EMPLOYER ADVOCATE

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1994 Legislative Outlook

1993 in Review

Business enjoyed rich rewards in 1993 with the passage of several major pro-business reforms.

The highlight of the regular session was the 1993 Health Care and Insurance Reform Act. Florida is the first large state to engage in such a comprehensive reform effort and our state program is now viewed as the model for health care reform at the national level.

The act set in motion the development of an infrastructure for a new health care delivery system based on the concept of "managed competition." Running the engine of this new health care machine are 11 regional Community Health Purchasing Alliances (CHPAs — pronounced Chip-pas).

The regional CHPAs will pool small businesses, state employees and Medicaid recipients in order to create a strong bargaining force when negotiating health care insurance.

It is believed that pooled purchasing, coupled with small group insurance reforms and data reporting requirements, will force health care providers to compete on the basis of cost and quality.

In order to survive in this new environment, providers — including doctors, hospitals and insurance companies — must figure out how to offer services at lower costs and with higher quality.

The November special session brought about another sweeping reform effort that was strongly demanded by the business community. Lawmakers were summoned back to Tallahassee by Gov. Lawton Chiles to deal with the broken workers' compensation system.

The passage of the workers' comp reform legislation during the special session should provide a welcome reprieve to businesses. The reform efforts are expected to produce a 20-percent-plus reduction in rates primarily by decreasing lawyer involvement and steering claimants into managed care arrangements to cut down on excessive utilization.

1994 Forecast

The mood of the 1994 Legislative Session will undoubtedly be affected by the looming clouds of this year's elections. With the entire 120-member House of Representatives and half of the Senate up for re-election this year, legislators

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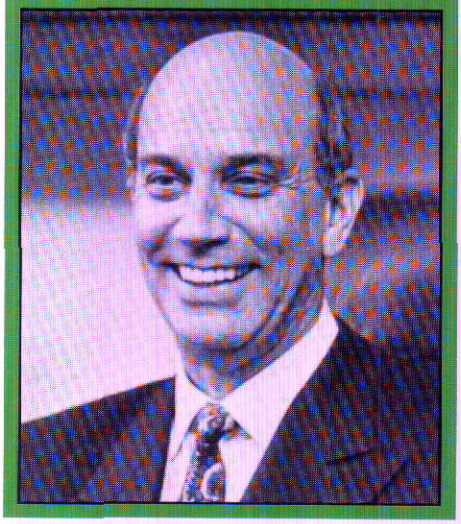
President's Message



Success In Politics

by Jon L. Shebel, President and Chief Executive Officer, Associated Industries of Florida

According to some newspaper reporters, democracy is politics. That makes about as much sense as calling a glass of orange juice an orange grove. You need the groves to make the juice, but you can't drink an orange grove.

Democracy cannot exist without politics, and skepticism about politics as a mechanism of democracy taints respect for our process of government. When elected officials, bureaucrats — and, yes, lobbyists — avoid honesty and frankness, is it any wonder the general public loses its trust? When public servants demonstrate a lack of candor or base their decisions on self-serving motivations, they deserve contempt. But painting all politicians with the broad brush of contempt is harmful.

I've worked with politicians for 25 years, first as an employee of the Florida House of Representatives, then as a lobbyist for Associated Industries. During that time, I've watched many elected officials who succeeded as candidates but failed as statesmen. Others lacked political dexterity but manifested great skill as public stewards. A rare few excelled as both.

As a result, I've come to believe that a candidate's ideology is insignificant when compared to his or her resources of honesty, intelligence and courage.

Without all three, we are left with politicians who are beholden to narrow constituencies or who readily sacrifice the public interest to political advantage.

During the last two statewide elections, Florida voters brought a corps of newcomers to the state capital — novices who were prepared to exercise their best judgment on behalf of the people of the state.

Several have expressed to me their dismay over the entrenched legislative establishment that wants to dictate their votes. They are frustrated by the good old boys — and girls — who expect them to put aside conscience in favor of party lines or regional preoccupations.

I've watched many elected officials who succeeded as candidates but failed as statesmen. Others lacked political dexterity but manifested great skill as public stewards. A rare few excelled as both.

Our veteran lawmakers are divided into two factions, apart from the traditional party affiliations. The first group views politics as an adversarial contest where every situation has to end with a winner and a loser. To them, governing is a battle royale, where contestants inflict as much damage as possible on their opponents, and the victors are left bloodied and barely standing.

The second group wants to determine the right course of action and work out a plan to achieve policy objectives.

That division represents the ultimate choice for everyone in a position of authority. Are you going to do the right thing; or are you going to make every effort to consolidate and expand your hold on the reins of power?

Edmund Burke was an 18th century political philosopher who, as a member of the British Parliament, called for conciliation of the American colonies and warned against taxing them excessively.

Since history has proved him correct on that score, perhaps we should trust his judgment on another matter.

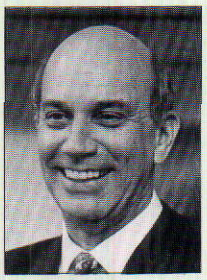
During a speech in 1774, he told his audience, "Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion."

Cynics dismiss this notion of political conscience as political naivete, a quality that loses elections and undermines power. One extremely successful politician who has never lost an election disagrees.

Gov. Lawton Chiles is fond of the saying, "Good policy is good politics." He believes this because he credits voters with the intelligence to judge candidates based on their contributions to the general welfare, not their campaign rhetoric. Our state would be best served if more of those who participate in and comment on government adopted his view.

AIF Adds Staff In Preparation For 1994 Legislative Session

Staff Lobbyists



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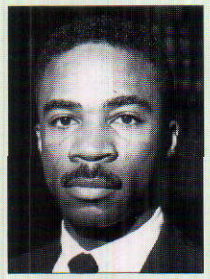

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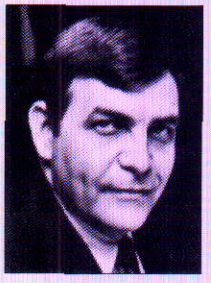
1994 Legislative Consultants



Taxation

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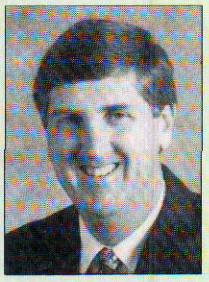
1994 Legislative Consultants

Insurance and Workers' Compensation cont.



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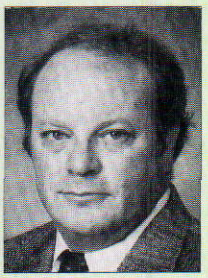

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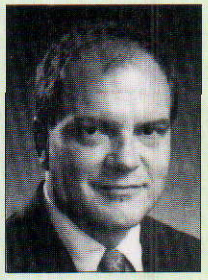

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Joint and Several Liability

Basically, It's Fair Play

Years ago, NFL football legend Vince Lombardi embarked on a tirade after one particularly devastating loss suffered by his champion Green Bay Packers. Regaining his composure, Lombardi took a deep breath and picked up a football.

"Gentlemen," he said calmly, "let's start with the basics. This is a football."

"Wait coach," interrupted one of his players. "You're going too fast."

Following Lombardi's lead, we're going back to the basics to decipher joint and several and explain why it represents one of the most important issues of the 1994 Session. It's a little complicated so, for any former Packers out there, we'll take it slow.

In the last issue of *Employer Advocate*, we told you about the Supreme Court's abolition of the doctrine of joint and several liability and warned that the trial lawyers would make a run during the 1994 Session to get the doctrine back into Florida law.

If you're operating a successful business or you've got any kind of liability insurance — commercial or personal — look out. The trial lawyers need the doctrine of joint and several liability to dig deep into your pockets.

First Comes A Tort

Football begins with the pigskin. Joint and several begins with the tort.

"Tort" is a legal term that basically means injustice or wrong and applies to civil proceedings. When people talk about the rise in litigation, they're talking about the increased use of the courts to settle disputes about an injustice that someone claims he has suffered. Negligence lawsuits are among the most common and lucrative of these claims.

If a plaintiff wins his negligence lawsuit, the jury can award him damages — both economic and non-economic — for the injuries he suffered.

A plaintiff's attorney undertakes a negligence lawsuit to make money. A small award or a poor defendant cuts down the attorney's fee. So he has to go after someone with the assets to pay damages. Under joint and several, the attorney focuses his energy on the source of money rather than the source of blame. Corporations and insurance companies — the so-called deep pockets — are the sources of choice.

A Step Back

The doctrine of joint and several liability has dominated our state's legal landscape since 1973, when the Florida Supreme Court adopted the doctrine of comparative negligence.

Before that time, our state operated on another principle: contributory negligence. Let's say you rear-ended someone's car. The driver of the other car suffered some severe injuries and decided to sue you. Under contributory negligence, if he contributed to the accident in any way, no matter how insignificant his action, he couldn't have collected damages.

In 1973, the Court recognized the inequity of this situation, and changed the system so that damages could be collected from you based on your degree of fault for the accident.

Let's apply the doctrine of joint and several liability to this same lawsuit over the car accident, and let's also add another person who bears some of the responsibility for the accident. After listening to the lawyers on all three sides argue their cases, the jury decides you and your co-defendant are each 45 percent at fault and the plaintiff (the person suing you) is 10 percent at fault.

The jury members award the plaintiff economic and

THE DOCTRINE OF JOINT & SEVERAL LIABILITY

by Lynne Knight — 1985

non-economic damages totalling $1 million.

Since the plaintiff is 10 percent at fault, you and the other defendant are only liable for $900,000 in damages, or $450,000 each. But there's a hitch. The other defendant has no money, no assets and no insurance. That means you have to pay the full load of liability — yours and his.

As Jodi Chase, Associated Industries Vice President and General Counsel, explains, "The theory is based on the idea that the plaintiff should be 'made whole.' If someone can't pay *his share of fault*, somebody else has got to pay. If you contributed to the accident, you should be on the hook for the whole thing because, if you hadn't been there, it wouldn't have happened."

Fitting Punishment

Damages in negligence lawsuits fall into two categories: economic and non-economic. Economic damages (such as reimbursement for lost wages, medical treatment, lost personal property, etc.) are designed to return the plaintiff to his pre-injury financial and monetary status. Calculation of economic losses is relatively straightforward and objective.

Determination of non-economic damages, however, requires a subjective judgment on the part of the jury. Contrary to what many believe, these damages are not supposed to compensate the plaintiff for pain, suffering or mental anguish. They're supposed to punish a defendant for inflicting harm on another.

"Non-economic damages are supposed to deter your behavior," says Chase. "If you're going to build ladders, you either decide to spend the extra money to make a safe ladder or you don't spend the extra money, and you make a ladder that breaks easily and people fall down and get hurt. There should be an economic consequence to you for not spending the money to make the ladder safe. That's what the whole punitive damages theory is based on."

The area of punitive, non-economic damages is problematic in nature. They do not represent punishment for a criminal act, but rather for negligence. The negligent act may be immediately related to a particular behavior — such as driving while under the influence of alcohol — or it may have an incidental connection — such as leaving a forklift unattended for a couple of minutes, during which time it is stolen and involved in an accident.

No rules exist for juries to use when awarding punitive damages. The defendant's ability to pay and the severity of the injury suffered offer the only guidelines, and they are often employed arbitrarily. With no limits set on the size of potential awards, damages often reach unrealistic and unreasonable heights.

Furthermore, the application of joint and several disunites the two guidelines. The severity of the injury may result in an enormous award of non-economic damages. If multiple parties are involved in an accident and only one has the money to pay for damages, that party bears the entire responsibility for everyone involved — regardless of his degree of fault.

No matter the situation, when accountability and discipline are estranged — when cause is separated from effect — the outcome is not only unfair; it is rendered meaningless.

Beyond Belief

Joint and several was carried to illogical proportions in a lawsuit against Walt Disney World, in which a woman sued the theme park for injuries she suffered on the grounds. A jury apportioned blame for the accident as follows: 14 percent against the woman; 85 percent

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against her fiance; 1 percent against Disney.

Since the woman did not sue her fiance, under joint and several he was not liable for his 85 percent of the damages. That left Disney responsible for his portion and its own 1 percent — thereby giving Disney 86-percent liability for *punishment of an accident to* which it just barely contributed.

Disney appealed this decision all the way to the Florida Supreme Court, where the justices refused to overturn joint and several judicially, preferring instead to leave that decision to the Legislature.

In response to cases such as *Disney*, the Legislature enacted section 768.81(3), *Florida Statutes*, in 1986, eliminating joint and several liability for ***non-economic*** damages. Joint and several still applies to ***economic*** damages and to cases where damages total less than $25,000.

Lawmakers allowed the exception of economic damages in the belief that "making the plaintiff whole" required total replacement of financial and monetary losses. Someone has to pay to return the plaintiff to his pre-injury economic status. If multiple parties were involved in the accident and only one had the assets to pay the economic damages, that one person footed the bill for everyone.

Associated Industries argued that institution of this passage in the law represented a fundamental inequity. AIF remains totally opposed to the application of joint and several liability in any situation, regardless of the nature or size of the damages. It accepted the legislative compromise, however, in order to gain the most important part of the reform for the business community — protecting members' assets from non-economic pickpocketing.

Full implementation of the law did not occur until one car collided with a concrete barrier on I-95. It may have been the most momentous event ever to transpire on that interstate.

The Crash Heard Around Florida

As Ramon Marin was driving down I-95, with Mrs. Marin beside *him in the passenger seat*, he began to switch lanes at the same time as the vehicle in front of him. Swerving to miss that car, he plowed into the concrete wall in the median.

Mrs. Marin was seriously injured in the accident. Since Mrs. Fabre was behind the wheel of the car in front of the Marins', Mrs. Marin sued Mrs. Fabre for damages. However, Mrs. Fabre's liability insurance was limited to $10,000 dollars per injured person, so Mrs. Marin added the Fabre's insurance carrier, State Farm Insurance, to her complaint.

The jury decided Mrs. Fabre and Mr. Marin shared fault equally and Mrs. Marin was awarded $7,750 in economic damages and $350,000 in non-economic damages. Despite his 50 percent share of fault, Mr. Marin was absolved of liability because the law, at the time of the trial, gave immunity to spouses. That left Mrs. Fabre and State Farm holding the bag for the entire award — all $357,750 of it.

"You don't have control over somebody else's behavior, so why should you be punished for their behavior?" Chase explains. "You shouldn't be."

Mrs. Fabre appealed to the Third District Court of Appeals, which agreed with the trial judge's determination that Mr. Marin's 50 percent of fault could not reduce the 100-percent liability of Mrs. Fabre and State Farm. Displeased with the results, Mrs. Fabre turned to her court of last resort — Florida's *Supreme Court.*

Balancing the Scales

One of the major issues in Fabre v. Marin revolved around interpretation of the Legislature's intent when it enacted section 768.81(3), *Florida Statutes*. The statute says liability must be divided among all parties according to their percentage of fault. But did this mean all of the parties who were responsible for the accident or just those parties in the lawsuit?

Opponents of the doctrine of joint and several declared that "parties" meant everyone who bore any responsibility for the accident. Those who favored continuation of joint and several said, "Absolutely not. The Legislature did not define 'parties' and in the face of that ambiguity, the Court should interpret the term to mean 'parties to a lawsuit.'"

The Supreme Court chose the broader definition that restricts joint and several. In the majority opinion Justice Stephen H. Grimes wrote, "We are convinced that section 768.81 was enacted to replace joint and several liability with a system that requires each party to pay for non[-]economic damages only in proportion to the percentage of fault by which that defendant contributed to the accident."

The distinction is of vital importance. The broad definition of "party" reduces the liability of Mrs. Fabre and State Farm from 100 percent to 50 percent, or half of Mrs. Marin's $350,000 non-economic damages award. If the Disney case were heard today, Disney would only pay 1 percent of the award rather than accepting liability for the 85 percent fault of another person who was not a party to the lawsuit.

"You don't have control over somebody else's behavior, so why should you be punished for their behavior?" Chase explains. "You shouldn't be."

The issue is one of fairness — not just to the injured person but to the defendant as well. Trial by jury is essentially an

adversarial situation, and anyone who walks into a courtroom undertakes a risk that the jury will disagree with his position. Attempting to reduce that risk by upsetting the balance between plaintiffs and defendants mocks the intent of our judicial system and demeans its integrity.

Friend of The Court

Generally, the Supreme Court only accepts cases that involve an issue of compelling public concern. Part of the process involves the filing of briefs by *amicus curiae*. That Latin phrase, literally interpreted to mean *friend of the court*, pertains to people or organizations who are not parties to the case, but who, nevertheless, have an interest in the outcome.

