

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
DAILY BRIEF**



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MARCH 14, 2007

AIF and the business community suffered a slight setback with the passage of HB 733 in the House Constitutional and Civil Law Committee today. This bad bill undermines the repeal of Joint and Several liability and jeopardizes the ability of individuals and businesses to only pay their fair share of damages in a lawsuit. This was only the first stop for HB 733; AIF will continue its efforts to kill this bill.

On a more positive note, HB 1167, which creates a pilot program for Business Courts, was passed by the House Courts Committee. The idea of expanding Business Courts throughout Florida is one of AIF's top priorities for the 2007 session. These specialized courts provide standardized procedures and consistency in rulings for complex business litigation. In addition, they expedite resolution by allowing judges to become familiar with the issues raised in business litigation.

In today's Daily Brief we also cover the concept of "just valuation" as it relates to property tax reform, sales tax exemptions for agriculture, and identity theft.

Legal Reform

In 2006, Florida's business community reaped the rewards of over 30 years of legislative battles, in successfully and completely abolishing the doctrine of Joint and Several liability from Florida's comparative fault system, which governs all negligence cases. Unfortunately, that victory is already being threatened by the trial bar and today, some House members voted favorably for legislation that would effectively place the judiciary back in a posture of unfairness, similar to what existed before last year's victory.

The House Constitutional and Civil Law Committee, led by Chairman Marcello Llorente (R-Miami), passed HB 733 by Representative Mitch Needleman (R-Melbourne) on a 5-3 vote. HB 733 would prohibit defendants to a lawsuit from allocating any portion of liability or fault to any person or entity who is not a formal defendant to the lawsuit, whether or not the other entity actually caused the harm involved in the case. Current law was originally developed in 1993 by the Florida Supreme Court and was codified by the Florida Legislature in 1999. Last year's legislation to abolish joint and several liability only complimented that established course of jurisprudence.

If HB 733 were to become law, it would completely alter the way individuals and businesses, particularly those who are not fully responsible for harm but have perceived deep pockets, defend themselves in negligence cases. If current law is changed, defendants rather than plaintiffs would now bear the burden of proving that they were not responsible or only partially responsible. Current law places the burden on the plaintiff to prove their cases to the jury. This bill, however, places an onerous and unfair burden on businesses. The business community does not support any changes to current law. The business community is united in its opposition to this bill and to any amendments that are offered as its compromise. Current law does not need to be changed and this bill should be opposed.

There were 3 members of the committee who stood out as heroes for AIF and the business community. They are Vice Chair Representative Dorothy Hukill (R-Daytona Beach Shores), Representative Dave Mealor (R-Lake Mary) and Representative Anitere Flores (R-Miami). In explaining her vote against the bill, Vice Chair Hukill succinctly articulated the business community's position and pointed out to the committee members the significance and seriousness of this vote. She commented that she “had not been presented with any proof or data that would support the need for changing current law.” Representative Flores also passionately urged her fellow committee members to not pass this bill, and stated that it should be defeated because there were still “many unanswered questions” and that “there was no telling what the effect of doing away with the Fabre doctrine would be.” Representative Mealor added that the harm this bill would do to the judicial system and to Florida's employers was far greater than any political gain that any legislator should be willing to risk on such an important issue.

The representatives who voted in favor of HB 733 today made a clear choice to side with the trial lawyers and against Florida's businesses. AIF salutes Representatives Hukill, Flores and Mealor for their NO vote on HB 733. Please contact these legislators and let them know how much you appreciate their courage and commitment to preserving and protecting fairness in Florida's judicial system for all individuals and businesses.

