


ASSOCIATED INDUSTRIES OF FLORIDA

LEGISLATIVE DAILY BRIEF



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LEGAL REFORM

Two asbestos-related legal reform bills passed today in their respective Senate committees. SB 2562 relating to the Asbestos and Silica Compensation Act by Senator Dan Webster (R-Winter Garden) was unanimously passed by the Senate Health Care Committee with little debate. This bill requires physical impairment as an essential element of an asbestos claim and provides criteria for physical impairment claims.

To date, 6,000 companies representing 91 percent of the industries in the US have been named as defendants in asbestos related claims. Damages from corporate defendants have cost the business community upwards of \$54 billion dollars.

SB 2228 Relating to Asbestos-Related Claims also by Senator Webster was unanimously passed by the Senate Judiciary Committee. This bill would provide liability limitation on asbestos related claims involving a successor corporation created before January 1, 1972. A "successor" is defined as a corporation that assumes or incurs, or has assumed or incurred asbestos-related liabilities as a result of purchasing or acquiring a business or corporation that was somehow involved in asbestos related claims.

The legislation would only apply to the predecessor's wrongdoing, and would not limit the liability for the successor corporation's own torts. The bill is mainly related to the Crown Cork and Seal Company which has faced almost \$500 million dollars in asbestos claims as a result of a 1963 purchase of Mundet Cork a small bottle cap producer who at one point owned an insulation division which used asbestos in their manufacturing process. Crown Cork sold Mundet after only 63 days of purchasing this company. Still they have been liable for thousands of asbestos claims.

SB 2228 seeks to protect companies like as Crown Cork who became involved with business that may have used asbestos prior to the passage of Occupation Safety and Health Act (OSHA) safety regulations governing exposure to asbestos.

During the committee meeting Senator Skip Campbell (D-Tamarac) expressed concerns over the nearly 5,000 ongoing cases that would be affected by passage of this legislation. This bill would limit the amount of money Crown and Cork would have to pay out to approximately 56 million dollars, the amount of money Mundet would be worth in today's dollars. Senator Campbell was also concerned that other companies involved in asbestos claims would seek remedy from the legislature in session to come, but Senator Webster assured him that very few companies would meet the standards laid in SB 2228. Senator Campbell stated that he would ultimately vote in favor of the bill but that SB 2228 might have some constitutional problems since similar legislation in other states have been found unconstitutional.

AIF supports legislation which would require those individuals bring asbestos-related claims to prove prima facie evidence of impairment due to exposure to asbestos. Asbestos litigation is part of the overall debate on legal reform. As such, AIF is supporting changes to the current tort system that will bring about reasonableness, fairness, and predictability.

The Senate Judiciary Committee also unanimously passed SB 1790 related to Street Lights by the Judiciary Committee. This bill provides immunity from lawsuits to the state, local governments, and electric utilities as the result of accidents caused by the failure to provide, operate, or maintain streetlights, security lights, or similar illumination. Liability for the failure to provide, operate, or maintain lighting, however, may be assumed by written contract.

The bill also includes a provision that would prohibit a jury from attributing fault in an accident to an entity responsible for streetlight maintenance if the entity is not a party to the case. As such, a plaintiff's judgment will not be diminished by fault, assuming any exists, by an entity responsible for streetlight maintenance.

This was the last bill heard by the committee, as such, there was literally only a few minutes to spend on it. No public testimony or debate from committee members was heard. SB 1790 will now be heard by the Senate Communications and Public Utility Committee.

AIF supports the concept of providing protection to utility companies that show strong corporate responsibility by repairing street lights within a reasonable time frame. The street light issue is part of the overall debate on legal reform. As such, AIF is supporting changes to the current tort system that will bring about reasonableness, fairness, and predictability.

The House State Infrastructure Council unanimously passed HB 1681 Relating to Transportation by Representative Ray Sansom (R-Ft. Walton Beach). This is the Transportation Department's yearly omnibus bill which addresses a myriad of transportation-related issues. One of the bill's provision states that private road construction contractors are not liable to a claimant for personal injury, property damage or death arising from the performance of the contract work if at the time of the accident, the contractor was in compliance with Florida Department of Transportation (FDOT) contract documents material to the condition and/or defect that was the cause of the accident.

HB 1681 will now be taken up by the full House.

