

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
WEEKLY UPDATE**



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FROM THE WEEK OF APRIL 12-APRIL 16, 2004

The 2004 legislative session is quickly drawing to a close with only two more weeks left in the 60 day session. Several committees held their last meetings this week as legislators began the budget conference process. It is expected that members will be meeting through the weekend in order to have a final budget ready in time for the end of session.

CONSTITUTIONAL AMENDMENT REFORM

On Monday, April 12th [Senator Jeff Atwater \(R-North Palm Beach\)](#) introduced [SJR 2898](#) and [SB 2890](#) in the [Senate Ethics and Elections Committee](#). Two weeks ago the full Senate approved the first three elements of their initiative reform package including a proposal for (1) an increased ratification threshold, (2) a judicial review and (3) an amendment to the deadline for submission of constitutional initiative by citizens. SJR 2898 is the fourth element in the reform package and is more commonly known as the "No Hidden Taxes" citizen initiative reform concept. SB 2890 is a companion bill for SJR 2898 which provides for an August 31st Special Election date.

SJR 2898 proposes that any amendment which would impose a *significant cost* to government would be required to create a new tax or user fee as a source of funding to implement it. A significant cost is considered to be any amount in excess of \$1 million. A supermajority is already required to approve taxes and fees raised outside the legislative process, therefore any new citizen initiatives that met the "significant cost" threshold would need to be approved by 2/3 of those voting in an election.

SJR 2898 and SB 2890 were passed by the Committee and will be heard next by the [Senate Judiciary Committee](#).

The House introduced and passed its initiative reform package on Wednesday, April 14th which included the "No Hidden Taxes" concept in the [Procedures Subcommittee on Ethics and Elections](#). Though similar to the Senate's reform proposals in concept, there are some significant differences in the chambers' versions. PCB PR 04-08, 04-09, 04-10, 04-11 and 04-12 by [Representative Joe Pickens \(R-Palatka\)](#) were introduced and approved along party lines. Each proposed committee bill becomes a joint resolution and will be heard once more during the [House Procedures Committee](#) before moving onto the full House. Described below are the reform concepts and how each chamber deals with them:

Ratification Threshold Increase: Both chambers are calling for an increase in the ratification threshold level for citizen initiatives from 50 + 1 percent to 60 percent or (three-fifths) which is to take effect on January 4, 2005 ([SJR 2392](#) & PCB PR 04-08). The major difference between the House and the Senate versions, and a major point of contention between the chambers, is that the House proposal applies the ratification threshold increase only to citizen initiatives. Under the House proposal, ballot measures proposed by the legislature or by any convention or commission would maintain the 50+1 percent vote threshold that is currently required.

Initiative Petition Timeline: Each joint resolution ([SJR 2394](#) & PCB PR 04-09) would extend the timeline between petition qualification and the General Election in an attempt to allow more time for public debate and for an interim legislative session to occur. The House version establishes a March 1st deadline (240 days) and the Senate version establishes a February 1st deadline (270 days).

Judicial Review: Both chambers seek to put an end to initiative proposals dealing with subject matter that may not be suitable for inclusion in the state's constitution ([SJR 2396](#) & PCB PR 04-11). The Senate proposal is potentially less restrictive than the House's version in that it limits petition issues to those that: alter, amend or repeal an existing article or amendment to the Constitution; address the fundamental rights of a citizen of Florida; and seek to create, implement or otherwise change the basic structure of state government, as determined by the Florida Supreme Court. The House resolution would limit initiative proposals to only those measures that "may not be advanced by general law," which means that if the legislature could pass a bill into law it would not be appropriate for the Constitution.

No Hidden Taxes: This reform provision is identical in each chamber's resolution ([SJR 2890](#) & PCB PR 04-10). The resolutions would require that any amendment or revision proposed by any manner to the state Constitution, which imposes a cost on state government greater than an amount equal to \$1.00 per capita per fiscal year (July 1 – June 30), must impose and identify a new tax or user fee to sufficiently fund the amendment or revision. Because the amendments would be forced to identify a new tax or user fee they would require a ratification threshold of at least two-thirds of those voting in the election.