Nay Vote (A Vote for the Business Community)		Yea Vote (A Vote Against the Business Community)	
	Representative Anitere Flores (R-Miami)		Chairman Marcello Llorente (R-Miami)
	Representative Dorothy Hukill (R-Daytona Beach Shores)		Representative Maria Sachs (D-Delray Beach)
	Representative Dave Mealor (R-Lake Mary)		Representative Elaine Schwartz (D-Hollywood)
			Representative Jack Seiler (D-Pompano Beach)
			Representative David Simmons (R-Altamonte Springs)

Today's meeting was only the first committee of reference for this bill. So the fight will continue and AIF will continue to lead the charge to protect our current law. Please contact the members of the House Safety and Security Council, the bill's next stop, and urge those legislators to oppose this bill.

The members of the Safety and Security Council are:

- Representative Charles Dean (R)

- Representative Dennis Ross (R)
- Representative Sandy Adams (R)
- Representative Jim Frishe (R)
- Representative Luis Garcia (D)
- Representative Dorothy Hukill (R)
- Representative Marcelo Llorente (R)
- Representative Mark Mahon (R)
- Representative Mitch Needelman (R)
- Representative Frank Peterman (D)
- Representative Yolly Roberson (D)
- Representative Maria Sachs (D)
- Representative William Snyder (R)
- Representative Nick Thompson (R)
- Representative Perry Thurston (D)

AIF opposes HB 733 and its undoing of the “Fabre” decision. Fair distribution of fault cannot be achieved if a jury cannot consider the actions of all parties involved. We urge all AIF members to contact the Committee and express their opposition to this bill.

Property Tax Reform

The Senate Committee on Community Affairs held a workshop on three bills relating to property taxes, more specifically how property should be valued. According to Chairman Rudy Garcia (R-Miami), SB 722 by Senator Jeff Atwater (R-North Palm Beach); SB 508 by Senator Mike Fasano (R-New Port Richey) and SB 786 by Senator Garcia will be combined into one bill to address “just valuation.” As the Senators traveled around the state holding a series of hearings on property tax reform earlier this year, the one common concern expressed by the public was that property appraisers were using “highest and best use” when appraising property and therefore, their property taxes escalated at a very rapid pace. An example of “highest and best use” would be appraising a small duplex located on waterfront property as though it was a high rise condo. This practice results in extremely high property tax bills for individuals and business owners that may have no intention of turning their property into a high rise apartment of large commercial storefront.

Some of the issues addressed by this “just valuation” legislation are:

- Removing the constitutional requirement that an appraiser use “highest and best” use when arriving at just valuation.
- Requiring property appraisers to appraise income-producing properties based solely on the income generated from that property – this would help low-income housing rentals and small businesses owners.

During public testimony one of the property appraiser representatives was quick to comment that when people came in to their office to complain about their property tax, they did not complain about high appraisal on their property. It was the amount of tax they had to pay that was their problem and they could not have it both ways.

So far we have not heard about any proposed language that would mirror the House's proposal to eliminate the homestead exemption and replace the lost revenue with a 2.5% sales tax increase. It is expected that the just valuation legislation will be back in the Senate Committee on Community Affairs next week.

The House State Affairs Committee considered a very similar proposal, HB 261 Relating to Just Valuation/Factors to Consider by Representative Carlos Lopez-Cantera (R-Miami). HB 261 sets out to accomplish many of the same goals as the Senate proposals arriving at a "just valuation." During his presentation Representative Lopez-Cantera shared some startling figures. In 2000, the amount of gross property value in the state of Florida hit \$1 trillion dollars for the first time. This figure was calculated going back to 1893 when data on this figure was first recorded. In 2006, that figure was calculated at \$2.5 trillion. In only six years the amount of gross property value more than doubled. This is evidence of the astronomical increase Florida has seen in property value. According to Representative Lopez-Cantera these increases are a result of how property is assessed in Florida.

HB 261 also addresses the membership composition of Value Adjustment Boards. Under previous law, local government officials had the power to appoint elected officials or other government employees to these boards. HB 261 would require that average citizens be appointed to these boards as well in order to provide balance to the proceedings.

For the business community a change in the way property is assessed would provide much needed relief from high taxes. Redefining what constitutes "highest and best" use and appraising property based on the income it generates would significantly reduce the value of assessed property.

