

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
WEEKLY UPDATE**



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FROM THE WEEK OF MARCH 29-APRIL 2, 2004

Both the Senate and the House of Representatives will not be in session April 5th – 9th in observance of the Passover and Easter Holidays.

WORKERS' COMPENSATION

Late Thursday night (April 1st) the House Insurance Committee passed HB 1251 relating to the Workers' Compensation Joint Underwriting Association (WCJUA). A "strike everything" amendment, which had been worked on all day by AIF and the Coalition on Business and Insurance Industry, passed thereby removing the bill's previous language and inserting a series of new provisions friendly to the business community.

Earlier in the week (Wednesday, March 31st) the Senate Banking and Insurance Committee passed SB 2270 by Senator JD Alexander (R-Lake Wales). This is the Senate companion to HB 1251.

You may read a full report on this issue at
<http://www.fbnnet.com/2004Articles/HB1251.htm>

AIF adamantly opposes the Senate Bill at this time because of the state fund provisions. AIF will continue to work however, with both the House and the Senate to negotiate and draft legislation that will address the current JUA deficit issue, without completely destroying the workers' compensation market and harming all employers in the state.

COMPREHENSIVE PLANNING

On Monday, March 29th the Senate Comprehensive Planning Committee passed SB 1174 relating to Developments of Regional Impact (DRI) by Senator Mike Bennett (R-Bradenton). The bill passed on a 4 to 2 vote; special thanks go out to Senators Nancy Argenziano (R-Crystal River), Mike Bennett (R-Bradenton), Bill Posey (R-Rockledge), and Steven Geller (D-Hallandale Beach).

The proposed legislation improves the DRI review process. The DRI program is a vehicle that provides state and regional review of local land use decisions regarding large developments that because of their character, magnitude, or location, would have a substantial effect on the "health, safety, or welfare" of the citizens of more than one county. Examples of land uses for which DRI guidelines are established include: airports; attraction and recreational facilities; industrial plants and industrial parks; office parks; port facilities, including marinas; hotel and motel development; retail and service, recreational vehicle, multi-use, residential developments; and schools.

The processing and scope of review for DRI has not changed in 20 years, even though Florida now has comprehensive plans, land development regulations, and widely imposed impact fees. The environmental community is very content with the current system and do not want to see any changes. However, this process is time consuming and duplicative with regulatory agencies. The DRI process usually takes over one year, and is always very costly. Routine costs to a developer can easily exceed tens of thousands of dollars. SB 1174 will be heard next by the Senate Natural Resources Committee.

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.

TAXATION

HB 1217 by Representative Frank Attkisson (R-Kissimmee) was debated by the House Business Regulation Committee on Monday, March 29th. The bill's purpose is to prevent a loss of state revenue by assuring that neither public utilities nor governmental utilities enjoy an unfair competitive advantage in the marketplace as a result of an uneven application of various taxes and fees. Therefore, the bill waives certain tax exemptions that may provide an advantage to governmental utilities over private sector utilities in the utility marketplace.

Two substitute amendments to the "strike everything" amendment were debated. The first substitute amendment was considered friendly by the bill's sponsor and passed without objections. The second substitute amendment was very controversial as it would establish a moratorium on the issuance of any governmental debt while a study commission looked at the telecommunications aspect of this bill. The bill's sponsor considered the amendment unfriendly, and after much debate and discussion, the amendment was passed by a vote of 18 – 17. The "strike everything" amendment was then accepted without objection.

After a lot of public testimony both in favor and against the bill, the bill passed the committee on a vote of 34-1. The bill will next be heard by the House State Administration Committee.

AIF supports the position of private enterprise competing with governmental utilities on a level playing field.

HEALTH CARE CONSUMERS RIGHT TO KNOW ACT

On Tuesday, March 30th the Senate Health, Aging, and Long Term Committee unanimously passed SB 2022 by Senator JD Alexander (R-Lake Wales) today. The bill requires the State of Florida to make the price and performance data (average length of stay, readmission rates, mortality rates, and infection rates) it already collects on Florida's hospitals and outpatient facilities available to the public on the internet. In addition, the bill also protects consumers from unfair facility charges for non-emergency care and gives consumers the ability to audit their health care bills and patient records.

