



## DAILY LEGISLATIVE BRIEF FROM MARCH 18, 2008

Due to a shortened work week, a number of committees took up important bills for the business community today. Included in today's report are updates on such issues such as the "guns in the workplace" bill, which was passed by its first committee in the Senate as well as a number of health care issues – primarily the Governor's much touted plan to address the issue of the insured in Florida.

Wednesday promises to be another hectic day for the business community as both the House and Senate are scheduled to vote on their respective energy policy packages.

### Guns in the Workplace

Today, the Senate Criminal Justice Committee considered SB 1130 by Senator Durell Peaden (R-Crestview), their version of the "guns in the Workplace" bill. The Senate version of this bill is different than what the House Environmental and Natural Resources Council approved last week (HB 503). The primary distinction is that Senator Peaden's version does not limit the population of employees who may bring firearms onto an employer's property to those employees possessing a permit to carry a concealed weapon. Therefore, prior to the committee meeting, AIF and other business groups informed committee members of their strong opposition to the bill.

At the meeting; however, things became much more interesting when Senator Mike Bennett (R-Bradenton) offered an amendment to hold a business owner harmless for claims of tortuous and unlawful actions that may result from an incident involving a firearm on the property. Senator Bennett credited his colleague, Senator Dave Aronberg (D-Greenacres) for pointing out to the committee that the "immunity provisions" in the bill alone would not shield an employer from lawsuits based on an event that involved a firearm that the employer was unable to prevent an employee, customer or invitee from bringing onto its property.

Senators Bennett and Aronberg drafted the amendment several times during the committee to be certain that it would not apply to other statutes and would achieve the protection for employers from the acts over which the committee members expressed concern. The Florida Justice Association testified that they adamantly opposed the amendment and did not want employers to have these protections. However, the committee adopted the amendment by a vote of 6-2. Senators Bennett, Aronberg, Jim King (R-Jacksonville), Steve Wise (R-Jacksonville), Many Dawson (D-Ft. Lauderdale) and Evelyn Lynn (R-Ormond Beach) were in favor of the amendment. Senators Paula Dockery (R-Lakeland) and Victor Crist (R-Tampa) voted against it. Senator Bennett expressed concern that the committee would not have otherwise passed the bill at all if the amendment had not been adopted.

AIF salutes Senators Bennett and Aronberg for the amendatory work completed today. Their understanding of the additional liability to which this bill will open employers is greatly appreciated and should be commended. However, the bill still contains many provisions that are not favorable to employers. The doctrine of employment at will is completely undermined by this legislation and the employer's property rights are minimized at best.

After the amendment was adopted AIF's General Counsel, Tamela Perdue, testified before the committee regarding the overall bill. "Let me be clear that AIF is opposed to this legislation," said Perdue. "The many questions of employment law and policy the bill creates remain unanswered and untenable for Florida's employers."

The bill passed the committee by a vote of 7-1. Only Senator Aronberg voted against the bill and supported the business community's position on this important matter.

The bill is next slated to be heard by the Senate Judiciary Committee. Its next scheduled meeting is Tuesday, March 25, 2008 at 12:45 pm. However, the agenda for that meeting will not be released before Friday, March 21, 2008.

**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.**

## Secondary Metal Theft

The House Policy & Budget Council unanimously passed HB 799 Relating to Theft of Copper or Other Nonferrous Metals by Representative Sandy Adams (R-Oviedo).

Representative Adams explained that the bill provides that a person who knowingly and intentionally takes copper or other nonferrous metals from a utility or communications service provider commits a first degree felony if the theft: damages, interrupts or interferes with the facilities or service of a utility or communications service provider.

Representative Don Brown (R-DeFuniak Springs) asked if this bill included the stealing of beer kegs. Representative Sandy Adams answered that that this was covered by Representative Baxter Troutman's metal theft bill (HB 105). There were no other questions and no debate.

HB 799 will now be considered on the floor of the House of Representatives.

SB 556 by Senators Lee Constantine (R-Altamonte Springs) and Victor Crist (R-Tampa) received unanimous approval by the Senate Criminal Justice Committee. Keyna Cory, Chief Lobbyist for AIF, spoke on behalf of the *Floridians for Copper & Metal Theft Crime Prevention Coalition*. Over 35 businesses and associations, all who have been a victim of this type of crime, support this legislation to stop copper and metal theft, which is plaguing Florida's businesses and residents.

