



DAILY LEGISLATIVE BRIEF FROM APRIL 15, 2008

The House Policy and Budget Council finally concluded its long agenda, which began yesterday morning, after debating and voting on a number of bills. At one point it was believed that today was going to be the last Council meeting, but upon the conclusion of today's meeting Chairman Ray Sansom (R-Ft. Walton Beach) announced that there would probably be one more meeting next Monday, April 21st. In the afternoon, a number of Senate committees held meetings. Tomorrow both the House and Senate will be in session most of the day.

In other news, Governor Charlie Crist signed the controversial "Guns in the Workplace" bill today despite strong opposition from AIF and other business groups.

Taxation

The House Policy & Budget Council passed HJR 949 Relating to Maximum Ad Valorem Tax Limitation; Voter-Approved Exception by Representative Carlos Lopez-Cantera (R-Miami) by a 21-10 margin. This proposed constitutional amendment, which is very close to the citizen initiative supported by Speaker Marco Rubio (R-Miami), would limit the amount of ad valorem taxes collected by counties, school districts, municipalities, and special districts on any parcel of real property. Each entity could only tax at a maximum 1.35% (or 13.5 mills) of the property's highest value. Representative Lopez-Cantera believes that if this constitutional amendment is adopted there would be a savings of approximately \$5.9 billion for property tax payers within the State of Florida.

Representative Ron Saunders (D-Tavernier) requested that the bill's sponsor look into changing the level at which the property should be taxed – in the bill the millage rate is applied to the "taxable value" rather than to the "just value." Representative Saunders fears that if they use "taxable value" it would have a negative impact on the current Save Our Homes tax status. Representative Jack Seiler (D-Pompano Beach) is concerned with how the reduction of revenues from this property tax would effect educational funding, even though other property tax reduction legislation has not effected educational funding thus far.

Representative Shelley Vana (D-West Palm Beach) asked for a breakdown of how the proposed amendment would affect each county. In the past the legislators were given the information before they voted on a bill, but at this point there has not been a detailed breakdown of what the cost would be per governmental entity.

Representative Frank Attkisson (R-Kissimmee) asked for council members to vote in favor of this bill, citing that "As a termed out legislator, I have to go home and pay these taxes. This is a tax I can afford."

The organization, Cut Property Taxes Now, has been gathering signatures on a petition to place it on the November ballot, but having only received approximately 70,000 signatures they do not collect the required number in time. HJR 949 is an attempt to speed up the process and get the language on the ballot this year.

Representative Saunders was the only Democrat to vote yes on the joint resolution. HJR 949 will now be considered on the floor of the House. Its Senate companion, SB 2190 by Senator Mike Bennett (R-Bradenton), still needs to be heard by the Senate committees on Finance and Tax; Education Pre-K-12 Appropriations; and Rules.

AIF has not taken an official position on this proposal. Although the property tax savings would be significant for employers, the unintended consequences on local government must be considered.

The Council also passed HB 909 Relating to Value Adjustment Boards by Representative Peter Nehr (R-Tarpon Springs) by a 19-8 margin. The bill implements the Auditor General's County Value Adjustment Boards (VAB) performance audit that took place between July 2003 and June 2004, and was reported on in July 2005.

In addition to the changes from the audit, the bill also changes the composition of the VABs and allows for a refund of the filing fee if the taxpayer prevails. It also implements six of the audit recommendations which will make the process much fairer. Based

on 2006 reports by 45 of 67 county VABs, the denial rate is still very high at 87 percent. Representative Nehr believes that this legislation should bring that rate down somewhat.

The bill also contains language stating that a taxpayer shall never have the burden of proving that the property appraiser's assessment is not supported by any reasonable hypothesis.

There were questions regarding the potential fiscal impact on the Department of Revenue and local governments by Representatives Ron Saunders (D-Tavernier), Jack Seiler (D-Pompano Beach) and Shelley Vana (D-West Palm Beach). Representative Curtis Richardson (D-Tallahassee) asked about the requirement that counties with a population of less than 75,000 would have to use Special Magistrates without any funding as well as having to hire private attorneys to represent the Value Adjustment Board.

Representative Nehr explained that some funding was in the budget for the department of revenue, but that the local government impact was not covered. He assured the members that the amount was relatively small.

Representative Richardson also asked about the need for the section about "every reasonable hypothesis" standard.

Mr. Ben Phipps, a property tax attorney, testified and explained why that provision was required. Frank Meiners, on behalf of AIF, also testified in support of the bill.

In debate, both Representatives Seiler and Richardson argued against the bill because of the unfunded mandate to local government.

HB 909 will now be considered on the House floor.

AIF supports this bill because it contains improvements favorable to businesses when contesting the Property Appraiser's value of the taxpayer's property. The changes to existing law will give AIF members a more level playing field when going before the VAB. The changes made during today's council meeting on "any reasonable hypothesis" are of tremendous value to taxpayers.

Today, the Senate Health Policy Committee passed SB 2790 Relating to Cigarette User Fees by Senator Ted Deutch (D-Delray Beach) by a 4 to 1 margin. The bill increases cigarette user fees, replaces all references to the term "tax" with "user fee," and substantially modifies the allocation of revenues to certain health care programs including the H. Lee Moffitt Cancer Center and Research Institute, and the James & Esther King Biomedical Research Program (King Program) among others.

