

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
WEEKLY UPDATE**



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FOR THE WEEK OF MARCH 5-9, 2001

Long Term Care Reform

On March 6th, the House Elder and Long Term Care Committee reviewed a proposed bill to reduce law suits against nursing homes and assisted living facilities and improve the quality of care.

The bill is very much a work in progress, but it does recognize the three key elements that must be part of the final reform package in order to be effective; caps on punitive damages, a sound negligence standard and an equitable legal mechanism for arbitration.

No vote was taken on the bill.

In the Governor's State of State address to the joint opening session, Gov. Jeb Bush said, "Nursing homes teeter on the verge of bankruptcy in Florida, and many will go under if we do not take decisive action to stabilize their insurance premiums by providing lawsuit relief." We couldn't say it any better.

On Thursday, March 8, the Senate Health, Aging and Long Term Care Committee discussed nursing home care reform. Under consideration was SB 1202 by Sen. Ginny Brown-Waite. Although, no vote was taken on the bill, the committee discussed what elements they wanted to see in the bill for their vote next week. Chairman Burt Saunders (R-Naples) asked Sen. Brown-Waite, to draft an amendment that would strip out the lawsuit reform provisions and leave only those elements that addressed quality of care issues. Sen. Brown-Waite agreed. The Chairman indicated that the lawsuit issues would best be served if they were addressed by the Senate Judiciary Committee.

Pharmacy Licensure by Endorsement

On Tuesday, March 6th, the House Committee on Health Regulation unanimously approved HB 437 by Rep. Frank Farkas (R-St. Petersburg). The legislation enables pharmacists from other states to become licensed in Florida by endorsement if they have taken the national exam within the last 12 years and are in good standing with their current state board. 48 states now have licensure by endorsement and today's vote was an important first step in making Florida the 49th. If adopted, this legislation would assist in easing the increasing shortage in experienced, highly qualified pharmacist in Florida. The bill's next stop is the House State Administration Committee.

Judicial Nominating Commissions

On Tuesday, March 6th, the House Judicial Oversight Committee met to consider HB 367 by Rep. Fred Brummer (R-Apopka). The bill changes the method of selection of the members of the Judicial Nominating Commissions (JNCs). Under current law, the Governor selects three members, the Florida Bar Board of Governors selects three members, and those six members select three more members. Under HB 367, the Governor selects all nine members. Of the nine, five would have to be "actively practicing" lawyers and the other four lay persons. The bill stipulates that the Governor must make appointments to each JNC. They must include representatives of each of the circuits or districts that comprise the court for which the JNC will make nominations. The bill removes all current JNC members and permits the Governor to select replacements. The bill does not prohibit the Governor from re-appointing the members currently in service. Finally, the bill provides that the terms of the JNC members are concurrent with the term of the Governor. All member terms end at midnight on the evening prior to the inauguration of the Governor following the next general election.

The bill passed out of the committee by a vote of 6 to 4. Two amendments were adopted and are traveling with the bill. Rep. Jerry Melvin (R-Ft. Walton Beach) introduced and won the adoption of one of the amendments that requires none of the four so-called "lay persons" be an attorney or an employee of a law firm. The other amendment related to financial disclosure requirements by Rep. Allan Bense (R-Panama City).

Time and again, the courts have ruled imperiously, demonstrating an almost casual disregard for the intent or limitations rightfully established by the legislature in its adoption of law. While AIF has the greatest respect for the principle of the separation of power distilled in our three branches of government, it appears that the system has become warped and the rightful powers vested in the legislature are actively being undermined. The Judicial Nominating Commission process is established by statute and the legislature certainly has the purview to make changes. We support efforts to evaluate the courts' rightful, but limited role in our democratic process. Any efforts such as this bill merit careful consideration. This bill sets in motion a more accountable process, a process more accountable to the people, whom the Governor, the legislature and courts serve.

Intangible Personal Property Tax Reduction

On Wednesday, March 7th, HB 21 by Rep. Mike Fasano rolled over to third reading on the House floor. The bill lowers the effective tax rate of the intangible personal property tax on investments. The bill was heard on second reading and amended. Typically, amendments on second reading are at the behest of the bill sponsor(s) and leadership in an attempt to solidify the bill or clean up any problems to secure its ultimate passage. The bill was amended to reflect a reduction favored by the Governor and to reflect the needs of the state budget. On Thursday, the bill won final approval by the House by a vote of 80-38, the vote falling mostly along party lines.

The bill will save taxpayers an estimated \$221 million in taxes on their bonds and investments. AIF has long supported the reduction and outright repeal of this confiscatory tax. The tax is double and triple taxation on the earnings of individuals. It inhibits the movement of capital, essential in a free enterprise system. And lost on opponents, such as the *St. Petersburg Times* editorial board, is the fact that many times, Florida has lost companies wishing to relocate to our state because of this tax. Corporate executives are faced with enormous losses if their portfolios are exposed to this tax. Losing these companies to other states has cost Florida good, competitive jobs, a fact that is overlooked by opponents of the bill who purport to represent the "working man."

Movers Regulation Act

SB 340 by Sen. Walter "Skip" Campbell (D-Tamarac) was "temporarily passed" on Thursday, March 8th. "Temporarily passed" is legislative-speak meaning that the committee did not consider the bill for a vote and it may not resurface again for the committee's consideration.

The bill, entitled, The Movers Regulation Act, was drafted in response to consistently fraudulent or deceptive practices by movers in the South Florida area.

There is no single body of law that regulates the moving industry, thus the Act's title. However, under the Florida Unfair and Deceptive Trade Practices Act, there are provisions available that would appear to allow legal redress for these fraudulent activities. In addition, the Florida RICO (Racketeer Influenced and Corrupt Organization) Act provides some legal avenues for addressing consistent and repetitive commissions of crime.

The bill's companion, HB 237 by Rep. John "Jack" Seiler (D-Ft. Lauderdale) faced even rougher sledding in the House Agriculture and Consumer Affairs Committee on March 7th, where it was defeated in a committee vote. However, a motion was made to reconsider the vote and to leave the bill pending.

While AIF has no formal position on this bill, philosophically, we are uncomfortable with any additional layer of law being created for the expressed purpose of regulating a segment of the business community, unless it is absolutely necessary.

FORECAST FOR NEXT WEEK

As the legislature enters the second week of the 2001 session, AIF continues to track each bill filed to ensure that the concerns of the business community heard. Next week we expect that the Senate Health Aging and Long term Care Committee to take up and pass a nursing home reform bill dealing with quality of care issues.

The Senate Judiciary Committee will in all likelihood take up the lawsuit or tort reform portion of the long term care issue the week following.

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

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

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