

LEGISLATIVE WEEKLY UPDATE



P.O. Box 784 • Tallahassee, FL 32302 • Phone: (850) 224-7173 • Fax: (850) 224-6532 • Internet: <http://aif.com> • fbnet.com

FROM SPECIAL SESSION 'E' FOR THE WEEK OF APRIL 29 – MAY 3, 2002

Today marked the fifth day of the Special Session. Bills actually have been moving through the process, according to agreements struck between the House, Senate and Governor, which is a great relief to everyone involved.

The House and Senate exchanged their respective budget bills, which differ. Unlike the Regular Session, which featured all sorts of strange budget machinations, the two chambers actually named their conferees and set a schedule for conference committee discussions to resolve their budget differences like a normal Legislature. They will be meeting through the weekend.

Here's a review of where the legislation of interest to the business community is in the process.

JOB CREATION AND WORKER ASSISTANCE ACT OF 2002/ACCELERATED DEPRECIATION

After a sometimes-heated debate, the Senate passed SB 18E by Senators Charlie Clary (R-Destin) and Ken Pruitt (R-Port St. Lucie) by a vote of 22 Yeas to 18 Nays. On the House side, following a few futile attempts by liberal House Democrats to subvert the bill through the amendatory process on second reading, the House rolled their version of the piggyback, HB 9E by Representative Rob Wallace (R-Tampa), over to third reading. We expect the House to take up the bill and consider it for final passage early next week.

At issue in the bill is whether or not the State of Florida should "piggyback" the federal corporate income tax code. This is usually not a big deal, with the Florida Legislature annually linking Florida corporate income tax law with the federal law. However, this year the Legislature was considering the issue whilst the U. S. Congress and President George W. Bush were enacting the Job Creation and Worker Assistance Act of 2002. Signed into law on March 9, the Act provided the States with the option of adopting a provision providing an accelerated depreciation allowance for corporate expansion and investment. This one-time, 30 percent depreciation deduction for certain investments would reduce the corporate income tax liability for corporations wishing to avail themselves of this accelerated schedule.

This accelerated depreciation schedule would delay the state's revenues, for the 2002-03 fiscal year, by an estimated \$272 million. This number is questionable since corporations would be motivated to expand their operations, which would increase employment and increase sales tax collections based upon the actual purchases of equipment and machinery. And, of course, Florida will get its corporate income tax dollars in the "out years" since the schedule is only being accelerated and not lowered. In other words, in the long-term, the accelerated depreciation will not "cost" Florida government a dime. Not one penny. However, the number for this fiscal year was big enough to give the Senate pause at the end of the Regular Session, one of the many factors that disrupted the budget negotiations and consequently pushing the Legislature into a special session to resolve the issue. After some negotiating, Senate President John McKay (R-Bradenton) agreed to revisit the bill during this Special Session.

In the Senate, the bill passed largely along Party lines, with all the Democrats, save Senator Ron Silver (D-North Miami), opposing the bill along with four Republicans; Senate President John McKay (R-Bradenton), Senator Don Sullivan (R-St. Petersburg) Senator Jack Latvala (R-Palm Harbor) and Senator Lisa Carlton (R-Osprey).

Some of the debate was good. Senator Skip Campbell (D-Tamarac) both in the Committee debate on this bill and on the floor questioned the timing of this business incentive and questioned the merits of differing economic models used to justify the accelerated depreciation. While we certainly disagree with Senator Campbell's conclusions, his contentions were worthy of the debate and not unreasonable. However, Senator Kendrick Meek's (D-Miami) remarks on this issue were breathtaking in their thinly veiled contempt for the business community.

Senator Kendrick Meek suggested the (corporate) "big boys" give their "fair share," whatever that is. He then suggested that the corporate CEOs would simply "take the money" for themselves. This is a ridiculous statement, given that the provision in question, by definition, is based upon corporate investment in plant expansion and equipment purchases. Senator Kendrick Meek stated that people shouldn't be fooled, that these corporations have "no problem" letting someone go if they have to choose between employees and corporate stockholders. Well, no kidding. Corporate officers have a legal and fiduciary responsibility for the maximum, ethical and fair administration of the stockholders dollars. It's their company, if publicly held. Corporate officers can and do go to jail for knowingly misappropriating the assets of the company. That's what the Enron debacle is all about with the legal proceedings currently in motion. In addition, corporations want to grow, want to hire new employees and to hold onto the ones they have. Senator Kendrick Meek's particular "no" vote was a classic return to the anti-business, liberal Democratic "base."

Florida's corporations provide jobs both for their employees and for all the other businesses that provide these corporations with necessary services and support. It is a growing and prosperous Florida economy that propels the spending for education and all those other government services that we are obligated to provide. Nay-sayers who opine that this is a "break for big business" ignore the simple fact that big business and all of Florida's employers, large and small, daily take the risks, invest the money, work hard and employ others insuring that tax revenues will be provided now and in the future. AIF supports the adoption of this important economic stimulus provision.

