

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
DAILY BRIEF**



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LEGAL REFORM

The House Business Regulation Committee considered HB 785 by Representative Dan Gelber (R-Miami Beach) relating to the liability of a successor corporation's asbestos-related liabilities incurred as a result of a merge or consolidation with another company. At this meeting, Representative Gelber presented two amendments; the first of which was technical. The second amendment provides that the limitations on liability do not apply to companies, which after a merger or consolidation, remain in the business of mining, selling, distributing, removing or installing asbestos-containing products which were the same or substantially the same as those manufactured, distributed, removed or installed by the previous company. Both amendments were adopted and the bill received unanimous approval. The bill has one more committee of reference, the House Justice Council.

Asbestos litigation is part of the overall debate on legal reform. As such, AIF is supporting changes to the current tort system that will bring about reasonableness, fairness, and predictability.

The House Justice Council considered HB 1019, The Asbestos and Silica Compensation Fairness Act of 2005 by Representative Joe Pickens (R-Palatka). This bill requires that when filing a civil action based on damages related to exposure to asbestos or silica, a plaintiff must make a prima facie showing of actual physical impairment based upon specified medical criteria. The bill also prohibits the awarding of punitive damages in asbestos/silica cases and prohibits the awarding of damages for fear or risk of cancer. The bill also limits the circumstances under which a product seller other than the manufacture can be held liable for an asbestos/silica related claim.

Representative Pickens offered 4 amendments to the bill. The first amendment allows exposure to be determined by the use of an x-ray and a cat-scan. The amendment also allows a plaintiff filing a case for secondary exposure to maintain an action, provided that the action, if had been filed by the other exposed person, would have met the requirements for bringing a cause of action under the act. The second amendment was technical. The third and fourth amendments provide requirements for determining radiological or pathological evidence of asbestosis or diffuse pleural thickening. Each amendment was adopted favorably.

Pamela Burch Fort, spoke in opposition to the bill on behalf of several law firms located in Jacksonville and Pensacola. Specifically, Ms. Burch-Fort noted three major difficulties with the bill: the portions of the bill relating to the recreation of the litigant's work history and the portions relating to exposure to asbestos outside of the workplace. Ms. Burch-Fort feels that the bill adversely impacts seriously ill individuals attempting to pursue a claim.

There was a significant amount of discussion between Representative Arthenia Joyner (D-Tampa) and Representative Pickens regarding the bill. Representative Joyner expressed concern regarding the bill's retroactive application to pending cases. Representative Joyner noted that this bill covered a complex area of law; while she appreciated the amendments, she could not support the bill because of her belief that it violated the right to access of courts guaranteed by the Florida Constitution.

HB 1019 passed on a 7-3 vote with Representatives Joyner, Mark Mahon (R-Jacksonville), and Irv Slosberg (D-Boca Raton) voting against the bill. The bill will now be heard on the House floor.

AIF supports legislation which would require those individuals bringing asbestos-related claims to prove prima facie evidence of impairment due to exposure to asbestos. Asbestos litigation is part of the overall debate on legal reform. As such, AIF is supporting changes to the current tort system that will bring about reasonableness, fairness, and predictability.

The House Justice Council also considered CS/HB 135 Relating to Liability for Street Light Providers by Representative Dwight Stansel (R-Live Oak). The committee substitute provides that a streetlight provider will receive protection from liability if it has designated procedures in place to respond to a notice that a streetlight is not working and informed its customers and the general public of those procedures. Additionally, a streetlight provider must repair the streetlight within 60 days of receipt of actual notice that the streetlight is not working, except in instances where repair is not possible due to circumstances beyond the provider's control, such as a natural disaster. Finally, the committee substitute differs from the original bill in that it provides that a street light provider is not liable if the street light is not working because service had been disconnected due to non-payment, termination of the contract, or at the request of the customer.

Representative Stansel presented several amendments to the bill. The first amendment provides that the definition of street light does not include any customer-owned/maintained street light. The second amendment removes the contract liability clause at the request of the trial bar. The third amendment clarifies what sort of contact information is needed from an individual reporting a damaged street light. Each of these amendments was approved.

Representative Irv Slosberg (D-Boca Raton) wanted to know the differences between the bill filed this year and the bill filed last year. Representative Stansel explained that last year's bill provided total immunity with no standards.

There was no public testimony or debate. The bill received a favorable vote, with Representatives Joyner and Slosberg voting against the bill. The bill is now headed to the floor.

AIF supports the concept of providing protection to utility companies that show strong corporate responsibility by repairing street lights within a reasonable time frame. The street light issue is part of the overall debate on legal reform. As such, AIF is supporting changes to the current tort system that will bring about reasonableness, fairness, and predictability.

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.