



DAILY LEGISLATIVE BRIEF FROM APRIL 1, 2008

As is normally the case, Tuesday was an incredibly busy day for AIF and the business community. In tonight's **Legal & Judicial** section you will find coverage of Senator Ted Deutch's Arbitration bill (SB 2076), which a number of business groups including AIF oppose. In addition, we have included reports on issues including property insurance, economic development, property insurance reform, and health insurance.

Both the House and Senate will be in session for most of Wednesday afternoon.

Legal & Judicial

The Senate Commerce Committee passed SB 2076 Relating to Arbitration by Senator Ted Deutch (D-Delray Beach) on a 5-3 vote. This bill relates to the arbitration code and severely hampers a business' ability to contract with consumers to resolve disputes through arbitration instead of litigation. The legislation would essentially force more disputes to litigation and nullify any contractual arbitration requirements if a consumer is a party to a contract.

Arbitration should serve as an efficient and predictable alternative to litigation, but if the current structure of its use is altered significantly, as with this legislation, its effectiveness will be minimized. The bill would also drastically increase the litigation burden on businesses and the court system.

Senator Steve Oelrich (R-Gainesville) stated that this bill should not be supported because of the increased burden it will place on the judiciary system at a time when funding is already at an all time low. AIF's general counsel, Tamela Perdue, also warned the committee in her testimony that the bill will create more litigation over the arbitration process rather than work out the underlying dispute between the parties. The vast majority of business associations were in attendance at the meeting in opposition to the bill.

AIF would like to thank Senators Oelrich, Evelyn Lynn (R-Daytona), and Gary Siplin (D-Orlando) for their opposition to this bad bill for business. SB 2076 will now be considered by the Senate Banking and Insurance 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.

Insurance

The House Jobs and Entrepreneurship Council passed a number of property insurance bills today. The first was HB 1001 Relating to Commercial Property Insurance by Representative Garrett Richter (R-Naples). The bill authorizes a new commercial property insurance policy of which premiums will not be subject to assessments to fund any future Citizens deficits. The policy must include coverage for all hazards, including hurricanes, and will not be subject to the state's rate regulation. Thus, the bill provides a commercial purchaser with the option of buying a non-assessable policy at a potentially higher cost, which is the trade off.

Very little debate or testimony was given on the bill.

While AIF supports eliminating commercial policies from Citizens assessments, we are concerned that an optional approach will shift assessments to commercial policy holders who do not choose the non-assessable option and homeowners.

AIF supports measures which would return Citizens Property Insurance Corporation to an insurer of last resort, and; therefore, helps encourage the growth and sustainability of the private insurance market.

The Council also passed HB 269 Relating to Hurricane Preparedness and Insurance by Representative Alan Hays (R-Umatilla). The bill creates “The Citizens Property Insurance Corporation Mission Review Task Force” consisting of industry and consumer experts to develop a plan to return Citizens to its original mission as an insurer of last resort. The funding for a similar task force was vetoed by the Governor in 2007. A strike-everything amendment was adopted, which made some slight changes to the bill as originally filed. For starters, funding for the task force would be provided by Citizens. In addition, the bill requires the Chief Financial Officer to develop a report on the economic impact on the state of Florida from a 1-in-100 year hurricane.

The creation of this task force will begin the process of reducing businesses’ exposure to hurricane taxes to fund Citizens deficits. Representative Hays described his bill as an effort to correct the mistakes of HB 1A, last year’s property insurance reform passed by the Legislature. He further criticized the state’s suppression of Citizen’s premium rates calling them “politically sound” instead of actuarially sound.

AIF’s Jose Gonzalez testified in support of HB 269 calling the bill one of AIF’s top priorities for the 2008 Session. Returning Citizens to an insurer of last resort is critical to the return of the private property insurance market in Florida.

HB 269 was unanimously passed by the Council and will now be considered by the Policy and Budget Council.

AIF supports this legislation because it begins to develop strategies for curbing artificially suppressed insurance rates and the irresponsible expansion of Citizens Insurance Company, a government-administered insurance company that should be an insurer of last resort not the states primary insurance coverage.

Finally, the Council unanimously passed HB 983 Relating to Windstorm Insurance Coverage by Representative Dennis Ross (R-Lakeland). The bill creates a new program for windstorm insurance coverage to provide windstorm coverage for non-commercial residential property. The creation of this program does not preclude private insurers from providing windstorm coverage for non-commercial residential property as they do under current law.

