

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
WEEKLY UPDATE**



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## 2004 SESSION WRAP-UP REPORT

### TAXATION

AIF actively lobbied several taxation bills this session. It seemed that several proposals would see the light of day, but as the session progressed many of the bills dealing with tax reform lost their momentum.

**Intangible Tax:** This year HB 791 was filed by Representative Randy Johnson (R-Celebration) to reduce the existing intangible tax to .66 mills on January 1, 2005, to .33 mills on January 1, 2006 and to zero on January 1, 2007. Although this proposal was one of the cornerstones of the of the Governor's proposals to decrease taxes on investments and to spur economic growth, the bill died on the calendar after passing both of its committees of reference due in part to a breakdown in negotiations between the Senate and the House.

*Final Status: HB 791 died on the House Calendar.*

**AIF supports legislation that increases economic activity by decreasing taxes for individuals and business on investments.**

**Streamlined Sales and Use Tax:** AIF and the business community continues to support legislation that would equalize the treatment of all retail vendors regarding the assessment and collection of state sales tax on all e-commerce and e-retailers doing business in Florida. Unfortunately, the vehicle for such reform, SB 1072 by Senator Skip Campbell (D-Tamarac), was derailed this session.

This bill adopts definitions and procedures to streamline Florida's sales tax system as it relates to e-commerce. Thirty-nine states and the District of Columbia have already adopted such legislation. This legislation would have put Florida businesses on a level-playing field with out-of-state companies who are selling products to Florida's residents via the internet or mail order catalog by requiring these entities to collect and remit Florida sales tax to the Department of Revenue. In this case the Senate was in favor of this legislation, but its passage was thwarted by House Speaker Johnnie Byrd (R-Plant City) who considered this proposal to be a "new" tax.

*Final Status: SB 1072 died in House messages.*

**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, the State of Florida could equalize the treatment of all retail vendors regarding the assessment and collection of state sales tax.**

**Substitute Communications Tax:** Another proposed tax reform which AIF aggressively lobbied in favor of was passage of SB 2302 by Senator Mike Haridopolos (R-Melbourne). In its original form the bill outlined an outright repeal on the collection of an outdated, un-enforced tax on substitute communication systems such as computer networking systems, two-way radios and intercom systems. The Department of Revenue (DOR) started the rule making process last summer to implement collection which would effectively result in the imposition of a “new” tax on virtually every business and many households in the State. However, since DOR has so many problems trying to write a rule, they decided to wait on direction from the legislature on how to proceed.

SB 2302 became one of four items in a budget compromise between the Senate and House in the last days of the session. The bill was amended to include a House measure which would create a moratorium on any telecommunication rate increases by the Public Service Commission (PSC) for a period of one year or until May 10, 2005. It was rolled over to third reading but was temporarily postponed and the session adjourned before any further action was taken. Now with non action of the legislature, DOR will begin the rule making process again.

*Final Status: SB 2302 died on the Senate Floor.*

**AIF supports legislation to permanently repeal this “new” tax which would harm the ability of businesses in Florida to compete.**

The suspension of the substitute communications tax was also a part of SB 2218, the Department of Revenue legislative package by Senator Gwen Margolis (D-Miami Beach). This bill passed the Senate unanimously on the last day of Session, but was not considered by the House. The House Democrats lead by Representatives Suzanne Kosmas (D-New Smyrna Beach), Chris Smith (D-Ft. Lauderdale), and Jack Seiler (D-Pompano Beach) tried to get the attention of the House Leadership, especially the Speaker, to have SB 2218 heard in the House for final passage. All of their efforts fell on the deaf ears of Speaker Byrd.

*Final Status: SB 2218 died in House messages.*

**AIF supports legislation to permanently repeal this “new” tax which would harm the ability of businesses in Florida to compete.**

**Sales Tax Relief Act:** On the last day of session the Senate took up SB 244/1566 by Senator Anna Cowin (R-Leesburg) and adopted two conforming amendments before substituting it for HB 237 (Florida Sales Tax Relief Act), its House companion bill.

The bill provides that no sales tax will be collected, on the sale of clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, having a selling price of \$100 or less or on the sale of school supplies having a selling price of \$10 or less during the nine-day period of July 24 through August 1, 2004. Additionally, it provides an eight-cent decrease in the price of gasoline sales for the month of August.

