



DAILY LEGISLATIVE BRIEF FROM MARCH 25, 2008

Senate Judiciary was the site of most of the bills of interest for the business community today. The Committee passed the “guns in the workplace” as well as a bad arbitration bill by Senator Ted Deutch (D-Delray Beach). The lone bright spot was passage of SB 704 by Senator Mike Bennett (R-Bradenton), which enforces and clarifies many of the provisions of the Administrative Procedures Act, a law which businesses rely on a daily basis.

In addition, the Senate Banking & Insurance Committee devoted the entirety of their meeting to discussing additional property insurance legislation. It was a “good news/bad news” type of day as the Committee passed CFO Sink’s proposal to reduce the Cat Fund’s exposure, but also passed bad legislation which continues the freeze on Citizen Property Insurance Corporation’s rates.

Hospitals/CON

The Senate Health and Human Services Appropriations Committee held a workshop today on SB 2326 Relating to Hospitals by Senator Durell Peaden (R-Crestview). This bill represents Governor Charlie Crist’s proposal to de-regulate the Certificate of Need (CON) process in Florida. The bill eliminates the certificate-of-need (CON) requirement for general hospitals and requires an initial or change of ownership licensure applicant for a general hospital to commit to provide a certain level of services to Medicaid/charity-care patients and to operate an emergency department on the hospital’s main premises. Florida’s CON program (which has been in operation since 1973) is a regulatory review process that requires specified health care providers to obtain prior authorization before offering certain new or expanded services.

Opponents of the CON process consider it to be too time-consuming, too costly (in terms of litigation costs), and anti-competitive. These concerns with the CON process were voiced by the bill’s sponsor, as well as newly-appointed Agency for Health Care Administration (AHCA) Secretary Holly Benson, during this afternoon’s workshop. Secretary Benson also stressed that this proposal would prevent the proliferation of “boutique” hospitals by establishing hefty fines for not providing charity care and by requiring that any new facility, approved under the new licensure scheme found in SB 2326, include a full service, 24 hour emergency room.

Representatives from a wide variety of hospitals including private for-profit hospitals, as well as teaching hospitals, testified in opposition to doing away with the CON process. AIF’s *Hospital Council* was also present in opposition to the plan. Opponents stated that this was perhaps the worst time to consider doing away with CON. The state is facing a severe shortage of doctors and nurses and if this legislation is passed, where would the state find the additional specialists and staff to fill these new facilities? In addition, the Legislature has been forced to make drastic Medicare and Medicaid cuts; thus, reducing the funding to Florida’s existing community hospitals. Allowing for more hospitals would make it even harder for the Legislature to fund hospitals. Finally, several of the opponents argued that hospitals don’t fit under the traditional free market formula, and trying to increase competition will only exacerbate the problem. Hospitals, unlike other private businesses, are forced to serve consumers even if they cannot pay. They cannot deny care to the uninsured regardless of their status or ability to pay. Therefore, arguments to “increase competition” just don’t work.

Senator Don Gaetz (R-Ft. Walton Beach) asked several of the opponents whether any reforms could take place without having to do away with the CON process. Most agreed that the litigation costs associated with CON were excessive, but that deregulating CON completely would be counterproductive. In fact, several states including Missouri, who abandoned the CON process, have recently re-instituted it.

Currently, SB 2326 does not have a House companion. It is unclear what the prospects are for this proposal moving forward, but AIF will continue to track the issue closely.

AIF opposes efforts to abandon the CON process in Florida. This process, which has been around since the early 70s, has worked to ensure that Floridians – regardless of race, ethnic origin, or socioeconomic status – have access to high quality health care facilities and services.

Guns in the Workplace

The Senate Judiciary Committee passed SB 1130 by Senator Durell Peaden (R-Crestview), which has become known as the "guns in the Workplace" legislation. Last week, the Senate Criminal Justice Committee adopted an amendment onto the bill by Senator Mike Bennett (R-Bradenton) that provide additional immunity for employers in the event of an accident or incident arising from a firearm stored in a vehicle on the employer's property, as required by the bill. However, today, the Senate Judiciary Committee considered amendments by Senator Dan Webster (R-Winter Garden) that negated last week's amendatory provisions. Accordingly, the immunity is no longer provided to employers in the Senate version of the bill. This amendment was approved by the committee with only Senator Don Gaetz (R-Ft. Walton Beach) opposing its adoption.