Amicus briefs present arguments in support of one of the parties in a larger context than the immediate settlement of the particular case. Amicus briefs are becoming more and more important to associations that seek to represent constituencies in the development of public policy.

The amicus filed on behalf of the Academy of Trial Lawyers in *Fabre v. Marin* provides one of the few occasions for levity in this otherwise solemn matter.

The academy's brief contended that giving the term "parties" the broader definition would actually increase litigation because plaintiffs would have to sue everybody in sight in the hope of finding someone they could prove negligent. Stretching to find a situation to support their opinion, the trial lawyers offered the 1928 case of Mrs. Palsgraf.

Early in this century, before jets replaced trains as the preferred method of long-distance travel, Mrs. Palsgraf was waiting in the terminal of the Long Island Railroad. As the academy's brief portrayed the facts, "Mrs. Palsgraf was injured when the railroad's employees ***negligently*** assisted a passenger running to catch one of its trains. The employees caused the passenger to drop his package on the tracks. The package contained fireworks. The fireworks exploded when they hit the tracks. The explosion knocked over some scales many feet away. The scales fell on Mrs. Palsgraf, injuring her" (emphasis added).

Does every person who suffers an injury because of the actions of another need to go to court to receive just compensation? Obviously not, since many accident claims are settled quickly and easily out of court.

Mrs. Palsgraf sued the railroad for damages. If joint and several was overturned, according to the trial attorneys, Mrs. Palsgraf would have had to sue everybody from the passenger to the manufacturer of the fireworks to the maker of the scales to the person who made the passenger late for the train. Trial attorneys believe the railroad should just have to pay to save Mrs. Palsgraf the trouble of suing everyone who contributed to this accident.

A footnote in the amicus brief admits that the New York court absolved the railroad of any liability to Mrs. Palsgraf. According to the trial lawyers', "We offer the case simply as a classic example of a complex fact pattern." Then they go on to cite that great treatise of legal theory, Michael Crichton's novel, *Jurassic Park*, to define the consequences of a "complex fact pattern."

Why force Mrs. Palsgraf to unravel a complex fact pattern? She didn't want something from everybody involved in the accident. She wanted something from the railroad. Why? Because the railroad company had lots of money and assets. Of course, it was using that money to provide jobs to employees, business to suppliers, and services to customers. But that wasn't important.

The trial attorneys want us to ignore the railroad's legitimate argument that these other people bore more responsibility than it did. Good heavens, if people like Mrs. Palsgraf and their attorneys had to work that hard to sue for damages, they might decide that the rewards were not worth the effort.

The trial attorneys apparently believe that we should just make it easy for injured parties to recover damages by letting them settle on those wealthy few with deep pockets who can afford to toss a couple of million around in settlements.

Finding Solutions

Does every person who suffers an injury because of the actions of another need to go to court to receive just compensation? Obviously not, since many accidents are settled quickly and easily out of court.

A better question might be, does every lawsuit that goes to trial really need jury resolution of the dispute? Does the possibility exist that lawsuits have become an unacceptably easy method for plaintiff attorneys and their clients to make money?

That is an important public policy decision. Limiting access to the courts, either directly or indirectly, should not be undertaken lightly. Restricting recovery of non-economic damages may indirectly limit access to the courts because attorneys are not eager to accept cases that do not carry the likelihood of profit.

Just like everybody else, attorneys are in business to make money. They do that by zealously representing their clients. But, if in doing so, they take advantage of a situation that treats others inequitably,

Please see Fair, pg 10

Fair, from pg 9

placing them at an unfair economic risk, intervention becomes necessary.

A personal injury lawyer usually makes his money from the award of damages to his client. The larger the award, the higher the attorney's fee. If awards are limited by capping non-economic damages or by apportioning liability for damages among every party to the accident, the attorney runs the risk of diminishing his lucrative practice. "There's no way a trial attorney's going to sue somebody who's insolvent — just for a moral victory," says Chase.

The trial attorneys claim that forcing them to sue everyone who might have liability will only increase litigation. That assertion angers Chase. "It seems to me that's just a threat, and that's a rather dirty deed.

"First of all, they should be collecting from the people who are at fault. What they're doing is not suing the people who are at fault who don't have much money, and only suing the people who are at fault who do have money."

Chase knows the trial attorneys will try to convince lawmakers to pass a bill overturning *Fabre*. "They're going to file a bill that says any party who is immune from suit or is insolvent — any person who is not a party to the lawsuit — will not be named on the jury verdict form," she predicts. That means only those defendants the plaintiff chooses to sue will bear responsibility for damages.

"There's no way a trial attorney's going to sue somebody who's insolvent . . . for a moral victory," says Chase.

As an employer and a private citizen, maybe you've never been sued, and possibly you never will be. But then again, perhaps you will, and, if so, you might end up paying for the reckless deed of another. If you want to protect yourself from that risk, do two things.

First, tell your corporate attorneys, whether they're in-house or work for a law firm, to watch for any cases involving negligence lawsuits against corporations. AIF wants to track these lawsuits so that if they are appealed to the Supreme Court the association can file amicus briefs, on behalf of employers, that argue against remaining issues of joint and several liability.

Then call your senator and representative and tell them to vote against any bill that overturns *Fabre*.

Let's stick with fair play in the courtroom. Basically, that's the basics of *Fabre*.

by Jacquelyn Horkan, AIF Information Specialist

And the Winner Is . . .

The results are in and, thank goodness, Florida lost the contest.

The Jan. 17, 1994, issue of *Forbes* magazine classified each of the 50 states and the District of Columbia in terms of their level of litigation. The District of Columbia earned top honors as the friendliest neighborhood for trial attorneys, while Utah ran last.

What about Florida? Well, we didn't do so well, coming in seventh out of 51 competitors.

Forbes used five statistics to measure the saturation rate of legal activity: litigation over auto accidents; malpractice premiums paid by orthopedic surgeons; number of trial lawyers; campaign expenditures for state chief justice; and municipal legal settlements. There was no award for Miss Congeniality.

Florida placed second in average malpractice premiums for orthopedic surgeons, who pay a standard of $73,788 a year for insurance. The last retention campaign for chief justice cost $375,983, the fifth highest total.

In the category of amount paid by the state's largest city to resolve liability claims and judgments, the Sunshine State weighed in at 12, with $3,500,000 worth of settlements.

Florida's automobile chasers handled 45.3 percent of all automobile accidents occurring in Florida, setting us 14th among the states in that category.

Karen Gievers, a candidate for Florida Treasurer and Insurance Commissioner, is worried about ongoing increases in auto insurance even though we Floridians are getting into fewer accidents. Maybe we're becoming better drivers, but with lawyers jacking up settlements in almost half the accidents that occur, you can bet that insurance companies aren't the ones pocketing a healthy profit at our expense.

In some of her campaign literature, Gievers calls herself a business person but doesn't get into details. Specifally, her business is trial law and she's a past president of the Academy of Florida Trial Lawyers.

Considering these statistics and the political power of trial attorneys, you'd think the Academy of Florida Trial Attorneys was busting at the seams in terms of membership. That's not the case. In comparison of population to members of the state trial lawyers association, Florida gained its lowest ranking. Forty of the 50 states and Washington D.C. have higher concentrations of trial lawyers than Florida.

It's time to fight back before the academy goes on a membership campaign, forcing our state to rise in the ranks.

by Jacquelyn Horkan, AIF Information Specialist

Outlook, from pg 1

will likely be somewhat subdued when it comes to certain issues, particularly business issues.

The dynamics of the Senate should prove most interesting to observers of the legislative process. October 11, 1993, marked the halfway point in the historic shared-presidency of the Senate.

The divided presidency was a compromise agreement reached when neither side of the evenly split Senate could garner enough votes to elect a leader from its party.

Upon receiving the baton from Jacksonville Republican Sen. Ander Crenshaw, Sen. Pat Thomas (D-Quincy) reshuffled the Senate Committees, appointing Democrats to key committee chairs and removing and reassigning other senators. This maneuvering could potentially upset the delicate balance struck during the short-term presidency of Sen. Crenshaw.

With both parties jockeying to gain a majority after this year's elections, it appears that the Senate will find it more difficult to maintain a cooperative spirit and avoid gridlock.

Business, however, will not likely be affected, regardless of which party ends up in control of the Senate, since business generally enjoys bi-partisan support.

Key issues awaiting the Legislature when it convenes this year's session on February 8 will include health care, juvenile justice, and the environment. As always, the budget remains the top issue on everybody's agenda.

The Budget

On Dec. 21, 1993, Gov. Chiles unveiled his proposed $38 billion budget for fiscal year 1994-95. The governor's proposal emphasizes public safety and, to the delight of most, does not include any new taxes.

The budget proposal aims at public safety concerns by allocating $175 million for new juvenile justice programs, $61 million for safe school programs; and by issuing bonds for prison construction to build 14,000 additional prison beds.

Most of the budget's revenue will be generated by spending cuts aimed at inefficient programs and by increasing various user fees. The increase and creation of new fees has been the main source of Republican criticism of the no-new-taxes spending proposal.

Gov. Chiles' new-found fiscal conservatism may stem from his decision to seek another term as Florida's governor. Whatever his motives, Chiles has finally accepted a premise denied by most of his predecessors: government should spend the taxpayers' money wisely — allocating it based on availability and priorities.

Of course, the governor's budget proposal is merely a point of embarkation. Over the 60-day session, many proposals will spring to life, then either die or find their way into the final document. Spending the money is only a portion of the budget debate.

Earnings by private citizens have not matched the growth of revenues raised by government entities, meaning most of us are spending more of our money to fund the public sector.

Many lawmakers and citizen's advocates are turning up the heat on attempts to limit state spending and/or revenues.

Over the last 22 years spending by our state's government has increased by an average of 12 percent every year; local taxes have either kept pace or outraced the spiral in state spending.

Earnings by private citizens have not matched the growth of revenues raised by government entities, meaning most of us are spending more of our money to fund the public sector.

Revenue and spending caps seek to confine government growth to the increase in personal income, with adjustments for shifts in population, inflation and economic expansion.

If legislators do not voluntarily enact legislation to control their spending habits, the public may force financial discipline on them by approving caps during the November elections.

Some lawmakers want to undertake budget reform, prompted by an expose published in the *Florida Times-Union*. The series of articles, written by reporter David Hosansky, took readers on a troubling journey through Florida's obscure and baffling budget system.

Hosansky's report showed that most officials can't track how our money is spent. A few years ago, the Florida Legislature established the Taxation and Budget Reform Commission to address this problem and to identify methods to create a streamlined and effective budgeting process.

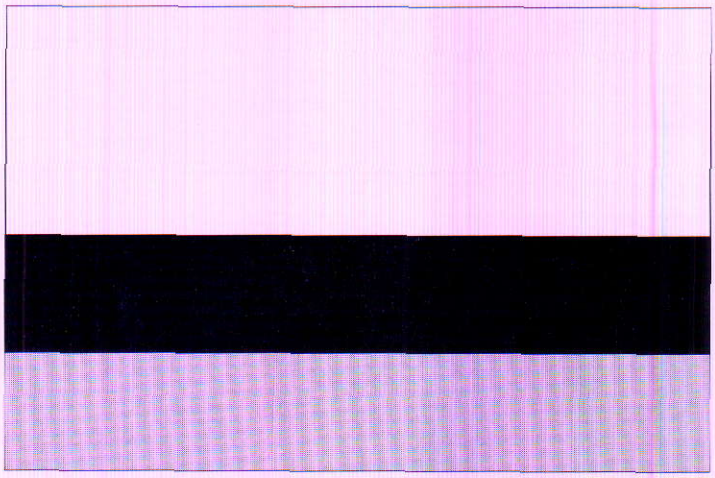
Two years ago, the commission presented its plan to the Legislature. Lawmakers, fearing a loss of power, ignored the commission's recommendations and withdrew their funding.

Now, the wheel has turned and legislators have again adopted a spirit of reform. Let's hope that this time their resolve translates into action.

Whatever happens, it appears that a freshening breeze of reality is sweeping through the state capital.

by Kevin Neal,
AIF Assistant Vice President,
Governmental Affairs

International Trade



Columbia: *The New El Dorado*

Ignoring a U.S. Department of State travel advisory, Lance Ringhaver visited Colombia in late August. He returned to the United States unharmed, impressed by all he had seen and excited about the business opportunities he discovered there.

Ringhaver is the chairman of the Associated Industries of Florida board of directors and the president of Ringhaver Equipment Company, a Tampa-based distributor of Caterpillar equipment. He made the trip to Colombia as part of a trade mission sponsored by the Colombian government and organized by the Council of InterAmerican Trade and Commerce.

Most Americans bear an image of Colombia that reflects the flickering pictures of drug-related violence broadcast on nightly news programs. Like most media versions of reality, however, this account paints a narrow, sensationalized — and incomplete — portrait.

Settled by Spain during the early years of the 16th century, Colombia very nearly fulfills the conquistadors' vision of El Dorado — the paradise brimming with natural wealth. It is the world's largest producer of emeralds and Latin America's second largest producer of gold. It possesses abundant reserves of coal, petroleum, silver, platinum, copper, bauxite and phosphate rock.

Colombia, a country of stunning beauty, spans the northern tip of South America, with coastlines touching both the Pacific and Atlantic oceans. Its landscape includes tropical rain forests of the Amazon basin, towering mountain ranges of the Andes, white-sand beaches of tropical climates and fertile grassy plains.

The contrasts in the country extend beyond its ecological complexion. Unlike most of its fellow nations on the continent, Colombia possesses a firm grounding in democratic traditions and conservative economic policies.

Despite this, Colombia did not remain untouched by the violence, turmoil and disorder that wracked South America during the last decade. On that continent, the 1980s are referred to as the "lost decade," a time of economic catastrophe when inflation exploded and monumental debt burdens crippled national economies. Shaken by right and left-wing intransigence, political stability fell prey to ideological extremists.

In 1978, Dr. Julio César Turbay Ayala was elected president and subsequently imposed strict security measures to counter a rising tide of terrorism by Marxist guerrillas, allegedly financed by Cuba. Thus began a long period of crises, leading to the seizure of the national courts building in November of 1985.

As rebel violence mounted, the Colombian government faced a growing threat from powerful and lawless drug lords. In a splendid display of political courage, the country's next president, Virgilio Barco Vargas declared war on the drug traffickers in 1989. The

recollection of the savagery initiated by the leaders of the drug cartels lingers in the memories of people across the globe. But these violent images have overshadowed the positive transitions underway in Colombia.

Wanted: Florida Business

"We know the good side of our country and we know the bad side. When we live outside our country, all we hear on the news is the bad side. We want people to know the spirit of our country."

Claudia Turbay de Rojas, the daughter of the former Colombian president, speaks these words from her 19th floor office overlooking the shimmering waters of Biscayne Bay. She is the director of the Miami branch of Proexport-Colombia, an agency that promotes the foreign trade and investment opportunities that exist in her native land.

In the past, Colombia used a scaled-down version of the command economy model preferred by most Latin American governments. The country relied on import substitutes and propped up national industries. The only goods available were those produced in country. If consumption fell, prices rose to make up the difference.

Thanks to an underlying economic pragmatism, Colombia avoided the repercussions of these policies, which were felt throughout Latin America during the 1980s. While its inflation rate — 26 percent in 1991 — is high compared to European and U.S. standards, it is considerably lower than the triple-digit increases experienced in other South American countries. Furthermore, it is the only country in Latin American to experience uninterrupted growth since 1948.

Nevertheless, Colombia's political class and business community realized that their country's comparative success did not represent its full potential. Squelching the control of the illegal drug industry would depend, in part, on developing other commercial opportunities. And that meant opening the economy to competition.

In the last four years, Colombia has undertaken daring measures to expose its markets to foreign investment and trade. Developing commercial policies that seek to maximize its resources, the government has embarked on a series of reforms that defy the old protectionism and embrace openness, entrepreneurialism and growth.

Turbay and other government officials know that overcoming the persistent misconceptions about their country depends on show, not just tell. The seven-day trade mission in which Ringhaver participated is part of their strategy to display their country's charms and attractions to potential international partners.

Ringhaver traveled across Colombia in the company of 22 other executives from businesses, trade associations and economic development councils from 11 major cities in seven Southeast states.

> ***"Medellin is one of the cleanest and prettiest cities I've ever visited," says Ringhaver. "I felt very comfortable and safe the entire time I was there. Safety was never a concern."***

They made their first stop in Medellin, a city that gained notoriety as part of the eruption of violence spawned by the drug cartels. It was a dramatic beginning to a journey full of surprises. "Medellin is one of the cleanest and prettiest cities I've ever visited," says Ringhaver. "I felt very comfortable and safe the entire time I was there. Safety was never a concern."

