

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
DAILY BRIEF**



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**FROM JULY 10, 2003**

While Special Session C began with a weary sense of déjà vu, Thursday was marked by a buoyant mood among House members and the governor, based in an apparent hope that the endless summer of medical-liability-insurance debate just might be nearing an end.

Whether or not the optimism is justified, it is proof that Governor Jeb Bush, House Speaker Johnnie Byrd (R-Plant City), and Representatives Dudley Goodlette (R-Naples) and Allan Bense (R-Panama City) remain committed to crafting a lasting and meaningful solution that will protect Floridians' access to affordable and excellent health care.

In the morning Representatives Goodlette and Bense conducted an informal review of the new House package, HB 15C. A redesigned cap on non-economic damages was the most significant change from previous versions of House legislation. The House's new cap language would allow one claimant to collect a maximum of \$250,000 from doctors and \$250,000 from other defendants; multiple plaintiffs could receive a maximum aggregate award of \$500,000 from doctors plus a maximum aggregate award of \$500,000 from other health-care providers (i.e. hospitals) — for a maximum aggregate award of \$1 million — arising from any single incident of medical negligence. The bill sets a lower cap of a \$100,000/\$250,000 cap on non-economic damages in claims against physicians that arise from emergency treatment, with the standard \$250,000/\$500,000 cap on non-physician defendants. In other words, the maximum non-economic damage award in a claim involving emergency treatment would be \$750,000.

Representative Goodlette described the new cap language as an attempt to balance fairness with the need for a cap low enough to provide actuarial benefit

The afternoon began with a high-spirited rally of reform supporters in the main lobby of the Capitol. Governor Bush was greeted warmly by the crowd and delivered a rousing speech. The governor and the House speaker both promised reiterated their issue at stake: access to high-quality health care for all Floridians who need it.

Drawing special honor at the rally was a group of senators who were there to show their support for the House bill and the governor. The presence of Senators JD Alexander (R-Winter Haven), Anna Cowin (R-Leesburg), Burt Saunders (R-Naples), and Stephen Wise (R-Jacksonville) provided a stark contrast to the media image of Senate united in a grudge match against the governor.

Shortly after the rally the House met to debate HB 15C, which, as we **reported yesterday** is a product of the ongoing negotiations with the Senate and included agreements on what has come to be known as the low-hanging fruit. The remaining issues, the so-called high-hanging fruit, remain to be plucked, hopefully before they rot. According to those closest to the negotiations, there is room for hope.

After considering and rejecting several amendments, the House approved HB 15C on an 81 to 22 vote, whereupon Speaker Byrd told House members that they could go home until further notice.

Governor Bush has given his wholehearted support to the bill, promising to sign it in a heartbeat. His heart will have to wait until the Senate scenario plays out to its end. The upper chamber began the day with a Senate Judiciary Committee meeting that seemed more ceremonial than substantive in nature. The committee members received a briefing from the Senate legal counsel on the process and parameters for issues compelling testimony, along with sanctions that could be levied against those who ignored a summons.

The committee's chairman, Senator Alex Villalobos (R-Miami) played an alternating role of conciliator and disciplinarian. According to him, the Senate plans to invite witnesses who will be asked to testify under oath, but will reserve the right to issue subpoenas for those who decline the invitation.

In the afternoon the action switched to the Senate Health, Aging & Long-Term Care Committee, which took up the Senate's new medical-liability-insurance reform bill, SB 2C. The bill still contains unacceptable language on non-economic damage caps, bad-faith, and rate rollbacks. While the bill shows little improvement, there are clear signals coming from the Senate that the upbeat mood of the governor and House leaders may not be completely unjustified.

Right now, we know one thing for sure: SB 2C will come up before the full Senate on Friday. What happens then is anybody's guess. Will the Senate adopt some amendments to bring its bill more in line with what the House is doing? Will the upper chamber set aside its bill and use the House bill as its blueprint? Will there be the dramatic development that the governor and House seem to be foreshadowing?

All we can do is wait.

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