

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
DAILY BRIEF**



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APRIL 25, 2006

LEGAL REFORM

HB 199 Relating to Sovereign Immunity for Law Enforcement by Representative Pat Patterson (R-DeLand) passed the House Justice Council by a vote of 8-1. This bill provides immunity for law enforcement agencies and officers for injuries incurred during a high speed chase under certain conditions. The immunity applies only if the officer reasonably believes the suspect has committed a forcible felony, has completed proper training on chase policies and procedures, and does not conduct the chase in reckless disregard for human life or safety. Representative Patterson also explained that the sheriffs and police chiefs are working on implementing uniform chase standards and that the immunity will not apply if the individual agency does not adopt such standards. The only Council member voting against this bill was Representative Arthenia Joyner (D-Tampa).

HB 199 has now passed all its committees of reference and will now be placed on the House calendar. Its Senate companion, SB 124 by Senator Bill Posey (R-Rockledge), has already passed the full Senate.

AIF and the Florida Coalition for Legal Reform have supported HB 199 as part of a broad tort reform package for the past two years. AIF will continue to monitor this bill's progress and encourage its final passage by the entire Florida Legislature.

The Senate Judiciary Committee had a very busy agenda scheduled for this meeting this afternoon. They ran out of time with several bills remaining unheard. However, two of the bills they passed are among the priorities for legal reform and supported by AIF and the Florida Coalition for Legal Reform.

SB 1940 Relating to Construction Contracting by Senator Charlie Clary (R-Destin) was passed unanimously with no discussion and no debate. This bill decreases the Florida statute of repose from 15 to 10 years in which a cause of action for design, planning or construction of improvements to real property must be commenced. The bill has no other Senate committee stops and its identical House companion, HB 1089 by Representative Bill Galvano (R-Bradenton), which has passed the House and is in Senate messages.

AIF supports SB 1940 because it will bring Florida in line with most other states and create a more inviting and competitive business environment which will enhance economic growth and success.

The Senate Judiciary Committee also passed SB 2250 Relating to Supersedeas Bond, by committee chairman Senator Dan Webster (R-Winter Garden). When a business or individual is sued successfully and wants to appeal a ruling, they are frequently required to post a bond to ensure that there is no economic waste of assets during the course of the appeal. In order to prevent collection on that judgment during the appeal process, an appealing party may post a supersedeas bond. Currently, in most cases, the bond amount must equal the amount of the judgment plus 2 years of interest at the statutory rate.

The version of the bill that was passed today included an amendment filed by Senator Steve Geller (D-Hallandale Beach), which limited the scope of the bill so that it provides a cap of \$50 million on the amount of a supersedeas bond required to stay execution of a judgment during the course of an appeal. Earlier versions of the bill had a cap of \$25 million. Senators Webster and Geller both indicated that there would not be any future changes to the bill and that it represented compromise legislation. The bill passed the Judiciary committee by a vote of 7-1 with only Senator Alex Villalobos (R-Miami) voting against it.

SB 2250 has passed all its committees of reference and will now be placed on the House calendar. The House companion, HB 841 by Representative Frank Attkisson (R-Kissimmee) is also ready for the House floor and will likely be heard later this week.

AIF supports SB 2250 and applauds Chairman Webster for his leadership on this issue, which will ensure that businesses and individuals have fair and predictable access to the appeal process.

GUNS IN THE WORKPLACE

The Senate Committee on Commerce and Consumer Services passed SB 206 Relating to Firearms in Motor Vehicles. This bill has commonly become known as the “guns in the workplace” bill. The bill is sponsored by Senator Durell Peadar (R-Crestview). The bill as filed allows employees or invitees to store lawfully owned firearms locked in their vehicles on an employer’s property, including the parking lot. The bill also provides certain situations in which the employer can prohibit the storage and transport of firearms when “reasonably necessary for the safety and welfare of employees, invitees, or the general public, or to safeguard business operations.” There are also specific exceptions for schools, prison facilities, or other areas where firearms are currently prohibited by other state or federal laws.

Whether an employer’s decision to ban firearms is “reasonably necessary” was the focus of most of today’s debate on the bill. Senator Dave Aronberg (D-Greenacres) filed an amendment that would have replaced the “reasonably necessary” standard with the sole discretion of the employer. However, this amendment was not adopted and failed on a tie vote.

The committee received testimony from the public including AIF General Counsel, Tammy Perdue, who explained that while the competing constitutional rights of bearing arms and property ownership may make an interesting academic question, the reality of insuring a safe workplace is a primary responsibility of Florida employers. Simply stated, business owners and not the legislature are best suited to decide what firearm policies should be implemented to create and maintain safe premises for workers, vendors and other guests who come onto an employer's property.