During their tour of the country, the participants met with government dignitaries, visited factories and discussed commerce with leading business executives. These meetings with high-level officials yielded another revelation. "You listen to these people talk," says Ringhaver, "and I think they're more American sometimes than we are."

Read the following statement by the current president of Colombia, César Gaviria Trujillo, and you'll probably agree with Ringhaver's assessment. "Today, there is no doubt," writes Gaviria, "that interaction of supply and demand is usually the best system for allocating society's economic resources. I am not saying that market forces are infallible and do not commit mistakes; the point is they usually commit fewer and less costly errors than those made by bureaucrats or government officials."

Would that some of our office-holders expressed the same faith in capitalism.

Actors on a Global Stage

When he speaks about the opportunities in Colombia, Steve Albee, president of the Council of InterAmerican Trade and Commerce, can barely control his enthusiasm. "What's here in Florida is technology and expertise. Anything in infrastructure. They want to duplicate our systems. There's opportunities in construction, tourism, distribution of all sorts of goods and products."

Anyone in business knows that risk comes with opportunity. That risk grows when crossing national boundaries. The Colombian government has designed its trade and investment policies to minimize the risks while maximizing the opportunities.

Treatment of foreign investors is guided by three principles: equality, automaticity, universality. Foreign and Colombian investors are guaranteed equal treatment with prohibitions on discriminatory conditions. Foreign investors

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Trade, from pg 13

need not negotiate a bureaucratic obstacle course before investing. They are admitted into every sector of the economy, with the exception of defense and national security and the processing, disposal and discharge of toxic, hazardous or radioactive wastes not produced in Colombia.

Foreign trade policy is marked by the promotion of bilateral and multilateral agreements designed to promote the free flow of goods and services in international markets.

One such agreement is the Andean Trade Preference Act (ATPA), negotiated by the Bush administration and approved by Congress in 1991. ATPA was a trade agreement negotiated with the Andean countries of Colombia, Bolivia, Ecuador and Peru reducing trade barriers between them and the U.S.

Referred to as the trade component of Bush's war on drugs, U.S. support of ATPA was based more on political and social utility than it was on economic expansion. Since most cocaine originates in the Andes, ATPA was viewed as a mechanism to expand economic progress in the Andean countries, thereby stimulating legitimate business activity in those countries. The economic potential it offered to the U.S. was deemed unimportant.

In light of the recent quarrelsome debate over NAFTA, the pact with the Andean countries is remarkable for its anonymity. It points out the contrast between Colombian and U.S. perceptions of foreign trade. That difference confounds Albee.

"I hate it when I hear international trade separated from economic development." he says. "A company is in the business of doing business by providing a product or service to somebody. If a business person can increase his product sales by 20 percent, he has to put more people to work, his bottom line goes up, he ends up making more money. Now if that 20 percent comes because he had a business deal in another country, what difference does it make? It's still called business retention and expansion."

Foreign trade policy is marked by the promotion of bilateral and multilateral agreements designed to promote the free flow of goods and services in international markets.

Albee compares trade with Colombia to trade with Texas. Both are a two-hour plane ride away and neither involve complicated or restrictive paperwork. And the links between the United States and Latin America are strong.

Colombians have favored Florida as a vacation spot for years. Many own homes here and large numbers of nationals have graduated from U.S. colleges. Albee rattles off the names of government and business executives along with their alma maters — universities that include Texas A&M, Georgia Tech and Harvard. In September, he took the president of the University of Florida, along with about 40 alumni, to Caracas where they met with almost 250 Venezuelan Gators.

Albee's group seeks to capitalize on this bond. The Council defines itself as "a non-profit coalition of business, academic, association and government leaders in North and South America working to enhance and develop beneficial relationships between the Americas that lead to financial enterprise, trade, investment and other profitable ventures."

Albee predicted passage of NAFTA two months before the event and he promises that it's only the beginning of open trade with all of South America. "All of the Florida companies that begin to participate in the process are going to develop from it. We've got this syndrome that we've got to go to Europe to do business or we've got to go to Japan. That's nonsense. Right here in our own backyard we've got 450 million consumers."

Era of the Entrepreneur

President Gaviria calls this age we're living in "the era of entrepreneurship" and he seeks to expand his country's economy on an international scale, thereby accelerating growth. Injecting global trade into Colombia's once cloistered markets will expose them to higher levels of external competition, spurring the development of quality and efficiency.

In 1991, the Colombian Congress passed the Foreign Trade Law, which outlined the basic principles for management of imports and exports. It simplified the procedures and regulatory structures governing trade and investment.

The name given this policy of economic liberalization is "apertura," the Spanish word for opening. It goes beyond the loosening of trade restrictions to include tax reform, a revised labor code, elimination of price controls and conversion to a free market foreign exchange of currency.

It also embraces privatization of industries previously controlled by the government. These include telecommunications, phone systems, distribution of electricity and transportation.

Colombia's reorganization of its political and economic mechanisms must now be matched by improvements in the country's infrastructure and public safety. The latter is a work under progress. The death of Pablo Escobar on Dec. 2, 1993, during a shootout with law enforcement agents, marks a symbolic ending to the country's enslavement by the drug kingpins. Narco-terrorism remains a minimal threat to the

country, but it is rarely directed toward business or foreigners.

The turbulence of the leftist rebels was largely defused by the enactment of a new constitution in 1991 that contained important social reforms and protection of human rights.

According to Turbay, "The risks you encounter in any large Colombian city is the same you will find in any large American city." Her opinion is seconded by Ringhaver and the other participants in the trade mission.

Building up the infrastructure, on the other hand, is a task that is just beginning. In terms of production, Colombia's business community is thriving and brisk. With ports on the Pacific and Atlantic, it is a natural gateway and distribution center. Transporting goods from one place to another, however, is a stumbling block.

Modernization of its transportation and communications infrastructure is one of the top priorities in the country. It is a project tailor-made for Ringhaver's company. "They're building roads, they're planning on expanding and so forth. And from our point of view, we definitely had a very good response. I think we'll be among the first to see an immediate response to this trip."

Finding the Opening

Ringhaver Equipment's franchise territory covers 18 counties in central Florida. Its Caterpillar products include earth moving and paving equipment as well as engines and generators and it sells and services Caterpillar parts. The company also maintains a large rental fleet.

"We don't like the machines to stay in the rental fleet for over two or three years," explains Ringhaver. "Therefore, every year we have to dispose of about 150 and throw 150 new machines in there. This is the kind of good used equipment we'd like to export."

The used equipment sales are not restricted by franchise territory. Used machinery is also less expensive than new equipment and requires less maintenance. Ringhaver knows that both of these factors are strong incentives for countries like Colombia that are short on funds and lack sophisticated mechanics.

Ringhaver Equipment is not the only company to benefit from the connection between Colombia and the Council of InterAmerican Trade and Commerce. Albee recently arranged a meeting between Colombian officials and a manufacturer of medical instruments in St. Petersburg. "They told him, 'we would love to work with you as the source to buy all sorts of medical supplies and equipment.'"

With ports on the Pacific and Atlantic, it is a natural gateway and distribution center. Transporting goods from one place to another, however, is a stumbling block.

Making the Connection

Jon Shebel, Associated Industries' president, serves on the council's board of governors. His desire to expand the presence of AIF's members abroad began seven years ago when Associated Industries initiated a project to develop commercial ties in Haiti. The overthrow of the Haitian government ended that project.

Shebel sees the Council of InterAmerican Trade and Commerce as the vehicle to achieve his goal. "With our geographic location, there's no reason for Florida businesses to limit themselves to this state. We've got the knowledge, the resources, the products, and we're surrounded by potential customers."

Ringhaver also recognizes the potential. "When (Albee) puts more of these trips together, he could communicate to Jon the types of industries they will be visiting. Then Jon could look over our membership and say, 'Hey we've got this company and this company. These are some of the products that are needed.' We could be a matchmaker."

While Florida is predominantly a small business state, size does not restrict participation in foreign markets. "Small companies can't afford to go down there prospecting," says Ringhaver, "but through Associated Industries we can put together some of the right people, so they really don't have to go around and do a lot of prospecting."

Colombia's leading imports include processing machinery for textiles, agriculture and food; machine tools and metalworking equipment; building products; computer and telecommunications equipment; medical instruments; and travel and tourism services.

The government is also keenly interested in foreign companies and investors to participate in mining exploration and production, as well as related activities with refineries, petrochemicals, power generation and gas supplies.

The story of Colombia's realignment of its foreign trade policies offers more than the realization of opportunity for Florida business. It provides a glimpse of intelligent public policy concerning economic expansion. Streamlined regulations, open trade, and a trusting partnership between government and business — all of these are the fundamental necessities of a smoothly functioning capitalist economy.

Albee wants to produce a seminar on how to conduct business in Colombia. "It's not that hard; it's the same as doing business here," he says.

Perhaps Florida business would best be served if Albee's group first produced a seminar to teach our state and national governments how to conduct business.

by Jacquelyn Horkan, AIF Information Specialist

Workers' Comp

A Whole New Ball Game

It's not as exciting as the NCAA basketball championship.

Neither is it as inspiring as a shuttle launch from Cape Canaveral.

And as far as drama is concerned — well, let's just say it's not Oprah Winfrey material.

But when you look at significant issues, it outranks all of these — except maybe the Final Four — and finally it's getting the attention it deserves.

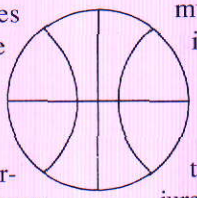
This year Florida's employers are paying less for their workers' comp insurance because our state's political class finally summoned the courage to rid our system of clinging third-party beneficiaries. And the reductions should continue into the future.

The 1993 reform law converts Florida's system from a bewildering maze into a series of straight channels steering toward one destination: the quick and efficient delivery of benefits to injured workers leading to their return to work.

All along, that was the intent of the Legislature when it created the workers' compensation law, but over the last decade the system disintegrated to the point that it resembled a kindergarten class where the children were left to do as they pleased without adult supervision.

Thanks to the action taken by the 1993 Legislature during the November special session, the teacher has returned to the classroom — and she's got the principal with her.

In a necessary acknowledgement of defeat, lawmakers disposed of the concept of wage loss, instituted by the 1979 reforms. "Wage loss was a noble experiment," says Clint Smawley, a consultant to the Tallahassee law firm of Katz, Kutter, et al. "It was intended to give the dollars to the people who really needed it because the injury kept them from making a living. Human nature being what it is, people realized they could get something for nothing under wage loss. They could get paid for not working."



Accidental injuries are not supposed to be lucrative. Workers' comp is not supposed to operate as a retirement program. Unfortunately, the wage loss provisions, accompanied by judicial fiats that expanded the entitlement to benefits, turned our state's system into what it was precisely not intended to be. And hordes of providers and lawyers jumped in to get their share of the ensuing cash giveaway.

The massive rewrite of the law includes a number of provisions to restore order and discipline to workers' comp. All of them can be summed up in one fundamental axiom: it is possible to protect the interest of employers and employees without turning to judges and lawyers.

The entire system sits on a stool supported by three legs: medical cost control; dispute resolution strategies; and an efficient process for delivery of benefits to those who need and deserve them.

Tightening the Reins

Under the new law, carriers may provide workers' comp insurance plans with deductibles of up to $2,500. The employer pays all of the charges for a compensable injury up to the deductible amount. Those injuries still must be reported to your insurance company, but the losses you pay on the deductible do not have an impact on your experience rating. While the employer cannot receive reimbursement for any amount paid, these policies reduce the employer's premium since the insurance company must calculate the deductible into the rate base.

The new system also allows insurers to offer managed care networks to provide treatment to injured workers. Critics claim managed care steals the patient's right of choice. In workers' comp — and in health care generally — unlimited choice of doctor, provider or service is one of the factors that created spiralling costs. If you can't afford something, all the choices in the world will do you no good.

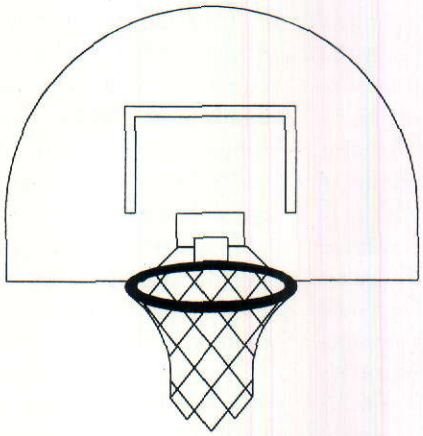
While managed care does restrict the patient to a limited menu of physicians, it combines cost-efficiency with measures to ensure quality and effectiveness of treatment. The first managed care plans will become available on April 1, 1994. By Jan. 1, 1997, all treatment offered through the workers' compensation system, with some exceptions, will be provided through managed care arrangements. Until that time, an employer who selects this option will receive a 10-percent discount on premiums.

The development of practice parameters will give physicians, carriers and employers a guide for appropriate treatment of certain injuries. The standards set by practice parameters will facilitate determinations of overutilization or inadequacy of care.

All providers in the workers' comp system will have to undergo a one-time certification process demonstrating proof of completion of training in cost containment, utilization control, ergonomics and the practice parameters that govern the applicant's field of practice.

Previously, efforts to manage claims were hampered by a lack of knowledge about the injured worker's medical condition. Attorneys would block access and providers would ignore requests for information. Now, providers must furnish medical records to all parties involved in a case, upon request. If a provider refuses to comply with a request, the division may penalize him.

The division will also conduct audits of health care providers to confirm their compliance with the law. If a provider is in non-compliance, or if he demonstrates a history of over-utilization or improper billing practices, the division has the authority to levy fines.



The new law contains provisions to limit the misuse of treatment in work hardening programs and pain management clinics and by chiropractors. This was done to place emphasis on medically necessary care that contributes to the employee's recovery.

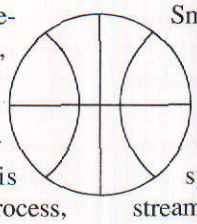
All of these provisions recognize the necessity of exerting control over the medical costs in workers' compensation. Employees do not benefit by lengthy, inefficient, and ineffective treatment. Neither do employers or consumers. This new model of delivery of care matches the overall system goal of promptness and efficiency.

Reconcilable Differences

The mantra of promptness and efficiency echoes through the new process for resolving disputes over benefits. Even the claimants' attorneys admit that if the system works properly, employees will rarely need legal help. As it was, the only avenue to working out disagreements led through a lawyer's office. Of course, that didn't mean claimants' attorneys saw any urgency to tinker with the status quo.

Tinker, however, the Legislature did. It created an Office of Employee Assistance and Ombudsmen to help employees understand their rights and responsibilities. If an employee believes he is owed benefits that are not forthcoming, the staff of this office will intervene at his request to resolve the issue.

If the dispute is not resolved within 30 days, the employee may file a petition for benefits. In the past, a lawyer would step in at this point, take over the process, and run the employer and carrier into the ground. Now, however, an ombudsman will help the employee prepare the petition and explain the process to him. The attorney can also at this point file a claims for benefits. The case then must go into mediation within 21 days after the employee files the petition. The mediator has 14 days to issue an opinion on the matter.



Clint Smawley explains the difference between the mediation process and a hearing before a judge of compensation claims. "A mediator is a person who is charged with resolving a conflict," he says. "A judge of compensation claims is charged with making an impartial decision of who's right and who's wrong based on impartial facts."

Thus, mediation is yet another step in helping the parties find a middle ground, before they start trying to build an airtight case to present to a judge.

If mediation does not resolve the dispute, the parties then must go before a judge of compensation claims.

The new law converts the workers' comp courtroom from a judicial setting to one with an administrative decor. It created the Office of Judges of Compensation Claims with a chief judge who serves at the pleasure of the governor and Cabinet, and it gives the chief judge a management role, a function that was lacking under the old law.

"The lawyers and judges want to be independent," says Smawley, "but that's not part of the deal. Workers' comp is not a court system. It's an administrative, self-executing system and should be streamlined and routine. JCCs are not deciding the fine points of constitutional law. They are merely deciding the application of the law."

The Office of Judges of Compensation Claims is required to establish rules of procedure and rules for measuring its performance. Prior to the 1993 reforms, each JCC ruled as king in his own courtroom. Each had different ideas about his role in the system and how he was to operate. Today, they must follow uniform standards.

Cecilia Renn, Vice President and General Counsel, AIF Service Corporation, knows that the alternative dispute resolution process will not deter some attorneys. "They will see it as nothing more than a delay," she predicts. "The employee will go to an attorney who will tell him, 'I can get you a better deal if you just bide your time.'"

