

ASSOCIATED INDUSTRIES OF FLORIDA  
**LEGISLATIVE  
DAILY BRIEF**



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### Legal Reform

Today, the House of Representatives unanimously (115-0) passed HB 7259 Relating to Class Action Suits by the Judiciary Committee. This bill is the end result of several weeks of negotiations between the business community and the Academy of Florida Trial Lawyers. Senator Baker explained that it only applies to class actions arising from four areas of the law - Motor Vehicle Licenses (Chapter 320), Unfair and Deceptive Trade Practices (Chapter 501), Consumer Protections (Chapter 520) and Motor Vehicle Leases (Chapter 521). The bill would generally require that plaintiff class members be Florida residents to bring a class action in Florida. It also requires that the claimants must allege and prove actual damages to be members of the class.

The bill was passed with no amendments and is now in Senate messages. Its Senate companion, SB 2304 by Senator Carey Baker (R-Eustis) is currently on the Senate calendar waiting to be considered for final passage.

**AIF supports HB 7259 and SB 2304. We applaud the legislature for their hard work on this important legal reform issue. AIF and the Florida Coalition of Legal Reform fully support this important class action reform and will continue to work for its passage.**

### Private Property Rights

The Senate Community Affairs Committee heard two bills relating to eminent domain. As we have previously reported, the US Supreme Court decided the Kelo case last summer that allowed a governmental entity to take private property through the power of eminent domain for the purpose of development by another private party. The Florida Legislature has been addressing this issue for several months and the bills heard today represent the Senate's work on this important issue.

First, SB 626 by Senator Burt Saunders (R-Naples) is a constitutional amendment that will allow the voters of Florida to specify when local governments may use the power of eminent domain for taking property from a private citizen. Sen. Saunders explained that the Senate does not want local governments to be able to take private property for the benefit of other private purposes. The joint resolution does make some exceptions for the construction of civic centers and sports arenas. Senator Tony Hill (D-Jacksonville) asked if those purposes could require approval by a supermajority rather than a simple majority vote of the people. Senator Saunders indicated that as the bill progresses through the

Senate he would have no objection to such an amendment. The SB 626 passed the committee unanimously. It is scheduled to next be heard by the Committee on Rules and Calendar.

The other eminent domain bill is SB 2168 by Senator Dan Webster (R-Winter Garden). Senator Webster explained that the bill represents the Senate's position on the eminent domain issue and will be the starting point during what will ultimately be a conference issue between the Senate and the House. He explained that the bill makes certain that eminent domain is not used for any third party transfers of land in any circumstances. The bill was designed to take away the eminent domain power of local governments and give it back only in very limited and specified purposes, not including slum or blight.

There were 6 amendments filed to the bill prior to the committee meeting by the committee's Chairman, Senator Mike Bennett (R-Bradenton). However, four of those amendments were withdrawn without consideration - one of which would have made the Senate bill almost identical to its House companion, HB 1567 by Representative Marco Rubio (R-Miami). There were two amendments that were adopted onto the bill. One was non-controversial and created restrictions on eminent domain takings when the property owner relinquished the property voluntarily. Senator Webster, the bill sponsor did not object to including this amendment with the bill.

The other amendment provides a longer time frame for Community Redevelopment Associations (CRA's) to initiate eminent domain takings for lands that are not designated as homestead. Senator Webster asked that this amendment also be withdrawn primarily because this is one of the key differences between what he believes the Senate position should be and what the House position is. Senator Webster explained that the issue was still subject for debate and negotiations but that he did not believe that the amendment should go onto the bill at the committee stage because he believed it would place him in a more difficult negotiating posture with the House. However, Senator Bennett was very adamant that the issue was important to the City of Riviera Beach, located in Palm Beach county, and he admired the work that the local government was doing in that city and wanted the amendment on their behalf.

The mayor of Riviera Beach was on hand and testified in favor of the amendment and described his work in the city as a rescue mission to reduce and eliminate poverty, crime and drug abuse through the creation of affordable housing and creation of jobs in the marine industry.

Ultimately, the amendment was passed by the committee on a voice vote. However, this amendment will be a traveling amendment and will not be incorporated into the bill per an agreement between Senators Bennett and Webster.

SB 2168 passed the committee unanimously. It is now ready to be heard by the full Senate on the floor.

**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 SB 626 and SB 2168, which 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.**

## Taxation

The Senate Transportation Economic Development Appropriations Committee unanimously passed SB 962 Relating to Sales Tax/Research or Development by Senator Mike Fasano (R-New Port Richey). This bill exempts machinery and equipment used predominately for research and development activities from the state sales tax. The bill also increases the sales and use tax exemption for industrial machinery and equipment used for the production of space or defense technology products from 25 percent to 100 percent. Also, the bill expands this production exemption to include the design or assembly of space or defense technology products.

