



WEEKLY BRIEF FOR THE WEEK OF APRIL 28 – MAY 2, 2003

LEGISLATURE ADJOURNS

BREAKING NEWS: A disappointing day ends a difficult session. Legislators will soon return to Tallahassee to finish work left undone.

This evening the Legislature adjourned sine die without passing a budget or enacting important legislation for workers' compensation, medical malpractice, and automobile insurance reform. A number of other bills monitored by AIF also died today, the very last day of the Regular Session.

Governor Jeb Bush is calling legislators back for a special session commencing Monday, May 12, for the express purpose of passing a budget. Legislative leaders may decide to extend the session to also include other matters, such as workers' compensation and medical malpractice. If they don't, one or more additional special sessions may be held later in the summer.

WORKERS' COMPENSATION

Source: Mary Ann Stiles; Stiles, Taylor, and Grace, P.A.

The bad news is that the business community of this state has lost in its efforts for the fourth session in a row to reform workers' compensation. The Florida Legislature ended at 6:20 p.m. on May 2, 2003 without the Senate taking up the bill sent to them by the House this morning, which refused to concur in the amendments adopted by the Senate last night. The House bill was the bill pushed by the business community and the insurance industry. It would have lowered rates by an estimated 14.15 percent; the construction industry would have seen additional savings of four percent for a total of 18.15 percent for construction.

In a state with the highest rates in the nation, where permanent total claims are five times higher than the national average, hospital outpatient care is the most expensive in the nation, litigated claims are 40-percent more expensive here than in other states, and fraud is rampant because of the exemptions in the construction industry — a majority of legislators were not convinced by the business community that reform was necessary.

The good news is that the issue of workers' compensation will most likely be the subject of a special session later this year. Although it was announced that the Legislature will be back on May 12th to address budget issues and will stay here through May 23rd, no mention was made of taking up workers' compensation at that time. The governor has made this issue a high priority in his administration and has insisted that rates be reduced by 15 percent across the board.

Many misconceptions, misinterpretations, and misstatements that, at the very least, were misleading regarding workers' compensation, coupled with the fact that the House and the Senate failed to reach agreement on several major issues, killed workers' compensation reform during the regular session.

If the business people over the next month does not stand up to be heard in their local communities, and, if we do not make our voices louder than the claimants' attorneys, we will not be successful in getting a meaningful bill passed during special session either. Let your lawmakers in your district know that your business cannot afford the high rates that are being charged, that your business is having to cut back on expenditures and personnel, and that some of your competitors do not even bother to carry coverage.

The number of claimants' attorneys and defense attorneys waiting to accost senators and representatives as they exited the chambers — to convince them not to do anything this session or at least to allow higher attorney fees than the House allowed — was simply astounding. This was my 30th year lobbying workers' compensation and I have never seen the likes of it.

If we do not make our voices heard, a bill might pass Special Session, but it will not resolve the major problems with Florida's workers' compensation law. Rates will continue to climb, insurance carriers will not write policies in this state, new businesses will not move to Florida, and some businesses that are currently operating in Florida will fold.

AIF supports legislation that controls medical expenses, reduces litigation, and corrects inefficiencies in the workers' compensation system. Above all, AIF supports remedial legislation that will provide fairer benefits to injured workers and lower costs to employers.

MEDICAL MALPRACTICE

The Senate medical malpractice package consisting of CS/CS/SB 560 & 280, CS/CS/SB 562 & 1912, and CS/CS/SB 564 & 2120 & 2620, sponsored by Senators Burt Saunders (R-Naples) and Durell Peaden (R-Pensacola), died in the House. Conversely, the House medical malpractice bill HB 1713, sponsored by Representative Frank Attkisson (R-Kissimmee), died in the Senate. Therefore, medical malpractice will have to be addressed in a special session.

AIF supports a comprehensive package of measures designed to alleviate Florida's medical-liability crisis including, most notably, reform of the bad-faith insurance law and a \$250,000 cap on noneconomic damages. Now is the time for the Legislature to act decisively to provide immediate and lasting relief.

AUTOMOBILE INSURANCE REFORM: PIP

The House bill relating to Florida's no-fault motor-vehicle insurance law, HB 1819, co-sponsored by the House Insurance Committee and Representative Kim Berfield (R-Clearwater) was ordered engrossed Wednesday afternoon after the adoption of a few amendments. However, the bill remained on third reading in the House. The Senate companion, CS/SB 1202, by Senator JD Alexander (R-Winter Haven), came over to the House on Thursday.

Soon thereafter, many of the affected parties reached an informal agreement on compromise language to resolve this issue, albeit with a weakened bill. Nevertheless, neither the House bill nor Senate bill came up for further deliberation prior to the end of the session. Therefore, no automobile insurance reform passed this year.