AIF supports politically viable initiative reforms aimed at facilitating a more responsible process and at protecting the sanctity and supremacy of the state's Constitution.

WORKERS' COMPENSATION

The [Senate Appropriations Subcommittee on General Government](#) met on Tuesday, April 13th and considered [SB 2270](#) relating to the Workers' Compensation Joint Underwriting Association (WCJUA); this bill was the work product of the [Senate Committee on Banking and Insurance](#). [Senator Jeff Atwater \(R-North Palm Beach\)](#) sponsored a "strike everything" amendment which was the substance of what the subcommittee passed today.

The bill's intent is to address the growing deficits currently existing in Subplan D of the WCJUA that was created by the legislature last year. The problem with that Subplan is that it charges artificially low rates for coverage to the policyholders. Senator Atwater explained his amendment as encompassing the following five goals:

- To provide a \$25 million appropriation from the Workers Compensation Administrative Trust Fund (WCATF) to the WCJUA for funding current deficits, and to provide an additional \$10 million appropriation in the future if the current deficit grows.
- To replace the structure of the current WCJUA with a three tier approach, as opposed to the existing four Subplans:
- Tier One will be for policyholders considered to be good risks with premiums capped at 25% above the voluntary market premium plus a \$475 administrative fee. The premiums will be increased to actuarially sound rates once the WCJUA establishes sufficient loss history to set the rates for this tier.

- Tier Two will consist of average risks and new businesses with premiums capped at 50% above the voluntary market premium plus a \$475 administrative fee. These premiums will also be increased to actuarially sound rates once the WCJUA establishes sufficient loss history to set the rates for this tier.
- Tier Three will consist of all other policyholders and will charge actuarially sound rates. The policyholders in this tier will also be subject to additional assessments in the event that this tier incurs a deficit.
- Allow minimum premium or low payroll policies to be sold through the WCJUA for \$2,500 plus the \$475 administrative fee in Tiers One and Two until those tiers start to charge actuarially sound rates.
- Allow the WCJUA to be exempt from premium tax and assessments for the WCATF and Special Disability Trust Fund (SDTF).
- Expresses the intent to create a state-run workers' compensation fund if a legislatively created study commission does not believe that workers' compensation is affordable and available in the state by March 2005.

The intention to create a state-run fund is the most problematic portion of this bill. As AIF has reported over the last few weeks, creation of a state-run fund will only drive prices higher because private workers' compensation insurers will leave the state. Such a move would likely destroy Florida's workers' compensation market because the only insurer left would be the state-run fund and those rates would cripple the business community and the economy as a whole.

The other measures of the amendment now make this bill more similar to the current House legislation, [HB 1251](#) by [Representative Kim Berfield \(R-Clearwater\)](#). The House bill is different in the amount of money that is appropriated to cover the deficit for Subplan D and does not contain the provision addressing the minimum premium policies. The House bill also has additional measures to bring the WCJUA rates closer to an actuarially sound basis in a shorter period of time.

SB 2270 will be heard next by the full [Senate Appropriations Committee](#). The House bill is scheduled to be heard next by the [House Appropriations Subcommittee on Commerce and Local Affairs](#).

AIF will continue to work on this legislation in both the Senate and the House to oppose the creation of a state-run fund and instead create a workable solution for the WCJUA deficit that does not place a greater burden on employers.

The [House Insurance Committee](#) met on Thursday, April 15th and was scheduled to hear PCB IN-04-06, relating to Workers' Compensation Issues Affecting First Responders. This proposed committee bill was released by the committee the day before and provides increased benefits and attorney fees for first responders such as firemen, police officers, and EMS personnel. AIF worked tirelessly prior to the committee meeting to convince legislators that this bill would potentially thwart some of the cost savings incurred by last year's workers' compensation reform package (SB 50A) which just went into effect January 1, 2004. This legislation could open the door for other employees that might claim similar types of damages which could result in significant fiscal impact on Florida's workers' compensation system.

