

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
WEEKLY UPDATE**



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Weekly Session Update

GOVERNOR SUPPORTS IMPORTANT BUSINESS ISSUES IN THE STATE OF THE STATE ADDRESS

The Legislative Session opened Tuesday, March 8th amid the usual pomp and floral circumstance.

The highlight of the day, of course, was Gov. Jeb Bush's state of the state address, his seventh. In his speech, the governor spoke strongly in support of various key issues for Florida's employers which, if addressed should go a long way in strengthening Florida's business environment. Many of the issues raised by the Governor are in line with AIF's top priorities for the 2005 legislative session.

To read the full text of Gov. Bush's State of the State Address, [click here](#)

To view a video clip of the Governor's statement on tort reform, [click here](#)

To read the Democratic Rebuttal to the State of the State, [click here](#).

SUBSTITUTE COMMUNICATIONS SYSTEM TAX

Wednesday, March 9th the Florida House of Representatives took another step in passing HB 49 on second reading by Representative John Stargel (R-Lakeland), the bill to repeal the substitute communications systems tax. The bill was one of only 5 bills considered by the House that day.

Then on Thursday, March 10th the full House passed HB 49 unanimously on a 117-0 vote. This is the bill to repeal the substitute communications systems tax, which if allowed to be collected would tax many of the everyday communication systems in all of Florida's businesses and homes. AIF would like to thank Representative Stargel and all other bill sponsors for their yeoman's job on this important bill to the business community.

We are now 1/3 of the way through since the Senate must still consider their version of the bill. Now it is up to the Florida Senate to consider this important legislation. If this bill is not passed by the legislature this session, the Department of Revenue (DOR) will continue with the rule making process and could feasibly begin taxing their version of a "substitute communications systems" since the current definition is so vague. DOR may include items such as two-way radio communications; business and home computer networks, PDAs, and intercom systems as taxable items if this legislation is not passed.

AIF would like to thank Representatives John Stargel (R-Lakeland), Jeff Kottkamp (R-Cape Coral), Chris Smith (D-Ft. Lauderdale) and Jack Seiler (D-Pompano Beach) for their leadership on this issue.

AIF supports repeal of the substitute communications system tax because as the law is now written, any business with a computer network or an in-house telephone system may become subject to the communications services tax.

CONSTITUTIONAL AMENDMENTS

The House Judiciary Committee held a workshop on Wednesday, March 9th to discuss implementation of Amendments 7 and 8 to the Florida Constitution passed last November. Amendment 7 also known as the “Patient’s Right to Know About Adverse Medical Incidents Act” allows citizens access to medical information which in theory would allow them to make better healthcare decisions based on a health care facility or doctor’s track record regarding incidents of malpractice. Amendment 8 or the “Three Strikes, You’re Out” amendment would take away a physician’s license to practice medicine after being found to have committed 3 incidents of medical malpractice.

Chairman David Simmons (R-Altamonte Springs) presented the implementation language for amendments 7 and 8 and gave the committee an extensive presentation on the reasoning behind the language for both implementing bills. Chairman Simmons stressed that this was only the starting point and that he encourage all interested parties to submit any amendments to the implementation bills which would improve them.

Testimony was heard from Paul Jess of the Academy of Florida Trial Lawyers, who laid out several problems and concerns he had with the implementing bills, as well as representatives from the Florida Medical Association and the Florida Hospital Association who spoke in favor of the bills.

This exchange between proponents and opponents on these issues brought forth a comment from Representative Jack Seiler (D-Pompano Beach) who expressed his frustration by saying that he felt caught in the middle of a “food fight” between members of the trial bar and the FMA.

The committee also heard a presentation by Representative Joe Pickens (R-Palatka) on several proposed joint resolutions dealing with Constitutional amendment process. These included:

1. Changing the voting threshold necessary for the adoption of a Constitutional Amendment or revision to the Florida Constitution to at least 60% of those electors voting on a proposal.
2. Requiring that any amendment or revision proposed by citizen initiative that imposes a cost on the state, municipal or local government greater than one-tenth of one percent of the state budget must pass by at least 2/3 of those electors voting on the proposal, which is the same vote margin required for the legislature.
3. Limiting the subject matter of Constitutional amendments and revisions that can be placed on the ballot to include only those measures that:
 - Amend or repeal an existing section of the Constitution on the same subject and matter;
 - Address a right of a citizen of the state related to Article I of the Florida Constitution; or
 - Change the basic structure of state government as established in Articles II through V of the Florida Constitution

All three of these joint resolutions should sound very familiar since they were brought up and debated during last year's legislative session only to die on the floor the last week of session. Representative Pickens ran out of time and the bulk of the debate on these issues was heard during Thursday's meeting.

The House Judiciary Committee met again on Thursday, March 10th to vote on a series of proposed joint resolutions dealing with the Constitutional amendment and citizen initiative process. Representative Joe Pickens (R-Palatka) picked up from where he left off Wednesday and presented four proposals that would make amending Florida's Constitution much harder.

