

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
WEEKLY UPDATE**



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WORKERS' COMPENSATION

In the **February 5th** House Insurance Committee meeting, a report of the Task Force on Workers' Compensation was reviewed and discussed. The Task Force was assembled last year and charged with finding out why Florida's workers' compensation rates are again spiraling out of control. Three expert panels provided testimony. AIF General Counsel and lead advocate on workers' compensation issues served on all three panels.

The three panels discussed attorney's fees/litigation, exemptions and managed care, respectively. These are the most three controversial elements of the Task Force's proposed reforms. Overall, the committee members were sympathetic to AIF's positions on these three issues:

1. Worker's compensation attorneys should be compensated on a contingency fee basis.
2. Participation in the workers' compensation managed care system should be voluntary and not mandatory, as it is under current law.
3. Exemptions from participation in the workers' compensation system should be narrowed and more precisely defined to eliminate current fraud and abuse related to the exemptions.

All three of these issues, employers and insurance carriers agree, would be substantive reforms that would have an immediate and lasting positive impact on the workers' compensation system by decreasing costs and improving care to the injured worker.

On **February 6th**, Representative Jerry Melvin (R-Ft. Walton) chaired a workshop for the purpose of identifying and finding consensus on issues that would be considered "non-controversial" as part of a workers' compensation reform bill. Last year's reform bill, which was passed by the House but not by the Senate, provided the starting point for the discussions.

Two issues that were unable to gain the designation as "non-controversial" were related to the proposed creation of a specialized panel within the 1st District Court of Appeals to hear workers' compensation appeals and a proposal to make managed care voluntary as opposed to mandatory, which it is under current workers' compensation law.

LONG TERM HEALTH CARE

By a 12 to 4 vote, the Task Force on Availability and Affordability of Long Term Care issued its statutorily required final report to the governor and legislature in a **February 5th** meeting. The Task Force was created by the governor and legislature last year to analyze and recommend solutions to the current long term care crisis in Florida.

The crisis is two-pronged. In some cases, care extended to our elderly has been very poor. There is also stress on the industry in finding the necessary and qualified daily care providers. Quality, therefore, has been a broad and continuing problem. Second, excessive litigation is on the verge of bankrupting long term care providers and across-the-board, is making long term care providers, both nursing home and assisted living facilities, virtually uninsurable. Premiums for the elderly are soaring and facilities are beginning to shut down to the continuing onslaught of lawsuits.

AIF and her employer members have a vested interest in this issue. Given Florida's demographics and a tight labor market, long-term care insurance is an increasingly necessary and competitive benefit that employers would like to provide to their employees. The current crisis makes this a virtual impossibility. AIF supports reforms that both address the quality of care and the excessive litigation that is crippling the nursing homes.

Given the controversial nature of these issues, the Task Force report only includes an analysis of the problems and several options for solutions, drawn from input by the nursing homes, trial attorneys and the Task Force's expert staff. It will take political courage to enact the reforms necessary to practically enable effective care for our elder citizens.

The House Elder and Long Term Care Committee met on **February 6th**, and heard a report from the Task Force on Availability and Affordability of Long Term Care Chairman, Lt. Governor Frank Brogan. Mr. Brogan's remarks mirrored AIF's positions on the issue, testifying that any reform effort must contain three elements; quality care reform, the provision of alternate care and litigation reform.

Lt. Governor Frank Brogan again testified on the Task Force report, this time before the **February 7th**, Senate Health, Aging and Long Term Care Committee meeting. Mr. Brogan's remarks emphasized the same issues he highlighted before the House committee on Tuesday.

The committee and those testifying on behalf of the trial bar discussed the concept for a Joint Underwriting Association (JUA) to address the insurance crisis in the nursing home industry. The debate was cut short on this proposal. AIF is opposed to this "solution" because it ducks the intractable problem of excessive litigation promoted and abetted under current statute. Unless the law is changed, no JUA could possibly provide the necessary insurance coverage for the nursing homes and our elder citizens. Please see our [February 7th daily brief](#) for more details on the JUA proposal.

The House Elder and Long Term Care committee met again on **February 8th**, to continue its discussion of issues related to the crisis in Florida's long term care. Individual members of the Task Force on the Availability and Affordability of Long Term Care testified before the committee, representing the varied and special interests of the select Task Force members.

Meanwhile, AIF received word from the Speaker of the House that a proposed committee bill (PCB) will be brought before the House Elder and Long Term Care committee next week. The bill will address the issues of concern to AIF, as outlined above in this summary, related to quality care, alternate care and litigation reform. Chairman of the committee, Carol Green (R-Ft. Myers) also indicated that next week this committee would deal in some depth on the insurance issues related to the Long-Term Care crisis in Florida.

AIF applauds the seriousness, courage and intelligence with which the House Speaker, Tom Feeney (R-Orlando), Senate President John Mckay (R-Bradenton) and both Governor Bush and Lt. Governor Brogan have addressed this very difficult and complex issue.

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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