

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
DAILY BRIEF**



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**MAY 2, 2006**

Both Senate and House members received copies of the finalized budget around 4:20 PM this afternoon, marking the beginning of the mandated 72 hour cooling off period. This means that the legislature will be voting on the one bill (the state budget) they are required to pass each session around that time on Friday, the last day of session. Both appropriation chairs commented on the ease of negotiations this time around. Some have speculated that session might end earlier than expected this year.

#### **LEGAL REFORM**

SB 124 Relating to Sovereign Immunity for Law Enforcement Officers by Representative Pat Patterson (R-Deland) was considered by the House today on second reading. The bill places limits on liability for law enforcement agents and agencies for injuries occurred by a fleeing suspect of a forcible felony and the officer must have had instructional training on the department's pursuit policy. There was very little debate or discussion and no amendments were added to the Senate bill. The bill rolled over to third reading and will be available for consideration on final passage tomorrow by the House.

**AIF and the Florida Coalition for Legal Reform have supported SB 124 as part of a broad tort reform package for the past two years. AIF will continue to monitor this bill's progress and encourage its final passage by the entire Florida Legislature.**

HB 841 Relating to Supersedeas Bonds was heard on third reading today in the House of Representatives. The House sponsor, Representative Frank Attkisson (R-Kissimmee) explained that the House bill is identical to the Senate companion. There were a few questions regarding the details of the compromise version of the bill, but there was no debate.

The bill passed the House unanimously with a vote of 119-0 and is now in Senate messages.

**AIF supports HB 841 and salutes Rep. Attkisson for his leadership on this bill which levels the playing field and provides greater access to the appellate courts.**

## MANDATORY GENERATORS FOR GAS STATIONS

The Senate took up the issue of mandatory generators for gas stations today. HB 7121 by the Domestic Security Committee was taken up during second reading today and was substituted for a number of bills relating to emergency preparedness including Senate bill 862 by Senator Alex Diaz de la Portilla. The Senate then amended HB 7121 by once again placing a mandate that would require gas retailers to purchase one generator for every ten gas stations owned or operated by a business or individual. This is bad public policy because it gives the public a false sense of security and increases the potential for people to be out in the streets after a hurricane. Not only is this mandate very costly for business owners but what good does it do to have a generator if the fuel supply would probably run out within one day.

Most of the provisions in HB 7121 are excellent emergency preparedness policies. The bill includes important local preemptions which remove the potential for hundreds of different local city ordinances and gives the state the power to set procedures in a statewide basis. Unfortunately, AIF must oppose this legislation as long as it contains mandates for generators.

HB 7121 rolled over to third reading and will be available for consideration on final passage tomorrow by the Senate.

**As amended AIF opposes HB 7121, mandating businesses to purchase costly generators is bad public policy. This provision is a glaring example of government overregulation. The free market will encourage retailers to have these generators available if they chose to.**

## PRIVATE PROPERTY RIGHTS

Two eminent domain bills were considered by the Senate today during second reading. The first bill was SB 626 Relating to Eminent Domain by Senator Burt Saunders (R-Naples). Senator Saunders presented a strike everything amendment to this proposed constitutional amendment that reportedly will be passed as when taken up by the House. This bill is a response to the *Kelo* case and portions of the *Kelo* case were read. Senator Saunders stated that the purpose of the bill was to convey to local governments that they do not have broad powers to take private property and to preserve this purpose in perpetuity. Senator Nan Rich (D-Sunrise) was concerned that the bill was not addressing public purpose and that she could not be assured of what general law was going to pass. Senator Saunders responded that the bill provides flexibility in case property needs to be condemned and explained that this proposed constitutional amendment is designed to be a permanent fix. The House companion, HB 1569 by Representative Marco Rubio (R-Miami), was taken up and amended to be identical to the senate bill. HB 1569 was rolled over to third reading meaning that it is now ready to be voted on for final passage by the Senate.

Then the Senate considered SB 2168 also Relating to Eminent Domain by the Judiciary Committee. This bill is a statutory fix to the *Kelo* case and is a good companion to the constitutional amendment. In this bill, designations such as slums, blight and safety concerns cannot be used as a reason for eminent domain, and there is a 10 year limit on third-party transfers except under certain conditions. Because “blight” is not a reason for eminent domain, the term “blight” is not defined in the Bill. According to Judiciary Chairman Senator Dan Webster (R-Winter Garden), this bill is a compromise with the House’s version (HB 1567 by Representative Rubio) on the best points of both bills. Senator Mike Bennett (R-Sarasota) asked about the plan for projects such as Riviera Beach that might be considered blight or slum. Senator Webster responded that there should be no exceptions. Senator Mandy Dawson (D-Miami) expressed concern about blight and slum not being included because this is a problem in all districts. Senator Gwen Margolis (D-Miami) was concerned about taxes on property. Senator Webster explained that a provision in the bill would allow the IRS to assume that property taken was for eminent domain reasons and that there would be three years before taxes were due. HB 1567 was taken up in lieu of the senate bill and amended to conform to the Senate bill. HB 1567 was rolled over to third reading mean that it is now ready to be voted on for final passage by the Senate.

