



## DAILY LEGISLATIVE BRIEF FROM APRIL 10, 2008

Thursday was a wild day as several high priority bills for AIF saw action. Both the House and Senate were in session today, with each chamber passing their respective versions of the 2008 budget. All that is left is for conference committee members to be appointed so that each side can negotiate the final version of the budget. No matter what happens, this year's budget will be dramatically lower than in years past due to the fiscal crisis being experienced by our state.

The Senate considered a number of health care bills being tracked by AIF including the CON issue and the Governor's plan to deal with the uninsured. In addition, the Senate's energy package and their Florida Forever bill are now ready to be debated on the Floor.

Several House councils will be meeting Friday. The Senate has shut down for the week and will not be back in session until Wednesday.

### Hospitals/CON

Today, the Senate considered SB 2326 Relating to Hospitals by Senator Durell Peadar (R-Crestview). As originally filed, the bill would have eliminated the certificate-of-need (CON) requirement for general hospitals. The proposal has since been amended to only address certain changes dealing with applications for a CON and challenges to future CON applicants by existing hospitals. Hospitals are not like other retail businesses; and therefore, the idea that more competition will result in lower costs is not always the case. The CON process in Florida ensures the survival of community and safety net hospitals that play a vital role in ensuring access to medically and financially underserved patient populations.

During today's Senate session the bill was further amended to require that private hospitals who fail to successfully challenge a CON application must pay attorney fees to the prevailing party in an amount up to \$2 million dollars. This amount is reduced to \$1 million dollars for teaching hospitals.

The bill is now ready to be considered for a final vote on the floor of the Senate. 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 and its Florida Hospital Council urge caution as legislators consider making significant changes to Florida's existing CON process. Although well-intentioned, the changes being proposed to Florida's CON process are still troublesome.**

### Insurance

SB 2860 Relating to Insurance by Senator Jeff Atwater (R-North Palm Beach) was considered on the floor of the Senate today. As originally filed, the bill included a number of onerous changes to the regulatory environment (including drastic fines for non-compliance) for private insurance companies in Florida. In addition, it would have continued the freeze on Citizen Property Insurance Corporation's premium rates, which haven't been increased since 2005.

The bill was amended during its last committee stop by Senator JD Alexander (R-Winter Haven). As amended, SB 2860 still suppresses Citizen's rates, but it now allows for an increase in Citizens' rates of 5% in 2009 and an increase of 10% in the subsequent year. It also caps the amount a private insurer can be fined for violations to the insurance code. The bill in its current form is still problematic and discourages private insurers from doing business in Florida. As part of the regulatory reforms, the bill also opens other insurance lines (not just property insurance) to some chilling anti-trust provisions that have the potential to invite more litigation against insurance companies.

During debate, Senator Al Lawson (D-Tallahassee) valiantly tried to remove some of the bill's more onerous provisions including the dangerous anti-trust provisions as well as the heavy fines for private insurers outlined in the bill. In addition, Senator Lawson objected to the subsidization of million dollar homes on the coast by those policy holders in more inland areas of Florida. Despite his strong debate, all of Senator Lawson's amendments were defeated. Amendments were adopted that guarantee that if a home is mitigated or retrofitted to meet the wind-borne debris requirements of the Florida Building Code, its property insurance policy

cannot be non-renewed for a period of three years. In addition, an amendment by Senator Steve Geller (D-Hallandale Beach) would prevent private insurers from non-renewing large numbers of policies without prior approval from the Office of Insurance Regulation.

SB 2860 is now ready for a final vote on the floor of the Senate.

**AIF opposes legislation that allows Citizens to compete with private insurance companies. By continuing to suppress Citizen's 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. AIF is also strongly concerned about provisions in this bill that would open other lines of insurance to greater litigation as a result of the anti-trust provisions in the bill.**

## **Florida Forever**

The Senate General Government Appropriations Committee unanimously passed SB 542 Relating to Florida Forever by Senator Burt Saunders (R-Naples). AIF has been working with the *Florida Coalition for Responsible Preservation of Public Land* (FRPPL) on a successor program for Florida Forever. Since the beginning of Florida Forever, the state has purchased more than 600,000 acres of environmentally sensitive land. The FRPPL supports the continuation of this land acquisition program, but would like more access to these state owned public lands for recreational water usage, alternative water supply programs, and relocation of imperiled species. The FRPPL would like to see better management practices implemented on these state owned public lands as well.