HB 983 will now be considered by the House Policy and Budget Council

An analysis as to potential deficits and hurricane taxes to fund the deficits has not been performed. AIF will not take a position on the bill until further funding information is available.

Taxation

The House Policy & Budget Council passed HB 1283 Relating to Ad Valorem Tax Assessment Value Challenges by Representative Dean Cannon (R-Winter Park) on a 29-1 vote. The bill would require the property appraiser to earn the presumption of correctness by showing that his or her assessment was arrived at by complying with the law and professionally accepted appraisal practices. Once done, the taxpayer has to show by a preponderance of the evidence that the assessment of value exceeds just value.

There were many questions by Representatives Curtis Richardson (D-Tallahassee), Ron Saunders (D-Tavernier), Shelley Vana (D-West Palm Beach), Matt Meadows (D-Lauderhill), and Will Kendrick (R-Carrabelle) pertaining to the revenue impact the bill will have on local government. Representative Cannon answered them all by stating that the bill makes the process fairer to the taxpayer and if they prevail, it means that local government had over assessed their property and should not have had those revenues to begin with.

Frank Meiners representing AIF, Trey Price representing the Florida Association of Realtors and Nancy Stevens representing the Manufacturing Association all testified in support of the bill.

In debate, Representative Richardson pressed the issue and said he would have to vote against the bill, leaving him the lone no vote for the legislation

HB 1283 will now move to the House floor.

AIF supports efforts to increase fairness for property owners by requiring property appraisers to use the “presumption of correctness” standard.

Next, the Council passed HB 7005 Relating to Taxpayers Bill of Rights by Representative Frank Attkisson (R-Kissimmee) on a 23-7 vote. Representative Attkisson explained that the bill amends the state Constitution to remove the government's presumption of correctness and places the burden of proof, by a preponderance of the evidence, upon the government to prove that the assessment does not exceed just value. It also provides that the taxpayer is entitled to reasonable attorney's fees to be specified in general law.

Representatives Jack Seiler (D-Pompano Beach), Ron Saunders, Curtis Richardson and Will Kendrick asked questions regarding whether the bill should be in the Constitution and about the provision for attorney fees.

In testimony, Ms. Rebecca O'Hare from Florida League of Cities and Loren Levy for Property Appraisers, testified in opposition, while Frank Meiners on behalf of AIF testified in support.

An amendment removing the attorney fee provisions was adopted during the meeting.

In debate, Representative Joe Pickens (R-Palatka) said he would have to vote against the bill because he did not think it should be in the constitution. Representative Seiler agreed and also voted no.

HB 7005 will now move to the House floor.

AIF supports the joint resolution because it provides a level playing field for taxpayer who challenges the value of their property's assessment. It will benefit our members who believe their property has been over valued by the property appraiser.

The House Economic Expansion & Infrastructure Council unanimously approved HB 111 by Representative Peter Nehr (R-Tarpon Springs). This legislation will give a sales tax holiday from June 1 – 7, 2008 for items that can help a person prepare for a hurricane. Some of the items included in the sales tax holiday are portable self-powered light source selling for \$20 or less; portable radio, two-way radio, or weatherband radio selling for \$75 or less; batteries; tarpaulin selling for \$50 or less; non-electric food storage cooler selling for \$30 or less, just to name a few.

HB 111 will now be considered by the House Policy & Budget Council.

AIF supports increasing business activity by allowing Floridians to purchase essential hurricane supplies without having to pay sales tax.

Education & Workforce Development

The House Schools and Learning Council passed proposed committee bill (PCB) SLC 08-05 Relating to College and Career Preparation by the House Schools and Learning Council. This PCB requires that all schools expand access to rigorous courses by making available to all students four courses in Advanced Placement, International Baccalaureate, or dual enrollment; as well as four career education dual enrollment courses. The PCB also contains a remedial reform pilot program and an expanded use of College Placement Tests during 11th grade to determine college readiness for students who have passed the reading and math portions of the FCAT.

The Senate Education Pre K-12 Committee unanimously passed SB 1914, which is the Senate version of a curriculum reform bill requiring the State Board of Education to adopt Sunshine State Standards 2.0. The bill does not contain many of the provisions that are in the House curriculum reform bill, but it is at least a step in the direction toward matching up some of the education priority bills between the two chambers.

SB 1914 will now be considered by the Senate Education Pre K-12 Appropriations Committee.

AIF supports access to rigor and increased standards which will enhance the value of a high school diploma; preparing today's students for tomorrow's economy.