While the Senate was not convinced of the effectiveness of this bill, they were compelled to pass it since the bill's impact was already tied to the budget bill and so voting it down may have delayed passage of the budget

*Final Status: HB 237 passed the Senate and the House; on the way to the Governor.*

**AIF strongly supports increasing business activity by allowing Floridians to purchase certain clothing, accessories, and school supplies without having to pay sales tax.**

## **HEALTH CARE**

Issues relating to health care were a big part of the 2004 session. AIF supported two pieces of legislation which should have a positive impact on the business community once they are signed into law.

Within the first week of session, both chambers debated and passed SB 2000 that would appropriate \$6.5 million in state money and millions more from federal dollars to provide subsidized health insurance for up to 90,000 children on a waiting list for the popular KidCare program. The measure also changes the eligibility standard which will limit the number of those eligible for the program. Democrats in both chambers tried unsuccessfully to pass several amendments to the bill that would fund outreach programs designed to raise awareness about new open enrollment periods. Other defeated amendments would have fully funded KidCare at existing levels.

*Final Status: SB 2000 was signed by the Governor.*

**AIF supports expanding access to KidCare as long as safeguards are put in place to make sure that parents with health insurance are not dropping their coverage in order to receive subsidized care for their children.**

Another important piece of health care legislation was HB 1629 relating to Affordable Health Care by Representative Frank Farkas (R-St. Petersburg) and its Senate companion SB 2910 by Senator Durell Peaden (R-Crestview). This legislation incorporates many of the recommendations of the Governor's Health Insurance Task Force and the House Select Committee on Health Insurance. Both groups met throughout the state during 2003 for purposes of receiving input from employers, health care providers, insurers, and other stakeholders. AIF was an active participant in all of these meetings on behalf of the business community. HB 1629 contains the following provisions which will help the availability and affordability of health insurance:

- expanding the Health Flex Program statewide as a means of offering basic, low-cost health care coverage to uninsured workers who have low incomes;
- creating the Florida Health Insurance Plan (a high risk pool for uninsurable medical risks);
- creation of an actuarial review as to the establishment of a health plan for uninsurable and HIPAA-eligible individuals (the actuarial review will provide the 2005 Legislature with amounts needed from the State's General Revenue Fund to implement and subsidize the plan);
- encouraging the use of evidence-based medicine;

- encouraging the development of an electronic medical record that could be used statewide to facilitate timely access to a patient's medical records in the case of emergencies and the reduction of medical errors and;
- facilitating the offering of Health Savings Accounts by insurers which under recent Federal Legislation allows individuals to save pre-tax monies to meet medical needs.

AIF was successful in defeating two bad amendments to this good bill. The first would have provided for assessments on the premiums of insurers and self-insurers to fund any deficits within the proposed high risk pool. The second bad amendment would have implemented a new health insurance mandate for rehabilitative service for congenital speech and hearing conditions.

During the last week of session, language was added to HB 1629 that included a version of HB 701 the Health Care Consumer's Right to Know Act by Representative Donna Clarke (R-Sarasota). AIF has been a vocal and active member of HealthCheck, an advocacy coalition of organizations that supported this bill (HB 701) throughout the session. HB 701 was a measure that would require the State of Florida to make the price and performance data it already collects on Florida's hospitals available to the public on the internet.

Although not all of the original provisions of HB 701 were ultimately adopted, AIF was pleased that Chairman Farkas included issues of transparency and access to health care data including performance information and health care procedure prices in his landmark health insurance package (HB 1629).

*Final Status: HB 1629 passed both the Senate and House; on the way to the Governor.*

**AIF supports legislation that allows employers to provide or expand access to high-quality, affordable health benefits for their employees without additional government intrusion or expensive mandates. Programs such as Health Flex provide a way to address the health care needs of Florida's working poor.**

## CONSTITUTIONAL AMENDMENT REFORM

This year, both the Senate and the House identified as a top priority the, development of comprehensive constitutional amendment reform packages aimed at dramatically altering the process by which Florida's constitution is amended. Both chambers created select committees charged with the responsibility of identifying the problems with the initiative process and creating politically viable reform options. Over the course of the summer, public input was collected as the select House and Senate committee members traveled around the state hearing from citizens and scholars.

The legislature moved forward under the leadership of Representative Joe Pickens (R-Palatka) and Senator Jeff Atwater (R-North Palm Beach). Three separate "elements" in the form of Joint Resolutions were ultimately proposed by each chamber. In addition, the governor weighed in during the eleventh hour with reform logic of his own.