SB 962 will now be considered by the Senate Ways and Means Committee. Its House companion, HB 415 by Representative John Quinones (R-Kissimmee) was passed unanimously (115-0) today on the floor of the House.

This proposal was included in the Governor's budget proposal this year.

**AIF supports SB 962 and HB 415. Removing taxes on machinery and equipment used for research and development is sensible tax policy and would improve Florida's chances of recruiting and retaining the most advance research and space facilities in the country.**

The Senate Ways and Means Committee gave a favorable vote to 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.

SB 1292 has passed all its committees of reference and is now on the Senate calendar.

**AIF supports SB 1292. 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.**

The Senate General Government Appropriations Committee unanimously approved SB 1206 by Senator Jeff Atwater. This is the Florida Global Manufacturing Competitiveness Act. This legislation expands the sales tax exemption from partial to full for machinery and equipment used by expanding facilities engaged in spaceport activities or expanding manufacturing facilities, as long as the facilities meet a 10 percent increase in production requirement.

SB 1206 will now be considered by the Senate Ways and Means Committee.

**AIF supports SB 1206 and eliminating the requirement that businesses pay the first \$50,000 in sales taxes per calendar year on manufacturing inputs. Eliminating this requirement would level the playing field for Florida manufacturers and would improve Florida's ability to compete for higher paying jobs, which would lead to an overall net increase in state revenues.**

## **Affordable Housing**

The Senate Ways and Means Committee unanimously passed SB 784 Relating to Community Contributions Tax Credits by the Transportation and Economic Development Appropriations Committee. This program currently provides tax credits of up to \$200,000 (per donor) to corporations and insurance companies that collect and remit sales and use taxes. To qualify donors must make contributions to certain low-income housing and community development projects.

Senator Fasano (R-New Port Richey) offered an amendment that increases the tax credits offered to businesses participating in low-income homeownership programs from \$8M to \$10M and decreases the amount of tax credits available for all other projects from \$4M to \$3.5M. The amendment was adopted without objection and the bill passed with a unanimous vote.

SB 784 has passed all its committees of reference and will now be placed on the Senate calendar for final passage. Its House companion, HB 821 by Representative Dudley Goodlette (R-Naples), has passed through all committee stops and been placed on the House calendar.

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

Senator Mike Fasano (R-New Port Richey) offered a strike all amendment which conforms the bill to the House version; the amendment was adopted. The House companion, HB 1363 (Davis), was unanimously approved by the House State Infrastructure Council last Friday and will be placed on the Calendar.

SB 132 will now be heard by the Senate Ways and Means Committee.

**AIF supports SB 784 and SB 132. 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.**

## **Information Technology**

The General Government Appropriations Committee unanimously passed SB 856 Relating to Domestic Security by Senator Alex Diaz de la Portilla (R-Miami). This bill provides that some information technology security functions formerly provided by the State Technology Office (STO) will be provided by the Department of Management Services (department). The bill creates the Office of Information Security within the department, and provides that the Chief Information Security Officer is the head of the Office.

Senator Al Lawson (D-Tallahassee) offered an amendment, which was adopted, that provided an appropriation for the project and five full-time equivalent employees.

SB 856 will now be heard by the Senate Ways and Means Committee.

**AIF's IT Council supports SB 856 because currently there is no one responsible for these critically important information technology security functions, since the STO is no longer in existence.**

### **Environment**

The Senate General Government Appropriations Committee unanimously approved SB 2126 Relating to Petroleum Contamination by Senator Carey Baker (R-Eustis). This legislation creates a statutory presumption regarding the discovery of contamination at those underground petroleum storage tank sites that are being upgraded to secondary containment as required by the Department of Environmental Protection's (DEP) rules. The contamination is presumed to be part of the original discharge that qualified the site for state cleanup fund.

It is anticipated that this bill would remove an impediment to the facility owner or operator to begin upgrading early and allow the facility owner or operator to take advantage of the financial incentives provided by the 2005 Legislature to upgrade early.

2126 has passed all its committees of reference and will now be placed on the Senate calendar.

**AIF supports SB 2126 that would encourage private owners of underground petroleum storage facilities to clean up and upgrade their tanks. Providing incentives will presumably encourage owners to clean their sites in a timely matter.**

### **Mandatory Generators for Gas Stations**

The Senate Ways and Means Committee passed SB 528 Relating to Emergency Management/Motor fuel by Senator Steve Geller (D-Hallandale Beach) on a vote of 13-1. This bill combines SB 528 by Senator Steve Geller (D-Hallandale Beach), SB 530 by Senator Jeff Atwater (R-North Palm Beach) and SB 858 by Senator Alex Diaz de la Portilla (R-Miami). Among many of the provisions in the bill, it would mandate a portable generator for every 10 gas stations owned by a company or operated by an individual and requires the installation of generator switches for all new and substantially renovated gas stations to address the shortage of gas after a hurricane or other type of emergency.