However, the committee had a very full agenda on Thursday. They heard a brief description of the bill from the staff analyst and then [Representative Kim Berfield \(R-Clearwater\)](#), House Insurance Chair, instructed that the time for the meeting had expired and the measure would be temporarily passed. Currently there are no other House Insurance Committee meetings scheduled through the end of session. However, an additional meeting will likely be scheduled. If that occurs, AIF will continue to work against this legislation in order to preserve the cost savings measures created last year.

AIF recommends that no changes be made this year to the current workers' compensation law inasmuch as the new reforms enacted last year have only recently gone into effect.

NATURAL RESOURCES

On Tuesday, April 13th SB 1316 relating to Alternative Energy by Senator Mike Bennett (R-Bradenton) passed the Senate Appropriations Subcommittee on Transportation and Economic Development. The bill creates the Florida Alternative Energy Technology Center and provides for its organization, purpose, and duties. The Committee adopted an amendment to delete the state appropriation of \$500,000 to the Center and also deleted language that would have transferred the State Energy Program from the Department of Community Affairs to the Department of Environmental Protection.

Currently, renewable energy research is conducted by state universities and by the Florida Solar Energy Center. The new Center created in the proposed legislation will be the principal alternative energy technology organization for the state. The Center will also be governed by a board of directors which will include representatives from government and the private sector.

AIF supports efforts to develop alternative energy technologies that will eventually help lower fuel prices for all employers and citizens in Florida. Florida should be a leader in this field.

TAXATION

On Wednesday, April 14th the [House Commerce Committee](#) held a workshop on [HB 1355](#) relating to Streamlined Sales and Use Tax by [Representative Jack Seiler \(D-Pompano Beach\)](#). This bill is designed to bring Florida law into compliance with the provisions of the Streamlined Sales and Use Tax Agreement (here in after referred to as the Agreement) and to enable Florida to petition for membership in the national Agreement. To participate in the Agreement, states must harmonize their sales and use tax laws with each other and to some degree, states must also simplify its administration. The Agreement was drafted by participating states, including Florida, through the Streamlined Sales Tax Project, which was formed by the National Conference of State Legislatures. This legislation will also put Florida businesses on a level-playing field by requiring out-of-state companies who are selling their products to Florida's resident via the internet, mail order, etc., by requiring these entities to collect and remit Florida sales tax to the Department of Revenue. Currently, Florida businesses are losing customers to these internet businesses because consumers are not being assessed sales tax on e-commerce purchases. Although laws adopted in compliance with the Agreement will apply to both in-state and out-of-state retailers, the laws are largely designed to increase compliance with state tax laws by out-of-state e-retailers.

The presentations were strictly for informational purposes and Representative Seiler indicated that 17 states already participate in the Agreement and Florida should be the 18th state to join. [Representative Jim Kallinger \(R-Winter Park\)](#) enquired why the legislature was discussing this issue now when it could be reviewed during the upcoming Tax Commission in 2007. The sponsor replied that Florida should join now and not wait any longer.

[Representative Bob Allen \(R-Merritt Island\)](#), although showing support for this bill, voiced concerns about the specific language and felt that Florida would be governed by language prepared by the other states in reference to what is to be taxed over the internet. Representative Seiler, staying on message, said that if Florida joined now they could take a seat among the players and thereby have a voice in the shaping of future policy decision concerning this issue.

AIF supports implementation of the statutory mechanisms needed to allow Florida to enter into the Streamlined Sales and Use Tax Agreement with other states. If a uniform national collection system is developed, Florida could equalize the treatment of all retail vendors regarding the assessment and collection of state sales tax.