In the end, only one of the elements (SJR 2394) passed as negotiations between Senate and House leadership crumbled. Senate Joint Resolution 2394 which passed with near unanimous support, will amend the qualification deadlines of citizen initiatives allowing for some legislative interaction or preemption. Of all the reform proposals put forward this year, SJR 2394 was the least contentious.

- Senate Joint Resolution 2392 would amend Article XI, Section 5, and create Article XII, Section 26, of the Florida Constitution, to increase the vote necessary for passage from the current 50% + 1 to 60% of those voting on the proposed amendment. **SJR 2392 died on calendar.**
- Senate Joint Resolution 2394 would substantially amend Article IV, Section 10, and Article XI, Section 5, of the Florida Constitution. Any proposed amendment by citizen initiative must be submitted to the Secretary of State by February 1st in the year that the amendment would be voted upon in the November general election. **SJR 2394 passed both House & Senate; on the way to the Governor.**
- Senate Joint Resolution 2396 would substantially amend Article XI, Section 3, of the Florida Constitution to limit the scope of constitutional amendments and revisions that can be placed on the ballot by citizen initiative to include only those proposed measures that: alter, amend or repeal an existing article or amendment to the Constitution; address the fundamental right 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. **SJR 2396 died on calendar**
- Senate Joint Resolution 2890 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 greater than \$10 million, 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. **SJR 2890 died on calendar.**
- Along with these four resolutions were four linked bills (SB 2398, 2400, 2402, and 2898) which would implement an August 31st special election date for voting on these constitutional amendments. **All four of these bills died on calendar.**

## **ETHICS AND ELECTIONS**

Some new campaign finance legislation has come about with the passage of SB 2346 relating to the Advertising Campaign Exposure Act by Senator Tom Lee (R-Brandon). This bill addresses issue advocacy regulation, sponsorship identification disclaimers and reporting requirements for Committees of Continuous Existence (CCE's). The intent of this legislation and the apparent goal of bill's sponsor is to disclose contributors to advocacy campaigns and leadership funds. SB 2346 does not address campaign contribution limits or expenditure limits.

SB 2346 creates a definition for "electioneering communications" as paid issue advocacy advertisements affecting candidates or ballot issues that are run proximate to an election. Also for candidate ads, that are targeted to 1,000 or more persons in the district the candidate seeks to represent. The bill then regulates these issue advocacy advertisements in essentially the same manner as existing Florida law regulates political committees and persons making independent expenditures. SB 2346 would also apply disclosure regulations to "527" organizations and "501c4" organizations and their participation in the pre-defined "electioneering communications".

The bill would also close the loophole which allows CCE's to report contributions from their members on otherwise typical campaign finance reporting forms and conceal the identities of large donors. It does not, in any way, impose contribution limits towards CCE donors as once proposed. On the last day of session SB 2346 was substituted for its House counterpart, HB 1793, and passed unanimously on the House floor.

***Final Status: HB 1793 passed both the Senate and House; on the way to the Governor.***

**AIF supports responsible campaign finance legislation which requires identification disclaimers on “electioneering communications”.**

## **WORKERS’ COMPENSATION**

AIF worked diligently on four bills this session relating to workers’ compensation. First, HB 1251 and its Senate companion (SB 2270) relating to the workers’ compensation Joint Underwriting Association (JUA) was the highest workers’ compensation priority for AIF. Last year with the passage of the workers’ compensation reform bill, SB 50A, the legislature created Subplan D within the JUA to provide coverage for small employers, at an artificially capped rate of 25% above voluntary market premium. Because the JUA was not collecting enough premiums on these policies, primarily written within the construction industry, the JUA projected a current deficit of \$9 million, expected to reach \$36 million by the year’s end within this Subplan D.

AIF once again took the lead within the Coalition of Business and Insurance Industry in developing a compromise package that provides some relief for the projected deficits in the existing Subplan D of the JUA and revamps the JUA structure to classify policyholders based on the nature of the risk instead of on the size of the business.

HB 1251 ultimately passed the House and the Senate unanimously during the last day of session. The bill provides a transfer of \$10 million from the Workers’ Compensation Administration Trust Fund (WCATF) to the JUA for currently existing deficits in the plan. It also provides a funding mechanism whereby the JUA can get approval through the Legislative Budget Commission to set up a contingency reserve fund within the WCATF up to an additional \$15 million for any future deficits, based on the JUA’s cash needs. The bill subjects the JUA to two audits to be completed by the Auditor General to review its operations and the actuarial soundness of its claims reserving and administration. An earlier version of the senate bill did contain a provision creating a state fund study commission. Fortunately, that provision was never agreed to by the House and was not part of the final bill that passed.

