

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
WEEKLY UPDATE**



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FROM THE WEEK OF MARCH 27 – MARCH 31, 2006

### LEGAL REFORM

Thursday, March 30<sup>th</sup> was a historic day for the business community and a great victory for our state's legal system. In a 27 -13 vote, the Senate passed HB 145 by Representative Don Brown (R-Defuniak Springs). This bill repeals the doctrine of joint and several liability. No longer will businesses and individuals be subjected to paying more than their fair share of damages.

HB 145 has passed both chambers and will now go to the Governor's desk for his signature.

*Go to <http://aif.com/2006articles/sn060330.htm> to view the full report.*

Debate on the Senate floor actually began on Wednesday, March 29<sup>th</sup> when HB 145 was read a second time. Second reading is typically where amendments are filed and debated by the members. Of particular note was the debate on an amendment filed by Senator Dave Aronberg (D-Greenacres) which dealt with the issue of a *Fabre*-fix. This "empty chair" amendment was offered as a compromise that would reduce litigation while at the same time repeal the doctrine of joint and several liability. In actuality, this bad amendment would have gutted the bill and stripped it of any meaningful reform.

*Read the full report including video of the debate on the Fabre amendment at <http://fbnnet.com/dailybriefs/db14.htm>*

**AIF would like to thank all the legislators who voted in favor of the historic repeal of joint and several liability.**

On Tuesday, March 28<sup>th</sup> the House Judiciary Committee unanimously approved the introduction of proposed committee bill, HJD7 Relating to Class Actions Lawsuits. This legislation keeps many of the same provisions found in last year's class action legislation, which passed the House but ultimately died in the Senate. During the meeting, Representative Jack Seiler (D-Pompano Beach) presented three amendments which were agreed upon by members of the Academy of Florida Trial Lawyers and representatives of the business community. The most important of the three amendments requires that in order to maintain a class action, the class must prove actual damages.

**Class Action reform is part of the overall debate on legal reform. As such, AIF supports changes to the current tort system that will bring about reasonableness, fairness, and predictability.**

#### **GROWTH MANAGEMENT**

On Monday, March 27<sup>th</sup> the Senate Environmental Preservation Committee unanimously approved SB 1020 Relating to Growth Management by Senator Mike Bennett (R-Bradenton). Senator Bennett introduced a strike-all amendment that was adopted by the committee. The language in the strike-all amendment now resembles the House companion, HB 683 by Representative Trey Traviesa (R-Tampa). The bill addresses multiple issues related to the Developments of Regional Impact (DRI) process. DRIs are large-scale developments that are likely to have regional effects beyond the local government jurisdiction in which they are located. The DRI process is important to the business community because it directly affects how fast an employer can or cannot get their projects started and how developers interact with local governments. Specifically, the bill provides for the elimination of DRIs for marinas; provides enhanced workforce Housing; provides for additional items for rural counties; provides for local transportation concurrency bill; prohibits the exclusive control of real property or the operation of any port in the state to an entity controlled by a foreign business, without the consent of the legislature; provides for a severability clause.

The bill also provides additional exemptions from DRI review and increases the thresholds that trigger DRI review for proposed development. For example, dry storage boat facilities are exempted from the DRI review process. It also increases the thresholds for determining whether a proposed change is a substantial deviation that requires further review.

SB 1020 will now be heard by the Senate Transportation Committee.

**AIF supports legislation aimed at making the DRI process more business friendly for developers by providing exemptions from the DRI review and increasing the thresholds that trigger the DRI review for newly proposed developments.**

#### **GUNS IN THE WORKPLACE**

HB 129 by Representative Dennis Baxley (R-Ocala), the bill dealing with firearms in motor vehicles, was temporarily passed once again by the House Judiciary Committee on Tuesday, March 28<sup>th</sup>. Again, Chairman David Simmons (R-Altamonte Springs) stated that there is a compromise in the works, whether or not a compromise is achieved remains to be seen.

**AIF opposes legislation that prohibits businesses from enforcing or maintaining policies that ban guns in the workplace. Employers should be allowed to establish these types of policies and exert their rights as property owners. Maintaining a safe work environment is paramount for the longevity of any employer in Florida.**

## **ENERGY**

On Tuesday, March 29<sup>th</sup> the Senate Communications and Public Utilities Committee unanimously approved Florida's Energy Plan, SB 888 by Senator Lee Constantine (R-Altamonte Springs). The legislation creates a Florida Energy Commission and establishes membership and duties. It also provides grants to promote renewable energy technologies and rebates for certain appliances and solar installations. SB 888 also streamlines and shortens time frames for the siting of power plants, nuclear plants and transmission lines. Finally it creates the "Food to Fuel" program to provide grants to promote use of Florida grown and produced biomass to produce energy.