During the meeting an amendment sponsored by Senator Mike Bennett (R-Bradenton) and supported by AIF and FRPPL was defeated, which would have prioritized the concept of using state lands for imperiled species. A number of environmental groups spoke in opposition to the amendment stating that the relocation of these endangered species would only benefit those species and not the "entire spectrum of life." Senator Bennett emphasized the importance of this issue and vowed to bring it back on the floor of the Senate.

AIF supports a Florida Forever successor program, but believes it should encompass better public access to these lands than it currently possesses. FRPPL members are seeking the preservation of unique lands while maintaining reasonable access for recreational use by boaters, bird watchers, hunters and other avid outdoorsmen. In addition, the program should provide for environmentally sound use of certain lands to responsibly keep up with Florida's growing population and economic needs.

SB 542 will now be considered on the floor of the Senate.

**AIF and the *Florida Coalition for Responsible Preservation of Public Land* support the implementation of a successor program for Florida Forever. However, we will continue to fight for the inclusion of imperiled species and alternative water supplies into the program.**

## **Energy**

The Senate General Government Appropriations Committee unanimously passed SB 1544 Relating to Energy by Senator Burt Saunders (R-Naples). This bill encompasses a majority of the Governor's energy package, which has been the subject of much attention in recent months. SB 1544 is an omnibus bill which includes a number of changes to energy policy in the state including the creation of a new Florida Energy and Climate Change Commission responsible for directing energy policy, the establishment of energy efficiency standards for government buildings and vehicles, and it tackles the issues of establishing a renewable portfolio standard, a renewable fuel standard, and the development of a cap-and-trade program for greenhouse gas emission control.

The bill was amended during today's committee meeting in order to bring it closer in line with its House companion (ENRC 1). Due to the state's fiscal crisis, much of the appropriations which would have been used as incentives for the development of alternative energy technologies were stripped by the bill's sponsor. In addition, a provision that would have required that utilities use a minimum of 3% energy from solar power was also removed. Finally, the bill was amended to require that any renewable portfolio standard developed by the Public Service Commission must be ratified by the legislature (incidentally, this also applies to any cap-and-trade program established by the PSC). Senator Saunders explained that the reason behind this was that he wanted to avoid any increase in electric rates or other unintended consequence that may result from the implementation of a new renewable portfolio standard.

SB 1544 will now be considered on the floor of the Senate.

**AIF and its Florida Energy Council recognize the importance energy plays in keeping Florida's economy healthy and vibrant. Any recommendations considered in the formation of Florida's energy policy should allow for reasonable implementation, should support efficiencies and should ensure that undue mandates and costs are not placed on Florida's businesses and consumers, thereby creating a unilateral economic disparity. Florida should ensure that every effort is made to undertake a balanced approach that avoids unrealistic requirements on energy producers and suppliers.**

## **Taxation**

SB 1586 Relating to Corporate Income Tax by Senator Mike Haridopolos (R-Melbourne) was considered by the Senate today. Senator Haridopolos explained that the corporate income tax "piggyback" bill coupled the state income tax with the federal IRS Code to conform to the changes made by Congress in 2007 except for the bonus depreciation allowed in the federal stimulus package. This he said was just too expensive for the state during these hard economic times. The bill also speeds up payments by one day to move one additional quarterly payment from the 2009-2010 fiscal years into the 2008-2009 fiscal years.

SB 1586 is now ready for final passage on the floor of the Senate.

**AIF supports the passing of legislation that brings into conformity state corporate income tax code to the federal IRS code changes, making filing the state corporate income tax return almost identical to the federal one. However there will be some differences due to the bill not allowing the accelerated depreciation or the bonus depreciation that is allowed by the federal code.**

The House Policy & Budget Council unanimously passed proposed council bill PBC 11 Relating to Property Tax Administration. This is a "glitch" bill to fix some of the implementation issues with Amendment 1. In January, Florida voters approved a constitutional amendment for property tax reform. However, before the amendment was passed in January, the Legislature had already adopted implementing language during its last Special Session in 2007. The Department of Revenue (DOR) had been charged with reviewing the implementing language and the constitutional amendment to see if there were any drafting errors and/or ambiguities about how it should be interpreted so that the Legislature could address them during the 2008 Session. This bill makes the changes recommended by DOR. As it relates to business owners, the bill relieves uncertainty about whether taxpayers are eligible for the benefits included in Amendment 1. This is especially important because, under a little-known provision in the amendment, business owners must apply for the 10% assessment cap. This last issue is addressed in the bill and tax payer no longer need to apply for the 10% cap.

