many of the recommendations of the Governor's Select Task Force on Healthcare Professional Liability Insurance. The committee also heard four other bills relating to medical malpractice that were filed by other senators. In a nutshell the meeting did not go well for health care providers who are looking to the Legislature for meaningful tort and insurance reform to reduce skyrocketing medical-liability premiums.

The first bill was perhaps the most important in that it calls for a \$250,000 cap on noneconomic damages, deemed to be the single most important recommendation of the governor's task force. After considerable testimony and some debate, committee members voted nine to one to reject the cap. Failure to pass this measure in committee means that the Senate leadership is opposed to damage caps in medical-liability lawsuits — at least for now. It also means that a confrontation is brewing between Governor Jeb Bush and House Speaker Johnny Byrd (R-Plant City), who favor the cap, and Senate President Jim King (R-Jacksonville) who is disinclined to support the measure.

The committee next turned to SB 1302, by Senator Anna Cowin (R-Leesburg), which caps noneconomic damages at \$250,000 and also limits attorney fees in medical-liability actions. After an extensive justification of the bill's provisions, the sponsor, facing rejection by the pro-lawyer committee members, withdrew the measure.

The committee then considered SB 560, sponsored by committee chairman Burt Saunders (R-Naples). This bill contained the task force's insurance recommendations. Committee members again manifested their resistance to reform by stripping the bill of a key provision, which was intended to reduce insurance premiums for doctors and other health care providers by removing from Florida's insurance code a statutory basis for "bad-faith" liability that exists in almost no other state. A representative of the insurance industry told the committee that it "just ripped the heart out of the bill." After gutting the bill, the committee members voted in favor of the remaining provisions.

The committee passed, without any amendments, SB 562, sponsored by Senator Saunders, which contains the Task Force's recommendations to improve the quality of health care in Florida.

Senator Saunders' next bill on the agenda, SB 564, was voted down on a close vote. This bill granted sovereign immunity to emergency room physicians, thereby limiting their exposure to civil lawsuits and excessive liability for jury awards. Likewise, the bill extended the Good Samaritan Act to hospital employees in emergency care, and made other changes to the medical-claims process. Later in the meeting, for reasons that were never publicly explained, Senator Alex Villalobos (R-Miami), who initially voted on the prevailing side against the bill, moved for reconsideration of the committee's vote. This was a parliamentary move that keeps the bill alive until the next committee meeting when it will be voted on again.

The next bills considered were SB 1912 and SB 2120, both sponsored by Senator Durell Peaden Jr. (R-Pensacola). These two bills make minor changes to the medical-claims process and they require additional incident reporting and mandatory nurse staffing ratios. The bills are supported by certain persons and groups aligned with trial attorneys who represent claimants in malpractice lawsuits. Committee members approved both bills.

While the Senate has stripped the \$250,000 cap on noneconomic damages and the good insurance reform language from its bills, the provisions are still alive in HB 1713, which the full House of Representative is expected to approve tomorrow on third reading.

The governor says he will veto any bill that does not substantively address the malpractice issue. If necessary, he will call a special session to resolve the issue favorably and provide Florida's doctors with much needed liability relief.

**AIF supports a comprehensive package of measures designed to alleviate Florida's medical liability crisis, including, most notably, a \$250,000 cap on noneconomic damages and necessary revisions to Florida's bad-faith insurance law. Vulnerability to large jury awards is why insurers have left the state. Many doctors, especially in the high-risk specialties, are leaving too. Now is the time for the Legislature to act decisively to provide immediate and lasting relief.**

## FINANCE AND TAXATION

SB 1430, sponsored by Senator J.D. Alexander (R-Winter Haven), and SB 1774, sponsored by Senator Walter Campbell (D-Tamarac) were passed unanimously by the Senate Finance and Taxation Committee. Both bills are related to gross-receipt-tax exemptions on natural and/or manufactured gas.

Testimony from several members of the manufacturing community indicated that without these exemptions, plants would be forced to close, cut back, or relocate. Although the fiscally conservative principle of creating tax exemptions is not typically popular with Democrats, especially during challenging economic times, the committee's Democratic chairman urged his members to support these bills because they would allow several of Florida's manufacturers to continue operating in the state.

**AIF supports legislation that removes taxes on manufacturing processes that act as tariffs and diminish the competitive ability of Florida-made goods.**

## FUNDING FOR THE STATE COURT SYSTEM

Today the House Select Committee on Article V met and presented, for the first time, a draft proposal of its recommendations. The committee was created to implement Amendment 7, approved by Florida voters in 1998, which shifted funding for the state court system from county governments to the state; Article V is the section of the constitution that creates the state judiciary.

By next week's meeting the committee will roll out a bill in draft form and by the following week, the members plan to vote the bill out of committee. Its next stop will be the House Judiciary Committee, followed by the House Appropriations Subcommittee on Judicial.

**Implementation of this constitutional amendment will result in a \$300 million decrease in county expenses and a corresponding increase in state spending. Rather than allowing county governments to reap a windfall, AIF supports an effort by the Legislature to reduce local ad valorem taxation to offset the mandated increase in state funding for the state court system.**

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://fbnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.