

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
INTERIM BRIEF**



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WEEKLY INTERIM LEGISLATIVE BRIEF FOR THE WEEK OF FEBRUARY 20 - 24, 2006

LEGAL REFORM

On Wednesday, February 22nd the House Justice Council passed HB 145 by Representative Don Brown (R-DeFuniak Springs) which repeals the doctrine of joint and several liability. This is the number one priority for the 2006 Legislative Session for AIF and the entire business community.

In his opening remarks, Representative Brown stated that this is "a simple and straightforward bill" which simply provides a sense of fairness to the legal system for torts. He noted that the committee staff had accurately remarked in the bill's staff analysis that "This would complete a trend begun by the Legislature in 1986 and continued in further reforms in 1999." Representative Brown commented that it is now time for the "last remaining vestiges of the unfair doctrine of joint and several to be repealed."

Representative Brown's eloquently provided the Council members with a history of the comparative negligence system and provided them with several references where the courts have commented that the doctrine of joint and several liability is inherently unfair and that it is the legislature's responsibility to set the policy on this issue.

No amendments were filed to this bill. Due to time constraints there was not an enormous amount of public testimony on this issue. However, over 30 businesses and business organizations submitted cards to Chairman Bruce Kyle (R-Ft. Myers) indicating their strong support of this bill. In deference to the Chairman, all business lobbyists waved their time in support of the bill. Attorney George Meros did testify to address some of the concerns expressed by the Democratic members of the committee. During debate, Vice Chairman Carl Domino (R-Palm Beach Gardens) voiced his approval of this legislation and pointed out that any requirement of paying more than one's fair share of responsibility was the best policy for the state to embrace. Representatives John Quinones (R-Kissimmee) and Mark Mahon (R-Jacksonville) both expressed some concerns over the issue of Fabre and how unnamed parties would be affected by the passage of this legislation. Representative Brown addressed their concerns by saying previous precedent makes it clear that it is the obligation of the defendant to lay out the elements of the case and it is the obligation of the defense to make those unnamed parties known. Representative Greg Evers (R-Milton) commended the sponsor for bringing this "good business bill" forward, but inquired as to whether the repeal of Joint & Several liability would do anything to lower insurance rates. Representative Brown responded by saying that this legislation was about correcting the fundamental unfairness of the legal system in Florida and not about insurance rates.

The House Justice Council approved this bill by an 8-2 vote. The Representatives voting in favor of the bill were Chairman Kyle, Vice Chairman Domino, Representative Greg Evers (R-Milton), Representative Dick Kravitz (R-Orange Park), Representative Marcello Llorente (R-Miami), Representative Mark Mahon (R-Jacksonville), Representative John Quinones (R-Kissimmee) and Representative David Simmons (R-Altamonte Springs). The two dissenting votes were from Representative Arthenia Joyner (D-Tampa) and Representative Irv Slosberg (D-Boca Raton).

AIF commends Chairman Kyle for his leadership in hearing and helping to pass this bill out of the Council today and salutes Representative Brown for continuing to lead the charge on this important legislation. We encourage you to contact all the Council members who voted for the bill to thank them for their support of HB 145. Encourage them to continue supporting this legislation without additional amendments when it comes to the full House for a vote. The bill has no additional committees of reference and will next be heard on the floor of the House, probably within the first two weeks of session.

GUNS IN THE WORKPLACE

On Wednesday, February 22nd the House Judiciary Committee considered HB 129 relating to Firearms in Vehicles by Representative Dennis Baxley (R-Ocala). This proposed legislation would prohibit a business from establishing, maintaining or enforcing a policy or rule that would not allow an employee or “invitee” to possess a firearm that is locked in or locked to a motor vehicle that is on parked in the employers’ parking lot. Currently, Oklahoma and Alaska have passed laws prohibiting companies and persons from banning lawfully possessed firearms in a locked vehicle in a parking lot. The National Rifle Association is also pushing the same legislation in Alabama, Georgia, Indiana, Kentucky, Mississippi and Virginia claiming that this legislation is supporting a person’s Constitutional right to bear arms.

The original bill has felony penalties for business owners who had policies prohibiting the firearms locked in motor vehicles. It also gave immunity from civil liability for damages to the business owner if an incident with a firearm took place on their property.

