



MAY 3, 2005

LEGAL REFORM

Today the Senate moved closer to passing several integral pieces of the tort reform package advocated by Associated Industries of Florida and the Florida Coalition for Legal Reform.

Vicarious Liability Reform

The Senate unanimously passed House Bill 551 by Representative Alan Hays (R-Umatilla). House Bill 551 expands the scope of the definition of the term "rental company" to include a related rental or leasing company that is a subsidiary of the same parent company of the renting or leasing company.

HB 551 will now be sent to the Governor for consideration.

Street Light Reform

Senate Bill 1790 by Senator Dan Webster (R-Winter Garden) was considered by the Senate today. Senate Bill 1790 limits liability for certain public and private companies providing street lights, security lights or other similar lighting. Senator Webster presented a strike-all amendment which made the Senate Bill identical to the House companion bill. The strike-all amendment provides protection to street lighter providers, unless the provider has failed to comply with certain maintenance requirements.

Senator Skip Campbell (D- Tamarac) offered a late filed amendment which would have allowed a consumer to notify a utility company via mail, electronic mail, or by telephone of a power outage. The amendment was not adopted and the strike-all amendment by Senator Webster was adopted. Senator Webster moved that its House companion - HB 135 by Representative Dwight Stansel (R-Live Oak) be substituted for Senate Bill 1790. The motion carried and House Bill 135 was placed on the calendar on third reading, meaning that the bill is now ready to be voted on by the Senate.

Asbestos Reform

The Senate also considered Senate Bill 2562 by Senator Dan Webster (R-Winter Garden), which creates the "Asbestos and Silica Compensation Fairness Act". Senator Webster explained that the Act represents the Legislature's belief that the limited resources of defendants of asbestos and silica claims should be paid to those persons with an actual physical impairment. A person will not have a cause of action for exposure to asbestos without a resulting physical impairment.

Senator Al Lawson (D-Tallahassee) asked Senator Webster to explain how an individual who had been exposed to asbestos, but did not have a current impairment would be compensated under the Act. Senator Webster explained that the bill draws a line between those who have been exposed and those who are truly ill; only those individuals who are truly sick will receive compensation.

Senator Les Miller (D-Tampa) asked Senator Webster to explain the purpose of the bill. Senator Webster reiterated that the bill is designed to allocate limited resources to those who are truly sick and ensures that monies will be available for future claims of individuals who are truly sick.

Senator Campbell offered several amendments to the bill, all of which would change the minimum evidence and procedures to gather that evidence necessary to make prima facie showing of a physical impairment under the Act; fortunately, none of these amendments were adopted.

Senator Steven Geller (D-Hallandale Beach) offered a late filed amendment which would have delayed the effective date of the Act until the later of July 1, 2005, or such date as legislation substantially similar to the Act takes effect in at least half of the states. Senator Geller argued that the amendment was needed because the Act discriminates against Florida residents. Senator Webster argued that the Senate should not let other states dictate public policy in Florida. The amendment was not adopted.

Senator Webster offered several amendments which revised the definition of "qualified physician" in order to expand the number of physicians able to make a rendering of impairment and corrected technical errors. Each of Senator Webster's amendments were adopted.

Senator Webster opted not to make a motion to substitute House Bill 1019 for Senate Bill 2562. Senator Webster noted that there was a need to further examine the House Bill; as such, the motion to substitute would be made tomorrow. Senate Bill 2562 was read a second time and placed on the calendar for third reading.

AIF is actively advocating for the passage of all legal reform bills currently being debated by the legislature. We will continue to keep you informed of the progress of these bills during this week – the last week of regular session.

HEALTH CARE

Today, the Senate took up its Medicaid product, SB 838 by Senator Durell Peadar (R-Crestview). This comprehensive bill attempts to implement some of the Governor's proposed Medicaid reforms in order to address Florida's growing Medicaid rolls and healthcare spending. The bill contains both short and long-term Medicaid reform activities, pilot projects, and studies designed to improve efficiency and achieve sustainable growth in Florida's Medicaid program.

