

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
WEEKLY UPDATE**



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For the Week of March 26-30

SENATE BUDGET

The Senate gave preliminary approval of its budget for the 2001-02 fiscal year on Thursday, March 29. The budget, at the direction of *Senate President John McKay (R-Bradenton)*, contained no tax cuts. The \$47.8 billion budget contains more money for public schools, more financial aid for “needy” students and extra dollars for nursing home care. The Senate originally hoped to match tax cuts recommended by *Governor Bush* in his proposed budget which total some \$300 million. However, with Medicaid programs’ expenses ballooning unexpectedly and the economy slowing, reducing the amount of tax dollars to the state, the Senate backed off from the tax cuts and produced yesterday’s budget. The Senate budget bill, which suffered relatively few amendments Thursday, was approved on “second reading” and will come before the Senate next Tuesday for final approval.

The Florida House is considering its budget bill on “second reading” Friday, March 30. At this writing, the House plans on producing a budget that does contain tax cuts, although the exact amount is unavailable at this time.

AIF understands that the Florida Legislature’s obligations to the elderly and children are compelling. In addition, AIF appreciates the bold steps the governor and legislature have taken these last few years in easing the tax burden on Florida’s economy and employers. However, AIF will be closely monitoring the “budget numbers” in the days and weeks ahead. If, as the legislature brings its negotiated budget to a conclusion, the state’s predicted tax income improves, AIF will aggressively push for a further decrease in the state’s intangible’s tax on stocks and bonds. The long-term benefits of a decrease and ultimate repeal of the tax would be of great benefit to the state’s economy and the state’s fiscal stability.

CABINET REORGANIZATION

Efforts to reorganize the Florida Cabinet continued in the Florida Legislature on Wednesday, March 28. As we have previously reported, in November 1998, the voters approved Constitutional Revision Eight restructuring Florida's cabinet and the merging cabinet offices of the treasurer and the comptroller into one chief financial officer. These revisions will become effective January 7, 2003. The new cabinet structure will consist of the chief financial officer, the attorney general and the agriculture commissioner. The offices of an elected secretary of state and commissioner of education will be eliminated from the cabinet. The language in Constitutional Revision Eight merging the cabinet offices of the treasurer and comptroller did not contemplate or provide direction as to how the statutory responsibilities currently assigned individually to the treasurer and comptroller should be treated. Therefore, the Florida Legislature has wide latitude in how the statutory functions of the comptroller and treasurer are collapsed together or removed from the chief financial officer cabinet position.

The Senate Governmental Oversight and Productivity Committee combined and approved a proposed committee substitute (PCS) for SB 1970 and SB 164 to carry out the constitutional revision merging the Cabinet offices of treasurer and comptroller. The bill also merges the legislatively assigned duties of regulating insurance, banking, and financial services under the elected Chief Financial Officer (CFO).

The current House bill, HB-681 by *Rep. Brummer (R-Apopka)* and the House State Administration Committee, would place regulation of insurance, banking, and financial services under the direction of department appointees with oversight by the Governor and Cabinet. The House bill provides for the new position of CFO performing only those duties provided by the Florida Constitution. *Comptroller Robert Milligan* recommends this approach. *Senator Latvala (R-Palm Harbor)* said CS/SB 1970 & 164 will be considered next week in the Banking and Insurance Committee that he chairs.

AIF supports the approach recommended by Comptroller Milligan as embodied in the House proposal. This proposed structure provides for the simplification and consolidation of governance, a desire expressed by the vote of the people in 1998, while at the same time providing for the necessary public and legislative oversight of the executive director and, by extension, the department deputy selection process. In addition, this structure provides for a fair and equitable regulatory environment for the insurance, securities and banking industries while in no way diminishing the historic oversight and enforcement authority practiced by the current Treasurer and Comptroller.

COURT REFORM

On Wednesday, March 28, the Senate Governmental Oversight and Productivity Committee also took a position contrary to the House on revision of the appointments to the Judicial Nominating Commissions. The Judicial Nominating Commissions recommend the candidate pool from which the Governor draws his appointees to state judgeships. SB 1470 by *Sen. Anna Cowin (R-Leesburg)*, as passed by the Committee, proposes only minor changes in judicial nominating commission process. Under the bill, the Florida Bar would still get three appointments, but all would have to be lawyers. The Governor would appoint three and those six would pick three more, but the appointing authorities would have to consider racial and ethnic diversity in the selections. Also, the terms of the commission members would be the same as the Governor's so he could make changes. Cowin withdrew an amendment to the bill that would have given all nine appointments to the Governor. The amendment, had it been adopted, would have then made the Senate bill consistent with the House proposal by *Rep. Fred Brummer (R-Apopka)*, CS/HB 367.

While AIF is disappointed that the Committee chose not to make the bold changes currently under consideration in the House bill, Wednesday's hearing was a positive start. Currently, the judicial nominating commission process is producing judges immune to the will of the people and most importantly, the will of the legislature. Inconsistent with the separation of powers, the state's courts have ruled consistently outside the letter and expressed intent of Florida law, as adopted by the legislature. And, oddly enough, these egregious rulings run consistently against the business community.

