

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
WEEKLY UPDATE**



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FROM THE WEEK OF MARCH 6 – MARCH 9, 2006

The first week of the 2007 session wrapped up with the Senate going home on Thursday night and the House Policy and Budget Council meeting on Friday, March 9th to discuss some proposals on property tax reform. More details on this meeting are included in this report. The Legislature also passed one of Governor Charlie Crist's (R) top priorities, the "Anti-Murder Act." Governor Crist had promised, on the campaign trail, that if elected he would pass this legislation within the first week of session.

AIF and its allies in the business community were kept busy this week fighting back an effort from the trial bar to undermine the repeal of Joint & Several liability, which passed thanks to extraordinary efforts last session. Legislation has been filed in the House and Senate that would revoke the Florida Supreme Court's "Fabre" decision. This decision is essential in order for juries to fairly apportion fault.

Another contentious debate has held on the issue of initiative petition reform. Legislation has been filed which would establish clear guidelines and structure for individuals paid and unpaid who collect signatures for placing citizen initiatives on the ballot. The House version of this legislation also allows private property owners to dictate who can and cannot be on their premises collecting signatures, a provision strongly supported by the business community.

More details are available on this and other issues of importance for Florida's employers in this week's report.

Legal Reform

The business community again finds itself gearing-up for a battle to defend the historic repeal of Joint and Several Liability. Representative Mitch Needelman (R-Melbourne) and Senator Jeremy Ring (D-Margate) have both filed bills (HB 733 and SB 1558) that would undo the repeal of this unfair legal doctrine. Known as the "Fabre Fix" the intent of this legislation is to limit the apportionment of fault to only the parties named in the civil proceeding. This is problematic because instead of naming all the parties involved in a case it would allow plaintiff attorneys to selectively choose which parties to go after – typically those with the deepest pockets.

On Wednesday, March 7th The House Constitution and Civil Law Committee took up HB 733 Relating to Apportionment of Damages by Representative Mitch Needelman (R-Melbourne). The committee room was packed with several representatives from the business community and from the trial bar. Each side presented their arguments to some very inquisitive committee members. The bill was ultimately TP'ed (meaning that it was temporarily passed) after being amended because both committee members and representatives of the business community pointed out several inconsistencies with the language, mainly how to deal with parties that have immunity or cannot be found. Representative David Simmons (R-Altamonte Springs) offered the majority of the amendments, admitting that even his language was not perfect and that he would like all parties involved to work together to find some common ground between getting rid of the "Fabre" decision and adopting what the bill would do which is limit the apportionment of fault, and therefore, the apportionment of damages, to only those parties named in the civil proceeding. Chairman Marcelo Llorente (R-Miami) informed the Committee and audience members that the bill would be first on the agenda next week.

AIF opposes HB 733 and its undoing of the "Fabre" decision. Fair distribution of fault cannot be achieved if a jury cannot consider the actions of all parties involved. We urge all AIF members to contact the Committee and express their opposition to this bill.

Property Insurance Reform

On Thursday, March 8th the House Insurance Committee held an informal discussion on implementation of HB 1A, this is the major property insurance reform bill that was passed during the January, 2007 Special Session. Since passage of this complex and comprehensive bill, stakeholders from both the insurance industry and insurance regulators have worked closely with the Legislature on how best to implement the many provisions contained in the bill.

Committee members heard testimony from several representatives of the insurance industry as well as staff from the Office of Insurance Regulation and the Florida Hurricane Catastrophe Fund. The purpose of which was to determine whether the appropriate House council should file a "glitch" bill in order to fix some of the more glaring inconsistencies with the bill, especially since HB 1A was passed with such haste.

It is unclear as of this writing what direction the House will take. No direct indication was given whether a "glitch" bill would be filed.

AIF applauds the efforts of Governor Crist and lawmakers for their efforts to bring lower property insurance rates to Floridians. However, there is still much work to be done. Among other things, the Legislature should consider expanding the state's mitigation program for homeowners and business, it should allow for interim property insurance rate adjustment for nursing homes, and it should look for ways to provide actuarially sound pre-funding of future hurricane losses. The business community is concerned with the decision to expand Citizens and we look forward to continuing to work with state leaders on long-term insurance solutions.

