

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
WEEKLY UPDATE**



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WEEKLY BRIEF FOR THE WEEK OF APRIL 7 - 11, 2003

ECONOMIC DEVELOPMENT

On Monday, the Senate Comprehensive Planning committee heard and passed CS/SB 2328, sponsored by Senator Burt Saunders (R-Naples). This bill provides economic-development tax incentives for companies that purchase equipment and machinery, including molds and dies, that are used for research and development. An amendment added to this bill mandates that Enterprise Florida coordinate with local and regional economic development organizations to help provide the seed money for start-up businesses and technology innovations.

AIF supports CS/SB 2328. Florida should exempt from the sales-and-use tax all items of tangible personal property that are purchased specifically for use in research and development activities. Legislation of this nature pays big dividends to Florida, because it makes the state's business climate much more attractive to high-paying high-tech industries.

MINIMUM WAGE

The Senate Comprehensive Planning Committee amended then passed SB 54, sponsored by Senator Lee Constantine (R-Altamonte Springs), the local government minimum-wage bill.

This bill prohibits political subdivisions of the state from requiring employers to pay a minimum wage other than the federal minimum wage. Likewise, the bill prohibits local governments from requiring employers to apply a federal minimum wage to wages that are exempt under federal law. Political subdivisions may, however, continue to establish minimum-wage levels for its own employees, for employees of private companies that contract with the political subdivision, and for employees of employers receiving direct tax abatements or subsidies from the local governments. One amendment that was added sets forth an exception to the statutory prohibition against local government minimum wage laws, namely, situations in which federal funding is jeopardized. In such situations, the bill would sanction a so-called living wage ordinance "to the extent necessary to allow receipt of the federal funds or to eliminate the inconsistency with such federal requirements."

On balance, SB 54 represents an important step in the right direction, especially for the hospitality industry in Florida. As a matter of principle, however, AIF continues to oppose all costly living-wage mandates at the local level including those that are limited to commercial transactions involving local government entities.

MEDICAL MALPRACTICE

Monday, the Senate Judiciary Committee announced that consideration of the seven medical malpractice bills would be postponed until the next meeting because of some late amendments that committee members had not had time to read.

On Wednesday, the committee, chaired by Senator Alex Villalobos (R-Miami), heard all of the Senate bills on medical malpractice: SB 560, SB 562, SB 564 and SB 2620, all sponsored by Senator Burt Saunders (R-Naples); and SB 1912, SB 2080 and SB 2120, sponsored by Senator Durell Peadon (R-Pensacola). As expected, committee members combined these measures into three separate bills, and passed them out with unanimous votes.

Although the bills contain some positive elements that track recommendations of the Governor's Select Task Force on Healthcare Professional Liability Insurance, some of the provisions are nonsensical (i.e., arbitrary rate rollback, formation of a government-run malpractice insurance monopoly) and other provisions will increase rather than decrease rate. Most notable, however, is the absence of any provision to cap non-economic damages, which was the single most important recommendation of the governor's task force and a cornerstone of the House medical malpractice bill.

AIF supports a comprehensive package of measures designed to alleviate Florida's medical liability crisis, most notably, a \$250,000 cap on noneconomic damages and necessary revisions to Florida's bad-faith insurance law. Now is the time for the Legislature to act decisively to provide immediate and lasting relief.

CHARTER SCHOOLS

Monday, the House Education K-20 Committee heard HB 1279, sponsored by Representative Dennis Baxley (R- Ocala). This bill provides guiding principles for the establishment and operation of charter schools. It is identical to Senate bill, SB 2242, sponsored by Senator Daniel Webster (R-Winter Garden).

The House committee mirrored the Senate's committee action last week. The committee passed the bill after amending to remove the bill's provisions that gave priority funding to charter schools with tax-exempt bonds issued by local governments and to schools with long-term financing. More amendments to the bill can be expected as it moves through the process.

Charter schools are a cost-efficient and educationally effective to improve education quality in the state. AIF supports the expansion and development of charter schools in Florida.

