

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
DAILY BRIEF**



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It was a rather interesting day in the Senate, which began with Minority Leader Les Miller (D-Tampa) making a procedural motion to “read” the bills. Typically, only the title of a bill is read, but members do have the ability to make a motion to actually read a bill in its entirety. Two separate bills were read in their entirety taking almost one hour and half of the Senate’s time. It takes 24 votes to dismiss the motion, which the majority party did not have. It is speculated that this unorthodox move was in response to the President Lee reconsidering the vote by which SB 2170 Relating to Opportunity Scholarships was defeated during Tuesday’s session. In the House it was business as usual with bills being considered and voted on by the members. In fact, the House was through with its business by 5:00 PM while the Senate had to extend their meeting into the early evening hours just to be able to complete their special order calendar. No Senate bills were considered on third reading (which is when they are voted on for final passage).

#### **LEGAL REFORM**

The Florida Senate considered HB 841 Relating to Supersedeas Bonds on its special order calendar. Senator Dan Webster (R-Winter Garden) explained that the bill serves to preserve a person’s right to appeal. This legislation will limit the amount of an appeal bond to no more than \$50 million. The bill also allows judicial discretion to impose a lower cap in certain situations. It also allows discovery in the event of assets being dissipated and the right to impose a full bond in such event. There was no discussion or debate relating to the bill today.

HB 841 was then rolled over to the third reading calendar to be considered by the Senate for final passage on Thursday. The bill passed the full House yesterday.

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

The House unanimously passed SB 124 Relating to Sovereign Immunity for Law Enforcement by a vote of 118-0. House sponsor, Rep. Pat Patterson explained that the bill provides immunity for law enforcement officers when injuries occur as a result of a fleeing suspect who the officer reasonably believes committed a forcible felony. AIF and the Florida Coalition for Legal Reform have strongly supported and advocated this important measure to reduce frivolous litigation and create a more fair judicial system for all of Florida.

SB 124 has passed both chambers and will now be sent to the Governor for his signature.

**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.**

### **JESSICA LUNSFORD ACT**

The Senate considered SB 2280 Relating to High Risk Offenders/Screenings/Schools by Senator Nancy Argenziano (R-Crystal River). Senator Argenziano described her bill as the part II of the Jessica Lunsford Act. This bill aims to address some of the unintended consequences that occurred as a result of the Act's passage in 2005. Many contractors and business owners had a difficult time adhering to some of the provision in the 2005 bill. This was exacerbated by the fact that each school district interpreted the Act differently.

In general SB 2280 continues to subject certain school contractors to level II screenings; caps background screening fees at 30% of the total state and Federal Bureau of Investigation (FBI) costs; requires districts to accept certain fingerprint-based background check results from other districts; and requires the Florida Department of Law Enforcement (FDLE) to implement a system for school districts to share the results of the background checks and provides FDLE with rulemaking authority. The bill also requires all driver's licenses or identification cards issued to sexual predators or sexual offenders to have on the front of the card the marking "775.21, F.S." for a person designated as a sexual predator and "943.0435, F.S." for a person designated as a sexual offender.

The bill is a significant improvement to what is in current law as a result of the passage of the Jessica Lunsford Act in 2005. The bill also provides some immunity to schools that share background check information with other districts. During today's session an amendment offered by the bill's sponsor caused great commotion in the chamber. The amendment would charge employers who willfully fail to comply with the provisions of the bill with a first-degree misdemeanor. Senator Steve Wise (R-Jacksonville) offered a substitute amendment that would instead take away a contractors business license and not charge them with a criminal penalty. After much debate, consensus was reached and the bill was amended to read that contractors who willfully fail to comply with the Act could be charged with a third degree felony.

SB 2280 was then rolled over to the third reading calendar to be considered by the Senate for final passage on Thursday.

**AIF supports SB 2880, which helps 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 integrity of the original law to protect our children from sexual predators.**

### **TAXATION**

The House unanimously passed SB 1198 by Senator Jeff Atwater (R-North Palm Beach) today. Commonly known as the corporate "piggyback bill," this legislation provides for the adoption of the 2006 version of the Internal Revenue Code. By passing this important legislation, Florida corporations will need to keep only one set of books.

