

A S S O C I A T E D   I N D U S T R I E S   O F   F L O R I D A

# LEGISLATIVE DAILYBRIEF



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

**FROM MARCH 25, 2003**

## TAXATION

The Senate Commerce, Economic Opportunities and Consumer Services Committee heard and passed SB 1162, sponsored by Senator Ken Pruitt (R-Port St. Lucie). This bill revives, re-enacts and re-adopts certain provisions relating to the tourist development tax and the Florida Taxpayer's Bill of Rights which are otherwise scheduled to be repealed on October 1, 2005.

The tourist development tax is a local option tax on "transient rental transactions". Currently, counties may use the revenues for capital construction, tourism promotion, beach and shoreline maintenance, beach park facilities and athletic, museum, zoo and nature center facilities. Current law provides for the expiration of the tax upon retirement of bonds issued by the given county unless readopted.

The Taxpayer's Bill of Rights guarantees that the rights, privacy, and property of Florida taxpayers are adequately safeguarded and protected during tax assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements which explain, in simple, nontechnical terms, the rights and obligations of the Department of Revenue (DOR) and taxpayers. Property taxes are also subject to the Taxpayer's Bill of Rights. What follows is a partial listing of Florida taxpayer rights:

- The right to available information and prompt, accurate responses to questions and requests for tax assistance.
- The right to request assistance from a taxpayers' rights advocate of the department.
- The right to be represented or advised by counsel or other qualified representatives at any time in administrative interactions with the department.
- The right to obtain simple, non-technical statements which explain the reason for audit selection and the procedures, remedies, and rights available during audit, appeals, and collection proceedings.

Provisions relating to the tourist development tax and the Taxpayer's Bill of Rights will be repealed unless reenacted. These include:

- DOR's authority to order refunds of property taxes
- taxpayer contest proceedings against DOR.
- DOR's authority to enter into informal conference procedures to settle disputes with taxpayers
- referendum repeal requirements for the tourist development tax, which provides for the automatic expiration of the tax upon retirement of bonds
- auditing of records relating to the self-administration of the convention development tax
- authorization of counties to levy the indigent care and trauma center surtax, the county public hospital surtax and the voter-approved indigent care surtax
- The Florida Taxpayer Bill of Rights relating to property taxes and assessments.

**Tourism is central to our state's economy. The local optional tourism tax is an important tool for local governments to promote tourist destinations in Florida. The Taxpayer's Bill of Rights assures minimum standards of fairness in the administration of revenue laws of this state. AIF supports SB 1162.**

## **EDUCATION**

The Senate Education Committee heard SB 1854, sponsored by Senator Alex Diaz de la Portilla (R-Miami), on charter and alternative school personnel. This bill requires charter-school personnel to comply with the state and federal rules that govern school personnel. It further requires that all personnel at alternative schools ("second chance schools") who are hired to fill positions requiring direct contact with students must also comply with the state and federal rules and must file a complete set of fingerprints as required by the current Florida law.

Since charter schools are already in compliance with Florida law, Senator Ken Pruitt (R-Port St. Lucie) today offered an amendment that removes charter schools. The committee voted and it passed unanimously.

This bill was drafted as a result of an individual hired by an alternative school who assaulted a student. After the incident, a background check was done on this employee and the report found this was not the first time that this employee had been involved in an assault. Therefore, this bill only applies to alternative schools.

**Many AIF members have expressed interest in opening and supporting charter schools. In its original form, SB 1854 would have imposed unnecessary regulatory burdens on operations of charter schools, thereby impeding the exercise of parental choice. As amended, however, the bill deletes any reference to charter schools. As such, the bill is now acceptable to the business community.**

## **HOSPITALITY INDUSTRY**

The House Subcommittee on Trades, Professions and Regulated Business heard and passed with amendments HB 1595, a public food service establishment bill sponsored by Representative Jerry Paul (R.-Port Charlotte).

This bill authorizes the Division of Hotels and Restaurants to develop and implement a recognition program for public food service establishments. To receive recognition under the program, a food service establishment must demonstrate a commitment to ensuring food safety by requiring that its employees are trained and by meeting other best practices standards established by the state.

The bill will reduce inspections at recognized facilities to no more than twice per year as long as the facility maintains the standards associated with the designation. This will not prohibit the division from conducting re-inspections to verify that violations have been corrected, nor will it prohibit inspections in response to a documented public complaint or a suspected outbreak of a food-borne illness.

Sponsors of this bill, industry representatives, and the Department of Business and Professional Regulations are working together on additional agreeable language for the full committee's review.