Property Tax Reform

The House Policy and Budget Council spent over five hours on property tax reform on Friday, March 9th. The large meeting room in the Knott Office Building was full of governmental officials and business groups concerned with the House property tax plans. The Council discussed HB 7001 by the House Government Efficiency & Accountability Council and Representative Frank Attkisson (R-Kissimmee). This bill would limit local revenues and would be supplemented by an increase in the sales tax. According to Rep. Attkisson, sales tax is the fairest form of tax. HB 7001 would roll back the millage rate to what it was in 2001 and then adjust it for inflation and increases in population. New construction would still be required to pay today's rate. The bill would use the Consumer Price Index (CPI) to determine and adjustments. Representative Jack Seiler (D-Pompano Beach) questioned using the CPI and felt as though it was not an adequate way of showing inflation.

One question that drew much discussion from committee members was the amount of unfunded mandates local governments must deal with. Representative Adam Hasner (R-Delray Beach) said unfunded mandates would only cost a percentage of a percent of a county's budget. Representative Priscilla Taylor (D-Riviera Beach) disagreed with his numbers and said his example of Palm Beach County was not representative of other counties in the state. Rep. Taylor also expressed her concerns with a potential shift of the tax burden to those with the least, particularly renters. Representative Attkisson said the bill gives rate reductions to landlords, and they should pass any savings down to their tenants. Some members openly stated they believe this bill will harm the lowest group on the economic ladder. It would also limit the authority of local governments.

Representative Joe Gibbons (D-Pembroke Park) was a former City Commission in Hallandale Beach. He told the Council that his city has a \$39 million reserve on a \$93 million budget. They have implemented a pay-as-you-go strategy and have been fiscally responsible. He asked Rep. Attkisson if his city would be punished. Representative Attkisson replied that his philosophy was that the money would be best served in the pockets of the people, rather than the government. Representative Lorraine Ausley (D-Tallahassee) asked if Representative Attkisson would wait or be open to any recommendations from the Property Tax Reform Commission. Representative Attkisson said he was not open, because he is a representative and will not give the veto power to a commission. Representative Don Brown (R-DeFuniak Springs) also shared his concerns mainly with the implications to his district. In Holmes County, 1 mill returns about

\$355,000. In a more populated county, 1 mill could be \$16 million. This is a tremendous disparity. The smaller counties cannot absorb these reductions in revenues, and provide basic services.

There are two parts to the discussion on rolling back property tax rates to 2001 levels, the statutory fix in the form of HB 7001 and then a proposed constitutional amendment, which will be offered by Representative. Stan Mayfield (R-Vero Beach). The Policy and Budget Council will take up these bills on March 16th for a final vote.

At this time, AIF is reviewing all the property tax reform proposals being considered by the Legislature and we are working on developing alternative solutions in order to find the right combination of policy decisions that will reduce property taxes for businesses and citizens and at the same time protect the vital services provided by local governments.

On Thursday, March 8th the Senate Committee on Finance & Tax also heard presentations on property tax; but this time, the report was presented by the Florida Association of Counties. Hank Fishkind of Fishkind & Associates, Inc. presented their report “Analysis of County Spending Patterns 1999-2006, Where Did The Money Go?” While the report showed an increase in the amount of spending, the majority of it went to law enforcement. Also, Florida’s population increased by 17% from 1999 to 2005 and Florida counties supplied services and facilities to all of these new citizens. This increase in population coupled with higher fuel and insurance prices has led to more local government spending.

Chairman Mike Haridopolos (R-Melbourne) announced at the end of the meeting that the Senate property tax reform proposal would be released next week. The Senate Committee on Community Affairs will work on the proposal first and then later in the week, the Senate Committee on Finance and Tax will probably have it on their agenda. Senate President Ken Pruitt (R-Port St. Lucie) previously stated that property tax reform should be on the floor of the Senate during the third week of the Session.