**AIF supports HB 1567 and 1569. While AIF strongly supports efforts to boost economic development throughout the state, these projects should not proceed through the sacrifice of existing businesses. AIF supports legislation to ensure that when local government takes private property through eminent domain there are proper limitation and procedures in place to protect the rights of private property owners.**

#### **WORKERS’ COMPENSATION**

The Senate unanimously passed (39-0) SB 2118 Relating to the Workers’ Compensation Joint Underwriting Association (JUA). The bill started as a committee bill by the Senate Committee on Banking and Insurance. However, today on third reading in the Senate, the bill was not presented by committee chairman, Senator Rudy Garcia (R-Hialeah) but instead was presented by Senator Skip Campbell (D-Tamarac) who explained the bill as a restoration of ethics to the workers’ compensation JUA and encouraged senators to pass to send a strong message to the House. Ironically, the House and Senate bills are very similar and have the same substantive features.

AIF does NOT support this bill. Despite weeks of attempting to work out this issue, both the Senate and House bills still require financial disclosures to be filed by board members which would have a chilling effect on the willingness of experienced insurance professionals to volunteer to serve on the JUA board. Additionally, the bills also change the way that the JUA sets premium rates and require prior approval of rates by the Office of Insurance Regulation (OIR). This would be detrimental to the workers’ compensation market because the JUA board is currently required to set actuarially sound rates in most plans. It is only when an arbitrary rate is set that the JUA has encountered deficits in any tier or subplan. Accordingly, the current rate structure of the JUA should not be altered.

SB 2118 is now in House messages.

**AIF opposes SB 2118. We will continue to work with House members to try to reach some compromise on this legislation and will continue to report its progress in the legislature.**

## **GROWTH MANAGEMENT**

The Senate passed SB 1196 Relating to Impact Fees by Senator Lee Constantine (R-Altamonte Springs). This bill codifies certain provisions relating to the imposition of impact fees by local governments. In addition to providing legislative findings and intent relating to the adoption of a local ordinance levying an impact fee, the bill stipulates that such an ordinance must, at a minimum:

- Require that the calculation of the impact fee be based on the most recent and localized data;
- Significantly address affordable housing through waiver, exemption, or payment of impact fees, or the establishment of an affordable housing program;
- Provide for accounting and reporting of impact fee collections and expenditures;
- Limit administrative charges for the collection of impact fees to actual costs;
- Require that notice be provided at least 90 days before the effective date of a new or amended impact fee; and
- Address whether credits should be granted for future tax payments and other funding sources.

Senator Constantine offered an amendment that was adopted that removes language that an impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum would significantly address affordable housing by waiving, exempting, or deferring impact fees; paying impact fees for affordable housing units out of another revenue source.

SB 1196 is now in House messages.

**AIF supports SB 1196 which is 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.**

## **AFFORDABLE HOUSING**

SB 132 Relating to Affordable Housing by Senator Mike Bennett (R-Bradenton) was considered by the Senate during second reading. This bill would, among other things, require local governments to identify surplus lands and, where appropriate, make such lands available for purposes of affordable housing. The bill also creates the *Community Workforce Innovation Program* which provides housing assistance for essential services personnel (i.e.: Teachers, Law Enforcement, Nurses, etc.) in high cost counties, whose incomes do not exceed 140 percent of the area median income.

A series of late filed amendments were adopted in order to conform the Senate bill to its House companion, HB 1363 by Representative Mike Davis (R-Naples) which was passed on Monday, May 1<sup>st</sup>. HB 1363 was then substituted for SB 132. The House bill was ordered engrossed and rolled over to third reading, meaning the bill is ready to be voted on for final passage in the Senate.

**AIF supports SB 132 and HB 1363. The issue of affordable or “workforce” housing is a priority for our state. AIF applauds the bi-partisan efforts of the legislature to finding a solution. We look forward to working with all bill sponsors on finding common sense approaches to this complex issue.**

#### **OTHER BILLS OF INTEREST:**

##### **No Fault/PIP**

The Senate unanimously passed (37-0) its version of the No Fault/PIP bill, SB 2114 by the Banking and Insurance Committee. Originally, the bill contained many provisions aimed at fixing some of the problems with this law as we have reported in the past. SB 2114 was drastically amended on Monday, May 1<sup>st</sup>. As amended, the bill keeps current law intact, but extends the repeal of Florida’s No Fault Law until January 1<sup>st</sup>, 2009. Senator Rudy Garcia (R-Miami) chairman of the Senate Banking and Insurance Committee commented that this extension would provide the legislature with more time to deal with this complex issue.

SB 2114 is now in House messages.

Please send your comments or suggestions to us at [aif@aif.com](mailto: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.