Recognizing this possibility, the Legislature reduced the levels used to calculate claimants' attorneys' fees. Lawmakers also allowed judges to determine if a proceeding has been maintained or continued frivolously. If the judge makes that determination, the cost of the proceeding, including reasonable attorney fees, may be assessed against the offending attorney. Both strategies should help reduce the legal gamesmanship that flourished under the old system.

Another significant change that should discourage the presence of attorneys relates to the amount of time carriers have to investigate a claim and choose to accept it or deny it. Under the old system, carriers had 21 days in which to make that determination. If the carrier did not pay benefits within 21 days, and the claimant was later awarded those benefits, the carrier had to pay the claimant's attorney's fees. If, however, the carrier paid benefits, it was stuck with the claim and had to keep paying.

Now the carrier has 14 days to start paying benefits, but it has 120 days to investigate the claim and decide whether it is legitimate. At any point during that 120-day period, the carrier can decide to deny the claim and, even though it has been paying benefits, does not admit responsibility.

If a dispute arises over issues of over-utilization, medical benefits, compensability or disability, the carrier or the employee may select a qualified provider to conduct an independent medical examination. If the employee refuses to submit to an IME scheduled by the carrier, he loses all right to compensation during the period of refusal.

The carrier may also transfer the care of the injured

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worker to another provider if an IME indicates a lack of appropriate progress or recuperation by the patient.

The 1993 reforms create expert medical advisors to assist the division and the judges of compensation claims in the resolution of disputes over the treatment or status of the injured worker. The opinions of these advisors will be presumed correct, unless there exists clear and compelling evidence to the contrary.

First Class Delivery

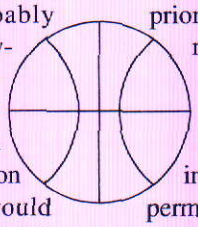
The entire workers' comp system revolves around strategies to deliver needed benefits to employees, without creating incentives to stay out of work and without depositing an undue burden on employers.

Every provision of the 1993 rewrite uses the Goldilocks approach, throwing out the excesses of Papa Bear and the deficiencies of Mama Bear, to settle on Baby Bear's portion, which was just right.

Union officials complain that most of the savings in the bill come at the expense of the workers. True, benefits were cut for some injured workers, but only in an attempt to remove the motivation to stay off the job.

Eligibility for permanent total disability is now limited to catastrophic injuries. The only employees entitled to permanent total are those who suffer amputations, paralysis, severe brain or head injuries, second or third degree burns to 25 percent of the body, third degree burns to 5 percent of the face and hands, blindness, or other injuries that qualify under federal definitions of disability.

Marilyn Lenard, the new director of the AFL-CIO, bemoans the fate of the truck driver who suffers a back injury and is no longer able to sit behind the wheel of his cab for long periods. Under the old law, the driver probably would have hired a lawyer, been declared permanently and totally disabled, and would have ended his days on the road. Then he would have either enjoyed his retirement or started another job while he collected on the workers' comp payroll.



And chances are, sometime in the future, he would have suffered another injury and once again have been declared permanently and totally disabled.

That situation has been remedied by the 1993 reforms. The new law recognizes that no worker enjoys the entitlement to practice one particular profession. If a truck driver can no longer drive a truck, but can perform other work, then he must do so.

The new law also reduces the period of eligibility for temporary total or partial disability benefits from 260 weeks to 104 weeks. Once that period ends, or an employee achieves maximum medical improvement, the level of permanent impairment is determined pursuant to the Florida Impairment Guide.

The impairment must be determined according to its effect on the entire body. In other words, a worker who loses 20-percent use of his arm will not receive a 20-percent impairment if the loss does not affect 20 percent of his entire body.

Impairment benefits equal 50 percent of the employee's average weekly temporary total disability benefit and he receives three weeks of benefits for every percentage point of impairment.

For example: An employee earned $400 in weekly wages prior to the injury. He would receive weekly temporary total benefits equalling $267 (66 2/3 of $400). Upon reaching MMI, he is assigned a permanent impairment of 20 percent, qualifying him for 60 weeks of benefits at 50 percent of average weekly TTD benefits. His impairment benefits would total $8,010 (half of $267 times 60 weeks). He is also paid this whether he returns to work or not.

If an employee's permanent impairment is 20 percent or more, he may then be qualified for supplemental benefits — if he meets certain requirements. His impairment must either be keeping him out of work or it must have reduced his wage-earning capacity by 80 percent. He must have made a good faith attempt to find suitable work. If he has not looked for work, or has only applied for unsuitable work, he is not eligible. If economic conditions are such that he is unable to find work, he is not eligible.

If, however, he does meet the eligibility requirements, he can file a claim for supplemental benefits. These are calculated on a rather complex formula. Let's again use the example of an employee who earned $400 a week before his injury. His impairment benefits have run out and he is now earning $200 a week, 50 percent of pre-injury wage.

First, the pre-injury wage is multiplied by 80 percent, equalling $320. His current earnings of $200 a week are subtracted from $320, leaving $120. That total is multiplied by 80 percent, giving the employee a weekly benefit of $96. Supplemental benefits are calculated quarterly and paid monthly.

The total length of time for which an employee can collect the temporary total, permanent impairment and supplemental disability benefits cannot exceed 401 weeks after the date of the injury.

The new law contains provisions to guarantee the employee's receipt of the benefits to which he is entitled. For instance, regulation of all group self-insurance funds is transferred to the Department of Insurance. This move will subject all funds to the rigorous fiscal and actuarial supervision that was not available at the Department of Labor and Employment Security (the AIF Property and Casualty Trust was already under the oversight of the DOI). Individual self-insurers remain under the aegis of FDLES.

Furthermore, the law creates the Florida Self-Insurance Fund Guaranty Association and requires all group self-insurance funds to participate. Each fund will pay an assessment to the association. The money will be used to protect the benefits due to workers if their employer receives coverage from a self-insurance fund that becomes insolvent.

The Division of Workers' Compensation will establish minimum performance standards and will monitor the performance of all carriers to

ensure timely payment of benefits.

Protecting Your Assets

Granted, workers comp is a dry, mind-numbing subject, but the only way we'll get rid of it is if we eliminate all work place injuries. That's not likely to happen, but it's worth a try.

The new law seeks to decrease the possibility of on-the-job injuries by placing emphasis on safety. It adopts carrots and sticks to encourage safety.

The carrots come in the form of special rating plans for employers that adopt division-approved safety and/or drug-free work place programs. With the combination of these, the deductible provision, and the premium credits offered for managed care plans, employers could reduce their rates by about 25 percent on average.

Employers with 10 or more employees must set up safety committees. Employees must be paid for the time they spend on committee activities at a rate equal to their hourly wage. The precise rules for implementing and administering these committees have not been completed by the division.

All carriers are required to provide safety consultations to policyholders upon request. The AIF Property & Casualty Trust has offered automatic safety consultations from the beginning, and its field personnel know from experience that their initial visit is often the first time an employer has received this service from a carrier.

Prior to enactment of this provision, many carriers either did not offer the service at all or tried to keep it quiet. Giving the employer assistance to control losses should be a carrier's obligation. This section of the law properly rectifies the deficiency.

The state applies the stick with premium surcharges and penalties. The Division of Safety now has the authority to identify individual employers with unacceptable levels of frequency or severity of work-related injuries. Carriers are allowed to add 10 percent to the premium paid by those employers. Carriers also have the right to cancel the employer's coverage.

If an employer or carrier intentionally violates safety rules, they may get stuck paying penalties up to $50,000.

Additionally, under the old law, employers who could not buy insurance in the voluntary market were forced to buy more expensive coverage in the assigned risk pool. The employers in the assigned risk pool often found themselves there because they had poor safety records. The premiums paid in the assigned risk pool were never high enough to cover losses, so standard carriers (self-insurance funds were excluded) had to pay extra money to make up the difference. Of course, employers eventually ended up covering that loss one way or another.

The workers' comp reform act abolished the old assigned risk pool and replaced it with a joint underwriting plan that is entirely self-funded through premiums. Small employers with favorable loss histories who can't buy insurance in the voluntary market are placed in one sub-plan. Employers in high-risk industries who own favorable loss histories are placed in another sub-plan.

A final sub-plan is created for all other employers who cannot purchase insurance in the voluntary market because of their high loss ratios. These companies are the only ones who will pay any assessments necessary to cover losses in the joint underwriting plan. This means employers who choose to ignore the safety and well-being of their employees will pay the price.

Workers' comp premiums are based on job classifications that average the cost for covering all the employees in each classification throughout the state. Therefore, employers who risk injuries by ignoring safety run up the costs for all employers.

Responsible employers deserve recognition for upholding their obligations. They should not have to accept the burden for employers who intentionally ignore the well-being of employees. Under this new law, an employer that neglects safety will bear the liability for its choice.

Getting Tough

Everybody in the system is going to face unpleasant consequences if they don't follow the law. The loopholes in the law that allowed some employers to escape payment of premium have been tightened and the division is allowed to levy penalties on the employer for each employee who is not covered but should be.

The division may also serve a stop-work order on an employer who has failed to secure coverage. The employer will have to discontinue all business operations and suffer fines and penalties.

If an employer cheats on the factors that determine his premium, he has to pay his carrier a penalty of 10 times the difference between what he paid and what he should have paid. And he gets stuck with the attorneys' fees.

Every time one employer gets away with this kind of conduct, honest employers suffer. Either their competitive edge is softened because they are bearing the legitimate cost of business or they are indirectly paying for the losses of employers who underpay their premiums. Workers' comp only works when everyone plays by the same rules.

The new law gets tougher on everyone who tries to get around the system — employees, carriers, providers and attorneys alike. Penalties are beefed up and certain violations are defined as criminal activities. The insurance commissioner is given the power to contract with state attorneys in the pursuit of those who engage in fraudulent activities.

Making A Living the Old-Fashioned Way

Two major indications of failure in our old system were the high costs and the level of litigation. The delay in returning able-bodied employees to gainful employment represented an often-ignored but significant symptom of the disease.

The new statute stresses the importance of return to work in its statement of legislative intent. Without that emphasis, workers' comp becomes little

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more than an early retirement program.

If an employee refuses suitable work, he loses his eligibility for compensation — unless a judge of compensation claims finds grounds to justify the refusal.

Employers now have an obligation to rehire their injured employees. If an employer does not do so, it must undertake a good faith effort to find the employee a job appropriate to any physical limitation he may have and within a 100-mile radius of the employee's residence. Failure to do so may subject the employer to fines. Recognizing the hardship this provision would place on small companies, Associated Industries convinced lawmakers to exempt employers with 50 or fewer employees from this mandate.

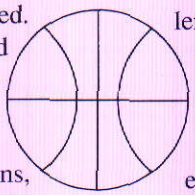
The insurance company is a crucial party in getting an injured employee off the workers' comp payroll and onto the job payroll. In general terms, a workers' comp case begins with the injury and ends with the return to work. A conscientious claims manager will consider the future employment of the injured worker from the outset. The statute outlines the mechanisms for carriers to use in achieving the successful return to work.

If the carrier's reemployment services are unsuccessful or if the employee requires training and education, the division takes over. Vocational rehabilitation services are funded by the Workers' Compensation Administration Trust Fund. An employee who refuses to cooperate with the division's vocational rehab plan gets his benefits reduced by 50 percent.

The Final Touches

In addition to these procedural changes, the Legislature added language to the statement of legislative intent that counteracts the expensive after-effects of some First District Court of Appeals rulings.

The last edition of *Employer Advocate* reviewed some of those decisions and the facts of the cases involved. Many of them expanded the definition of a work-related injury to absurd lengths.



In previous decisions, the First District read the language in the statute and apparently interpreted it to mean that if a person was employed, almost any injury he suffered under any circumstances was compensable by virtue of the fact that he was employed. The new language stipulates that the injury must have a specific relationship to the work performed by the employee.

Other statements of legislative intent have also been more carefully defined, but clarity of purpose has not always been a determining factor by the Court. For this reason, Associated Industries sought creation of a specialized appeals panel to consider workers' comp appeals in lieu of the First District. This provision is not in the law, but the governor and the Legislature have committed to asking the First District to create such a panel.

Workers' comp is a specialized area of administrative law; it is not the same as common law. The judges who make final decisions on appeals must have the knowledge and experience necessary to make those decisions based on an understanding of the underlying principles that guarantee the smooth functioning of the system.

The reforms create a Workers' Compensation Oversight Board composed of employee and employer representatives who will monitor the system's status. These members will furnish a critical service. They will be the system's watchdog so that when potential problems arise, the Legislature can take action to neutralize the issue before it reaches critical proportions and the unravelling starts.

Workers' comp is like a garden, according to an analogy drawn by Clint Smawley. "You have to take care of it," he explains. "You weed it. You fertilize it. You don't just plant it and walk away. History taught us that lesson from 1979."

Cecilia Renn considers effective administration by the state as another key. "If you don't have a top-notch manager running the system, it's going to go down."

The state must exercise controls and apply resources to manage the system. If the employee assistance office does not offer true aid to the employees, the attorneys will step in. If the division and the Department of Insurance take a lax approach to regulation and enforcement, abuses will flourish.

And, perhaps most importantly, if the Office of Judges of Compensation Claims does not aggressively enforce the Legislature's intent of fair treatment for employers and employees, the judicial system will destroy the mechanisms of reform.

The workers' compensation reforms enacted during the special session mark the conversion of our system from an attorney-driven economic redistribution program to an orderly and equitable scheme of benefits based on need and merit.

Passing this law was just the first step. Next, the Division of Workers' Compensation will draft rules to fill out the framework of the new policies outlined by the Legislature. Insurers will have to develop the programs that implement the cost-saving provisions of the law. No doubt the providers and lawyers will try to protect their pocketbooks by weakening the law during the upcoming session. And of course, the unions and the trial lawyer lobby will challenge the law in the courts.

When all these obstacles are overcome — and at Associated Industries, we intend to see them overcome — the ongoing process of monitoring the administration of the system will continue.

But at least we've taken the first step. The Legislature took on a tough job and did it well. The members deserve our thanks. Gov. Chiles deserves the greatest measure of appreciation for launching the overhaul of workers' comp and steering its passage through the special session.

And who said nothing good ever comes out of Tallahassee?

by Jacquelyn Horkan, AIF Information Specialist

Health Care

Forging the Missing Link

Does it seem like Elvis Presley is the only person who hasn't released a proposal to reform health care? With all of the opinions and recommendations and studies floating around out there, you might be tempted to ignore the issue and hope everything comes out all right in the end.

Don't.

The Clintons, including presumably Chelsea and the cat, have appointed themselves national health care saviors. Unfortunately, our health care system is sick right now and the Clintons won't begin treatment until 1998.

Florida, on the other hand, began delving into the problem three years ago and its cure goes into effect this year.

There's another big difference between Florida and Washington: the Clinton plan hinges on mandates, payroll taxes and artificial cost-controls.

The pivot of Florida's efforts is the free-market. No mandates. No government-imposed financing. No arbitrary restraints on costs.

As Doug Cook, the head of the Agency for Health Care Administration says, "Clinton's plan doesn't deal with affordability. You can't start out reform with mandates to increase coverage while ignoring the issue of cost. But that's what the president's plan does."

The president apparently believes that Americans are without insurance because we aren't spending enough on health care. Florida Gov. Lawton Chiles believes that we are spending more than enough; we're just not spending it wisely. And government meddling is one of many culprits.

Sixty years ago Americans enjoyed affordable health insurance coverage. Insurers used community rating schemes to set premiums. In other words, the overall health of a community, rather than an individual's degree of physical well-being, determined the rates paid by everyone. The risk of insuring sick people was steadied by the premiums paid by healthy people.

Over the next two decades, large employers began negotiating coverage based on their actual histories of costs. Groups with low claims levels had their premiums adjusted downward. This method, called experience-rating, eroded the spreading out of risk used with community rating. The healthy paid less; the sick paid more.

The enactment of Medicaid and Medicare during the 1960s funneled more money into the health care market. Appetites in the medical community swelled as the nation went on a health care spending spree. Insurance companies paid the bills, no questions asked, and health care's chunk of the economic pie grew.

The binging fostered a self-perpetuating boom — supply and demand chasing each other in a race with no apparent finish line. New technologies and overutilization increased costs to insurance companies. The carriers reacted by narrowing their markets to healthy customers; cutting out the people most in need of insurance to pay for their expensive treatment.

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As the pool of uninsured grew, the costs for their care were transferred to those with insurance, causing premiums to escalate. Otherwise good risks canceled their insurance policies as the premiums became too expensive, further exacerbating the pass-along effect.

Government responded with cost-controls in Medicaid and Medicare that also contributed to problems with cost-shifting. Other so-called reforms resulted in a misshapen market.