UNEMPLOYMENT COMPENSATION

The House Subcommittee on Workforce and Economic Development unanimously passed HB 857, sponsored by Representative Dan Gelber (D-Miami Beach), regarding unemployment compensation. The bill was amended to conform to SB 470, sponsored by Senator Debbie Wasserman Schultz (D-Pembroke Pines) and Senator Alex Diaz de la Portilla (R-Miami). It provides for a temporary increase in unemployment compensation benefits.

AIF opposes any diversion of funds from the unemployment-compensation trust fund and any legislation to permanently increase benefits in a manner that negatively affects solvency of the fund. Although HB 857 and SB 470, in their present form, are not so egregious, they still raise concerns for the business community. As such, these bills will be closely monitored by AIF.

TRANSPORTATION

Tuesday, the Senate Transportation Committee heard and passed SB 2578, sponsored by Senator Jim Sebesta (R-St. Petersburg), which is known as the Secure Airports for Florida Act.

This bill creates the Secure Airports for Florida's Economy (SAFE) Council. The SAFE Council must develop a five-year master plan defining goals and objectives needed to develop airport facilities and an inter-modal transportation system. The bill requires the council to promulgate rules for evaluating projects that may be funded under this act. The council must develop a list of projects with recommended funding levels for general aviation airports and council member airports.

Airports are economic engines for business growth in Florida. AIF supports this bill because it will lead to aviation facilities that are more efficient, comprehensive and safe.

HEALTH CARE

Tuesday, the Senate Health, Aging and Long-Term Care Committee heard and passed SB 2020, by Senator Durrell Peadar (R-Pensacola), regarding health-flex plans.

Enrollment in health-flex plans is limited to Florida residents who are under 65 years of age and have a family income equal to or less than 200 percent of the federal poverty level and who are unable to obtain traditional health coverage.

Under SB 2020, a health flex plan is made available to an enrollee “who purchases the coverage directly from the plan or through a small business purchasing arrangement sponsored by a local government.” The bill allows a limited term of coverage; it also requires that applicants be uninsured for the previous 12 months and not eligible for coverage through a public health care program, such as Medicare, Medicaid, or KidCare. This bill will extend the health flex pilot program termination date to July 1, 2008.

AIF supports legislation, such as SB 2020, that accords health insurers and managed care organizations an opportunity to provide low-cost, flexible insurance plans to needy, uninsured Floridians.

TAXATION

Tuesday, the House of Representatives passed HB 1793, sponsored by Representative Bruce Kyle (R-Ft. Myers) relating to excise taxes on documents.

This bill eliminates distributions to various trust funds of proceeds from the excise tax on documents and redirects proceeds to the general revenue fund. It revises the use of tax proceeds to support the Florida Affordable Housing Guarantee Program. Concerns were raised about the impact on the affordable housing program and the ability to continue to fund this program from general revenue in years to come. It was then explained that a shift in these monies from trust funds to general revenue serves as an alternative to new taxes.

AIF opposes bills such as HB 1793 that redirect money from trust funds to general revenue. Trust funds are necessary for the continuity and support of important state projects and programs, such as affordable housing. Failure to fully fund these projects and programs has a negative effect on Florida’s economy. A raid on trust funds constitutes a breach of trust and an implicit tax increase. When used for general revenue purposes, the burden of taxation falls unfairly on Florida’s business community.

On Thursday, the Senate Appropriations Committee heard and unanimously passed SB 1776, the streamlined sales-and-use-tax bill, sponsored jointly by the committee and a number of different senators. Enactment of this language is a necessary first step to enable Florida to ensure compliance with the sales-and-use tax on purchases by Floridians from Internet retailers and telemarketers based out of state.

The streamlined sales tax project is an effort created by state governments, with input from municipalities and the private sector, to simplify and modernize sales-and-use-tax collection and administration. The project proposes that states change their tax laws to conform to a simplification method that would apply to all sellers.

