

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
DAILY BRIEF**



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GUNS IN THE WORKPLACE

The House Judiciary Committee heard HB 129 which has commonly become known as the "guns in the workplace" bill. Committee Chairman David Simmons (R-Altamonte Springs) is the bill sponsor. At the outset of hearing the bill, he reminded the committee that this was the sixth time that this bill had been on the committee's agenda and all the interested parties had been working to form consensus during those weeks. Chairman Simmons presented a strike all amendment that included a provision as follows:

An employer or its lessor may prohibit an employee or invitee from transporting, storing or possessing a firearm on property owned, leased or controlled by the employer or its lessor, or from transporting, storing or possessing a firearm in any motor vehicle owned, leased, or rented by the employer *when reasonably necessary for the safety and welfare of employees, invitees, or the general public, or to safeguard business operations.*

The italicized language was the subject of the most debate during this committee, because Representative J.C. Planas (R- Miami) filed an amendment to Chairman Simmons' amendment that would have removed these lines. Ms. Marian Hammer, representing the National Rifle Association (NRA), testified that if the Planas' amendment was adopted, that would allow employers to continue to enforce policies prohibiting firearms on their premises as they are currently able to do under state law. Representative Jack Seiler (D-Pompano Beach) commented, though, that the decision whether a policy was "reasonably necessary" was subject to interpretation by an unknown party. Under the bill, the interpretations would possibly be determined by a court or possibly by the Attorney General, which could also lead to additional litigation for employers or lessors. Rep. Seiler also pointed out that this version of the bill included lessors, like shopping center owners, who were not present at the committee meeting or involved in any negotiations before the meeting. Representative Planas eventually agreed to withdraw his amendment in order to let the bill pass out of the Judiciary committee so that the legislators and other groups could continue to discuss and work on the issue in other committee stops.

In addition to the issue referenced in the Planas' amendment, the strike all amendment filed by Chairman Simmons also contains language that may still leave employers vulnerable to additional litigation. The bill expressly provides immunity to the employer or lessor from any direct or indirect liability from the discharge or threatened use of a firearm on its property in accordance with this legislation. However, the immunity does not extend to the employer or lessor's "conscious and flagrant indifference to the safety of the person or persons harmed." This phrase appears to leave employers open to additional litigation.

The Simmons strike all amendment was adopted by the committee unanimously. However, the bill passed the committee by a vote of 8-2, with Representative Seiler and Representative Curtis Richardson (D-Tallahassee) voting against the bill.

The bill is next referred to the Agriculture Committee and the Justice Council. The Senate companion, SB 206, has not yet been heard in any of its committees of reference.

AIF opposes legislation that prohibits businesses from enforcing or maintaining policies that ban guns in the workplace. Employers should be allowed to establish these types of policies and exert their rights as property owners. Maintaining a safe work environment is paramount for the longevity of any employer in Florida. We continue to be opposed to the bill even with today's amendment.

LEGAL REFORM

The House Health Care General Committee passed HB 1592 by Rep. Fred Brummer (R-Apopka) by a vote of 7 - 1. The bill requires out of state expert witnesses in medical malpractice cases to obtain an expert witness certificate from the Board of Medicine before they can testify as an expert witness. The bill also outlines that once certified, expert witnesses may be subject to discipline by the State Board for false, fraudulent or misleading testimony. There were four amendments adopted to the bill which were all supported by the sponsor. Representative Alan Hays (R-Umatilla) had three amendments which he thought would strengthen the bill, but they were withdrawn at the request of Representative Brummer.

The bill was supported by the various medical associations and opposed by the Academy of Florida Trial Lawyers, as unnecessary legislation and would only serve to discourage out-of-state experts from testifying in cases where a medical malpractice victim could not get a Florida physician to testify against another Florida physician. The medical community testified that the purpose of the bill was to establish a system by which out-of-state physicians could be held accountable for their testimony in a medical mal-practice case.

AIF supports legislation aimed at regulating expert medical witnesses. Achieving this type of oversight will bring about increased reasonableness, fairness, and predictability to our state's legal system.

TAXATION

SB 1206 by Senator Jeff Atwater (R-North Palm Beach) received a favorable vote from the Senate Committee on Government Efficiency Appropriations today. This is the “Florida Manufacturing Global Competitiveness Act.” It expands the sales tax exemption from a partial to a full exemption for machinery and equipment used by expanding facilities as long as they increase input by 10%. Currently, the machinery and equipment is exempt from sales tax in excess of \$50,000. It also expands the sales tax exemption to machinery and equipment used by expanding businesses that manufacture tangible personal property pursuant to federal procurement contract.

