



February 18, 2011

No. 6

Tort Reform Moves Forward in Senate

Senator Larry Martin (Pickens), with the support of Senate President Pro Tempore Glenn McConnell (Charleston) and Senators Lee Bright (Spartanburg) and Tom Davis (Beaufort), passed a comprehensive tort reform bill out of a Senate Judiciary subcommittee this week.

The most contentious debate continued to surround language addressing punitive damage caps. Every southeastern state has a punitive damage cap except South Carolina. The South Carolina Chamber of Commerce and the South Carolina Civil Justice Coalition maintain that language originally offered by Senator Martin, which includes a \$350,000 cap on punitive damages, should be included in the legislation. However, as senators begin to study other states in the southeast that have caps, the business community feels elected officials would be best served to adopt a chosen state's entire statute, including its caps and exclusions that apply to the caps. If the Senate Judiciary Committee is partial to language in the Florida statute, they should adopt the entire statute and fully apply it to South Carolina law.

The subcommittee also received testimony from the South Carolina Attorney General's office on the need to limit civil actions brought by South Carolina solicitors and adopted an amendment allowing solicitors to bring civil actions in only limited circumstances. The South Carolina Chamber supports the amendment.

Tort reform will now be placed on the Senate Judiciary Committee's agenda, where it could be debated in the next few weeks.

Tort reform has already passed the House, and this week Speaker Bobby Harrell (Charleston) and Chairman Jim Harrison (Richland) introduced H.3669, legislation addressing attorney general approval for civil actions, which the South Carolina Chamber supports. The legislation includes language currently included in the tort reform bill on the Senate side and now moves to the House Judiciary Committee.

THUMBS UP THUMBS DOWN

Thumbs Up: To the four new members of South Carolina's congressional delegation, Congressmen Jeff Duncan, Trey Gowdy, Mick Mulvaney and Tim Scott, for their leadership in trying to find a funding mechanism for the port deepening project by meeting with Congressman John Mica, chairman of the House Transportation and Infrastructure Committee.

Thumbs Up: To Senator Larry Martin (Pickens) for his leadership in passing comprehensive tort reform legislation out of his Senate subcommittee this week.

Thumbs Up: To Representative Mike Pitts (Laurens) for working alongside the business community to remove a gun provision from H.3292, which the business community adamantly opposed.

Thumbs Down: To Representative Chip Limehouse for usurping the permitting process by placing his own personal politics into the budget.

COMPETITIVENESS AGENDA

Description	Bill No.	Position	Status
Angel Investment Act	H.3044/3270	Support	In House Ways and Means
Business License Fees	H.3472	Support	In House Ways and Means
Charter Schools	H.3241	Support	On House Floor
Department of Administration	S.134/S.238 H.3066	Support	In Senate Judiciary Subcommittee (S.134/238); Passed House Judiciary Committee (H.3066)
Gov. Restructuring – Jointly electing Gov./Lieut. Gov.	S.24	Support	In Senate Judiciary Subcommittee
Gov. Restructuring	S.129	Support	In Senate Judiciary Subcommittee
Highway Funding	S.37/S.101	Support	In Senate Finance Committee
Regulatory Relief	S.420	Support	In Senate Judiciary Committee
Spending Limits	S.2/S.3/S.4	Support	In Senate Finance Committee (S.2/4); In Senate Judiciary Subcommittee (S.3)
Tort Reform	S.23 H.3375	Support	Passed Senate Judiciary Subcommittee (S.23); Passed House; In Senate Judiciary Committee (H.3375)
WorkKeys Certificate	H.3043	Support	In House Education and Public Works Committee

UI Taxes Receive Considerable Attention

On Tuesday, Senator Kevin Bryant (Anderson) held the first of three promised subcommittee hearings in the Senate Labor, Commerce and Industry (LCI) Committee focused on the new unemployment insurance (UI) tax rate structure. South Carolina Department of Employment and Workforce (DEW) Director Gen. John Finan and Dr. Erica Von Nesson of the SC DEW presented seven differing scenarios on how the current UI tax rate increases could be mitigated for companies seeing higher taxes. Also attending the hearing were Senators Thomas Alexander (Oconee), Lee Bright (Spartanburg), Ray Cleary (Georgetown), Jake Knotts (Lexington), David Thomas (Greenville) and Glenn Reese (Spartanburg).

Over the last few weeks, employers across the state began receiving new SUTA bills on the heels of all South Carolina employers receiving an across the board \$21 per employee federal tax increase.

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Documents reviewed during the subcommittee hearing show the lowest 12 rate classes contributed one tenth of one percent to the current debt owed to the federal government, which stands at over \$900 million. Under the current rate structure, those same businesses will be asked to pay back nearly one quarter of the current debt.

Senator David Thomas (Greenville) has been particularly vocal on the UI tax rate changes and has vowed to lower the tax rates for the upper tiers. However, this week in subcommittee, Senator Thomas said he does not want to change the rates of the lower rate classes.

During last year's debate, the South Carolina Chamber of Commerce advocated that all employers pay some premiums into the insurance system. However, the General Assembly passed a zero rate for employers who never used the system as an incentive to continue that practice. Many of the scenarios presented in Tuesday's meeting were designed to add additional taxes on the lowest rate class.

Several senators inquired about the manufacturing industry because it has the highest average rate among all industry sectors. The South Carolina Chamber received information from the DEW stating that nearly 1,200 manufacturers, or 28 percent, are in the lowest rate class. Further information shows nearly half of all manufacturers are in rate class 12 or lower, the rate classes assigned to those employers with positive cash balances.

