

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
DAILY BRIEF**



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Taxation

The repeal of the intangibles tax saw action in both the Senate and House of Representatives today. HB 209 by Representative Fred Brummer (R-Apopka) was read a second time during session and is now ready for final passage in the House. Its Senate companion, SB 714 by Senator Jeff Atwater (R-North Palm Beach), was passed on a 7 to 1 vote in the Senate Banking and Insurance Committee and will now be heard by the Senate Government Efficiency Appropriations Committee.

Florida is at a disadvantage by having an intangible tax since only three other states have a similar tax. This bill repeals the 0.5 mill annual (recurring) tax imposed on stocks, bonds, notes, and other intangible property. No change is made to the 2 mills non-recurring tax imposed upon obligations secured by liens on Florida property.

AIF supports the repeal of the intangible tax. It is wrong to penalize businesses and individuals who save or invest their money. We need to make Florida competitive with other states by removing this insidious tax.

Growth Management

The House Growth Management Committee considered two bills relating to growth management during its meeting. HB 683 by Representative Trey Traviesa (R-Brandon) makes several changes to existing law governing developments of regional impact (DRI) as outlined below:

- Makes various revisions and additions to the existing statutory law pertaining to development orders and permits issued by local governments;
- Revises the definition of an “essentially built out development;”
- Provides bonuses for a developer providing a certain level of affordable housing;
- Revises the criteria under which a proposed change is presumed to create a substantial deviation requiring further review;

- Revises how certain statewide guidelines and standards are applied to determine whether a development must undergo DRI review;
- Amends the legislative findings and the definition of “recreational and commercial working waterfronts

Representative Traviesa offered several amendments to the bill. The first amendment increased the number of dwelling units by 50 percent of 200 units, whichever is greater, provided that 15 percent of the increase in the number of dwellings units is dedicated to the construction of workforce housing. The amendment also defines workforce housing.

Another amendment provides that an increase the number of residential dwelling units can not constitute a substantial deviation and can not be subject to the DRI review for additional impacts provided that all other residential dwelling units are dedicated to workforce housing.

A third amendment would provide that the residential development and the residential component for multiuse development shall be increased by 50 percent where the developer demonstrates that at least 15 percent of the residential dwelling units will be dedicated to workforce housing. All amendments were adopted by the Committee.

HB 683 will now be heard by the House Transportation & Economic Development Appropriations Committee.

AIF supports legislation aimed at making the DRI process more business friendly for developers by providing exemptions from the DRI review and increasing the thresholds that trigger the DRI review for newly proposed developments.

The committee also unanimously approved the introduction of its proposed committee bill HGM 1. The 2005 Legislature passed SB 360 a comprehensive rewrite of the growth management policies in our state. SB 360 was the subject of much negotiation during the last two days of the 2005 Session and was the last bill to pass both houses during the last hour of the Session. As a result, the bill contains a number of matters that may require correction or clarification.

This new “glitch” bill addresses three areas: “Proportionate Share”; Cross-Reference Clean-up; and Funding Adjustments. With regard to inconsistent use of the Term “Proportionate Share”, the committee recommended changing the term to “proportionate fair-share mitigation” rather than “Proportionate Share”. With regard to Cross-Reference Clean up, the committee recommended making changes to correct inaccurate citations. Finally, the committee recommended considering funding adjustments for transportation, education, and the Century Commission.

There were no amendments, however, the floor was open to further discussion as to what additional areas may be need to be met for further refinement. This could be done in a second glitch bill. These areas include, but not limited to, De Minimus Impact; Urban Infill, Charter County Exception Provision, Urban Infill Areas, School Concurrence, Capital Improvement Elements, Transportation Plan, Fiscal Impact Analysis Model, Schools Inter-local Agreements, DRI Exemptions, Century Commission, School Capacity and Land Use Amendments, and Financially Feasibility.

The proposed glitch bill strengthens the timing requirements for certain local government agencies and appropriated funding which provides the potential for some local governmental benefits. Both of these features may result in either advancing or delaying local development activities depending upon specific local circumstances.

AIF applauds efforts by the legislature to correct some of the areas of last year's landmark growth management law.

Energy

The Senate Communications and Public Utilities Committee discussed SB 888 by Senator Lee Constantine (R-Altamonte Springs). This is the Energy package proposed several weeks ago by Governor Jeb Bush. Since there was a new 144 page "strike everything" amendment in the package, Senator Constantine decided to discuss the new language with the committee and not take a vote until the committee's next meeting. There are five focus areas in the proposed legislation:

1. The creation of a 17 member Florida Energy Commission consisting of 9 voting members appointed by the Governor; Speaker and President and 8 non-voting members as specified in the bill. The Commission is to develop recommendations for a statewide energy policy based on reliability, efficiency, affordability and diversity and provides guidelines.
2. Creates the Florida Renewable Energy Technologies and Energy Sufficiency Act to provide grants to promote renewable energy technologies, including the Renewable Energy Technologies Grant Program, the Energy Efficient Appliances Rebate Program, and the Solar Energy Systems Rebate Program. Provides for sales tax exemptions and tax credits. Makes changes to the Power Plant Siting Act by streamlining and shortening time frames.
3. Nuclear Plant Siting – exempts proposed nuclear power plants from the Public Service Commission bid rule requirement of a competitive bid for power supply.
4. Transmission Line Siting Act – streamlines and shortens time frames on permitting process
5. Creates the Food to Fuel program to provide grants to promote use of Florida grown and produced biomass to produce energy and creates tax credits for in state producers of ethanol or biodiesel.