HB 1206 now goes before the House General Government Appropriations 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 Senate Government Efficiency Appropriations Committee approved SB 962 by Senator Mike Fasano (R-New Port Richey). This bill gives a sales tax exemption for machinery and equipment predominately use for research and development. The bill now goes to the Transportation and Economic Development Appropriations Committee.

AIF supports removing taxes on machinery and equipment used for research and development because it is sensible tax policy and would improve Florida’s chances of recruiting and retaining the most advance research and space facilities in the country.

The House Fiscal Council passed HB 691 by Rep Joe Negron (R-Stuart) by a 19-3 vote. This legislation gives a one week holiday from sales tax for any personal item costing \$5,000 or less. If passed, this would be the largest tax break in Florida's history.

AIF supports this bill. The timing of the sales tax holiday would give parents a chance to purchase a computer for their child before they head back to school or allow them to purchase home improvement items such a refrigerator, washer or dryer. This type of sales tax holiday would provide a spark for Florida’s economy.

The Senate Committee on Governmental Efficiency Appropriation passed SB 714 by Senator Jeff Atwater (R-North Palm Beach) by a 5-1 vote. This is the repeal of the intangible personal property tax. Its House companion, HB 209, has passed the House and is in Senate messages.

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.

INFORMATION TECHNOLOGY

The House State Administration Appropriations Committee passed HB 7185 by the Governmental Operations Committee by a vote of 5-2. This is the House's version of the procurement bill on outsourcing contracts that is the companion to SB 2518 by Senator Nancy Argenziano (R-Crystal River). The bill creates a governor appointed seven-member Council on Efficient Government within the Department of Management Services (DMS). The Council reviews, establishes policy and consults on outsourcing projects initiated by state agencies. Cabinet agencies are expressly included in these requirements.

Chairman Kim Berfield (R-Clearwater) offered five amendments to the bill. The first amendment sets minimum qualifications for certification as a negotiator, the second amendment expanded the requirements of the Council's report to the Legislature on the outsourcing efforts of each state agency to include performance results and program effectiveness and as applicable, contract violations and project slippage, the third amendment was technical, the fourth amendment expands the required provisions of an outsourcing contract to include compliance with the public records law of the state and the posting of a bond or letter of credit in an amount determined by the department, plus several other onerous requirements, and the fifth amendment cuts the appropriations from \$1.25 million and 10 positions to \$750,000, and 8 positions.

After the amendments were passed, Representative Franklin Sands (D-Weston) asked why DMS was going to head up the newly created Council when the bill was vetoed last year because it did not give the Agency's enough authority. Rep. David Rivera (R-Miami) answered that this provision was a compromise agreed by all interested parties.

Representative Julio Robaina (R-Miami) asked about the length of a contract being as long as 5 years, asserting that they should not be so long. Representative Rivera agreed that this might need to be addressed and that he would work with Representative Robaina to deal with his concerns.

HB 7185 will now be heard by the House State Administration Council.

As was mentioned above, SB 2518 the Senate companion was also considered today. It was unanimously passed today by the Senate Ways and Means Committee. SB 2518 will now be considered on the floor of the Senate.

Frank Meiners testified in support of both bills on behalf of AIF's newly created **IT Council**.

AIF supports legislation aimed at improving the procurement process for outsourcing contracts. Establishing strict norms and procedures should go a long way in benefiting companies whose main business is to provide these types of services for state government.

ECONOMIC DEVELOPMENT

The Senate Education Appropriations committee unanimously passed SB 2580 Relating to Aerospace Industry by Senator Mike Fasano (R-New Port Richey). This bill will create a new Space Florida entity which will bring an increase in the space research and development taking place in Florida. The bill also defines that Space Florida will be located in the vicinity of the current location of Kennedy Space Center, requires Space Florida to create a business and marketing plan, and expands the exemption sales and use tax on certain machinery and equipment. There was an amendment offered to move the board of the new space entity from an eight member board to a seven member board. This amendment passed, and will make board votes easier by assuring that there will never be a tie. Several people stood to speak in support of the bill including Frank Meiners, on behalf of AIF's **IT Council**.