SB 1198 has passed both chambers and will now be sent to the Governor for his signature.

**AIF supports SB 1198 so that Florida corporations do not have to endure the burdensome task of filing duplicate tax records.**

The House also passed (118-1) SB 692 Relating to Sales Tax/School Supplies & Clothing by Senator Dan Webster (R-Winter Garden). This popular sales tax holiday for school supplies and clothing will take place during the last nine days of July 2006. Certain school supplies with a price of \$10 or less and clothing, books, backpacks and other specified items with a price of \$50 or less would not be charged sales tax under this law.

This sales tax holiday for school supplies began in 1998 and has been reenacted in some fashion since then, the only exceptions took place in 2002 and 2003.

HB 692 has passed both chambers and will now be sent to the Governor for his signature.

**AIF supports SB 692 because it helps increase business activity by allowing Floridians to purchase essential school supplies without having to pay sales tax.**

The Senate considered SB 1292 Relating to Taxation/Alcoholic Beverages by Senator Mike Fasano (R-New Port Richey). This legislation will eliminate the last portion of the surcharge tax currently imposed on alcoholic beverages sold by the drink for consumption at restaurants and bars. In previous committee meetings, testimony has been given that it costs the retailers more to collect the tax than what they remit to the Department of Revenue.

An amendment was offered by the bill's sponsor that pushed back the effective date of the repeal from July 1, 2006 to July 1, 2007, thereby extending the tax for one more year before repealing it. This caused Senator Skip Campbell (D-Tamarac) to object and question why this amendment was being adopted. Senator Fasano explained that this delay was due in part to budget constraints. The amendment was adopted and then the House companion, HB 7105 by the Finance and Tax Committee, was substituted for SB 1292. HB 7105 was rolled over to third reading, meaning that it is now ready to be voted on for final passage.

**AIF supports HB 7105. This bill provides for the final repeal of this tax and eliminates a cumbersome, expensive, and regressive burden on both Florida's hospitality establishments and Florida's consumers.**

#### **UTILITIES AND TELECOMMUNICATIONS**

HB 1199 Relating to Cable Television Franchises by Representative Trey Traviesa (R-Tampa) was heard on third reading today in the House. A strike-everything amendment by the sponsor was passed that changed the bill toward the position of local governments.

As amended, the bill still requires the Department of State (DOS) to issue a certificate to provide cable TV service, but this certificate is subject to a local ordinance, which must be passed by January 1, 2007, and a local application process. The amended bill restores local government's role by allowing local government to enact an ordinance to establish procedures and standards for the franchises.

It also allows the incumbent cable companies to opt out of the local franchise agreement as soon as the new local ordinance is enacted.

On handling complaints from customers, the bill as amended allows that function to continue with local government if they adopt a local ordinance and further allows local governments to adopt customer service standards under federal law. If a local government opts out of cable regulation, the Department of Agriculture Division of Consumer Services would handle customer service complaints.

The bill was passed 95 to 21. It will be sent to the Senate where the companion bill, SB 900, is on special order calendar but is significantly different than HB 1199.

**AIF supports HB 1199 because it opens up the cable market to the free market. Increased competition will only ensure better service, a better product, and more importantly lower prices for the citizens of our state.**

#### **INFORMATION TECHNOLOGY**

The House passed SB 2518 Relating to Contractual Services by Senator Nancy Argenziano (R-Crystal River). The bill was amended to include a new section titled "Productivity Commission." This Commission which consists of the Governor and Cabinet will select winners of the newly created Flexible Florida Government Award in order to provide incentives to executive agency personnel to create, implement, or participate in flexible methods of delivering services to the citizens of the state.

This amendment did not change the main meaning of the bill, which is to make a major change in the way the state procures contractual services that results in outsourcing. First of all, the bill defines outsourcing very broadly and provides detailed procedures to contract with a vendor to provide a service or activity. It further creates the Council on Efficient Government within the Department of Management Services (DMS) to review, evaluate, and issue advisory reports on business cases submitted to the council. The Council consists of seven members appointed by the Governor, to include:

- The Secretary of the DMS, who will serve as Chair
- A cabinet member other than the Governor, or his designee;
- Two heads of executive branch agencies; and
- Three members of the private sector with experience in procurement, increasing operational efficiency, and implementing complex projects. Private sector members must be confirmed by the Senate, and may not be registered lobbyist.

