



L e g a l R e f o r m

## Putting Justice Back into Civil Justice

By Mary Ann Stiles and Tamela Perdue

**W**hy does Florida need tort reform? There are many reasons. Tort is the term the legal system applies to an act that causes careless or deliberate harm to a person or someone's property. The legal system is supposed to help the victim of a tort recover from the injury by assessing monetary damages against the wrongdoer.

In recent years, however, the system for resolving lawsuits involving torts has slipped badly out of alignment. It has simply made the civil justice system a model of injustice. As Americans, business owners and executives believe in the rule of law. If we cause an injury to someone, we want to make things right. At the same time, we expect the same degree of fairness that plaintiffs receive.

Opponents of legal reform say businesses want to shut the doors of the courtroom, that we're more interested in profits than the health and safety of our customers. But businesses need the courtroom just as much as our customers do. Legal reform isn't about stopping lawsuits. It's about making them fair.

In recent decades, the volume of lawsuits filed in this country against businesses has drastically increased. A recent study revealed that in 1960 the total cost of the tort system in the United States, adjusted for inflation, was approximately \$32.3 billion. By the end of 2003 that cost had risen to \$246 billion.

That averages out to \$845 for every American. It's what some legal observers refer

to as a "tort tax" — a tax levied by judges and juries that benefits a relatively small group of plaintiffs and their lawyers.

Almost two-thirds of the cost of the tort tax is attributed to commercial torts — or claims against businesses. Since 1998, the average increase in commercial torts has been 10.7 percent annually. In contrast, overall economic growth averaged only 4.9 percent during the same time.

Every time a business is sued, it incurs unexpected costs — through judgments and settlements paid, the cost of defending itself, and assorted other expenses. This translates into higher prices for the products and services that customers rely on.

With our natural assets, Florida stands out for many companies as an attractive place to locate a business. Florida's political leaders have dedicated themselves to promoting public safety and enhancing public education at all levels. The dark spot on our economic horizon, however, is our state's legal climate.

Rather than take a piecemeal approach to reform, business owners and executives from across the state have united in a search for a comprehensive solution to Florida's tort problems. Florida needs to join the 33 other states that have already enacted tort reform or are in the process of doing so.

The scope of the problem is vast, but we are committed to working with the Legislature over the next two years in the effort to preserve

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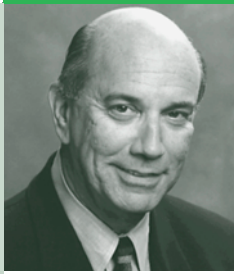
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## Connect the Dots

By Jon L. Shebel, *Publisher*

**J**ackie Watts owns Watts Mechanical, a company that installs and repairs heating and air-conditioning units. For 15 years thousands of Tallahassee residents have relied on her and her 25 employees to make North Florida's stifling summers and chilly winters bearable. Those people are more than customers she says. They are friends.

As Jackie will tell you, there's no money in hurting people. If one of her employees causes harm, she wants to make things right because that's how you keep customers. But Jackie and her company have a problem with the legal system.

Her liability insurance carrier wants her to settle every lawsuit — whether she's right or wrong — because the cost of settling is lower than the cost of defending her against dodgy claims.

Thousands of Florida businesses, large and small, have similar complaints. Over the fall and winter of 2004, AIF's lobbyists and legal experts sat down with business owners and managers to dissect the problems with Florida's legal system. Why does it cost so much? Why do liability insurance premiums keep doubling and tripling? Why do people from out-of-state come here to file lawsuits?

No one really knows how much the legal system costs. There are no statistics on the extent of so-called "frivolous" lawsuits. Much of the information that could reveal the depths of the problems with the legal system is confidential, known only to the plaintiff, the defendant, their lawyers, and the judge.

In the place of hard facts, we have

anecdotes, a pile of them that keeps growing everyday. For some people, anecdotal evidence doesn't count, but the sheer mass of it is getting hard for the rest of us to ignore. Anyone who bothers to look will realize that there is a crisis, it's been around for awhile, and it's not going to go away just because we neglect it.

Florida has never enacted true legal reform, but not for lack of trying. Past legislation has been watered down to make it acceptable to lawmakers or it's been held up by courts. In the meantime, judges have created new reasons to sue businesses while chipping away at the ability of companies to defend themselves. The result is more lawsuits, a reluctance to try to fight questionable claims, rising insurance premiums, and increased costs for consumers. Connect the dots and what do you have? A very real threat to the prosperity of Floridians.

AIF's meetings with business owners, managers, and CEOs helped reveal the roots of the legal system's anecdotal landfill. From the knowledge gained, AIF has developed a comprehensive package of reforms that addresses those root causes. If lawmakers enact the reforms, Florida will join 33 other states that have taken similar action only to see the number of lawsuits drop, along with liability insurance premiums.

The legal reform project recognizes that there are good lawsuits and there are bad ones. Despite the allegations of reform opponents, the business community does not want to close the doors to the courtroom — we just want to clear the way for the good lawsuits. By remaking our civil justice system on principles of sanity, reasonableness, and evenhandedness, we think that Florida will become a better place — for all of us who work here, who live here, and who visit here. ■

**Jon L. Shebel is chief executive officer of Associated Industries of Florida and affiliated companies (e-mail: [jshebel@aif.com](mailto:jshebel@aif.com)).**



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**PUBLISHER**

Jon L. Shebel

**ASSOCIATE PUBLISHER**

Stephen B. Trickey

**EDITOR**

Jacquelyn Horkan

**DESIGNER**

J. Gregory Vowell

**EDITORIAL OFFICES**

516 North Adams St.  
Post Office Box 784  
Tallahassee, FL  
32302-0784  
Phone: (850) 224-7173  
Fax: (850) 224-6532  
E-mail: [aif@aif.com](mailto:aif@aif.com)

# Governor Includes Pro-Growth Tax Cuts in Budget

By Barney T. Bishop III

In his Fiscal Year 2005-06 budget, Gov. Jeb Bush provides for two complementary proposals that will greatly enhance our chances to attract new manufacturers to the Sunshine State.

