



COMPETITIVENESS UPDATE

February 25, 2011

No. 7

Trial Lawyers Take Tort Reform Hostage

Last week, a Senate Judiciary subcommittee passed a comprehensive tort reform bill supported by the business community. However, this week the full Senate Judiciary Committee watered down key pieces of tort reform, including a meaningful punitive damage cap. The subcommittee also set unreasonable monetary thresholds for the admissibility of the non-use of seat belts.

The amended bill could be debated on the Senate floor as early as next week, and the South Carolina Chamber of Commerce is asking senators to vote against the committee amendment. If the committee amendment is defeated, the bill will revert back to the House-passed version of tort reform, which is a much stronger, pro-business bill championed by Speaker Bobby Harrell (Charleston).

The South Carolina Chamber and the South Carolina Civil Justice Coalition are also asking senators

to examine neighboring states' punitive damage limits, specifically Virginia, North Carolina, Georgia and Florida, and pick a model. Currently, trial lawyers are picking and choosing words and phrases from the other states in an attempt to render any cap in South Carolina meaningless.

The Chamber is also very concerned with an amendment offered by Senator Brad Hutto (Orangeburg), which was adopted by the full committee and repeals the *Branham v Ford* decision. The decision places South Carolina in the minority compared with other states on product liability issues. It also weakens the state's business climate. At a time when the South Carolina Department of Commerce is working to expand the automotive cluster, this amendment must be stripped out of the tort reform bill.

THUMBS UP THUMBS DOWN

Thumbs Up: To House Education Committee Chairman Phil Owens (Pickens) for leading the effort to equalize funding for public charter schools.

UI Tax Discussions Continue

A Senate Labor, Commerce and Industry (LCI) subcommittee, chaired by Senator Kevin Bryant (Anderson), continued meetings this week focused on the new unemployment insurance (UI) tax rate structure. Other senators attending the subcommittee were: Sens. Thomas Alexander (Oconee), Lee Bright (Spartanburg), Paul Campbell (Berkeley), Phil Leventis (Sumter), Greg Ryberg (Aiken) and David Thomas (Greenville).

The subcommittee has now examined 13 possible scenarios to provide relief for higher taxed businesses. Some scenarios hold harmless employers in the lower taxed tiers, and some shift significant burdens to employers who have never, or rarely, availed themselves to the UI system. One scenario, proposed by Senate Finance Committee Chairman Hugh Leatherman (Florence) and dubbed "Scenario 10," has garnered some interest from senators on the LCI subcommittee. However, "Scenario 10" does not fit with what most senators have stated publicly, which is that they do not want to put additional burdens on employers in tax tiers 1-12.

"Scenario 10" would shift approximately \$165 million from tiers 13-20 and put those taxes on tiers 1-12. Therefore, the 45,000 employers who have not had a claim against their company in at least seven years would see their tax bills increase by \$200 per employee, a more than 1,900 percent increase. Meanwhile, those in tier 20 would see their rates drop by more than \$380 per employee, a 34 percent decrease.

Visit <http://tinyurl.com/6yza2uy> to see how Scenario 10 would impact your company. (To calculate the impact to your business, find your rate class, which is listed on the bill you received during the last few weeks. Once you know your rate class, find that class in the first column on the chart, move to the second column, and multiply your number- of employees by the dollar amount

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	Passed House
Department of Administration	S.134/ S.238 H.3066	Support	In Senate Judiciary Subcommittee (S.134/238); On House Calendar (H.3066)
Gov. Restructuring – Jointly electing Gov./Lieut. Gov.	H.3152	Support	On House Calendar
Gov. Restructuring – Superintendent of Education	H.3070	Support	On House Floor
Highway Funding	S.37/S.101	Support	In Senate Finance Committee
Regulatory Relief	S.420	Support	In Senate Judiciary Committee
Spending Limits	H.3368	Support	On House Calendar
Tort Reform	H.3375	Oppose as amended	Passed House; On Senate floor
WorkKeys Certificate	H.3043	Support	In House Education and Public Works Committee

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in Column 2.) This total represents your company's increase or decrease if Scenario 10 was passed and would be in addition to the increase or decrease you already received in your 2011 tax bill.

If "Scenario 10" were to pass, employers in tiers 1-12 would pay 45 percent of the 2011 total UI tax bill even though those employers contributed just one tenth of one percent to the current \$933 million debt owed to the federal government.

In Other News...

H.3748, legislation introduced by Chairman Phil Owens (Pickens), would extend the **Education and Economic Development Act (EEDA) Coordinating Council** for five years. The Chamber strongly supports this legislation to ensure the key education reform of the 2000s stays on track and is fully implemented.

S.277, legislation to ratify the **Save our Secret Ballot** constitutional amendment, passed a House Judiciary subcommittee this week. The bill now moves to the full House Judiciary Committee. The Chamber was a key partner in the constitutional amendment's passage and assisted with the public campaign to pass it in the 2010 General Election.

The **Employer Free Speech Act** has been introduced by Rep. Alan Clemmons (Horry) and is co-sponsored by more than 60 House members. The legislation, which was sent to the House Judiciary Committee, is designed to combat a federal NLRB proposal mandating that businesses post the law that guarantees employees' rights to collectively bargain, distribute union literature and engage in other union activities without reprisal.

A House Judiciary subcommittee passed H.3292, legislation that expands the rights to carry **concealed**

In related news, the South Carolina State Treasurer's Office has said the Palmetto State is unlikely to bond its federal debt for a variety of reasons. One major reason is because it would take a constitutional amendment to increase the debt limit, something that could not even be approved until 2013. South Carolina continues to take action to pay down its federal debt. North Carolina, which has taken no action, faces a \$2.6 billion debt, while Georgia has accumulated \$635 million in debt.

weapons. The Chamber opposed a section of the bill that would remove employers' rights to prohibit guns on their personal property. The Chamber worked alongside Rep. Mike Pitts (Laurens), the sponsor of the legislation, as well as members of the subcommittee to delete the language. Members of the subcommittee voted unanimously to take out the anti-business language. The legislation now moves to the full House Judiciary Committee.

A \$5.2 billion **budget** for FY 2011-12 with cuts to Medicaid, public schools and higher education now heads to the House floor for debate. Public schools face a \$114 million cut as federal stimulus funding expires at the end of June. The budget also cuts Medicaid by lowering provider rates. In addition, the South Carolina Department of Health and Environmental Control (DHEC) faces cuts of \$18 million.

The Senate gave second reading to S.434, legislation sponsored by Senate Majority Leader Harvey Peeler (Cherokee) that would allow the South Carolina **Department of Health and Human Services** to suspend budget provisos relating to provider rates and allow the department to cut provider rates in order to manage budget deficits.

House Passes Charter Schools Bill

On Wednesday, by a vote of 85-32, the House passed H.3241, legislation sponsored by Representative Phil Owens (Pickens) that provides more equitable funding for public charter schools and allows more choices for students and parents within the public school system. Currently, charter schools receive federal and limited state funding but no local dollars.

The legislation also addresses guidelines for communities looking to establish charter schools. During debate, an original provision to require school districts to send local property taxes to charter schools within their borders was removed from the bill. The House Ways and Means Committee is also reviewing options to increase state funding levels for charter schools beyond what is in the current bill to make up for local funding that was removed from the legislation.

In related news, this week Governor Nikki Haley announced a plan to base state funding for four-year universities on graduation rates, in-state students, job placement of graduates, role in economic development and serving under-represented populations. Discussions on the exact formulas are expected to continue in April.