The Committee considered 2 additional amendments by Senator Ted Deutch (D-Delray Beach) but neither was adopted. Those amendments would have created exceptions for certain types of businesses, including churches, courtrooms and schools, among others.

Once again today, the business community strongly opposed this bill. It was obvious from the crowd in the room, that this was quite a victory for the trial bar and the labor unions, as well as for the NRA. AIF's General Counsel, Tamela Perdue testified before the committee in opposition, stating that the Bennett amendment that was removed by today's committee was a good step towards developing compromise. "However, the removal of that language is quite disappointing to Florida's employers, and forces us to continue to adamantly oppose the legislation."

SB 1130 will now be considered on the floor of the Senate.

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.

Business Regulation

The Senate Judiciary Committee passed a bill relating to the Administrative Procedures Act, SB 704 by Senator Mike Bennett. This bill provides additional incentives for state agencies to undergo rule adoption and implementation procedures when authority for such is granted by statute. The bill is designed to prevent agencies from failing to go through the formal rule making process but implementing and enforcing policies under such statutes. The bill passed the committee unanimously and incurred no opposition.

It will next be heard in the Senate Transportation and Economic Development Appropriations Committee before moving to the full Senate floor for final passage.

AIF supports SB 704 since it provides additional incentives for agencies to adopt their policies using the required rulemaking process. Businesses use the APA on a daily basis when interacting with state government. Any improvements to the Act are welcomed by the business community.

Insurance

The Senate Banking and Insurance Committee unanimously approved CFO Sink's proposal, SB 2156 Relating to Florida Hurricane Catastrophe Fund by the Senate Banking & Insurance Committee. The bill is designed to reduce the risk associated with Florida's Catastrophe Fund by \$3 billion, which is an excellent start in reducing potential hurricane taxes against businesses to fund deficits. For the Cat Fund contract year commencing June 1, 2008, and ending May 31, 2009, and for the contract year commencing July 1, 2009, and ending May 31, 2010, reduces the maximum temporary increase in coverage limits (TICL) option from \$12 billion to \$9 billion.

SB 2516 will now be considered by the Senate Governmental Operations Committee.

AIF supports legislation to reduce the potential for future Cat Fund assessments on Florida's businesses by giving the Governor and Cabinet the ability to set both the reinsurance levels and pricing of the Cat Fund's coverages.

Unfortunately, despite the sound reasoning of Senator Al Lawson (D-Tallahassee) and Senator JD Alexander (R-Winter Haven), the committee today also amended and approved by a 6-2 vote, SB 2860 Relating to Insurance by Senator Jeff Atwater (R-North Palm Beach). The bill will continue the freeze on Citizen's rates, thereby increasing the exposure of hurricane taxes being tacked on the home, auto and, commercial policies of all Floridians. The approved amendment to SB 2860 created several new provisions, which will result in further restrictions for the private marketplace.

SB 2860 will now be considered by the Senate General Governmental Appropriations Committee.

AIF opposes legislation that allows Citizens to compete with private insurance companies. By continuing the freeze on Citizens rates, businesses in Florida will continue to be exposed to “hurricane taxes” in the form of assessments on all lines of insurances should a major hurricane hit Florida.

The Senate Judiciary Committee passed SB 2076 Relating to Arbitration by Senator Ted Deutch (D-Delray Beach). The bill passed by a 7-4 vote during the last minutes of the committee and very little testimony was taken on this controversial bill. A strike-everything amendment was adopted, but opponents had very little time to review. Senator Deutch promised to work with the business community both publicly and privately, and acknowledged that there would be major opposition to this proposal. Essentially, the bill prohibits arbitration requirements in most contracts, which inevitably represents a dramatic increase in litigation for Florida’s businesses.

SB 2076 will now be considered by the Senate Commerce Committee.

As drafted, AIF opposes this legislation. The changes to the arbitration process outlined in this bill can only lead to greater litigation costs for Florida’s employers businesses.