The first would eliminate the \$50,000 minimum tax threshold on the purchase of machinery and equipment by manufacturing companies doing business in Florida. The second exempts from sales tax the purchase of any machinery or equipment that is used predominately for research and development.

Taken together, these proposals would help put Florida on competitive footing with the 36 states that levy no taxes on manufacturing machinery and equipment and the 24 states that give special status to research and development purchases.

Manufacturing not only brings with it higher paying jobs than is the norm for our state; it also helps to diversify our economy and our tax base.

Consequently, AIF and the business community wholeheartedly applaud the governor for his commitment to expanding Florida's manufacturing base, helping our state and its workers fulfill their unmet potential.

## Manufacturing Machinery & Equipment

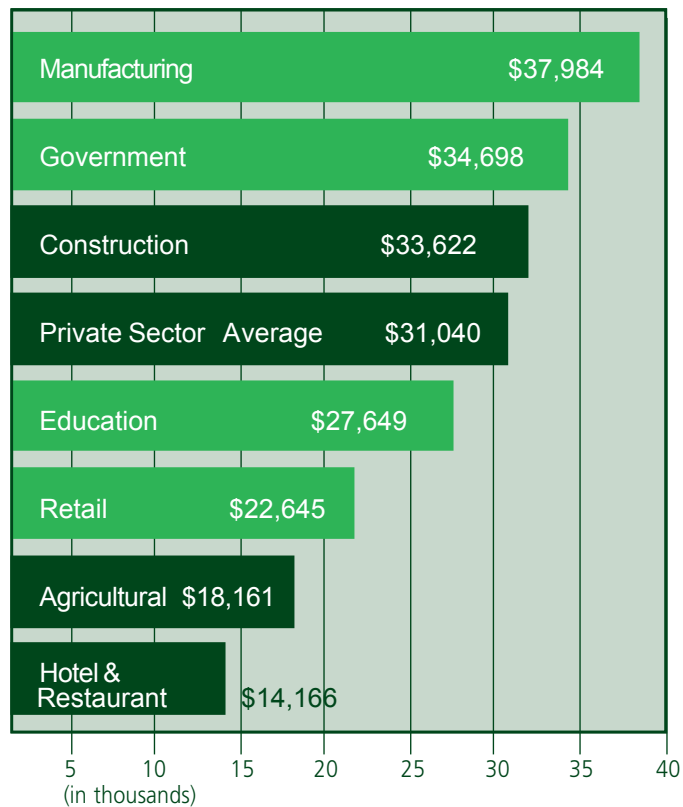
Currently Florida levies the six-percent sales tax on manufacturing machinery and equipment, with exemptions for the semiconductor, space, and defense industries, and for new manufacturers who receive their purchased equipment within 12 months of opening their facilities.

Florida-based manufacturers in non-

exempt industries, however, receive only a complicated and restrictive exemption. Before an established Florida employer is eligible for a sales tax exemption it must buy at least \$830,000 in machinery and/or equipment and then must prove that the purchase increases productive capacity by at least 10 percent. Although Florida's manufacturing base is comprised of roughly 15,000 companies and 380,000 jobs, 95 percent of the companies employ fewer than 100 employees; 72 percent employ fewer than 10 workers. Qualifying for

*In other words, Florida's current manufacturing tax policy creates a disincentive for Florida-based manufacturers.*

Wage by Industry in Florida – 2001



Source: Florida Statistical Abstract 2003

**Unlike Florida, almost half of all of the other states do not tax R&D at all, or they do so at a reduced rate.**

this stipulated tax relief presents a significant financial burden for these small companies.

In other words, Florida's current manufacturing tax policy creates a disincentive for Florida-based manufacturers to invest in new equipment. It provides for an uneven application of tax benefits, rewarding some industries and not others. It favors new manufacturers over homegrown manufacturers.

Florida's existing exemptions have promoted a growing manufacturing base in the semiconductor, space, and defense industries and for new companies, proof that our state will experience even greater economic diversification once tax incentives are expanded to embrace all manufacturers. The projected revenue impact for doing so would be \$26.1 million for the upcoming budget year and \$28.6 million every year thereafter. This is a

relatively small price to pay to allow Florida to become competitive with other states in attracting new companies.

**Research & Development**

At this time, Florida levies a six-percent sales tax on machinery and equipment used primarily for research and development purposes, with exceptions for semiconductor wafer research along with defense and space research. Florida would benefit if this philosophy of tax incentives were expanded across the board.

While R&D expenditures in Florida substantial — \$5.5 billion — that amount represents only 2.1 percent of total R&D spending in the U.S., putting our state 14th among the other states. To compound matters, almost half of all of the other states do not tax R&D at all, or they do so at a reduced rate. For Florida to emerge as a center for future R&D spending, we must develop a strategy that will encourage companies to locate here, expand here, or expend here. The result of a vibrant R&D sector will be enhanced production activity, the corresponding potential for spawning commercialized applications, and increased public-private partnership opportunities.

