

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
DAILY BRIEF**



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FLORIDA CABINET REORGANIZATION

As we previously reported, the House passed its version of a reorganization of the Florida Cabinet, CS/CS/HB 577 by Representative Mark Flanagan (R-Bradenton) yesterday. However, given the differences between the two chambers on the issue, conversations between the House and Senate continued on a potential compromise.

The Governor's Office has been involved, as well, supporting the House position that the newly created Chief Financial Officer, merging the offices of State Comptroller and Treasurer, should be just that, a Chief Financial Officer (CFO). The position of the House and Governor has been that the regulation of banking, securities and insurance should be independent of the CFO. If the 1998 amendment to the Florida Constitution merging the two offices were to be interpreted by the Legislature as merging both the Constitutional & fiscal duties along with the regulatory duties, then the office of CFO would be arguably more powerful and politicized than that of the Governor.

The House also had possession of the Senate version, CS/SB 662/232 by Senators Jack Latvala (R-Palm Harbor) and Steve Geller (D-Hallandale Beach), which was passed last week.

Today, the House took up CS/SB 662/232 and amended the bill to reflect a supposed "compromise" between the House, Senate and Governor's Office. Unfortunately, it remains that the regulatory oversight of these industries, under this amendment, is far too closely aligned with and subject to the Office of the CFO.

The House took up the bill and amended it on second reading. It is expected that the House will take up the bill for final consideration and remit it to the Senate for its concurrence.

The regulation of banking, insurance and securities and where it is housed is the prerogative of the Legislature. In reality, the Florida Legislature could place the regulation of those industries under the authority of any State entity it chose. There is nothing that requires and neither did the voters contemplate requiring that all these industries fall under the direct sway of the CFO. AIF believes that the House plan (HB 577) insures the regulatory oversight, consistency and authority needed to protect both Florida's consumers and the integrity of the Office of the Chief Financial Officer while combining the Constitutional, financial duties originally intended by the voters in 1998.

HOUSE CAVES ON TAX REFORM

The supposed "going home" deal between the House and Senate blew up tonight when the House Democrats locked down and killed a late filed amendment to CS/SJR 938, which represented the agreed upon tax reform deal between Governor Bush, Senate President John McKay (R-Bradenton) and House Speaker Tom Feeny (R-Oviedo). A late-filed amendment requires two-thirds consent of the body for consideration or, in the case of the House, 80 votes. The House fell three votes shy with 77 on a party line vote.

The House recessed as a result while the Republicans caucused in an attempt to sort out the mess. Surely they could get three Democratic votes, they reasoned, but none were to be found. It has to be noted in this space that Randy Miller, AIF Senior Executive Vice President, played the pivotal role in rallying the Democrats and organizing their “lock down” on this issue. While Speaker Feeney has long been a terrific proponent of all things business and has even been heroic in defending the free market system, AIF could not sanction this bad idea.

The agreed upon reform plan provides for a Constitutional amendment to appear on the ballot in November. The amendment creates a 12-member joint committee of the House and Senate to exist for three years. During those three years this joint committee, six members appointed by the presiding officers of each chamber, would review all of Florida’s sales tax exemptions. By a simple majority of seven votes, the committee could “de-authorize” a sales tax exemption, which would expire on July 1, the year following the committee’s adjudication. The only way the sales tax exemption can be spared in the amendment is if the whole Legislature, by joint resolution, votes to override the committee’s de-authorization.

During the recess, Governor Bush then called in selected Democrats and asked them, “what do you want?” The Democrats made their wishes known, many of them dealing with district lines and reapportionment. After a lengthy break, the House came back in assured of the necessary votes. The House scrambled and found another vehicle bill, CS/HJR 833 and finessed the necessary votes to introduce the amendment to that bill. Representative Tim Ryan (D-Dania Beach) offered an amendment that would have had the effect of gutting Speaker Tom Feeney’s amendment, but it was defeated down largely on party line vote. Minority Leader Lois Frankel (D-West Palm Beach) spoke in opposition to the amendment decrying the inanity of giving seven members the power to repeal taxes effecting all of Florida’s citizens. Representative Mike Fasano (R-New Port Richey) also spoke eloquently against the plan. The amendment was adopted by a vote of 74 yeas and 46 nays. Later on in the evening, the House Leadership sensing that members were scrambling to file amendments for third reading to protect exemptions from the elite committee of twelve, a motion was made to waive the rules and consider the bill on third reading immediately. CS/HJR 833 then passed by a vote of 74 yeas to 43 nays.

