

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
WEEKLY UPDATE**



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FROM THE WEEK OF MARCH 7 – MARCH 10, 2006

The 2006 regular legislative session began on Tuesday, March 7th with the usual speeches and visiting dignitaries, many of whom are running for office during this election year. In a rare moment of official business during the first day of session, both chambers took up a joint resolution (Joint Rule 1) formalizing many of the provisions found in SB 6B, last year's lobbyist reform bill.

Also on Tuesday, Governor Bush delivered his last State of the State address. Governor Bush took time to highlight what he considers as a one of the most important policy decisions affecting Florida's business climate – the repeal of joint and several liability calling it a “job killer of the first degree.”

Most of the governor's speech was devoted to issues of education and emergency preparedness, as a result of Florida's recent string of hurricanes.

Guns in the Workplace

On Wednesday, March 8th the Senate Criminal Justice committee considered SB 206, An Act Relating to Firearms/Motor Vehicles by Senator Durell Peaden (R-Crestview). Senator Peaden offered a strike-all amendment to the bill, which he described as protecting the right of a person to transport a banana, Bible or gun in their vehicle. Senator Peaden also described the bill as protecting employees from discrimination. The proposed legislation is intended to codify the longstanding policy that citizens have a constitutional right to privacy and a constitutional right to possess and securely keep legal private property within their motor vehicles. The bill does not apply to homeowners or school property. A late filed amendment presented by Senator Peaden would remove references to the Bible and Koran in the strike-all amendment. Senator Frederica Wilson (D-Miami) asked Senator Peaden what the impetus was behind the bill. Senator Peaden observed that in his area of the state, many people often have guns and fishing rods locked in their trunks and that it was his intention to protect these folks from breaking the law.

During the debate, Senator Rod Smith (D-Gainesville) tried to get Chairman Stephen Wise (R-Jacksonville) to go to another bill; one that had been on the agenda twice before

and had not received a hearing. However, Senator Wise proceeded with Senator Peaden's bill. Senator Smith tried once again to have Senator Wise temporarily postpone the bill and go to an easier bill that the committee could vote on in their allotted time. Majority Leader Alex Villalobos (R-Miami) then appeared in the committee and it seemed that he would vote favorably on the bill to break an expected 4-4 tie. Senator Jim King (R-Jacksonville) asked to be recognized, and when he was, he made a motion that the committee adjourn. The motion was accepted and the meeting was over. This was a highly unexpected move. The bill may appear next week on the committee's agenda, but it is not guaranteed.

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.

Taxation

On Wednesday, March 8th the Senate Commerce and Consumer Service Committee gave a favorable vote to SB 714 by Senator Jeff Atwater (R-North Palm Beach). This legislation would repeal the last .5 mill of the intangible personal property tax imposed on stocks, bonds, notes, and other intangible property. Individuals and businesses are currently required to pay an annual (recurring) tax in the amount of .5 mils. Currently, there is a \$250,000 exemption for individuals and a \$500,000 exemption for married couples filing a joint return. Businesses also have a \$250,000 exemption from this recurring tax.

Florida is at a disadvantage by having an intangible tax since only three other states in the nation have a similar tax. This proposal is part of Governor Bush's budget proposal and economic development package.

SB 714 will now be heard by the Senate Banking and Insurance Committee.

AIF supports the repeal of the intangible tax. Doing away with the last .5 mills of this insidious tax ensures that Florida will remain competitive with other states by removing this bad tax. It is wrong to penalize businesses and individuals who save or invest their money.

Also on Wednesday, the Senate Agriculture Committee approved SB 1646 also by Senator Atwater which makes revisions of exempted diesel fuel and adds electricity to the list of items exempted from sales tax resulting in both of these products being exempted from sales tax when used on farms or for processing farm products. This sales tax exemption would benefit Florida's farmers.

SB 1646 will now be heard by the Senate Government Efficiency Appropriations Committee.

AIF supports Florida's farmers and their struggles with high fuel prices. This sales tax exemption will go a long way in helping them keep operating costs down therefore keeping the cost of agricultural products down.

On Thursday, March 9th the House Utilities and Telecommunications Committee unanimously passed HM 883 by Representative John Stargel (R-Lakeland). HM 883 is a memorial bill, meaning that it is just a recommendation that the US Congress take action and is not a substantive bill. The memorial asks that the US Congress support a repeal of the three percent federal excise tax on telecommunications, which has been around since the Spanish-American War. This tax was originally enacted to fund this war, and was repealed and reenacted multiple times to finance subsequent wars and other fiscal crises. While the tax has existed continuously since 1941, it was made permanent in 1990. However, the substance of the tax law has not changed since 1965, causing some items within the scope of telecommunications service to either be nontaxable, or to be unevenly taxed.