The governor has also proposed that any recipient of the R&D exemption can enter into an agreement with one or more state universities or community colleges and receive up to 100 percent of the tax savings to be matched on a one-to-one basis, if it is for research and development projects.

The projected revenue impact would be \$35.5 million for FY 2005-06 and \$39.9 million every year thereafter. The opportunity for Florida to be at the cutting edge of technology advances, along with the attendant benefits that will be realized in new jobs and capital investment, will help sustain our state's growing economy in the coming years. ■

**Barney T. Bishop III is president of Associated Industries of Florida and affiliated companies (e-mail: [bbishop@aif.com](mailto:bbishop@aif.com)).**

**Top 20 States by R&D Expenditures – 2002**

Source:  
National Science  
Foundation

		(in millions)
1	California	51,388
2	Michigan	15,082
3	Massachusetts	14,316
4	Texas	14,223
5	New York	13,354
6	New Jersey	13,020
7	Washington	10,511
8	Illinois	10,190
9	Pennsylvania	9,763
10	Maryland	9,030
11	Ohio	8,310
12	Connecticut	6,774
13	Virginia	5,895
14	Florida	5,498
15	Minnesota	5,247
16	North Carolina	5,135
17	New Mexico	4,689
18	Indiana	4,326
19	Colorado	4,218
20	Arizona	4,096



# Protecting Access to Florida's Courts

By Mary Ann Stiles & Tamela Perdue

**I**n 1998, Florida voters adopted a constitutional amendment that shifted primary funding responsibility for the state's court system from the counties to state government, effective on July 1, 2004.

Adequate funding of Florida's court system — one of the largest in the country — has long been a concern for state employers. When compared to national averages, Florida judges handle 31 percent more filings each year with 11 percent fewer judges. In the last five years, the Legislature has provided funding for only 30 percent of the new judges needed to keep up with the case load.

It is clear from the experiences of other states that when trials courts lack adequate long-term funding, there is a reduction of services available through the courts. Staff is laid off, court hours are cut back, and the number of sitting judges is reduced. New Hampshire, for example, suspended jury trials for two months in 2002 and three months in 2003. Colorado has closed its courthouses for one week per month and Washington State has closed two district courthouses.

When resources are stretched thin, the court system will funnel most of its money to matters that affect public safety, namely criminal cases; civil actions will be scheduled as time allows. In 2003, civil lawsuits accounted for approximately 1.2 million of the 2.8 million cases filed in the state. Many of these suits involved important economic questions, such as property rights or contract disputes, that needed to be resolved with all possible speed in order for businesses to keep functioning profitably.

Delays in settling these matters could negatively impact Florida's long-term financial stability. Improper funding of the court system could lead to lost profits, increased insurance premiums, additional costs for litigation, and lost productivity.

Under the implementation of the 1998 amendment, the state took responsibility for staffing the legal apparatus, including judges,

jurors, court reporters, law clerks, masters and hearing officers, and so on. The state also pays for resource materials, court administration, case management, mediation and arbitration, and providing information to the general public. County governments provide funds for facilities, security, communications, and technology. The latter is an area of concern for court watchers.

Although progress has been made, Florida's courts still lack an integrated statewide technology and resource management system. Currently, technological sophistication varies greatly among counties, depending on the amount of money each respective county has allocated to subsidize state spending.

Implementing proposed technological advances will help ensure that the courts operate in a reliable, timely, and cost-efficient manner. The Legislature is the logical source for providing this funding because the projects need to be integrated statewide, something that cannot be accomplished if the responsibility is left to 67 different political jurisdictions, i.e. the counties.

Florida's court system impacts every aspect of our society, including many related to our state's economy. An inadequately funded court system negatively impacts Florida's business community by forcing delays in the resolution of civil disputes. More importantly, a low-budget court system undermines the rule of law, access to justice, the independence of the judiciary, and the people's trust.

With Florida's burgeoning economy and population, that's a cost we can't afford. ■

**Mary Ann Stiles and Tamela Perdue are with the law firm of Stiles, Taylor & Grace, of which Stiles is the founding partner. Both are consultants to Associated Industries of Florida and Stiles serves as general counsel (e-mail: [mastiles@stileslawfirm.com](mailto:mastiles@stileslawfirm.com); [tperdue@stileslawfirm.com](mailto:tperdue@stileslawfirm.com)).**

***Florida judges handle 31 percent more filings each year with 11 percent fewer judges.***

# More Significant Initiative Reform is Needed

By Doug S. Bailey

Advocates for reform of Florida's citizen initiative process may find comfort in the old political adage, "It takes three years to pass significant legislation." The 2005 Session will mark the third year in a row that lawmakers will take a shot at fixing the malfunctioning scheme that allows Floridians to change their state constitution.

The arguments for reform are as follows:

- There is too much money and interest-group influence in the process.
- Voters are typically under-informed and, as a result, unable to make careful and deliberative decisions in the voting booth.
- Minority rights are at risk.
- Fiscal and social implications go unexamined.

The 2004 election cycle provided more evidence of how dangerous and irresponsible our process is; as a result, public support for significant reform is at an all-time high. This public sentiment, combined with the new House and Senate leadership, could make 2005 the year of significant reform.

## "A Sure Thing"

If a citizen initiative makes it to the ballot in Florida, odds are it will pass. Since 2000 every single popular initiative that appeared on the General Election ballot has been ratified by the voters. If we consider the litany of ballot questions placed before voters since the inception of the citizen initiative in the late 1960's, Florida's passage rate exceeds 90 percent. The national average of popular initiative ratification hovers between 41 percent and 47 percent.