AIF supports the concept of appraising property based on its "current" use and not its "highest and best" use. Furthermore, if a property generates income it should be assessed based on the amount of income it generates at the present time.

Taxation

The Senate Agriculture Committee approved SB 1416 Relating to Agricultural Sales Tax Exemptions by Senator Jeff Atwater (R-North Palm Beach). The bill establishes a sales tax exemption for electricity that is being used directly or indirectly for production or processing of agricultural products on Florida's farms. Florida's farmers are looking at approximately \$1.7 million dollars in savings from this proposal.

The bill was presented by Senator Atwater's legislative aide Kim Jaeger. In her presentation, Ms. Jaeger recognized that in 2006 the legislature passed an exemption for electricity being used directly for production or processing. The intent behind this year's measure is to clarify the intent of the 2006 legislation to include indirect usage too. There were no comments from the committee. SB 1416 passed unanimously on a 6-0 vote.

The bill will now be heard by the Senate Finance and Tax Committee.

The Committee also unanimously passed SB 1968 by Senator Atwater. SB 1968 establishes a sales tax exemption for low volume irrigation and micro-irrigation systems as well as components of these systems. SB 1968's House companion, HB 245 by Representative Baxter Troutman (R-Winter Haven), has already passed its first committee of reference.

In her presentation Ms. Jaeger stated that the purpose of this bill was to provide an exemption for low volume irrigation systems and its components to encourage farmers to utilize the systems and to assist those that already do. This bill is intended to encourage water conservation. There were no comments from the committee.

The bill will now be heard by the Senate Finance and Tax Committee.

AIF supports legislation that establishes sales tax exemptions that benefit our state's farmers. Agriculture is one of Florida's largest industries employing more than 388,000 people and producing an excess of \$50 billion dollars in total sales.

Legal & Judicial

Today the House Courts Committee unanimously passed HB 1167 by Representative David Simmons (R-Altamonte Springs). The bill sponsor intends to establish legislatively-funded business court divisions in the Ninth, Eleventh and Thirteenth Judicial Circuits of Florida. These court divisions have already been established by administrative orders by the chief judge of each circuit. The business courts will be authorized to decide complex business cases on a judicially enforced docketing schedule.

AIF has worked with Representative Simmons and the state's circuit judges to draft and refine this legislation. This bill is important to the business community because it will provide more predictable and quicker resolution of complex business cases, ultimately lowering the cost of doing business in Florida.

HB 1167 will now be heard by the House Policy and Budget Council.

AIF strongly encourages the Florida Legislature to adopt and fund the Ninth, Eleventh and Thirteenth Circuits' business courts as a pilot program to begin establishing a uniform business court system throughout the metropolitan areas of the state. Florida employers will benefit greatly from these specialized courts. Their cases will settle quicker and costly litigation will be avoided.

Healthcare

The Senate Health Policy Committee passed SB 274 Relating to Cystic Fibrosis Treatment by Senator Gwen Margolis (D-Miami Beach). The bill requires group health insurance policies and group health maintenance organization (HMO) contracts to provide coverage for all medically necessary chest physiotherapy provided by a licensed respiratory therapist. In addition, any medical supplies/equipment or home health care would be covered under this bill. According to

the staff analysis on this bill, requiring health insurance policies and HMOs to provide this additional coverage would result in a 1.1 percent increase in health insurance premiums.

SB 274 will now be heard by the Senate Health and Human Services Appropriations Committee.

SB 366 Relating to Infant Eye Care by Senator Frederica Wilson (R-Miami Gardens) was also passed by the Senate Health Policy Committee. This bill requires a certain type of eye examination for all infants born in Florida hospitals. SB 366 also requires health insurance policies and health maintenance contracts to provide coverage for an eye examination performed using an ophthalmoscope and dilation of the pupils at birth, at 6 to 8 weeks of age, and at 6 to 9 months of age to detect pediatric congenital and ocular abnormalities and developmental abnormalities.

