



DAILY BRIEF

From March 18, 2010

Tort reform was the order of the day on Thursday as both chambers saw action on bills that would restore fairness to Florida's legal climate. In the House, two AIF priority bills were passed – HB 437 by Representative Eric Eisnaugle (R-Orlando) which enacts caps on the amount of fees outside attorneys can charge the office of the Attorney General and HB 689 Relating to Negligence on slip and fall claims by Representative Gary Aubuchon (R-Cape Coral). Having passed the House, the bills are now ready to be taken up by the Senate. The Senate Judiciary Committee also passed their versions of similar tort reform legislation including SB 1224 by Senator Andy Gardiner (R-Orlando) which is the Senate's version of the "slip and fall" legislation.

Also of note today, the Senate adopted a resolution celebrating AIF's 90th Anniversary. The resolution, SB 2218 by Senator John Thrasher (R-Jacksonville) was read on the floor of the Senate. AIF was founded in 1920 as the Duval County Employers Association.

Legal/Judicial

Today, by a vote of 110-2, the Florida House of Representatives overwhelmingly passed HB 689 Relating to Negligence by Representative Gary Aubuchon (R-Cape Coral) that addresses litigation procedures in slip and fall cases resulting from injuries at a Florida business establishment. The bill requires the plaintiff to prove that the employer had constructive knowledge of any alleged condition on its premises that caused the injury. Representative Aubuchon explained how important this bill is to Florida businesses since our litigation costs over these types of cases have been over 60% greater than those borne by businesses in our neighboring (and competitive) states within the past decade. The two House members voting against the bill were Representatives Adam Fetterman (D-Pt. St. Lucie) and Mark Pafford (D-West Palm Beach).

The Senate version of this important legislation, SB 1224, was also passed favorably by the Senate Judiciary Committee today by a vote of 5-4. After being amended in Committee today, SB 1224 by Senator Andy Gardiner (R-Orlando) is identical to the measure passed by the Florida House. The debate in the Senate committee was similar to that heard in committees in the House, centered on imposing additional duties of record keeping on Florida businesses. As a lawyer who has prosecuted and defended these types of cases in Florida courts, Chairman Joe Negron (R-Palm City) commented that this measure was needed to restore balance and fairness to the state's litigation system. Furthermore, he warned that the recordkeeping concerns may need to be addressed in future years if this law is interpreted by the courts in a manner other than intended. The four senators who voted against the bill today were Senators Durrell Peaden (R-Crestview), Dan Gelber (D-Miami Beach), Jeremy Ring (D-Margate) and Arthenia Joyner (D-Tampa).

SB 1224 is slated to be heard by the Senate Policy and Steering Committee on Ways and Means prior to being heard on the Senate floor.

AIF SUPPORTS legislation which protects business owners from costly and frivolous litigation. As such, AIF commends Senator Gardiner for bringing this important bill before the Florida Senate.

Along with HB 689, House members passed yet another bill that creates legal reform in Florida by a vote of 71-40. HB 437 Relating to Contingency Fee Agreements Between the Department of Legal Affairs and Private Attorneys by Representative Eric Eisnaugle (R-Orlando) limits the amount of a contingency attorney fee that can be paid when the Florida Attorney General hires outside counsel. The bill sets this cap at \$50 million plus costs and filing fees. Nicknamed TPAC, otherwise known as Transparency in Private Attorney Contracting, this legislation will ensure tax dollars are wisely spent and not wasted on costly attorney's fees.

An identical bill has been filed in the Senate, SB 712 by Senator John Thrasher (R-Jacksonville), and is waiting to be heard in the Senate Policy and Steering Committee on Ways and Means.

HB 437 will be referred to the Senate to be heard by its members.

AIF SUPPORTS efforts to add transparency and accountability to the hiring of outside counsel by the Attorney General's office. AIF salutes Representative Eisnaugle for his efforts in reforming private attorney contracts with the state.