Special interest groups recognize that passage of a ballot question in Florida is the

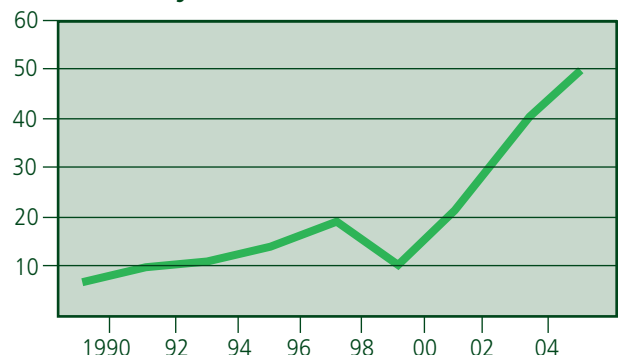
closest they can get to a sure thing and, as a result, the number of citizen initiatives percolating through the system is at an all time high. Currently, with the next statewide election 21 months away, there are 49 active ballot measures on file with the Division of Elections (see chart 1).

## The Voters Get It

Convincing the Legislature to back initiative reform is only half the battle. Any change to the initiative process will require a constitutional amendment approved by the electorate. Therefore the political viability of reform is as significant a consideration for lawmakers as the logic of reform itself.

It is clear that Floridians value the access to policy making provided to them by the citizen initiative process. In a recent Florida Business United (FBU) public opinion survey, 71 percent of likely voters responded favorably when asked if they favored or opposed the state's initiative and referendum process. At the same time, voters overwhelmingly recognize the vulnerability of our initiative system as it exists today and they tend to favor making it more responsible and deliberative.

**Chart 1: Active Ballot Initiatives by Election Year 1990-2004**



Source: Florida Division of Elections

The 2005 Legislature, behind the leadership of Rep. Joe Pickens (R-Palatka) and Sens. Jim King (R-Jacksonville) and Rod Smith (D-Gainesville), will attempt to advance reform proposals aimed at addressing these vulnerabilities. Here are the three most significant reform concepts under consideration, along with some reflections of public opinion surrounding the debate.

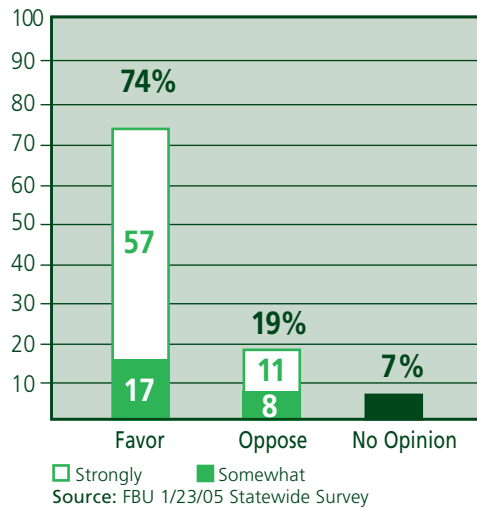
**Ratification Threshold.** Currently a direct constitutional initiative amendment can be ratified by a simple majority (50 percent plus 1) of the electors voting on Election Day. Senate Joint Resolution (SJR) 6 by Sen. King would increase the ratification threshold to three-fifths of the electors of the state voting on the measure.

Adjusting the ratification threshold may be the simplest or most immediate way to affect the current initiative process. When asked by FBU if they supported an increase in the number of votes needed to ratify initiatives, 74 percent of the respondents answered favorably (see chart 2). According to historical patterns, however, a ratification-threshold increase to 60 percent would only minimally affect Election Day outcomes. Five of the six popular initiatives in 2004 passed with at least 64 percent of the vote.

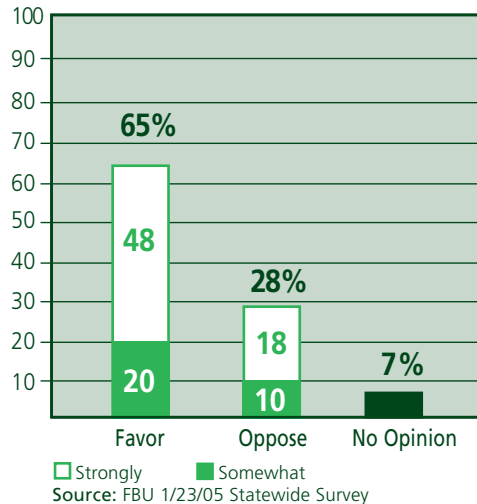
**Judicial Responsibilities.** The Florida Supreme Court plays a limited role in today's initiative process. Once a sponsor collects and verifies a certain percentage of signatures required to place the initiative on the ballot, the justices review the ballot question to determine whether it meets certain constitutional requirements, whether it adheres to the single-subject rule, and whether its language misleads voters.

