

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
WEEKLY UPDATE**



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**AIF WEEKLY LEGISLATIVE BRIEF
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INSURANCE DEBATE HEATS UP THE CAPITOL

This week insurance issues took center stage in the House and Senate, as legislators in several different committees heard testimony on medical malpractice, workers' compensation, automobile insurance, and insurance fraud.

This week the Gov. Jeb Bush, accompanied by Professor John Hitt, chairman of the Select Task Force on Healthcare Professional Liability Insurance, held a press conference to release the task force's report, which called for a \$250,000 cap on non-economic damages in medical malpractice cases. Chairman Hitt then reported his findings to House and Senate Committees.

At the House Insurance Committee meeting on February 4, 2003, Representative Kim Berfield (R-Clearwater), the committee chair, informed members that medical malpractice and workers' compensation reform bills would be coming before the committee. The committee heard from testimony from several speakers about the state of crisis in the insurance marketplace.

Doug Martin, president of Florida Insurance Council, revealed the fallacies behind the trial bar's argument that the fault for the exorbitant increase in the cost of malpractice insurance can be traced to carrier losses in the stock market, not jury awards. He made it clear that the increases in premiums is directly due to the increases in claims costs.

Tom Koval, general counsel for FCCI, discussed the approach of the Coalition of Business and Industries to resolving the workers' compensation crises, which rests on three basic pillars:

- reduce attorney involvement
- reduce the number of permanent-total claims
- eliminate the exemption in the construction industry, except for three corporate officers who each own at least 10 percent of the corporation

Mr. Koval advised the committee members that an NCCI analysis of the coalition's first two proposals revealed that it would bring about a one percent to six percent reduction in costs, even before factoring in the costs savings engendered by the elimination of exemptions.

Other presentations were made on no-fault auto insurance and the tightening market in all areas of insurance. It was clear that the insurance industry believes that the repeal of the no-fault law should be seriously considered. By far the most contentious issue was medical malpractice.

In Florida you can not legally drive a car, run a business, or safely practice medicine without adequate, affordable insurance. Unless the legislature takes aggressive action this year, the escalating insurance crises relating to PIP, workers' compensation, and medical malpractice will spiral out of control.

WORKERS' COMPENSATION

Many Capitol insiders expected the Senate Banking and Insurance Committee meeting on Thursday, February 6, 2003, to provide the same broad overview of insurance issues, but the focus was restricted to fraud in the worker's compensation system.

Senator Bill Posey (R-Rockledge), the committee's chair, expressed an adamant desire to rid the worker's compensation system of what he believes is rampant fraud and to declare Florida the national leader for worker's compensation reform. He did not allow any discussion on benefits, medical treatment, rising costs, or other elements of the workers' compensation system. Senator Posey, along with the other members of the committee seemed concerned solely with fraud and left the impression that fraud prevention and increased prosecution will be the key element of any workers' compensation legislation they release.

The meeting featured two panel discussions, the first manned by insurance company representatives who explained the industry's fraud-fighting efforts. Senator Posey expressed some displeasure by dismissing such practices as inadequate. The chairman asserted that Division of Insurance Fraud rarely prosecutes fraud cases because insurance carriers typically settle with offending employers or are relieved of the obligation to pay a claim, so they do not pursue the criminal aspect of prosecuting the fraud.

Senator Posey also questioned why insurance companies do not widely publicize the numbers of fraud prosecutions they make each year and routinely threaten their policyholders with criminal prosecution if they misclassify or misrepresent their payrolls for purposes of premium or claim fraud.

At the conclusion of the panel presentation Senators Posey and Skip Campbell (D-Tamarac) asked the representative of insurance carrier FCCI to submit a report on the extent and success of its effort to minimize fraud, including information on fraud perpetrated by claimants, employers, and underwriters.

The second panel to appear before the Senate committee was comprised representatives of state agencies that investigate and prosecute workers' compensation fraud in some form or fashion. Representatives of the Bureau of Workers' Compensation Fraud, the state attorney, the statewide prosecutor, and the Division of Workers' Compensation all informed the committee members of the procedures and paths they use to investigate and prosecute workers' compensation fraud. The speakers also detailed some of the challenges they face in pursuing convictions for fraud and the state's compliance efforts.

Representative Dennis Ross (R-Lakeland), who will chair the Select Committee on Workers' Compensation, announced that the group's first meeting will be held on February 18, 2003, from 5:30 p.m. to 7:30 p.m. He stated that all issues would be put on the table and thoroughly discussed.

Thursday's meeting proved that the business community will have to work hard to encourage substantive changes to the current workers' compensation law, so that legislators do not limit their attention to fraud prevention while ignoring more severe problems.

Florida's Workers' Compensation system is slowly unwinding into a completely unworkable, unaffordable process that neither serves the employer or the employee. Now is the time to enact reforms before the system is in complete collapse. The system was designed to be self-executing. The system was designed to make sure an injured employee received the speedy and necessary care in order to return to their rightful place in the workplace. It was not designed to provide a career path for bureaucrats and attorneys.

Stay tuned to our daily brief and to our web site at www.fbnnet.com as the legislature makes some very important decisions on the state's economy. These decisions will have a major impact on the business community and AIF will be reporting to you everything that happens.

This report was prepared by Arthur M. Simon, Vice President – Governmental Affairs at Associated Industries of Florida (AIF). Please send your comments or suggestions to us at aif@aif.com or call the Governmental Affairs department at (850)224-7173.

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- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.