All four proposals passed but not without some debate from Democratic members. The first proposal would increase the threshold for passing a Constitutional amendment to 60%; currently Constitutional amendments only need a 50% + 1 margin to pass. Representative Dan Gelber (D-Miami Beach) presented an amendment to the joint resolution that would implement a statutory initiative alternative, as a way for Floridians to have an alternative to amending the Constitution. According to Representative Gelber, since the legislature was already making it more difficult to amend the Constitution another route was needed to ensure that the citizens of Florida could still amend their constitution. Under Representative Gelber's statutory alternative; initiatives would only require a 50% + 1 margin and fewer signatures than the current amendment process. In addition, under this proposed statutory alternative, the legislature would be able to amend any citizen initiative that was passed via the statutory process by a 2/3 margin of both houses for three years after the statute was passed. After the third year, the statute would be "in the books" and could not be amended.

This amendment was greeted with obvious skepticism by many members of the committee. Most of the debate centered on the fear of committee members that Florida would suffer from many of the situations faced in California, a state with a process that has led to hundreds of citizen initiatives being placed on the ballot every year. The result has been the consistent passage of populist initiatives, but with the reluctance to pay for such, which has led to California's financial mess. Representative Dennis Baxley (R-Ocala) raised other concerns including the question that if citizens and special interests were given the ability to pass statutes then why have a legislature at all?

After much debate the amendment failed, and the committee moved on to discuss the other three proposals.

The second proposed joint resolution would require that any amendment or revision proposed by the citizen initiative process that imposes a cost on the state, municipal or local government greater than one-tenth of one percent of the state budget must pass by at least 2/3 of those electors voting on the proposal, which is the same vote margin required by the legislature. This proposal was the most popular of the four and was passed without much debate.

The third proposed joint resolution would institute a subject matter "filter" as discussed previously. An amendment by Representative Gelber unsuccessfully attempted to remove specific references to any of the articles laid out in the proposal. His reasoning behind this amendment was that if the subject matter filter as proposed was adopted, Floridians would not be able to create any new rights for themselves such as recent popular policy ideas such as the smoking ban and class size reduction. They would be limited only to those rights previously enumerated.

The final and most controversial of the four proposed joint resolutions would require geographic equity. This joint resolution if approved by voters, would require that an amendment to or revision of the Florida Constitution proposed by citizen initiative, in addition to being approved by a majority of the electors voting on the amendment must also be approved by a majority of

those voting on the amendment or revision in at least half of the Congressional districts of the state. The present threshold for approval of an amendment by citizen initiative, other than one proposing a new tax or fee, is a simple majority of those voting on the proposal statewide.

Shortly after Representative Pickens presented this joint resolution, an amendment by Representative Jeff Kottkamp (R-Cape Coral) was taken up which would increase the threshold from a simple majority (50% + 1) to 60% of those voting on the amendment in at least 60% of the congressional districts of the state.

This amendment was supported by Representative Pickens and was ultimately passed in spite of the vocal opposition by Democratic members who expressed concerns over the unknown consequences of adopting this measure (no data was available to see how many amendments would have passed in recent years if this type of limitation was placed on the process).

In the end all four proposed resolutions were voted out of the Judiciary Committee and submitted as committee bills for further consideration.

AIF supports reforms to the process for amending the state Constitution by citizen initiative. Florida's Constitution is too easily manipulated by special interests, subverting the deliberation of public policy decisions and threatening the business community with the enactment of economically destructive programs and mandates.

TAXATION

On Friday, March 11th the House Finance and Tax Committee passed three taxation bills that are high on AIF's legislative agenda for the 2005 session.

The first of these bills was HB 101 Relating to Sales Tax Holiday by Representative Ray Sansom (R-Ft. Walton Beach). Since 1998 some version of this legislation has been filed in order to provide a period of time during which clothing valued under \$100 and school supplies valued under \$10 are to be exempt from any sales tax. The nine-day period would extend from July 23 through July 31. Similar legislation was passed during last year's session. Two amendments were adopted. The first one by Representative Sansom changed the amount of clothing exempted to \$50 or less. The second amendment adopted changed the bill from an ongoing exemption year after year to a one time event. This is the way this legislation has been passed during previous sessions, allowing the legislature to look at the budget and see if they can afford to give this "Sales Tax Holiday."

During the meeting, Representative Curtis Richardson (D-Tallahassee) presented an amendment which would add college text books and supplies to the list of exempted items. Several members of the committee expressed some concerns over this amendment because required supplies in college courses could include items like golf clubs, lap top computers, or other items not intended to be covered by the original bill. After much discussion, Representative Richardson agreed to withdraw his amendment in order to work on clarifying the language so that only college textbooks would be exempt from sales tax.

A handwritten, strike-all amendment was then introduced by Representative Ken Gottlieb (D-Miramar). This amendment would undo the original language in HB 101 and dramatically alter the bill to implement an across-the-board reduction in the state's sales tax of 1/4 of 1 percent. This strike-all amendment was not well received by Republican committee members. Representative John Stargel (R-Lakeland) asked what the fiscal impact of a proposal of this kind would be and what affect it would have on the funding of state programs. Needless to say, this strike-all amendment was viewed as a hostile amendment by the bill's sponsor and it was not adopted by the committee and the bill in its original form was passed.

