

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
DAILY BRIEF**



P.O. Box 784 • Tallahassee, FL 32302 • Phone: (850) 224-7173 • Fax: (850) 224-6532 • Internet: <http://aif.com> • [fbnnet.com](http://fbnnet.com)

**MAY 4, 2006**

**LEGAL REFORM**

The Senate approved HB 841 Relating to Supersedeas Bonds by Representative Frank Attkisson (R-Kissimmee). Senator Dan Webster (R-Winter Garden), the bill's Senate sponsor, explained that the bill places a \$50 million dollar cap on appeal bonds in civil cases. The bill contains a number of checks and balances to prevent the disposal of assets by a defendant. There were no questions or debate and the bill received a unanimous vote of 40-0.

HB 841 has passed both chambers and is now ready to be sent to the Governor for his signature.

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

**TAXATION**

The Legislature took another monumental step to enhance economic development opportunities in Florida by passing HB 69 Relating to Sales Tax Exemptions for Machinery and Equipment by Representative Matt Meadows (D-Lauderhill). The bill eliminates the sales-tax on industrial machinery and equipment for our manufacturing and spaceport industries.

Because this exemption is so vital to the growth of our manufacturing sector, AIF has been working to achieve this goal for the last twenty years. Manufacturing companies will now have a new economic incentive to purchase machinery and equipment that will allow them to expand their current business operations. The exemption also provides a tremendous opportunity to attract new companies and job prospects to Florida.

Neighboring states - who we compete with for business - are already offering companies this common-sense tax policy.

HB 69 has passed both chambers and is now ready to be sent to the Governor for his signature.

**AIF supports HB 69 and eliminating the requirement that businesses pay the first \$50,000 in sales taxes per calendar year on manufacturing inputs. We salute our legislators for recognizing that this tax exemption will help create a more level playing field and would improve Florida's ability to compete for higher paying jobs, which would lead to an overall net increase in state revenues**

The House passed HB 7075 Relating to Agriculture by the Agriculture Committee and Representative Ralph Poppell (R-Titusville). This is yearly agriculture bill which contains multiple provisions dealing with farming and the agricultural industry. Of note to AIF members is that the bill contains language from SB 1074 by Senator Rod Smith (D-Gainesville) that provides for agriculture equipment located on farming property, which is no longer used in agricultural production, to be considered obsolete and therefore assessed at salvage value for ad valorem tax purposes.

**AIF supports the many good provisions in HB 7075 especially the language which provides sales tax exemptions for obsolete farm equipment. The bill will help lower farmers' property taxes by reducing the taxable value of equipment no longer being used.**

#### **PRIVATE PROPERTY RIGHTS**

Today the Florida Senate overwhelmingly passed two eminent domain bills, HB 1567 and HB 1569 both by Representative Marco Rubio (R-Miami). HB 1569, as explained by Senator Daniel Webster (R-Winter Garden), represents the efforts of the Legislature to address the concerns raised by the *Kelo* decision by preventing transfers of property taken by eminent domain except under certain circumstances. Senator Mandy Dawson (D-Ft. Lauderdale) offered an amendment to the bill which would have allowed condemnation proceedings instituted before January 2, 2007 to be continued. Although this amendment was designed to protect projects in the City of Rivera Beach, it was not adopted. HB 1567 received a favorable vote of 37-3 and was sent back to the House for consideration.

The second eminent domain bill passed by the Senate was HB 1569, a proposed constitutional amendment to protect property rights. This proposal seeks to accomplish the same goals as HB 1567 but through the Florida Constitution instead of by statute. Senator Burt Saunders (R-Naples) moved to consider the strike-all amendment previously adopted by the Senate in order to add an effective date of January 2, 2007 to the resolution. Senator Saunders explained that the effective date prevents the constitutional provision from being applied retroactively. Senator Nancy Argenziano (R-Crystal River) stated that she wanted it to be on the record that while she was not voting for any constitutional amendments, she is a staunch supporter of private property rights. Senator Saunders observed that because the right to own property is a fundamental right, there is a need for such constitutional protection. HJR 1569 was approved by a vote of 38-2 and was sent back to the House for consideration.