Workforce Development

On Tuesday, March 6th the House 21st Century Competitiveness Committee passed HB 343 Relating to the Florida Work Experience Program by Representative Aaron Bean (R-Fernandina Beach). The bill expands eligibility for the Florida Work Experience Program (FWEP) to include career-technical students attending community college or district operated career centers. Representative Bean presented the bill and informed the committee that last year’s budget included over \$12.5 million in needs based post secondary funding and none of those dollars was used towards career-technical/vocational students. The expansion of vocational students will add an additional \$11.9 million to the bill. HB 343 was unanimously passed and will be heard next by the House Schools and Learning Council.

Florida's workforce must meet the demands of our state's employers. Therefore, AIF supports legislation that would increase participation and funding for the Florida Work Experience Program. Allowing students to gain valuable, real-world experience in their field of study is sound public policy.

Legal and Judicial

The Senate Transportation Committee considered SB 320 Relating to Trespass and Railroads by Senator Jim King (R-Jacksonville) on Wednesday, March 7th. The bill simply provides reasonable limitations to signage requirements on Florida's 2,788 miles of railroad right of way. Existing law requires trespassing signage every 500 feet along that right of way. The bill would clarify the understanding that trespassing on railroad property exists regardless if the right of way is physically posted as a no trespassing area.

Unfortunately, the Academy of Florida Trial Lawyers was temporarily effective in opposition to this bill. They provided a parade of horrors, accusing railroads of attempting to avoid liability issues. The meeting concluded with a tie vote, which would have killed the bill. However, Senator Alex Villalobos (R-Miami) moved to reconsider the vote by which the bill failed, therefore allowing another hearing to work on a compromise to ameliorate critical elements of this important issue.

AIF supports legislation that helps keep our railroads safe from trespassing and eliminates the unrealistic requirement to post warnings every 500 feet. Florida has thousands of miles of railroad tracks, many of which go through very remote and inaccessible areas. We hope to continue the dialogue on this important issue and urge the Committee members to take this issue up at the next committee meeting.

Economic Development

On Thursday, March 8th the House Economic Development Committee passed HB 1503 Relating to Super Enterprise Zones by Representative David Rivera (R-Miami). This bill creates super enterprise zones and gives the Office of Tourism, Trade, and Economic Development the ability to designate five super enterprise zones in the state for a 10-year period. To qualify as a super enterprise zone an area must be located in an enterprise zone and meet specific economic criteria. Designation as a super enterprise zone will provide certified businesses in the zone with a tax-free status.

Certified businesses will be eligible for a 100 percent exemption from sales and discretionary tax on tangible personal property. In addition, retail sales made by certified businesses in a super enterprise zone are provided a 100 percent exemption on sales and discretionary tax for any tangible personal property item priced up to \$1,000.

AIF supports the concept of establishing Super Enterprise Zones. There are several examples from states with similar programs that show that these Super Enterprise Zones are successful in attracting new investment and new companies to areas that need it the most. The potential for increased job creation and higher wages makes this idea good public policy.

The Committee also passed HB 1325 Relating to Entertainment Industry Economic Development by Representative Don Davis (R-Jacksonville Beach). The bill provides economic development incentives for the entertainment industry, and was presented by Representative Dean Cannon (R-Winter Park) since Representative Davis is recovering from surgery.

The bill substantially amends the Entertainment Industry Financial Incentive Program from a cash reimbursement to a transferable tax credit that can be applied against corporate income tax and sales and use tax liability effective July 1, 2007 through June 30, 2010. The bill provides a minimum of \$75 million in tax credits for each fiscal year. A tax credit can be sold at no less than 75 percent of its worth and may be carried forward for a maximum of five years.

Representative Cannon mentioned the recovering Representative Davis in his closing and asked for unanimous support on his behalf, the bill passed unanimously. These productions have the ability to employ a workforce for a longer period and provide greater stability to the state's entertainment industry infrastructure. To date, approximately 53 percent of qualified expenditures for the incentive program have been spent on Florida resident wages. The remaining 47 percent has been spent with Florida vendors or businesses. In fiscal year 2005-06 alone, approximately 4,027 Florida jobs were created due to productions qualifying for the incentive program.