SB 528 has passed all its committees of reference and is now ready to be placed on the Senate calendar.

**AIF opposes SB 528 and its government mandates that require gas station owners and operators to have generators at gas stations and believes that the free market place will find solutions to the problem of power outages resulting from hurricanes or other natural disasters.**

### **Constitutional Amendment Reform**

The Senate Ways and Means Committee passed SB 1436 Relating to Tax or Fee Limitations by Senator Jeff Atwater (R-North Palm Beach) on an 11-4 vote. This proposed Constitutional Amendment establishes a threshold of two-thirds of the voters voting in an election for approval of constitutional amendments that:

- Increase an existing state tax or fee; or
- Impose a “significant financial impact” on state government of greater than two-tenths of one percent of the portion of the state budget appropriated from the General Revenue Fund for the prior fiscal year (currently this sum would be approximately \$55 million).

During the meeting Senator Atwater offered an amendment which had been suggested by the President’s office which established that the same standard be applied to cases when an amendment would call for extracting or “removing” an amendment which imposes a tax or a fee. In other words if voters wanted to remove the Class Size amendment, this measure would also have to pass by two-thirds of voters.

SB 1436 will now be considered by the Senate Rules and Calendar Committee.

**AIF supports SB 1436, which increases 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.**

#### **Utilities and Telecommunications**

The Senate Community Affairs Committee unanimously passed SB 900 Relating to Cable Television Franchises by Senator Lee Constantine (R-Altamonte Springs). This bill requires that by January 1, 2011, each county and municipality conduct a public hearing and adopt by ordinance and standards for a general video/cable franchise that will apply to any video or cable service provider within their boundaries. In general, this bill is dramatically different from its House companion, HB 1199 by Representative Trey Traviesa (R-Tampa) which calls for a state certificate from the Department of State for a provider to offer state wide cable TV.

Senator Mike Bennett (R-Bradenton) offered an amendment very similar to the House bill but ultimately withdrew it. During his closing remarks, Senator Constantine did say that he was willing to continue to work with the parties to improve the bill.

SB 900 will now be considered by the Senate Government Efficiency Appropriations Committee.

**AIF was in favor of passing SB 900 out of today’s committee so that further negotiations could take place. AIF prefers the House version, HB 1199, because it provides for clean and fast competition for the consumers of Florida, thus saving existing cable customers approximately \$600 million in lower rates.**

The Senate Committee on Communications and Public Utilities had only one bill on its agenda today and that was SB 980 Relating to Energy Reliability by Senator JD Alexander (R-Lake Wales). This bill pertains to the siting of electrical substations. Currently, these substations are typically sited by the local government planning and zoning process. Originally a very controversial issue, there was a strike all amendment that was a compromise between all of the parties involved. It will make the siting of new electrical substations an easier process and take less time to complete. It will also help with the process of vegetation management.

SB 980 has passed all its committees of reference and has been placed on the Senate calendar.

**AIF supports SB 980 as it may increase reliability of electric services by making siting for electrical substations more flexible by placing them closer to the areas they serve.**

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

##### **Economic Development**

The Senate Government Efficiency Appropriations Committee unanimously passed SB 2110 Relating to Entertainment/Economic Development by Senator Burt Saunders (R-Naples). This bill provides that qualified TV or film production companies may apply entertainment industry tax credits against sales tax as well as corporate income tax. The aggregate amount of sales and corporate income tax credits may not exceed \$25 million in any fiscal year. Qualified productions are eligible for tax credits equal to 15 percent of qualified expenditures on filmed entertainment in Florida. Individual recipients may not receive more than \$2 million annually in sales and corporate income tax credits, unless the qualified production is a high-impact television series, in which case the recipient may receive no more than \$3 million annually in sales and corporate income tax credits.

At the beginning of the meeting Senator Saunders presented a strike-everything amendment which removed the tax credit provision of the bill and returned it to an annual appropriation (this is how the program was funded last year). Representatives of the film industry testified that they would prefer the program include a tax credit instead of an annual appropriation. Senator Skip Campbell (D-Tamarac) also expressed support for the tax credit and argued strongly in its favor. Finally, after much debate the committee agreed that the program should be funded through corporate tax credits, thus making it identical to the House version, HB 1321 by Representative Don Davis (R-Jacksonville).

SB 2110 will now be heard by the Senate Transportation and Economic Development Appropriations Committee.

**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.