Chairman David Simmons (R-Altamonte Springs) and Representative Baxley offered a strike-all amendment that narrowed the scope of the bill and removed the criminal penalty. The fine is \$10,000 per violation. Even though the amendment still had the provision that would not allow an employer to have a policy banning a firearm from the employees’ locked motor vehicle, they could have the option of either:

- Checking the firearm with the employer or landlord
- Have a separate parking area set aside for those with firearms
- Notify the employer or landlord that they have a firearm in their vehicle

The amendment also had exceptions from the proposed law such as:

- companies engaged in activities involving national defense, aerospace, or domestic security
- property where hazardous types of materials are manufacturer, used, stored, sold or transported
- a motor vehicle that is owned, leased, or rented by an employer
- any other property where an employee or invitee is prohibited from having a firearm pursuant to any federal law or any existing state general law on the effective date of the bill

The sponsors of the amendment thought they were putting forth compromise language but the business community still took a stand against the legislation claiming that private property rights were just as important as the right to bear arms. After the committee members spent 2 hours discussing and debating the amendment, Representative Baxley asked for the amendment to be temporarily postponed, which means that the bill will be reconsidered by the committee at a later meeting. The committee also voted to temporarily postpone the actual bill.

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.

ENVIRONMENT

On Wednesday, February 22nd the House Environmental Regulations Committee unanimously voted in favor of HB 261 by Representative Dwight Stansel (D–Live Oak) The Florida Incentive Based Permitting Act. This legislation would provide the Department of Environmental Protection (DEP) with the authority to consider the compliance history of a permit applicant who has applied for an incentive-based permit which includes longer permit duration, expedited permit reviews, short-form permit renewals, and other incentives to reward and encourage continued compliance with state environmental regulations. The Florida Incentive Based Permitting Act could provide an opportunity for cost savings associated with obtaining and renewing a permit.

HB 261 will now be heard by the House Agriculture Committee.

AIF supports HB 261 by Representative Stansel as it will help businesses who are good stewards of Florida's natural resources spend less time in the permitting process which can be timely and costly.

CONSTITUTIONAL AMENDMENT REFORM

The House of Representative Elections & Ethics Committee met on February 22, 2006 to consider House Bill 773 by Representative Dudley Goodlette (R-Naples). According to the sponsor, the bill has two main goals: (1) return to the original purpose of the citizen's initiative process as outlined by the Florida Constitution and (2) restore voter confidence. Representative Goodlette believes that special interests groups, particularly those groups from out of state have contributed to fraud.

Representative Susan Bucher (D-West Palm Beach) asked how the bill complies with legislation passed in 2005 to comply with the requirements of the federal Help America Vote Act (HAVA). Representative Goodlette believes that the bill past last year was primarily state level implementation of federal legislation. Representative Bucher also expressed concern that HB 773 violates the single subject rule, as the bill also address vote registration requirements.

Representative Goodlette engaged in a lengthy exchange with Representative Tim Ryan (D-Dania Beach) regarding the bill's prohibition on allowing teenagers to collect signatures and the right of property owners to exclude petition signature gatherers.

Representative Anne Gannon (D-Delray Beach) asked Representative Goodlette to provide information regarding the wide-spread fraud that the bill is designed to address. Representative Gannon stated that her staff contacted FDLE and did not receive any information regarding wide-spread arrests.

Paul Hull, from the American Cancer Society spoke in opposition of the bill. Mr. Hull believes that is hard enough to get on the ballot and groups often have to hire paid signature gatherers in order to get their measures on the ballot due to the number of signatures required. Mr. Hull also believes that the bill discourages teens from engaging in the political process.

Several business groups waived their time in support of the bill.

No amendments to the bill were offered and the bill narrowly passed with a 5-4 vote, with Representatives Bucher, Gannon, Joyner and Ryan voting against the bill. HB 773 will now be heard by the House Transportation & Economic Development Appropriations Committee.

The petition gathering process must be regulated in order to ensure that special interests do not break the law to get proposed citizen initiatives on the ballot. AIF supports most provisions in this bill, but is carefully monitoring the progress of this legislation in order to ensure that the process is fair and open for all groups.

OTHER BILLS OF INTEREST:

Personal Identity Protection

On Tuesday, February 21st the House Economic Development Committee unanimously passed HB 667 relating to Credit Counseling Services by Representative Adam Hasner (R-Delray Beach). Credit counseling services generally advertise a service intended to assist people in managing their personal debt. Credit counseling services may attempt to help an individual avoid foreclosure and bankruptcy, reduce interest rates, and lower or consolidate monthly payments. The bill clarifies provisions passed two years ago and provides a definition of "creditor contribution" and "debt management services." The bill also clarifies that fee caps do not apply to non Florida residents. The bill allows a debt management service or credit counseling to charge a reasonable and separate fee for insufficient funds transactions.

