

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
WEEKLY UPDATE**



P.O. Box 784 • Tallahassee, FL 32302 • Phone: (850) 224-7173 • Fax: (850) 224-6532 • Internet: <http://aif.com> • [fbnnet.com](http://fbnnet.com)

**FROM FEBRUARY 14, 2005**

**Interim Weekly Report**

**CIVIL JUSTICE**

On Wednesday, February 9th the House Judiciary Committee held a workshop on four issues dealing with tort reform. The four issues discussed during the workshop were: premises liability, street lighting/liability, class actions, and attorney fee multipliers in personal injury protection insurance cases. AIF lobbyists were on hand to provide expert testimony on these subjects.

The committee spent significant time on the issues of premises liability and street lights. Chairman David Simmons (R-Altamonte Springs) had invited James Harold Thompson to testify on streetlights on behalf of the power companies and Bill Herrle from the Retail Federation to testify on premises liability. AIF has included both of these issues as part of its tort reform package and supports the efforts of these individuals and their representative groups on these issues as well. In general, both these reform proposals seek to end a business entity's responsibility for damages caused by the acts of other people or entities which are outside their control.

The Florida Supreme Court issued an opinion in 2003 which potentially expands the duties that a business owes to the public to cover any "foreseeable zone of risk." There were several questions by the committee members about the extent of the application of this proposal and whether a business would be shielded from liability for intentional acts or omissions that it commits that lead to injury. After explanation from business representatives, Chairman Simmons assured the committee and the public that such reforms seek no attempt to immunize a business from liability when it engages in wrongful acts that result in harm. As AIF has stated on numerous occasions, the true objective is to simply level the playing field for all businesses in negligence and other liability cases to allow innocent businesses to be free from the delays and expenses of unnecessary litigation.

AIF's Tamela Perdue addressed the committee on the issue of class action lawsuits saying that although this type of legal action once served a noble purpose for society they no longer serve their original intent and that this intent is no longer sensible or simpler approach to providing justice. In fact, Ms. Perdue pointed out that South Florida has twice earned the dubious distinction as a judicial "hell-hole" by the American Tort Reform Association because of the propensity of this area's court system to be tied up with large number of class action suits. A representative from the Academy of Florida Trial Lawyers also addressed the issue of class actions but did not comment on any of the areas discussed by Ms. Perdue. Instead the representative from the Trial bar remarked about the possibility of allowing class actions for bad faith and other insurance cases.

Gerald Wester addressed the issue of attorney fee multipliers on behalf of AIF and began his testimony by dismissing the Trial bar's assertion that class actions should be expanded to include bad faith and other insurance cases. Chairman Simmons seemed to agree with that statement and also noted that such would be an issue for the Insurance committee to deal with rather than the Judiciary. Mr. Wester went on to propose an alternative solution to the issue of attorney fee multipliers which would include repealing or narrowing the provision that allows for multiplier effects and establishing a dispute resolution system whereby arbitrators can propose settlements.

### **WORKERS' COMPENSATION**

The Senate Banking and Insurance Committee met on Wednesday, February 9th and heard testimony from Laura Torrence from the Florida Workers' Compensation Joint Underwriting Association (WCJUA). Ms. Torrence addressed the committee to further clarify issues contained in an Auditor General's report of the WCJUA released a few months ago.

Ms. Torrence detailed some of the checks put in place by the WCJUA to ensure that their actions are being serviced correctly and also entertained questions from Senator Skip Campbell (D-Tamara) as to why the WCJUA has not tried to become a tax exempt entity. The Senate has been particularly concerned with the recent audit report and there are rumors that a bill will be released soon which may restructure how the WCJUA board is appointed and who may be appointed as well as making the WCJUA similar to other residual markets by assessing insurers for deficits. Currently it is policyholders who are assessed when ever there are deficits within the WCJUA.

### **SUBSTITUTE COMMUNICATIONS TAX**

The House Utilities and Communications unanimously approved HB 49 relating to the Substitute Communications Tax system by Representative John Stargel (R-Lakeland). This is the piece of legislation that would repeal the Substitute Communication System Tax which has been on the books but not enforced since 1985.

HB 49 will be heard next by the House Fiscal Council for approval before going to the floor of the House.

### **TAXATION**

On Tuesday, February 8th, the House Economic Development, Trade, and Banking committee unanimously approved HB 81 relating to Tax on Sales, Use, and other Transactions by Representative John Quinones (R-Kissimmee). This bill would exempt machinery and equipment used predominantly for research and development activities from the sales and use tax. Currently a company who manufacturers, produces, processes or fabricates tangible personal property for the taxpayer's own use is not subject to sales tax. However, the tax exemption does not apply to any product for research or development which is used in the ordinary course of business.

According to Enterprise Florida Inc. (EFI), our state is at a competitive disadvantage for manufacturers and other targeted industries because of its tax structure. By eliminating the sales and use tax on machinery and equipment for research and development AIF and EFI believe that Florida would have a better business climate for industry sectors such as aviation/aerospace and biomedical research. Most states have eliminated or significantly reduced these taxes on research inputs.

HB 81 will now be heard by the House Finance & Taxation committee.

On Wednesday, February 9th the Senate Agriculture committee approved SB 696 by Senator Rod Smith (D-Gainesville). This proposed legislation would entirely eliminate the 2.5% sales tax that is applicable on the purchase of certain farm equipment that is used exclusively in agricultural production on a farm or in forestry and fire prevention work. Since 1963, the sale, rental, lease, use, consumption, or storage and use of self-propel power driven farm equipment have been partially exempted from sales tax. This bill would make these items fully exempt from sales tax.

SB 696 will be heard next by the Senate Government Efficiency Appropriations Committee.

- 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.