Unlike the traditional economic model, in health care the controllers of supply dictate demand. If your doctor tells you to undergo certain tests and procedures, how do you evaluate his judgment about complicated medical issues or analyze other options? You don't. You take his word for it and hope the insurance company pays.

In any other market, a smart consumer makes a purchasing decision based first on necessity, real or perceived, and then weighs the cost and quality of his alternatives before handing over his money. In the health care market, necessity also initiates a purchase, but the resemblance ends there.

The supplier holds the monopoly on information. A patient might take the time to read medical journals or gather other opinions, but ultimately he is at the mercy of the knowledge and skill of the physician. And no true system exists for measuring knowledge and skill in medical matters.

Furthermore, the health care services consumer is generally oblivious to costs and has little incentive to avoid medical risks. Insurance companies pay the majority of medical bills and most premiums are paid wholly or in part by employers. Information about appropriate treatment costs is sketchy at best.

The estrangement among the costs related to the consumption of services helped create the underlying causes blamed for the explosion in health care. The lack of knowledge about cost and quality also contributed to the existing market chaos that has inspired the current hue and cry over reform.

There are two schools of thought about health care reform. According to one, the market will never work, and therefore government needs to take over. The other school postulates that we need to find out why the market doesn't work and then take steps to correct the obstacles.

Florida's reform effort adopts the latter, calling for a private-public solution. Government's responsibilities for the public health include education, control of contagious disease and protection against ecological hazards. It also regulates the health insurance industry to balance the needs of a competitive market with the demand for consumer protection.

Finding that balance stumps many. Liberals in the political class insist that greed dominates the free market. Without a strong government presence, they argue, health care entrepreneurs will sacrifice the well-being of patients to their thirst for money.

Marilyn Bell, the executive director of the Central Florida Health Care Coalition, disagrees. As she told a *Florida Trend* reporter, "We believe that quality and cost savings in the health care system are compatible. It costs less to do something right the first time than to go back and fix it."

The success of the Florida effort hinges on data collection, analysis and dissemination as the keys to realigning the haphazard and unruly health care market. Cost and quality of care comprise the dual focus of the statistical process.

Patient outcomes — satisfaction and well-being — become the measurement of competence. This information serves consumers when they choose providers and carriers. Sharing this information with providers helps them improve their performances. They learn to respond to the market as opposed to dictating the market.

"If your quality is known and your price is known," explains Jodi Chase, AIF's vice president and general counsel, "you're going to compare yourself to what other people are doing and you're going to try to do the same things in order to bring price and quality in line."

That information imposes market discipline, which encourages positive competition. Over time, the market will reward providers who combine maximum quality at a minimum price. Those who ignore cost, quality or both will go out of business.

By next year, members of the new Community Health Purchasing Alliances will have access to consumer guides giving the level of performance for each Accountable Health Partnership (AHPs are the insurance products available through CHPAs). The guides will report performance comparisons between AHPs and national norms on a variety of indicators.

These factors include patient satisfaction with the physician; success ratios in a variety of procedures; percentages of occurrences such as low birthweight babies and post-operative wound infections; and rate of preventable hospitalizations.

The guides will list the amount of monthly premium, the annual premium increase and amount spent on administration for each member of each AHP.

A rational marketplace demands that providers respond to consumers. If consumers control the source of incentives (money), providers become accountable to them. Control over incentive comes from the ability to control the allocation of resources. For too many years, health care providers exercised total authority over the market because they held the monopoly of information about cost and quality.

Those who shudder at the injection of cost-consciousness into medical practice, fear that savings will supersede quality of care. That opinion ignores the whole concept of the profit incentive. Suppliers provide services to make money. If they do a good job, customers will want to buy their services.

Knowledge strengthens the power of consumers. Currently, consumers lack that authority. It is the missing link in the health care market. But not for long.

by Jacquelyn Horkan, AIF Information Specialist

Health Care

$mart Money

If someone says to you, "Let me tell you how to get more for the money you're spending," are you going to ignore him?

Probably not. So, when Tom Wallace of the Agency for Health Care Administration (AHCA) came to Associated Industries to tell us that's what the state was going to do with Medicaid funds, we listened carefully.

During that December meeting, Wallace introduced us to Florida Health Security (FHS), a program that revolves on a rather innovative concept: that government ***can*** spend money wisely.

In the fiscal year starting this July, FHS will reallocate state and federal Medicaid dollars to admit an estimated 1.1 million uninsured Floridians into the insurance market.

Today, Florida's Medicaid system is a government-subsidized, single-payor, budget-devouring ogre. It's supposed to provide medical care to the poor, but coverage is conditional on a number of factors. Medicaid eligibility is restricted to aged, blind or disabled persons receiving Supplemental Security Insurance benefits; pregnant women, young children and medically needy individuals; and single parents receiving Aid to Families with Dependent Children (AFDC).

Since eligibility for Medicaid is linked to AFDC and other poverty-related entitlements, expanding Medicaid access would mean increasing taxes to pay for benefits to additional welfare recipients.

Under Chiles' original Medicaid expansion plans, he sought waivers from the federal government to erase the link between health care subsidies and welfare subsidies to the poor so that the state would have only needed to increase taxes to cover its share of Medicaid expenditures.

Now, Chiles has scrapped that plan and replaced it with Florida Health Security.

We spend enormous amounts of money on health care for those in poverty but the true costs are incalculable. Medicaid does not insure most poor citizens, either employed or unemployed. When these uninsured people seek medical care, they must resort to hospital emergency rooms for all of their treatment needs, routine and urgent.

Hospitals expend resources in providing this care but cannot expect reimbursement from the patients. Therefore, they turn to insured patients to take up the slack. That's why you pay five dollars for an aspirin in the hospital.

Those who do receive coverage under Medicaid also pass hidden costs on to the general public. Every time Congress bows to pressure to reduce the Medicaid and Medicare budgets, they do so by reducing the fees paid to providers under those programs. Congress tells you they're giving you a tax break, but it's not true.

When doctors and hospitals lose money on Medicaid and Medicare patients, guess what? They reclaim the missing income by collecting it from patients with insurance. In 1990, hospital bills paid by insurers equalled 148 percent of the cost of treatment while private payers' bills weighed in at 128 percent of costs. And what about Medicare? It paid 89.6 percent of enrollee costs.

As a result, when members of Congress reduce provider fees, they call their actions a tax decrease. Actually, it's a camouflaged assessment on health care providers, medical facilities and insurance companies, who pass it on to their customers.

Shopping for Bargains

Florida Health Security not only breaks the bond between poverty and medical assistance; it hopes to shatter the inefficient structures that inflate costs while deflating coverage.

It does so by leveraging dollars in the state's Medicaid budget. According to AHCA's Wallace, Florida Health Security eliminates Medicaid subsidies and replaces them with a finance plan. Instead of government collecting the money and spending it, under FHS coverage for former Medicaid recipients would be transferred to the voluntary market.

Watson figures that with the savings realized through FHS, the state can offer policies to another one million people who are now uninsured.

Every person with an income level up to 250 percent of the federal poverty level would receive financial assistance to purchase a policy through his local Community Health Purchasing Alliance (CHPA). The CHPAs are the private corporations established across the state to serve as health insurance "department stores." State workers, businesses with 50 or fewer employees, and people who qualify for FHS all can choose to purchase their insurance policies through the CHPAs.

By gathering together large numbers of potential clients, the CHPAs offer an attractive market for every provider of insurance, hospital and medical services. Flooding the CHPAs with Medicaid dollars increases the clout of the alliances by swelling their pools of buyers.

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Smart, from pg 23

The formula for achieving savings through FHS is simple but ingenious. Right now, Medicaid is a fee-for-service program with a benefits package designed by the federal government. Wallace wants to convert Medicaid to a managed care system with the same basic benefits package insurers will offer in Florida's voluntary market.

Every person now covered by Medicaid would transfer into FHS. Experience has shown that replacing fee-for-service with managed care arrangements generally reduces costs by about 30 percent. Wallace used a conservative figure of 10 percent to calculate savings under FHS.

Medicaid restricts the fees that physicians and facilities charge for treating enrollees. Cost controls rarely work in a predominantly voluntary market because the suppliers react by manipulating the system. Every time government enacts artificial panaceas to reduce prices it creates a void in the cost of production, and the market must fill the void.

With Medicaid, providers respond by shifting costs to privately insured patients or exploiting the regulations to cover their expenses. Eliminating Medicaid cost controls will restore normality across the entire market.

Wallace also wants to revise the formula for annual Medicaid expenditure growth by setting a ceiling on it. As more people enter the private insurance market, necessary outlays for charity care will diminish. Those savings will be plowed back into FHS to expand the pool of money available for private insurance policies for the poor.

Pay What You Can

According to a 1990 study, 82 percent of Florida's 2.5 million uninsured citizens have incomes below 250 percent of the federal poverty level. Most are employed or the dependents of workers. FHS is designed to tap into that pool of uninsured citizens at or below the 250-percent benchmark.

Assistance for an FHS policy is based on the income standard. Recipients must be U.S. citizens and Florida residents. Employed and unemployed Floridians qualify for assistance.

The policyholder must contribute some portion of the premium based on a sliding scale linked to income. Federal and state dollars would pay for the remainder of the premium. According to premliminary estimates by AHCA, a household of any size with an annual income of $13,000 would pay $42 a month for the family policy. If the family's income is $18,000, it would pay S60 a month.

Under the law that created the CHPAs last year, only firms with 50 or fewer employees can purchase insurance through alliances. There is no limit on company size for employees who qualify for FHS policies. The employer is not required to pay any portion of the employee's FHS premium, but if it chooses to do so, this program offers an excellent avenue to add health insurance to employee benefit packages.

Since FHS uses existing dollars — state and federal Medicaid contributions — to discount premiums, the danger exists that employers and individuals will cancel their existing policies to buy the cheaper FHS policies. To discourage this, FHS policies are only available to individuals who have gone without insurance for 12 consecutive months prior to entering the program.

As Doug Cook the head of AHCA explains, "We can't bring everyone into Florida Health Security. There's not enough money. We want to use it to penetrate a market that hasn't been penetrated."

Moving Ahead

Like the old children's game "Mother May I," Chiles has to ask the Legislature for permission to take this giant step forward in health care reform. Some will fear the boldness of FHS and disparage Wallace's numbers as smoke and mirrors. Others will condemn the program for hurting the poor by stealing their choices.

As it exists today, there is little, if any, choice in Medicaid. Anyone who believes that Medicaid actually helps the poor is suffering from ideological blindness. Medicaid restrictions slam the door in the face of most needy Americans and those it does serve, it serves poorly.

The timid, on the other hand, are justified in their assessment. FHS is a bold and dexterous shift in thinking about the role of government. "FHS means government is acting in its proper role," says Wallace, "by controlling Medicaid, which is eating the budget."

Associated Industries is working with AHCA to guard against potential pitfalls in the financing of FHS. The program must include a mechanism that limits the number of FHS policies to available state funding. In other words, premium assistance cannot put the state into deficit.

Also, estimates of savings, while conservative, are not concrete. They should be subjected to review by the Revenue Estimating Conference and on-going analysis.

Some lawmakers will look at the projected savings in the program as a magical windfall for their pet projects. Every dollar stolen from FHS and channeled elsewhere will sap the effect envisioned by Chiles.

The more money spent on shrinking the numbers of uninsured, the quicker our state will move toward reducing costs. The goals of accessibility to and affordability of high-quality, low-cost medical treatment are wound together in an inextricable embrace. Ignoring one imperils the other.

When all is said and done, however, reducing the cost of health care insurance is not the chief aim of Florida's health care effort. Neither is getting every person covered by health insurance. These are signposts of a larger objective, to guard the physical well-being of all Floridians while protecting the economic stability of the state.

Universal health insurance coverage is one means to that end. The more resources applied to bringing everyone under the tent, the quicker we will reach that objective.

by Jacquelyn Horkan, AIF Information Specialist

Health Care

Regulating Compassion

Inefficiency sucks up the tax dollars and camouflaged assessments for Medicaid. Gross mismanagement by the Department of Health and Rehabilitative Services resulted in a scandal earlier this year over the FLORIDA computer, the system that controls disbursements of entitlements. The computer, unable to keep up with the work load, kept unqualified people on the dole, costing the state more than $260 million in unwarranted benefit payments.

Adding that sum to the price tag of the system and the fines levied against the state for the errors, FLORIDA has cost Florida taxpayers more than half a billion dollars — and it's only been in operation for two years. Legal fees from various lawsuits and investigations will up the tab, as will the additional revenues necessary to get the computer in proper working condition.

While the people involved in the FLORIDA computer imbroglio do not deserve exoneration for their misdeeds, the regulations surrounding subsistence programs merit much of the blame for the ineptitude besetting disbursement of those benefits.

Calculating eligibility for these programs is a task that would challenge the most advanced minds. If a family qualifies for Aid to Families with Dependent Children (AFDC), it automatically qualifies for Medicaid. A family of four can receive up to $364 a month in AFDC benefits, if the household includes one parent and three deprived children. A household with two parents and two deprived children may also receive AFDC if one parent is unemployed or incapacitated. If the family doesn't pay for shelter, the maximum grant is $254 a month.

After penetrating the first AFDC barrier, the family must meet income requirements. Certain deductions are subtracted from the monthly income, and whatever is left over equals the amount of the AFDC benefits. The deductions include $90 for work-related expenses and rebates for child care, which are set at different amounts for children under the age of two and over the age of two. HRS does not pay AFDC grants under $10, but those families would still qualify for Medicaid.

A single mother with three children over the age of two and a net monthly income of $968 might receive an $11 AFDC check each month, as well as Medicaid benefits for herself and all of the children. If her net monthly income equalled $970 and she did not qualify for any other deductions, she would not receive AFDC or Medicaid.

Every six months, she would return to HRS for a redetermination of eligibility. Most of us would probably prefer to tackle the IRS and tax season twice a year than run the welfare gauntlet.

If that same mother is pregnant and one of her children is under the age of 12 months, she can make up to $2,213 and still receive Medicaid for herself and the youngest child. The older children might qualify for the medically needy program, but the family would have to share in the cost of the medical bills for those children.

The family's share of the copayment usually exceeds the budget of the needy families enrolled in this program.

Under FHS that same mother could buy insurance for her entire family at a cost projected by AHCA of $60 a month.

If the mother is not pregnant and her income is $1,591 per month, each of her children between the ages of one and five would qualify for Medicaid. She could qualify for the medically needy program but she would have to pay part of her medical bills. Or she could get pregnant and qualify for Medicaid.

Under Florida Health Security (see accompanying article page 23), that same mother could buy insurance for her entire family at a cost projected by AHCA of $60 a month. And she could avoid the trials and tribulations of our modern strategies of showing compassion for the poor.

Getting this information on eligibility took more than one hour, five phone calls, three disconnected lines and an untold number of transfers to different HRS employees. The regulations are so complicated HRS employees are not even sure who to ask for answers. The policy manual is 600 pages long and the period for training a caseworker to handle applications for assistance lasts about four to six weeks.

If there are any so-called "welfare queens" out there, they ought to apply to HRS. Anyone who's figured out how to manipulate this system would be an invaluable asset to administering it.

by Jacquelyn Horkan, AIF
Information Specialist

Antitrust Legislation

Antitrust and Florida's Business Environment

One of the more prevalent misconceptions in modern business is that federal and state antitrust laws are government shackles that prevent honest, aggressive, hard-working entrepreneurs from getting ahead.

While this belief may be widespread, it can hardly be further from the truth. Antitrust laws protect businesses and allow them to compete fairly, while ensuring that consumers have the lowest prices and widest possible selections.

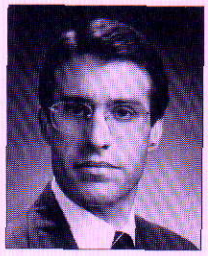
How Antitrust Laws Help Florida Business

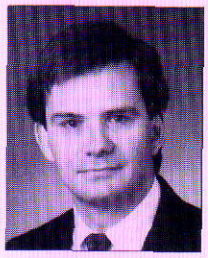
Free-market competition is the backbone of the American economy. When competition works, sellers compete for customers using quality and price. If a company does not use its resources efficiently, and therefore the company's quality and price are inadequate, the company fails and a more efficient competitor takes its place. Consequently, the most efficient allocation of resources can best be achieved by stimulating competition and encouraging independent business judgment.