It has been argued that the state's constitution is the heart of the social contract and, if it is too easily altered, it could leave a government unable to function properly. Sens. King and Smith are proposing a "judicial filter" that would give the Supreme Court the responsibility for determining whether a ballot question is appropriate for inclusion in the state's supreme document of governance. FBU found that 65 percent of those it sur-

**Chart 2: Raise ratification to 60% threshold**



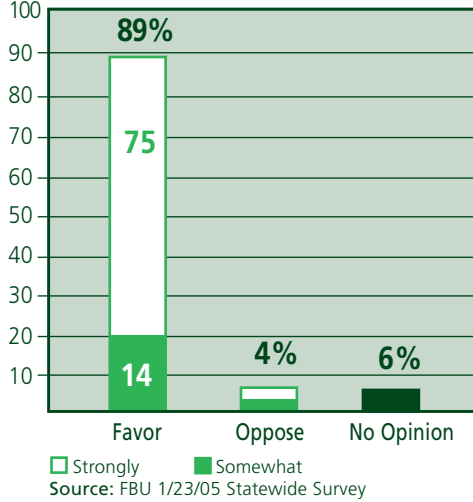
**Chart 3: Florida Supreme Court expanded review of initiatives**



veyed would support an expanded review by the Supreme Court (see chart 3).

**Revealing Hidden Taxes.** Florida's initiative process is not revenue neutral. Some of the most recently enacted initiatives will cost the state millions and perhaps even billions of dollars. Dawning awareness of the fiscal ramifications of the high-speed rail initiative persuaded voters in 2004 to repeal the program they had approved just four years earlier. Costs associated with voter approval of the class-size initiative reverberate throughout the state's budget, putting significant pressure on lawmakers to cut costs in other popular programs.

**Chart 4: Require initiative sponsors to identify funding source**



The Florida Constitution currently requires a two-thirds vote for any amendment that raises taxes. Amendment sponsors can get around this increased threshold by mandating expensive projects without identifying the means to pay for them. In an attempt to address the rising costs associated with certain popular initiatives, some reform proponents want to force amendment sponsors to identify a funding stream or tax for the

constitutional mandates they want voters to enact. Doing so would raise the ratification threshold while forcing sponsors and voters to confront the fiscal implications of their decisions.

Floridians overwhelmingly support this concept, with only four percent of FBU respondents rejecting identification of funding sources as a reform proposal (see chart 4).

**Statutory Initiative.** A statutory initiative process would allow citizens to place statutes (laws) or memorials (non-binding laws) directly on the ballot for voter approval or rejection. There are currently 21 states in the nation that have in place some sort of statutory initiative process.

Proponents of statutory initiatives say they want to maintain the people’s access to direct democracy while protecting the sanctity and supremacy of the constitution. AIF strongly opposes the creation of the statutory initiative process because it simply transfers the problems surrounding direct democracy from one process to another. ■

Doug S. Bailey is a Tallahassee lobbyist and a student of Florida’s initiative process (e-mail: [dsbailey@fsu.edu](mailto:dsbailey@fsu.edu)).

**The Florida Coalition for Legal Reform is a group of Florida companies and associations working together for reason, sanity, and equity in our state’s legal system.**

Coalition members belong to every segment of Florida’s economy, employing millions of workers and serving residents and visitors alike.

- We believe Florida deserves a legal system that treats defendants and plaintiffs impartially, one that makes sure the truly injured get the help they need without wasting time and money on cases that don’t belong in the courthouse.
- We believe that Florida deserves a legal system that doesn’t drive up the cost of goods and services simply to line the pockets of a few plaintiffs and their lawyers.
- We believe that Florida deserves a legal system that protects citizens by punishing wrongdoers, not one that operates like a game of chance, dispensing justice by the luck of the draw, where companies have no way of knowing whether a court will find them negligent for something they are doing with all good intentions.
- We believe that Florida deserves a legal system that is a model for the rest of the nation and the world.

**“Striving for an Equitable Legal System”**

To find out more about the Coalition and its 2005 Legislative Proposal, log onto [www.FlaLegalReform.com](http://www.FlaLegalReform.com).



# Unique Hurricane Season Puts Focus on Insurance Reforms

By Nick Iarossi

**T**he four hurricanes of 2004 resulted in about \$22 billion in insured losses. Although most of Florida's insurance carriers were prepared for the losses, many Florida homeowners were apparently unaware — or unprepared for the fact — that they were liable for a separate deductible for each hurricane.

Multiple hurricane deductibles were authorized by the Florida Legislature in the early 1990s to help insurers manage their risks following the property insurance crisis spawned by Hurricane Andrew. These deductibles are applied to each hurricane separately and the levels vary depending on the value of the insured property.

For most Florida homeowners, this hurricane deductible is either \$500 or two percent of the value of their policy. A two percent deductible on a \$250,000 policy amounts to \$5,000 out-of-pocket for the policyholder. Homeowners, especially in central Florida who were struck by multiple hurricanes complained that they were not prepared for this financial burden.

During a December special session, lawmakers passed bills that prohibited multiple deductibles on residential policies and amended Florida's law to allow only an annual hurricane deductible. Another bill created a deductible reimbursement program utilizing the Hurricane Catastrophe Fund (CAT Fund) to provide refunds to policyholders who paid multiple deductibles in 2004, while offering tax relief to those homeowners most affected by the hurricanes.



In January, Senate President Tom Lee (R-Brandon) and House Speaker Allan Bense (R-Panama City) formed a Joint Select Committee on Hurricane Insurance to study all aspects of the residential insurance market. Both leaders believe that the 2004 storms exposed a threat to the maintenance of a viable private sector market in residential property insurance and they want to keep premium increases to a bare minimum.

During the first two months of 2005, the committee members heard testimony from insurance industry representatives, regulators, consumer advocates, insurance agents, and representatives of state entities such as the CAT Fund, and the Citizens Property Insurance Company, which is Florida's insurer of last resort. The testimony focused on improving availability and affordability in Florida's property insurance market.