**AIF supports this bill which makes the administration of Amendment 1 more efficient and fair for Florida's employers.**

The Senate Finance & Tax Committee unanimously passed SB 1590 Relating to Taxation by Senator Mike Haridopolos (R-Melbourne). The bill directs the Governor to oversee a comprehensive review of Florida's state and local tax structure, taking into consideration recently proposed revisions considered by the Taxation and Budget Reform Commission (TBRC). The Governor, following the study, shall develop recommended revisions to the tax structure by February 1, 2009.

The members of the committee embraced the bill and the study. They also further discussed possible additional areas that may be included.

HB 1590 will now be considered by the Senate General Government Appropriations Committee.

**AIF has not taken an official position on this bill, but we do welcome the efforts of Senator Haridopolos to study the possible unintended consequences of actions by the TBRC – especially their passage of Commissioner John McKay's tax swap proposal.**

## **Education & Workforce Development**

The Senate Finance & Tax Committee unanimously passed SB 346 by Senator Jeremy Ring (R-Margate). SB 346 creates the Sure Bright Futures Postgraduate Scholarship Program. SB 346 is a priority for Associated Industries of Florida because it provides a new source of workforce training for Florida students seeking advanced degrees and employment. The legislation creates a match program for private sector businesses with students who are enrolled in a university seeking an advanced degree. A corporate sponsor would provide a scholarship for the student, who would then agree to work for the company for a minimum of 4 years after graduation.

SB 346 will now be considered by the Senate Higher Education Appropriations Committee. Its House companion, HB 231 by Representative Kevin Ambler (R-Tampa), will now be considered by the House Policy & Budget Council.

**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.**

Two AIF priority education bills passed the House Policy & Budget Council today and are now ready for a floor vote. With over 20 bills on the agenda, Chair Ray Sansom (R-Ft. Walton Beach) moved quickly and there were very few questions and virtually no debate on the bills.

HB 7045 Relating to Public School Curricular Standards by Representative Joe Pickens (R-Palatka) is the enhanced curricular sunshine state standards bill, which is a priority bill of Speaker Rubio, the State Board of Education, and AIF. Representative Anitere Flores (R-Miami) presented the bill, which requires the Department of Education (DOE) to upgrade our current standards by making them more rigorous and 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. The Enhanced Curricular Standards bill 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. Fourteen amendments were offered that strengthened and clarified parts of the bill.

**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 21st century workforce.**

HB 7069 Relating to College and Career Preparation, by Representative Pickens is the college and career readiness bill, which 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. Representative Marti Coley (R-Marianna) presented the bill, which also contains the Remedial Reform Pilot program with the goal of reducing the need for, and cost of, remedial education for recent high school graduates. The proposed bill creates 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; and requires the State Board to develop a plan to increase accelerated college credit programs.

**AIF supports increased educational opportunities for students that expand access to rigor in high school and prepare students for the workplace AND higher education.**

## **Economic Development**

The Senate Transportation and Economic Development Appropriations Committee passed two bills that are likely to emerge as two of the Senate's most critical pieces of legislation addressing the economy. SB 2714 Relating to Economic Development by Senator Mike Fasano (R-New Port Richey) creates a guaranteed revolving loan program that will provide loan guarantees to local governments or private entities that need assistance in building or modernizing facilities or infrastructure that is 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 in providing access to telecommunications facilities or energy sources. The program is modeled after programs at the Department of Environmental Protection (DEP) and the Florida Department of Transportation (FDOT), and would be administered through the Office of Tourism Trade and Economic Development (OTTED). Senator Fasano offered an amendment that will put \$20 million into the program, a move that caused quite a stir on the committee. Senator Alex Diaz de la Portilla (R-Miami) inquired on how the program was different from other incentive programs. Senator Fasano responded by saying that this was not a grant, but is a loan that must be paid back and that the state's role was simply to secure the loan. He also stated that this was something that local governments could participate in. Senator Gwen Margolis (D- Bay Harbor Island) objected to the program, stating it was not a wise use of tax dollars and objected to the bill in its entirety. Senator Daniel Webster (R-Winter Garden) spoke in support, defending the program. In the end, the committee voted to approve the measure on a 4-1 vote.