Rep. Leslie Waters (R-St. Petersburg) presented HB 1489 Relating to State's Aerospace Industry during the House Fiscal Council's meeting today. Unlike in the previous committee, Rep. Waters faced no opposition over the bill. It is similar to the Senate companion, SB 2580, in that it creates Space Florida as a new entity, draws out certain proximity to Kennedy Space Center as the location for Space Florida, and expands tax exemptions. There were two amendments adopted one of which was technical, and the other was explaining appropriations to NASA, for commercial spaceports, and for operational needs. The House version does differ from its Senate companion in that it does not reduce the number of board members from 8 to 7.

AIF supports legislation that will keep Florida in the forefront of space exploration for the country, and adds great economic growth to Florida through job growth and tourism. The legislation will bring economic development to the state through increased job availability, and tourism.

The House Finance and Tax Committee unanimously passed HB 7055 by the Economic Development, Trade and Banking Committee. Those businesses interested or involved in enterprise zones should take note that while the measure prevents some double dipping tax exemption situations that were glitches in last year's substantive re-enactment of the enterprise zone act, it also provides a couple of needed changes to help business.

Most importantly is the notice of proposed zone boundary changes which requires that a local government intending to seek an enterprise zone boundary change provide written notice to all property owners and businesses that may be excluded by that change. Currently no notice is required.

The bill also provides a limited two-year grandfather period for projects involving the rehabilitation of real property that were excluded from an enterprise zone because of the 2005 revision to the law. That provision becomes applicable if the area in which the project was located fell short by five or fewer percentage points of the required poverty thresholds.

This was the bill's first hearing and it now must pass the Transportation and Economic Development Appropriations Committee and the Commerce Council before it can go to the House floor. The companion bill, Senate bill 1132 by Senator King, has passed two committees and also has two more stops to go.

AIF supports legislation which strengthens Florida's Enterprise zone laws. Enterprise zones help create jobs and enhance good economic growth for Florida, especially in areas of the state that historically have not attracted industry or economic activity, by providing incentives and tax breaks to businesses that relocate to these zones.

ETHICS AND ELECTIONS

The House Transportation and Economic Development passed HB 773 Relating to the Petition Process by Rep. Dudley Goodlette (R-Naples). Rep. Goodlette presented a strike-everything amendment to the bill, which follows the language in SB 720 by Senator Bill Posey (R-Rockledge). The original bill included some very onerous limitations on those persons who collect petition signatures; the strike all does not. Additionally, the original bill invalidated petition forms that did not comply with the law; however, the strike all gives voters the right to correct information. The strike all also eliminates the new criminal penalties contained in the original bill.

Rep. Goodlette indicated that the significant changes to the bill were precipitated by the Senate's failure to pass a similar bill – SB 1244 by Senator JD Alexander (R-Lake Wales). SB 1244 was strongly opposed by a wide variety of citizen and private groups. This strong opposition is what prompted Senator Posey to file his version of the bill, SB 720.

The strike-everything amendment requires that petition signatures be verified on an individual basis; allows a court challenges for allegations of improper validation; codifies the rule that the petitions are political advertisements; gives organizations 35 days to submit petitions to the supervisor of elections; requires the supervisor of elections to verify petitions within 30 days after receipt; requires paid signature gatherers to wear badges identifying themselves as a paid gatherer; and allows property owners to permit or prohibit petition signature gatherers from collecting signatures on their property.

Representative Ed Jennings (D-Gainesville) asked Representative Goodlette what affect the bill would have on existing petitions. Representative Goodlette explained that the any petitions verified prior to August 1, 2006 would not be affected by the bill.

Representative Randy Johnson (R-Winter Garden) spoke in favor of the bill. Representative Johnson believes that the bill helps protect the will of the people by protecting the validity of their signatures.

HB 773 has one more committee of reference, the State Administrative Council.

AIF applauds the efforts of Rep. Goodlette and Senator Posey to draft language which addresses the need for regulation in the petition gathering process, but does so without onerous provisions and criminal penalties.