On February 18, the joint committee released its final report, which will provide

**Many of the recommendations in the joint committee report could impact rates and availability of coverage in the residential and commercial markets.**

the basis for legislation to protect the availability and affordability of property insurance. One recommendation of concern to insurers would require them to offer different levels of deductibles for residential policies. In other words, a policyholder could choose between something as high as a five-percent deductible or as low as one percent. Insurance representatives say this would shift more risk back to the insurer and could affect the insurer's overall capacity to write more policies.

The joint committee members recommended lowering the retention level of the CAT Fund, which would give insurers the ability to purchase more reinsurance at a lower rate than the private market. Insurers would also be allowed to purchase reinsurance through the CAT Fund for more than two storms in a year. The insurance industry is divided as to whether these CAT Fund reforms will have any affect on rates and capacity to write new and existing business.

The Citizens Property Insurance Corporation was also made a priority because it has grown to almost 900,000 policies. The joint committee made several recommendations to help move some of those homeowners back into the private market, while ensuring that homeowners who have no other options can get coverage at a fair price.

Many of the recommendations in the joint committee report could impact rates and availability of coverage in the residential and commercial markets. Changes in the CAT Fund, for example, could result in surcharges on all residential and commercial insurance policies, which makes this an issue worth watching for insurers and policyholders alike. ■

**Nick Iarossi is an attorney with Capital Consulting, a Tallahassee-based lobbying firm (e-mail: [niarossi@capcityconsult.com](mailto:niarossi@capcityconsult.com)).**

## Get the Book!

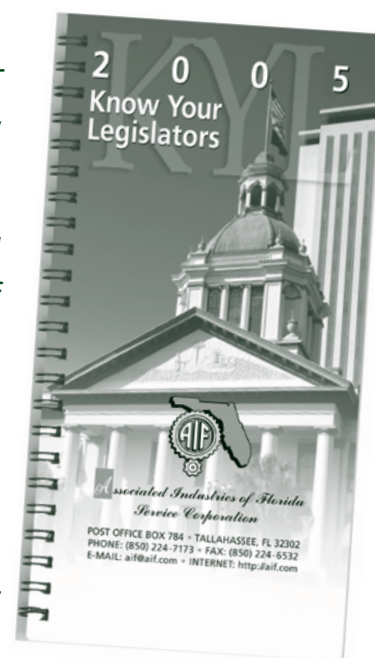
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## Finance & Taxation

### Streamlined Sales Tax

by Barney T. Bishop

Our state's six-percent sales and use tax accounts for 72 percent of the money in the state's general revenue fund, which pays for many of the services enjoyed by residents and tourists.

The growth of Internet sales, however, is exposing a weakness in Florida's tax structure. Most people are aware of sales taxes, which they pay on many items purchased within the state. Use taxes are a twin of sorts to sales taxes. They are levied on Florida residents who purchase tangible personal property outside of the state. The use tax was designed to provide a level playing field between in-state retailers and out-of-state vendors.

Collecting use taxes is difficult, however, because many out-of-state vendors do not have to collect the tax money, thus the state has to rely on residents who purchase the goods to remit the tax themselves. Enforcing collection of the tax from individuals is difficult, however, since the state has no way of tracking purchases that are subject to use taxes.

Since so many catalog and Internet vendors do not have to pay use taxes to the state — and since so many Florida residents are unaware of their obligation to pay the tax — Main Street shops and stores in the state are at a competitive disadvantage. In addition, Florida is losing billions of dollars in tax revenue because of this loophole.

Our nation's existing sales and use tax system — with over 7,500 state and local taxing jurisdictions across the nation — is antiquated, complex, and ill-equipped to deal with the changes wrought by technology. Each jurisdiction has different rates and different definitions of what is taxable and what is not.

The Florida Legislature will be considering legislation this session that would allow Florida to participate in the "Streamlined Sales and Use Tax Agreement" with the other



*The agreement will level the playing field for local businesses, which are at a competitive disadvantage because their customers must pay sales tax.*

44 states that levy sales and use taxes. The agreement would provide uniform definitions within tax laws and simplify tax rates and administrative procedures. Every signatory to the agreement would collect use taxes from in-state vendors and then remit those taxes to the home state of the purchaser.

The agreement will level the playing field for local businesses, which are at a competitive disadvantage because their customers must pay sales tax. In addition, the Florida Retail Federation estimates that in 2003, Florida lost approximately \$1.1 billion in uncollected state and local use taxes. By 2008 the lost tax revenue will be over \$2.3 billion.

AIF believes that Florida should participate with other states in the governing board for the agreement. Governing board members will be responsible for interpreting the agreement, as well as making any amendments and resolving disputes that arise. Florida cannot be a member of the governing board without adopting the Streamlined Sales and Use Tax Agreement through the legislative process.

In addition to action by the Florida Legislature, AIF supports action by Congress that will require remote vendors to collect and remit sales tax once the agreement is operational. ■

**Barney T. Bishop III is president of Associated Industries of Florida and affiliated companies (e-mail: [bbishop@aif.com](mailto:bbishop@aif.com)).**



## Substitute Communications Systems Tax

By Keyna Cory

*If the substitute communication systems tax is not repealed, a small-business owner could become liable for an extra \$3,800 a year in taxes.*

In 2000, the Florida Legislature rewrote the Florida communications tax law to conform all communication services to a uniform statewide and local tax rate administered by the Department of Revenue. In doing so lawmakers intended to simplify a tax code that was maladjusted to the ever-changing state of communications technology. The new law brought on unintended consequences, however: a definition of substitute communications systems that could extend this tax into every Florida company and most homes.