Later in the day, the House took up both bills previously passed by the Senate. Representative Dean Cannon (R-Orlando) moved to concur with the Senate amendments on HB 1567 and explained how the newly amended bill was different from what the House passed earlier in the week. He further explained that the compromise combines the strongest parts of both the Senate and House bills and prohibits transfer to private parties and requires them to be held for 10 years to insure extra layer of protection. If a property is taken by eminent domain it can be transferred back to original owner at the taking price, but only if there is notice and competitive bidding. The second distinction is that the provision addressing the preemption of the cities and county authority has been removed but it still restricts power of local government from using slum or blight or to give property to another person or private entity. The bill will not allow eliminating or abating a public nuisance as a reason for using eminent domain but will allow those reasons to handle such nuisances through a public referendum. HB 1567 was passed unanimously by the House.

Then, the House unanimously passed HB 1569 after Representative Cannon motioned that the house concur with the Senate amendments. He explained that the final product outlines that private property taken by eminent domain cannot be given to another private party except by 3/5 vote of legislature. He stated that this deals with the worst part of Kelo but does not put statutory language in the constitution. In closing, Representative Cannon stated that it was to the House's credit to have had Speaker Allan Bense (R-Panama City) appoint a select committee with Representative Rubio as its chair to deal with this important issue.

HB 1567 and 1569 have now completed final passage by the Senate and the House and will be sent to the Governor for signing.

**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.**

#### **JESSICA LUNSFORD ACT**

The Senate unanimously passed SB 2280 Relating to High 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.

The bill now goes to the House where its House companion, HB 7117 by Representative Charles Dean (R-Inverness), is on third reading. The House version is substantially different than Senator Argenziano bill and it is imperative that the differences be worked out so a bill passes this session.

**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 original law to protect our children from sexual predators.**

#### **ECONOMIC DEVELOPMENT**

The Senate unanimously passed SB 2728 Relating to Innovation Incentives by Senator Mike Fasano (R-New Port Richey) after amending the bill by putting \$45 million into the Quick Action Closing Fund and \$200 million for the Office of Tourism, Transportation and Economic Development (OTTED) to use for incentives programs. This bill creates within OTTED the Innovation Incentive Program for qualified innovation businesses. The purpose of which is to improve the state's ability to bring science-based research projects of a large scale and innovation business projects to the state. The bill appropriates \$250 million from nonrecurring general revenue to OTTED for running the program.

The bill contains several accountability measures designed to make sure state taxpayers get a return for this large investment. For example, the legislature has the power to veto any effort by the Governor. In addition, there is the ability to "callback" any funds if a project fails to meet expectations, and finally the bill establishes certain requirements and standards for corporate filings.

SB 2728 will now be sent back to the House for consideration.

**AIF supports SB 2728. This bill allows Florida to compete with neighboring states for new businesses by creating incentives for these companies to relocate to our state.**

## MANDATORY GENERATORS FOR GAS STATIONS

The House passed HB 7121 Relating to Disaster Preparedness Response by the Domestic Security Committee after receiving it from the Senate. Earlier in the day, the Senate took up the bill and amended it by once again adding a mandate that would require that gas retailers purchase one generator for every ten gas stations owned or operated by a company or individual. AIF has always opposed this mandate; over 300 generators will have to be purchased at the cost of \$50,000 each – that's a \$15 million impact on private industry. Another problem with the generator argument is that many gas stations may already be out of gas before the hurricane even hits, so having a generator for a gas station with no gas is useless. In addition, gasoline trucks may not be able to get to the gas stations because roads may be inaccessible due to debris and other dangerous obstacles. Fortunately, the Senate did add language to allow for lease agreements but the cost for these leases varies as well.

One very good provision in the bill is that it will preempt local governments from having varying ordinances on the generator issue. With over 400 cities and 67 counties you can see the problem companies would have trying to comply with all these ordinances.

HB 7121 has passed both chambers and is now ready to be sent to the Governor for his signature.

**HB 7121 has many good provisions which are supported by the business community. It lays out a solid statewide policy for dealing with the after effects of hurricanes. AIF supports these good provisions such as local preemption. We will continue to work through the summer and next session to address the issue of mandatory generators.**

## CONTRACTUAL SERVICES

SB 2518 Relating to Contractual Services by Senator Nancy Argenziano (R-Crystal River) was taken up from messages by the Senate and sent back to the House because the Senate refused to concur with an amendment adopted by the House dealing with invitations to negotiate (ITN). The bill makes major changes in the way the state procures contractual services that result in outsourcing. The bill also 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.

