

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
WEEKLY UPDATE**



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FROM THE WEEK OF APRIL 4 – APRIL 8, 2005

LEGAL REFORM

On Wednesday, April 6th the House Committee on Governmental Operations passed HB 1513 by Representative Don Brown (R-DeFuniak Springs) relating to civil justice reform. The bill is strongly supported by AIF and the Florida Coalition for Legal Reform and contains many of the important tort reform provisions we have been diligently advocating the past several months – most importantly the elimination of joint and several liability. The bill passed the committee 5-2 as noted below and will next be heard in the House Judiciary Committee.

Chairman Jeff Kottkamp – YES
Vice Chairman Dave Meador - YES
Representative Frank Attkisson – YES
Representative Loranne Ausley – NO
Representative Holly Benson – YES
Representative Ken Gottlieb – NO
Representative Ray Sansom – YES

Please go to <http://www.fbnnet.com/2005Articles/HB1513Section.htm> for a full report and explanation of HB 1513's legal reform provisions.

AIF supports HB 1513 and will continue to work to see its passage throughout the entire Florida Legislature. We urge you to contact the Representative Brown and the committee members who voted in favor of this bill today and thank them for their leadership on this important legislation. The time is now to pass significant legal reform in the state of Florida and this will only be accomplished with the total repeal of Joint and Several Liability.

Also on Wednesday, the House Judiciary Committee passed HB 1019 Relating to the Asbestos and Silica Compensation Act by Representative Joe Pickens (R-Palatka). 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.

HB 1019's next stop will be the House Justice Council; its Senate companion SB 2562 by Senator Dan Webster (R-Winter Garden) will be heard in the Senate Health Care Committee on Tuesday, April 12th.

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.

TAXATION

On Thursday, April 7th the House Finance and Tax Committee unanimously approved HB 1325 Relating to Governmental Authority and Communication by Representative Frank Attkisson (R-Kissimmee). This bill limits governmental authorities from providing communications services such as high speed internet access service, cable service or telecommunication service. If a governmental authority is already in the business of supplying any of the previously mentioned communications services, they are not allowed to expand or extend their service area unless the governmental authority has issued bonds secured by the revenues from the services they provide. It does not prohibit governmental authorities from providing a covered service to itself for its own internal operations.

HB 1325 will now be heard by the House Commerce Council it last committee of reference. Its Senate companion SB 1714 by Senator Mike Bennett (R-Bradenton) has yet to be heard by any of its committees of reference.

For years AIF has supported legislation that would place businesses on a level playing field with local governments when they compete to provide services. AIF was the only business association to be an active part of the Fair Competition Law passed in 2000 for the solid waste industry. We applaud Representative Attkisson for proposing this legislation.

The House of Representatives unanimously passed HB 27 Relating to Sales Tax on Machinery and Equipment by Representative Matt Meadows (D-Lauderhill) on Thursday, April 7th. This bill broadens the existing sales tax exemption for industrial machinery and equipment purchased for exclusive use in any expanding facility that is engaged in spaceport activities or for use in expanding manufacturing equipment that increases productive output by 10 percent. It also expands the sales tax exemption for the purchase of machinery and equipment by expanding businesses involved in manufacturing pursuant to federal procurement regulations and involved in mining operations. The bill was amended prior to reaching the floor and now the bill also appropriates \$210,069 dollars to the Department of Revenue for four full time positions so that this proposal can be implemented.

The Legislature, in 1996, decreased that threshold from \$100,000 in taxes per calendar year to the current \$50,000 per calendar year. AIF proposes that this tax threshold be eliminated or modified to help retain Florida's manufacturers and assist in reducing the cost of manufacturing in Florida. AIF supports the Bush/Jennings plan to eliminate completely the \$50,000 tax threshold, effectively exempting the entire purchase of machinery & equipment from sales tax.

AIF supports repeal of the \$50,000 per calendar year sales tax threshold on machinery and equipment. Taxes imposed on machinery and equipment used to manufacture goods within the state place an unfair tariff on Florida manufactured goods, and repeal of this threshold would increase the ability of Florida manufacturers to compete with their counterparts in other Southeastern states.

Two of the Governor's main tax initiatives for 2005 were passed on the House floor on Tuesday, April 5th. One received bi-partisan support and the other faced harsh criticism from Democratic members.