The bill requires that a **business case** for outsourcing be undertaken by the agencies prior to outsourcing and provides the requirements for such business cases, and provides additional contract terms to be used in outsourcing contracts. There is a tiered approach to the level of detail required in the process depending upon the monetary value of the contract.

Business cases to outsource having a projected cost of greater than \$10 million in any fiscal year require:

- An initial business case analysis conducted by the agency and submitted to the Council, the Governor, and the legislature at least 60 days prior to the solicitation.
- Evaluation of the agency business case by the council submitted to the agency, the Governor and legislature at least 30 days before solicitation is issued.
- A final business case analysis conducted by the agency after negotiation and before contract execution, submitted at least 30 days prior to execution of the contract to the council, the Governor and the legislature.

Business cases to outsource having a projected cost between \$1 million and \$10 million in any fiscal year require:

- An initial business case analysis conducted by the agency and submitted to the council, the Governor, and the legislature at least 30 days prior to release of the solicitation.
- A final business case analysis conducted by the agency after negotiation and before contract execution, submitted at least 30 days prior to execution of the contract to the council, the Governor and the legislature

Business cases to outsource having a projected cost under \$1 million in any fiscal year require:

- A final business case analysis conducted by the agency after negotiation and before contract execution submitted to the council at least 30 days prior to execution of the contract.
- The council will include such business cases in its annual report to the legislature and the Governor.

The bill details 16 specific business case requirements and delineates 13 specific terms that must be included in contracts resulting from outsourcing. SB 2158 was passed by a vote of 113 – 1. The bill now goes back to the Senate for consideration of the new amendment

**AIF supports SB 2518 because it makes the procurement process more professional and fair to all vendors. This bill begins that process, but more is needed to complete the job.**

## ENERGY

After much debate the House passed SB 888, the Florida Energy Plan by Senator Lee Constantine. This comprehensive energy policy plan lays out a foundation for Florida's energy concerns. The bill creates a Florida Energy Commission and establishes membership and duties. It also provides grants to promote renewable energy technologies and rebates for certain appliances and solar installations. SB 888 also streamlines and shortens time frames for the siting of power plants, nuclear plants and transmission lines. Finally it creates the "Farm to Fuel" program to provide grants to promote use of Florida grown and produced biomass to produce energy. Much of the debate centered around the issue of nuclear power plants since the bill provides several incentives for the establishment of a new nuclear power plant in Florida. The last power plant was built in Florida 35 years ago.

Because the house amended SB 888, the bill must now be sent back to the Senate for consideration.

**AIF is closely monitoring this landmark piece of legislation. Most of the bill's provisions offer great incentives for the development of alternative energy sources. One area of concern continues to be the Energy Commission's duties and powers. AIF believes that the best way to deal with the state's energy needs is through the use of incentives and the removal of regulatory barriers, rather than using new taxes and mandates.**

## IDENTITY THEFT/PRIVACY

The House unanimously passed SB 80 Relating to Electronic Mail by Senator Dave Aronberg (D-Greenacres). Originally, the bill amended the Electronic Mail Communications Act and created criminal penalties for sending unsolicited or misleading commercial mail messages. The bill was amended to include language found in HB 7157 by the House Economic Development, Trade & Banking Committee, which creates the "Anti-Phising Act." This act prohibits the acquisition and fraudulent use of a Florida resident's personal identifying information through the use of a website or e-mail. Recently there has been a proliferation of fraudulent emails, which are designed to look like communications from official financial institutions.

SB 80 has passed both chambers and will now be sent to the Governor for his signature.

**AIF supports SB 80 and its important anti-fraud provisions. Unsolicited emails, better known as spam, cost businesses in our states thousands of dollars and valuable time. In addition, curbing the illegal act of "phising" is vital to the protection of Floridian's personal information.**

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