Due to the increasing worldwide demand for metals, more and more criminals are stealing copper wiring from construction sites, digging up underground telecommunication wires, cutting utility wires, and even stealing beer kegs! Businesses are suffering down time due to power or phone lines being cut or if air conditioning units are destroyed.

**AIF supports this legislation to help law enforcement find these thieves and make it harder for them to unload their stolen goods. Metal thieves may get a few hundred dollars for the metal they steal, but a business may have to spend 100 times that amount to repair the damage.**

## Health Care

The Governor's plan to decrease the number of uninsured Floridians was approved by the Senate Banking and Insurance Committee this morning. Senator Durell Peadar (R-Crestview) is sponsoring the proposal (SB 2534). Insurers and employer groups expressed their support for such a measure. AIF's Jose Gonzalez testified that this new approach will help more employers across the state to provide health benefits to their employees. The bill provides the following:

- Allows a dependent to remain on his or her parent's health policy until age 30;
- Extends the sunset on Health Flex Program and moves the eligibility from 250% to 300% of the Federal Poverty Limit;
- Provides for a state-administered Invitation to Negotiate for health plans to provide two low-cost options (one with catastrophic coverage and one without) to persons currently uninsured for six months. These plans are exempt from the current insurance code and will be lower in cost through the use of cost containment measures such as limit on the number of services, caps on benefits and co-payments; and

At this time, there is not a House companion; however, there is an expectation that this plan may take on part of a House Healthcare Council proposal, which would establish a marketplace where employers and employees can purchase mandate-free plans.

**AIF supports market-based solutions to the uninsured crisis in Florida. Currently, over 3 million people in Florida have no access to health insurance. This proposal has the potential to provide these individuals with a low-cost plan that provides some minimum coverage, including hospital stays. AIF looks forward to continuing to work with the bill's sponsor and the Governor's office on this encouraging proposal.**

The House Health Innovation Committee and the Senate Banking and Insurance Committee approved several health insurance mandates today, which are sure to raise the cost of health insurance premiums in Florida. HB 709 Relating to Optional Coverage for Health-Related Disorders by Representative Joyce Cusack (D-Deland) would expand coverage by insurers and HMOs regarding prescription and non-prescription enteral formulas. Enteral formulas are liquid solutions containing some or all of the nutrients that the body needs to function. These formulas are considered nutritional supplements and not medication by the FDA. The measure also deletes the annual cost cap which would allow for costs to be contained. Representatives Jimmy Patronis (R-Panama City) and Will Weatherford (R-Zephyrhills) voted against the measure citing their concern about increasing health insurance premiums for Floridians.

HB 709 will now be considered by the House Health Care Council.

HB 1291 Relating to Autism Spectrum Disorder by Representative Ari Porth (D-Coral Springs) would require health insurers and HMOs to cover the diagnosis, screening and treatment of autism spectrum disorder for children. Further, the bill contains language which would prohibit insurers and health plans from implementing any cost-saving measures. The bill also would require child care personnel to take a 40-hour course to recognize children with this disorder and would set up new requirements for colleges to offer educator certification coursework on teaching children with this disorder. The staff analysis noted that this legislation would result in higher insurance premiums and would have a significant fiscal impact to the state.

HB 1291 was passed 4-3 by the Committee with Representatives Patronis, Weatherford, and Jim Frishe (R-Belleair Bluffs) voting against the bill. HB 1291's Senate companion, SB 2654 by Senator Steve Geller (D-Hallandale Beach), was approved by the Senate Banking and Insurance Committee; however this version only addresses the health benefit mandate on insurers.

HB 1291 will now head to the Health Care Council. SB 2654 will be considered by the Senate Health Policy Committee.

HB 19 Relating to Coverage for Mental, Nervous, and Substance-related Disorders by Representative Ed Homan (R-Temple Terrace) would require health insurers and HMOs to offer coverage for mental health services on the same level as for physical illness. A strike-all amendment was approved which makes the bill more like the bill's Senate companion, SB 164 by Senator Victor Crist. Although the new language deleted autism from the list of conditions to be covered and addressed some of the issues raised by employers and insurers, the bill would still increase premiums.

HB 19 will move next to the Healthcare Council.

