

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
INTERIM BRIEF**



P.O. BOX 784 • Tallahassee, FL 32302-0784 • Phone: (850) 224-7173 • Fax: (850) 224-6532 • Internet: <http://aif.com> • [fbnet.com](http://fbnet.com)

**DAILY LEGISLATIVE BRIEF FROM MARCH 8, 2006**

**GUNS IN THE WORKPLACE**

The Senate Criminal Justice Committee considered SB 206, An Act Relating to Firearms/Motor Vehicles by Sen. 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 Fredericka 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 Wise 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

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 mills. 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.**

The Senate Agriculture Committee approved SB 1646 by Senator Jeff Atwater (R-North Palm Beach) 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 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.**

## JESSICA LUNSFORD ACT

The House Criminal Justice Committee unanimously passed PCB HCJR Relating to Criminal Background Screenings for School Personnel. The bill primarily amends the background screening requirements of the Jessica Lunsford Act. The bill was presented by Rep. 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. Also the current law has been changed so that level 2 background screening requirements will be for:

- Non-instructional school district employees who have direct contact with students.
- Other individuals who are specifically authorized by the school district to perform services for compensation that involve direct contact with students.
- Non-instructional school district personnel who have access to or control of school funds.
- Any other individuals who, for compensation, are authorized to have access to or control of school funds.

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.

Before any contractor can have access to school grounds, they must provide the school district with certification that the contractor has:

- Examined the Florida drivers license or I.D. card and confirmed that it does not have the marking indicating that the person is not a sexual offender or predator
- Checked that the contractor/individual does not appear on the National Sex Offender Public Registry

All contractors who have a Florida drivers license or I.D. card are required to possess the card at all times while working on school grounds and show it to any school district employee upon request. The bill requires that any individual who does not have a Florida driver's license or I.D. card to submit to a check against the National Sex Offender Public Registry upon request of any school district employee.

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 Rep. 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.**

## CONSTITUTIONAL AMENDMENT REFORM

The Senate Criminal Justice Committee met to consider SB 1244, An Act Relating to the Petition Process by Senator J.D. 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.

Senator Ron Klein (D-Delray Beach) expressed concerns that the bill was overreaching and the measures contained in the bill do not adequately address the problems associated with the imitative process. Senator Klein also expressed concern that there was no statistical data supporting the allegations of fraud. Senator Evelyn Lynn (R-Ormond Beach) asked Senator Alexander if there was any data demonstrating that paid signature gatherers engaged in fraud. Senator Alexander stated that there was anecdotal evidence demonstrating fraud. Senator Jim King (R-Jacksonville) observed that no information is gathered regarding fraudulent petitions because most fraudulent petitions are found after the election has occurred and it would be pointless to gather such information.

The Sierra Club, Save the Voters Voice Coalition, American Cancer Society, League of Women's Voters, Clean Water Action and the Florida Public Interest Research Group all spoke in opposition of the bill. In debate, Senator Mike Haridopolos (R-Melbourne) spoke in favor of the bill, noting that disclosure produces accountability. Senator King also spoke in favor of the bill, observing that the bill ensures that fraudulent signatures are not placed on petitions. Senator Lynn and Senator Klein, both speaking in opposition stated that there was no data supporting evidence of fraud.

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-Jacksonville) 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.**

## ENVIRONMENT

The Senate Commerce and Consumer Services Committee approve 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:

- 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.
- 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.
- Requires Enterprise Florida to aggressively market existing Brownfields.

SB 1092 will now be heard by the 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 Rep. Dwight Stansel (D-Live Oak) cleared another hurdle in the House today 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.

Representative John Stargel (R-Lakeland) asked how the bill would apply to class actions. Representative Attkisson explained that there is already a law which places limitations on bonds in class action law suits.

Proponents of the bill noted that increasingly clear over the past 10 years that the cost of bonds has had a substantial effect on a party's ability to bring an appeal. The high costs of such bonds have resulted in businesses settling cases, paying claims or filing for bankruptcy. They observed that the Legislature clearly has the power to impose limitations on supersedeas bonds because such an act falls within the Legislature's power to enact substantive law.

James Herald Thompson, on behalf of CSX, spoke in support of the bill. Mr. Thompson noted that HB 841 is not a new idea and that several states have passed similar legislation. Mr. Thompson further observed that Florida has passed similar legislation in the area of class actions. CSX believes that the bill protects appellees and both small and large businesses. A person should not have to put up a bond so burdensome that he or she cannot afford to bring an appeal. Representative Joyner expressed concern to Mr. Thompson that in cases where assets are being diverted, an appellee will have to spend more money to make that showing to the court. Mr. Thompson observed that a party would not incur any more cost than he or she would occur in enforcing a lien.

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, Business Regulation and the Justice Council.

## **GENERAL BUSINESS**

Both the House and Senate considered bills dealing with the issue of retail gas stations and generators. 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 Sen. Steve Geller (R-Hallandale Beach), SB 530 by Sen. Jeff Atwater, and SB 858 by Sen. Alex Diaz de la Portilla. 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 Rep. Anitere Flores (R-Miami) and HB 965 by Rep. 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.

Local government officials have expressed concern over some of the provisions in these bills, mainly the fact that local government authority is preempted by most of these bills. In other words, local municipalities are prevented from passing their own ordinances relating to guidelines for retail gas establishments. Gas station owners have testified their support of giving the state the final say as to how to regulate this issue. It would be very difficult for gas station owners, especially those that own stations in multiple counties to adhere to different standards in each location.

**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).**

## **BUSINESS REGULATION**

The Senate Commerce and Consumer Services Committee unanimously approved SB 1046 Relating to Mold Assessment and Remediation by Sen. Mike Bennett (R-Bradenton). The bill provides authority to the Department of Business and Professional Regulation (DBPR) licensing board to regulate individuals and companies who hold themselves out to the public to perform mold assessment or mold remediation for compensation.

The committee substitute exempts Division I and Division II contractors licensed under chapter 489, F.S., an individual in the manufactured housing industry who is licensed under chapter 320, F.S., or engineers licensed under chapter 471, F.S., and architects and interior designers licensed under part I, chapter 481, F.S., when engaged in mold-related activities incidental to activities within the scope of their respective licenses. It also exempts authorized employees of federal, state, city, and county governments performing mold assessment or mold remediation within the scope of their employment.

The committee substitute requires that the board provide, by rule, when and in what manner a licensee may perform both mold assessment and mold remediation on the same contract or projects. It also provides for licensure of business organizations practicing mold assessment or mold remediation.

The committee substitute provides for an appropriation of \$294,776 from the professional Regulation Trust Fund to implement the provisions of the act.

Senator Dave Aronberg offered two courtesy amendments that were adopted by the committee. The first amendment was a technical amendment to add the term “fungal growth”. The second amendment prohibits a licensee from performing multiple services (i.e., mold assessment and mold remediation) on the same projects.

Persons who engage in business as a contractor with a focus on mold or mold remediation that is not incidental to the scope of licensure will incur the costs of the educational requirements as determined by the board. The costs are not known at this time.

SB 1046 will now be heard by the Criminal Justice Committee.

**AIF supports efforts to regulate the mold remediation process. The regulation of this profession may save consumers the cost associated with inadequate or poor services related to mold assessment and remediation.**

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.