The Senate Commerce Committee unanimously passed SB 346 Relating to Sure Futures Postgraduate Scholarship Program by Senator Jeremy Ring (D- Margate). SB 346 is the same bill as considered in the 2007 Session, which creates the Sure Futures Postgraduate Scholarship Program. This program matches private-sector businesses with students who are seeking advanced degrees such as PhDs or masters degrees and employment opportunities.

This bill is important to the business community because it works to keep Florida's best and brightest students here in the state to help drive the economy and work for our domestic businesses. The way the program works is that a company or corporate sponsor would provide a scholarship for a student, who would then in turn agree to work for the corporate sponsor for a minimum of 4 years after graduation. This would help Florida companies retain Florida's students, something every Legislature grapples with trying to accomplish. Senator Ring assured the members that there were safeguards in place to protect both the student and the participating companies should either party decide to end the agreement. In addition, Representative Kevin Ambler (R-Tampa) came over from the House to testify in favor of the bill.

SB 346 will now be considered by Senate Finance and Tax committee.

AIF believes that university research is an economic driver for Florida's future and supports efforts that will encourage our graduates who are pursuing advanced degrees to stay in Florida and provide them with links to employment in targeted economic growth sectors of the economy.

Economic Development

The Senate Commerce Committee unanimously passed SB 1120 Relating to Research Commercialization Matching Grant by Senator Don Gaetz (R-Ft. Walton Beach). This bill would create a matching grant program by way of a \$5 million appropriation, for small or start up companies that already are receiving federal grants and are looking to the state for help with their operations. Eligible companies must meet specific criteria and demonstrate their commitment to high quality jobs and innovative research.

According to the bill sponsor, the program would help draw down an available \$2 billion in federal funds. The bill also requires that Enterprise Florida administer the grant awards and that all applications must be reviewed and either accepted or denied within 45 days of submittal. This bill would also ensure that eligible companies must have a presence in the state of Florida.

SB 1120 will now be considered by the Senate Government Operations Committee.

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

Health Care

The Senate Banking and Insurance Committee unanimously passed three bills pertaining to additional mandates on health insurance.

SB 1598 Relating to Health Insurance Coverage/Amino-acid-based Formula by Senator Durell Peaden (R-Crestview) deals with a mandated offering of coverage for Amino-acid-based formulas. These formulas for infants are already a mandated offering of coverage, but under current mandate the formula is delivered by an enteral procedure (a tube placed through the stomach) as opposed to offering the formula intravenously.

SB 1010 Relating to Senator Les Miller Act/Prostate Cancer Screening by Senator Tony Hill (D-Jacksonville) deals with mandated coverage for an annual screening for prostate cancer. This bill would require all individual, group, and out-of-state group health insurance policies, including all health maintenance organization (HMO) contracts, to provide coverage for an annual screening for prostate cancer to a man age 40 or over, set forth in the early detection guidelines of the National Comprehensive Cancer Network or other evidence-based sources. The estimated annual recurring impact to the State Employees Health Insurance Trust Fund for this new health insurance benefit is \$460,000.

SB 448 Relating to Breast Cancer/Lymph Node Dissection Coverage by Senator Arthenia Joyner (D-Tampa) would apply the same requirements for coverage of a lymph node dissection that currently apply to coverage for a mastectomy. Specifically, the bill requires that, if an insurance policy or health maintenance organization (HMO) contract provides coverage for breast cancer treatment, the inpatient hospital coverage for *lymph node dissections* must be for the time period determined to be medically necessary by the treating physician in accordance with prevailing medical standards. The bill also requires the policy or contract providing such breast cancer treatment to provide outpatient follow-up care for a lymph node dissection consistent with prevailing medical standards. In addition, the bill specifies that these provisions do not require uninsured patient to have a lymph node dissection in the hospital or stay in the hospital for any fixed period following a lymph node dissection.

Senator Peaden stated that this coverage was already widely available so this provision would not be considered an additional mandate.

Representatives of the business community testified against these bills, citing that additional mandates make it much harder for individuals and small business owners to obtain and provide health insurance to themselves and their employees.

All three bills (SB 1598, SB 1010, and SB 448) will now be considered by the Senate Health Policy Committee.

AIF consistently opposes 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 Senate Health Policy committee unanimously passed SB 1012 Relating to Health Insurance Claims Payments by Senator Don Gaetz. This bill would increase the cost of health insurance for Florida employers and the State of Florida Health Insurance Plan. Jose Gonzalez, Vice President of Governmental Affairs for Associated Industries of Florida, testified at the committee raising concerns about the increase in cost this bill would have on private health insurance premiums.