**AIF supports reasonable, cost efficient measures to promote food safety. Although the bill could be strengthened to recognize positive outcomes and not merely training to achieve such outcomes, it is, nevertheless, a constructive piece of legislation that manifests appreciation and support by a state regulatory agency for best practices in the hospitality industry.**

## MEDICAL MALPRACTICE

The Senate Banking and Insurance Committee met today and passed SB 2080, sponsored by Senator Durell Peaden (R-Pensacola). Some Capitol pundits have dubbed SB 2080 as "The Trial Lawyers' Medical Malpractice Bill," which is a fairly accurate, albeit thoroughly ironic, description of the pending measure — given that Senator Peaden is a retired physician and not a practicing attorney. This bill came to the committee with the apparent support the Senate President, Jim King (R-Jacksonville).

In a nutshell, Senator Peaden and certain other members of the Senate Banking and Insurance Committee are of the view that the medical liability crisis does not result from increase in the frequency and severity of insured claims for medical malpractice — which of course is directly tied to the unique litigation environment in Florida — but rather from some ill-defined grievances against (the few remaining) insurance companies in Florida who still write policies to cover these escalating claims.

Therefore, instead of looking at tort and insurance reforms that can mitigate against the primary cost drivers of medical malpractice claims, Senator Peaden's answer to the medical liability crisis is to increase government regulation on the insurance industry, and especially the declining number of carriers who are still willing to do business in this state. The bill

- Requires rates for policies issued or renewed on or after July 1, 2003, to be reduced to levels that are at least 20 percent less than the charges for the same coverage that was in effect on January 1, 2001; subjects rate filings to prior approval by the Office of Insurance Regulation (there is no actuarial basis for the 20 percent reduction)
- Revives medical malpractice self-insurance funds, as authorized by Florida Statutes (Florida tried this before and few could survive in the market)
- Requires insurers to apply a discount or surcharge on a health care provider's premium based on the provider's loss experience, including state disciplinary action, which would result in astronomical premiums for any physicians who was subjected to a medical malpractice claim.
- Increases the fine for insurers who violate the requirements for reporting of professional liability claims (in no way does this provision reduce the frequency or severity of claims).
- Requires the Office of Insurance Regulation to hold a public hearing on a rate filing upon the request of the insured (such a provision simply adds to the cost of a rate filing and wrongfully politicizes the rate-making process).

The bill passed the Senate Banking and Insurance Committee on a very strong vote. Standing alone, this is clearly a bad bill. If enacted into law, it may exacerbate the insurance availability crisis and thereby trigger a chain reaction leading inexorably to a medical meltdown in Florida. Nonetheless, it is much too early in the session to be overly troubled by a bill that requires much improvement before it can be considered ripe for passage by the full Senate and House. Suffice to say, however, the spirit and intent of the bill, and the level of leadership support in the Senate, does prompt concern.

Today the Senate Committee on Health, Aging and Long Term Care passed SB 564 the medical-malpractice bill of Senator Burt Saunders (R-Naples), which contains many of the tort reforms recommended by the governor's task force, minus the most important one: a cap on non-economic damages. It also grants sovereign immunity to emergency-room physicians, thereby limiting their exposure to civil lawsuits and excessive liability for jury awards. Likewise, the bill extended the Good Samaritan Act to hospital employees in emergency care, and made other changes to the medical-claims process. The bill was voted down in the committee last week, but was instantaneously revived when Senator Alex Villalobos (R-Miami) moved for reconsideration of the committee's vote. This was a parliamentary move that keeps the bill alive until the next committee meeting when it can be voted on again.

Before passing the bill today, the committee members agreed to an insurance "bad faith" amendment that is weaker than the provision in the House bill. On balance, the bill contains more good than bad, but standing alone it fails to adequately address the medical liability problem.

Next week, SB 564 moves on to the Senate Judiciary Committee, where, hopefully, it can be improved.

**AIF supports a comprehensive package of measures designed to alleviate Florida's medical liability crisis, including, most notably, a \$250,000 cap on non-economic damages and necessary revision to Florida's bad-faith insurance law. Vulnerability to large jury awards is why insurers have left the state. Many doctors, especially in the high-risk specialties, are leaving too. Now is the time for the Legislature to act decisively to provide immediate and lasting relief.**

#### **WORKERS' COMPENSATION**

For a side-by-side comparison of the various Workers' Compensation plans being discussed this session, go to <http://fbnnet.com/2003-Articles/WCReformCommission.htm>.

#### **SPECIAL GENERAL ELECTIONS**

The Special General Elections for Senate District 26 and House District 30 were held today.

Mike Haridopolos (R) will represent Senate District 26, he defeated Donna Hart (D) with 63.1% of the vote.

Thad Altman (R) will represent House District 30, he defeated Bruce Wechsler (LIB) with 72.4% of the vote.

Please go to <http://fbnnet.com/Elections/electionmain.htm> to view the complete "Unofficial" results.

**Please send your comments or suggestions to us at [aif@aif.com](mailto:aif@aif.com) or call the Governmental Affairs department at (850)224-7173.**

- For more information on all of the important legislative information concerning the business community, go to our "members only" Florida Business Network web site at <http://fbnnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.