

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
DAILY BRIEF**



P.O. Box 784 • Tallahassee, FL 32302 • Phone: (850) 224-7173 • Fax: (850) 224-6532 • Internet: <http://aif.com> • [fbnnet.com](http://fbnnet.com)

**MARCH 29, 2006**

**LEGAL REFORM**

Senator Dan Webster (R-Winter Garden) presented House Bill 145, the repeal of joint and several liability, to the full Senate on second reading this afternoon. Senator Dave Aronberg (D-Greenacres) filed an amendment which he described as a “compromise” because it repealed joint and several liability and fixed the alleged problems associated with Fabre. However, the business community has fought hard against similar amendments, maintaining that such amendments would practically defeat the purpose of abolishing joint and several liability. The Fabre doctrine is important to the business community in that it allows the jury to apportion fault to a person who is not a party to the lawsuit for the purpose of reducing the other defendants’ percentage of responsibility, but the non-party is not obligated to pay damages based on the jury’s findings. The remaining defendant can have these non-parties to the lawsuit included on the verdict form in order to ensure that that defendant is liable only for the damages that he/she caused. Trial lawyers would obviously like to be able to settle with asset poor defendants and be able to hold the deep pocket defendant liable at trial for all the plaintiff’s damages. Any amendment with a so-called Fabre-fix would inherently undo the original intent of the bill which is to apportion responsibility fairly among all parties involved.

Senator Rod Smith (D-Gainesville), Senator Steve Geller (D-Hallandale Beach), Senator Skip Campbell (D-Tamarac) and Senator Victor Crist (R-Tampa) each gave extended speeches in favor of the “Fabre-fix” amendment while never explaining the real impact and how the amendment would maintaining the unfairness in the current system.

Fortunately, Senator Burt Saunders (R-Naples) and Senator Cary Baker (R-Eustis) spoke in strong opposition to the amendment. Senator Saunders engaged Senator Aronberg in some tough debate on the amendment and demonstrated different aspects of its unfairness. (INSERT VIDEO LINK HERE) Senator Webster also spoke in opposition of the hostile amendment, describing it as maintaining the current system. The amendment failed by a vote of 22-18. Members voting against the amendment in support of the AIF/FCLR position were:

Alexander	Atwater	Baker
Bennett	Bullard	Carlton
Clary	Constantine	Dawson
Diaz de la Portilla	Dockery	Fasano
Haridopolos	King	Lee
Peaden	Posey	Pruitt
Saunders	Sebesta	Webster
Wise		

A second amendment, filed by Senator Campbell was based on model language from a national legislative group that would have created a more complex negligence system for Florida. Even Senator Campbell himself seemed to be reading extensive notes on the amendment text rather than passionately and succinctly advocating its merits. Senator Saunders pointed out that this amendment was similar to Senator Aronberg's amendment and would also maintain the current system of unfairness. Senator Webster also informed the members that the amendment was unfriendly. This amendment failed by a vote of 26-13. Senator Nancy Argenziano (R-Crystal River) was not present for the vote. Members voting against this amendment and in support of AIF/FCLR were:

Alexander	Atwater	Baker
Bennett	Bullard	Carlton
Clary	Constantine	Crist
Dawson	Diaz de la Portilla	Dockery
Fasano	Garcia	Haridopolos
King	Lee	Lynn
Margolis	Peaden	Posey
Pruitt	Saunders	Sebesta
Webster	Wise	

Senator Campbell also filed a third amendment, which would have required a mandatory decrease in all insurance rates. Senator Webster reminded the Senators that the Supreme Court found similar legislation unconstitutional. There were no actuarial studies or analysis to support this idea and the business and insurance communities were opposed. This amendment failed by a vote of 19-21. Members voting against this amendment and in support of AIF/FCLR were:

Alexander	Atwater	Baker
Bennett	Carlton	Clary
Constantine	Diaz de la Portilla	Dockery
Fasano	Haridopolos	King
Lee	Lynn	Peaden
Posey	Pruitt	Saunders
Sebesta	Webster	Wise

Because all of the amendments were defeated, a clean version of the bill will be available for final passage by the Senate during its session tomorrow at 9:30 a.m. Senator Webster best described the idea of the bill while he was encouraging members to vote against the amendments: it is simply an issue of fairness and no one should pay more than their fair share.

**AIF appreciates the leadership of Senate President Tom Lee (R-Brandon) and Senator Webster in guiding this legislation through the Senate. Please encourage other Senate members to vote for this bill on final passage tomorrow.**

The Senate Judiciary Committee unanimously approved SB 124 Relating to Sovereign Immunity for Law Enforcement by Senator Bill Posey (R-Rockledge). The bill provides that an employing law enforcement agency is not liable for injury, death, or property damage caused by a person fleeing from a law enforcement officer in a motor vehicle if:

- the pursuit is not conducted in a reckless manner or wanting in care as to constitute disregard of human life;
- the officer reasonably believes that the person fleeing has committed a forcible felony; and
- the pursuit is conducted in accordance with a written policy governing high speed pursuit and the officer received instruction from the employing agency on the high speed pursuit policy.