SB 2714 is now ready to be considered on the floor of the Senate.

**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.**

Also approved by the Committee was SB 2778 Relating to Scripps Research Institute by Senator Fasano, which requires that the state receive back 10 to 15 percent of royalties from project contracts with private companies that receive Innovation Incentive funds. These returns will then be distributed to various trust funds related to economic development. In addition, it specifically 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. Added to the bill were provisions that are included in the House's Economic Stimulus package related to timelines for grant applications.

SB 2778 is now ready to be considered on the floor of the Senate.

**AIF supports SB 2778 since it ensures 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.**

In the area of economic development, the House has decided to focus on existing programs and reduction of red tape to help businesses get Florida's economy back on track. This week, the House rolled out their Economic Stimulus package before the Economic Expansion and Infrastructure Council. The bill, sponsored by Representative Dean Cannon (R-Orlando) and the Council, is a broad piece of legislation that is further proof of the House's commitment to stimulate the economy by reducing regulatory burdens on Florida businesses. The stimulus package broadens the scope of businesses eligible for state incentives, greatly increases assistance to rural communities in need of economic activity, establishes a state office for small businesses and state advocate to protect and promote the interest of small businesses across Florida and expedites application processes for businesses applying for state grants, funds and incentives.

Created in proposed committee bill (PCB) EEIC 12 are the Small Business Relief Act and the establishment of the Small Business Advocate, two measures that will help recognize the almost 2 million small businesses as a viable economic entity. The Small Business Relief Act creates the state's first Small Business Advisory Committee, a council whose tasks would be to work with all state agencies in monitoring regulatory requirements of small businesses and make recommendations to the Legislature of how those burdens may be revised to reduce the detrimental impact they may be having on Florida's small businesses. It also creates the Small Business Advocate, a position that would be responsible for representing the views and interests of small businesses before the agencies and the Legislature, informing small businesses of local and state assistance and is also charged with receiving and responding to complaints from small businesses about regulatory burdens that may be adversely affecting their business.

Currently, through the Office of Tourism Trade and Economic Development (OTTED), Florida offers various incentives for businesses and companies looking for state assistance. When a business seeks one of these incentive awards, it must submit an application to Enterprise Florida (EFI). This application process includes consultation with staff from OTTED and EFI. The legislation would set standard timelines that those applications must be approved or denied for the current incentive programs. It requires EFI to determine if an application is complete within 10 days. Once it is deemed complete, EFI must evaluate the application and submit a recommendation to OTTED within 10 days. From that point, providing the application is complete, the director of OTTED has 35 days to recommend whether or not the application should be approved or denied. Programs that would become eligible for this expedited process are:

- Capital Investment Tax Credit
- Economic Development Transportation Fund
- Rural Infrastructure Fund
- Qualified Defense Contractor Tax Refund Program
- Qualified Target Industry Tax Refund Program
- Brownfield Redevelopment Bonus Refunds
- High Impact Performance Incentive
- Quick Action Closing Fund

The bill also makes strides in further assisting Florida's rural communities in their economic development efforts. Spurred by the leadership of Incoming Speaker Ray Sansom (R-Ft. Walton Beach), this stimulus package will increase the amount of incentive dollars a Qualified Defense Contractor would be eligible for if their projects are located in a rural or enterprise zone. It makes several changes to the state's Rural Economic Development Initiative (REDI) by identifying "catalyst projects" as a priority initiative that when placed in a rural area it would become eligible for more incentive dollars and waives a local matching requirement for these projects. It also allows designated enterprise zones in rural areas of critical concern to expand by three

square miles and codifies that OTTED can waive the criteria for projects in rural areas that could qualify for Quick Action Closing incentive funds.