The 2000 rewrite was crafted in such a way that the substitute communication services tax would be applied to all sorts of services, beyond what the Legislature envisioned. According to the Department of Revenue's interpretation, the 9.17-percent statewide communications services tax (plus local taxes of varying rates) would be levied on a number of common devices that are used at virtually every place of business in the state, including most telephone systems, computer networks, and wireless dispatch systems.

One large Florida company calculated that it would pay more than \$500,000 per year if the department's interpretation were allowed to stand. If the substitute communication systems tax is not repealed, a small-business owner could become liable for an extra \$3,800 a year in taxes, while some households could pay several hundred dollars more in taxes each year.

In the closing hours of the 2004 session, the Senate passed a bill repealing the substitute communications system tax, but the House did not.

The governor's proposed budget includes the repeal of the substitute communications system tax. Sen. Mike Haridopolos (R-Melbourne) and Rep. John Stargel (R-Lakeland) have filed legislation to accomplish that objective. ■

**Keyna Cory is the president of Tallahassee-based Public Affairs Consultants, Inc., and a legislative consultant to Associated Industries of Florida. (e-mail: [keynacory@paconsultants.com](mailto:keynacory@paconsultants.com))**



## Health Medicaid Reform

By Bob Aszatalos

Gov. Jeb Bush's pursuit of a radical restructuring in Florida's Medicaid program would instill market-based insurance mechanisms in an attempt to control the spiraling growth in costs.

Medicaid in Florida is a \$14-billion program providing health care to more than 2.1 million low-income, disabled, and elderly Floridians. It is the safety net for those who cannot receive coverage elsewhere because of income or health reasons.

The program's costs are swelling at rates far in excess of the revenue stream needed to support it. While state tax revenues have grown by 24 percent between 1998 and 2004, Florida's share of Medicaid has grown by 88 percent in the same period. If Florida's





## Regulatory Reform

### Growth Management

By Keyna Cory

Florida has been in the midst of an explosive growth cycle since 1950. While the U.S. population grew by 40 percent from 1950 to 1976, Florida's population tripled, from 2.8 million in 1950 to 8.5 million in 1976. Since then, our state's population has doubled.

With growth come new jobs and increased prosperity, which sometimes puts development in competition with Florida's natural environment. A drought in the early 1970s led to a crisis in water supplies, which inspired lawmakers to enact the Growth Management Act, putting into place a comprehensive, statewide framework for planning and managing Florida's future growth at the state, regional, and local levels. It included the comprehensive land-use plans that were adopted by Florida's 67 counties and more than 400 municipalities.

During the 2005 session, local governments and the business community will be confronting lawmakers with their frustration over the 30-year old law. Currently it takes a developer anywhere from 18 months to two years to complete the convoluted permitting process. Florida has lost companies to other southeastern states because of the construction delays caused by the permitting process, which takes less than six months in neighboring states. Even local governments are frustrated with the duplicative permit and paperwork requirements from the Department of Community Affairs and other agencies.

The Department of Community Affairs has conducted an in-depth review of current regulations and will be working with the Legislature to implement them.

AIF will continue to monitor the growth management issue to make sure that it is a fair and reasonable system that allows Florida to grow and prosper. ■

Medicaid program continues to grow at its present rate, it will consume nearly 60 percent of the state's budget by 2015.

The governor believes that he can control that growth by establishing reforms based on three principles. Medicaid participants should have a greater role in health care decisions. They should choose their health plans and benefits. The program should be run like a private insurance plan with aggregate limits.

While the plan is innovative, it leaves many questions unanswered. How those blanks are filled in will determine whether Medicaid continues to serve as a safety net for the frail and vulnerable, or whether those costs are passed on to the private market.

In the upcoming legislative session Gov. Bush and the Legislature will begin identifying the specifics of this new way to deliver Medicaid services. The business community looks forward to working with him to create a Medicaid program that is financially sustainable while maintaining the services for those who truly need care.

The solutions will not come easily, but the governor has started to clear the path with his bold and innovative proposal. Florida may indeed forge a way to solve a problem vexing to the residents of governors' mansions and the White House alike. ■

**Bob Asztalos** is a partner with **Buigas, Asztalos & Associates** and a legislative consultant to **Associated Industries of Florida**.  
(e-mail: [bob@baahealth.us](mailto:bob@baahealth.us))

**Keyna Cory** is the president of Tallahassee-based **Public Affairs Consultants, Inc.**, and a legislative consultant to **Associated Industries of Florida**.  
(e-mail: [keynacory@paconsultants.com](mailto:keynacory@paconsultants.com))

*While state tax revenues have grown by 24 percent between 1998 and 2004, Florida's share of Medicaid has grown by 88 percent in the same period.*



# Associated Industries of Florida

AIF lobbyists, representing centuries of accumulated experience in politics and government, spent more than

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**Jon L. Shebel**, CHIEF EXECUTIVE OFFICER

## OFFICERS



### **Jon L. Shebel**

Chief Executive Officer of Associated Industries of Florida and affiliated corporations ... more than 36 years as a lobbyist for AIF ... directs AIF's legislative efforts based on AIF Board of Directors' positions ... graduated from The Citadel and attended Stetson University College of Law.



### **Barney T. Bishop III**

President of Associated Industries of Florida ... former President & CEO, The Windsor Group ... former aide to state Treasurer Bill Gunter ... former executive director of the Florida Democratic Party ... more than 26 years of experience in legislative and political affairs ... B.S. in political & judicial communication from Emerson College in Boston.