*Final Status: HB 1251 passed both the Senate and House; on the way to the Governor.*

**AIF supports the proposals in this legislation which addresses solutions to the deficit in Subplan D of the WCJUA.**

The House and Senate also unanimously passed SB 1926 relating to Workers’ Compensation Rate Reform. This bill was a product of the Joint Select Committee on Workers’ Compensation Rate Reform that held several hearings over the interim to evaluate the availability and affordability in Florida’s workers’ compensation market. The bill provides the Office of Insurance Regulation (OIR) additional flexibility in approving rate deviations and allows insurers to offer the manual rate or a deviation rate to its policyholders based on underwriting guidelines. Additionally, the bill allows carriers to cover what would otherwise be JUA policies at the JUA rate without including those policies in the carrier’s consent to rate business that cannot exceed 10% of the business written. The bill also requires carriers to notify the OIR of any underwriting changes it anticipates that will have a significant impact on availability of coverage in the market. The bill further requires OIR to complete a report to the Legislature evaluating the level of competition in Florida’s workers’ compensation market.

*Final Status: SB 1926 passed both the Senate and House; on the way to the Governor.*

**AIF supports legislation that increases flexibility in rate making and expands access to workers' compensation coverage.**

AIF also followed HB 1999 relating to Workers' Compensation Benefits for First Responders which did not pass the Senate. This bill passed the House with a vote of 114-4, but never had a senate companion. Therefore, it was not heard in any Senate committee and could not be considered as a bill or an amendment on the Senate floor.

*Final Status: HB 1999 died in Senate messages.*

**AIF respects the fine work of our first responders, but is opposed to any legislation that increases costs to the workers' compensation system and provides a mechanism to thwart the reforms enacted last year.**

Additionally, the Senate Banking and Insurance Committee sponsored SB 2268 relating to glitches in the workers' compensation system which also failed. This measure was passed by the Senate but never had a House companion and was not heard in any House committee.

*Final Status: SB 2268 died in House messages.*

**AIF opposes this legislation because any changes to the workers' compensation statute has the potential to destroy the savings that last year's workers' compensation reform package, SB 50A, has already brought to Florida's employers. AIF will continue to work with legislators to preserve those savings.**

## **CIVIL JUSTICE**

AIF closely monitored SB 2092 relating to the Financial Protection for Elderly Act by Senator Alex Villalobos (R-Miami) and its House counterpart HB 1287 by Representative Marco Rubio (R-Miami). These bills would have created a civil cause of action against banks, insurers and other financial institutions for so called financial exploitation of any person over 60 years old.

Concerns over SB 2092 and HB 1287 centered around two main issues: the fact that the age requirement of 60 years was too young and should be raised to 65, and that the language in the bill was overly broad granting too much leeway for trial attorneys to sue financial institutions. AIF lobbied successfully against this proposed legislation on the basis that it would encourage speculative lawsuits.

*Final Status: SB 2092 died in the Senate Appropriations Subcommittee on Criminal Justice; HB 1287 was temporarily postponed by House Future of Florida's Families Committee.*

**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.**

## ECONOMIC DEVELOPMENT

On the economic development front, AIF followed SB 1174 by Senator Mike Bennett (R-Bradenton) relating to the Developments of Regional Impact (DRI) process. The DRI program is a vehicle that provides state and regional review of local land use decisions regarding large developments that because of their character, magnitude, or location, would have a substantial effect on the “health, safety, or welfare” of the citizens of one or more counties.

Originally this bill was intended to cut down on the amount of red tape involved in this costly and time consuming process (applications can take over a year to approve and costs to developers can exceed tens of thousands of dollars). Senator Bennett brought together the business community, government, and the environmental community in order to produce a piece of legislation that would address the concerns of all entities involved. Unfortunately, all sides were not able to agree on a final product and the bill was significantly altered. As amended, the bill would have created a study commission consisting of appointees by the Governor, Senate President, and House Speaker which would produce a report by January, 1, 2006 on growth management and the DRI process.

*Final Status: SB 1174 died in House messages.*

**AIF supports legislation that cuts red tape, streamlines the permitting process, and keeps the cost reasonable for developments that bring responsible growth, infrastructure, and the goods and services that come with it.**

- 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.