However, today's marketplace is not always competitive, and there are several reasons for this situation. Three of them, however, don't fall under the purview of antitrust laws. First, a government may choose to suppress competition in a particular market for policy reasons, for example, publicly owned utilities. Second, competition is reduced within a market temporarily when a business introduces an entirely new product. Third, one business may so efficiently use its resources so that, through no wrongful anti-competitive conduct, other businesses cannot keep up. There are no antitrust problems in these situations. The state and federal governments and the free-market system encourage innovation and the efficient use and allocation of resources.

Problems arise in the instance of market competition failure, when private participants attempt to subvert the competitive system. These situations trigger the antitrust laws.

From their inception, antitrust laws were designed as a charter of economic liberty. Their goals are simple: to prohibit any unnatural association of business interests that may restrain free trade and inhibit competition and to provide an ally for businesses that are being harmed or threatened by anti-competitive activity. The success of the antitrust laws can be demonstrated by comparing, over the last 80 years, the American economy to any other economic system.





by Bill L. Bryant, Jr., left; and Bruce D. Platt, right; Katz, Kutter, Haigler, Alderman, Marks & Bryant, PA

The Federal Antitrust System

The Sherman Antitrust Act

On July 2, 1890, Congress passed the Sherman Antitrust Act. The act contains the two fundamental prohibitions that constitute the backbone of an-

titrust legislation. The first section of the act forbids collective activity that has anti-competitive effects, subject to a rule-of-reason analysis: "every contract, combination, . . . or conspiracy, in restraint of trade or commerce among the several states, or with foreign nations, is declared to be illegal." (15 U.S.C. §1) The second section prohibits monopoly abuse: "[e]very person who shall monopolize, or attempt to monopolize, or combine or conspire . . . to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony." (15 U.S.C. §2)

Although widely and enthusiastically supported when passed, the Sherman Act was not vigorously enforced and became the subject of criticism. Some said the act was too general and did not list or specify particular anti-competitive practices. Others criticized the act because it was not enforced to prevent anti-competitive practices — the act only punished trade restraints that had already occurred.

The Clayton Antitrust Act

In response to the criticisms of the Sherman Act, Congress in 1914 passed the Clayton Antitrust Act. The Clayton Act focused on prohibiting conduct, the effect of which "may be to substantially lessen competition or tend to create a monopoly in any line of commerce." (15 U.S.C. §§12-27)

Price Discrimination

Section 2 of the Clayton Act, as amended and replaced by Section 1 of the Robinson-Patman Act in 1936, prohibits price discrimination among customers. This section makes it unlawful to discriminate in price among purchasers of the same type and quality merchandise, if the effect of the discrimination may tend to substantially lessen competition, tend to create a monopoly or "injure[s], destroy[s], or prevent[s] competition with any person who either grants or knowingly receives the benefits of such discrimination, or with customers of either of them . . ." (15 U.S.C. §13[a]) Reasonable price discounts necessary to obtain the business of a customer are allowed, as are changes in price to reflect changing market conditions.

Tying Arrangements

Section 3 of the Clayton Act prohibits exclusive dealing, or "tying," arrangements. These arrangements occur when a vendor requires a buyer to purchase one product in order to purchase another product. In order to have an illegal tying arrangement, there must be two separate products involved; the sale of one must be conditioned upon the purchase of another; the seller must have sufficient market power to enforce the tie; and the tying arrangement must not be trivial or purely theoretical.

Mergers

Section 7 of the Clayton Act prohibits certain acquisitions of related businesses. "No person engaged in commerce or in any activity affecting commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share

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Federal and State Antitrust Laws

Federal Laws

Sherman Antitrust Act

- Section 1
  Prohibits collective business activity that "restrains" trade.
- Section 2
  Restricts the formation of monopolies.

Clayton Act

- Section 2 (Robinson-Patman)
  Prohibits price discrimination
- Section 3
  Prohibits exclusive "tying" arrangements.
- Section 7
  Prohibits the acquisition of certain related businesses.

Federal Trade Commission (FTC)

Although granted a great deal of flexibility in the statute, the agency's powers have been interpreted similarly to the federal antitrust acts.

Florida Law

Florida Antitrust Act

Modeled after the federal laws, it incorporated everything except Sections 2 and 7 of the Clayton Act (the price discrimination and merger prohibitions).

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capital . . . or any part of the assets of another person engaged also in commerce or in any activity affecting commerce where . . ., the effect of such acquisition may be substantially to lessen competition." (15 U.S.C. §18) As with all of these sections, this section is interpreted flexibly, and reasonable exceptions are allowed.

The Federal Trade Commission Act

In addition to the Sherman and Clayton acts, the federal government also prevents anticompetitive activity through the Federal Trade Commission (FTC). (15 U.S.C. §§41-58) The FTC is an independent regulatory agency with the power to prohibit unfair trade practices that are not within the letter or the spirit of the antitrust acts. The courts have determined that this power is not unlimited and have defined the FTC's jurisdiction as similar to the conduct prohibited by the antitrust acts.

Florida's Antitrust Laws

In the late 1970s, former Attorney General Jim Smith convened the Antitrust Revision Committee to develop a new state antitrust statute. Because of the ambiguities inherent in the federal antitrust law system, the committee sought to draft a statute that would open the state court system to Florida citizens with antitrust complaints without introducing new theories of liability. The committee's work resulted in the Florida Antitrust Act of 1980. (Ch. 542, Florida Statutes)

This act provides a state forum as an alternative to the federal court system. The act closely parallels the federal antitrust laws; however, there are some important differences. For example, the committee did not include the federal price discrimination prohibitions (the Robinson-Patman Act [Section 2 of the Clayton Act]) in the state law. The committee determined that these sections were complex and controversial areas that would, if included, cause confusion about the new statute out of proportion to any possible benefit to be derived from them. The decision not to transfer these sections to the Florida law did not eliminate any existing causes of action. Anyone aggrieved as a result of a violation of these sections of law, as well as any other section of federal antitrust law, can still pursue a legal remedy in federal court.

What the committee left in place was a streamlined law containing sections 1 and 2 of the Sherman Act and Section 3 of the Clayton Act. These sections address the most common, and often most damaging, antitrust problems. In addition, the committee gave Florida's attorney general much of the same investigatory power available to the U.S. attorney general.

What the Florida act does is provide a Florida alternative to the federal court system and an increase in options available to private plaintiffs and the attorney general.

The Florida law does not change the substance of the federal laws or the case law interpreting them. What the Florida act does is provide a Florida alternative to the federal court system and an increase in options available to private plaintiffs and the attorney general.

When the federal antitrust laws were first enacted they were heavily supported by most American businessmen. At that time, the modern economy was just emerging and businesses required an open and accessible market to satisfy their rapid growth. New opportunities encouraged new growth, which could have been strangled by the noose of "controlled" business.

With a global economy now opening similar doors with new opportunities and new markets for trade, Florida businesses have an equally strong interest in antitrust compliance. With an unrestrained economy, Florida businesses are guaranteed the lowest prices, the highest quality, and the greatest material progress. In such an economy Floridians can take advantage of opportunity, while not suffering the injuries inflicted by cartels and controlled business.

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Property Rights

So, You Think You Own That Property?

A few years ago, U.S. high school students were asked to identify the author of the statement "from each according to his ability, to each according to his need." An overwhelming majority chose Thomas Jefferson as the source.

They are woefully wrong. The phrase is attributed to Karl Marx, and it summarizes his patronage of a governmental system of economic redistribution based on needs perceived and dictated by the ruling class.

Jefferson puts a different spin on the issue. In his first inaugural address, Jefferson called for "a wise and frugal government, which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned."

The theories of Marx and Jefferson are wildly divergent. The fact that most high school students can't tell which one defines our traditions concerning the proper role of government is frightening.

But these teenagers aren't the only ones afflicted with confusion.

Government is supposed to consider the costs whenever it develops and implements public policy. While ideology may guide a politician's opinions, it really has no appropriate role in the decision-making process.

A few years ago, the zoning, planning and land-use decision-making process reached a critical juncture when government replaced cost-considerations with ideology. The value of a neat, ordered community that put a premium on conservation of natural resources gained significance over the comforts and needs of the residents.

Of course, environmental protection secures some of those needs — clean water and air, natural floodplains that shield communities from flooding, land on which to produce food. The environment also gives us a natural recreation area. No matter what Joni Mitchell thinks, nobody really wants to "pave paradise and put up a parking lot."

Plenty of evidence exists that casts our state's growth manage- ment policies in a less-than- flattering light when it comes to securing the comfort and needs of the people.

In terms of their economic effect, those laws actually cause harm to residents of our state who are new, poor or young. The restrictions on development drive up land costs, making it difficult for those who don't already own homes to buy them.

Growth manage- ment, zoning and environmental regulations also rob some individuals of their legal rights. Today government routinely enacts regulations that restrict an individual's use of his property without paying for the right to do so.

For instance, a municipal body may deny the right to construct a dock on riverfront property. Or it may tell a landowner he can't build 20 houses on a 20-acre parcel; he can only build two houses.

Policy makers justify these actions by arguing that they are protecting the public interest. They might classify the river as an important ecosystem for a rare form of aquatic life. They may bow to pressure from neighbors who don't want their view of that 20-acre parcel ruined by a housing development.

Hmm, taking the property of one person to meet the needs of others. Kind of sounds like that "from each, to each" refrain of Marx, doesn't it?

Of course, government regularly takes from one and gives to another. Taxes that pay for social programs or construction and maintenance of highways are just one example. But how far does that authority extend?

The major principle that defends government confiscation (a word that describes taxation in the simplest terms) is the equal distribution of the burden. Another is the comparison between the cost of the action and the benefit.

For instance, highways facilitate the transportation of goods to markets. Alone, a private citizen could not undertake the cost of road

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construction and maintenance, so taxpayers share the burden equally — more or less.

Advocates of private property rights argue that government regulations that strip an owner of the economic use of his land put an unfair burden on one individual. If the land is so valuable, government (meaning the general public — the taxpayers) should have to pay for the benefits it receives from the landowner's forfeiture.

Last year, Reps. Bert Harris (D-Lake Placid) and Ken Pruitt (R-Port St. Lucie) sponsored a bill to restore the rights of property owners.

Environmentalists and local government officials let loose an anguished wail that the Harris-Pruitt measure would "gut growth management" and "demolish efforts to protect Florida's natural resources."

Oh, really?

Taking a Look at Takings

The Constitutions of Florida and the United States prohibit government from taking private property without giving just compensation to the property owner. If a landowner believes a taking has occurred, he can institute a court proceeding, referred to as inverse condemnation.

Should the court determine a taking has occurred, government must respond in one of three ways: amending the action that resulted in the taking; withdrawing the action; or paying the property owner for the loss of property. The key, however, is determining when the situation demands government compensation.

A taking occurs when government completely occupies land for a public purpose, such as building a highway; when government eliminates the economic use of property to prevent a public nuisance or a noxious use that threatens the public health and safety, such as prohibiting the construction of a toxic waste facility in a site where it might cause contaminati on of a public water supply; or when government imposes regulations that severely limit land use, such as identifying a parcel of property as the habitat of an endangered species.

A landowner, however, will only be assured compensation in the first instance — when government occupies land. Prevention of noxious uses is never compensable. And the U.S. Supreme Court has held that states only have to pay for regulatory takings when the state deprives the owner of *all* economically productive or beneficial uses. This test is difficult to meet and, as a result, government can regulate away 95 percent of property value without paying just compensation to the property owner.

Pruitt and Harris tried to remedy this injustice. Their bill, dubbed the Private Property Rights Act of Florida, would have made court decisions part of written statute, with one vital addition: it would have provided a clear definition of a regulatory taking.

Environmentalists and local government officials let loose an anguished wail that the Harris-Pruitt measure would "gut growth management" and "demolish efforts to protect Florida's natural resources."

Instead of requiring the total loss of economic use of land, the legislation set a 40-percent decrease in value as the threshold level.

In other words, any regulation that diminished the value of land by more than 40 percent would be considered a compensable taking. A landowner could go to court to prove that the regulation reduced his property value by 40 percent or more.

If the landowner won his lawsuit, the government unit responsible for enacting the regulation would have to compensate him. If the monetary costs of the regulation exceeded the benefits — if the land wasn't worth the price tag attached to it — the agency could either withdraw the regulation or amend it to the point that it restored to the landowner full value of his property.

Opponents of the measure claimed local and state governments would go bankrupt trying to pay for their regulatory decisions. In other words, governments couldn't afford the consequences of their actions.

Lawmakers heeded the pleas of the opposition and rejected the bill drafted by Pruitt and Harris. They replaced it with legislation forming a study commission to look into the whole matter of partial takings and remedies for the problem.

Environmentalists and government functionaries claimed the Legislature's study commission was biased toward property rights advocates and they begged Gov. Chiles to veto the bill. The governor acquiesced and set up his own commission.

That commission met during the summer, fall and winter of 1993 and have continued into 1994, as the members failed to reach consensus on the issue.

Why do environmentalists, joined by bureaucrats from local governments and the Department of Community Affairs, fear the property rights issue so much?

A Wise and Frugal Government?

Government activists are elitists who believe that, given the choice, the general public

will always choose wrong. They tend to have a view of how the world should look and they want government to enforce the realization of their ideal.

That is one purpose of our state's strict and complex scheme of growth management. The inflexibility of the bureaucracy that administers the law allows the "correct" minority to compel fulfillment of their convictions. The complexity of the laws it executes assures the success of the planners' objectives while stifling participation by the citizenry in the determination of those objectives.

Environmentalists favor central planning bureaucracies because these agencies allow the "greens" to control implementation of their ideological agenda.

In the not so distant past, environmentalists were considered wacky extremists. Today they represent a billion-dollar industry and have donned the mantle of respectability, righteousness and authority. Their power radiates from Washington D.C. and into every state capitol.

They have positioned themselves as a force of virtue by blurring the distinction between the emotional appeal of the movement and the science on which it is based. Replacing reason with sentiment, they posture themselves as the warriors who fight for everything good for the earth and against everything bad for the earth.

Converse- ly, their opponents oppose everything that sustains our life on this planet. Or so we've been led to believe.

Private property rights is not an environmental issue. It is an issue of economic rights. Government 's duty to regulate land use is based on the gauge of "vital public interest." But what are the calibrations on that gauge?

Private property rights is not an environmental issue.

Accordi ng to Elizabeth Wilson, a reporter with the *St. Petersburg Times*, "government has scores of reasons for denying landowners the right to develop property." She cites examples of property in wetlands or land that provides a home to an endangered woodpecker.

The justification for those so-called reasons is questionable, but even that doesn't get to the heart of the private property rights debate. The future of an endangered woodpecker may, for some reason, be a matter of concern comparable to preservation of clean drinking water. If so, government can, and should take the land without compensating the landowner.

Protection of the woodpecker, however, may be nothing more than a laudable goal.

That decision, however, should be open to discussion by everyone concerned, not just those who believe the survival of the woodpecker is vital to the welfare of the human race. The deliberations can not be limited to the emotional appeal of the woodpecker.

They must include scientific evidence to support the contention that the creature's survival is truly an issue of the public welfare. Testimony should include alternative measures to safeguard the woodpecker 's existence without robbing the landowner of his right to use his property.

Consider ation must also be given to the level of investment necessary to shelter the woodpecker and the costs of that investment. If the politicians conclude, *and the public agrees*, that the investment is reasonable, then the public should pay for it.

However, protection of the woodpecker may cost more than society is willing to pay. That, too, is a legitimate conclusion.

The Big Guys Versus The Little Guys

Some claim that protection of private property rights is the domain of greedy developers and giant corporations, those fiends of liberal nightmares.

This is merely another argument based on emotion instead of facts.

Last year when Harris and Pruitt unveiled the Private Property Rights Act, activists, reporters and editors denounced them as the puppets of huge corporate entities that supposedly want to cut down every tree in Florida and build shopping malls where the forests once had been.

Over the last few weeks, however, articles have begun to appear publicizing the plight of hordes of the little guys who are suffering under the current situation; proof that the pendulum is swinging.

In a sense, that shift is insulting and detrimental. It suggests that something causing harm to the powerful is acceptable. When inequity touches the lives of the little guys, however — well, that's a different matter.

The influence or wealth of a citizen is irrelevant when it comes to government actions that unfairly and illegitimately abridge guaranteed rights. Government sometimes places limits on freedoms in order to secure the safety and well-being of all. Any other excuse for restrictions is improper.

To some degree, though, local governments that fear the economic repercussions of preserving the right to own and use public property have a genuine gripe. Often, they are forced into regulatory action by the Department of Community Affairs, which, to a large degree, dictates the precepts of a community's comprehensive plan.

When it comes to the complaint that private property rights legislation would "gut growth management," there are many who applaud the promise of that result. Whether or not that result comes about waits to be seen.

