PMA

The Bulletin

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Pressure Builds for Business-Supported Legal Reform to Prohibit 'Venue Shopping'

The next step in limiting lawsuit abuse in Pennsylvania – ending the practice of "venue shopping" – has been put on hold following a reportedly heated House Republican Caucus meeting. The measure would end the practice of allowing lawsuits to be brought in the most permissive jurisdictions by extending to employers the same protections that are already in place for doctors and hospitals. A Caucus source said the bill may still get a floor vote later this spring.

"Legal cases should be heard in the most appropriate jurisdiction, not necessarily the jurisdiction where the lawsuit industry has the best shot at a big payday," said PMA Executive Director David N. Taylor. "To improve Pennsylvania's climate for economic growth, everyone understands that lawsuit abuse must be reined in. The pending venue reforms are identical to those already in place for Pennsylvania's doctors and hospitals and have been proven to be effective. There's no good reason not to extend these same common-sense reforms across the board."

The bill requires personal injury suits against businesses to be filed in the county where the plaintiff resides; the county where all or a predominant part of the action arose; or the county where the principal place of business of the corporation, or similar entity, is located.

According to a report released in October by the International Center for Law and Economics, "Philadelphia courts host an especially large number of cases, Philadelphia courts have a larger docket than expected, Philadelphia plaintiffs are less likely to settle than other non-Philadelphia Pennsylvania plaintiffs, and Philadelphia plaintiffs are disproportionately likely to prefer jury trials."

Current law allows a plaintiff to bring a suit in Philadelphia if any one of the defendants can be sued there. This encourages plaintiffs to find a marginal defendant eligible for suit in Philadelphia so all defendants can be sued there, even if the alleged injury occurred elsewhere or the principal parties are not located in the city.

"Every civil case brought before the courts in Pennsylvania should be tried based on the facts, without regard to where the case is being tried," said State Rep. Bryan Cutler, R-Lancaster, the prime sponsor of the bill. "Venue shopping makes a mockery of the justice system, and it is damaging to the economy and employment outlook of the Commonwealth. Cases should be tried where they arise, not in the most lenient venue in the state, which in Pennsylvania's situation seems to be Philadelphia."

Ten years ago, the General Assembly approved a similar protection for the medical community. The state Supreme Court later adopted the changes. Just this week, the High Court reported that the number of medical malpractice case filings has leveled off after a six-year decline. Chief Justice Ronald D. Castille said in a statement that the leveling off was not surprising. “Although the numbers are likely to show slight changes in the years ahead, the pattern suggests a solid footing for the systematic tracking and rule changes initiated and instituted a decade ago by the Supreme Court to address concern over medical malpractice litigation," Castille said.

Castille attributes Pennsylvania's overall decline to the two rule changes made by the state Supreme Court in 2003. Attorneys must obtain from a medical professional a certificate of merit that establishes that the medical procedures in a case falls outside acceptable professional standards. The certificate of merit discourages frivolous suits. The action must be brought only in the county where the alleged injury takes place.

An official with the Pennsylvania Medical Society, which represents the state’s doctors, said they were still studying the Supreme Court’s findings, but they expect filings and settlements to begin rising again. “There’s no doubt that the 2003 changes led to the reduction in filings,” the official said. “They also affected the insurance end of it. But we expect that market to begin tightening again, and rates to increase. These things happen in cycles.”

Governor’s Office Holds to Conservative Spending Platform in Face of Senate Budget Approval

The official line from the Governor’s Budget Office is that the state deficit at the end of the fiscal year will be $719 million as projected by the Governor during his February budget address.

“We know given the April collection numbers it will be less than that, but we’re not willing to go out on a limb and say that until we know for sure after we see the May revenues,” said Allison Roberts, spokesperson for the Revenue Department.

This in the wake of the Senate’s approval of a spending plan that restores many of the cuts the Governor proposed in February. The Senate Republican majority, with the support of many Senate Democrats, cited the healthier revenue numbers in their arguments for restoring the cuts.

Overall, the Senate plan increases the Governor’s proposed $27.15 billion budget to $27.65 billion. It also restores $245 million in funds for higher education, putting back 97 percent of the $253 million cut under the governor’s plan. Senate Appropriations Chairman Jake Corman, R-Centre said the plan includes a commitment from the presidents of the 18 state-funded universities to hold tuition raises to the level of inflation or below.

Also, $100 million of its “additional” spending includes current programs the governor targeted for cuts. The Senate plan also restores $50 million for education block grants for early childhood education and a similar sum for distressed schools.

The Governor’s Budget Secretary told the online news service, Capitolwire, that the state could not afford the Senate plan. Charles Zogby said that the state’s mandated cost increases over the next two years were more than $1 billion above projected revenue growth. Zogby wrote: "By adding over half a billion dollars in new spending for an array of programs, the Senate budget proposal is clearly not sustainable beyond the 2012-13 fiscal year and, indeed, would move the state farther away from the goal of achieving long-term structural balance.”

"We cannot simply budget for today without regard to the substantial increases in mandated costs (pension, public welfare, corrections, and debt service) the state will see in each of the next two fiscal years, costs that are likely to outstrip projected revenue growth by over $1 billion,” added Zogby.

Later, the Governor and House Majority Leader Mike Turzai, R-Allegheny called the Senate spending plan a “ceiling.”