The bill contains three troublesome provisions:

First, it would require insurers to allow their insureds to sign over their benefits to a provider that does not belong to their insurer's network. The problem with this is that the out-of-network provider will be allowed to bill the employee who received the services the difference between what the insurer reimburses them and what they believe their charges are (charges are not set out in statute).

Secondly, it would put more limitations and requirements on "silent PPOs" which are used frequently by self-insured employers to provide a comprehensive network to their employees. If these provisions were approved, an employer who wishes to self-insure may have to contract a provider network on their own rather than being allowed to use an insurer's already-established network.

Finally,, it would shorten the time an insurer, on behalf of employers, can look back at provider claims to ensure there was not an over or under payment. The time period proposed - one year - would result in insurers to missing approximately 25% of over or under payments.

SB 1012 will now be considered by the Senate General Government Appropriations Committee. The House companion - HB 405 by Representative Bill Galvano (R-Bradenton) - has only been heard in one committee.

AIF opposes legislation that prohibits silent PPOs. The search for ways to expand the availability of health care coverage to Floridians is an important endeavor. But almost as important is ensuring that Floridians who currently have health care coverage are not threatened by proposals that ultimately drive up the cost of coverage. Placing additional requirements on health insurers and HMOs, such as "Any Willing Provider", inhibit their ability to provide the most cost-efficient, quality care. As a result, insurance premiums will increase; thereby, affecting the number of Floridians who can continue to purchase coverage.

Business Regulation

The House Governmental Efficiency and Accountability Council approved proposed committee bill (PCB) GEAC 08-22 Relating to Small Business Regulatory Relief Act by the House Government Efficiency & Accountability Council. This proposed legislation would create a Small Business Regulatory Review Advisory Council and a Small Business Advocate. The Council, consisting of nine members with appointments made by the Governor, President of the Senate and the Speaker of the House, would provide state agencies with input regarding proposed rules or programs that may affect small businesses and review certain rules and regulations if requested by small business owners. The Council would also participate in the agency sunset review process.

The Advocate will serve as staff for the Small Business Regulatory Advisory Council and will be housed within the Office of Trade, Tourism and Economic Development.

Finally, state agencies will be required to prepare a statement of estimated regulatory cost of a proposed rule if it will have an impact on small business.

According to the staff analysis, there are 1,942,200 small businesses in Florida and more than half of these businesses are operated by sole-proprietors, working full-time without any paid employees.

AIF has not yet taken a position on this bill, but is in the process of determining our stance on this issue.

Ethics and Elections

Both the House and Senate Ethics and Elections Committee considered legislation today dealing with paid petition gatherers. SB 2340 Relating to Paid Petition Circulators Registration by Senator Bill Posey (R-Rockledge) was passed by a 5-2 margin. The bill attempts to increase the level of accountability of paid petition gatherers by establishing a registration system for these individuals. Currently, there is no way of keeping track or even finding paid petition gatherers should any allegation or wrongdoing or fraud be made. Several states including California currently require that paid petition gatherers register with the Secretary of State (SOS). The provisions in the bill would not apply to volunteer petition gatherers.

The bill:

- Prohibits a paid petition circulator from collecting petitions in Florida without first registering with the Department of State.
- Prohibits anyone from paying a petition circulator who is not registered with the Department of State.
- Prohibits registrants from circulating petition forms until the forms have been registered with the Department of State.

In order to be a registered paid petition gatherer, the individual must be:

- A citizen of the United States;
- A legal resident of the state of Florida; and
- Not a convicted felon ineligible to register to vote.

During his presentation on the bill, Senator Posey explained that the reason why he filed the bill was because the initiative petition process has deteriorated into an unscrupulous business and was no longer a volunteer process. He further, stated that his intent was to protect the public, “weed out the con artists”, and protect voters from identity theft.

Members from a number of volunteer, citizen groups like the League of Women Voters, the American Cancer Society, and the AFL-CIO testified in opposition to the bill. John French testified on behalf of AIF, providing committee members with a snapshot of what the paid petition gathering process was really like on the ground using examples from AIF’s “Save Our Constitution” experiences. AIF was the first group to use the recently-passed signature revocation process to help defeat the Hometown Democracy amendment. Many other business associations also testified in support of the bill.

SB 2340 will now be considered by the Senate Judiciary Committee.

Later in the day, the House Economic Expansion and Infrastructure Council approved SB 2340’s House companion, HB 903 Relating to Registration of Paid Petition Circulators by Representative Chris Dorworth (R-Heathrow) after a lengthy debate. Again, the same players debated the bill, with those in favor of the bill arguing that registering paid petition gatherers was good public policy because it would ensure transparency and accountability in the process.