JESSICA LUNSFORD ACT

The Senate Committee on Governmental Oversight & Productivity approved SB 2280 by Senator Nancy Argenziano (R-Crystal River). This legislation makes changes to last year's Jessica Lunsford Act with regards to the background screening of non-instructional contractors. There was a strike everything amendment that incorporated additional changes with regards to the Department of Law Enforcement. The additional language authorizes the Florida Department of Law Enforcement to retain fingerprints submitted by the school districts and search for sexual predators and sexual offenders. School districts may participate in the search process done by FDLE. Among some of the provisions still found in the amended legislation are:

- Continuation of Level 2 background screening for certain school contractors
- A list of offenses that disqualifies a contractor from having access to school grounds when students are present
- Immunity from civil and criminal liability for those persons who share Level 2 background check information in good faith
- Caps fees of Level 2 background checks at no more than 30% of total state and FBI costs
- Requires FDLE to implement a system for school districts to share results of Level 2 background checks

The bill now goes to the Senate Education Appropriations Committee.

AIF supports legislation to make the implementation of the Jessica Lunsford Act workable for those companies that have working relationships with school districts while upholding the integrity of the original law to protect our children from sexual predators.

ENVIRONMENT

The Senate Committee on Government Efficiency Appropriations unanimously approved SB 1092 Relating to Brownfields by Senator Lee Constantine (R-Altamonte Springs). This bill increases tax credits for businesses that voluntarily clean up designated brownfield sites. Senator Bill Posey (R-Rockledge) offered an amendment, which was adopted, that would cap tax credits for site rehabilitation at \$500,000 if the property is going to be used for affordable housing.

AIF supports legislation to increase existing tax credit provisions which will create additional incentives for businesses to voluntarily cleanup eligible contaminated sites. Cleaning up Brownfields increases future job opportunities and economic growth for area residents, while at the same time restoring a region's environmental integrity.

MANDATORY GENERATORS FOR GAS STATIONS

The Senate Committee on Community Affairs temporarily passed SB 528 by Senators Steve Geller (D-Hallandale Beach), Jeff Atwater (R-North Palm Beach) and Alex Diaz del la Portilla (R-Miami). This proposed legislation mandates generators at gas stations at a ratio of one for every five stations owned by a company. It also mandates for wiring new or substantially renovated facilities for alternative power sources. Chairman Mike Bennett (R-Bradenton) asked the sponsor to consider another method of providing generators to gas stations in affected areas after a disaster and therefore suggested that the bill be temporarily passed until the sponsors can come up with an alternative solution.

We expect to see an amendment sometime next week which should incorporate Chairman Bennett's request.

AIF opposes government mandates that require gas station owners and operators to have generators at gas stations and believes that the free market place will find solutions to the problem of power outages resulting from hurricanes or other natural disasters.

GROWTH MANAGEMENT

The House Growth Management Committee passed HB 1431 Relating to Impact Fees by Rep. Larry Cretul (R-Ocala) by a 7-2 vote. This bill creates a new section of Florida statute called the "Impact Fee Act." Impact fees are a total or partial payment to counties, municipalities, special districts, and school districts for the cost of additional infrastructure necessary as a result of new development. Impact fees are tailored to meet the infrastructure needs of new growth at the local level. As a result, impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. The bill provides a framework for the creation of impact fee ordinances and the levying of impact fees. The bill provides legislative findings and legislative intent regarding the need for and use of impact fees. The bill provides definitions for the applicable terms within the "Impact Fee Act." The bill requires that impact fees:

- Be a one time charge, although partial payments may be collected over time during the course of a development.
- Be used for capital outlay projects only.
- Represent a proportionate share of the cost of the project that is needed to serve new development.

The bill authorizes local governments to levy impact fees pursuant to its home rule authority. The bill authorizes special districts to levy impact fees only when authorized to do so by general law. The bill requires public notice prior to the enactment of an impact fee ordinance. The bill provides that an impact fee ordinance enacted prior to July 1, 2006, need not comply with the provisions of this bill until July 1, 2008.

The bill generally codifies existing case law governing the establishment of impact fees thereby providing developers and business owners with a unified system of dealing with impact fees. In addition, the bill contains certain provisions which provide specificity regarding the operation of impact fees which should help developers better understand this complex process.

HB 1431 will now be heard by the House State Infrastructure Council.

HB 1431's Senate companion, SB 1196 by Senator Lee Constantine (R-Altamonte Springs), was passed unanimously by the Senate Community Affairs Committee. The Senate version is very similar to the House work product and will now be heard by the Senate Government Efficiency Appropriations Committee.

AIF supports legislation aimed at codifying the many confusing aspects of Florida's impact fee process. Currently, impact fees are governed by case law instead of in statute. Establishing one location for these regulations makes sense.

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.