



APRIL 21, 2005

LEGAL REFORM

Several legal reform bills were debated today during the House session and are now ready for a final vote. The bills included:

- HB 135 Relating to Street Lights by Representative Dwight Stansel (R-Live Oak)
- HB 1931 Relating to Premises Liability by the Judiciary Committee
- HB 1019 Relating to Asbestos & Silica Compensation Act by Representative Joe Pickens (R-Palatka)

HB 135 received no debate or questions. The bill provides that a streetlight provider will receive protection from liability if it has designated procedures in place to respond to a notice that a streetlight is not working and informed its customers and the general public of those procedures. Additionally, a streetlight provider must repair the streetlight within 60 days of receipt of actual notice that the streetlight is not working, except in instances where repair is not possible due to circumstances beyond the provider's control, such as a natural disaster.

HB 1931, the premises liability bill, sponsored by the Judiciary Committee was amended on the floor. The amendment adopted tightens up the legal language of the bill. As amended the bill repeals the existing law in this area and provides that a person who is injured in a slip-and-fall case due to a transitory foreign object or substance (liquids, foods, etc.) must prove that: the commercial establishment had actual or constructive knowledge of the dangerous condition, and the dangerous condition existed for a sufficient length of time so that the commercial establishment should have known of the dangerous condition and taken action to remedy it.

Of all the bills heard by the House this afternoon the one that received the most debate was HB 1019, the asbestos litigation bill. This bill requires that persons bringing asbestos claims provide *prima facie* evidence (ie: the most compelling) in order for their claims to be brought to court. It establishes strict medical criteria that a person must meet before their claim is accepted. Most of the questions asked about the bill centered around the retroactivity of the bill, since it would affect those individuals who currently have ongoing asbestos claims. Representative Joe Pickens (R-Palatka) explained that the goal of this legislation was to ensure that those individuals with real health problems had access to the courts not those with non-meritorious claims.

On the Senate side, SB 2228 Relating to Asbestos Related Claims was passed 39-0 and will now go to the House. This bill would provide liability limitation on asbestos related claims involving a successor corporation created before January 1, 1972. A "successor" is defined as a corporation that assumes or incurs, or has assumed or incurred asbestos-related liabilities as a result of purchasing or acquiring a business or corporation that was somehow involved in asbestos related claims.

The legislation would only apply to the predecessor's wrongdoing, and would not limit the liability for the successor corporation's own torts.

Please contact your legislator and ask them to support these important legal reform bills. AIF supports changes to the current tort system that will bring about reasonableness, fairness, and predictability for Florida's business community.

GROWTH MANAGEMENT

The State Infrastructure Council unanimously approved HB 1865 Relating to the Growth Management Incentive Act by Representative Randy Johnson (R-Winter Garden). This is the House's comprehensive growth management package. The bill's sponsor along with Representative Mike Davis (R-Naples), who also played a big role in the development of this legislation, received praised and appreciation for their commitment and long hours of work dedicated to this project.

A strike-all amendment offered by Representative Johnson was adopted which replaced the previous language of the bill. As amended, the bill creates the "Sustainable Florida Act of 2005" and declares urban infill and redevelopment as a high state priority and promotes such development through relaxed procedures and state funding incentives. The bill strengthens concurrency requirements (concurrency is the practice of ensuring that new developments are surrounded by the necessary roads, schools, and water), creates certain financial feasibility requirements, and strengthens intergovernmental coordination requirements, for schools, roads and water to mitigate issues resulting from continued growth in the state's population.

To ensure that these strengthened concurrency requirements do not result in forcing development out of urbanized areas and into undeveloped rural or agricultural areas, the act creates incentives to encourage urban infill and redevelopment. The bill provides for proportionate-share mitigation (or pay-as-you-go) to make sure that current development is not constrained by, or assessed for, impacts related to system backlogs and facilities deficits.

Representative Johnson stated that this was only the first step towards making real progress in the area of growth management and that although the bill was very comprehensive, there are still hundreds of issues that need to be addressed. He also stressed that local governments and municipalities must play an equal part in order to make this plan work. Under this proposal, the state will provide local communities with millions of dollars in funding towards infrastructure, schools, roads, and technical assistance as long as local governments match some of this funding. Local governments are given full autonomy to decide on how to come up with the matching funds. This bill would provide \$450 million dollars towards roads, \$50 million dollars towards bridges, \$100 million dollars for sustainable water programs, \$50 million dollars for education, and approximately \$3 million dollars in the form of technical assistance to local governments so that they could learn how to draw down these dollars.

Finally, the bill calls for the creation of a Century Commission composed of elder statesmen whose job it would be to study growth in Florida and develop a plan for the future of our state. This commission would be required to present their plan to a joint meeting of the Senate and House of Representatives.

Groups that testified in support of the bill included the Association of Florida Community Developers, the 1000 Friends of Florida, the Florida League of Cities, and the Florida Association of Counties.

The only concern raised during the meeting was that the level of funding for education and schools was too low. Representative Johnson commented that the state was already involved in conversations regarding funding for education because of the passage of the Class Size Amendment and that it was his hope that the implementation of this amendment would address some of the budget shortfalls.

The Senate is also working on its own Growth Management product. During the meeting Representative Johnson stated that the Senate's package was incomplete at this time, but that this was by design. The two sides may go into conference to work out their difference but this has yet to be determined.

AIF supports any piece of legislation which encourages smart, sustainable growth. HB 1865 is only a first step albeit a giant step towards addressing some of the backlog in Florida's infrastructure needs. Florida's cities and counties must provide the roads, bridges, and water necessary for businesses to grow and flourish, while at the same time preserving the natural beauty that makes Florida such a unique state.

UTILITIES

The House Commerce Council approved CS/HB 1325 by Representative Frank Attkisson (R-Kissimmee), the "Governmental Authority Provision for Communication Services Act of 2005." This proposed legislation provides that except in limited cases, no government authority shall provide certain telecommunication services to its residents without first give written notice to all dealers of communications services. If no dealer of communications services responds, then the government authority must retain a feasibility consultant to assess the feasibility of the government authority providing the service. If found feasible, the government authority must hold a public hearing to provide the public an opportunity to consider the contents of the study and to offer comments and by vote decide whether or not to provide service. The final step to the process is for the government authority to have a referendum so that the voters can decide whether or not the government authority should proceed and provide the service.

CS/HB 1325 has passed its last committee of reference and now will be heard on the House floor.

AIF will continue to support legislation that would create a fair and level playing field when businesses compete against local governments.

Please send your comments or suggestions to us at 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.