**AIF consistently opposed additional mandated coverages because the resultant cost increases could force some insurers out of the market and price health care insurance out of the reach of many employers and businesses.**

The House Healthcare Council unanimously approved HB 461 Relating to Health Flex Plans by Representative Jimmy Patronis (R-Panama City). The bill expands the Health Flex program to a greater number of small employers by expanding health flex plan eligibility from 200 to 300 percent of the federal poverty level. The bill is important for business because it will allow employers to offer less costly policies with tailored benefits to employees. It gives those businesses a third option other than providing rich benefit policies or no coverage. There was little debate during the meeting and most committee members agreed that the bill is a good step forward, but no panacea for the health insurance crisis our state faces.

**AIF supports market-based solutions to the problem of Florida's uninsured. These individuals typically rely on emergency rooms for their primary care. Unfortunately, this kind of care is the most expensive option. Expanding access for low-income employees to health flex plans is sound public policy.**

## **Economic Development**

Today, the Senate Commerce Committee considered three pieces of legislation designed to help stimulate Florida's slowing economy. Each bill addresses different areas of economic growth within the state's economic engine.

SB 850, otherwise known as the New Markets Tax Program, is sponsored by Senator Mike Fasano (R-New Port Richey) and is a priority bill for AIF this session. This legislation creates a state program by which venture capital funds would receive a state tax credit when infusing these funds into designated rural, low income and economically desolate areas as a means to stimulate the local economy. The genius behind this proposal is that this project would piggy back off a federal program where almost \$20 billion dollars of federal aide and assistance are available to match these state tax credits. AIF lobbyist stood in support of the bill and urged the committee to pass the measure. The committee unanimously voted to approve this measure and it will now be considered by the Senate Community Affairs Committee.

**AIF supports efforts to draw down federal dollars for economic development in low-income areas of the state through innovative proposals such as the New Markets Tax Credits Program.**

Next, the committee heard SB 1398 Relating to Research and Development Expenses Tax Credit by Senator Steve Oelrich (R-Gainesville). This legislation attempts to establish a Research and Development Tax Credit Program, whereby a tax credit would be granted for companies that chose to engage in research and development, manufacturing, telecommunications or tourism. In addition, any tax credits that were qualified for by a company but were unused can be assigned or sold to other companies. While the committee fully endorsed the proposal in general, there were several members who expressed concern over the provision that allows a company to sell any unused tax credits. Senator Gary Siplin (D-Orlando) expressed reservations over this piece of the bill and asked if an amendment could be drawn that would limit the credits being sold to only the same type of companies that originally earned the tax credits. This would prevent any industry that operates a business outside research and development arena from benefiting from the tax credits. The sponsor of the bill was not willing to amend the bill to that effect in Committee today, but did commit to sitting down and hammering out a compromise with the interested parties. The bill ultimately passed the Committee by a unanimous vote and will now be considered by the Senate Finance & Tax Committee.

**AIF strongly supports the Legislature's efforts to energize Florida's economy by way of tax incentives, business development credits and various other businesses incentives for existing Florida businesses and new research institutes looking to expand in Florida.**

Lastly, SB 2310 Relating to Economic Stimulus by Jeremy Ring (D-Margate) is an innovative and creative way to utilize the State Board of Administration's (SBA) ability to invest into Economically Targeted Investments (ETI). The bill would call for the state to utilize up to 1% of the state retirement's approximate \$184 Billion dollar fund to invest into ETIs. Investments would be targeted to include aerospace, aviation, engineering, computer technology, renewable energy, and medical science companies. In his remarks, Senator Ring told the committee that he had worked with the business community, Enterprise Florida, and investors in the Florida Retirement System (FRS) such as the Florida Police Benevolent Association (PBA) and the Florida Professional Firefighters to bring a consensus product to the bill. Senator Ring added one amendment that was adopted by the committee that would implement some measures of accountability by requiring the SBA to report to the Senate President and the Speaker of the House all the investments made from the Retirement Fund into ETIs. Yet another amendment was withdrawn by the sponsor, which would raise the amount invested from 1% to 1.5% of the total FRS.

This amendment caused controversy and opposition from Senator Evelyn Lynn (R-Ormond Beach) as well as the Florida PBA, both of which said they were not comfortable with the threshold moving to a higher amount. Senator Ring agreed to withdraw the amendment and work with the concerned parties in the coming days. AIF stood in support of the bill and answered questions from Senator Lynn as to why AIF felt this would be a safe investment of FRS funds.

SB 2310 was passed unanimously by the Committee and will now be considered by the Senate Government Operations Committee.