AIF believes that the State of Florida could equalize the treatment of all retail vendors regarding the assessment and collection of state sales tax if a uniform, national collection system is developed. Furthermore, the state treasury would benefit since the use tax, currently levied but not collected on catalog and Internet sales, would be remitted to the state treasury.

SB 1162, by Senator Pruitt (R-Port St. Lucie), revives, re-enacts, and re-adopts provisions relating to the tourism development tax and the Florida Taxpayer's Bill of Rights, which are otherwise scheduled to be repealed on October 1, 2005. On Thursday, it passed the Senate on a 39 to zero vote.

AIF supports SB 1162. Tourism is essential to our state's economy. The local-option tourism tax is an important tool for local governments to promote tourist destinations in Florida. The Taxpayer's Bill of Rights assures minimum standards of fairness in the administration of revenue laws of this state.

GENERAL APPROPRIATIONS ACT

Tuesday, the House and Senate passed out their respective budgets for fiscal year 2003-2004, thereby setting the stage for appointment of a House-Senate conference committee that will negotiate the final budget deal.

WORKERS' COMPENSATION

The House workers' compensation bill was heard by the House Insurance Committee this week. Unfortunately, the committee adopted some costly amendments that are totally unacceptable to the business community. Some good amendments, meanwhile, were defeated. Instead of an amendment to eliminate contingency fees for claimants' attorneys, for example, the committee adopted an amendment that could increase contingency fees. After this amendment passed, a committee member, Representative Don Brown (R-DeFuniak Springs), commented that it might be appropriate to also rename the entire workers' compensation statute the Attorney's Compensation Act.

AIF supports necessary legislation to curtail escalating workers' compensation costs. In order to achieve this result, AIF supports legislation that eliminates the ability of claimants' attorneys to collect fees based on hourly rates in virtually all circumstances.

CONSTITUTIONAL AMENDMENTS

On Wednesday, the Senate Ethics and Elections Committee heard and passed SB 2644, sponsored by Senator Anna Cowin (R-Leesburg). This bill amends the process of gathering signatures for citizen initiatives and suggests new deadlines for submission, review of signatures, and judicial review for proposed amendments.

Thursday, House Procedures Committee heard HB 437, sponsored by Representatives Randy Johnson (R-Winter Garden) and Ken Littlefield (R-Zephyrhills). HB 437 seeks to preclude the type of problem the Legislature is now facing with the implementation of the class-size mandate that voters approved last year. This bill was substantially changed and, in its current form, it would amend the state constitution to require that ballot language for citizen initiatives include a calculation of the cost of the amendment and a specific funding source for program being created. The controversial nature of the bill is reflected in the 17 to 14 vote by which it passed.

The people retain the ultimate right to alter or revise the state constitution in accordance with fundamental precepts of democratic rule. AIF supports legislation that strengthens the integrity of the constitutional amending process, especially with respect to citizen initiatives.

ENVIRONMENT

The House Finance and Tax Committee heard CS/HB 1123, sponsored by Representative Donna Clarke (R-Sarasota), regarding contaminated site cleanup and received a favorable vote.

This bill would allow risk-based-corrective-action (RBCA) standards to be used for additional categories of contaminated sites. Currently RBCA is used for underground storage tank, brownfields, and drycleaning contamination cleanup. The passage of this legislation would help clean up contaminated property quicker, making them available for property tax rolls and economic development.

Setting unreasonably high standards for remediating contaminated sites delays the cleanup of those sites, which harms the environment and the state's economy by keeping the property from being put to gainful use.

WATER RESOURCES

On Wednesday, the House Committee on Natural Resources considered several water bills. Each bill passed with a favorable vote. HB 807, sponsored by Representative Richard Machek (D-Delray Beach), provides that costs of improvements to original ditches, drains, and other improvements of water control districts may be calculated into the apportionment of the district's maintenance assessments. It also exempts water control districts from liability on district lands when such lands are used for recreational purposes.

