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Tobacco lobby pushing smokers' rights bill

New York Times News Service

TRENTON, N.J. — The tobacco lobby is pushing harder to pass into law a bill that would protect smokers from discrimination by employers.

Gov. Jim Florio vetoed the bill last month. Now, its advocates say, overriding that veto would add momentum to a movement in more than two dozen legislatures to outlaw job discrimination against smokers.

The New Jersey bill would provide civil rights to smokers in much the same way that civil rights laws protect people against job discrimination on the basis of race, religion and sex.

The New Jersey bill would make it illegal for employers to discriminate against a smoker in hiring, firing and establishing salary levels. In recent years

some employers have refused to hire people who smoke; some say smoking is unhealthy, others simply that it is distasteful.

Though Florio, a Democrat, has argued that smoking is an issue of health, not civil rights, the Democratic controlled Senate voted to override his veto last week by a vote of 32 to 4.

Proponents of the law include groups as diverse as the Patrolman's Benevolent Association and the American Civil Liberties Union, which argue that it is essentially an issue of protecting civil rights.

The Tobacco Institute in Washington, an industry trade group, says anti-discrimination laws that would protect smokers have been enacted in eight states.

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At the Capitol, last-minute legislation is a tradition

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have lost \$300 million a year, but the state found another law that serves the same purpose.

In another bill, one wrong word landed Dade County and owners of the controversial minibuses in court. Legislators tacked on an amendment about 4 a.m. that protected "intracity" routes, or those within cities. The word should have been "intercity," or those that go between cities.

Dade officials took advantage of the mistake to try to force the minibuses out of business, and the dispute is still tied up in court. Rep. John Cosgrove, D-Miami, and the bill's sponsor, says the goof would have been caught if it hadn't happened long after midnight.

"I think a more deliberative process rather than a more delirious process would better serve the public," he says.

It's part of the Legislature's last-minute, late-night tradition.

Prodigious procrastinators, lawmakers routinely approve the state budget and most other key legislation at the end of the session, often finish late and rarely get done more than a couple of hours early.

It's this bad: Of the 530 bills they passed last spring, 189 were approved on the final day.

That's roughly one new law every six minutes and 20 seconds. It's probably a good thing Thomas Jefferson didn't live to see this.

Until the final three weeks, the House usually spends about 10 hours a week or less in session. In the final week, it spends more than 60 hours in session.

Allen Morris, the House historian, believes that the Legislature

has finished more than a few hours early only once in this century — 1972, when it finished about two days early. He and other long-time observers say the reason legislators wait until the session's very end to finish most of their work is nature, both human and political.

"It's a human failing," Morris says. "You always leave the hardest parts to the bitter end. It's always been that way."

There also are tactical reasons. Pushing legislation through the House and Senate involves countless negotiations and compromises between Democrats and Republicans, lawmakers and the governor, and special interests. Without an approaching deadline, there is little incentive to meet on middle ground or for legislative leaders to pass what someone else wants.

In the session's final hours, the fate of packages sought by the governor and key lawmakers are often linked together. "We begin to put together this pyramid, and nobody can say no," says Mallory Horne, the only legislator to serve as both House speaker and Senate president.

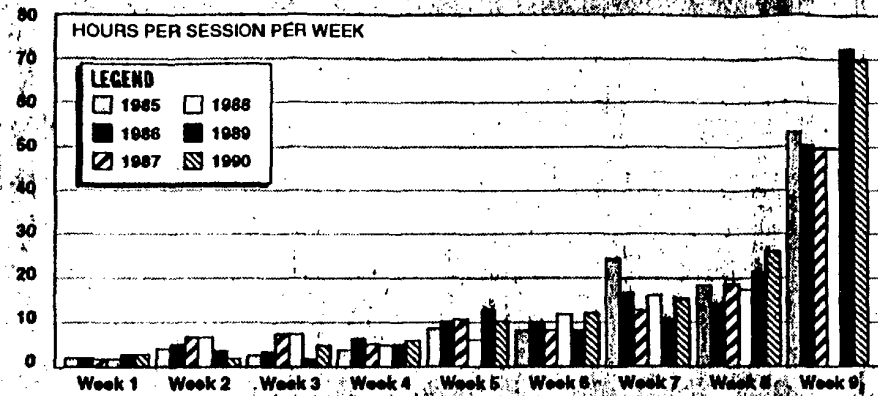
There is a carnival atmosphere similar to the last day of school. The fourth-floor lobby between the House and Senate chambers is jammed with reporters looking for a story and lobbyists looking for an edge. Bills that would have been debated for hours earlier in the spring are passed in minutes with little scrutiny.

It is a prescription for embarrassment.

But the Florida Legislature isn't any different than others when it comes to fast finishes that lead to

LAST-MINUTE LEGISLATION

On the final day of last spring's legislative session, Florida legislators approved 189 of the 530 bills they passed. The chart shows how many hours the Florida Legislature was in session each week during the years 1985 to 1990.



SOURCE: Office of the Clerk

BERTY GARCIA / Miami Herald Staff

mischief or mistakes.

"I think that's the case everywhere," says Tim Storey, a policy associate with the National Conference of State Legislatures. "There's all kinds of shenanigans, and more often than not there's a tendency to put things off and procrastinate."

"It's not as if there's a big neon sign over Florida saying they're inept at this," says Colleen Cousineau, executive director of the Southern Legislative Conference.

In Florida, legislators and others have suggested several ways to try

to ease the problem.

Rep. Miguel DeGrandy, R-Miami, has proposed a constitutional amendment that would give Florida full-time legislators and double the length of the session to 120 days.

There is logic to that. There are only three states with more people than Florida: California, New York and Texas.

The California and New York legislatures meet throughout the year. The Texas legislature meets for 140 days every other year. More than a dozen states have no limit on the length of their legislative ses-

sions.

But DeGrandy's proposal isn't expected to get far. Legislative experts say lengthening the session wouldn't stop the last-minute flurry of action that leads to errors. They point out that Congress is notorious for missing deadlines and that full-time state legislatures wait as long as they can to pass their annual state budgets.

"It doesn't matter how long the session is," says Alan Rosenthal, director of the Eagleton Institute of Politics at Rutgers University. "It's for political reasons. A lot of things

don't pass until other things pass."

Rosenthal, who observed the 1986 Florida Legislature, says of the last-minute flurry of action he saw firsthand: "My impression was a little bit of that is kind of good and exciting, but it seemed to be out of hand."

Cousineau suggests one reason for that: Legislative leaders hold their positions for just two years in Florida, while those in Georgia and other states can hang onto their jobs indefinitely.

Florida legislators counter that limits on leadership terms enables new stars and ideas to rise to the top. They have made some other efforts to lessen the chaos.

More negotiating meetings are held in public, and this spring new rules should make it tougher to slip pet projects — "turkeys" in Tallahassee jargon — into the state budget. The Taxation and Budget Reform Commission also has recommended a 72-hour waiting period before a vote on the state budget to give legislators more time to study it.

But some lawmakers say the Legislature will never stop delaying big decisions until the final frenetic hours of its session.

"No matter what's being negotiated, a union strike or peace in the Middle East," Abrams says, "you don't solve these things until you have to."

If a few mistakes are made at the last minute, Rosenthal says, so what?

"If they screw something up, they just go back and fix it," he says. "If they had to do everything right the first time, they would never do anything."