AIF favors reform of Florida's automobile insurance law to return stability to the no-fault insurance market by reducing unnecessary litigation over medical and lost-wage benefits.

SMOKE-FREE WORKPLACE

Tuesday, the Senate laid its bill on the table and substituted it with the House companion, HB 1757, co-sponsored by the House Business Regulation Committee and Representative Manuel Prieguez (R-Miami). Thursday, after adoption of amendments, the Senate passed the bill on a 34 to 3 vote. Today, the House refused to accept the bill as amended and sent it back to the Senate for it to recede. In response, the Senate turned around and returned it to the House and told them to concur. The bill stopped there. Regrettably, an agreement could not be reached between the House and Senate. As such, necessary legislation did not pass.

AIF supports legislation that clarifies the legal obligation of employers to comply with the “no smoking” amendment to the state constitution.

OTHER ACTION TODAY ON IMPORTANT BILLS

MINIMUM WAGE

SB 54, by Senator Lee Constantine (R-Altamonte Springs), passed the Senate on April 24 on a 22 to 13 vote. This bill prohibits political subdivisions of the state from requiring employers to pay a minimum wage other than that set by the federal government.

Thursday, the House companion HB 321, sponsored by Representative Frank Attkisson (R-Kissimmee) was temporarily postponed then substituted with SB 54. The House read the bill a second time. Today, after the third reading, the bill passed with a vote count of 84 to 32. The bill was returned to the Senate and ordered enrolled.

On balance, SB 54 represents an important step in the right direction, especially for the hospitality industry in Florida. As a matter of principle, however, AIF continues to oppose all costly living-wage mandates at the local level including those that are limited to commercial transactions involving local government entities.

HOMELAND DEFENSE

Wednesday, the House passed HB 1833, co-sponsored by the House Transportation Committee and Representative David Russell (R-Spring Hill), on a 118 to 0 vote. This bill establishes the Secure Airports for Florida’s Economy (SAFE) Council.

Thursday, the Senate companion, SB 2578, by Senator Jim Sebesta (R-St. Petersburg), was read a second time, amendments were adopted and then laid on the table to be substituted by HB 1833. Today, the Senate read the bill a third time then passed it with a vote count of 38 to 0. The Senate immediately returned the bill to the House where it was ordered enrolled.

AIF supports legislation to promote homeland security in the State of Florida.

CONSTITUTIONAL AMENDMENTS

HB 1883, co-sponsored by the House Finance and Tax Committee along with Representative Randy Johnson (R-Winter Garden) passed on a 115 to 0 vote on Monday. This bill implements an amendment to the Florida Constitution by requiring a newly created Financial Impact Estimating Conference to prepare a clear and unambiguous 50-word financial-impact statement for inclusion in the ballot summary of an amendment to the constitution proposed by initiative petition. Thursday, the Senate companion, SB 1322, by Senator Anna Cowin (R-Leesburg), was laid on the table and substituted with HB 1883. The bill was read a second time with amendments being adopted. Today, after third reading, the Senate passed it on a 38 to 0 vote. The bill was returned to the House in messages but no further action was taken.

AIF supports measures that strengthen the integrity of the constitutional amendment process, provided that the people retain the ultimate right to alter or revise the state constitution in accordance with fundamental precepts of democratic rule.

PRIVATE PROPERTY RIGHTS

This year, two bills were introduced that relate to the Bert J. Harris Private Property Rights Protection Act (Harris Act): HB 113, sponsored by Representative Jeff Kottkamp (R-Cape Coral), and SB 1164, by Senator Ken Pruitt (R-Port St. Lucie). These bills correct a circuit court decision that undermined the original intent of the law dealing with certain issues relating to the statute of limitations and sovereign immunity.

On April 23, CS/SB 1164 passed the Senate on a 35 to 2 vote. Wednesday, HB 113 was heard on the House special order calendar where it was laid on the table and substituted with CS/SB 1164. The bill was read a second time with a few amendments being adopted. Surprisingly, the House failed to take up the bill today on third reading. As such, the Harris Act legislation was not enacted.

AIF supports legislation that protects private property rights. The Harris Act provides an avenue for a property owner to take against government overreaching on property rights. This legislation is necessary to ensure that the Harris Act continues to work to protect Florida citizens and businesses from government over-regulation.

EDUCATION

On April 23, SB 2242, sponsored by Senator Daniel Webster (R-Winter Garden), passed the Senate on a 35 to 2 vote. This bill would ensure greater accountability for existing and future charter schools. Wednesday, the House companion, HB 1279, by Dennis Baxley (R-Ocala), was substituted with the Senate bill. The House read SB 2242 a second time then adopted an amendment. Today, SB 2242 passed the House with a 106 to 11 vote. The bill was returned to the Senate where no further action was taken.

AIF supports the expansion and development of charter schools in Florida. Charter schools are a cost-efficient and educationally effective way to improve the quality of education in the state.