HB 101 Relating to Sales Tax Holliday for School Supplies by Representative Ray Sansom (R-Ft. Walton Beach) passed on a vote of 112-1. This bill would prohibit the collection of sales and use tax on the sale of books, clothing, wallets, and bags priced under \$50 dollars and on the sale of schools supplies priced under \$10 dollars during the nine-day period starting on July 23rd and ending on July 31st of 2005. Passage of this bill represents a one-time savings of \$35.5 million dollars for Floridians.

Similar bills have been filed during in recent years. Last year the same proposal was passed and signed into law by Governor Bush. It is expected that the Governor will approve this proposal if it reaches his desk. A Senate version of the bill has not been heard as of this date.

AIF supports increasing business activity by allowing Floridians to purchase essential school supplies without having to pay sales tax.

HB 963 Relating to Intangible Personal Property Tax by Representative Fred Brummer (R-Apopka) passed the House on a strict party line vote of 85-30. Currently the state of Florida imposes two different intangible personal property taxes: an annual (or recurring) tax is imposed at the rate of 1 mill on the value of stocks, bonds, notes, and other intangible personal property; as well as a non-recurring tax on obligations secured by liens on Florida realty at the rate of 2 mills. HB 963 repeals the 1 mill recurring tax but does not make any changes to the non-recurring tax.

Florida is at a disadvantage by having an intangible tax since only three other states have a similar tax. If this legislation is passed approximately 320,000 taxpayers will be removed from the tax rolls representing a recurring tax savings of \$293.8 million dollars.

A strike-everything amendment offered by Representative Ken Gottlieb (R-Delray Beach) which would require that all the revenue collected by continuing the intangible property tax be applied to reduce the amount of property tax paid by local schools was defeated on the floor.

It is now up to the Senate to determine whether any significant change to Florida's intangible property tax will be achieved this session.

AIF supports the repeal of the intangible tax. It is wrong to penalize businesses and individuals who save or invest their money. We need to make Florida competitive with other states and by removing this bad tax.

State Court Funding

On Monday, April 4th the Senate Justice Appropriations committee unanimously passed SB 2048 Relating to Judges by Senator Victor Crist (R-Tampa). This bill deals with the certification of circuit court, county court, and district court judges. The bill's sponsor stated that the need for judges is paramount and recommended an amendment that would certify 34 judges: 10 appointed circuit court judges, 10 elected circuit court judges, 6 appointed county court judges, 6 elected county court judges and 2 district court judges. The amendment was adopted by the committee following little debate.

Senator Crist explained that he chose, what could be considered, a low number of judges based purely on posturing in preparations for negotiations with the House. Senator Rod Smith (D-Gainesville) then stated that this was not the time for "wailing and gnashing of teeth" because the number of judges will certainly increase as a result of negotiations during the budget conference process. Its House companion HB 263, by Representative Bruce Kyle (R-Fort Myers), certifies 110 judges.

Senator Crist expressed that his goal would be funding a minimum of 55 judicial positions during this session, and certifying 110 judges before the cycle is over.

SB 2048 will now be heard by the Senate Ways and Means Committee.

The business community depends on the court system to resolve property disputes, contract disputes, and other civil matters. In fact, most of the court system's time is business-to-business activity. Therefore, AIF supports any effort by the Legislature to sufficiently fund our state's court system.

HEALTH CARE

On Wednesday, April 6th the House Health and Families Council passed Proposed Committee Bill HHF1 Relating to Medicaid Reform which creates Medicaid pilot programs in rural and urban counties. The Long Term Care pilot program will be conducted in Pinellas, Hillsborough, Orange, Osceola and Seminole counties if this legislation is signed into law. An amendment by Representative Eleanor Sobel (D-Hollywood) which would have moved the acute care pilot program out of Broward County was rejected. Also during the meeting, an amendment by Representative Gayle Harrell (R-Port St. Lucie) was withdrawn which would have shifted responsibility to collect the Medicaid co-payment from providers to HMOs. Representative Harrell said that she will have a revised amendment on this subject later in the process.

HHF1 will now be assigned a bill number and it is expected to be debated on the House floor.