A profound inequity has evolved within the relationship between the executive branch, the legislature and the courts. This inequity must be corrected. A little accountability, established by reforming our judicial nominating commission process, would be an excellent place to start. AIF supports the House and Senate's efforts in this direction.

Nursing Home Care Reform

On Tuesday, March 27th, the House Elder and Long-Term Care Committee approved the introduction of PCB 01-01 on nursing homes and assisted living facilities with the understanding that it is still a work in progress. **Chair Carole Green (R-Fort Myers)** said the measure is still evolving even after the committee completed review and approval of more than 60 amendments over three meetings. It is obvious that a lot of work remains to be done before the homes are protected either from soaring insurance costs or the complete loss of insurance coverage. The bill now will be introduced and referred by **Speaker Tom Feeney (R-Oviedo)** to committees for further review.

In the Senate Judiciary Committee, action on proposals to reduce nursing home litigation is awaiting further negotiations. In a three-hour meeting Tuesday on CS/SB 1202, the committee spent two and half-hours on quality of care amendments, primarily regulation by the Agency for Health Care Administration and paper work. In addition, **Sen. Walter "Skip" Campbell (D-Tamarac)** offered again his proposal to establish a JUA, but he withdrew the amendment to rework it. Insurance Commissioner Tom Gallagher also offered a JUA plan to be considered later.

AIF wholeheartedly supports the efforts of both the House and Senate to craft legislation that will ensure that quality of care to seniors will improve. We are also gratified to see that the legislature is embracing the need for true litigation reform, as well. A small but effective segment of attorneys have been successful in exploiting current law, which makes it very easy to sue nursing homes. Current law is inconsistent, by any measure, with the standard legal protections afforded other health care providers. These excessive lawsuits are draining the nursing home industry and long term care insurance providers are leaving the state. Unless this is corrected, Florida is facing the human tragedy of nursing homes closing in Florida. In addition, Florida's employers will be facing a legislature seeking to increase taxes to rebuild a budget broken by the nursing home crisis. This must be fixed this year, for the benefit of our seniors and for the fiscal health of our state government and economy.

PILL BILL SWALLOWED

Although Florida has more cost-increasing mandates on health insurance providers than any other state in the union, the House Committee on Health Promotion voted 9-3 to add another. On Tuesday, March 27th, the panel approved HB 381 by *Rep. Nan Rich (D-Sunrise)* to require coverage for birth control pills.

However well intentioned, AIF opposed any further mandates on health insurance providers. There are 51 mandates under current law in Florida. In other words, there are 51 services or treatments that must be included in every health policy offered by a health insurance provider. Some are excellent health policy and arguably reduce costs to the carriers and to the employers buying the coverage. But many are burdensome and drive up costs to the employers attempting to purchase basic health care coverage for their employees. Until a system is established to objectively evaluate current mandates and proposed mandates, AIF is opposed to any additional health insurance coverage mandates being imposed.

COMMUNICATION TAX

A "unified" communications tax was under consideration Monday, March 26th, in the House Utilities & Telecommunications Committee. PCB UTCO 01-02a, which creates such a tax, was workshopped by the committee for the purpose of taking public testimony to gain better understanding of the issue from the private sector. Randy Miller, AIF's Senior Vice President and Chief Operating Officer testified in favor of the concept of a unified communications tax.

The current laws governing taxation of communications services in Florida are not keeping pace with converging industries, advancing technology and bundling of services. When most of the laws were written, there was one telecommunications company providing all your communications needs. They were ubiquitous; therefore, made a good collector of taxes for government. As a result, many taxes and fees are collected via the telephone companies and other utilities as well.

But, there have been many changes since then. Instead of one monopoly provider, there are many different companies providing a varied array of electronic communications services. New technologies like the Internet and wireless service, as well as cable TV companies offering telephone service, make the existing statutes difficult at best to administer. Finding the origination of the taxable transactions of wireless usage, long distance, and wireless calls paid for with prepaid cards, roaming wireless service charges, and long distance calls paid for with credit cards is almost impossible. And when taxes are imposed by cities, counties and the State, collecting and remitting to the correct jurisdiction can be a real challenge.

What is the solution? A single, unified tax imposed by the State and administered by the Department of Revenue on all electronic communications services. This would include wire line and wireless telecommunications, paging, data communications, cable TV, and satellite TV. Internet access is not taxable at this time by federal law.

The 2000 Legislature actually passed the unified communications tax, but the 2001 Legislature will have to pass the new tax rate to actually put the new arrangement in motion.

AIF supports the effort to establish a unified communications tax statewide. The new unified tax is intended to be revenue neutral for the state and local government. Customer bills will be easier for consumers to understand since there is but one state tax and not five different ones, each with a different tax base. A unification of the communications tax base under one simplified services tax would provide equity among the telecommunications service providers, a tax process the consumer can understand and a more predictable revenue stream for the state and local governments.

This report was prepared by Curt Leonard, Manager – Governmental Affairs at Associated Industries of Florida (AIF) and Jere Moore, AIF Reporter. Please send your comments or suggestions to us at aif@aif.com or call the Governmental Affairs department at (850)224-7173.

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