The Senate Judiciary committee also unanimously passed SB 2440 Relating to Liability Releases by Senator Mike Bennett (R-Bradenton). SB 2440, also known as the "kid waiver" bill, attempts to address a recent court decision in the case of *Kirton vs. Fields*, which held that parents do not have the right to release a recreation provider from liability for injury on behalf of a child. SB 2440 would allow parents to waive inherent risk but not gross negligence. While not as strong of a fix as the House version, HB 285 by Representative Mike Horner (R-Kissimmee), it does at least provide business owners with some protection from lawsuits.

SB 2440 will now be considered by the Senate Ways and Means Committee before heading to the floor.

AIF SUPPORTS the right of parents to waive liability on behalf of their minor. Without liability protection from a waiver, many businesses, particularly in the recreation and sports industries, will not allow minors to participate. Since many of these businesses cater to families, tourism, or directly to minors, this could impact their ability to stay in business.

Affordable Housing

Today, the House Full Appropriations Council on Education & Economic Development unanimously approved CS/HB 665 Relating to Affordable Housing by Representative Gary Aubuchon (R-Cape Coral). This legislation includes a segment to remove the cap on the Housing Trust fund, also known as the Sadowski Trust Fund. A portion of documentary stamp taxes are placed in this fund to be used for affordable housing activities. Currently, there is a statutory cap on how much of the trust fund can be allocated toward affordable housing. HB 665 allows the cap to be lifted and all monies collected within the Sadowski Trust Fund can be used to fund affordable housing.

Many members of the Sadowski Affordable Housing Coalition, including Associated Industries, were in attendance to support the bill.

HB 665 will now move to its last committee of reference, the House Economic Development & Community Affairs Policy Council, before being considered on the House floor

AIF SUPPORTS legislation that repeals the Housing Trust Fund cap and appropriates all doc stamp revenue toward affordable housing. AIF has worked closely with the Sadowski Coalition in effort to allocate these funds for which they were originally intended.

Business Regulation

Today, the House Full Appropriations Council on Education & Economic Development met and considered HB 1299 Relating to Streamlining the Issuance of Licenses, Certifications, and Registrations Issued by State Agencies by Representative Mike Horner (R-Kissimmee). This particular legislation would require the Governor to establish a "One-Stop Business Connect Workgroup" to review how people are applying for licenses, certification and the registration process and how the state agencies are processing them. The workgroup will consist of 6 state agencies and by December 2010 report to the Governor, Speaker of the House and President of the Senate on how to establish a "licensing portal" and implement a technology solution that provides businesses and individuals with all the requirements necessary to complete a business license, certifications, and registrations.

HB 1299 will now move forward to the House General Government Policy Council.

AIF SUPPORTS legislation that will enable current and future business owners to access information they need for permitting, licensing, certification and registration in one convenient, internet-based portal.

Elections

During a House session meeting this morning, members considered and passed HB 1207 Relating to Campaign Financing by Representative Seth McKeel (R-Lakeland). This bill reenacts the regulation of electioneering communications organizations in a form consistent with a recent federal court decision that struck down the old regulatory scheme on constitutional grounds.

Additionally, HB 1207 establishes freestanding "leadership funds" that act as the arms of the political parties and will report their financial activities on a fund-by-fund basis to insure transparency and accountability. This bill is virtually identical to its Senate counterpart, CS/SB 880 that was passed by the Senate Ethics and Elections Committee yesterday.

HB 1207 has been referred to the Senate to be heard by its members.

AIF SUPPORTS the enactment of Electioneering Communications Organizations (ECO) legislation that follows the guidelines established by federal courts. However, AIF will OPPOSE any such legislation that goes beyond these guidelines and thus infringes on the right of free speech per the First Amendment of the United States Constitution.