During today's session, Senator Skip Campbell (D-Tamarac) attempted to adopt an amendment that would remove Broward County as the site of one of the pilot programs the bill would implement. Senators Campbell and Rod Smith (D-Gainesville) questioned the bill sponsor on how a pilot program in Broward County would provide any lessons for rural counties and their Medicaid needs. According to these Senators the differences between urban and rural counties were too great to justify a pilot program in Broward. The bill's sponsor viewed this amendment as unfriendly and the measure to remove Broward County from the pilot program ultimately failed.

In addition, Senators Campbell, Les Miller (D-Tampa), Nan Rich (D-Sunrise), and Mandy Dawson (D-Ft. Lauderdale) offered a highly controversial amendment which would affect the largest employers in Florida – those with more than 10,000 employees such as Wal-Mart, Winn Dixie, and Disney. This amendment would require these large employers to pay a healthcare payroll assessment to the State for purposes of providing health insurance for their employees. Senator Miller explained that large employers in Florida are given multiple tax credits in order to set up shop in our state, but these employers in turn have thousands of employees who are without health insurance and on the Medicaid rolls. This bad amendment would in effect create a business mandate that would negatively impact Florida’s business climate.

It is unclear where the amendment’s sponsors obtained their data since studies show that these large employers do provide health insurance coverage for their workers. The amendment was initially adopted on an 18-16 vote, but it was later called up for reconsideration and voted down by a 14-20 margin.

The bill was ultimately rolled over to third reading, meaning that it is now ready to be voted on by the Senate.

AIF supports market based reforms to the Medicaid program so long as they continue to ensure that the truly needy have access to quality care.

TAXATION

The House unanimously passed SB 1056 Relating to Business Entities by Senator Ron Klein (D-Delray Beach). This bill seeks to harmonize many of Florida’s existing statutes relating to business entities with provisions found in business friendly states such as Delaware and Nevada. This bill would effect how corporations, limited liability companies, not-for-profit corporations, and partnerships are regulated by the State.

According to the bill’s sponsor the goal of this legislation is to make Florida as attractive to new businesses as possible. The Florida Bar along with other interested parties have been working on these vast reforms for almost two years.

SB 1056 will now be sent to the Governor for consideration.

AIF supports efforts by the legislature to bring Florida to the forefront of streamlined, business-friendly corporate environments, thereby making it attractive and as easy as possible for companies to do business in our state.

OTHER BILLS OF INTEREST:

Ethics and Elections (SB 2176)

The Senate debated SB 2176 Relating to Electors and Elections by Senator Bill Posey (R-Rockledge). This bill would bring Florida into compliance with the Federal Help America Vote Act (HAVA). In October, 2002, the U.S. Congress passed and the President signed the HAVA Act of 2002. It authorized over \$3 billion dollars over 3 years in federal aid to the States to upgrade antiquated voting equipment, to assist the States in meeting the new election administration requirements in the bill, and for other election administration projects. One of the requirements of HAVA is for all states to create a Statewide Voter Registration System by January 1, 2006, which would serve as the official registration record for all federal elections. The system database is required to be cross-referenced against driver's license and social security administration data to confirm the identities of persons registering to vote.

One of the more controversial provisions in the bill would increase the amount of contributions a candidate running for statewide office can receive from the Election Campaign Financing Trust Fund. The bill as amended would allow candidates running for Governor to receive \$2 for each Florida registered voter. Those running for Cabinet office would be eligible to receive \$1 per Florida registered voter. This means that a candidate for Governor could receive upwards of \$20 million dollars in public funding for a statewide race. Democratic members strongly argued against this provision stating that it constituted public welfare for candidates running for office. Senator Posey explained that the purpose for adopting this amendment was to account for inflation since the current cap of \$5 million dollars was set back in 1991. SB 2176 was laid on the table and HB 1589 by Representative Don Brown (R-DeFuniak Springs) was substitute in its place. HB 1589 was withdrawn from its committees of reference and placed on the Senate Calendar.

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