Taxation

HB 1283 Relating to Ad Valorem Tax Assessment Value Challenges by Representative Dean Cannon (R-Winter Park) and House Joint Resolution 7005 Relating to Taxpayers' Bill of Rights by Government Efficiency and Accountability Council were scheduled to be considered by the House Policy and Budget Council today, but were pulled from the agenda at the last minute.

Both pieces of legislation are very good for the business community because they made changes to the presumption of correctness currently enjoyed by property appraisers when a taxpayer challenges their assessment in court, or at the Value Adjustment Board. We suspect the reason the bills were removed was due to the fact that the Revenue Impact Conference (the states official revenue estimating body) assigned a large revenue impact on the two proposals during the March 21st meeting. HB 1283 was assigned an impact of \$140 million the first year, 2008-09, and \$759 million in the fifth year. House Joint resolution 7005 was assigned an impact of \$200 million the first year and \$1.6 Billion in the fifth year.

Due to the current budget crisis, neither the President of the Senate nor the Speaker of the House would allow such a revenue impact to pass this year; therefore, the bills were not considered today.

AIF supports both these proposals because they offer the taxpayer a better chance of prevailing before the Value Adjustment Board or in Court when contesting their assessment of real or tangible personal property. We are disappointed that the House has decided not to peruse theses important bills.

Infrastructure

The House Policy & Budget Council unanimously approved HB 199 Relating to Desalination Technology by Representative Kurt Kelly (R-Ocala). This proposed legislation requires the Secretary of the Department of Environmental Protection (DEP), in coordination with the five water management districts, to conduct a study examining all current and available desalination technologies. The study along with plan recommendations must be submitted by June 30, 2009 to the Governor, President of the Senate and the Speaker of the House.

HB 199 will now be considered on the floor of the House.

To prepare for future growth, Florida needs to diversify its source for water. AIF supports HB 199 as it begins the process to find desalination technologies that are both environmentally and fiscally sound.

The Senate Transportation Committee passed SB 774 Relating to Transportation by Senator Carey Baker (R-Eustis) on a 5-3 vote. SB 774 seeks to implement some of the recommendations offered by the Strategic Aggregate Revue Task Force. The bill was amended to include a provision requiring local governments that disapprove mining applications (previously approved by the DEP) to do so by a super majority vote of the governing body. The issue of aggregate mining is important to the business community because a reliable source of this raw material; for road building is essential to the economy of Florida. Under the bill, approval of a mining application would require only a simple majority vote.

The amendment by Chairman Baker was controversial and opposed by local government. The bill has three more committee stops in the Senate, and will surely be amended again to allay the fears of several Senators, including Senator Lee Constantine (R-Altamonte Springs), who asked several pointed questions, and received a commitment from the sponsor to work with him.

HB 774 will next be considered by the Senate Community Affairs Committee.

AIF supports efforts by the Legislature to develop new supplies of aggregate and to do whatever possible to expedite the availability of aggregate from the Lake Belt region of Florida. Producing aggregate and constructing roads provides jobs and supports the development of a healthy and competitive construction industry.

Economic Development

This morning, the Senate Commerce Committee continued to hear a series of economic development bills meant to recharge the state's economy, while addressing regulatory burdens that stymie economic growth.

One of the Legislature's most avid economic stimulus advocates, Senator Mike Fasano (R-New Port Richey), presented two bills that would create a loan guarantee fund for economic development programs and a Trust Fund to serve as the funding mechanism to do so. SB 2712 Relating to Building Florida's Future Revolving Trust Fund and SB 2714 Relating to Economic Development create the Building Florida Future's Revolving Trust Fund, which is a program that will provide loan guarantees (or other credit incentives) to local governments or private entities that need assistance in building or modernizing facilities or infrastructure needed to attract or expand targeted, high wage industries with potential for growth. Specifically, these funds could be used to buy land, install infrastructure needs, and assist with access to telecommunications facilities of access to energy sources.