AIF's Frank Meiners testified in support of the House memorial and stated that if Congress were to repeal this tax, it would return about \$400 Million back into Florida's economy.

HM 883 will now be heard by the House Rules and Calendar Council.

AIF supports HM 883 and the message it sends to Congress for the repeal of this outdated and unnecessary tax.

Also on Thursday, March 9th the Senate Government Efficiency Appropriations Committee held a workshop on SB 138 Relating to Homestead Property by Senator Mike Haridopolos (R-Melbourne). This proposed constitutional amendment would provide for assessing at less than just value property purchased within 1 year after a sale of homestead property and established as new homestead property, with certain limitations. This provision would result in allowing "portability" of the "Save Our Homes" assessment limitation, which limits the annual increase in homestead property value to 3 percent of the consumer price index. In other words citizens would be given the opportunity to apply their "Save our Homes" assessment limitation to property purchased in any other part of the state.

During the meeting, the bill sponsor argued this proposal would not have a negative impact on revenue as others may claim, but would instead result in a boom for the real estate industry and increased revenue for local government.

The committee will review all the similar bills which have been filed on this issue to see if consolidation is possible. Senator Skip Campbell (D-Tamarac), a sponsor himself of one of these proposals, reasoned that all bills should be reviewed by this committee and

the final product should be referred to the Senate Ways and Means Committee in order to expedite the process.

On Friday, March 10th the House Finance and Tax Committee unanimously passed HB 47 by Representative Ron Greenstein (D-Coconut Creek) – the Hurricane Preparedness Sales Tax Holiday bill. This bill provides that no sales tax will be collected between June, 2006 and June 12, 2006 on items relating to hurricane preparedness.

This bill specifies that all building materials purchased by a construction company, building contractor, or commercial business are not eligible for tax exemption. Also, purchases made with a business or company credit cards, debit cards, or checks are not entitled to the exemption.

An amendment by Representative Greenstein was adopted which made the House bill identical to its Senate companion, SB 24 by Senator Carey Baker (R-Eustis).

AIF supports legislation aimed at increasing the level of preparedness for businesses and citizens.

Representative Fred Brummer (R-Apopka) presented proposed committee bill FT 06-02: Taxation of Alcoholic Beverages by Finance and Tax. This bill would eliminate the tax on the retail sale of alcoholic beverages on the premises of the vendor, also known as the “By the Drink Tax.” This tax was enacted in 1990 and was reduced in 1999 and in 2000.

The Florida Restaurant and Lodging Association, Associated Industries of Florida, the Florida Retail Federation, and a variety of small business owners support this bill on the grounds that the industry pays more to collect the tax than the state profits from it. Claims were made that a repeal of this tax would take some of the impressively large monetary burden that an overactive and destructive hurricane season as well as increases made in the national minimum wage law off of small business owners.

The bill received a favorable vote with only Representative Tim Ryan (D-Dania Beach) and Representative Ken Gottlieb (D-Miramar) voting no.

AIF supports the final repeal of this tax to eliminate a cumbersome, expensive, and regressive burden on both Florida’s hospitality establishments and Florida’s consumers.

Private Property Rights

On Monday, March 6th the House Select Committee to Protect Private Property Rights met to consider revised proposals to address the United States Supreme Court decision in the Kelo decision, which it has been discussing throughout the past months. The

committee considered two proposed constitutional amendments as well as proposed bill language.

One constitutional amendment would grant a homeowner whose homestead was taken by condemnation to have the value of the replacement homestead acquired within two years to be assessed at the value of the property taken if the replacement homestead equals or exceeds the value of the property taken.

The second constitutional amendment limits to eight specific situations in which private property may be condemned for transfer to private entities or persons. It also requires that property condemned for one purpose may not be transferred to a private entity for another purpose until the property has been held by the original property owner for at least five years. This amendment is being drafted to be consistent with the general bill prepared by the committee.

The committee is also drafting bill language which revises current law to limit the ability of government to condemn property and transfer the property to private ownership or use. It eliminates the ability to condemn for slum and blight and limits condemnation to immediate risk of public health and safety, and requires a specific finding of the need for condemnation. In addition, if a landowner challenges the taking, the matter is tried before a judge who must find clear and convincing evidence that such a need exists before the court will uphold the taking.