The bill was amended and is now similar to the House bill, HB 701 by Representative Donna Clarke (R-Sarasota). SB 2022 will be heard next by the Senate Appropriations Subcommittee on Health and Human Services.

AIF supports legislation that would allow the citizens of Florida to make better informed choices about where they get their care and how their health care dollars are spent. Increasing consumer access to pricing and performance data should drive competition between health care providers thereby reducing the cost of health care for employers and their employees.

CIVIL JUSTICE

The Senate Health, Aging, and Long Term Care Committee passed SB 2092 relating to the Financial Protection for the Elderly Act by Senator Alex Villalobos (R-Miami) on Tuesday, March 30th. This bill would create a civil cause of action against banks, insurers and other financial institutions for so called financial exploitation of any person over 60 years old.

Senator Dave Aronberg (D-Greenacres) expressed concern about the bill stating that the age should be raised from 60 to 65 years old and that the punitive language in the bill was overly broad. The Committee Chair Senator Burt Saunders (R-Naples) agreed, saying that he would vote for the bill, but hoped that the sponsor would address some of the committee's concerns. SB 2092 will be heard next by the Senate Appropriations Subcommittee on Criminal Justice.

AIF is always in favor of providing the maximum protection by law for Florida's elderly population, however, AIF opposes this legislation because of its overly broad language which encourages speculative lawsuits against financial institutions that do business with the elderly.

CONSTITUTIONAL AMENDMENTS

On Tuesday, March 30th the Senate Judiciary Committee unanimously passed SB 1700 relating to Constitutional Initiatives by Senator Anna Cowin (R-Leesburg). The bill requires the Financial Impact Estimating Conference to develop a short statement for inclusion on the ballot, identifying the financial impact of each amendment to the Florida Constitution proposed by initiative.

This bill serves to implement the 2002, voter-approved, constitutional amendment which requires that a fiscal impact statement be attached to all amendment initiatives. The Financial Impact Estimating Conference would include representatives from the Governor's Office, the coordinator of the Office of Economic and Demographic Research, and professional staff from the House and Senate.

Of significant note on Thursday, April 1st was the impressive margin by which the Senate's passed its landmark constitutional amendment reform package sponsored by Senator Jeff Atwater (R-North Palm Beach) and Senator Rod Smith (D-Gainesville).

For more details on this issue read the please go to
<http://www.aif.com/2004Articles/SNSenCI.htm>

AIF supports politically viable initiative reforms aimed at facilitating a more responsible process and at protecting the sanctity and supremacy of the state's constitution.

INSURANCE

The House Insurance Committee passed HB 557 by Representative David Rivera (R-Miami) on Thursday, April 1st. A “strike everything” amendment was passed incorporating the bill’s previous recommendations. The “strike everything” amendment would require the Legislative Auditing Committee to commission a study that would analyze the factors affecting insurance availability in Florida.

This bill will also provide protections for policyholders in the areas of auto, homeowners, and sink holes by:

- creating, within the Department of Financial Services (DFS), a designated consumer contact on sinkhole related issues;
- prohibiting contract language that mandates arbitration in a contract unless the company offers a consumer an opt-out provision;
- creating law that incorporates all previous motor vehicle claim-handling guidelines provided by rule (repealed), DFS is granted rulemaking authority to establish claim settlement practices applicable to motor vehicle adjusting to include, but not limited to, the following: establishing total loss value, standards for applying betterment and depreciation factors, and standards for settlement in partial losses and;
- amending laws pertaining to cancellation and non-renewal of insurance policies, specifically, the bill provides for reinstatement of a policy in situations wherein a policy is cancelled due to nonpayment by the mortgage company.

In its original form, the bill would have put unduly burdensome requirements on insurers; therefore, AIF has worked with the Department of Financial Services to amend the bill, making the bill more acceptable to the business community.