AIF supports the concept of protecting our state's road builders from onerous lawsuits and this issue is part of the overall debate on legal reform. As such, AIF is supporting changes to the current tort system that will bring about reasonableness, fairness, and predictability.

GROWTH MANAGEMENT

The Senate Regulated Industries Committee heard SB 2302 related to Local Government Land Development Requirements by Senator Mike Bennett (R-Bradenton) this afternoon. This bill codifies case law as it relates to local government collection of impact fees. This bill establishes a uniform standard for the collection of impact fees in an effort to rein in the excessive assessments by local governments which drive up the cost of new development in out state. The bill requires local governments to assess impact fees based on the most recent accurate and relevant data available; the lack of consistent criteria to determine the collection of fees results in unfair and inappropriate fees. Often times local governments collect impact fees to pay for capital improvements based on the impacts of the new development and, then tax these same homeowners via ad valorem taxes to pay twice for the same capital improvements. The bill corrects this disparity by providing for a credit against impact fees paid by the fee payer or property owner, to the local government or other service provider by providing financial relief by means of impact fee credits to homeowners who are also paying local government taxes for the same improvements or services provided by the local government.

The Committee adopted several amendments to satisfy municipalities. Senator Bill Posey (R-Rockledge) raised concerns with the measure requiring local governments change the way they currently assess fees and stated that these local governments should be held harmless from the assessment provisions within the bill. After much debate, Senator Posey and Senator Dave Aronberg (D-Greenacres) offered a late filed handwritten amendment which would provide some relief to local governments by grandfathering all existing fee ordinances; local governments will still have to adhere to the credit provisions within the bill. The Posey-Aronberg amendment passed unanimously.

Several committee members expressed concerns with the bill, but agreed that new development projects should not be forced to pay for the existing backlog of infrastructure needs on top of the impacts they are currently required to pay in exchange for building new developments across the state. Senator Bennett agreed to continue working with opponents of the measure; he should be commended for his willingness to work with all stakeholders on this issue without losing sight of his goal to provide financial relief for new home buyers and a fair and equitable method of collecting impact fees. The bill passed the committee as amended with Senator Burt Saunders (R-Naples) as the only member voting against the bill.

SB 2302 will now be heard by the Senate Government Efficiency Appropriations Committee.

AIF supports many of the concepts in SB 2302. As Florida continues to grow by nearly 1000 people per day, we must ensure affordable housing is available for all residents. The wide disparity and inconsistency of collecting impact fees has lead to exorbitant increases in the cost of housing in several areas throughout the state; this bill begins to address these disparities.

ENVIRONMENT

The Senate General Government Appropriations Committee unanimously approved SB 1730 by Senator Paula Dockery. This bill directs the Department of Environmental Protection (DEP) to develop a mechanism or plan to consolidate the federal and state wetland permitting process on or before October 1, 2005. This bill will benefit businesses who are applying for environmental resource permits from DEP and the U.S. Army Corps of Engineers for projects of 10 acres or less.

Passage of this legislation could provide a savings to those business entities needing wetlands permits from both the state and the U.S. Army Corps of Engineers because of a streamlined permit process. SB 1730 will now be taken up on the floor of the Senate.

AIF has always supported a streamlined permit process and SB 1730 will provide savings to businesses who can take advantage of this permitting process.

ETHICS AND ELECTIONS

The Senate Criminal Justice Committee passed SB 1996 Relating to the Voter Protection Act by Senator JD Alexander (R-Lake Wales). Senate Bill 1996 imposes a series of safeguards on the initiative petition process. The bill attempts to closely regulate the petition verification process, to require that additional information be provided to a voter who signs a petition, and to regulate petition circulators, in particular paid circulators, primarily by requiring greater disclosure on the part of the circulators.

The bill also authorizes additional criminal sanctions against people who abuse the petition process, either through fraud and misrepresentation, or through the misuse of signed petitions or voter registrations.

There were several citizens and local voter groups that spoke against the bill and there was much debate among committee members. Senators Ron Klein (D-Delray Beach) and Rod Smith (D-Gainesville) were outspoken critics of the bill and ultimately voted against it. SB 1996 passed by a 5-2 margin.

SB 1996 will now be heard by the Senate Judiciary Committee.

AIF supports reforms to the process for amending the state Constitution by citizen initiative. Florida's Constitution is too easily manipulated by special interests, subverting the deliberation of public policy decisions and threatening the business community with the enactment of economically destructive programs and mandates.

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