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 limitations and procedures in place to protect the rights of private property owners.

Jessica Lunsford Act

The House Criminal Justice Committee unanimously passed PCB HCJR Relating to Criminal Background Screenings for School Personnel on Wednesday, March 8th. The bill primarily amends the background screening requirements of the Jessica Lunsford Act. The bill was presented by Representative Charlie Dean (R-Inverness). Effective August 1, 2006, the Department of Highway Safety & Motor Vehicles will place sexual offender and sexual predator designations on all state issued drivers license or identification cards.

This is a big help to businesses as the current law makes level 2 background screening required for non-instructional or contractual personnel who provide services to traditional public schools, charter schools, and alternative schools.

All sexual offenders and sexual predators are prohibited from being present on school grounds for business purposes and provides penalty.

The bill also provides for discipline for any professional license holder who knowingly and willfully violates this law. It also allows the district superintendent to, on a case-by-case basis, require any authorized individual to undergo a fingerprint based background screening as described in s. 1012.32.

This proposed committee bill will now be assigned an official bill number and will be assigned to the appropriate committees of reference.

AIF thanks Representative Dean and Chairman Dick Kravitz as well as all the committee members who voted to support this bill for helping to solve the problems the business community is facing while trying to comply with the Jessica Lunsford Act.

Growth Management

On Tuesday, March 7th the Senate Community Affairs Committee passed SB 1020 Relating to Developments of Regional Impact (DRI) by Senator Mike Bennett (R-Bradenton) by a vote of 6-1. This bill provides additional exemptions from the DRI review process and increases the thresholds that trigger the DRI review process for proposed new developments. DRIs are large-scale developments that are likely to have regional effects beyond the local government jurisdiction in which they are located. The DRI process is important to the business community because it directly affects how fast an employer can or cannot get their projects started and how developers interact with local governments.

SB 1020 provides a 12-month window during which a local government may negotiate a binding agreement with impacted jurisdictions to address transportation impacts in order to enjoy an exemption from DRI review for projects located within an urgent service boundary or a designated urban infill and redevelopment area. The bill also provides for an increase in the applicable guidelines for residential development if a specified percentage of those units are dedicated to workforce housing.

SB 1020 will now be heard by the Senate Environmental Preservation Committee.

SB 1020's House companion, HB 683 by Representative Trey Traviesa (R-Brandon), was unanimously passed by House Local Government Council on Thursday, March 9th. This bill makes several changes to statutory provisions governing DRIs. After explaining the bill, Representative Traviesa offered a strike-all amendment which added additional provisions to the bill. The strike-all amendment was adopted and now the bill also provides special rules for single family residential portions of a DRI development. Projects are considered done if all infrastructure and horizontal development has been

completed and at least 50% of the dwelling units have been completed and more than 80% of the lots have been conveyed to third parties or individual builders who own no more than 40 lots.

The strike-all amendment also contains a workforce housing provision that provides for a 15% or 100 unit increase, whichever is greater, when a developer increases the number of dwelling units dedicated to the construction of workforce housing. Workforce housing is defined to be housing affordable to a person who earns less than 120% of the area's median income.

HB 683 will now be heard by House Growth Management 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.

Workforce Development

The House Community Colleges and Workforce Committee unanimously approved HB 801 the Florida Ready to Work Certification Program by Representative Pat Patterson (R-Deland). This legislation provides an opportunity for students to graduate from high school to be capable of entering into the workforce. According to the staff analysis, "Career education (a term often interchangeable used for vocational education, workforce education, or technical education) is critically important to Florida's students and to Florida's economic development. A significant percentage of Florida's students currently leave high school without adequate preparation to enter a career or continue into a technical center, community college or university program."

The program may be conducted at public secondary schools, community colleges, area technical centers, one-stop career centers, vocational rehabilitation centers and Department of Juvenile Justice educational facilities.

The sponsor of the bill offered a "strike everything after the enacting clause" amendment mainly to delete the appropriation section of the bill.

HB 801 will now be heard by the House Education Appropriations Committee.

AIF applauds Representative Patterson and his Florida Ready to Work Certification Program. High school students need to have careers not just jobs when they graduate and this legislation will help our students match their skills to the appropriate career. This will help Florida's workforce and our economy.