PREMISES LIABILITY

On Wednesday, March 31st the House Judiciary Committee debated HB 573 relating to Negligence and Premises Liability, sponsored by House Judiciary Chair Jeff Kottkamp (R-Cape Coral). The bill is specifically limited to retail businesses with 150 or more parking spaces. The bill is designed to give employers some guidance in defending negligence suits arising from criminal acts that occur on their premises. Currently, business owners are sued civilly as joint defendants with the criminal perpetrator. However, due to joint and several liability, the business owner is frequently totally responsible for the judgment since the criminal often does not pay any portion of the judgments.

This bill will allow both parties to present evidence, at trial or Summary Judgment, demonstrating that certain safety measures were or were not taken by the business owner. These affirmative defenses can help narrow the scope of potential premises liability lawsuits. The use of such information is currently not allowed during Summary Judgment.

This recently filed bill was passed by the House Judiciary Committee and is not referenced to any other House committees. The Senate has a companion bill (SB 1654) that has not yet been heard in committee.

AIF supports legislation that protects property owners from unintentional criminal acts committed on their property when appropriate safety measures are in place.

HEALTH CARE

Two bills (HB 1629 and SB 2910), implementing the Governor's Task Force recommendations to improve Floridian's access to affordable health insurance, passed on Wednesday, March 31st.

SB 2910 by Senator Durell Peaden (R-Crestview) was passed by the Senate Banking and Insurance Committee. The Committee unanimously adopted a series of amendments that addressed concerns raised by insurers. The Committee rejected an amendment by Senator Steven Geller (D-Hallandale Beach) to strip the Health Flex statewide expansion from the bill. SB 2910 will be heard next by the Senate Appropriations Subcommittee on Health and Human Services.

HB 1629 by Representative Frank Farkas (R-St. Petersburg) was passed by the House Insurance Committee. A "strike everything" amendment, which was passed by the committee, created major changes from the original bill. As the bill now reads, the high risk pool will not commence until July 2005 and the cost of conducting an actuarial analysis of the pool will be \$250,000 in 2004. The "strike everything" also creates a new regulatory system for insurance companies that provide health product discount cards and would create a new category of insurance agent called an "insurance advisor."

This new requirement generated extensive debate from the committee members who expressed concerns about the additional cost to the State for more regulators and the need for additional regulation. After much debate, the sponsor agreed that he would revise provisions regulating the new "insurance advisor" category and discount card providers. The bill will be heard next by the House Finance and Tax Committee.

Both bills outline the following recommendations:

- expanding the Health Flex Program statewide as a means of offering basic, lower-cost health care coverage to uninsured workers who have low incomes;
- establishing purchasing pools for small employers;
- creation of an actuarial review as to the establishment of a health plan for uninsurable and HIPAA-eligible individuals (the actuarial review will provide the 2005 Legislature with amounts needed from the State's General Revenue Fund to implement and subsidize the plan);
- encouraging the use of evidence-based medicine;
- encouraging the development of an electronic medical record that could be used statewide to facilitate timely access to a patient's medical records in the case of emergencies and the reduction of medical errors and;
- facilitating the offering of Health Savings Accounts by insurers which under recent Federal Legislation allows individuals to save pre-tax monies to meet medical needs.

AIF supports legislation that allows employers to provide or expand access to high-quality, affordable health benefits for their employees without additional governmental intrusion or expensive mandates. Programs such as Health Flex provide a way to address the health care needs of Florida's working poor.

ETHICS AND ELECTIONS

On Wednesday, March 31st the House Procedures Committee unanimously passed HJR 659 relating to Elected Constitutional Officer Terms by Representative Baxter Troutman (R-Winter Haven). This bill proposes to amend Article VI, Section 4, of the Florida Constitution increasing the current term limits, from eight years to twelve years for Florida Senators and Representatives and members of the Cabinet: Attorney General, Chief Financial Officer, and Commissioner of Agriculture. It would not affect the eight year term limit on the office of the Governor nor the Lieutenant Governor.

HJR 659 would delete the term limit language previously placed in Florida's Constitution. As a result of a 1995 US Supreme Court decision, state laws mandating term limits for Federal legislators was deemed unconstitutional. HJR 659 would bring Florida's Constitution into compliance with this decision. The bill will now be debated on the House Floor.

AIF supports the repeal of legislative and Cabinet term limits.

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