AIF supports legislation that encourages growth in Florida's emerging film industry. The unequivocal success of this program is hard to ignore. Attracting large-scale film and entertainment productions to Florida is a boon to our economy.

Transportation

The Senate Transportation Committee passed two complimentary measures on Wednesday, March 7th addressing regional transportation authorities. The first, SB 506 by Senator Mike Fasano (R-New Port Richey) would create the Tampa Bay Regional Transportation Authority. The purpose of the authority is to take a more regional approach to transportation planning in west central Florida. The bill describes appointments to the authority as area business people as well as local elected officials, a metropolitan planning organization member and participation from the Florida Department of Transportation (FDOT). It is hoped the new entity will be able to overcome the parochial pitfalls of addressing infrastructure needs on a county-by-county basis. The ability to enter into public-private partnerships and a greater chance as a regional organization to attract federal matching dollars are some of the more dynamic characteristics of the proposed authority.

Senator Daniel Webster followed the Tampa Bay authority bill with a bill that deals with the overview of transportation authorities on a statewide basis. SB 1454 addresses the governance of transportation authorities of all kinds and provides that the Florida Transportation Commission will be responsible for monitoring and conducting periodic reviews of all state transportation authorities.

Both bills passed unanimously and will next be heard by the Senate Community Affairs Committee.

AIF supports the ability of multi-county areas in Florida to enter into regional transportation authorities, empowered to implement infrastructure improvements and to increase consideration for vital transportation corridors, seaports, airports and other regionally significant business centers.

Energy

On Wednesday, March 7th the House Energy Committee took up Proposed Committee Bill (PCB) ENRC 07-01, which addresses energy efficiency and alternative fuels. The PCB is intended to offer incentives to both consumers and businesses to use and produce alternative fuels. Consumer incentives range from tax exemptions on property and renewable energy source devices, to the Energy Efficient Motor Vehicle Sales Tax Refund Program, which refunds purchasers of hybrid or qualified alternative fuel motor vehicles up to \$15,000. This bill also creates incentive for businesses that produce ethanol and biodiesel in the form of tax credits. The bill also mandates that all county, municipal, and school district buildings be constructed to meet LEED (Leadership in Energy and Environmental Design) standards.

An amendment, important to AIF members, is currently being discussed between the Committee and Council. This amendment would provide a new definition for renewable diesel to match the US Environmental Protection Agency (EPA) definition. The new definition would allow the biodiesel to be made with biofuel materials using more conventional oil and gas refining equipment and technologies.

AIF is closely monitoring the progress of this piece of legislation. Energy issues are critical to the success of Florida's business community. Any attempt to encourage the development of alternative fuels should be viewed positively. The bill's fiscal impact, which is currently estimated at approximately \$100 million dollars, is somewhat problematic - especially given the recent indications that the State's revenues are much lower than originally expected.

Ethics and Elections

For the third year in a row, legislation has been filed in both chambers that seeks to regulate and establish procedures for the practice of gathering of signatures to place citizen initiatives on the ballot. On Thursday, March 8th the Senate Ethics and Elections Committee took up SB 900 Relating to Initiative Petitions by Senator Bill Posey (R-Rockledge). The bill imposes additional requirements on petition gatherers who are seeking to secure a ballot position for an issue. The bill specifies what information must be presented to a supervisor of election in order for the petition to be valid. The bill also provides a means for revocation of previously signed petitions by electors, which essentially mirrors the process by which the petition was initially secured. The bill requires paid petition circulators to provide additional information on the petition form and to wear a badge identifying themselves prominently as paid circulators.

Jose Gonzalez, on behalf of AIF, testified in support of the bill stating that the bill provides clear guidelines and structure for establishing a signature gathering process that is transparent and accountable. In addition, a provision that allows voters to revoke their signature on a petition form is particularly important to members of the business community. Several other states currently have a process in place for voters to revoke their signature.