Stories Reveal Full Economic Impact of Marcellus Gas

An inexpensive supply of natural gas means more than fulfilling dreams of gas-powered cars and lower emissions. It means a revitalization of manufacturing, high-paying jobs, energy security, and higher tax revenues for local and state governments. Recent stories compiled by the Marcellus Shale Coalition point to everything from the growth of the petrochemical industry, to royalties for landowners, to substantial new tax revenues for small towns that have endured decades of little or no growth.

In a recent AP story an energy analyst for Oppenheimer & Co. Inc., Fadel Gheit, said the real value of shale gas is that the lower energy cost is making American industry more competitive around the world. That opens doors for long-term investments, such as Shell Oil's plan to build a huge petrochemical plant in western Pennsylvania. "In my view this is much bigger than anything we've seen in our lives" as far as a new energy development, Gheit said.

Kathryn Klaber, president of the Marcellus Shale Coalition, said the current low natural gas prices benefit consumers throughout the state. "Every single Pennsylvanian has more money in their pocket today — to save, invest and help make ends meet — as a result of plentiful natural gas development from the Marcellus Shale," she said.

Klaber also noted that Pennsylvania mineral owners and family famers received more than $400 million in Marcellus Shale royalty payments in 2011 alone, while the natural gas industry invested several billion dollars in the commonwealth during that time.

- U.S. Steel added 200 jobs at its Lorain Tubular Operations to provide seamless steel pipe for oil and gas producers, said Doug Matthews, vice president of U.S. Steel's Tubular Operations. Prior to the recession, the company was trying to find a direction for the Lorain plant. At the time, most of the market for its seamless pipe had moved away and the facility wasn't equipped to produce products for the energy industry, Matthews said. By 2010, the shale gas boom had begun in Ohio and U.S. Steel decided to invest in the Lorain facility to supply the industry's growth in the region. Shale gas has also reduced input costs for U.S. Steel, which is a heavy consumer of natural gas, Matthews said. "It's a catalyst for a revitalization of U.S. manufacturing," he said. (IndustryWeek, 5/2/12)

- Washington Post columnist David Ignatius: America is entering a new era of energy security. Robin West, a friend who is chairman of PFC Energy, argues that, because of the rapid expansion of oil and gas production from shale, America is likely to become by 2020 the world's No. 1 producer of oil, gas and biofuels — eclipsing even the energy superpowers, Russia and Saudi Arabia. West explains that the natural-gas boom will mean a dramatic change in energy imports and, thus, the security of U.S. energy supplies. … "This is the energy equivalent of the Berlin Wall coming down," contends West. "Just as the trauma of the Cold War ended in Berlin, so the trauma of the 1973 oil embargo is ending now." The geopolitical implications of this change are striking: "We will no longer rely on the Middle East, or compete with such nations as China or India for resources." (Washington Post op-ed, 5/4/12)

- Williamsport, Pa. "Tax Revenues up $487,000": The city saw a $487,000 increase in business privilege and wage tax revenues between 2010 and 2011, according to the city finance committee that met Wednesday. "The revenue reflects increased economic development. Some of it is likely to be a result of increased activity directly or indirectly related to Marcellus Shale industries," said City Councilman Jonathan Williamson, chairman of the city finance committee. (Williamsport Sun-Gazette, 5/3/12)

General Assembly Close to Considering Comprehensive Unemployment Compensation Solvency Plan

Business leaders say the General Assembly will consider a comprehensive plan that targets ongoing insolvency in the unemployment compensation system. The proposal from the Corbett Administration will be attached to SB 1310 in conference committee after the Senate non-concurs on the bill later this month.

“The bill addresses fraud, bonding, and other solvency measures we so desperately need,” said PMA’s David N. Taylor. “The plan right now is to send the bill to the House and Senate for an up-or-down vote at the end of May. We are grateful to Governor Corbett, Secretary Hearthway, and all of our allies in the General Assembly who recognize that uncompetitive UC rates raise the cost of creating and sustaining jobs in the commonwealth.”

The General Assembly has been chipping away at reforms in the UC system. Just this week, legislation that would prohibit those who retire to preserve pension or annuity benefits from receiving unemployment compensation, cleared the House Labor and Industry Committee. The sponsor of the measure, State Rep. Adam Harris, R-Snyder, said that the purpose of unemployment compensation benefits is to provide a safety net for individuals who experience a loss of income. “Pennsylvania is currently facing an Unemployment Compensation Trust Fund Crisis, with the fund being billions of dollars in debt to the federal government. This type of double dipping is unconscionable, and it must be stopped," Harris said.

House Bill 2346 would add a new provision to Pennsylvania's Unemployment Compensation Law to invalidate an individual's eligibility for unemployment compensation if he or she voluntarily leaves employment to maintain pension or retirement benefits or if an employer terminates an individual to allow that person to maintain eligibility for pension or retirement benefits. In 2011, 239 state annuitants received unemployment compensation benefits in this circumstance, collecting a total of more than $1.1 million in benefits.

Harris's legislation is part of a comprehensive effort to reform unemployment benefits in Pennsylvania. In March, the House approved legislation to increase unemployment compensation fraud penalties, with the passage of House Bill 1852. Last year, Gov. Tom Corbett signed Act 6 of 2011, which included unemployment compensation reforms expected to save the Commonwealth at least $120 million per year.

Senate Bill 1310, the vehicle for the comprehensive reform, would allow the Pennsylvania Department of Labor and Industry to refinance federal loans needed to meet the Commonwealth's benefit obligations at the peak of the economic recession.