Economic Development

Under the leadership of Senate budget Chairman JD Alexander (R-Winter Haven), the Senate Committee on Ways and Means passed the wide ranging and somewhat controversial Jobs Package, also known as SB 1752 by Senator Don Gaetz (R-Destin). This \$70 million package, a combination of several different pieces of legislation, is one of the most comprehensive legislative approaches to stimulating the state's economy in recent years. SB 1752 takes giant steps forward through expanding tax breaks, implementing new incentive programs, and encouraging hiring practices that will take individuals off the unemployment rolls. Additionally, and maybe most importantly, the bill helps address the needs of the space industry in Florida.

The bill re-enacts the Qualified Target Industry (QTI) incentive and makes various tweaks to the program while increasing the cap for this incentive from \$35 million to \$100 million. Much of this good language is the substance of legislation provided by Senator Rudy Garcia (R-Miami) and strongly supported by AIF. Additionally, SB 1752 creates the Unemployment Tax Incentive program, a new incentives for companies that hire an unemployed individual who is eligible for unemployment compensation.

Another portion of the bill addresses language that Senator Mike Haridopolos (R-Melbourne) has included that revamps the existing Entertainment Incentive Program and expands the program to meet the needs of several AIF members. Also established, is a state matching grant research grants for new companies based in Florida and where the research and employees are in Florida.

One area of great contention among interested parties is the area of expedited permitting. This bill calls for a mandate that state environmental permitting with the Department of Environmental Protection (DEP) and Water Management Agencies must be approved or denied within 30 days. Senior Agency heads and officials from the League of Cities and Association of Counties all testified in strong opposition to this provision.

In regards to the Space Industry, perhaps of greatest importance to AIF, this legislation lends a hand to the endangered Florida's Space Coast. On the verge of peril due to President Obama's budget restrictions, SB 1752 will aid the Space Coast by allocating \$3.9 million for Space Florida's operating budget, \$10 million for space infrastructure, \$3 million for business development and another \$3.2 million for job retraining purposes. This much needed funding will help Space Florida and its partners overcome the budgetary shortfall at Kennedy Space Center.

In the end, the bill was reported favorably 22-2. The two dissenting senators cited costs and a lack of focus towards job creation as the reason for not approving the measure.

The bill will be reported to the Rules Committee for further referencing or head straight to the Senate calendar.

AIF is encouraged by the fact that this jobs bill includes many of the recommendations provided in AIF's "[Florida Needs Jobs Now](#)" publication. AIF SUPPORTS comprehensive efforts that will put Floridians back to work while proactively keeping business doors open. Additionally, providing needed assistance to the space industry will keep Florida at the peak of aerospace research and technology.

Ports

Today, the Senate Judiciary Committee unanimously passed an important bill for Florida's business community in adopting the model code for International Arbitration. SB 1114 Relating to International Commercial Arbitration by Senator Dan Gelber (D-Miami Beach) will allow Florida companies engaged in international commerce to conduct arbitrations on a more regular basis in Florida. By design, this will decrease their costs while simultaneously boosting Florida's reputation as an international leader in commercial arbitration.

SB 1114 will next be heard in the Senate Rules & Calendar committee before proceeding to the Senate floor.

AIF SUPPORTS this legislation because of its ability to make Florida a more attractive location for international business. Businesses look for the familiar, and the acceptance of the Model Law in so many jurisdictions around the world would prove to be a positive consideration in deciding where to locate international companies and conduct business transactions.

Space

Today, members of the House unanimously passed (111-0) HB 969 Relating to Space & Aerospace Infrastructure by Representative Steve Crisafulli (R-Merritt Island). This bill provides Space Florida with the needed flexibility to spend approximately \$10 million of funds allocated in 2008 to make improvements at the existing launch complexes in Florida. This legislation is vitally critical to keep Florida as the leader in space and will allow our state to leverage the existing infrastructure to lure commercial space projects to Florida.

HB 969 will now be referred to the Senate for consideration by its members

AIF SUPPORTS giving Space Florida the flexibility to allocate any of the un-obligated Launch Complex (LC) 36 funds for any purpose determined to have the greatest benefit to the commercial space industry in Florida. Furthermore, we would like to thank all members of the House for their unilateral support on this bill.