

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
INTERIM BRIEF**



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DAILY INTERIM LEGISLATIVE BRIEF FROM FEBRUARY 20, 2001
SOURCE: ASSOCIATED INDUSTRIES OF FLORIDA

Before taking testimony on the major issue of the day, workers compensation, the Senate Banking & Insurance Committee approved with little comment three proposed committee bills:

- Deregulation of property and casualty insurance rates for large companies. Sen. Steve Geller, D-Hallandale Beach, said he had problems with the bill but would wait until later in the process to try to solve them.
- Continuation and revision of exemption from public records laws of surplus lines insurance reports so that no policyholder can be identified.
- Transfer of judges of workers compensation claims from the Division of Workers Compensation to the Division of Administrative Hearings. Other proposals call for the transfer of the rest of the Division of Workers Compensation, the last division in the Department of Labor, to the Department of Insurance. Sen. Latvala assured members that the judges would continue to be appointed by the governor on recommendation of the Judicial Nominating Commission and they would be brought under the judicial code of ethics.

As the committee began Tuesday its review in preparation for revision of workers compensation laws, two issues emerged: attorney fees and elimination of exemptions in the construction industry. These are two issues that AIF has been consistently communicating to the legislature as the two key elements of any successful reform of the workers' compensation system.

"A central issue is going to be attorneys fees," said Committee Chairman Jack Latvala, R-Palm Harbor, as he asked the Division of Workers Compensation for clearer figures on whether payments to attorneys were going up or down. Steven Kronenberg, chairman of the Workers' Compensation Section of the Florida Bar, and Glen Wieland, vice president of Florida Workers' Advocate, said average payments had been going down in the 1990s. Charles Williams, director of the Division of Workers Compensation, presented a report showing average rates going up if figured one way or down if examined another. Mary Ann Stiles, Associated Industries of Florida General Counsel, warned that senators should be careful to consider whether the rates are based on accident year or award year since some cases go on for many years. She said the cost of workers compensation would never be resolved until the Legislature recognized that the system is attorney driven.

Asked by Sen. Jim King, R-Jacksonville, which recommendations of the Task Force on Workers Compensation were essential, Ms. Stiles said elimination of hourly pay for attorneys and elimination of the requirement for use of managed care headed the list. She said benefits for injured workers also must be addressed although the Task Force did not consider that issue.

The Task Force also recommended ending exemptions in the construction industry as a means of bringing \$500 million to \$1 billion more in premiums into the system. Lori Lovgren of the rate-making National Council on Compensation Insurance said ending the exemptions would not

affect rates since additional workers also would be added to the system. Ms. Stiles said the Council was wrong regularly in past years on the effect of law changes. Jay Carlson, Florida Home Builders Association, said the Legislature should be careful about ending the exemption lest small businesses be forced to close. Bill Parker, Florida General Contractors Association, supported the elimination.

Senator Walter "Skip" Campbell (D-Tamarac) asked Ms. Stiles if she could support legislation bringing the workers' compensation system back to pre-1978 law with regards to benefits with attorney fees being on a contingency fee basis only. Ms. Stiles said yes, with the following provisions also included; payment resolution and petition addressed by privatizing mediation and the elimination of mandatory managed care.

Sen. Latvala said he wanted the committee to have another workshop on revision of workers compensation. Four scheduled speakers were not heard for a lack of time and many questions remained unanswered.

AIF has been gratified to observe that both members of both the House and Senate, regardless of their party affiliation, have been generally agreeable to addressing the attorneys' fees issue and the construction exemptions issue as the two paramount issues of the reform effort. These issues, however, take some toughness and political wherewithal to address. They are not easy, but with the continued objective analysis of the legislature, we will be able to enact reforms that will genuinely benefit Florida's workers.

Committee members asked for additional information for future meetings on workers compensation. Sen. Walter "Skip" Campbell, D-Tamarac, asked for a report comparing total premiums and total benefits paid. Sen. Bill Posey, R-Rockledge, wanted a list comparing rates in all 50 states in order to determine why Florida's rates are so high.

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.