This program would be administered through the Office of Tourism Trade and Economic Development, and mirrors programs currently being used by DEP and DOT. The committee unanimously supported the bill. However, yet to be addressed in the bill is how much money is to be appropriated for the program. Neither SB 2712 nor SB 2714 stipulated the amount, which is expected to be placed into the legislation at its next committee stop, which is the Senate Transportation and Economic Development Appropriations Committee, chaired by Senator Fasano.

As highlighted by AIF's Economic Stimulus Package, AIF supports legislation that seeks to invest state dollars in infrastructure projects. These investments will help stimulate Florida's lagging economy.

Senator Fasano also presented SB 2778 Relating to Scripps Research Institute, which is a bill that sets forth guidelines for funds and projects that are awarded from OTTED's Innovation Incentive Program. Specifically, it requires the Scripps Corporation to oversee parts of the Innovation Incentive Program, as well as monitor the performance and progress of the Innovation Incentive Program grant awardees.

In addition, the bill would require all future agreements to include a reinvestment component, whereby the state receives between 10 and 15 percent of royalties and revenue from royalties and naming rights from awardees of Innovation Incentive funds.

SB 2778 passed by a 7-0 votes and will now be considered by the Senate Governmental Operations Committee.

The Commerce Committee also unanimously SB 1398 Relating to Research and Development Expenses Tax Credit by Senator Steve Oelrich (R-Gainesville), which had been temporarily postponed last week in Commerce. 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. Last week, 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. The committee sought to ensure that a company selling the unused tax credits must sell these credits to another company that was engaged in research and development work.

SB 1398 will now be considered by the Senate Finance and Tax Committee.

AIF supports both SB 2778 and SB 1398 since they ensure a commitment to economic development and the commercialization of products developed in Florida. AIF further supports continued state funds being made available for enhancing economic development, creating incentives for new business locations and innovative employers looking to relocate in Florida.

Health Care

Today, the House Policy and Budget Council unanimously passed HB 461 Relating to Health Flex Plans by Representative Jimmy Patronis (R-Panama City). The goal Health Flex plans hope to achieve is to provide a "cafeteria-like" plan for health insurance, which allows policy holders to pick and choose their individual coverage options. These Health Flex plans are not considered full blown insurance, but will hopefully provide companies with alternative choices allowing them to provide less costly insurance options for their employees.

HB 461 will now be considered by the House Policy & Budget Council

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.

Today, the House Healthcare Council unanimously passed HB 637 Relating to Electronic Health Records by Representative Denise Grimsley (R-Sebring). The bill creates the "Florida eHealth Initiative Act," which hopes to set up a statewide health information exchange.

The bill will also create the Florida Information Exchange Advisory Council. The council priorities will be to promote participation in health information exchanges, conduct outreach to stakeholders, and provide guidance regarding the effective use of health information exchanges and standards for privacy, as well as security. The bill will help keep health care costs down for businesses by reducing administrative costs.

HB 637, which has the intent of improving patient safety and reducing the cost of health care by preventing unnecessary procedures, will now be considered on the floor of the House.

AIF supports legislation that allows citizens to make better informed choices about where they get their care and how their health care dollars are spent.

Space

Today, the Senate Commerce Committee unanimously passed SB 2438 Relating to Spaceflight/Informed Consent by Senator Bill Posey (R-Rockledge).

Senate Bill 2438 is one of four legislative Space priorities for Associated Industries of Florida because it provides a limitation on liability for commercial launch firms and their subcontractors who provide human spaceflight services from Florida launch sites. Florida has nearly \$10 billion in invested infrastructure to support aerospace assets represented by over 1000 companies employing 30,000 people with an estimated financial impact of \$1.68 billion on Florida's economy. This legislation will keep Florida's competitive edge in the aerospace industry allowing us to recruit and maintain new business to Florida.

SB 2438 has one more committee stop in the Senate Judiciary Committee before being placed on the calendar. The House companion, HB 737 by State Representative David Simmons (R-Altamonte Springs) also has one more committee stop in the House Policy and Budget Council.

AIF supports legislation which seeks to maintain and advance Florida's global leadership in the space industry. Florida must protect revenue producing industries such as aerospace and commercial space flight through implementation of legislation that will promote growth and prosperity.