ENVIRONMENT

The Senate bill relating to liability under the drycleaning solvent cleanup program, SB 956, by Senator Dennis Jones (R-Seminole), passed the Senate on April 25 on a vote of 39 to 0.

Thursday, the House companion HB 741, sponsored by Representative Dennis Ross (R-Lakeland), was laid on the table and substituted it with SB 956. Today, after the bill was read a third time, the House passed it 119 to 0. The bill sat in the House with no further movement.

AIF supports legislation that provides incentives for voluntary cleanup of polluted sites by property owners by offering them protection against wasteful litigation.

REVIEW: BILLS THAT PASSED OR FAILED EARLIER IN THE WEEK.

CONSTITUTIONAL AMENDMENTS

Wednesday, CS/CS/SB 1172, sponsored by Senator Anna Cowin (R-Leesburg), was defeated with 17 yeas and 21 nays. This bill would have restricted any proposed amendment or revision to the state constitution from being placed on the ballot unless the Florida Supreme Court determined that it met the stipulated criteria. The majority opposed this bill because they believe that the constitution belongs to the people of Florida who have the right to propose amendments. This bill would have made it harder for citizens to amend the constitution. Also, there was concern that the bill would have vested too much discretion in the Florida Supreme Court to approve or reject proposed constitutional amendments.

AIF supports measures that strengthen the integrity of the constitutional amendment process, provided that the people retain the ultimate right to alter or revise the state constitution in accordance with fundamental precepts of democratic rule.

ENVIRONMENT

The two bills relating to contaminated site cleanup came before the House and Senate this week. Monday, the House passed HB 1123, by Representative Donna Clark (R-Sarasota), on a 113 to 4 vote. This bill applies risk-based corrective action — which is currently limited to the cleanup of brownfields as well as dry-cleaning solvent and petroleum contaminated sites — to the remediation of other contaminated sites. The Senate companion, SB 2726 sponsored by Senator Nancy Argenziano (R-Crystal River), was laid on the table and substituted with HB 1123. The Senate approved HB 1123 on a 36 to 0 vote. It now goes to the governor for his signature.

AIF supports this legislation because it establishes a reasonable standard for remediation of contaminated property.

WATER RESOURCES

Tuesday, HB 279, by Representative Larry Cretul (R-Ocala), was substituted with the Senate bill, CS/SB 1044, sponsored by Senator Nancy Argenziano (R-Crystal River). This bill requires that when obtaining a consumptive water use permit a notice be provided by regular or electronic mail to certain local governments. A permit must also include language stating that it does not convey any property rights or privileges other than those specified within the permit. Thursday, the bill passed the House on a 118 to 0 vote and returned it to the Senate where it was ordered enrolled.

As originally written, AIF opposed SB 1044 because it would make the permitting process more cumbersome by erecting barriers that strangle economic development in this state. As amended, AIF supports this legislation.

MINING

In March, the Senate passed CS/SB 472, by Senator Rod Smith (D-Gainesville). This bill creates a streamlined administrative hearing and procedures process for allegations of property damage caused by the use of explosives and blasting associated with construction materials mining. As amended, attorney fees are awarded to the prevailing party if the suit is ruled as frivolous under current law. On Tuesday, the House laid its bill, HB 673, sponsored by Representative Gustavo Barreiro (R-Miami) on the table and substituted it with the Senate bill. Thursday, the House passed CS/SB 472, returned it to the Senate where it was ordered enrolled.

AIF supports this bill because it reduces waste by, among other things, giving both the plaintiff and the defendant incentives to avoid frivolous lawsuits.

TAXATION

April 16 the Senate passed SB 1430, by Senator JD Alexander (R-Winter Haven). This bill provides an exemption from the gross receipts tax for natural and manufactured gas under certain circumstances. Wednesday, the House laid its bill on the table, HB 329, sponsored by Representative Ken Littlefield (R-Zephyrhills), and substituted it with the Senate bill. The House passed SB 1430 after a third reading then returned it to the Senate where it was immediately ordered enrolled.

AIF supports legislation that removes taxes on manufacturing process that act as tariffs and diminish the competitive ability of Florida made goods.

On April 25, the House passed on a 113 to 0 vote, HB 1839, co-sponsored by the House Finance and Tax Committee and Representative Randy Johnson (R-Winter Garden). This bill updates the Florida Income Tax Code to reflect 2002 changes to the U.S. Internal Revenue Code. On Wednesday, the Senate companion, SB 1002, by Senator Walter Campbell (D-Tamarac), was substituted with HB 1839. The Senate immediately passed it 40 to 0 and sent the bill back to the House where it was ordered enrolled.

AIF supports “piggybacking” of state income tax laws on the Federal IRS Code, as it simplifies compliance costs for corporations doing business in Florida.

- 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.