There were four amendments adopted. The first one increased the Florida Energy Commission's membership by adding the Secretary of Health and the Director of the Office of Insurance Regulations to the list of non-voting members. The second amendment requires the Public Service Commission to direct a study of the electric transmission grid and report the results to the Governor, President of the Senate and the Speaker of the House by March 1, 2007. The third amendment deletes a statement that the Public Service Commission may require installation or repair of distribution facilities if it determines that there is probable cause to believe that there are inadequacies in the energy grid. The last amendment requires the Department of Environmental Protection to report by November 1, 2006 on the state's leadership by example in energy conservation and efficiency with the report going to the Governor, President of the Senate and Speaker of the House.

**AIF applauds the legislature for addressing this critical issue through the use of incentives and the removal of regulatory barriers, rather than using new taxes and mandates.**

On Thursday, March 30<sup>th</sup> the House Economic Development, Trade & Banking Committee considered proposed committee bill HED 5 Relating to Oil and Gas Drilling. The original proposed bill prohibited the exploration for and production of oil, gas and other petroleum products in sovereignty submerged lands and waterways over which the State of Florida has control, now or in the future. This would apply the ban to the coastal areas three miles into the Atlantic Ocean and approximately nine miles into the Gulf of Mexico.

The original bill was not a problem. However, there was a "strike everything" amendment which expanded the ban to the Outer Continental Shelf (OCS). The OCS is a significant source of oil and gas for the nation's energy supply as it supplies more than 25% of the country's natural gas production and more than 30% of total domestic oil production. The amendment was adopted and the proposed committee bill was approved for introduction and assigned a bill number.

**AIF opposes the proposed legislation as it limits the ability for safe, environmentally sound off-shore exploration and production of oil, gas and other petroleum products vital to Florida's economy.**

## **JESSICA LUNSFORD ACT**

On Tuesday, March 28<sup>th</sup> the Senate Education Committee unanimously approved SB 2280 by Senator Nancy Argenziano (R-Crystal River). This bill makes changes to the Jessica Lunsford Act law that deals with background screening for contractors who are permitted on school property. For a complete list of the provisions and changes in the bill please refer to the March 28<sup>th</sup>.

The bill now goes to the Senate Governmental Oversight and Productivity Committee.

**AIF supports legislation to make the implementation of the Jessica Lunsford Act workable for those companies that have working relationships with school districts while upholding the integrity of the integrity of the original law to protect our children from sexual predators.**

## **TAXATION**

On Tuesday, March 28<sup>th</sup> the House Transportation Committee unanimously approved HB 989 Relating to Motor Fuel Taxes/Commercial Aviation by Representative Nancy Detert (R-Venice). The bill adds vehicles and equipment used exclusively for commercial aviation purposes that are not used on public streets and highways to the list of vehicles eligible for motor fuel tax refunds. The type of vehicles and equipment eligible for the refund would be "tugs" that deliver luggage, concessions, and other products to airplanes as well as trucks that never leave the airport property, generators, landscaping equipment used exclusively on airport property, and safety and rescue equipment.

**AIF supports incentives designed to help private companies doing business on airport property such as airlines and independent security providers.**

On Thursday, March 30<sup>th</sup> the House Economic Development, Trade & Banking Committee unanimously approved CS/HB 69 by Representative Matt Meadows (D-Lauderhill). This is the "Florida Manufacturing Global Competitiveness Act," which provides legislative findings and purpose which address the importance of a competitive manufacturing business climate in Florida. This legislation broadens an existing sales tax exemption for industrial machinery and equipment purchased for use in an expanding facility engaged in spaceport activities or for use in an expanding manufacturing facility. Currently, businesses pay the first \$50,000 in sales tax per calendar year on these types of purchases before the exemption applies. HB 69 will give a full, rather than a partial sales tax exemption for industrial machinery and equipment purchases when a business can demonstrate that the items will be used to increase productive output at the facility by at least 10%.

Also, HB 69 broadens an existing sales tax exemption for machinery and equipment purchased for use by new or expanding solid minerals, mining, or processing operations. In addition, it broadens an existing sales tax exemption for machinery and equipment purchased by an expanding business pursuant to federal procurement regulations by removing the requirement that a business pay the first \$100,000 in sales tax per calendar year on the type of purchases before the exemption applies.

HB 69 will now be heard by the House Fiscal Council.

**AIF supports eliminating the requirement that businesses pay the first \$50,000 in sales taxes per calendar year on manufacturing inputs. Eliminating this requirement would level the playing field for Florida manufacturers and would improve Florida's ability to compete for higher paying jobs, which would lead to an overall net increase in state revenues.**

Also on Thursday, March 30<sup>th</sup> the House Fiscal Council passed HB 47 Relating to Hurricane Preparedness/Sales Tax by Representative Ron Greenstein (D-Coconut Creek). This bill give a sales tax holiday on a specific list of items used to prepare for hurricanes such as batteries, flashlights, portable radios, coolers and generators. The sales tax holiday will take place the week leading up to the first day of hurricane season. An amendment was adopted to include "blue ice" as one of the items to be included in the sales tax holiday.

