

ASSOCIATED INDUSTRIES OF FLORIDA

LEGISLATIVE INTERIM BRIEF



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WEEKLY INTERIM LEGISLATIVE BRIEF FOR THE WEEK OF DECEMBER 5 - 9, 2005

House and Senate committees took advantage of legislators being in town this past week and debated other issues and bills for the upcoming 2006 legislative session. Below is a recap of some of the meetings AIF reported on this week:

Workers' Compensation

On December 8, 2005, the House State Administration Appropriations Committee met to discuss House Bill 141, Workers Compensation for First Responders by Representative Sandy Adams (R-Oviedo). House Bill 141 has several provisions which: define the phrase first responders; provide for permanent total disability supplemental benefits; lower the standard of proof for occupational disease, repetitive exposure and toxic substance exposure; provide for compensability for psychiatric claims, allow for increased attorney fees in certain situations and provide for compensability for injuries from small pox vaccinations.

Similar bills have been filed during previous legislative sessions. The bill is controversial because it provides benefits to certain categories of workers that are not available to other types of workers who some believe play just as significant a role in emergency situations. There is also a significant concern that this bill will raise costs for Florida's municipalities with no additional funding from the Legislature to cover those costs - ultimately placing the cost burden on the taxpayers. NCCI has estimated that the bill will create at least a 6.2% cost increase. The committee members brought up many of these issues during the last week's lengthy debate, and asked Representative Adams to address their concerns in future committee meetings. The committee approved House Bill 141 unanimously.

Banking and Insurance

The Senate Banking and Insurance Committee met on Wednesday, December 7th for the purpose of hearing testimony on the repeal of Florida's Motor Vehicle No-Fault Law. The committee heard presentations from: staff on the results of their interim project, Eric Miller from the Division of Insurance Fraud on PIP Fraud Activities, and from a panel composed of representatives from the insurance industry, trial attorneys, and medical providers.

In 2003, legislation was passed which provided that effective October 1, 2007, the Motor Vehicle No-Fault Law is to be repealed, unless reenacted by the Legislature during the 2006 regular session. This law is also known as the Personal Injury Protection (PIP) insurance program. It provides payment of medical and wage loss benefits, regardless of fault, in return for a limitation on the right to sue for non-economic damages for non-permanent injuries.

However, the intent of the 2003 law was clear and according to Senate staff "the goals behind the adoption of the no-fault law in 1971, were to quickly and efficiently compensate accident victims regardless of fault, to reduce the volume of lawsuits by eliminating minor injuries from the tort system, and to reduce overall motor vehicle insurance costs, have been significantly compromised due to the fraud and abuse that has permeated the PIP insurance market."

Of particular interest were the staff recommendations on what path to follow regarding PIP. The major recommendations outlined in the presentations were:

- Reenact no-fault, provided that additional reforms are enacted to control costs, particularly, a medical fee schedule.
- Adopt a medical fee schedule for PIP, at a specified percentage above the Medicare fee schedule.
- Eliminate or limit the contingency risk multiplier for attorney fee awards in PIP cases

In regards to fraud, the staff made the following recommendations:

- Increase funding for the Division of Insurance Fraud and equalize salaries with the Florida Department of Law Enforcement.
- Add prosecutors in Orlando and Tampa Increase criminal penalty for creating "paper" accidents.
- Criminalize the solicitation of bribes in return for accepting health care treatments.

The major point of contention between representatives of the insurance industry and the trial attorneys and medical providers revolves around the issue of medical fee schedules. Most members of the insurance industry contend that instituting these fee schedules is the way to go and they argue that PIP is the only arena where fee schedules are not present (both Medicare and Workers' Compensation have fee schedules built into their process).

Growth Management

On Monday, December 5th the Senate Community Affairs Committee heard a staff presentation on the Growth Management Glitch Bill. The Legislature enacted SB 360 in the 2005 regular session which made significant changes in planning for and funding infrastructure. Specifically, the legislation revised concurrency requirements for roads, schools, and water; provided regulatory incentives for developing a community vision and established an urban service boundary; created two task forces; and established the Century Commission for a Sustainable Florida. It also provided \$1.5 billion in recurring and nonrecurring funding for infrastructure in the 2005-06 fiscal year and \$750 million in recurring funding in subsequent years.

Following passage of SB 360, the Department of Community Affairs has been holding briefings around the state to discuss the implementation of the legislation. Also since the passage of SB 360, the Florida Senate conducted an Interim Project Report (Report No. 2006-108). In its report, the Senate Committee on Community Affairs gathered information from stakeholders and other interested parties to identify glitches in the bill and suggest any changes necessary to fully implement the provisions of the bill.

Although the Senate Interim Project Report highlighted several recommendations from stakeholders, the major glitch in SB 360 relates to the appropriations. Specifically, the following changes are necessary to fully implement the intent of SB 360:

- Reduce the \$200 million appropriation for 2005-06 to fund projects on the Strategic Intermodal System to its intended \$175 million.
- Provide for transfer of \$33.25 million from the Public Education Outlay Trust Fund to the Classrooms for Kids Program, which is the balance of the \$75 million that was appropriated in the bill.
- Re-appropriate \$30 million in recurring revenues for the High Growth Capital Assistance Grant Program which was vetoed by the Governor.
- Make technical changes including expanding the Century Commission from 15 to 21 members.

Based upon the Senate Interim Project Report, staff recommended a glitch bill to correct certain cross-references and address the appropriation issues as well as other issues previously discussed. These irregularities would be considered true glitches. In the ideal world, it may be appropriate to have a true glitch bill that specifically addresses cross-references and addresses the appropriations issue. This bill would resemble something similar to a “revisers” bill. In addition there could be a “glitch-Plus” bill that could address both new issues and old issues. Overall, there will be three areas to be addressed: glitch issues; policy issues; and new topics.

On Tuesday, December 6th the House State Infrastructure Council met to discuss priorities and outlined an aggressive agenda that includes another round of growth management legislation and plans to borrow money to enhance transportation revenues.

With an estimated \$38 billion backlog of transportation needs, the Council talked about setting aside a portion of general revenue to be bonded in order to expedite critical transportation

projects, which if postponed (because of the dramatically escalating expense of road building) could end up costing the state much more than the principal and interest of a bond program. Another proposal, that will be included in a bill by Representative Rich Glorioso (R-Plant City), contemplates raising the bonding cap for the Florida Turnpike Authority from \$4.5 billion to \$6 billion.

Other infrastructure issues that the Council is interested in for the upcoming regular session include incentives for affordable housing, new rules for developments of regional impact, adjustments to annexation policies, consideration of impact fees changes, and the standardization of governance for metropolitan planning organizations.

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