Representative Dorworth closed his presentation on the bill by stating that his goal was to create a series of standards and regulations mirroring many of the same regulations existing in current law for other professions. He also took offense to the arguments made by opponents to his bill, who accused him of wanting to “hurt the little guy.” Representative Dorworth reiterated that his bill, in no way, affects volunteer petition gatherers since it only applies to those individuals who are paid to gather these signatures.

HB 903 will now be considered by the House Policy & Budget Council.

AIF supports legislation that would bring about increased accountability for paid petition signature gatherers through a registration process.

Space

The Florida Senate Commerce Committee unanimously passed three priority space bills supported by Associated Industries of Florida. Barney Bishop, President and CEO of Associated Industries of Florida, attended the committee meeting to let Senators know about the importance of the space industry in Florida and convey AIF’s strong support for the bills moving through the process.

SB 2426 Relating to Space Florida/Florida Aerospace Development by Senator Bill Posey (R-Rockledge), previously referred to as the SADIE Act, was renamed through an adopted amendment to become the Space and Aerospace Catalyst and Enhancement Act (SPACE Act). This bill would create a new program in the Governor's Office of Tourism, Trade and Economic Development to provide funds for Space Florida. These funds would be directed to provide or upgrade space-related infrastructure or to create or retain high-quality, high-salary jobs in the space or aerospace industry.

SB 2426 will now be considered by the Senate Finance and Tax Committee.

SB 2526 Relating to Space Technology Research and Diversification by Senator Posey will create the Space Technology Research and Diversification Initiative Act (STRDI) in the Governor's Office of Tourism, Trade and Economic Development to be a university-led program to develop high-impact space research and applied technology programs that can best advance the state's interest in a very competitive and diverse space industry.

SB 2526 will now be considered by the Senate Higher Education Committee.

SB 2666 Relating to Space Flight Contractors/Tax Refunds by Senator Posey expands the successful qualified defense contractor tax refund program to allow for space flight businesses or entities with space flight contracts to now qualify for these tax refunds.

SB 2666 will now be considered by the Senate Finance and Tax Committee.

In other Space related news, Governor Charlie Crist and Lt. Governor Jeff Kottkamp announced Space Florida's efforts to attract commercial space companies to Florida. Companies include Bigelow Aerospace, XCOR, Rocketplane Corporation, as well as one of the competing teams for the Google Lunar X Prize, which previously had not considered launching from Florida. In addition, Space Florida is also negotiating with Orbital Sciences Corporation to win their business for Florida. In total, Space Florida is aggressively pursuing more than 50 different space-related firms for the commercial Florida's space market. "The path forward involves vigilance in Space Florida's three key areas of focus: Spaceport Operations; Business Development; and Education, Research and Development, and Workforce," said Governor Crist. "It is through these three key areas that Florida will develop the next generation of the aerospace economy, ensuring it benefits for generations to come."

AIF supports full funding of Space Florida and other space-related programs. Additionally, AIF supports proposals such as the Space and Aerospace Catalyst and Enhancement Act (SPACE Act), the Space Technology Research and Diversification Initiative Act, and adding space flight businesses to the Qualified Defense Contract Tax Refund Program. Investing in space leads to more jobs, a high-skilled workforce, and great economic activity.

Transportation

The concept of planning transportation on a regional basis in order to overcome local government parochialism and garner more attention from the federal government for matching dollars, moved forward on Tuesday in the House with the passage of two bills: HB 311 by Representative Hugh Gibson (R-The Villages) and HB 1245 by Representative Bill Galvano (R-Bradenton).

HB 311 expands the scope of the Jacksonville Transportation Authority to have a greater role for planning, coordinating, developing, financing, constructing, owning, maintaining and managing transportation projects in the Jacksonville/Duval County metropolitan area. HB 1245 provides that 80 percent of the rental car surcharge revenues collected in a county within specified regional transportation authorities (RTAs) shall be deposited into the accounts of those authorities. It provides the dollars to finance the legislature's shift toward an emphasis on a more streamlined regional implementation of delivering multi-county transportation projects.

Both measures have a final stop at the House Policy and Budget Council before they can be considered on the House floor.

AIF supports the ability of local governments in Florida to enter into regional transportation authorities. These authorities are empowered by this legislation to implement infrastructure improvements and to increase consideration for vital transportation corridors, seaports, airports and other regionally significant business centers.