At the very least, private property rights legislation will return consideration of economic consequences to the cause and effect of government action. Government accountability may not be hallmark of Marxism, but it certainly belongs among the first principles of democracy.

by Jacquelyn Horkan, AIF Information Specialist

Juvenile Crime

The Crumbling Edge of the Future

Long before a British tourist lost his life in a North Florida rest stop — years before a German visitor was slain on a Miami freeway — juvenile crime flourished. In neighborhoods and homes where life has no value and values have no life, the ethic of hostility and aggression seizes the lives of children.

With crime rates on the decline, our state is actually more orderly than it was a few years ago. Juveniles, however, represent the dark side of the statistics. The number of youngsters arrested on murder charges during the first six months of 1993 jumped 17 percent over the numbers recorded during the same period in 1992. Juvenile rape arrests increased by 33 percent.

Over the last decade the number of delinquency cases in Florida doubled, while the population of those age 14-17 declined. Fewer youths but more crime. The crime grew more vicious and the young criminals got younger.

Compared to other states, the number of Florida youths arrested for violent crimes is twice the national average. Out of 50 states, we rank 49th.

Since the summer of 1993, the media has put the juvenile crime crisis under a microscope and now lawmakers are promising a solution in 1994. The glare of the spotlight has recently thrown the issue into prominence, but the deterioration began long ago and its roots feed on many factors.

Juvenile crime puts lives and property in peril. But there's another hidden cost. Those very teenagers who represent the failure of our systems to prepare them for productive maturity create a drain on business.

By their destructive behavior, by their inadequate education, by their unemployability, they deplete the pool of productive workers, they increase the costs to business of government support for economic misfits, and they destroy the property and steal the possessions, both personal and commercial, of business owners.

There's an African saying, "It takes a community to raise a child." Leaving the solution to government won't solve the problem. The newspapers may not write about this side of the issue, but every citizen in the community can help enforce obedience to the rules of the community.

The experts interviewed for this article know that juvenile criminals and even the kids on the verge of delinquency need different forms of punishment, treatment and rehabilitation to reshape them as functioning members of the community. Many could benefit most by the example and firm guidance of a stable, productive member of society.

In this article, we hope to call attention to the role a secure adult can play in bringing about solutions to the problems.

But first, let's take a look at some components in the equation that are often either ignored or underrepresented in media coverage of the issue.

Getting to the Root

Henri Bergson, recipient of the 1927 Nobel Prize in literature, wrote, "The present contains nothing more than the past, and what is found in the effect was already in the cause."

The past contains many of the causes of this current crisis.

Juvenile delinquents come from all backgrounds, but they flourish in areas where the family unit has decayed and the ideals of personal responsibility and respect of others are met with contempt. There are times when the government programs designed to eradicate poverty and the mischief it can breed actually create the opposite effect.

During this century, custody of society's safety net has been transferred from individuals and local institutions to centralized government bureaucracies. Many strong, healthy and stable citizens limited their obligation to the needy to the payment of tax dollars. The share of tax dollars grew, but so did the problems.

This is not to say that government plays no role in the maintenance of the safety net. Some people cannot, and perhaps never will, overcome on their own the conditions that render them needy. Nevertheless, our country's new model for compassion created some unintended consequences.

Evidence supports, and reason sustains, the idea that enlarging the safety net may have converted it into a trap. For many, welfare no longer represents short-term assistance; it is a legacy, the only inheritance parents can offer their children.

Our country's recent history of public support, in no small measure, ravaged the individual's sense of responsibility for his own well-being and personal circumstances. For instance, welfare policies penalized traditional households headed by a mother and a father, leading to the disintegration of two-parent families among the extremely poor.

In 1965, Democratic New York Sen. Patrick Moynihan, lamenting the rise in illegitimate births to black women, wrote, "A community that allows a large number of young men to grow up in broken families, dominated by women, never acquiring any stable relationship to male authority, never acquiring any set of rational expectations about the future — that community asks for and gets chaos."

Today, illegitimate birth rates among whites have reached the level it was among blacks at the time Moynihan sounded his warning, and,

sadly, his prediction has come true.

Illegitimacy is not the cause of juvenile crime, but it plays a tragic role. Putting aside the liberal versus conservative polemic over family values, the historical stigma of illegitimacy arose from practical circumstances. The economic opportunities for a single woman with a young child are slight.

A single parent who is unprepared to bear the responsibility of child-rearing and who faces the economic pressure of poverty is ill-equipped to provide the basic needs of shelter and security to a child. The influence such an upbringing has on the child goes beyond emotional impoverishment. It may actually cause a physiological deterioration in the child's ability to respond normally to the world.

What's On the Inside

The survival of the human race depends on the cultivation of our natural tendency to get along with each other. This is more than conjecture; there is biological evidence to support the argument.

Dr. Markus Kruesi, chief of child and adolescent psychiatry at the University of Illinois Medical School in Chicago, believes he knows how to predict which youngsters will commit violent crimes or suicide.

The magic formula, he says, is serotonin, a chemical in the brain that regulates the body's response to its most basic drives such as appetite, sleep, sex, mood — and aggression. A person with low levels of serotonin lacks the capacity to manage the urge to satisfy those needs.

Noradrenaline is another brain chemical linked to violent behavior. When the brain's sensory mechanism detects a threat, it releases noradrenaline to prepare the body to react to the threat. It is the switch that activates the fight or flight response to stress.

High levels of noradrenaline put the stress-response mechanism into overdrive, leading to impulsively aggressive behavior. Thus, a child who manufactures too much noradrenaline or not enough serotonin is missing a biological component necessary to manage appropriate social interaction.

Some people are born with genetic predispositions toward problems with producing proper levels of noradrenaline or serotonin. Many of these people will live normal, healthy lives, never aware of the disorder. Others, however, will not be so lucky.

According to biologists, the infant brain has one major task: figuring out what kind of world it exists in and what it will have to do to survive. If an infant with a predisposition toward noradrenaline or serotonin abnormalities grows up under the threat of physical or emotional abuse — he carries a time bomb in his brain.

The children who escaped destruction of the Branch Davidian complex in Waco are a perfect example. A normal child's heart beats 84 times a minute when he is at rest. When they are sitting, the Branch Davidian children's hearts race at 100 to 170 beats a minute. They exhibit high levels of noradrenaline, created in response to the abuse they suffered at the hands of David Koresh.

Knowledge of physiological factors such as these can help diagnose and treat violent adolescents. Merely getting tough with a child whose behavior is dictated in part by biological factors is a solution almost certainly destined for failure.

Now for the bad news. Research shows that these changes to the chemical construction of the brain can provoke permanent genetic mutation. In other words, a child whose environment generates abnormally high levels of noradrenaline may grow into an adult who will pass on to his children a genetic legacy of threatening behavior, creating a new generation of monsters.

The Wrong Tools

The human brain is an enormously complicated machine that contains many of the triggers for our behavior — good and bad.

Adolescents who become entangled in the juvenile justice system often do so because their upbringing has caused triggers, such as serotonin or noradrenaline, to misfire. Genetic imprints, damage caused by head injuries, drug abuse during pregnancy — all of these are potential contributors to misconduct.

Diagnosing the existence and source of those factors is essential to understanding the problem and developing a course of treatment.

Dr. Larry Kubiak is a clinical psychologist and the director of psychological services at the Tallahassee Memorial Regional Medical Center's Psychiatric Center. "Two people may display the same behavior," he says, "but their reasons could be vastly different."

For instance, a child's misbehavior in school may be linked to a learning disability. He doesn't understand his lessons and thinks he's stupid. His misconduct is a smokescreen to hide his embarrassment. Failure in school often puts an adolescent on the crime track because he seeks a place to belong and succeed. In fact, 70 percent of the inmates in Florida prisons are high school dropouts.

Another youth may have an attention-deficit disorder, possibly linked to his mother's drug abuse during pregnancy. He cannot control his impulsive behavior.

Yet another may demonstrate aggressive behavior and later have no memory of it because he suffers a partial-complex seizure disorder that causes abnormal brain functions. His violence is less a matter of choice than it is an uncontrollable response to messages manufactured by his brain.

There are tests that can be run on youths to determine whether psychological traumas, physiological conditions or physical injuries are contributing to delinquent behavior. These evaluations help dictate a productive course of action to achieve the intended results.

As Kubiak explains, "If there's an organic problem and you don't treat it, you can't change it. If we treat all situations the same, we'll have ineffective solutions."

Then there are adolescents with anti-social personalities. These youngsters believe that they are exempt from society's rules, that they have a special

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dispensation to act and behave in whatever manner they choose.

The teenagers involved in the juvenile justice system demonstrate anti-social behavior, but they may not have anti-social personalities. It's an important distinction and, again, one that must be made before embarking on a course of treatment.

According to Kubiak, the anti-social personality disorder will eventually disappear as the youngster gets older. "A lot of times, the best way to treat him is to lock him up until he grows out of it. There's no sense wasting rehab on this person."

The Difficult Task of Growing Up

The brain is not the only stimulus of delinquent conduct. One of the key functions of family life is the socialization of children — teaching them how to function in society according to the rules. Some children with organic triggers who are born into normal, healthy families can overcome potential problems. Nurture can overcome nature.

Many children, however, are born into families ill-equipped to guide their safe passage to adulthood. They are subjected to an upbringing characterized as dysfunctional.

A child growing up in a middle-class or wealthy, but dysfunctional, family also runs the risk of turning to delinquency. Because his family possesses economic resources, however, he often receives attention and treatment that an impoverished adolescent lacks.

Not all juvenile delinquents are poor and not all poor families create juvenile delinquents. Many middle-class and wealthy adolescents steal and vandalize property because they suffer from what columnist George Will calls a poverty of inner resources. Their families have failed in the task of "socializing" them into good behavior.

Indigence, however, is a prolific breeder of dysfunction. Impoverished neighborhoods can actually destroy the family's influence over the child because, when the child leaves the home, he walks into an environment that fosters delinquency. The parents are an outnumbered army fighting against the corrupting dominance of the child's habitat.

The Rules are Different Here

Tashara is a 13-year old girl living in one of Miami's most vicious neighborhoods. One Friday, on her way home from school, a 30-year woman stopped her on the street and began yelling at her. The argument escalated until the two started fighting and Tashara was arrested for beating the woman up. Fortunately for Tashara, she is a student at Miami's PACE center.

For several years now, the numbers of crimes committed by young girls has undergone a steady and alarming increase. In 1985, a Jacksonville social worker named Vickie Burke realized that young women had special treatment needs that were largely unmet in the juvenile justice system.

With $100 and a volunteer board of directors, Burke opened the first Practical and Cultural Education (PACE) center for girls in her community.

Since then, PACE has opened its doors in six other Florida cities, including Miami. The non-residential program serves troubled girls, ages 12-18. They are referred to PACE by the Department of Health and Rehabilitative Services, local schools, juvenile courts or parents.

PACE serves as an alternative school for these young women. Academics are the priority, but students also receive instruction in practical skills, such as budgeting, home economics, parenting and job interview techniques.

In addition, the students learn cultural skills — such as responsible behavior and the mechanisms to cope with the kinds of confrontation Tashara faced.

After Tashara's arrest, Mary Cherry, the director of Miami's PACE center, tried to help the young girl understand her encounter with the 30-year old neighbor. "Tashara told me, 'Well, she threatened me, and I'm going to knock her head,' so I said to her, 'Wait a minute. I hit you, you hit me. I punch you, you punch me. I pull out a gun, you pull out a gun. Where does it end?'"

Cherry knows that those are the response mechanisms learned by children on the mean streets — survival of the fittest. "They have to live in those environments. You can't take the street out of them because they'll get killed. But what you say is, 'okay, you do what you have to do to protect yourself in your environment, but there's ways that maybe you could get around not punching this lady and knocking her out.'"

Each applicant to PACE is screened carefully to evaluate the fit between the student and the program. Cherry understands that PACE cannot serve every single delinquent or potentially delinquent girl in Miami, and one girl could threaten the success of the others in the program. "It only takes one," she says, "and then it starts. You find them all getting back into that behavior that got them here in the first place."

Sometimes, however, PACE takes a chance on an applicant — and the results are surprising.

When Kiki was nine, she witnessed her mother's murder. At the age of 12, she committed an offense so awful it earned her a sentence in an adult prison. Cherry cannot discuss the crime, but it obviously shocks even her, a woman who has spent years as a social worker in the ugly world of urban poverty.

After Kiki spent six months in the company of hardened criminals, the courts became outraged over the harshness of her sentence and sent her to PACE. During the girl's first months at PACE, Cherry almost kicked her out because of the disruptions she caused.

Today, Kiki is one of the success stories. Last year, the center received money to take a couple students to Washington D.C. where they testified about their lives of violence to the members of a national foundation called Children's Express. Kiki was one of the girls selected.

It was the first time she ever rode on a plane or stayed in a hotel. She remembers every

restaurant she went to and the meal she ordered in each one. She says the plane ride made her more nervous than "speaking about Mama's death in front of everybody."

Kiki loves teddy bears and she wants to be a nurse when she grows up. As she explains, "That's been my dream — to help people." Ask her how she will help them and she'll tell you, "When they talk to me, I'll listen."

Cherry says she would never give up on Kiki. "Whatever it is we do — they know that we care for them. You can see just by Kiki's face softening. And when she gets that smile on her face, that genuine, true smile . . ."

The Changes that Come

Mary Cherry understands what every other person working with traumatized children and adolescents knows: they must overcome years of negative orientation and conditioning.

When the Legislature tackles the issue of juvenile crime this session, it's going to have to make difficult policy decisions that involve the allocation of scarce resources toward reclaiming lives. Not everyone will get the help they need.

Behavioral specialists will tell you that the older a person gets, the harder it becomes to change. Altering the behavior of a 10-year old, as compared to a 17-year old, is easy. The social workers, teachers, law enforcement officers and judges who touch the lives of juveniles every day find in their experience confirmation of that theory.

As Henry Collier, a houseparent at a Tallahassee shelter for abused children sees it, "You have to look at these children's lives as a piece of cloth. Every strand needs to be unraveled and then woven back together again to repair the hurts they've suffered."

That's why punishment — getting tough — is not enough. But neither is rehabilitation. There needs to be in place a social response to violent or unacceptable behavior, and it must occur quickly. The response must blend discipline and treatment according to a sensible formula that recognizes the contributors to the behavior.

Not only are we failing in the realm of swift, appropriate action. We're also not applying the resources to enforce and support changes. As Tom Arnold, deputy director of the Metro-Dade police department, says, "You can't expect to turn around 15 years of a life in three months."

Many Metro-Dade officers work diligently in community-based programs designed for at-risk children. "A lot of our most effective programs write off kids in their mid-teens and late teens and concentrate on the eight to 12-year olds," he says. "They haven't built up the mental processes that rationalize their reactions to emotions of anger, fear and alienation."

Arnold is willing to express a truth that many people shrink from: some of the older adolescents cannot be helped. "For the ones that are lost," he says, "we've lost them. We failed them. We didn't get them the care they needed, the protection they needed, the treatment they needed, back when it would do them some good. We failed them. But if we don't get them out of the picture, they're going to upset the equation."

That equation is the safety and security of each individual and our social arrangement.

The people who observe juvenile delinquents in action point to a skewed value system as one of the culprits. As Arnold describes it, "Nobody and nothing matters except what 'I've got.' They don't intellectualize their behavior, but what they have is a very unprincipled and emotionally-driven ethical system. All they've ever seen is 'if I can get away with it, it's okay.'"

Arnold criticizes the get-tough approach, because it doesn't reward good behavior. But an outpouring of pity is also useless because it doesn't punish bad behavior. He thinks we need a change in attitude, not just on the part of the experts, but also in the public mind.

"We need to change our philosophical basis that says juveniles are just kids with problems. Some of them are serious hard-core criminals, not kids with problems. We need some balance between the carrot and the stick. Right now we've got too much carrot."

Waiting for Results

Our state's process for dealing with delinquent behavior collapsed under the influence of many factors, but a lawsuit filed in 1983 may represent the critical juncture.

The case, referred to as *Bobby M.*, was filed by child advocates on behalf of inmates at the Florida State Reform School in small community located a few miles from Tallahassee. Alleging inhumane treatment of the youth detained at the school, the lawsuit forced Florida to agree to federal oversight of its juvenile justice programs.

In 1987, to correct the abuses exposed by *Bobby M*, the state reduced the number of secure detention beds from approximately 1,000 to 100, almost overnight. This action was necessary, but it left Florida in the lurch when it came to punishing serious juvenile offenders.

In 1989, Rep. Tom Gustafson, a Democrat from Fort Lauderdale, took over as speaker of the House. He sought to bestow on the state his own legacy — a comprehensive package of juvenile justice reforms.

