



The Judiciary Review

Report from the Senate Judiciary Committee (D)

JAY COSTA JR., DEMOCRATIC CHAIRMAN

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January 2004

Senate Judiciary holds Final Hearing on Damage Caps

On Tuesday, January 20, the Senate Judiciary Committee completed its third and perhaps final hearing on the issue of capping non-economic damages in civil actions through a constitutional amendment. The committee heard more than five hours of testimony from a variety of witnesses that included doctors, victims and hospital administrators.

Originally, damage caps were being considered for the purposes of limiting non-economic damages in medical malpractice actions to address the high costs of malpractice insurance paid by health care professionals and health care institutions as provided in Senate Bill 1000. However, with the passage of House Bill 1326 by the House of Representatives in June 2003, the debate concerning these damage caps has expanded from medical malpractice actions to all civil actions involving injury to a person or property. Similarly, Senate Bill 50, which was also the subject of the January 20 public hearing, provides a constitutional amendment authorizing the General Assembly to cap non-economic damages in all civil actions.

With this in mind, the Judiciary Committee also heard from groups as diverse as Smoke Free Pennsylvania, Mothers Against Drunk Driving, the Pennsylvania Bar Association, the Pennsylvania Business Roundtable, Pennsylvania Chamber of Business and Industry and the Pennsylvania AFL-CIO.

The Committee has scheduled Senate Bill 50 and House Bill 1326 for consideration on Tuesday, February

10, 2004. Also scheduled is Senate Bill 1000 introduced by Senator Greenleaf, Chairman of the Senate Judiciary Committee. That bill also proposes an amendment to the Pennsylvania Constitution to limit the amount of recovery of non-economic damages in medical malpractice actions only. However, the proposal excepts from the caps, injuries that result in serious impairment of a bodily function, serious disfigurement or death.

Gerald Pappert Confirmed by Senate as Pennsylvania Attorney General

The Senate Judiciary Committee conducted a confirmation hearing on the nomination of Gerald Pappert as Attorney General of the Commonwealth of Pennsylvania. Acting Attorney General Pappert was nominated by Governor Rendell to fill the unexpired term of former Attorney General, now Judge, Michael J. Fisher who was recently confirmed as a judge for the United States Court of Appeals—Third Circuit. General Pappert was confirmed by a unanimous vote of the Senate on January 20.

Attorney General Pappert will serve in his position until January 2005.

Supreme Court Issues New Rules for Lawyer Lobbyists

In December 2003, Chief Justice Ralph J. Cappy announced the implementation of a rule governing lawyers who act as lobbyists before the General Assembly. The new rule amends the Supreme Court's Rules of

Professional Conduct. These rules govern the practice of law and the representation of clients by attorneys and provide the standards that guide a lawyer's professional and ethical conduct. The new rules were effective immediately upon adoption by the Court on December 22, 2003. The rules' changes:

- require lawyers acting as lobbyists to comply with registration and disclosure laws, regulations or rules enacted by the executive or legislative branches of state government;
- authorize disclosure of information related to client representation in order to comply with disclosure laws, regulations or rules; and
- reiterate that all such compliance actions by a lawyer-lobbyist must be consistent with the Rules of Professional Conduct.

The state Senate adopted lobbying rules in January 2003, requiring lobbyists to file quarterly expense reports while the House is currently considering its own lobbyist disclosure rules.

■ Senate Bill 877 Printer's No. 1344

The legislation prohibits a Commonwealth agency, state-related institution, political subdivision, municipal authority or a local, regional or metropolitan transportation authority or any other person from employing or continuing to employ an individual as a law enforcement officer if the officer has

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been convicted of the following:

- 1.) A felony or a serious misdemeanor.
- 2.) An offense in another jurisdiction, state, territory or country in accordance with the laws of that jurisdiction, state, territory or country, and the offense is equivalent to a felony or serious misdemeanor in Pennsylvania.

Except in the case of a member of the Pennsylvania State Police, a law enforcement officer who is convicted of an offense that would prohibit employment shall be immediately suspended until final disposition of the charge. In cases involving a State Police trooper, if the trooper is charged with an offense that would prohibit employment pursuant to this act, the trooper must be immediately suspended from employment until final disposition of the charge.

The act does not apply to convictions occurring before the effective date of this act July 1, 2004.

Current Status: Signed by Governor Act 68 of 2004

**■ Senate Bill 145
Printer's No. 1320**

The legislation amends the definitions of "police department" and "police officer" to include the Capitol Police, the Harrisburg International Airport Police and an airport authority police department. County police departments and first and second-class city housing authority security officers are also added to the definition of "police officer." The bill repeals Section 2166.1 of Title 53 that prohibited political activity by police officers.

The bill makes the following ineligible for reimbursement by the Municipal Police Officers' Education and Training Commission for the cost of the mandatory in-service training:

- College or University Police.
- Railroad and Street Railway Police.

- The Capitol Police.
- The Harrisburg International Airport Police.
- An airport authority Police Department.
- Housing Authority Police Departments.

Current status—Signed by Governor Act 65 of 2003

**■ House Bill 1718
Printer's No. 3116**

The legislation amends the Tobacco Settlement Act by imposing limits on the amount of an appeal bond involving tobacco litigation in order to secure and protect the monies received by the Master Settlement Agreement. The bill is intended to protect the Commonwealth's share of the tobacco settlement to ensure the Commonwealth

will continue to receive funds if a tobacco company that is a party to the Master Settlement Agreement is involved in litigation that results in a large judgment-verdict. Total payments to the Commonwealth are estimated to range from \$9 to \$12 billion over 25 years.

The total supersedeas bond that is required of all appellants collectively shall not exceed \$100 million regardless of the value of the judgment. However, a court has discretion to require an appellant to post a bond in an amount up to the total amount of the judgment or enter an order to protect the appellee if the appellant is dissipating assets to avoid payment of the judgment. The act would apply to pending litigation on its effective date.

Current status: Signed by Governor Act 55 of 2003



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