There was no opportunity to address the issues raised by AIF's Governmental Outsourcing Council (*see May 3 Daily Brief*) as the only issues that have potential for debate must be related to the ITN amendment. AIF's Peter Harris had an opportunity to discuss our concerns with the Governmental Operations Committee Staff Director and the Staff Attorney, who insists that this bill does not include GOC members. There was discussion on the possibility of an interim study with the Staff Attorney to provide guidance during the next legislative session for any future contracts since the bill does not apply to existing contracts.

**AIF is closely monitoring SB 2518. While we support how the bill impacts IT companies; we are actively trying to determine how the bill affects members of AIF's GOC.**

## **WORKERS' COMPENSATION**

Earlier in the week AIF reported that the Senate passed SB 2118 Relating to the Florida Workers' Compensation Joint Underwriting association (JUA). The Senate version of the bill contained many provisions that AIF does not support and believes could be detrimental to the workers' compensation overall. The House companion, however, still had 2 remaining committees of reference and was not heard on special order by the end of the House session yesterday. Many lobbyists following this issue believed the bill to be dead.

Today, though, in an interesting strategic move, Representative Kim Berfield (R-Clearwater) apparently worked out a deal with the Senate to include some significant portions of the bill in the conference committee report of the implementing bill of the budget relative to the State Administration Appropriations Subcommittee which she chairs. This portion of the budget is already agreed between the Senate and House and cannot be amended at this time. The JUA provisions that will take effect are as follows:

- The JUA board will be appointed by the Financial Services Commission
- The JUA will be able to use surplus in subplan C to cover deficits in other subplans or tiers
- The JUA must apply for tax exempt status with the IRS by January 1, 2007
- The Office of Insurance Regulation (OIR) will have ongoing review and control of the JUA plan of operations
- The OIR will have to approve any JUA rates before they are implemented beginning January 1, 2007
- These provisions will expire on July 1, 2007

**Because these changes are being enacted through the budget, they are not permanent. Therefore, it appears the business community and insurance industry will be able to continue to work on other long term solutions for the JUA situation as needed in the coming months and will hopefully be permitted to engage in more meaningful dialogue on this issue to ensure stability in Florida's workers' compensation market.**

## **AFFORDABLE HOUSING**

The House unanimously passed HB 1363 Relating to Affordable Housing by Representative Mike Davis (R-Naples) after receiving it back from the Senate. The bill is designed to stimulate workforce and affordable housing in high cost areas of the state, particularly for essential service personnel. This includes teachers, nurses, firefighters, emergency medical personnel, construction trades and areas of critical state concern. The bill includes provisions for moderate priced housing and rental units as well as increasing funding for the Florida Housing Finance Corporation. The bill also improves on workforce housing in the state by modifying DRI procedures to encourage developers to increase affordable housing units. This bill is designed to solve the critical need for workforce housing as the State of Florida develops its Innovation Economy.

HB 1363 has passed both chambers and is now ready for the Governor's signature.

The Senate passed HB 1589 Relating to Specialty License Plates by Representative Chris Smith (D-Ft. Lauderdale). This bill is designed to generate revenue for Homeownership For All, Inc. through a \$25.00 annual usage fee for a specialty license plate. The corporation is a not for profit organization located in Orlando, Florida. The organization's specific purpose is to fund programs that promote, provide, or otherwise support affordable housing in Florida.

HB 1589 has passed both chambers and is now ready for the Governor's signature.

**AIF supports HB 1589 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.**

## **GOVERNMENTAL OUTSOURCING**

HB 595 Relating to Community Behavioral Health Agencies by Representative Dean Cannon (R-Winter Park) was passed unanimously by the Senate. This bill limits the net economic liability for community behavioral health agencies (provider) in negligence actions to \$1M per claim and \$3M per incident and specifies that damages be offset by any collateral source. It also limits non economic damages to \$200,000.00 per claim. These limitations are extended to any employee who acts in furtherance of the provider's responsibilities and not where the employee acts in a culpably negligent manner. This bill is very important to the members of AIF's Governmental Outsourcing Council as it limits their potential liability.

HB 595 has passed both chambers and is now ready for the Governor's signature.

