



MARCH 16, 2005

CIVIL JUSTICE

The House Judiciary Committee was scheduled to hear HB 135 Relating to Street Lighting by Representative Dwight Stansel (D-Live Oak) today. This bill provides that neither the state, nor any of its officers, agencies or instrumentalities, nor any electric utility that provides, maintains or operates street lights, security lights or other similar illumination, may be held liable for any civil damages for injury or death affected or caused by the adequacy or failure of that illumination, unless such liability was expressly assumed by written contract. This bill further specifies that no such entity owes a duty to the public to provide, operate, or maintain the illumination in any manner, unless such a duty is expressly assumed by written contract.

However, at the outset of the meeting Chairman David Simmons (R-Altamonte Springs) announced that the bill would be temporarily passed (meaning that a vote would be deferred until the Committee's next meeting). Representative Stansel further explained that the legislators and utility companies were continuing to work on drafting compromise language that could pass both the House and the Senate. Representative Stansel assured the committee that definitive language would be completed by this Friday at noon.

The street light issue is part of the overall debate on legal reform. As such, AIF is supporting changes to the current tort system that will bring about reasonableness, fairness, and predictability. AIF will continue to closely monitor this bill to see if the final language meets these principles.

Also today, the Senate Transportation Committee heard another legal reform bill, SB 1030 Relating to Vehicles and Financial Responsibility, filed by Senator Skip Campbell (D-Tamarac). The bill was presented by a staff member who explained that the bill was written to correct a "glitch" in current law relating to the financial liability of motor vehicle rental companies.

Current law limits liability of a rental car company if damages are incurred while the vehicle is out of their direct control and injuries occur. However, the bill was filed to provide that same protection to business entities holding a motor vehicle title or equity interest pursuant to an asset-backed ownership of a fleet of motor vehicles, even though the rental car operators actually control the vehicle.

SB 1030 was unanimously passed by the Committee and will now be heard by the Senate Banking and Insurance Committee.

The House Civil Justice Committee considered a similar measure, HB 551 Relating to Financial Responsibility for Motor Vehicles and Vicarious Liability by Representative Alan Hays (R-Umatilla). The bill as originally drafted would change current law relating to the financial liability of a rental car company if damages occur while a vehicle is not within the operation or control of the rental car company. Current law limits this liability for rental car companies, but this bill would extend that protection to additional business entities holding title to the fleet of cars.

An amendment by the bill's sponsor was passed that clarified that the protections in the bill would extend to rental car companies, title holding companies and other similar business entities.

Committee Chairman Mark Mahon (R-Jacksonville) noted that the bill was scheduled to be heard at a previous committee meeting, but was delayed due to the "controversy" surrounding the bill between the business community and the trial lawyers. The chairman thanked the parties and the bill sponsor for their willingness to delay the bill's hearing until they could work out their differences.

Representative John Stargel (R-Lakeland) asked whether Representative Hays had addressed the concerns of the trial attorneys who were previously advocating against the bill's passage. Representative Hays responded that the trial bar had agreed that it would not object to the bill's passage out of this particular committee.

There were no other comments or questions from the Committee and HB 551 was passed unanimously by the Civil Justice Committee. The bill is next referred to the House Committee on Insurance.

Vicarious liability is part of the overall debate on legal reform. As such, AIF is supporting changes to the current tort system that will bring about reasonableness, fairness, and predictability. As of now AIF prefers the House version of this proposal because it meets the principles of legal fairness and predictability.

TAXATION

SB 56 Relating to Streamline Sales and Use Tax by Senator Skip Campbell (D-Tamarac) was passed unanimously by the Senate Committee on Commerce and Consumer Services. This bill would bring Florida law into compliance with the provisions of the national Streamlined Sales and Use Agreement and enables Florida to petition for membership in the Agreement.

This bill adopts definitions and procedures to streamline Florida's sales tax system as it relates to e-commerce. Thirty-nine states and the District of Columbia have already adopted such legislation. This legislation will put Florida businesses on a level-playing field with out-of-state companies who are selling products to Florida's resident via the internet, mail order, etc. by requiring these entities to collect and remit Florida sales tax to the Department of Revenue. Currently, Florida businesses are losing customers to these virtual businesses because consumers are not being assessed sales tax on e-commerce purchases. Although, Florida law requires consumers to pay such taxes, few are aware that they are required to pay, or that there is a penalty for not paying sales tax at the time of purchase.

The bill will now be heard by the Senate Ways and Means Committee.

AIF supports implementation of the statutory mechanisms needed to allow Florida to enter into the Streamlined Sales and Use Tax Agreement with other states. If a uniform national collection system is developed, Florida could equalize the treatment of all retail vendors regarding the assessment and collection of state sales tax. Further, the state treasury would benefit since the use tax currently levied but not collected on catalog and Internet sales would be collected and remitted to the state.

HEALTH CARE

All five health care committees in the House held a joint meeting to review a draft of the Medicaid reform proposal crafted by the leaders of those respective committees.

The plan would establish two pilot areas, one urban and one rural to move Medicaid beneficiaries into managed care, create health savings accounts or allow them to opt out for private health insurance. Two potential pilot sites are Miami-Dade and rural northeast Florida. The plan would not only reform outpatient and acute care services but will also require the establishment of long term care networks for all beneficiaries over the age of 65. These networks would manage all long term care services, including nursing home care for a limited period.

Yesterday, the Governor released a separate Medicaid demonstration proposal that varies from the House plan. It is unclear how the two plans will be merged together or if that will happen at all.

Democratic members raised objections and multiple questions to the plan. Republican members were united in praising it. It is expected that this bill will quickly move through the House.

AIF supports market based reforms to the Medicaid program so long as they continue to ensure that the truly needy have access to quality care.

ENVIRONMENTAL

The House Committee on Environmental Regulation unanimously passed HB 137 by Representative Dwight Stansel (D-Live Oak). This bill would give incentives to businesses that have a good compliance record with the Department of Environmental Protection (DEP). Some of the incentives include: longer duration of permits, less inspections and expedited renewal process.

To obtain the compliance incentives, an applicant must affirmatively request them as part of the permit application. Keyna Cory testified on behalf of AIF in support of this good bill.

HB 137 will now be heard by the House Agriculture & Environment Appropriations Committee.

AIF supports legislation that considers a businesses' past performance in the permitting process. AIF believes that regulated entities should receive some benefit for past good behavior and should not be subject to arbitrary or uncertain punishment.

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.