

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
DAILY BRIEF**



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**FROM DECEMBER 18, 2001
INTERIM COMMITTEE MEETINGS**

INTERIM COMMITTEE WEEK

The Florida Legislature, thanks largely to two demanding special sessions in the past six weeks, has an extremely limited interim committee schedule this week. The Senate cancelled its meetings altogether and the House is has limited its meetings to yesterday and today. Typically an interim committee week calendar is loaded with meetings, Monday afternoon through Friday morning, with some allowances for travel.

SENATE PRESIDENT MCKAY UNVEILS TAX REFORM PLAN

Noteworthy yesterday was not any legislative committee work, per se, but rather the unveiling by Senate President John McKay of his proposed measure to reform Florida's Tax Code. Senator McKay has been advocating reform for several months now, but yesterday's press conference provided the more formal presentation of his proposal to the press and public.

At the behest of Senate President John McKay, the Florida Legislature will be considering a proposed amendment to the Florida Constitution. The state's current 6% sales tax rate is fixed by the Florida Legislature. McKay's proposal reduces that rate to 4% by a constitutional amendment. The proposal is characterized as being "revenue neutral" by reducing the rate while at the same time broadening the tax base by repealing a variety of current exemptions. So-called "basic needs" would be spared. Groceries, residential rent, health care services, prescription drugs and basic telephone service would be exempt under the proposal. Also eliminated would be the alcoholic beverage tax, the hospital bed tax and the intangibles tax.

Senate President McKay's constitutional amendment to lower the sales tax rate from 6 to 4% would also include the following language:

The amendment would require a 3/5's vote of both legislative chambers before the sales tax could be raised. The amendment would also require a 3/5's vote of both chambers of the legislature before any new exemption could be adopted.

All tax exemptions and exclusions are repealed under the proposal and will have to be reinstated by a subsequent session of the Florida Legislature.

Reviewing the math in the new proposal reveals the following: Under the proposal, protecting the “basic services” from taxation would cost Florida about \$5.5 billion. Further, the proposal repeals the remaining portions of the intangibles tax and the alcoholic beverage surcharge. It also repeals the public medical assistance trust fund, which is a tax on hospital outpatient services. The cost to repeal these taxes amounts to approximately \$1.1 billion. After excluding the “basic needs” from taxation, described above, along with the tax repeals also described above, under McKay’s proposal, about \$9.5 billion in revenue will need to be “found” in order to fund the overall reduction in the tax from 6% to 4%.

In other words, many services, such as legal fees, real estate commissions, engineering fees, other professional fees, money lending fees (interest), hairstyling, piano lessons, dance lessons, lawn care, etc., would all become taxable under the plan. In addition, all other current exemptions on goods would also be repealed, unless reinstated, by a 3/5 vote of the Legislature. More severely, those exemptions that would meet *any* criteria established under the emblem of economic growth and development could very well find themselves run over and forgotten in the rush to haul in the additional \$9.5 billion needed to make the Constitutional provision work.

This proposal would cause undue harm to the economy of the State if enacted. If this proposal is implemented and the Holy Grail of revenue neutrality is maintained, it will shift the tax burden of approximately \$700 million to the Florida business community and away from individuals. While politically seductive, this shift increases an already high cost of doing business in Florida, and will result in Florida being increasingly non-competitive with other states and in the worldwide economy.

AIF continues to agree that the Florida Legislature could and should perform a detailed review of Florida’s existing sales tax exclusions/exemptions to satisfy the legitimate concerns related to the fairness and equity of the exemptions in questions. However, Florida’s tax code is a creature of the statutes and should remain so. Further, AIF is free to argue that such a review should be conducted, as a statutory exercise, in large part because *the exemptions that AIF has supported can withstand the scrutiny of even the most exacting criteria.* (See AIF Press Release on “The McKay Plan” at aif.com.)

Florida Cabinet Reorganization

For the third straight year, the Florida Legislature will be considering legislation to implement a reorganization of the Florida Cabinet. Those efforts took concrete form today when the House Banking Committee voted out HB 577 by Representative Mark Flanagan (R-Bradenton). Randy Miller, AIF Senior Executive Vice President testified in favor of the bill, which is very similar to the House product supported by AIF last year.

To recap the issue, in November 1998, the voters approved Constitutional Revision Eight, restructuring Florida’s Cabinet and merging the Cabinet offices of Treasurer and Comptroller into one Chief Financial Officer. These revisions will become effective January 7, 2003. The new Cabinet 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 consolidation of the Treasurer's and Comptroller's constitutional duties into the newly created CFO will produce a statewide elected office with substantial responsibilities. The CFO will oversee the Florida Retirement System, the state's bonding programs, executive clemency, and the state's land acquisition programs, as well as the departments of Revenue, Law Enforcement, Veteran's Affairs, and Highway Safety and Motor Vehicles.

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 these two offices are collapsed together or removed from the Chief Financial Officer Cabinet position.

AIF believes the structure that would both best represent the intent of Constitutional Revision Eight while maintaining the integrity of the regulatory process is found in HB 577 and is as follows:

The new Constitutional Office of Chief Financial Officer should be just that! – A Chief *FINANCIAL* Officer. The Florida Legislature should only transfer those Constitutional and related duties of the Office of Comptroller and Office of State Treasurer to the new office. These functions and responsibilities are immense and overwhelming when you consider the size and scope of the Florida State Government – including a \$50 billion budget and billions in fund balances, billing and investments.

The regulatory duties of the Comptroller - banking and securities – and the regulatory duties of the State Treasurer – insurance regulation – should be assigned to a *separate* Department, with that Department being collegially managed by the Governor and Cabinet through an Executive Director who must be confirmed by the Senate. This is a configuration paralleling the one found for the Florida Department of Revenue, the Florida Department of Law Enforcement and the Florida Department of Highway Safety and Motor Vehicles. Within this new Department of Insurance and Financial Services, the regulation of insurance should be assigned to a “Commissioner of Insurance,” and regulation of banking and securities should be assigned to a “Commissioner of Financial Services.” These Commissioners should be appointed by the Executive Director of the Department, subject to approval by the Governor and Cabinet.

This 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 commissioner-selection process. In addition, this structure provides for a fair and equitable regulatory environment for the insurance and banking industries while in no way diminishing the historic oversight and enforcement authority practiced by the current Treasurer and Comptroller.

The next stop for the House bill is the House Insurance Committee. Three Senate bills have been introduced by Senators Jack Latvala (R-Palm Harbor), Rudy Garcia (R-Hialeah) and Steve Geller (D-Hallandale Beach). They haven't been heard. Broadly, all three bills stray from the House concept by giving the new CFO position direct regulatory authority and oversight.

This report was prepared by Curt Leonard, Manager – Governmental Affairs at Associated Industries of Florida (AIF). 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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