


ASSOCIATED INDUSTRIES OF FLORIDA

LEGISLATIVE DAILY BRIEF



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WORKERS' COMPENSATION

Today the House Insurance Committee considered and passed PCB IN-04-06, relating to workers' compensation issues for first responders. The committee passed the bill by a vote of 14-3. Representative Sandy Adams (R-Oviedo) presented the bill since she was the Chairman of the House Select Committee on First Responders. Representative Adams is a former law enforcement officer and has a particular interest in this legislation.

The bill provides several issues in which any first responders would be provided preferential treatment in the handling of their workers' compensation claims. First responders is defined in the bill as any law enforcement officer, firefighter or EMT/paramedic defined in statute or any volunteer firefighter engaged by a city or county. Representative Dennis Ross (R-Lakeland) proposed an amendment that would "level the playing field" by allowing any person who assists at an accident scene to also be considered a first responder. However, that amendment was not adopted by the committee.

The bill provides for supplemental benefits after age 62 for first responders whose employers do not participate in the Social Security program. It also removes the requirement that the claimant establish clear and convincing evidence to prove injury or disease through exposure to a toxic substance, including fungus or mold, repetitive exposure, and occupational disease. The bill also allows for hourly rate attorney fees in instances of an allegation of occupational disease or exposure to toxic substances. Further, the bill allows compensability of mental or nervous injuries without any accompanying physical injuries for purposes of medical treatment but not indemnity benefits. The bill also provides coverage for any adverse reactions to small pox inoculations experienced by first responders.

In debate against the bill, Representative Ross reminded the committee that the purpose of the Select Committee on First Responders was only to address any unintended consequences created by the passage of last year's workers' compensation reform package SB 50A. However, the scope of this bill does much more than return the law to a pre-SB 50A status. Instead it removes many barriers to proving complex and unclear exposure cases and rewards attorneys with an hourly rate for prevailing under an easier burden of proof.

Representative Don Brown (R-DeFuniak Springs) also debated against the bill and reminded the committee that any legislation addressing changes to Chapter 440 creates a vehicle by which any number of harmful measures can slip through and end up costing the employers of this state all of the savings they were provided in last year's legislation. The National Council of Compensation Insurance (NCCI) has priced the bill at a 2.8% increase in cost for those entities buying workers' compensation coverage. However, that figure does not include most medium to large cities and counties who are self insured entities. According to the Florida League of Cities, this cost estimate is at the low end of the spectrum.

Representative Brown also warned the committee that many insurance carriers are closely watching this legislative session to see if the legislature will hold onto the much needed reforms passed last year before making a decision whether to offer workers' compensation insurance in this state.

The bill is not referenced to any other House committees and will be available for a full floor vote in the House once leadership decides to place it on the Special Order calendar. There is no companion measure in the Senate.

AIF is cautiously watching this legislation. While we respect the work of our first responders, AIF is opposed to any legislation that increases costs to the workers' compensation system and provides a mechanism to thwart the reforms enacted last year.

Economic Development

The Senate Committee on Governmental Oversight and Productivity unanimously passed SB 1174 by Senator Mike Bennett (R-Bradenton). This bill began as an attempt to amend the burdensome DRI (development of regional impact) process. In an order to bring the business community, government, and the environmental community together, Senator Bennett filed SB 1174 and had all sides work on a product that would become good public policy. Since all sides could not agree on a program for the DRI process, Senator Bennett has amended his bill to create a study commission which will consist of appointees by the Governor, Speaker of the House and the President of the Senate. The appointees must include representatives from the business community (including development and real estate), agriculture, local governments, environmental interest, and citizen organizations. The Commission is required to provide a report to the Governor, Speaker of the House and President of the Senate by January 1, 2006 on growth management and the DRI process.

SB 2554 by Senator Steven Geller (D-Hallandale Beach) was also considered by the Committee and received a "strike everything amendment" that made it identical to SB 1174. Senator Lee Constantine (R-Altamonte Springs) amended both bills to remove the title of "Smart Growth Study Commission" and changed it to the "Planning and Development Study Commission." Senator Constantine believes that it is an oxymoron to use the term "Smart Growth" and considered the "Planning and Development Study Commission" as a better title.

AIF supports legislation that cuts red tape, streamlines the permitting process, and keeps the cost reasonable for developments that bring responsible growth, infrastructure, and the goods and services that come with it.

Other Bills of Interest

SB 2306- Radiologists/Mammograms Tort

The Senate Judiciary Committee considered SB 2306 by Senator Evelyn Lynn (R-Ormond Beach) today. This bill would provide Florida licensed radiologists with immunity from tort actions arising from duties relating to mammograms unless they are found to have acted with gross negligence. A "strike everything" amendment was passed that dramatically changed the nature of the bill. As amended, the bill establishes a work group and commissions OPPAGA (Office of Program Policy and Government Accountability) to conduct a study on mammography accessibility, quality, and litigation. The study will also examine the issue of radiologists' liability when reading a mammogram. This "strike everything" amendment basically assures that additional tort reform for radiologists will not be achieved during this session. SB 2306 now moves on to the Senate floor for debate.

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>
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