Constitutional Amendment Reform

The Senate Criminal Justice committee met to consider SB 1244, An Act Relating to the Petition Process by Senator JD Alexander (R-Lake Wales). Senator Alexander observed that the bill is similar to the bill filed last year. Senator Alexander believes that the bill is necessary because special interest groups have learned how easy it is to amend the Florida Constitution. The bill is an attempt to provide transparency in the signature gathering process. Senate Bill 1244 has several key provisions which provide that: a petition must be submitted to the supervisor of elections within 30 days; signature gatherers may not be paid based upon the number of signatures gathered; paid signature gatherers must wear badges indicating that he or she is a “paid petition circulator” and private property owners may permit or prohibit activity which support or opposes initiatives.

Senators King (R), Haridopolos (R) and Crist (R) voted in favor of the bill. Senators Klein (D), Lynn (R), Wilson (D), and Smith (D) voted against the bill. Chairman Steve Wise (R) voted against the bill so that he could move to reconsider and leave pending. It is a procedural move used to keep a bill alive until the next meeting.

The petition gathering process must be regulated in order to ensure that special interests do not break the law to get proposed citizen initiatives on the ballot. AIF supports the provisions in this bill which address the issue of fraud, but is carefully monitoring the progress of this legislation in order to ensure that citizens are not completely shut out of the democratic process.

On Thursday, March 9th the Senate Government Efficiency Appropriations Committee passed SB 1436 Relating to Tax/Fee Limitations by Senator Jeff Atwater (R-North Palm Beach) by a 5-1 vote. This Senate Joint Resolution would ask the voters to pass a constitutional amendment during the next general election year requiring a two-thirds approval margin on constitutional amendments that increase an existing state tax or fee or those constitutional amendments with a fiscal impact greater than two-tenths of one percent of the state’s general revenue (approximately \$50 million dollars based on the current budget).

The Florida Constitution currently has two provisions that address the financial impact of proposed amendments to the constitution. The first was approved in 1996, and it required that any proposed amendment which imposes a new state tax or fee must be approved by at least two-thirds of the voters voting in the election in which the proposal is considered. Since the amendment passed, no proposal has appeared on the ballot which would have imposed a new state tax or fee. The second provision was approved in 2002, requiring the Legislature to provide a statement to the public regarding the probable financial impact of any amendment proposed by citizens’ initiative before the general election. SB 1436 is designed to address a current loop in this process since the 1996 amendment only applied to “new” amendments and not existing state taxes or fees.

SB 1436 will now be heard by the Senate Ways and Means Committee.

AIF supports increasing the threshold by which constitutional amendments with significant fiscal impacts are approved. Floridians and businesses owners usually left with having to pay for these unfunded and many times ill-conceived mandates.

Environment

On Wednesday, March 8th the Senate Commerce and Consumer Services Committee approved SB 1092 by Senator Lee Constantine (R-Altamonte Springs), the Florida Brownfield Redevelopment Act. This bill makes changes to the Brownfields Redevelopment Act. Originally enacted in 1997 by the Florida Legislature, it developed a program designed to encourage local governments and responsible persons to voluntarily clean up and redevelop abandoned and underused commercial and industrial sites.

Some of the proposed changes include: (1) an increase of the amount of credit from 35% to 50%; that may be applied against intangible personal property tax and corporate income tax for the voluntary cleanup costs of a contaminated Brownfield or dry-cleaning site and increases the amount of tax credit that may be granted to a tax credit applicant from \$250,000 to \$500,000 per year, (2) increases the percentage (from 10% to 25%) and amount of tax credit (from \$50,000 to \$500,000) that may be received by the taxpayer in the final year of the cleanup as an incentive to complete the cleanup, and (3) requires Enterprise Florida to aggressively market existing Brownfields.

SB 1092 will now be heard by the Senate Government Efficiency Appropriations Committee.

AIF supports Senator Constantine’s proposal 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.

The Florida Incentive Based Permitting Act (HB 261) by Representative Dwight Stansel (D-Live Oak) cleared another hurdle in the House on Wednesday, March 8th by receiving a unanimous approval by the House Agriculture Committee. This legislation would provide the Department of Environmental Protection (DEP) with the authority to consider the compliance history of a permit applicant who has applied for an incentive-based permit which includes longer permit duration, expedited permit reviews, short-form permit renewals, and other incentives to reward and encourage continued compliance with state environmental regulations. The Florida Incentive Based Permitting Act could provide an opportunity for cost savings associated with obtaining and renewing a permit.