The bill then passed the committee by a vote of 5-3 with Senators Jim King (R-Jacksonville), Burt Saunders (R-Naples), Ken Pruitt (R-Port St. Lucie), and Victor Crist (R-Tampa) voting for the bill, while Senators Dave Aronberg (D-Greenacres), Ron Klein (D-Delray Beach), and Gwen Margolis (D-Miami Beach) voted against the bill.

SB 206 has one additional committee stop in the Senate, the Judiciary Committee. However, there are no other committee meetings scheduled. The House companion measure, HB 129 by Representative Dennis Baxley (R-Ocala), also has an additional committee stop in the Agriculture Committee.

AIF has opposed SB 206 since the beginning of session because of the safety concerns it raises with many employers. Employers have an obligation to their employees and customers to provide a safe working environment and are in the best position to decide the best way to keep the workplace safe.

UTILITIES AND TELECOMMUNICATIONS

The House Commerce council passed HB 1199 Relating to Cable Television Franchises by Representative Trey Traviesa (R-Tampa). This bill establishes the authority to issue statewide cable franchises within the Department of State (DOS), and designates DOS as the state franchising authority. The bill preempts local government authority to negotiate cable service franchises.

In 1984, Congress passed the Cable Communications Policy Act. This law established policies for franchise provisions and renewals as well as subscriber rates. The law prohibited cable operators from providing service without obtaining a franchise from local governments. HB 1199 would transfer the authority to grant cable franchises from local governments or municipalities to a unified statewide entity, in this case the DOS. The bill also establishes a number of provisions for the operating of state-wide cable franchises such as customer service standards, build-out provisions, franchise fees, and right-of-way use.

During today's meeting the committee adopted two amendments with the blessing of Representative Traviesa. The first amendment requires additional criteria to be met by those entities applying for a state-wide certificate. The second amendment allows DOS to revoke certificates after a court finds a certificate holder in noncompliance and the certificate holder has been allowed a reasonable time to cure, provides for an update of information on file with DOS every three years, and allows a fee up to \$1,000, and provides for the renewal of the certificate every 10 years, and allows a renewal fee of up to \$10,000.

In his closing Representative Traviesa stated that much negotiation is still needed to get the House and Senate version to come together.

HB 1199 has now passed all its committees of reference and will be placed on the House calendar.

AIF supports HB 1199 because it opens up the cable market to the free market. Increased competition will only ensure better service, a better product, and more importantly lower prices for the citizens of our state.

REGULATED INDUSTRIES

The Senate Regulated Industries Committee unanimously approved SB 2670 Relating to Home Inspection Services by Senator Victor Crist. The original bill dealt with home inspection services. However, a strike everything amendment was adopted today which amended the bill's language to that of HB 161 by Representative Carl Domino (R-Palm Beach Gardens). Representative Domino's bill provides regulations and guidelines for those companies who perform mold remediation and mold assessment as well as those services provided by home inspectors.

SB 2670 still has two more committee stops: the Senate Criminal Justice Committee and the Senate Judiciary Committee. HB 161 has passed all its committees of reference and has been placed on the House calendar.

AIF supports SB 2670 because it establishes guidelines for businesses that practice in the field mold assessment and remediation as well as home inspectors. These guidelines will protect both consumers and businesses from those who practice fraudulently.

TAXATION

The Senate Transportation Committee unanimously approved SB 1932 Relating to Motor Fuel Taxes/Commercial Aviation by Senator Jim King (R-Jacksonville). This legislation refunds motor fuel taxes paid on fuel used by vehicles and equipment used for ground support of commercial aviation as long as the vehicles are not used on main road or highways. The type of vehicles and equipment eligible for the refund include "tugs" that deliver luggage, concessions, and other products to airplanes as well as trucks that never leave the airport property, generators, landscaping equipment used exclusively on airport property, and safety and rescue equipment.

AIF supports SB 1932 and its tax incentives designed to help private companies doing business on airport property such as airlines and independent security providers.

ENVIRONMENT

The Senate Environmental Preservation Committee unanimously approved SB 2510 Relating to Incentive Based Permitting by Senator Mike Haridopolos (R-Melbourne). Representative Dwight Stansel (D-Live Oak), the House bill sponsor, presented the bill to the committee on behalf of Senator Haridopolos. A strike-everything amendment was adopted during the meeting. As amended, the bill still has incentives such as longer duration permits, expedited reviews and short-form permit renewals. The Department for Environmental Protection (DEP) will develop rules associated with Level 1 and Level 2 incentives. Level 1 incentives include expedited permits. Currently DEP has 90 days to complete the permit process. The amendment shortened the time limit to 75 days. Level 2 incentives would give a permit holder with a good compliance record fewer routine inspections and an expedited renewal process.

SB 2510 has one more committee stop, the Senate General Government Appropriations Committee. Its House companion, HB 261, is on the House calendar.

AIF supports SB 2510 because it will help those companies with a good compliance record to receive permits and permit renewals in a shorter time frame, therefore saving time and money. It will also increase the duration of permits in some circumstances.