**AIF supports HB 595 limiting the economic liability for these service providers will ensure that more funds are available for providing actual services and care for the patients being treated in these facilities.**

## **INFORMATION TECHNOLOGY**

The Senate unanimously passed HB 1369 Relating to Rejected Bids by Representative Greg Evers (R-Milton). There was no debate or discussion on the bill during its consideration. The bill creates temporary exemption from public records requirements for rejected bids & proposals received by a state agency if the agency reissues an invitation to bid or request for proposals. It further creates a temporary exemption from the public records requirements for a competitive sealed reply in response to invitation to negotiate. It also creates an exemption from public meetings requirements for meeting at which negotiation with vendor is conducted.

HB 1369 has passed both chambers and will now be sent to the Governor for his signature.

**AIF supports HB 1369 and the exemptions it provides because it brings Florida in line with best practices as recommended by most national procurement officers and Chief Information Officers. In addition, the bill protects vendor's information until the procurement process is completed.**

SB 856 Relating to Domestic Security by Senator Alex Diaz de la Portilla (R-Miami) was passed unanimously by the Senate. The bill requires the Department of Management Services (DMS) to recommend minimum operating procedures for security of data & information technology resources and requires each agency to conduct procedures to assure security of data, information, & information technology resources. It further requires the department to establish the Office of Information Security & to designate Chief Information Security Officer. It also requires that office to develop strategic plan to protect information technology.

While there was no House companion bill, the House put the identical language that is in SB 856 on the budget implementing bill, HB 5003. Therefore the same language has passed both chambers and will be included in the budget implementing bill that will be placed on final passage tomorrow.

**AIF's IT Council supports SB 856 because it establishes standard operating procedures for state agencies to deal with data security and information technology resources.**

## **WORKFORCE DEVELOPMENT**

The Senate unanimously passed HB 1237 Relating to Postsecondary Education Programs by Representative David Meador (R-Lake Mary). This bill is the 21st Century Technology, Research, and Scholarship Enhancement Act announced by Governor Jeb Bush in January and is one of the cornerstones of Florida's Innovation Economy. The Act provides for the creation of the Florida Technology, Research, and Scholarship Board to guide the establishment of Centers of Excellence at state universities and the attraction of world class scholars through the 21st Century World Class Scholars Program. The bill provides \$50M to each of the programs.

The bill was amended to include language establishing medical schools at the University of Central Florida and Florida International University.

HB 1237 will now be sent back to the House for consideration.

**AIF supports HB 1237 as a tool for increasing technology-based businesses in Florida, which will in turn improve economic development in the tech sector.**

#### **CONSTITUTIONAL AMENDMENT REFORM**

The Senate passed SB 1918 Relating State Constitution Revision by Senator Dan Webster (R-Winter Garden). This proposed constitutional amendment corrects multiple spelling errors and punctuation errors, repeals obsolete language, and makes other technical changes to the State Constitution. Additionally, the joint resolution repeals language providing for term limits on federal officeholders which has been found to be unconstitutional. Lastly, the joint resolution provides for the transfer of the pregnant pig amendment into statute. When the bill was brought up for consideration during second reading on May 3, Senator Webster offered an amendment that would authorize the legislature to enact a statutory citizen initiative process as well as transfer a number of trial bar and doctor amendments from the constitution into statute. This controversial amendment was removed today and the bill was passed unanimously. According to Senator Webster, he did not want to create any more enemies that would campaign against the proposed amendment simply because it contained the statutory initiative language.

SB 1918 will now be sent the House for consideration.

**AIF supports SB 1918 and its intent to clean up our state's top document.**

#### **ENVIRONMENT**

HB 7131 Relating to Brownfields by the Environmental Regulation Committee was passed by the House after being amended by the Senate. As amended the bill now contains a \$2 million appropriation for the program instead of \$5 million. The bill amends various provisions of the Florida Brownfield Redevelopment Act.

HB 7131 has passed both chambers and will now be sent to the Governor for his signature.

**AIF continues its support of HB 7131 since it may include employment opportunities for environmental cleanup contractors, future job opportunities for area residents, opportunities for developers to realize profits on property investments, the possibility of an increase in surrounding property value, and most importantly, a reduction or elimination of the risk to public health and environment resulting in cleaning up contamination in the area.**

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.