



MAY 4, 2005

LEGAL REFORM

AIF and the Florida Coalition for Legal Reform's efforts to pass comprehensive legal reform in Florida took another step forward today with the consideration of three bills aimed at increasing fairness and predictability in our state's legal system.

Street Lights

The Senate passed HB 135 Relating to Street Lights by Representative Dwight Stansel (R-Live Oak) on a 37-1 vote. The bill provides that a streetlight provider will receive protection from liability if it has designated procedures in place to respond to a notice that a streetlight is not working and informed its customers and the general public of those procedures. Additionally, a streetlight provider must repair the streetlight within 60 days of receipt of actual notice that the streetlight is not working, except in instances where repair is not possible due to circumstances beyond the provider's control, such as a natural disaster.

There was no debate or questions during today's session and the bill was passed quickly. HB 135 will now be sent to the Governor for consideration.

Road Builders' Liability

Today, the Senate considered SB 460 Relating to Transportation by Senator Jim Sebesta (R-St. Petersburg). This is the Department of Transportation's yearly omnibus bill which addresses a myriad of transportation-related issues. One of the bill's provision provides 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.

Senator Sebesta offered several amendments to the bill which were adopted. The first amendment limits liability for DOT contractors for accidents occurring in a construction zone when the accident occurs due to the driver's intoxication or reckless driving.

The second amendment provides that if DOT and its contractors are immune from liability as provided by the bill or not named as parties to a suit, they may not be named on the jury verdict form or found to be at fault. This amendment adopts the language of the Supreme Court's *Fabre* decision.

Senator Sebesta moved to take up the House companion bill – HB 1681 by Representative Ray Sansom (R-Ft. Walton Beach) and substitute the language of SB 460 as amended. The motion was accepted and HB 1681 was placed on third reading, meaning that the Senate must take a final vote in order to pass the bill.

Asbestos Litigation

The Senate took up and passed HB 1019 Relating to the Asbestos and Silica Compensation Act by Representative Joe Pickens (R-Palatka). This sweeping reform will insure that funds are available to those who are truly impaired by exposure to asbestos and silica. It will bar claims from those who are not impaired. The bill sets up medical criteria to determine those who are truly injured. The bill passed the Senate by a vote of 32-8. However, there were a few minor amendments adopted today, primarily designed to protect claimants from identity theft, so the House will have to hear the bill once again and pass the bill as amended by the Senate today. That vote could occur as early as tomorrow.

AIF again salutes Senator Dan Webster (R-Winter Garden) for his strong leadership on this and all the tort reform bills.

GROWTH MANAGEMENT

The Senate passed SB 360 Relating to Growth Management by Senator Mike Bennett (R-Bradenton) on a 34-5 vote. This is the Senate's comprehensive Growth Management package. The bill requires a local government's comprehensive plan to be financially feasible and the capital improvements element in a local comprehensive plan to include a schedule of improvements that ensure the adopted level-of-service standards are achieved and maintained. Also, it requires an annual review of the capital improvements element to maintain a financially feasible 5-year schedule of capital improvements. The bill strengthens the link between development approval and water supply planning.

Several amendments were adopted by the bill's sponsor which would put the bill in the necessary posture in order for the Senate to negotiate with the House. One of the amendments by Senator Bennett sparked particular debate from members of the Senate. The amendment allows cities and municipalities to levy a surtax on real estate documents at a rate not exceeding 50 cents on each \$100. The levy of the surtax must be approved by a majority of the electors of the municipality in a referendum on the surtax. Senator Mike Haridopolos (R-Melbourne) argued against the amendment saying that it would open the door for cities to raise taxes at will and that he was philosophically opposed to any measure that would increase taxes. Senator Bennett asked the members to trust him and adopt the amendment because it would help with the negotiations with the House. The amendment was ultimately adopted and the bill was passed as amended. A motion was made that the Senate request a conference committee be established to negotiate the issue of growth management with the House.

AIF supports any piece of legislation which encourages smart, sustainable growth. Florida's cities and counties must provide the roads, bridges, and water necessary for businesses to grow and flourish, while at the same time preserving the natural beauty that makes Florida such a unique state.

TAXATION

The Senate passed HB 101 Relating to Sales Tax Holiday on School Supplies by Representative Ray Sansom (R-Ft. Walton Beach). Since 1998 some version of this legislation has been filed in order to provide a period of time during which clothing valued under \$100 and school supplies valued under \$10 are to be exempt from any sales tax. The nine-day period would extend from July 23 through July 31. Similar legislation was passed during last year's session.

HB 101 will now be sent to the Governor for consideration.

A similar bill was also passed during today's Senate session – SB 6001 Relating to Hurricane Preparedness by the Committee on Finance and Tax. This bill provides that no sales tax will be collected between June 1, 2005 and June 12, 2005: (1) on any portable, self-powered light source selling for \$20 or less; (2) on any portable, self-powered radio, two-way radio, or weather band radio selling for \$50 or less; (3) on any tarpaulin or other flexible waterproof sheeting selling for \$50 or less; (4) on any self-contained first-aid kit selling for \$30 or less; (5) on any ground anchor system or tie-down kit selling for \$50 or less; (6) on any gas or diesel fuel tank selling for \$25 or less; (7) on any package of AA-cell, C-cell, D-cell, 6 volt, or 9 volt batteries, excluding auto and boat batteries, selling for \$30 or less; (8) on any non-electric food storage cooler selling for \$30 or less; and (9) on any portable generator selling for \$500 or less to provide light, communications, or food preservation.

HB 6001 will now be sent to the Governor for consideration.

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

LEGAL AND JUDICIAL

The Senate 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 therefore SB 2048 creates an additional 55 new judges for the state of Florida. The bill also appropriates the sums of \$8,203,458 in recurring funds and \$306,659 in nonrecurring funds from the General Revenue Fund to the circuit and county courts. During the next year an additional 55 judges will be authorized bringing the total number of new judges to 110.

SB 2048 will now be sent to the House for consideration.

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.

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.