Finally, the legislation increases the breadth of companies that would become eligible for existing state incentive programs through OTTED. First, it allows for alternative energy projects to qualify for Target Industry Tax Refunds. Next, it accounts for some businesses inability to qualify for incentives based on performance requirement by allowing for certain exemptions of performance requirements while the business can attempt to recover their economic activity and begin to perform at the required levels.

**AIF supports many measures in this legislation. Reducing regulations, while increasing the number of eligible companies for the millions in incentives, is a key step in trying to get our economy going. Holistically, EEIC 12 is broader stimulus package than anything that is currently in the Senate. However, the Senate has many more stand alone bills addressing economic stimulus that addresses several provision in this bill. As we head toward the final weeks of session negotiations between the House and Senate on these economic stimulus bills will take form and AIF will be closely monitoring every step of the way.**

## Health Care

The House Policy & Budget Council passed HB 7081 Relating to Affordable Health Coverage by Representative Aaron Bean (R-Fernandina Beach) by a 23 to 8 margin. The bill has two main provisions. The first, developed by Governor Charlie Crist, contains a Cover Florida program that would establish an ITN process to provide low-cost insurance to Florida's uninsured. The providers of this plan would be licensed insurers. The second, developed by the House, entails provisions of an Affordable Healthcare Program establishing a "farmer's market" at which all kinds of vendors, licensed and unlicensed, could offer various kinds of health services to Florida individuals through an employer portal. Other components of the bill would:

- Increase the eligibility for Health Flex from 200 to 300% of Federal Poverty Limit;
- Allow employers to make, as a condition of employment, an employee sign up for their group health plan;
- Require employees to opt-out of their employer's group health plan;
- Exempt from the Insurance Code, non-profit religious organizations that acts as a clearinghouse of sorts for ensuring their members receive medical services;
- Remove the 10% cap on the full pay participants in the Kidcare Program; and
- Allow Kidcare premium assistance to be used toward an employer sponsored insurance plan.

The Democrats on the Council continued to raise concerns mainly focused on unlicensed entities and the makeup of the public-private corporation, which would be established to administer this program. This bill is now ready for the House floor. Similarly, the Senate companion - SB 2534 by Senator Durrell Peaden (R-Crestview) - is poised to pass the Senate next Wednesday, having gone through the amendatory process today.

**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 Senate General Government Appropriations Committee unanimously passed SB 1012 Relating to Health Insurance Claims Payments by Senator Don Gaetz (R-Ft. Walton Beach), after the most onerous portion of the bill was removed. The section that would have required health plans to pay out-of-network providers directly (mandatory assignment), was significantly watered down to ensure the in-network providers are paid directly. This is common practice in the industry. Another provision would shorten the period of time in which a health plan can "look back" at a provider payment to determine if it was inappropriate. Current law calls for 30 months, but this bill would shorten it to 12 months.

The final provision, which would negatively affect employers, is the proposed prohibition of silent PPOs. Silent PPOs are preferred provider organizations used by companies to negotiate lower costs for health insurance. AIF and insurers are very close to a compromise on this issue and it is likely this issue will be resolved on the floor. As a result, Jose Gonzalez, Vice President of Governmental Affairs for AIF, thanked the bill sponsor for his willingness to work on their concerns. The mandatory assignment language has already been removed from the House version, and we feel confident we will resolve the Silent PPO issue.

SB 1012 will now be considered on the floor of the Senate. Its House companion, HB 405 by Representative Bill Galvano (R-Bradenton), is scheduled to be heard by the House Policy & Budget Council on Monday, April 14<sup>th</sup>.

**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.**

## **Space**

The Senate Finance and Taxation Committee unanimously passed SB 2666 by Senator Bill Posey (R-Rockledge). SB 2666 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. To be eligible for a refund, the space flight business contract or facility must result in a new increase in space flight business employment at a Florida facility. SB 2666 also allows local governments to use donated or discounted land and buildings to qualify as the required local match.

SB 2666 will now be considered by the Senate Transportation and Economic Development Appropriations Committee. SB 2666's House companion, HB 1373 by Representative Thad Altman (R- Melbourne), will now be considered by the House Policy & Budget Council.

**AIF supports adding space flight businesses to the Qualified Defense Contract Tax Refund Program. The incentives included in this successful program should go a long way in helping Florida maintain and attract commercial space industries.**