Also on Wednesday, the Senate Health Care Committee debated its broad Medicaid reform plan, SB 838 by Senator Durell Peaden (R-Crestview). Among its provisions is an authorization for the Agency for Health Care Administration (AHCA) to develop two pilot programs. This first program is designed for the over-60 population and would include long term care services. Unless AHCA can justify how managed care will improve nursing home care, nursing homes will be excluded from this pilot program which will be conducted in two undesignated counties, one rural and one urban. The second pilot would create capitated fee arrangements to apply to all services for beneficiaries in a Broward, Baker, Clay, Duval and Nassau counties. Capitated long-term care is an alternative whereby the provider is paid a fixed amount per person.

Unlike the House plan, AHCA can implement the Long Term Care program once it receives the Federal waivers. For the second pilot, AHCA must bring these pilots back to the Legislature for approval before moving forward. The bill continues the moratorium on nursing home beds and only allows new Certificates of Needs when a rural area's occupancy rate is 95% or greater. Other provisions in the bill would lock-in Medipass beneficiaries to their primary care providers and explore Medicaid Buy-In programs.

The Committee allowed members to ask questions about the bill but ultimately temporarily passed the bill. The Committee will take extensive public testimony next week.

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.

ENVIRONMENT

The Contamination Notification legislation moved forward in both House and Senate Committees on Wednesday, April 6th. First, the House Water and Natural Resources Committee passed HB 937 Relating to by Representative Bill Galvano (R-Bradenton) after adopting a strike everything amendment. This bill provides for contamination notification requirements when contamination has migrated beyond the property boundary of the originally contaminated site. Once a property owner or the person providing site rehabilitation finds that contamination has reasonably migrated into any area beyond the boundaries of the property, they must give notice to the Division of Waste Management - Department of Environmental Protection (DEP) no less than 10 days after the discovery of contamination. Notice must be given via certified mail, and on a form adopted by DEP. Within 30 days after receiving the written notice, DEP is required to send a copy of the notice to all record property owners stating that contamination was discovered. DEP may collaborate with the Department of Health to develop a source of information and to establish procedures for responding to public inquiries about health risks associated with contaminated site.

The Senate Governmental Oversight and Productivity Committee passed HB 937's Senate Companion SB 330 by Senator Paula Dockery (R-Lakeland). The bill was presented by Representative Galvano during the committee because Senator Dockery was not able to attend the meeting. AIF was successful in defeating a series of bad amendments by Senator Al Lawson (D-Tallahassee) which would have required that contamination notices be given to schoolchildren and any employees in the contaminated area. This practice could have the potential of creating unnecessary panic in the community. SB 330's next stop is the Senate Rules and Calendar Committee.

AIF supports Contamination Notification legislation. Property owners and businesses will directly benefit from this notification by having more timely and comprehensive information on the progress of the cleanup of nearby properties. AIF thanks Representative Galvano for his cooperation with this legislation. What was a bad bill in the beginning, has now turned into a product the business community can support.

On Monday, April 4th Senate General Government Appropriations Committee unanimously passed SB 1318 Relating to Underground Petroleum Storage Facilities by the Senate Committee on Environmental Preservation. This bill implements the recommendations of the Senate Environmental Preservation Committee's interim report no. 2005-153, relating to the state's underground petroleum storage tank cleanup program. Specifically, the bill is intended to encourage owners of underground petroleum storage systems to upgrade their tanks before 2009. SB 1318 would also allow owners or operators to be paid \$50,000 for a single facility to remove and treat soil contamination associated with the tanks upgrades and up to \$100,000 for certain circumstances.

The Legislature enacted the State Underground Petroleum Environmental Response Act (SUPER Act) to address the problems of pollution from leaking underground petroleum storage systems. As an incentive to report and clean up contamination from leaking petroleum storage systems, the SUPER Act established the Early Detection Incentive Program or EDI. Over 18,000 petroleum sites had been identified as having been contaminated and in need of cleanup. The incentives to participate in the reimbursement program proved to be extremely successful. So much so, that the demand for reimbursement exceeded the administrative capacity of DEP and the financial resources of the state. As a result the state had to implement a prior-approval requirement before underground storage facilities could be given funds to clean up. As of today, this is the type of program in effect.

AIF supports legislation that would encourage private owners and operators of underground petroleum storage facilities to clean up and upgrade their tanks. Providing these incentives will presumably prevent owners of underground tanks to wait until the last minute therefore, preventing a backlog in the system.

- 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.