Both the Legal Environmental Assistance Foundation and the Florida Department of Environmental Protection testified against the bill. AIF’s Chief Lobbyist Keyna Cory testified in support of the bill, stating that this was a proposal which enjoyed strong

support from the business community. The Florida Farm Bureau also spoke in favor of the bill.

The bill now goes to the House Agriculture & Environment Appropriations Committee.

AIF supports HB 261 by Representative Stansel as it will help businesses who are good stewards of Florida's natural resources spend less time in the permitting process which can be timely and costly.

Legal and Judicial

The House Civil Justice Committee passed HB 841, An Act Relating to Supersedeas Bonds by Representative Frank Attkisson (R-Kissimmee) by a 3-2 vote.

Representative Attkisson explained that HB 841 reforms the legal system because current law makes it extremely difficult for businesses to pursue appeals. A business owner who has had a judgment entered against him has to either put up cash or post a bond in order to stay the execution on a judgment during the appeal. The bond amount is a combination of the final judgment plus interest.

House Bill 841 places a cap on a supersedeas bond at \$25 million dollars regardless of the type of appeal or case except for class actions. For individually owned businesses with 400 or fewer full time employees, the bill lowers to cap to \$1 million dollars or 5% of the appealing party's net worth. The caps do not apply if the appellee can show that the appellant is diverting assets in an effort to avoid payment of the judgment.

Representatives Cannon, Stargel and Mahon voted in favor of the bill. Representatives Joyner and Slosberg voted in opposition. The bill has two more committee stops, the House Business Regulation Committee and the House Justice Council.

General Business

Both the House and Senate considered bills dealing with the issue of retail gas stations and generators on Wednesday, March 8th. This issue has become a hot topic around the legislature because of the recent string of strong hurricanes which affected large portions of the state. Legislators from South Florida have teamed together to address the issue of gas availability after a storm. Several bills have been filed requiring gas stations to be equipped with generators to provide fuel to consumers. What seemed like a good idea initially, turned out to somewhat unrealistic because of many complex issues including safety and cost.

The Senate Domestic Security Committee took up three bills dealing with this issue: SB 528 by Senator Steve Geller (R-Hallandale Beach), SB 530 by Senator Jeff Atwater, and SB 858 by Senator Alex Diaz de la Portilla (R-Miami). The committee unanimously voted in favor of combining all three bills into a single piece of legislation (SB 528). This combined bill provides that any newly constructed retail gasoline station or newly renovated gasoline station and certain existing motor fuel retail outlets that are located within ½ mile of designated evacuation routes must be equipped with an alternative means of power generation on site so that the station's pumps may be operated immediately in the event of a power outage. The bill also establishes guidelines which require that owners of more than 10 gas stations have a least 1 generator which can be made available to each of these 10 stations.

The House Agricultural Committee held a workshop on HB 603 by Representative Anitere Flores (R-Miami) and HB 965 by Representative Carl Domino (R-Palm Beach Gardens). Both of these bills deal with similar requirements for gas stations to be equipped with diesel generators. It is likely that these bills will also be combined at some point.

AIF applauds the hard work of all legislators and committee staff who have been working tirelessly on this complex issue to find a common sense solution to this important issue. Mandating that each gas station be equipped with its own generator is onerous and totally out of the question. We will be working with all sponsors to find a solution which is acceptable for all parties involved (gas station owners, local governments, and citizens).

Affordable Housing

On Thursday, March 9th Senator Mike Bennett (R-Bradenton) and Representatives Mike Davis (R-Naples) and Bob Henriquez (D-Tampa) held a press conference today announcing a bipartisan strategy to make affordable housing legislation a centerpiece of the 2006 Legislative Session.

Representative Davis has filed HB 1363 which would authorize the Florida Housing Finance Corporation to administer and provide innovation project approval and funding for Community Workforce Housing Innovation Projects for multifamily rental or single family housing for essential services personnel such as teachers, nurses, etc., who have incomes up to 150 percent of AMI.

Several bills have been filed this session to address aspects of the affordable housing dilemma. These efforts provide various levels of support for the working poor, teachers, low-income seniors, renters, and mobile home residents.

During the press conference, Representative Henriquez state that “affordable housing affects Democrats and Republicans alike in all walks of life.” Likewise, Senator Bennett

emphasized how not having affordable housing hurts the recruitment of a qualified, well educated workforce to our state.

Read the press release and view the chart from this press conference.

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

- 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.