The bill requires follow-up visits that may not be medically necessary and may also increase health insurance costs. These costs would ultimately be passed on to consumers in the forms of higher premiums.

SB 366 will now be heard by the Senate Banking and Insurance Committee.

AIF consistently opposes additional mandated coverages because the resultant cost increases could force some insurers out of the market and price health care insurance out of the reach of many employers and businesses.

Identity Theft

The House Homeland Security & Public Safety Committee held a workshop on HB 1117 Relating to Personal Identification Information by Representative John Legg (R-Port Richey). The bill amends current law dealing with identity theft by enhancing the penalties for those individuals who willfully and without authorization fraudulently use personal identification information concerning an individual who is 65 years of age or older. In addition, the bill provides that any person who willfully possesses “sensitive personal information” concerning an individual without first obtaining that individual’s consent commits a third degree felony. The term “sensitive personal information” is defined to mean any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual including bank account numbers, credit or debit card numbers, etc.

Although the issue of identity theft is a serious one, members of the business community have some concerns with the bill’s second section that deals with entities that possess personal information. Most of the financial institutions in our state depend on the sharing of personal information in order to cross reference loan and credit applications, verify the identity of customers, and even prevent fraud. In addition, most financial institutions and retailers currently provide their customers with the opportunity to “opt out” and therefore prevent these entities from sharing their personal information.

Nick Iarossi testified on behalf of several business groups and AIF and informed the committee that the business community would be working with the bill's sponsor to find some compromise.

One suggestion presented by Mr. Iarossi was that the sponsor consider adding the term “fraudulently” in order to distinguish between an entity that uses this personal information legally and those who possess this information for illegal purposes. In addition, Mr. Iarossi pointed out that the Legislature had passed legislation last year, which allows citizens to place a credit freeze on their accounts if they suspected they were victims of identity theft. This ability to freeze your credit is one of the strongest ways to counteract identity theft.

HB 1117 was temporarily passed and Chairwoman Sandy Adams (R-Oviedo) urged all interested parties to work with the sponsor to come up with a consensus product.

AIF is unable to support HB 1117 as it is currently written. We look forward to working with Representative Legg to develop language that appropriately addresses the issue of identity theft, but that also ensures that business and financial institutions can continue to provide the same level of service Floridians are accustomed to.

Information Technology

The Senate Governmental Operations Committee considered SB 1976 Relating to Competitive Solicitation of Contracts by the Senate Governmental Operations Committee. This bill is of some importance to AIF’s IT Council since it relates to the way government enters into contracts with vendors. IT companies depend on a stable and predictable contracting environment for the success of their businesses. The bill provides that an agency must procure a contract by competitive solicitation if the contract authorizes a contractor to use government authority to provide a service.

The bill passed unanimously without any questions and will be heard next by the Senate General Government Appropriations Committee.

AIF and its IT Council will be closely monitoring SB 1976. A competitive bidding process that is fair and predictable is good for competition and good for the tax payers of Florida.

Energy

The Senate Agriculture Committee unanimously approved SB 1860 Relating to Renewable Energy/Agriculture by Senator Mike Bennett (R-Bradenton). SB 1860 is a Senate Resolution that seeks the support from the Senate for the "25 by 25" initiative and encourages the production of renewable energy and fuels by farmers and ranchers to help meet future energy needs. The “25 by ’25” initiative seeks to have 25% of the United States’ energy demand met by energy created by the agricultural sector by the year 2025. The steering committee for "25 by 25" seeks \$13 billion a year for the next 5 years to be funded by the federal government into programs involved in developing practical solutions for bringing renewable energy into the market.

Senator Lisa Carlton (R-Osprey) presented the bill for Senator Bennett. In her presentation she stated it was a good resolution for the Senate to consider and she asked for the committees support. There were no comments from the committee.

The Senate Agriculture Committee was this bill's only committee of reference.

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.