AIF applauds the governor's leadership on this crucial matter and the approach he has taken, which relies on incentives and removal of regulatory barriers, rather than new taxes or mandates. AIF looks forward to working with lawmakers to enact a package that will help Florida meet its future energy needs.

Legal and Judicial

The Senate Commerce and Consumer Services committee considered SB 1424 Relating to Negligent Hiring by Senator Ron Klein (D-Delray Beach). The bill was passed by a 7 to 1 vote, with Senator Jim King (R-Jacksonville) casting the only vote against the bill.

Current law provides a presumption that an employer did not engage in negligent hiring as long as the employer completes one of five steps during the hiring process to obtain information about the individual's background such as criminal history, interviewing the prospective employee, checking a driving records, checking references, or obtaining information about involvement as a defendant in intentional tort cases. Senator Klein's bill would require an employer to complete **ALL** five of the following steps to enjoy the protection of the presumption that it did not engage in negligent hiring:

1. Obtain a criminal background investigation on the prospective employee;
2. Make a reasonable effort to contact references and former employers of the prospective employee concerning the suitability of the prospective employee for employment;
3. Require the prospective employee to complete a job application form that includes questions concerning whether he or she has ever been convicted of a crime, including details concerning the type of crime, the date of conviction and the penalty imposed, and whether the prospective employee has ever been a defendant in a civil action for intentional tort, including the nature of the intentional tort and the disposition of the action;
4. Obtain, with written authorization from the prospective employee, a check of the driver's license record of the prospective employee if such a check is relevant to the work the employee will be performing and if the record can reasonably be obtained; and
5. Interview the prospective employee.

AIF expressed concerns to Senator Klein before the committee and again at the time of today's hearing over the burdensome cost that this legislation would place on all Florida employers. We also expressed concern that the bill makes no distinction in the types of jobs that an employee may be hired to do and whether such background information is truly needed or suitable to their employment. Senator Klein promised to work with the business community on the bill to make it more palatable before its next committee stop which is the Senate Judiciary Committee.

Senator Jim King (R-Jacksonville) also expressed concern that the legislation would hamper an employer's ability to make quick hiring decisions if the background information was not readily available.

SB 1424 will now be heard by the Senate Judiciary Committee.

AIF will continue to work with Senator Klein and other legislators on this issue to clarify the employer's responsibilities and minimize the financial and legal burdens that this legislation could create.

OTHER BILLS OF INTEREST

Building Codes

The Senate Community Affairs Committee unanimously approved SB 1774 Relating to Building Codes by Senator Lee Constantine (R-Altamonte Springs). The Florida Building Commission is authorized to adopt and maintain the Florida Building Code as the technical regulation of construction activity throughout the state. The Commission's charge includes annual amendments and triennial updates wherein the Commission integrates previously adopted amendments, local amendments meeting a statutory threshold, and its declaratory statements with the newest edition of the model code upon which the Florida Building Code is based. The first triennial update of the code (the "2004 Florida Building Code") became effective in October 2005. The Commission is also charged with several means of interpreting the codes.

The bill implements a number of recommendations proposed by the Florida Building Commission relating to the Florida Building Code. The bill authorizes the commission to amend the code to implement revised wind-design standards for new construction in the state, including the windborne-debris requirements applicable to the region from the eastern border of Franklin County to the Florida-Alabama line. This bill also allows the Commission to define "exposure category C" within the code, and implement an expedited code development process for specified categories of amendments. Finally, the bill restricts interpretations of the Florida Accessibility Codes for building construction.

There were two amendments to the bill. The first amendment by Senator Mike Haridopolos (R-Melbourne) added compromise language relating to the wind-design standards for new construction. The second amendment by Senator Mike Bennett (R-Bradenton) was based upon agreements with building officials to provide for the use of private providers of building code inspection services following commencement of construction. Both amendments were adopted.

The Department of Community Affairs estimates that the bill will result in an increase in the cost of construction, but the increase may vary depending on the Building Commission's utilization of the authority granted. It is indicated that design and construction to withstand internal pressure results in minimal cost increase of a home, and use of shutters and other impact resistant openings can likely be achieved at a cost of approximately \$2,000 per home. These costs could ultimately be passed on to the consumer in the sales price of the building, but could be offset over time by savings on insurance.

SB 1774 will now be heard by the Senate Regulated Industries Committee.

Affordable Housing

The House Growth Management Committee unanimously passed HB 1363 Relating to Community Workforce Housing Program by Representative Mike Davis (R-Naples). The bill is designed to stimulate workforce and affordable housing in high cost areas of the state, particularly for essential personnel. This includes teachers, nurses, firefighters, emergency medical personnel, construction trades and areas of critical state concern.

The Florida Association of Realtors raised an issue related to appropriateness of data collected on the basis of counties as opposed to Metropolitan Statistical Areas (MSAs). The Florida League of Cities raised issues related to Ad Valorem taxation and making surplus land available for workforce housing. The sponsor offered to work with all interested parties.

HB 1363 will now be heard by the House Local Government Council.

The committee also unanimously approved HB 1309 Relating to Local Housing Assistance by Representative Ed Jennings (D-Gainesville). This bill aids workforce housing by providing homeownership down payment assistance to “essential service personnel” and “building trades personnel”.

The bill also provides \$960 million dollars in incentives for the private and public sector development of affordable and workforce housing opportunities including William Sadowski Funds to increase family stability, self support, and management. This bill works in tandem with HB 1363 to stimulate workforce housing in Florida.

HB 1309 will now be heard by the House Local Government Council.

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