SB 900 passed on a strict party-line vote of 6-3 and will be heard next by the Senate Judiciary committee.

In the House, a similar measure was also considered on Thursday. Proposed Committee Bill (PCB) EEIC1 was approved to be submitted as a committee bill by the House Economic Expansion & Infrastructure Council. This PCB contains many of the same provision regulating the gathering of petition signatures as SB 900 including the signature revocation process, but it goes one step further by containing a clause that would allow private property owners to regulate petition gatherer who operate on their premises. The language in this particular section of the bill grants private property owners the explicit right to prohibit signature-gathering activities relating to citizen ballot initiatives; the

property owner may prohibit activities generally or on any specific initiative, or may permit such activities with reasonable “time, place, and manner” restrictions to be uniformly applied.

Earlier in the day, the House Ethics and Elections Committee unanimously passed HB 559 Relating to Property Rights/Ballot Initiatives by Representative Don Brown. HB 559 is a stand-alone bill, which contains the same private property rights language found in PCB EEIC1.

AIF supports legislation that establishes a transparent and structured signature gathering process that is accountable to the voters of Florida. We especially appreciate the efforts of the bill sponsors to develop a signature revocation process and their efforts to ensure that private property owners have the right to regulate what political activity takes place on their premises.

Jessica Lunsford Act

On Thursday, March 8th the Senate Criminal Justice Committee took up a revision to the Jessica Lunsford Act in the form of SB 988 by Senator Nancy Argenziano (R-Crystal River). As a result of difficulties in the application of the original bill for service providers on school grounds, Senator Argenziano has been working with AIF and others to specifically define the applicable offenses that would prevent a contractor from entering school grounds. Previously, the Jessica Lunsford Act allowed school boards to interpret what was considered an applicable offense by using the term "moral turpitude". This was problematic for employers and contractors because each school board applied the term differently.

Additionally, the bill creates an exception for those workers who would normally not have contact with students - and therefore not be required to undergo fingerprinting and background checks. SB 988 also allows non-instructional contractors to avoid fingerprinting and background checks if their worksite is separated by a 6ft chain link fence.

SB 988 passed unanimously and is now headed to the Senate Education Pre-K – 12 Committee.

AIF supports legislation, 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.

Taxation

On Thursday, March 8th the Senate Committee on Finance & Tax unanimously approved SB 1014 the 2007 Internal Revenue Code Adoption bill by Senator Mike Haridopolos (R-Melbourne). This legislation is also known as the “Corporate Piggyback” bill and updates the Florida Income Tax Code to reflect the changes made by the US Congress in 2004 to the US Internal Revenue Code of 1986. Florida’s Corporate Income Tax Code follows the Federal Internal Revenue Code by using federal rules and starting with federal income as the tax base for the Florida Income Tax. Passage of this bill ensures that corporations, which are subject to Florida income tax, can base their calculations on current IRS rules. If the legislature does not pass this legislation every year, corporations would have to keep two sets of records: one for Florida and one for the IRS.

AIF supports the passage of this bill so that Florida corporations do not have to endure the burdensome task of filing duplicate tax records.

Environmental

The House Committee on Environmental Protection considered 3 proposed committee bills on Wednesday, March 7th. First was Proposed Committee Bill (PCB) ENRC 07-02 Relating to Solid Waste. This bill makes mostly technical changes to the 1988 Solid Waste Management Act. In general, the changes aim to correct cross-references and delete certain obsolete provisions and dates from the solid waste management statutes. The Committee unanimously agreed to introduce the PCB.

The next bill considered was PCB ENRC 07-05, the Florida Climate Action Partnership. This bill establishes a commission that will host a series of meetings to develop recommendations for how the state addresses the topic of global warming. This twenty-two member Commission entitled the Florida Climate Action Partnership (FCAP) will address climate change mitigation and serve as a catalyst for affected parties within the state regarding such issues. The commission membership will consist of appointees from the Governor, President of the Florida Senate, Speaker of the Florida House of Representatives and Commissioner of Agriculture as well as the Commissioner of Agriculture or designee and Chief Financial Officer or designee.