HB 47 has passed all its committees of reference and is now ready to be heard on the floor of the House.

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

The House Fiscal Council also unanimously passed HB 7105 Relating Taxation of Alcoholic Beverages by Representative Fred Brummer (R-Apopka). This bill would eliminate the surcharge on alcoholic beverages sold on a vendor's premises. Back in 1990, Florida enacted a law that taxed the retail sale of alcoholic beverages. A move to eliminate this "drink" tax has taken some time. The tax was reduced by one-third in 1999 and again by one-half in 2000.

HB 7105 would eliminate the remainder of the tax and reduce the burdensome record-keeping required of businesses that sell alcoholic beverages. A local Tallahassee restaurant owner testified in favor of the bill, citing his personal experiences with the difficulty of keeping track of this tax.

This proposal is part of the Governor Bush's budget recommendations for 2006. HB 7105 will now be considered on the floor of the House.

**AIF supports the final repeal of this tax to eliminate a cumbersome, expensive, and regressive burden on both Florida's hospitality establishments and Florida's consumers.**

## **AFFORDABLE HOUSING**

On Tuesday, March 28<sup>th</sup> the House Transportation Committee passed HB 1589 by Representative Chris Smith (D-Ft. Lauderdale). This bill creates a new specialty license plate called “Homeownership for All.” There is a fee of \$25 cost for the tag; this annual fee will be distributed to the Homeownership for All, Inc., a non profit organization that will use the funds for programs that will provide, promote or otherwise support affordable housing.

This concept came from the Florida Association of Realtors. As Representative Smith said in his statement to the committee, “This is just another tool in the tool box to help find creative ways for affordable housing.”

HB 1589 now goes to the House Transportation & Economic Development Appropriations Committee.

On Wednesday, March 29<sup>th</sup> the House Local Government Council unanimously passed HB 1363 Relating to Affordable Housing by Representative Mike Davis (R-Naples). The bill is designed to stimulate workforce and affordable housing in high cost areas of the state, particularly for essential service personnel. This includes teachers, nurses, firefighters, emergency medical personnel, construction trades and areas of critical state concern. Among many of the provisions in this piece of legislation, the bill creates the Community Workforce House Innovation Program (CWHIP) which encourages public-private partnerships and the use of joint resources to provide affordable rental and single-family housing opportunities, in high-cost counties, to persons with medium incomes.

In addition, the bill appropriates \$20 million from the State Housing Trust Fund to provide funds to teachers eligible for affordable housing pursuant and to assist in teacher retention and recruitment as a response to the states teacher shortage. It appropriates \$32 million from the Local Government Housing Trust Fund to assist in production of housing units for extremely low income persons.

There were no questions or debate due to the fact that all of the committee members present at today’s meeting were co-sponsors of the bill.

HB 1363 will now be heard by the House Fiscal Council.

**The issue of affordable or “workforce” housing is a priority for our state. AIF applauds the efforts of this bi-partisan approach to finding a solution. We look forward to working with all bill sponsors on finding common sense approaches to this complex issue.**

## **MANDATORY GENERATORS FOR GAS STATIONS**

On Tuesday, March 28<sup>th</sup> the Senate Committee on Commerce and Consumer Services approved SB 528 Relating to Emergency Management/Motor fuel. This bill combines SB 528 by Senator Steve Geller (D-Hallandale Beach), SB 530 by Senator Jeff Atwater (R-North Palm Beach) and SB 858 by Senator Alex Diaz del la Portilla (R-Miami). The would mandate a portable generator for every 5 gas stations owned by a company or operated by an individual and requires the installation of generator switches for all new and substantially renovated gas stations to address the shortage of gas after a hurricane or other type of emergency.

An important provision of this proposed legislation preempts local governments from enacting their own ordinances mandating generators. Having over 500 city and 67 county ordinances to deal with would be devastating and incredibly confusing for any business owner.

There was some reluctance by committee members to vote for the bill, but by doing so it allows the business community to continue to work on improving the bill's language and intent.

On Wednesday, March 29<sup>th</sup> the House Agriculture Committee unanimously approved HB 7121 Relating to Emergency Management/Motor Fuel by the House Domestic Security Committee. HB 7121 creates the Florida Disaster Supplier Program Council. The council consists of seven members and is composed of one county emergency management director from each of the seven Division of Emergency operational regions as designated by the Florida Emergency Preparedness Association. This council goal is to facilitate access to supplies during an emergency and inform state residents of the availability of crucial supplies before, during and after a disaster.

