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## McBurney: Lawyers can advance the economy by modernizing business laws

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“Be bold!”

That’s what Rep. Charles McBurney, R-Jacksonville, urged Business Law Section members gathered at a Bar convention luncheon in June, when it comes to ideas for recovering from the Great Recession.



“Lawyers, understanding the law and its application, are in a unique position in our society to advance our economy,” McBurney said.

“This organization has a key role to streamline, update, and modernize our business laws, which will encourage growth, which will add jobs, and stimulate our economy. So I urge you, in your deliberations, to be bold. What you do and what can come out of this section can make an enormous difference in people’s businesses and our citizens’ quality of life.”

McBurney, who served as vice chair of both the House Judiciary Committee and Justice Appropriations Subcommittee, also practices business law and was presented with the Business Law Section’s Distinguished Legislative Service Award.

“I am proud to be a business lawyer, working with small businesses on their legal issues on a day-to-day basis. I am proud to be a member of this section and what this section has done,” he said.

After giving an overview of tough decisions in balancing the state’s \$70 billion budget and stabilizing court funding, McBurney explained not much else passed in the session because of the required focus on redistricting and reapportionment.

He likened the task of drawing districts within the confines of constitutional limits to “being asked to line up in alphabetical order by height.”

While the House maps were unanimously approved, the Supreme Court struck down the initial Senate maps by a 5-2 decision. The court upheld the new Senate maps, McBurney explained.

“Reapportionment provides new opportunities in elections,” McBurney said, adding the biggest contest is likely in the Senate, where the outcomes may determine the composition of Senate leadership.

He tossed out these examples of key state Senate races: former state representatives Jim Frishe and Jeff

Brandes in the Republican primary in the St. Petersburg area; Sen. Ellyn Bogdanoff, R-Ft. Lauderdale, and Sen. Maria Sachs, D-Delray, in the Palm Beach area; in the Northeast Florida area, former state representatives Aaron Bean, R-Fernandina Beach, and Mike Weinstein, R-Jacksonville as Republicans, and a new Democrat in the race, former ambassador Nancy Soderberg.

Focusing on future challenges for the Business Law Section, McBurney noted legislation regarding arbitration, "which the section promoted, but it got hijacked by political issues in the Senate."

McBurney listed legislation affecting the section that did manage to pass: Uniform Commercial Code revisions; revisions regarding probate; and changes to the Uniform Principle and Income Act, also a major priority of the Real Property, Probate and Trust Law Section.

"This section has been in a forefront for major changes of law," McBurney said. "Just the last five years I've been involved, this section has recommended changes from arbitration to *Olmstead*," referring to the Florida Supreme Court June 2010 decision in *Olmstead v. Federal Trade Commission*, which provided that a judgment creditor may obtain a charging order against a judgment debtor's limited liability company membership interest in the amount of judgment.

"I was fortunate enough to sponsor legislation brought to me by the section relating to the not-for-profit corporations, and now it is a matter of law. I understand you are presently working on proposed legislation to revise the law of limited liability companies. There are approximately 550,000 limited liability companies in Florida. It's now the entity of choice. I was proud to be a prime co-sponsor of what we call the '*Olmstead* fix,'" McBurney said, referring to CS/HB 253 that addressed the uncertainty that the court's opinion created.

Thanking the leadership of the Business Law Section — specifically naming Bill Wiley and Lou Conti — McBurney said, "This section, through the legislation it proposed, helped prevent potentially thousands of businesses leaving Florida. It was probably one of the most important pieces of legislation of the 2011 session, even though it received little media attention. But it's not enough."

In facing continued challenges, McBurney said he has drawn inspiration from Pulitzer Prize-winning biographer Ron Chernow's *Washington: A Life*.

"Before I started reading the book, like most folks, I tended to think of Washington as a marble man, if I thought of him at all," McBurney said. "Like most folks, I knew stories of his difficulties of war. But Washington, during most of the war, was like many folks we represent or even in this room. He was just trying to hang on. He lost far more battles than he won.

"He made some real mistakes, was betrayed, underfunded, and had inept help. Much of the time, he spent begging for help or just trying to inspire or plead with troops not to quit and leave. We think of Valley Forge and the extreme difficulties Americans endured. But it wasn't just Valley Forge. It was the year after Valley Forge and the year after that, and the year after that, and the year after that.

"Like the Great Recession, the difficulties never seem to end. And yet Washington hung in there for almost eight years. He persevered. Because of that perseverance, he and this country in the end triumphed, and Washington is revered and celebrated today.

"Florida is still going through difficult times, much beyond our control. But if we, too, persevere and follow Washington's example, Florida will be back, stronger and better than ever.

"And we will always be the 'Sunshine State.'"