On Thursday, April 15th [HJR 385](#) relating to Limitations on State Revenues and on Power of Legislature to Impose or Increase Taxes by [Representative Joe Negron \(R-Stuart\)](#) passed the House by a 74-43 vote. The resolution would place before the voters on the November ballot an amendment to the state Constitution that restrains the legislature's ability to impose or increase taxes, expand a tax base or repeal an exemption from taxes by requiring that such proposals be adopted by a two-thirds vote of the membership of each chamber in a separate bill.

The amendment would also cap the constitutional limitation on the amount of revenues the state can receive by setting the limitation at the level of actual revenue collections for the prior fiscal year, adjusted for growth using personal income growth as the indicator.

An impassioned debate prefaced the passage of this joint resolution which was not constrained by party lines. Representatives [Don Sullivan \(R-Largo\)](#) and [Kevin Ambler \(R-Tampa\)](#) joined a list of Democrats with concerns about the resolution.

Some of the points of contention included: that under this proposal it would take a 2/3 majority from both chambers to remove a sales tax exemption, that "personal income growth" is an inappropriate indicator for state spending, that proper legislative procedure may have been missed, and that public testimony was not heard before the bill hit the floor.

The merits of HJR 385 prevailed and were summarized by the sponsor of the resolution. He stressed that the bill had been properly heard in Appropriations and underwent debate on the floor, and that now the concept should be given to the voters to decide if they want to limit spending and impede the ability of the government to grow faster than Floridians' income. [Representative Bruce Kyle \(R-Fort Myers\)](#) reiterated that Florida already has a cap in the Constitution and that this amendment would effectively implement it.

AIF has serious concerns regarding the impact of this proposal on funding the necessary functions of government. While it might sound good on the surface, government needs the ability to fund its necessary functions without unduly limiting the state's ability to react to whatever economic situations that exist. In a fast growing state like Florida with a limited tax base, and no state income tax, this could potentially hamper government's capability to spur the economy during recessionary times. AIF will continue to monitor and research this proposal as it moves through the process.

HEALTH CARE CONSUMERS RIGHT TO KNOW ACT

On Thursday, April 15th the [House Insurance Committee](#) unanimously passed [HB 701](#), by [Representative Donna Clarke \(R-Sarasota\)](#), after a “strike everything” amendment was adopted. Now the new version of the Health Care Consumer's Right to Know bill simply amends current statutes in the Patient's Bill of Rights. With the amendment, non-state hospitals shall place pricing information on their hospital website and a link to the performance outcome and financial data that is published by the Agency for Health Care Administration (AHCA). Also each hospital shall provide a written good-faith estimate of reasonably anticipated charges upon request by the patient. The patient will also be able to review all billing records for accuracy within 30 business days after the request. The new language now includes pharmacy information as well. HB 701 will be heard next by the [House Health Appropriations Committee](#).

AIF supports legislation that would allow the citizens of Florida to make better informed choices about where they get their care and how their health care dollars are spent. Increasing consumer access to pricing and performance data should drive competition between health care providers thereby reducing the cost of health care for employers and their employees.

CIVIL JUSTICE

The [House Future of Florida's Families Committee](#) debated [HB 1287](#) relating to the Financial Protection for Elderly Act by [Representative Marco Rubio \(R-Miami\)](#) on Thursday, April 15th. This bill makes the financial exploitation of an elderly person unlawful and creates a civil cause of action against banks, insurers and other financial institutions for so called financial exploitation of any person over 60 years old. Representative Rubio presented the bill but asked that the bill be temporarily passed. He spoke to the attributes of the bill but admitted that he felt the issue should be studied over the summer and be brought up next session.

The committee agreed that this issue was very important and all supported it, many even offered help and support in bringing it up next year. [Representative Sandra Murman \(R-Tampa\)](#) asked if it would even be possible to add disabled persons to the language at a later time. This was supported by the committee and the sponsor. The bill was temporarily passed but will no longer be debated during the 2004 session.

AIF is always in favor of providing the maximum protection by law for Florida's elderly population, however, AIF opposes this legislation at this time because of its overly broad language which encourages speculative lawsuits against financial institutions that do business with the elderly.

- 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.