HB 1005, by Representative Baxter Troutman (R-Lakeland), was amended to remove the most controversial provisions. Now, it merely allows utilities control over reclaimed water. Likewise, HB 1069, by Representative David Russell (R-Brooksville), started off as a bad bill that got better as a result of committee action. As amended, it authorizes a local government to address in its comprehensive plan water supply projects and sources necessary to meet existing and projected demands.

HB 1405 by Representative Richard Machek (D-Delray Beach) revises the Surface Water Improvement and Management (SWIM) Act, which restores and protects water bodies of statewide and regional significance and directs water management districts to prepare lists of priority water bodies every three years and develop water body plans. HB 1459, sponsored by Representative Machek, also directs the Department of Environmental Protection and the districts to develop a water conservation guidance manual for water utilities for use in consumptive permitting in conjunction with other affect entities.

AIF opposes legislation that imposes burdensome growth management restrictions on Florida business and industry under the guise of water resource protection. As such, AIF will continue to monitor these bills to ensure that no unfriendly amendments are added, which would adversely affect the state's economy.

PRIVATE PROPERTY RIGHTS

Bert J. Harris Private Property Rights Protection Act appears headed for passage this year. Thursday, the House Subcommittee on Local Affairs passed the House version of the bill, HB 113 sponsored by Representative Jeff Kottkamp (R-Cape Coral), after reconsidering a problematic amendment that was adopted last week. The Senate companion bill, SB 1164, sponsored by Senator Ken Pruitt (R-Port St. Lucie) and Senator Steven Geller (D-Hallandale Beach), was read a third time on the Senate floor and passed on a 38 to one vote.

AIF supports legislation that protects private property rights. The Harris Act provides an avenue for a property owner to take against government overreaching on property rights. Legislative action is necessary to ensure that the Harris Act continues to work to protect Florida citizens and businesses from government over-regulation.

IDENTITY THEFT

On Thursday, the House Public Safety and Crime Prevention Committee heard HB 1161, sponsored by Representative Leslie Waters (R-St. Petersburg), relating to identity theft and Internet fraud.

The committee amended the bill to mirror the Senate's version, SB 2596, sponsored by Senator David Aronberg (D-Fort Myers). This bill provides for penalties of first and second-degree felonies for crimes of identity theft committed under certain circumstances. It also enables Florida consumers to obtain two free credit reports a year.

AIF supports legislation that will protect consumers and businesses by promoting prevention and prosecution of identity theft and Internet fraud. These crimes cost businesses in Florida hundreds of millions of dollars a year. AIF will also monitor these bills to ensure that they do not impose wasteful or punitive burdens on business.

CIVIL RIGHTS ACTIONS

Today, the House Appropriations Subcommittee on Public Safety heard HB 215, sponsored by House Judiciary Committee and Representative Jeff Kottkamp (R-Cape Coral). This bill would allow the attorney general to file what are essentially class actions against businesses in the State of Florida, with demands for money damages, injunctive relief, and civil penalties when alleged acts of discrimination raise “an issue of general public importance” or when the attorney general “has reasonable cause to believe” that one or more persons is engaged in a “pattern or practice of discrimination as defined by the laws of this state,” even though no such definition exists anywhere in Florida Statutes.

The bill also provides that the attorney general is entitled to an award of attorney’s fees if the state prevails in one of these lawsuits, but no provision is made for an award of attorney’s fees to the defendant-company, if the attorney general loses on the merits of the case.

In committee, another amendment was added to the bill amending the Florida Civil Rights Act to broadly prohibit discrimination in places of public accommodation.

Art Simon, AIF Senior Vice President for Governmental Affairs, testified about deficiencies in the bill and concerns of the business community. He pledged, however, to work with committee members, the bill’s sponsor, and the attorney general to fairly redress all outstanding issues.

The bill passed on a unanimous vote.

At this time, AIF can not support this legislation because of ambiguous language that can precipitate costly litigation in an area already well-saturated by a myriad of state and federal laws and private causes of action.

- 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://fbnnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.