The last proposed committee bill was PCB ENRC 07-04, the Florida Gold Star Permitting Act. This proposed committee bill came from Idea # 74 of the “100 Innovative Ideas” created by Speaker Marco Rubio (R-Miami) and the Florida House of Representatives. What we believed to be an “incentive based permitting” bill is now a bill that AIF cannot support. The bill in its current form gives very little incentives for short-form permit renewals, expedited permits and longer permits in some cases. Because of definition problems, we are not sure if any company will ever be able to qualify for the new “Gold Star Permitting” status. Keyna Cory, Chief Lobbyist for AIF, suggested to the Committee that they look at HB 297 Relating to the Incentive-based Permitting Act by Representative Debbie Boyd (D-High Springs) - a similar bill that is being supported by AIF and other organizations that gives workable incentives. After receiving testimony

from other organizations about the problems with the Florida Gold Star Permitting Act, it was “TP’ed” or “temporarily passed” so that interested parties could work on new language. However, within the hour, Environment & Natural Resources Council Chair, Representative Stan Mayfield (R-Vero Beach), appeared and requested that the committee reconsider their decision to TP the bill. Although the committee members were reluctant, they passed the bill so that it can be heard in the House Environment & Natural Resources Council next week. Being one of the “100 Innovative Ideas” has caused the bill to be on a fast track for passage. Environmental Protection Committee Chair, Representative Trudi Williams (R-Ft. Myers) called an informal meeting this afternoon of interested parties to try and reach an agreement on the language.

AIF opposes the Florida Gold Star Permitting Act as it currently reads. This bill does not contain the necessary provisions that would qualify it as a true “incentive-based” permitting bill. We would like to thank Representative Williams for her willingness to work on this issue and look forward to our continued negotiations on this bill.

Government Accountability

On Thursday, March 8th the House Business Regulation Committee held a workshop on PCB JEC2, a Proposed Council Bill for the Department of Business and Professional Regulation (DBPR) that would change eight specific areas of law intended to streamline licensing and regulatory processes within the department. On hand to present the eight concepts was John McBride, legislative affairs director for DBPR. The following proposed changes are the most relevant to the business community:

Allowing the department to collect electronic fingerprints where fingerprints are required for licensure. While the current process of fingerprint cards can take up to 8 weeks to process, electronic collection would streamline the process to 2-3 days. Representative Tee Holloway (D-Miami Gardens) asked Mr. McBride if there was a cost to this process. While DBPR acknowledged that there would be a \$37 dollar fee to the applicant for this process, they argue that the licensee would be licensed much quicker under this process and could get to work sooner.

- The creation of a simple credit score when assessing the financial responsibility of applicants before the Construction Individual License Board (CILB). The current process is elaborate and highly subjective. This new credit scoring system would be simpler and would streamline the process in the eyes of the department.
- Requiring all contracting license applicants to submit to a Level 2 background check as part of the application process. Mr. McBride noted that the department was suggesting this idea in an effort to be “preventive.”
- Establishing a lifetime ban from being farm labor contractors for those individuals convicted of: federal narcotics laws, murder, rape, assault with intent to kill, assault that inflicts grievous bodily injury, prostitution, peonage, and smuggling or harboring individuals who have entered the country illegally. Representative Steve Precourt (R-Winter Garden) asked why the department chose specific

crimes rather than simply naming a class of crimes that would constitute a lifetime ban. Mr. McBride noted that in their recommendation the department tried to be responsible and fair in seeking an acceptable threshold that would constitute a lifetime ban. Representative Holloway agreed with Mr. McBride and noted he appreciated the department's attempt to understand the gravity of a lifetime ban on someone's ability to pay their penalty and find work afterward.

AIF will be closely monitoring these recommended changes as they make their way through the process. While many of the concepts are meant to streamline the process, there could be various unintended consequences to these changes.

- 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.