HB 667 will now be heard by the House Business Regulation Committee.

COMMITTEE PRESENTATIONS:

Growth Management

On Tuesday, February 21st the House Growth Management Committee received a status report from the Florida Impact Fee Review Task Force on their recommendations to the Legislature and from the Department of Community Affairs on the implementation of the growth management legislation passed in 2005.

The Florida Impact Fee Review Task Force surveyed and reviewed the current use of impact fees as a method of financing local infrastructure to accommodate new growth and current case law controlling the use of impact fees. The Task Force submitted its report to the Governor, President of the Senate and Speaker of the House of Representatives on February 1, 2006. In its findings, the Task Force recognized that the use and amount of impact fees in Florida has risen dramatically in the past decade as a result of Florida's rapid population growth, the rising cost of land and building infrastructure, and the decreasing state and federal revenues for local infrastructure. The Task Force concluded that local governments do not have adequate revenue generating resources to keep up with the infrastructure demands in Florida.

The Task Force recommended that local governments be required to: use the most recent and localized data when determining the amount of impact fees; include a significant affordable housing provision; account and report impact fee collections and expenditures; provide a time period of not less than 90 days between an impact fee adoption and its effective date; and limit administrative charges levied by local governments for impact fee collections to no more than actual costs. Additionally, the Task Force recommended that the Legislature authorize the passage of a Local Option Sales Tax, increase the bonding capacity of County Revenue Sharing Dollars, find an alternative funding source to augment the PECO fund, fully fund the Sadowski program and dedicate the funds for affordable housing units, and authorize all local governments to assess a Documentary Stamp Surtax.

Private Property Rights and Eminent Domain

On Tuesday, February 21, 2006 the Select Committee to Protect Private Property Rights met to consider draft bill language. The first hour of the meeting was spent debating the merits of the criteria for takings contained in General Bill Working Draft B. Chairman Marco Rubio (R-Miami) decided to break the stalemate by asking the members to vote on whether they believed that the Committee could come up with language for takings criteria. The Committee voted 9-5 for drafting such language, with Representatives Dean Cannon (R-Winter Park), Greg Evers (R-Milton), Antiere Flores (R-Miami), Ralph Poppell (R-Titusville) and Dwight Stansel (D-Live Oak) against the measure.

Representatives Jeff Kottkamp (R-Cape Coral), Trey Traviesa (R-Brandon) and Bill Galvano (R-Bradenton) recommended the Committee remove entirely from the bill, the factors by which private property is condemnation eligible. Representative Galvano explained that the factors were unnecessary in light of the fact that the legislation requires a court, under de novo review, to determine by clear and convincing evidence that property has been taken to eliminate an existing threat to public health and safety, the property is condemnation eligible, and reasonably necessary to accomplish a public purpose. The Florida League of Cities and the Florida Association of Counties expressed support for this measure.

The Committee will meet the first week of session to consider a bill and the House Joint Resolution for a Constitutional amendment which mirrors the bill. Chairman Rubio told members to expect him to make a motion to the first day of session for permission for the Committee to draft a bill. The Committee will take public testimony at its next meeting regarding the bill.

Workforce Development

On Tuesday, February 21st the House PreK-12 Education/Community Colleges & Workforce Committees met for a joint meeting on the role of career and technical education in secondary reform. This was a panel discussion along with the committee members.

The general consensus among the panelists was that the number of high school graduates in the state of Florida needs to increase. All of the panelists agree that reform is necessary. Reform needs to involve making students ready to go to work. Students need to understand what career options they have after they graduate. Representative Ron Greenstein (D-Coconut Creek) thought it would be a good idea to consider having a member of the local school board present when a business/corporation is attracted to an area so that teachers can be aware of what employment opportunities exist and what they should be properly training their students for.

The panelists discussed the importance of teachers developing relationships with industry people and of bringing industry into education. An important point of how difficult it is to find qualified teachers for technical development courses was made. Teaching positions from professionals are hard to fill because of the pay.....out in the “real world” an auto mechanic or a construction worker are making much more financially than they would as an educator.

One of the panelists present was Don Gaetz, Superintendent *Okaloosa School District*, who is running for the 2006 Senate seat currently held by Senator Charlie Clary (R-Destin). Superintendent Gaetz spoke of his support of the Governor’s A++ Plan. He believes that the way to increase high school graduation and student improvement is to provide an education that interests students and that is through career education. Superintendent Gaetz is also a proponent of requiring more rigorous academics to increase student performance and of ending social promotions.

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