The bill also creates the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs. The program allows motor fuel retail outlets doing business in the state to participate in a network of emergency responders to provide fuel supplies and services to government, medical, critical infrastructure and other responders, as well as the general public in a disaster.

This legislation is a better plan for Florida than mandating generators at gas stations. Even though this bill requires gas stations to have switches for generators on new facilities; substantially renovated or within ½ mile of an evacuation route, there is a process to receive a tax credit for installation of those switches.

The bill now goes to the House Finance and Taxation Committee.

**AIF opposes government mandates that require gas station owners and operators to have generators at gas stations and believes that the free market place will find solutions to the problem of power outages resulting from hurricanes or other natural disasters.**

## **ETHICS AND ELECTIONS**

The Senate Ethics and Elections committee unanimously approved SB 720 by Senator Bill Posey (R-Rockledge) on Tuesday, March 28th. This bill seeks to regulate the gathering of petitions for proposed constitutional amendments. SB 720 picks up where SB 1244 by Senator JD Alexander (R-Lake Wales) left off. As you may recall, Senator Alexander's bill encountered heavy opposition because of some over reaching provisions that would establish strong criminal penalties for groups engaged in the gathering of petition signatures. According to Senator Posey, SB 720 focuses more on accountability than on criminal penalties to regulate the practice of petition gathering. Among some of the more important provisions in the bill it requires: paid petition gatherers to wear badges indicating that they are being paid, it extends the time period to turn in signatures to supervisors of elections from 10 to 35 days, allows property owners to prohibit or permit activity which supports or opposes a particular initiative and allows property owners to select which petition gathers are allowed on their property, and it establishes a process for citizens to rescind their signature if they chose to do so

One particular provision in the new bill which caused some concern was the ability for groups to challenge the validity of signatures gathered. If signatures are challenged in multiple counties then the parties would have to travel to Leon County to hear the suit. The American Cancer Society testified in opposition to the bill because of this very issue. In their opinion, this provision could lead to more litigation because individuals whose signature was being challenged would be dragged into court to defend themselves.

SB 720 will now be heard by the Senate Judiciary Committee.

**AIF applauds the efforts of Senator Posey to draft language which addresses the need for regulation in the petition gathering process, but does so without onerous provisions and criminal penalties.**

## **INSURANCE**

It's looking more and more like Florida's controversial no-fault auto insurance law will be getting an extended lease on life, with some modest reforms. Both the House and Senate Leadership have made the decision to focus on property insurance and to quell the major auto no-fault insurance fight this year by extending the repeal date of the no-fault provisions.

The Senate Banking and Insurance Chairman, Senator Rudy Garcia, and staff have been busy drafting a proposed committee bill addressing property insurance which will be released to the public early next week and will be considered by the full Committee on Wednesday. From an outline of potential provisions and from discussions with the Chairman and staff, we anticipate that the bill will include the following issues of priority interest to the industry:



- limit Citizens' eligibility of homes within the High-Risk Account (HRA) to those with insured value of \$1 million or less. (Differs from the House proposal in that current policy holders will be allowed to remain in Citizens for two years. Allows for open rates for homes excluded from eligibility.)
- Require insurers writing the non-wind coverage for HRA policies to adjust wind claims for Citizens
- Amendment of or repeal of current law which requires Citizens to shrink HRA boundaries, which will effectively reduce its wind exposure to 25% below its exposure in 2002
- Leave the basic catastrophic fund (CAT Fund) operation unchanged, but offer for one year separate reinsurance at lower levels on an optional basis through the CAT Fund

**AIF opposes a command-and-control approach to insurance regulation. Attempts to artificially strangle price increases only hastens the demise of a health market. Fortunately, many legislators appear ready to abandon government control in favor of a market-based effort to revitalize the private property insurance market.**

On Tuesday, March 28<sup>th</sup> the Senate Banking and Insurance Committee approved a bill extending the repeal date of Florida's No-Fault law to January 1, 2009, eliminating contingency risk multiplier as applied to attorney fee awards in no-fault cases, and providing several anti-fraud tools.

The House Insurance Committee has also approved its no-fault bill, which

- amends the insurance civil remedy law to require that a bad faith action brought against a motor vehicle insurer under common law to comply with the current 60-day notice requirement required of such actions brought under the statutory civil remedy law;
- requires additional benefit up to \$10,000 for emergency services and care provided in hospitals. The additional benefit may only be used for such emergency situations and care as are rendered within 48 hours of the motor vehicle accident
- requires motorcycle owners who are between the ages of 16-21 to have property damage coverage and medical payment coverage of \$10,000
- includes anti-fraud provisions
- extends the repeal of the no-fault law from 2007 to 2012

It will be interesting to see which work product will ultimately see the light of day or if a compromise will be struck by the parties involved.

- 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.