**AIF supports legislation that seeks to take a small percentage of the state's retirement fund and invest it into Florida companies. Other large states like California presently engage in this type of investments and their economies have benefited tremendously from the infusion of capital into new and expanding companies.**

## Energy

The Florida Department of Environmental Protection (DEP), Division of Air Resource Management held its third Rule Development Workshop today regarding the Adoption of California Motor Vehicle Emissions Standards as described in Governor Charlie Crist Executive Order 07-127. The purpose of the workshop was for the Division to give a presentation of its conceptual proposal and give the public an opportunity to ask questions or make comments. Written comments are due to the Department by April 11, 2008.

All DEP workshop presentations and all comments received by the department can be found on its website:  
<http://www.dep.state.fl.us/Air/rules/GHG/California.htm>

According to DEP, the transportation sector accounts for over 40 percent of the CO2 emissions in Florida. Automobiles and light-duty trucks account for nearly 2/3 of the transportation CO2 emissions.

Most of the public who spoke objected to Florida adopting standards set by another state. Staff repeatedly told the presenters that they were under the Executive Order to adopt the California rules. The Clean Air Act prohibits states from adopting their own emission standards, but California was granted the authority to set its own standards through a waiver process. California has petitioned the EPA for a waiver to add greenhouse gas emission standards to the California rule for new motor vehicles. EPA denied the waiver request, but California's challenge of the denial is still pending in the U.S. Court of Appeals, Ninth Circuit.

Florida DEP and the State of Iowa have joined California in their lawsuit. The rulemaking process, currently underway, assumes that they will be granted the greenhouse gas waiver.

The Clean Air Act only allows states to implement new motor vehicle emission standards that are identical to those in California. Therefore, when any state (including Florida) adopts the California rules, most of the rulemaking is pre-determined. To adopt the greenhouse gas waiver, Florida will need to adopt the whole California low emission vehicle program. The rule would not take effect until two years after the waiver is approved.

DEP is specifically looking for public comments on the following:

- Exemptions for certain new vehicles delivered for sale and use in Florida
- Appropriation phase-in periods for fleet-wide averages and sales requirements
- Enforcement mechanisms, especially rental car fleets and cross-border sales

**AIF opposes this proposed rule. There is no reason for Florida to have standards dictated by another state, especially California. For Florida to change any section of this rule, we would have to go to California and convince their governing body to make the change. The new federal standards recently adopted are a much more reasonable approach. According to the Florida Automobile Dealers Association, the California standards could increase the cost of a new vehicle by \$1,000.**

## **Education & Workforce**

Today the House Schools and Learning Council passed three bills of primary importance to AIF.

The first item considered was proposed council bill SLC 8, Relating to Class Size Reduction Implementation Flexibility. Representative David Simmons (R-Altamonte Springs) presented the bill, which amends the current law that implements the constitutional amendment lowering class size. The bill preserves the integrity and purpose of the amendment, while providing a detailed mechanism for flexibility. Chairman Simmons quoted the Florida Supreme Court's ruling that the Constitution gives latitude to the Legislature to design ways to meet the class size goals and finding that disruptions to learning in the middle of a school year are educationally unsound and distressing. The bill revises the schedule for class size reduction between 2008 and 2011.

The main provision of the bill is a flexibility exception that allows schools that experience unexpected student growth after compliance has been determined to assign students to existing classes, as long as there are not more than 3 students over the limit of 18 students in K-3 or 5 students over the limit in grades 4 – 12. Other methods of achieving the limit must be considered before using the flexibility option and the option expires at the end of the school year. The bill also changes accountability and enforcement for class size compliance. SLC 8 passed unanimously with little question or debate. The issue has been worked for several weeks in Representative Simmons committee and agreement had been reached with all parties.

**AIF supports added flexibility in achieving the class size limits passed in Florida's Constitution. This will free up valuable funding that can go to increases in teacher salaries and investment in school infrastructure.**

The Council then considered SLC 1, Relating to Enhanced Curricular Sunshine State Standards. This is the bill Speaker Marco Rubio (R-Miami) mentioned in his opening day speech. The bill is supported by the State Board of Education, the Foundation for Florida's Future, and AIF. Representative Anitere Flores (R-Miami) presented the bill, which requires the Department of Education (DOE) to upgrade our current curriculum standards by making them more rigorous and making them grade specific for the core subjects (math, language, science).

Additionally, the bill adds standards in other important subjects such as civics and even physical education. It also strengthens Florida's education accountability system by adding social studies to the FCAT, exploring some end of course exams, and pushing back the FCAT testing date later in the school year. The Council unanimously voted to introduce the proposed council bill and assign it an official bill number.