WORKFORCE DEVELOPMENT

The Senate Commerce and Consumer Services Committee unanimously passed SB 1480 Relating to Careers and Professional Academies by Senator Steve Wise (R-Jacksonville). This bill establishes a Career High Skill Occupational Initiative for Career Education (CHOICE) designation for school district participants that aid in workforce development. Among other provisions, this bill seeks to increase student achievement and promote partnerships between the business and education communities. Senator Wise offered a strike-everything amendment, which would make the bill identical to its House companion, HB 513 by Representative Gus Bilirakis (R-North Palm Harbor). The strike-everything amendment removed the requirement creating comprehensive career academies in public high schools. The amendment passed unanimously and the committee bill passed with no questions or debate.

SB 1480 has one more committee stop, the Senate Education Appropriations Committee. HB 513 has been placed on the House calendar.

AIF supports SB 1480 because it establishes programs and policies designed to equip young Floridians with the very best training and support. Achieving a better-prepared workforce will not only attract investment and growth, it will establish Florida as a leader in manufacturing and research development.

OTHER BILLS OF INTEREST

Insurance

The Senate Judiciary Committee unanimously passed SB 286 Relating to Sinkhole Insurance by Senator Mike Fasano (R-North Palm Beach). The issue of sinkhole claims continues to be a problem in the Tampa Bay area. Florida is one of few states that mandates property-insurance coverage of sinkhole losses. Aggressive solicitation by plaintiffs' attorneys and unscrupulous contractors has resulted in a litigation barrage over whether a crack in a home's foundation is a result of normal settling, poor construction, or a sinkhole.

SB 286 permits deductibles of 1, 2, 5, and 10 percent to be applied to residential property insurance policies. The bill permits an insurer, if approved in writing by the policyholder and any lien holders, to make direct payment to the persons selected by the policyholder to perform land and building stabilization and foundation repairs caused by a sinkhole. The bill prohibits a general contractor, subcontractor, or other business providing sinkhole remediation services from soliciting legal business for an attorney. Doing so is a first degree misdemeanor.

An amendment by Senator Skip Campbell (D-Tamarac) was adopted as a traveling amendment, which made some changes to the bill's neutral evaluation provision.

SB 286 has passed all its committees of reference and will now be placed on the Senate calendar.

Ethics and Elections

The Senate Judiciary Committee unanimously passed SB 716 Relating to Campaign Finance by Senator Bill Posey (R-Rockledge). The bill combines SB 716 and SB 2660 by Senator Nan Rich (D-Sunrise) into an omnibus campaign finance measure. SB 716 revises campaign finance requirements for political committees and electioneering communications organizations.

An amendment by Senator Posey prevents committees of continuous existence, electioneering communications organizations and 527s from accepting contributions of more than \$500.00 from an individual or group in an election cycle if the organization: 1.) reimburses or pays for the expenses of an official or candidate; 2.) is controlled by an elected official; or 3.) contributes to the official's campaign. Barry Richards assisted Senator Posey in explaining the amendment. Mr. Richard noted that if an organization does not want the \$500.00 cap to apply it should avoid paying an official's expenses; avoiding allowing an official to solicit contributions and avoid contributing to the official's campaign. Mr. Richard further noted that the amendment was designed to close the perceived loophole which allows individuals to circumvent the caps on soft money.

Senator Skip Campbell (D-Tamarac) expressed concern that the amendment places candidates without 527s and electioneering communications organizations at a great disadvantage. Senator Dave Aronberg (D-Greenacres) attempted to offer a late filed handwritten amendment which would have clarified that the measures of the bill would not become effective until January 1, 2007. Senator Aronberg explained that the amendment was necessary in order to ensure that everyone has a level playing field in the process. Senator Posey observed that the amendment was hostile and unneeded because the limitations and restrictions apply to both current and prospective organizations. The amendment was not adopted. The bill has three more committees of reference: Transportation and Economic Development Appropriations; Ways and Means; Rules and Calendar.

Health Care

The Senate Health Care Committee unanimously passed SB 2428 Relating to Small Business Health Care Insurance by Senator Mike Fasano (R-New Port Richey) with no debate or amendments. The bill creates the Small Business Health Care Insurance Assistance Pilot Program as a statewide pilot program, which would be administered by the Agency for Health Care Administration (AHCA). The program is designed to encourage small businesses with more than one and fewer than six employees to provide comprehensive major medical health insurance for employees. The program will offer a one-time rebate of \$1,000 per covered employee, while requiring both employers and employees to contribute to the cost of the policies. Employers must pay at least 50 percent, but less than 100 percent, of the cost of coverage, and employees are required to share in the remainder of the costs.

SB 2428 has not been heard by the Health Appropriations Committee or the Ways and Means Committee, which have to evaluate the bill's \$15 million dollar price tag.

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.