### **Mary Ann Stiles, Esq.**

General counsel of Associated Industries of Florida ... managing partner in the law firm of Stiles, Taylor, & Grace, P.A. ... more than 32 years of legislative and lobbying expertise before the Legislature and other branches of government ... graduate of Hillsborough Community College, Florida State University, and Antioch Law School.



### **Chris Verlander**

Senior vice president — corporate development of Associated Industries of Florida ... more than 25 years of expertise in insurance lobbying activities ... former president (1994-1997) and vice chairman (1997-1999) of American Heritage Life Insurance Company ... B.S. from Georgia Tech and M.B.A. from the University of Florida.

## CONSULTANTS



### **Robert P. Asztalos**

Lobbied on health care issues at both the state and Federal levels since 1985. Partner with the Buigas, Asztalos & Associates and the Director of Governmental Affairs for Delta Health Group ... directed the Nursing Home profession's litigation reform campaign in 2000-2001 and served as the Director of the Heal Healthcare in Florida Coalition, consisting of health care, business and consumer groups that advocated medical liability reform legislation in 2003 ... Master's degree in Legislative Affairs and a Bachelor's degree in Political Science from George Washington University.

# Florida 2005 Lobbying Team

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## **Ronald L. Book, Esq.**

Principal shareholder of Ronald L. Book, P.A. ... former special counsel in Cabinet and legislative affairs for Gov. Bob Graham ... and formerly worked for the Florida House of Representatives ... 33 years of experience in government and legislative activities representing public and private entities including many Fortune 500 Companies ... areas of expertise include legislative and governmental affairs with an emphasis on sports, health care, appropriations, education, local government, insurance, and taxation ... graduate of the University of Florida, Florida International University and Tulane Law School.



## **Guy Spearman, Esq.**

President, Spearman Management, Inc., government relations consulting firm ... 31 years of experience representing a variety of clients from small to large ... graduate of Auburn University and Florida State University College of Law.



## **Keyna Cory**

President, Public Affairs Consultants, a public affairs and governmental relations consulting firm ... more than 20 years of experience representing a variety of clients, from small entrepreneurs to Fortune 500 companies, before the Florida Legislature ... majored in political science at the University of Florida.



## **Gerald Wester**

Managing Partner, Capital City Consulting, LLC ... former chief deputy over Florida Department of Insurance's regulatory staff ... more than 29 years of lobbying experience ... expertise in insurance, banking, and health care issues ... Bachelor's and master's degrees from Florida State University.



## **Mark Flynn**

Senior vice president, The Windsor Group and a public affairs consultant for more than a decade ... former economic development executive with extensive experience representing business on a broad range of issues ... has also worked for both a member of Congress and a member of the Florida House of Representatives ... graduate from the University of South Dakota with a B.S. in mass communications.



## **Mike Zagorac**

Former senior vice president, public affairs for Hill & Knowlton, Inc. ... former vice president of public affairs for the Jack Eckerd Corporation and vice president of the National Association of Chain Drug Stores ... more than 36 years of experience in media and public relations, community affairs, and environmental issues ... Bachelor's degree from Purdue University and M.B.A. degree from American University.



## **Tamela Ivey Perdue, Esq.**

Shareholder with the law firm of Stiles, Taylor & Grace, P.A. ... more than 13 years legislative and legal experience, most recently representing insurers and the business community on workers' compensation and other legal issues ... established legal practice specializing in workers' compensation defense ... formerly worked in the Florida Senate including the Majority Office, Rules Committee and Committee on Ethics and Elections ... B.S. from Lee University and J.D. from Stetson University.



## **Jim Rathbun**

President of Rathbun & Associates ... more than 16 years of experience representing individuals and entities before the Legislature, state agencies, and the governor and Cabinet ... formerly worked with the Florida House of Representatives and served as staff director of the House Republican Office ... B.S. from Florida State University.

***"The AIF staff is extremely competent and highly respected as one of the best lobbying groups in Tallahassee, and is, as a result, very effective in representing business."***

**Lance Ringhaver, President** – RINGHAVER EQUIPMENT COMPANY

(Continued from page 1)

For more information on legal reform, visit [www.FlaLegalReform.com](http://www.FlaLegalReform.com)



Florida's future by fixing this impediment to our state's prosperity.

The next two years offer a unique opportunity to bring about lasting and meaningful reform because our state's political leaders grasp the importance of fixing the deformities in our tort system. But that doesn't mean victory will be easy. While the business community must argue with logic and reason, our opponent — driven by desperation — will rely on fear, sentimentality, and distortions.

How can you help? Visit AIF's special Web site ([www.FlaLegalReform.com](http://www.FlaLegalReform.com)) to learn more about the tort reform project. You'll also find instructions there on how to contact your senator and representative. Write them, phone them, fax them, e-mail them. Just let them know

that you support AIF's proposals on legal reform and hope you can count on their vote for its passage.

Florida's business community will work together to get these significant legal reforms enacted and working for the continued economic success of this state. ■

**Mary Ann Stiles and Tamela Perdue are with the law firm of Stiles, Taylor & Grace, of which Stiles is the founding partner. Both are consultants to Associated Industries of Florida and Stiles serves as general counsel (e-mail: [mastiles@stileslawfirm.com](mailto:mastiles@stileslawfirm.com); [tperdue@stileslawfirm.com](mailto:tperdue@stileslawfirm.com)).**

*Associated Industries of Florida Service Corporation*

516 NORTH ADAMS STREET  
P.O. BOX 784 TALLAHASSEE, FL 32302-0784



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