This bill is substantially the same legislation that died on the Senate calendar during last year's session. SB 124 has passed all its committees of reference and is now ready to be considered on the floor of the Senate.

**Sovereign immunity for law enforcement agents is part of the overall debate on legal. As such, AIF is supporting changes to the current tort system that will bring about reasonableness, fairness, and predictability.**

## **EMERGENCY PREPAREDNESS**

The House Agriculture Committee unanimously approved HB 7121 Relating to Emergency Management/Motor Fuel by the Domestic Security Committee. HB 7121 creates the Florida Disaster Supplier Program Council. The council consists of seven members and is composed of one county emergency management director from each of the seven Division of Emergency operational regions as designated by the Florida Emergency Preparedness Association. This council goal is to facilitate access to supplies during an emergency and inform state residents of the availability of crucial supplies before, during and after a disaster.

The bill also creates the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs. The program allows motor fuel retail outlets doing business in the state to participate in a network of emergency responders to provide fuel supplies and services to government, medical, critical infrastructure and other responders, as well as the general public in a disaster.

Also, the bill requires multi-family dwellings that are at least 75 feet tall to have at least one elevator that is capable of operation on an alternate generated power source available to residents for a number of hours each day over a 5-day period following a disaster.

Finally, the bill specifies a statewide public disaster awareness campaign must include information on personal responsibility for individual citizens for up to 72 hours following a disaster. The campaign must promote statewide disaster plans, evacuation routes, fuel suppliers, sheltering information. The information must be available in alternative formats and mediums. This legislation is a better plan for Florida than mandating generators at gas stations. Even though this bill requires gas stations to have switches for generators on new facilities; substantially renovated or within ½ mile of an evacuation route, there is a process to receive a tax credit for installation of those switches.

The bill now goes to the House Finance and Taxation Committee.

<p><b>AIF opposes government mandates that require gas station owners and operators to have generators at gas stations and believes that the free market place will find solutions to the problem of power outages resulting from hurricanes or other natural disasters.</b></p>
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## **AFFORDABLE HOUSING**

The House Local Government Council unanimously passed HB 1363 Relating to Affordable Housing by Rep. Mike Davis (R-Naples). The bill is designed to stimulate workforce and affordable housing in high cost areas of the state, particularly for essential service personnel. This includes teachers, nurses, firefighters, emergency medical personnel, construction trades and areas of critical state concern. Among many of the provisions in this piece of legislation, the bill creates the Community Workforce House Innovation Program (CWHIP) which encourages public-private partnerships and the use of joint resources to provide affordable rental and single-family housing opportunities, in high-cost counties, to persons with medium incomes.

In addition, the bill appropriates \$20 million from the State Housing Trust Fund to provide funds to teachers eligible for affordable housing pursuant and to assist in teacher retention and recruitment as a response to the states teacher shortage. It appropriates \$32 million from the Local Government Housing Trust Fund to assist in production of housing units for extremely low income persons.

There were no questions or debate due to the fact that all of the committee members present at today's meeting were co-sponsors of the bill.

HB 1363 will now be heard by the House Fiscal Council.

**The issue of affordable or “workforce” housing is a priority for our state. AIF applauds the efforts of this bi-partisan approach to finding a solution. We look forward to working with all bill sponsors on finding common sense approaches to this complex issue.**

## **OTHER BILLS OF INTEREST**

### **Minimum Wage**

The Senate Judiciary Committee passed SB 786 Relating to State Minimum Wage Notification by Senator Tony Hill (D-Jacksonville) by a 7-1 vote. The bill requires each employer currently paying an employee the Florida minimum wage to display a poster in a conspicuous and accessible place at a worksite indicating the applicable wage. The bill requires the Agency for Workforce Innovation (AWI) to create the required posters in English and in Spanish and make them available to employers on or before December 1st of each year. Under this bill, each poster must contain specific language outlining the restrictions on employers, the rights of employees, and the penalties for non-compliance with Florida's minimum wage law. The bill also provides formatting, font and size requirements for the posters. One amendment was adopted which clarified the first line of the poster as it relates to the amount of the minimum wage for workers who earn tips.

Senator Bill Posey (R-Rockledge) was the only committee member voting against the bill. He expressed concern over businesses having to go out and get “new” posters every year.

SB 786 will now be heard by the Transportation and Economic Development Appropriations Committee.

Please send your comments or suggestions to us at [aif@aif.com](mailto: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.