The new rate structure puts South Carolina on par with Georgia and North Carolina rates, but while South Carolina is taking action to pay down its federal debt, Georgia and North Carolina have taken no steps to begin paying back their significant debts. North Carolina currently faces a \$2.6 billion debt, while Georgia has accumulated more than \$600 million in debt. It is widely anticipated that more than 30 states will increase their UI tax rates this year in order to prevent federal tax increases from being implemented for an extended period of time.

Since 2005, the South Carolina Chamber has called for reforms of the South Carolina Employment Security Commission, now called the Department of Employment and Workforce. While many positive reforms finally took place in 2010, and the new tax structure will have long-term positive impacts on the cost of doing business in the state, the Chamber is willing to work alongside the General Assembly and allied groups to formulate any solution that relieves pressure from the higher taxed companies without unfairly burdening the lower taxed companies that have contributed little or nothing to the federal debt.

Secret Ballot Amendment Close to Ratification

This week, the South Carolina Senate passed S.277, ratification legislation for the state constitutional amendment guaranteeing every South Carolinian's right to cast a secret ballot in union elections. The bill passed the Senate by a vote of 32-10. Last November, 86 percent of South Carolina voters agreed to the constitutional change.

Ten senators voted against the ratification of secret ballots: Senators Ralph Anderson (Greenville), Creighton Coleman (Fairfield), Dick Elliot (Horry),

Robert Ford (Charleston), Brad Hutto (Orangeburg), John Land (Manning), Phil Leventis (Sumter), John Matthews (Orangeburg), Clementa Pinckney (Jasper) and John Scott (Richland).

In related news, this week a House Judiciary subcommittee met to discuss companion legislation, H.3277, offered by Rep. Eric Bedingfield (Greenville). The bill was given a favorable report and now moves to the full House Judiciary Committee for consideration next week.

House Budget Proviso Could Stymie Economic Development

During a House Ways and Means subcommittee meeting this week, Rep. Chip Limehouse (Charleston) proposed a budget proviso that would prohibit the South Carolina Department of Health and Environmental Control (DHEC) from permitting coal-ash landfills in South Carolina. He later changed his proviso to only apply to coal-ash landfills in the ACE Basin Project Area.

The move drew criticism from the business community, including the South Carolina Chamber of Commerce, for a multitude of reasons. If left in the budget, the proviso could stymie economic growth because legislators could ignore and bypass federal and state regulatory agencies' scientific analysis and permitting requirements and simply block any project

in need of a permit. In today's economic climate, this is simply not the message the Palmetto State should send when touting its ability to be "open for business."

The proviso also could have a chilling effect on economic development. Companies considering locating in South Carolina routinely seek permits to build operations. If the proviso remains in the budget, businesses seeking permits for any new facility should worry that politics will play a critical role in the decision making process versus sound scientific reasoning.

The South Carolina Chamber of Commerce encourages members of the House Ways and Means Committee to delete Rep. Limehouse's proviso when it meets next week.

In Other News...

As President Obama released his budget this week, the Charleston deepening project was not included. The Chamber maintains that the deepening project is a key priority for the entire state, and all members of the congressional delegation should work together to find a solution. S.471, a joint resolution opposing the **Savannah River dredging project**, passed the South Carolina House of Representatives. The bill passed the Senate last week. The Chamber **supports** the joint resolution.

This week, Senate Majority Leader Harvey Peeler (Cherokee), alongside Senators Greg Ryberg (Aiken), Kevin Bryant (Anderson) and Shane Massey (Edgefield), introduced S.591, legislation allowing employers to claim a **state income tax credit** when hiring an employee currently receiving unemployment insurance benefits. The Chamber **supports** the legislation.

The House Ways and Means Committee passed H.3368, a **spending limits bill** authored by Rep. Garry Smith (Greenville). The bill limits state spending to the consumer price index (CPI) plus population growth. The legislation now moves to the House floor. The Chamber **supports** the bill.

The House Judiciary Committee passed **government restructuring** legislation. H.3066 would create a South Carolina Department of Administration under the governor's control. H. 3152 would allow for the joint election of the governor and lieutenant governor. H.3070 would make the office of superintendent of education part of the governor's cabinet. The Chamber **supports** all three bills, which now move to the House floor for debate.

A Senate Banking and Insurance subcommittee

carried over debate on S.85, legislation offered by Senator Robert Ford (Charleston) that would **prohibit employers from using credit checks** in the hiring process or when purchasing insurance. The Chamber **opposes** the legislation and believes employers should maintain the ability to use credit checks when necessary.

A House Judiciary subcommittee postponed debate on H.3292, legislation offered by Representative Mike Pitts (Laurens) that expands the **rights to carry concealed weapons**. The Chamber and other business organizations worked with Representative Pitts to remove a provision that prohibits employers from creating company policies against having weapons locked in vehicles in company parking areas. The legislation will likely be debated again next week.

The **Taxpayer Fairness Act**, sponsored by Senate President Pro Tempore Glenn McConnell (Charleston), asks the South Carolina Department of Revenue to strictly interpret tax statutes. The companion legislation, sponsored by Rep. Jimmy Merrill (Charleston), passed the House Ways and Means Committee this week. The Chamber **supports** the legislation, but believes the bill should be amended to specifically address sales taxes on service contracts, a practice the South Carolina Department of Revenue temporarily suspended awaiting further direction from the General Assembly.

Rep. Jimmy Merrill (Charleston) introduced H.3713, legislation repealing **point of sale**.

By a vote of 41-0, the Senate unanimously confirmed Duane Parrish to serve as director of the **South Carolina Parks, Recreation and Tourism (PRT)**.