HB 101 will now be heard by the House Fiscal Council.

AIF strongly supports increasing business activity by allowing Floridians to purchase essential school supplies without having to pay sales tax.

The next bill on the Committee's agenda was HB 27 Relating to Sales Tax Exemptions for Machinery & Equipment by Representative Matt Meadows (D-Lauderhill). This bill broadens an existing sales tax exemption for industrial machinery and equipment purchased for use in an expanding facility engaged in spaceport activities or for use in an expanding manufacturing facility, by eliminating a requirement that the business pay the first \$50,000 in sales taxes. This bill provides a full, rather than partial, sales tax exemption for industrial machinery and equipment purchases, when the business can demonstrate that the items will be used to increase productive output at the facility by at least 10 percent.

The state of Florida currently has over 16,000 manufacturing facilities; roughly 14,000 have 10 employees or less. Therefore, this type of exemption provides a much needed incentive to retain the current manufacturing facilities in our state as well as recruit new manufacturing plants to our state. Manufacturing inputs are currently assessed sales tax in Florida and the final product is taxed as well. This is not the case in several neighboring states, including Georgia, which have these exemptions on the books thereby creating an un-level playing field for our manufacturers.

Several groups including AIF and the Governor's office were present at the meeting in support of HB 27. This bill is vital to the growth of our state's economy and therefore is considered one of AIF's top priorities.

HB 27 received strong support from the members of the Committee and was passed without much debate. It will now be heard by the House Economic Development, Trade & Banking Committee.

AIF supports eliminating the requirement that businesses pay the first \$50,000 in sales taxes per calendar year on manufacturing inputs. Eliminating this requirement would level the playing field for Florida manufacturers and would improve Florida's ability to compete for higher paying jobs, which would lead to an overall net increase in state revenues.

The last of the taxation bills passed by the House Finance and Tax Committee was HB 963 Relating to the Intangible Personal Property Tax by Representative Fred Brummer (R-Apopka). Currently Florida statutes impose two different intangible personal property taxes: an annual (or recurring) tax is imposed at the rate of 1 mill on the value of stocks, bonds, notes, and other intangible personal property; as well as a non-recurring tax on obligations secured by liens on Florida realty at the rate of 2 mills. Individuals and businesses are currently obligated to pay an annual (recurring) tax on stocks, bonds, notes, governmental leaseholds, and interests in limited partnerships registered with the Securities and Exchange Commission (SEC). Current law exempts from the annual (recurring) tax \$250,000 for each natural person and \$500,000 for each natural person and spouse filing a joint return. The law also provides a \$250,000 exemption for corporations and other legal entities.

This bill repeals the 1 mill annual (recurring) tax imposed on stocks, bonds, notes, and other intangible property. No change will be made to the 2 mills non-recurring tax imposed upon obligations secured by liens on Florida property (mortgages and real estate transactions).

AIF supports efforts to repeal or modify the Florida Intangibles Tax. The lower we can get the intangibles tax, the better chance Florida has to attracting new business, which benefits the entire state economy.

BANKING AND INSURANCE

On Tuesday, March 8th the House Economic Development, Trade, and Banking Committee passed HB 381 by Representative Nancy Detert (R-Sarasota). This bill is the Office of Financial Regulation's (OFR) rewrite of the current banking code. The OFR has tried to pass this bill for three years. Among other things, the bill mandates electronic filing of required forms, raises the fee consumer finance companies can charge for credit checks from 10 dollars to 25 dollars, revises the fingerprint card process, and makes some licensing fee changes.

AIF lobbied Representative Detert to accept an amendment that was passed during Tuesday's meeting which limited a provision placed by the trial bar in the senate companion bill that would have allowed for the collection of attorneys fees when a lender fails to make escrow or tax payments resulting in harm to the borrower.

The senate version (SB 304) by Senator Jim Sebesta (R-St. Petersburg) allows for the payment of attorneys fees to enforce this provision beginning on the day the policy lapsed. The new amendment supported by AIF would allow for attorneys' fees if the lender refuses to reinstate the policy or pay the difference on a new policy within 90 days.

AIF will continue to closely monitor HB 381 and will continue to work with the sponsors on making this bill more palatable to the business community

On Wednesday, March 9th the Senate Banking and Insurance Committee decided to temporarily postpone SB 318 by Senator Gwen Margolis (D-Miami Beach) which would require health insurers to cover all home health care for policyholders with cystic fibrosis even if not medically necessary as long as their doctor orders the care. Former Miami Dolphins quarterback, Jay Fiedler testified on behalf of the bill, but it was postponed after much debate over additional costs to the system.

AIF consistently opposes additional mandated coverages because the resultant cost increases could force some insurers out of the marketplace and raise the minimum price of health care insurance for employers and businesses.

- 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.