Gustafson envisioned a network of residential and non-residential programs for juvenile offenders based on the severity of the offense. Once a youth completed his sentence in a program, he would receive intensive, long-term counseling and monitoring.

In 1990 Gustafson presented his plan to the Legislature, with a $130-million price tag. Eventually, lawmakers enacted his proposal but they cut the funding to $52 million.

Then the recession hit and revenue shortfalls forced Gov. Lawton Chiles to slice a bigger chunk out of the juvenile justice budget. Florida found itself falling farther behind in the race against adolescent crime.

Since that time, lawmakers have pumped millions back into system, but only about 25 percent of the programs are up and running. Most of the juvenile justice programs are operated by private organizations, such as PACE, with appropriations from HRS. Many private agencies were scared off by the budget cuts. Implementation

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*of other programs were de*layed by what social activists call the NIMBY syndrome — Not In My BackYard.

Therefore, some merit may exist to the argument that we don't need to appropriate more money to juvenile justice; we merely need to spend it and we need to spend it intelligently. But there's still plenty of other steps that can be taken now.

Courtroom Threats

The Honorable Charles McClure presides over courtroom cases involving children and adolescents in the second judicial circuit, which includes Tallahassee. He is one of many Florida judges outraged by their lack of authority in an impotent juvenile justice system.

In late November, a juvenile appearing before the bench, threw court files at McClure and threatened to cap — murder — McClure when the adolescent was released from detention.

McClure responded with a blistering letter to Gov. Chiles demanding immediate attention to a juvenile justice system that is "an insult to me personally and the entire judiciary, as well as the millions of victims who are held hostage by these young thugs . . . Inaction by our governmental leaders only confirms to lawbreakers that we are ignoring this attack (on the rule of law) . . . or that we are too weak and timid to deal with this important issue."

When it comes to juveniles, the tables of justice are turned. The strongest and most meaningful threats come, not from the bench, but from the accused. As McClure says, "One of the problems is the judges don't have enough say-so. Our hands are totally tied as to what we can do. In the present system, the judges are really the least needed people in the courtroom."

In the adult court system, the judge sets the sentence for the guilty party based on his analysis of a number of factors, including the severity of the crime. In juvenile court, however, the sentence is determined by a complicated point system that uses number of arrests, severity of the crimes committed, age of the juvenile, etc. The number of points accrued determines the guilty party's sentence.

McClure believes that the point system is out of whack; it's not representative of the kinds of crimes juveniles commit today. In addition, the lack of facilities delays placement in programs. A youth could commit a serious crime and wait weeks or months before entering a residential facility. In the meantime he's on the streets, probably committing more crimes.

That's not the only problem with the juvenile court system. A judge has no recourse when a youngster disrupts the proceedings or doesn't show up for his trial or sentencing hearing. McClure wants the power to punish a juvenile for contempt of court by locking him up. He also wants the authority to hold parents responsible for a child's behavior by punishing them for the contempt of the offspring.

McClure has written legislation to fortify the court's power to administer justice to juveniles. "Today, there are no rights that can be taken away. And there's no responsibility that I can force on someone, because I can't hold them in contempt if they refuse to take responsibility for their actions."

McClure is well aware that most of the adolescents who come into his courtroom are products of their environment. In addition to immediate measures, he favors long-term solutions to restore what he calls the three safe zones: homes, churches and schools.

"If children feel they can't be safe in those three spots," he says, "there is really no other place they can go. So they're going to end up in a group where they feel some comfort and some belonging and some safety. They call those groups 'gangs.'"

Zero Tolerance

Laura Hassler is turning Belle Vue Middle School into a safe zone for students. As the school's principal she has the power to do so, but she's one of the few in the state who is willing to exercise her authority.

Hassler realizes that violence in the schools detracts from the education process, so she has set a zero-tolerance standard for fighting and other aggressive behaviors — and she insists that the standard be met. "To a great extent, we're trying to overcome parental influence and present another way — let the kids live a different life. Let the school be a safe haven."

Belle Vue serves sixth, seventh and eighth graders from some of the poorest neighborhoods in Tallahassee. Fifty-three percent of Hassler's students demonstrate one or more of the behaviors that indicate they are at risk of dropping out prior to high school graduation; the state average is 4 percent. Sixty-five percent of the students live in impoverished families that rely on government assistance to survive.

Since she doesn't have a large pool of financially secure parents to draw on, she turns to the community. During the 1992-93 school year, Hassler's first at Belle Vue, she set up the *Ready to Learn Fund*, raising $6,500 from members of the community. Last year, the fund provided physical and dental care to needy students. Some kids got eyeglasses. The staff bought school supplies, clothes, lunch for kids when their parents lost their jobs. A few times, the money was used to help get utilities turned back on when service had been discontinued.

"Kids have to be fit," explains Hassler. "We used the money to raise them to a level where they can then enter the school doors ready to learn."

She also used the money to recognize students for their achievements. "We had an ice cream social and an awards program for kids who did well in academics and citizenship. This year the kids are talking about it, striving for it."

With the help of a special grant from the Department of Education, Belle Vue is embarking on a series of bold initiatives to improve the delivery of knowledge and learning to the students. One of only two middle schools in the state to receive the funding, Belle Vue is reinventing middle school education.

Some of the funding was used to set up a school micro-economy that is teaching students the basic precepts of financial systems. Now, when report cards are handed out, the students have a "salary" deposited in their individual school

"checking accounts." They may use the "Belle Vue Bucks" to buy goods at the school store and to participate in special events.

A student's misbehavior may cost him money that is withdrawn from his checking account. In addition, his classmates may be assessed a "tax" to support the "government" structures necessary to punish him for his misconduct.

The faculty uses the microeconomy, and other components of the curriculum, to teach the children values such as honesty, personal responsibility and community involvement. Last year, a grant helped fund student participation in community service projects. All of these efforts are an attempt to teach the students what it means to be an effective member of society — lessons that most of them don't learn at home.

To overcome the damage done to some of these children in their homes, Hassler again turns to the community. She has an active Partners for Excellence council. Partners for Excellence is a program that teams local businesses with community schools. Hassler relies on her partners for advice and guidance — a real world perspective. Most of them do not have children attending Belle Vue, but they share a commitment to helping the students there beat the odds.

Hassler, and many others involved with at-risk children, believe that schools are one of the keys to solving the juvenile crime predicament because schools are the one place where we know we can find the children. And since behavior and academic performance can signal potential problems, schools give the opportunity to spot the ailment before it becomes uncontrollable.

And, most importantly, schools offer every person a chance to get involved.

Hassler expends a lot of energy in the recruitment of mentors for her at-risk students. Mentors are people outside the education establishment who spend one hour a week one-on-one with a child to expose him to a different way of life.

"You know what it took to graduate from high school, go to college, get a job. Lots of these kids have grown up in a home where nobody held a real job. Nobody has a high school diploma. They have no idea what it takes to succeed. How are they supposed to find out how it's done if they don't have someone to ask?"

Dr. Kubiak seconds her opinion. "One person that really believes in you, believes that you can accomplish something, even if everyone else is telling you that you can't, means more to these kids than anything else."

And Tom Arnold knows the value of moral support to the young. Before he was interviewed for this article, Arnold attended a meeting of the Aventura Marketing Council. The members of the council have taken about 200 underprivileged children in north Dade county under their wing.

"This morning they had a session where they taught the boys how to tie a necktie. Some of these kids have never seen a necktie," Arnold explained. "They taught them how to dress for a job interview, how to behave. They let the kids sit down one-on-one with corporate personnel directors to find out what a job interview is actually like.

"You knew about the guy who got killed on the freeway, but you never hear anything about what groups like the Aventura Marketing Council are doing."

Community Experts

Lawmakers allocated more than $31 million dollars to juvenile justice programs during the 1993 Regular Session and the July special session.

Perhaps more importantly, the Legislature passed some juvenile justice reform measures aimed at consolidating efforts on the local level. The legislation reorganized the delivery and policy-making structure of juvenile programs and services in HRS. It created local juvenile justice boards in each HRS service district, giving them a substantial role in planning, budgeting, managing and evaluating community efforts.

It also created the Community Partnership Grants program to provide funding for local programs designed to reduce truancy, school suspensions and juvenile delinquency. To qualify for the grants, a community must establish a partnership among law enforcement, HRS workers, representatives of local schools and citizens.

Fostering a spirit of cooperation and collaboration among the experts responsible for correcting delinquent behavior may offer the most potential for solutions. Eliminating the turf battles among law enforcement, school officials and social workers by giving them a mechanism for communication can only strengthen their hand.

Including citizens who are not experts in juvenile justice, but are experts in the expectations of the community, is critical. For too long, the experts have operated behind closed doors. Whether they closed the door or we did is irrelevant. At the very least, opening that door restores accountability. When citizens enter that door, they play their proper role of participating in and guiding the implementation of public policy.

Each community already provides abundant opportunities for anyone who wants to help direct the course of these young lives toward productivity and away from destruction. What they lack are the concerned citizens who want to play their part.

Laura Hassler believes that education offers the only escape route for her at-risk students. "I really don't see another one," she says. "That's why I feel so strongly that if you really care about whether your car gets broken into — and basically we're all selfish — if you really care, then mentor a child who's at risk. Send a check to a school with poor kids, because that's the only solution in terms of juvenile crime that's good."

She has a long list of students waiting for someone to volunteer as a mentor. She knows that the scales tip in favor of the student who finds an adult willing to serve as a role model, one who is willing to draw for the student a pattern for success that is lacking in his life.

And, as she says, self-interest is a powerful motivation for getting involved.

by Jacquelyn Horkan, AIF
Information Specialist

Environment

DEP Merger Progressing, Further Recommendations Proposed

Despite the anticipated benefit projected as a result of the Environmental Reorganization Act of 1993, which merged the departments of Natural Resources and Environmental Protection into the Department of Environmental Protection, the 1993 merger-enacting legislation merely provided an outline of how the merger should be accomplished.

The new department was required to report to the legislature by Dec. 10, 1993, on three, major merger initiatives:

- Identify duplication in the administration of state environmental laws and rules and make specific recommendations to eliminate such duplication, and promote the efficient enforcement and administration of laws and rules.
- Identify the means through which the merging of agency permitting functions, offices and programs can facilitate more effective protection of the environment and the state's natural resources.
- Address the efficacy of transferring functions related to marine resources management and enforcement and the Marine Fisheries Commission to the Game and Fresh Water Fish Commission, and include the recommendations of the department and commission on the transfer.

The merger legislation, however, did set the direction for the merger by establishing policy for the new Department of Environmental Protection. Elements of that policy include:

- Protecting the functions of entire ecological systems through enhanced coordination of public land acquisition, regulatory and planning programs.
- Providing efficient governmental services to the public.
- Streamlining governmental services, and providing for delivery of such services to the public in a timely, cost efficient manner.
- Developing a consistent state policy for the protection and mangement of the environment and natural resources.
- Maintaining and enhancing powers, duties and responsibilities of the state environmental agencies.

Overall, the merger report recently submitted to the Legislature didn't call for additional substantive regulatory authority. The report focuses on improving the process and eliminating duplication to improve regulation.

The report claims that the Department of Environmental Protection will now be looking at Florida's environment as a function of larger ecosystems by focusing on the "big picture" of environmental protection. The report calls for definitions of Florida's ecosystems that reflect natural and human population processes and patterns, to provide sufficient areas for natural and human functions, and to recognize the complexity necessary for continued self-maintenence of the environment.

The department is developing the concept of "net environmental benefit" as an alternative permitting criteria along with regulatory incentives designed to provide for the on-site maintenance of ecological systems. Legislative recommendations to implement the environmental benefit s will be made by Jan. 1, 1995.

The department's merger report includes legislative recommendations for the 1994 regular session to complete the merger. Proposed legislation includes consolidation of coastal construction permits, environmental resource permits, and authorization by the Board of Trustees of the Internal Trust Fund. Statutory changes will be necessary to make the environmental resources permit and the coastal construction permit into a "joint coastal permit."

The merger implementation bill requires that compliance and enforcement be the primary responsibility of whichever entity (the department or water management districts) is responsible for processing the environmental resources permit application and the proprietary requests, but retains for the trustees the responsiblity to enforce trespass.

The department's 1994 legislative package addresses a new appeals process for governor and Cabinet review of final

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by Martha Edenfield, of counsel to Akerman, Senterfitt & Eidson, P.A.

Florida Electric Technology Expo To Be Held in Tallahassee

For the first time in Florida, a number of new, advanced electric technologies that are powering Florida's business and industry will be displayed at the Florida Electric Technology Expo Tuesday, Feb. 22, 1994, from 11 a.m. to 5 p.m. in the state Capitol courtyard and rotunda in Tallahassee.

On hand will be infrared/visible light ovens that can completely cook a pizza in 50 seconds and electronic noise cancellation devises, which muffle industrial engines and can reduce unwanted airplane cabin noise.

A microwave clothes dryer that dries clothes in half the time of conventional dryers with half the wrinkles will also be on display. In addition, General Motors' latest model of its electric "Impact" car will be part of the show.

This full menu of technology demonstrations and hands-on exhibits also will showcase how a major Orlando medical facility disinfects and reduces its medical waste through microwave technology rather than incineration.

Other demonstrations will showcase how NASA purifies its cooling tower water with ozonation rather than chemicals; how electric technologies are working to improve indoor air quality throughout Florida school buildings; and how the citrus industry can benefit from new advances in freeze concentration technology.

The Florida Department of Commerce and Florida's electric utilities are co-sponsoring this technology exposition to increase public awareness and offer a closer look at innovative, clean electric technologies that are helping Florida businesses reduce their total energy use, improve productivity and product quality and lower carbon dioxide and other air emissions.

Associated Industries of Florida

EMPLOYER ADVOCATE

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Tampa Firm Offers Employment Law Seminars

Alley and Alley, Chartered will be offering the firm's 20th annual employment law educational seminars this spring to help keep employers from falling into potential pitfalls in employment law.

This one-day seminar will be offered twice: once at the Tampa Airport Marriott on April 29, 1994, and once at the Orlando Airport Marriott on May 6, 1994. In previous years subjects included the Family and Medical Leave Act; striker replacement legislation; Americans with Disabilities Act; increased unionizing activity; jury trials, punitive and compensatory damages; and possible indexing of minimum wage. The seminars will be similar, but at the Orlando location, a special set of workshops of interest to public sector employees will be conducted.

Every year attendance at these seminars increases -- last year more than 500 employers from around the state participated. For more information, please contact the Alley and Alley firm in Tampa at (813) 229-6481.

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orders on environmental resource permits and proprietary decisions to ensure that both travel together through the appeals process.

The merger implementation bill also recommends consolidation of mine reclamation approval and environmental resource permit for mining. It recommends that the regulatory and administrative functions related to the issuance of mine wetland resource permits and, subsequently, environmental resources permits and mine reclamation approvals, be merged into a single process. Legislative change will be required to accomplish elimination of reclamation program preapproval.

The merger report also recommends the Legislature create an Ecosystem Florida Committee to study and identify the lands necessary to acquire and hold in public ownership to complete the system of lands protected through acquisition.

The merger report contains numerous recommendations that can be implemented and accomplished through the internal restructuring of the Department of Environmental Protection, without the need for legislation. This includes combining current proprietary and regulatory review for applications for consent to use sovereign submerged lands with environmental resource permit applications. The report also recommends implementing team concept permitting pilot projects for complex projects, which need multiple departmental permits, that potentially could have duplicate or contradictory requirements imposed on them from various permitting programs. The department also recommends that water management districts cooperate in the development and implementation of an integrated computer system to facilitate communication and information exchange among agencies.

The report recommends implementing team concept permitting pilot projects for complex projects.

Associated Industries and the Business for a Better Environment Advisory Council — representative of most segments of Florida business and industry, staffed by and located in Associated Industries of Florida — worked closely with the newly formed department to advise Secretary Virginia Wetherell and senior department staff on issues and positions key to business and industry in Florida. Meetings with senior staff and Sec. Wetherell were held to provide a forum for input from business leaders. Business and industry leaders also met with Lt. Gov. Buddy MacKay to discuss merger activities and other relevant environmental issues. Both MacKay and Wetherell gave numerous assurances that the merger is not an attempt to expand DEP's regulatory authority or jurisdiction.

AIF will continue to keep the lines of communication open with DEP staff and will work with the department in the legislative process to ensure that duplication is eliminated and efficiency is increased in the environmental regulation and permitting process. Further, AIF will be monitoring all the department's legislation closely to ensure that no new regulatory authority or expansion of current authority is proposed under the guise of merger implementation.

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