**AIF Supports raising the rigor of high school education to better prepare students for transition into higher education and better align their skills with the needs of the 21<sup>st</sup> century workforce.**

Finally, the Council unanimously passed HB 207 Relating to Educator Certification by Representative Maria Sachs (D-Delray Beach). The bill aims to broaden the number of foreign languages available in Florida's schools by changing the way teachers can be certified to teach a foreign language. The bill focuses on three languages: Chinese, Hebrew, and Italian. As originally drafted, the bill had a significant fiscal impact, but it was amended in the previous committee to remove this fiscal impact.

**AIF supports students having access to classes in modern languages that are used for around the world for commerce, which will give our students the foundation they need to compete in the global workforce.**

The House Postsecondary Education Committee met and passed two recommendations that will go on to the Schools and Learning Council as proposed council bills on remedial education reform and dual enrollment reform.

**Remedial education reform** – citing rising numbers of students requiring remedial education when entering college (55% of all students needed some remediation, mostly in math, but often in multiple areas), as well as rising costs, Representative Clay Ford (R-Pensacola) presented draft language creating the Remedial Reform Pilot program with the goal of reducing the need for and cost of remedial education for recent high school graduates. The pilot program will be administered by the Department of Education, who will select no more than four collaborative efforts between one or more school districts and community colleges by October, 2008.

The bill incorporated some changes as a result of the discussion during the workshop the prior week, and members continued to question the use of a pilot program focused on recent high school graduates when the remedial problem is statewide and includes not only recent graduates, but also returning adult students. Ultimately, the committee voted in favor of the proposed bill and it will now be assigned an official bill number. Chair Marti Coley (R-Marianna) stated that she has seen plenty of state wide programs that didn't work and thought the pilot was a more beneficial approach. She also stated that the remedial problem included both recent graduates and returning adults and that the coordination of K-12 and community colleges could improve the problem.

**AIF supports mechanisms to align the education delivered in K-12 with the preparation required for higher education in order to prepare better qualified students for the workforce.**

**College and Career Preparation** – this proposed bill was work-shopped last week under the title of Dual Enrollment Reform, and is aimed at shortening the time needed for a college degree and broadening the scope of curriculum available to students through accelerated college credit programs such as Advanced Placement, International Baccalaureate, and Dual Enrollment. The proposed bill:

- Contains a diploma designation for accelerated credit (AP, IB, DE, AICE)
- Requires each district to offer at least 4 accelerated college credit courses (can be any of AP, IB, DE, AICE) in math, English, science, social studies, and four career education dual enrollment courses
- Requires the State Board to develop a plan to increase accelerated college credit programs
- Requires the State University System to weigh Dual Enrollment comparable to AP, IB, AICE, for admission purposes

**AIF supports increased educational opportunities for students that expand access to rigor in high school and prepare students for the workplace AND higher education. Expanded access to rigorous courses, aligned to higher education standards, and exposure to foreign languages will give our students a better foundation for higher education and work. It will also give our employers a better prepared workforce; one that is able to compete with neighboring states and countries half a world away.**

The House 21<sup>st</sup> Century Competitiveness Committee unanimously passed HB 659 Relating to Service Learning by Representative Rick Kriseman (D-St. Petersburg). The bill permits the Department of Education to encourage school districts to initiate and implement service learning programs and activities in the K-12 system. As a part of the curriculum, service-learning programs would allow students to practice and apply skills, knowledge, and behaviors they need to learn through service to others in their school or community. These programs have been shown to improve the academic and behavioral skills of students resulting in increased academic performance, increasing FCAT scores and improving attendance. These programs have also served well as an intervention strategy for at-risk students. School districts would receive incentive by way of Federal grants.

The Committee also unanimously passed HB 985 Relating to Workplace Skills of Students by Representative Bryan Nelson (R-Apopka). This bill requires students beginning high school in the 2008 to earn work credentials based on achieving a minimum score in applied mathematics, reading for information and the ability to locate information. There are three levels of achievement under the assessment protocols for Bronze, Silver and Gold certification. The certifications demonstrate to employers that the student has the skills necessary for successful job performance. The bill also requires Workforce Florida Inc. to coordinate with the Department of Education to ensure consistent application of the credential. Lucy Hadi, the chancellor of Florida's K-12 system testified that as a result of the program, Florida would have the first longitudinal study of placements and effectiveness.

**Both bills are of significant importance to developing the workforce that business needs in Florida and AIF supports these important initiatives.**