HEALTH CARE REFORM

The House took up SB 46E by Senator Burt Saunders (R-Naples) in lieu of its identical version, 37E by Representative Mario Diaz- Ballart (R-Miami). The bill passed by a vote of 80 Yeas and 28 Nays. This bill, which was "closed" to the consideration of any amendments, contained a wide array of issues that were left unresolved at the close of the Regular Session in March. Some were good and some were awful. However, the House was in a "box," with the Senate

demanding the lower chamber swallow the bill “whole” in exchange for a hearing on the corporate piggyback bill and the resolution of the Chief Financial Officer/Cabinet Reorganization issue. It needs to be noted that it is stunning that a “Republican” Senate would put the House over a barrel in exchange for simply considering a pro-business bill.

The bill contains the following provisions of interest:

- A provision supported by AIF providing for flexibility in small employer health plans related to copays, deductibles and maximum coverages provided for in health insurance policies. Current law, in a typical big government manner, micro-manages these policy parameters consequently pricing small employers out of the market.
- A provision supported by AIF providing for a pilot project in three population areas allowing for “stripped down,” flexible health insurance policies to be marketed to the low-income, uninsured. Again, this provision lifts the micro-management of current law and allows health insurers to develop lean, competitive insurance products for those, in many cases, stuck in emergency rooms for their routine care.
- A provision “allowing” doctors to refer eye patients to ophthalmologists without seeing an optometrist first – which is often required by health plans as a cost saving measure.
- A horrible provision amending the Physician’s Self – Referral Act which disallowing kidney dialysis providers from “self referring” for their own in-house laboratory blood work. This provision was crafted for the simple reason that one dialysis provider was losing market share to other providers and decided to get a law passed to reverse the competitive playing field. AIF is opposed to the adoption of this language, which, unblushingly, is an attempt by one business to bludgeon another through the manipulation of the Florida Statutes. Congratulations, Florida Legislature, Florida will now lose hundreds of high-paying renal dialysis clinic jobs as a result of the passage of this law. These companies will re-locate their operations to other states because Florida will be the only state with this perverse law.
- A provision providing for “prompt pay” by health plans to health care providers. AIF was opposed to this bill in its original form, wherein it contained untenable mandates on HMOs and even created a tort “cause of action” for delayed payments. As the session and special session progressed, however, the more objectionable elements in the bill were eliminated and AIF was no longer opposed to its adoption, although we believe it is an unnecessary addition to Florida law.

Would AIF have “traded” the small employer health insurance reforms for the kidney dialysis language? No. As a matter of principle, the kidney dialysis provision is unacceptable under any circumstances. But we were not given that choice. As it is, we are gratified that the Legislature saw fit to make inroads on substantive health care reform for Florida’s employers, which is urgently needed.

CHIEF FINANCIAL OFFICER/CABINET REORGANIZATION

After three long years, the Florida Legislature finally agreed on and passed legislation crafting the statutory responsibilities for the newly created Cabinet position of the Chief Financial Officer. The citizens of Florida voted to amend the Florida Constitution in 1998 by eliminating the Cabinet post of Education Commissioner and by collapsing the offices of State Treasurer and State Comptroller into one office of Chief Financial Officer. While the Constitutional duties of the new Office were easy to delineate and transfer, the statutory, regulatory duties proved much more nettlesome to resolve. The new office is “up and running” on January 1, 2003, so time was running out on this long debate between the House and Senate.

The Florida House passed HB 3E by Representative J. D. Alexander (R-Winter Haven) by a vote of 110. The Senate then took the bill up later today, substituted it for their identical Senate version, CS/SB 42E & 26E by Senators Jack Latvala (R-Palm Harbor) and Steve Geller (D-Hallandale Beach) and passed it by a vote of 39 – 0.

Necessarily, the bill does provide for the regulatory independence necessary for the oversight of the insurance and financial services industries while providing duties to the CFO in addition to the state’s finances, including consumer insurance advocacy and oversight of the state office of the Fire Marshall.

The bill creates a Financial Services Commission made up of the Governor, the Chief Financial Officer, the Secretary of Agriculture and the Attorney General. Two regulatory departments, for both insurance and financial services, will fall under the supervision of the Commission. An Executive Director appointed by a majority vote of the Commission will manage each department. Both the Governor and the CFO must be on the prevailing side of the vote together. The Executive Directors will have the authority of final agency action, their own budget, staff and attorneys.

Congratulations need to be extended to Representative J. D. Alexander, Representative Mark Flanagan (R-Bradenton) and Representative Johnnie Byrd (R-Plant City) for their efforts on this difficult, often complex, and decidedly unexciting yet critical issue. Additional praise is extended to Senators Danny Webster (R-Orlando), Skip Campbell and Tom Rossin (D-Royal Palm Beach) who worked “behind the scenes” to buttress the good governance position. Treasurer and Insurance Commissioner Tom Gallagher and State Comptroller Bob Milligan need to be recognized for their professional handling of this issue and the deference they extended to the “public good” in negotiating this compromise.

AIF is delighted that after three long years, an agreement was struck that will embrace the concerns of all the principles involved in this issue. The bill does this by insuring good governance and, by extension, establishing the regulatory independence critical to the competitive health of the insurance and financial services and protecting the interests of the consumer.

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.