If approved on the November ballot, the committee would begin its work no later than March 1, 2003.

AIF is opposed to any effort to amend the Florida Constitution for the purposes of reforming Florida’s tax code. The Florida Constitution is no place for tax policy to be enacted. It already husbands a prohibition against a personal income tax and a statewide ad valorem tax on personal property which is what arguably has got policy makers in this “box” in the first place. Any tax policy placed in the Constitution has the immutability of the Ten Commandments and is virtually impossible to reverse, no matter the consequences.

In addition, the reform provides for the repeal of the sales tax exemption by a simple majority of the committee while at the same time providing that the Legislature must act by the approval of a joint resolution in order to preserve a sales tax exemption. This tilts the playing field towards those policy makers wishing to gain more tax revenue while largely shielding the whole of the Legislature from the political consequences. In addition, as usual, only the political heavy weights would be able to launch the kind of campaign necessary to preserve an exemption while other exemptions, less sexy and difficult to explain in economic terms, may easily fall prey to the chopping block with little debate. What news reporter or committee member won’t yawn when an industry representative tries to testify about “manufacturing inputs” and the cascading effect of a sales tax through the manufacturing to the consumer process when hundreds of millions of dollars in additional revenue are there for the asking? Again, like all the other sales tax reform plans that briefly took wing before expiring, this plan is ill considered, hurried and lacks common sense.

AIF would support a measure that provided for a methodical review, utilizing objective criteria, of all the current sales tax exemptions enjoyed by businesses, organizations and services. Florida's current business sales tax exemptions actually comprise only \$1.88 billion of the \$22 billion total in sales tax exemptions. We believe the vast majority of these business exemptions would withstand even the most severe scrutiny if the criteria embraced economic competitiveness, fairness and benefit to Florida's overall economic growth. However, AIF is opposed to any "sunset" review, which presupposes that a sales tax exemption should expire unless extended by a proactive act of the Legislature. AIF is opposed to any tax reform proposal that suggests that the Florida Constitution must be amended for its enactment.

DEALS, DEALS, DEALS

A late night announcement by Speaker Tom Feeney revealed that the House plans on being in Session on Saturday. The goal is to get a budget on the members' desks in both chambers by Monday morning. The infamous 72 -hour clock would then begin and the Legislature could come back for a final vote on Wednesday.

A number of deals bloomed in the last 24 hours to bring a possible end to the session this week. House Speaker Tom Feeney, who is term limited and plans on running for Congress in November, got a perfectly drawn congressional seat as a result of the reapportionment proceedings. The Senate got its tax reform and a Cabinet Reorganization closer to the Senate plan than the House plan. The House, it is heard, will eventually get its health flex plans for small employers and who knows what else.

Still outstanding is all these "deals" is the federal corporate income tax accelerated depreciation schedule. As we previously reported, as part of the federal economic stimulus package, adopted was an accelerated depreciation schedule for the purposes of corporate income taxes. Typically, the states track the federal law and this year was no exception. The Senate passed the bill and then the House did. However, the Senate began to have second thoughts once it figured out what the tax break might mean to the state budget. Upwards of \$200 million could be lost to the state coffers as a result of this tax break. Of course, an inestimable number of jobs and commercial expansion could result, as well, benefiting all Floridians. At the end of last week, even though they passed the bill, the Senate began to emit a hue and cry over the tax break.

If another "deal" includes giving up this tax break it will in effect be a tax increase. If the House and Governor renege on this bill, it will force the state's employers to keep two sets of books, one for the state corporate income tax and one for the federal income tax. This is, without question, a costly, accounting nightmare and it will place Florida's corporations at a competitive disadvantage with other states who will not be dumb enough to mimic Florida's tax policy (or lack of it).

Stay tuned to our daily brief and to our web site at www.fbnet.com as the legislature makes some very important decisions on the state's economy. These decisions will have a major impact on the business community and AIF will be reporting to you everything that happens.

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.

- For more information on all of the important legislative information concerning the business community, go to our "members only" Florida Business Network web site at <http://fbnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.