Senator Deutch presented the bill as a fairness issue and a public health issue, stating that increasing taxes on cigarettes is the best way to keep people and children from smoking. He repeatedly argued that this proposal was not meant to help with the state's fiscal crisis, but he did admit that an undisclosed percentage of the more than \$1 billion dollars that would be raised by this tax increase would go to General Revenue. He also cited a number of other states that have recently increased their taxes on cigarettes. A number of anti-smoking advocates filled the committee room and testified in support of the bill.

Senator Charlie Dean (R-Inverness), the lone "nay" vote, cautioned committee members about the potential for increased contraband and the proliferation of the "black market" in states where cigarette taxes have been increased.

AIF's VP of Governmental Affairs, Jose Gonzalez, testified in opposition to the bill. Increasing this tax, although politically popular, sets a terrible precedent for the state. Increased cigarette taxes would only affect 20 percent of the population (those who choose to smoke), but the revenues from the tax are used by the entire population. In addition, proponents are being disingenuous by labeling these taxes as "user fees." Finally, Gonzalez agreed with Senator Dean about the danger of counterfeit cigarettes. Increasing the Florida tax will mean that it will become very profitable for cigarette smugglers to flood the Florida market with their illegal products and reap the profits. This increase in counterfeit cigarettes will certainly reduce the tax revenues to the state, while also injecting a major criminal element into everyday life.

SB 2790 will now be considered by the Senate Higher Education Committee. It has a number of committee references to go before reaching the Senate floor.

AIF opposes efforts to increase cigarette taxes and the disingenuous labeling of these taxes as "user fees." Just because taxing cigarettes may be popular; it is not right to punish a small subsection of the population for their lifestyle, while at the same time benefiting from the increased tax revenues.

Education & Workforce Development

The Senate Education Pre-K-12 Appropriations Committee unanimously passed SB 1914 Relating to Education by Senator Don Gaetz (R-Ft. Walton Beach). The bill contains provisions that would require Department of Education to revise the Sunshine State Standards, make them grade specific, review them on a regular basis, and make sure they integrate critical thinking and problem-solving skills; communication, reading, and writing skills; mathematics skills; collaboration skills; contextual and applied-learning skills; technology-literacy skills; information-literacy and media-literacy skills; and civic-engagement skills. Additionally, the standards are required to be aligned to expectations for success in postsecondary education and high-skill, high-wage employment.

In the committee meeting, this new version of the curriculum reform bill picked up many of the provisions in the House bill. This is an excellent sign that the two chambers are coming together on this important bill.

SB 1914 was passed with little questions or debate and will now be considered by the Senate Rules 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.

Economic Development

Today, the House Policy and Budget Council approved several bills supported by AIF.

HB 293 Relating to Corporate Income Tax Credits by Representative Will Weatherford (R-Zephyrhills), which is known as the New Markets Tax Credit bill, will encourage venture capital investment into some of Florida's economically challenged areas and will seek to utilize federally approved funds that are not currently being accessed by Florida. The bill creates a Florida program by which venture capital [groups](#) would receive a state incentive when investing risk capital into designated rural, low income and economically desolate areas as a means to stimulate the local economy.

This proposal would piggyback off [the](#) federal program where almost \$20 billion dollars of federal [tax credits](#) are available. Groups such as the Office of Tourism Trade and Economic Development (OTTED), and Department of Revenue (DOR) have all been engaged on the issue. Several members of the council suggested that perhaps some legislative "tweaking" could be done to ensure that target communities receive this assistance.

AIF stood in support of this legislation, which is now ready to be considered on the floor of the House. HB 293's Senate companion, SB 850 by Senator Mike Fasano (R-New Port Ritzhey), 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.

The Council also unanimously passed an economic stimulus package, HB 7111 Relating to Economic Expansion by Chairman Dean Cannon (R-Winter Park). The bill reduces regulatory burdens for eligible companies looking to receive state assistance to help grow business and spur economic activity. As we have reported earlier, the House has chosen to craft an economic stimulus package that would broaden the number of businesses eligible for state incentives, increase assistance to rural communities in need of economic activity, establish a state office for small businesses and state advocate to protect and promote the interest of small businesses across Florida, and expedite application processes for businesses applying for state grants, funds and incentives.

Some of the provisions in HB7111 seek to:

- Create the Small Business Relief Act and the establishment of the Small Business Advocate, to recognize the almost 2 million small businesses as a viable economic entity.
- Expedite approvals or denials for applicants that apply with OTTED/Enterprise Florida for economic incentive funds.
- Expand resources for rural areas by increasing the amount of incentive dollars a Qualified Defense Contractor would be eligible for if their projects are located in a rural or enterprise zone.
- Define "catalyst projects" as a priority initiative that when placed in a rural area, would become eligible for more incentive dollars and waives a local matching requirement for these projects.
- Allow for alternative energy projects to qualify for Target Industry Tax Refunds.

- Address 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.
- Give more oversight of Innovation Incentive funds to the SCRIPPS Corporation.
- Allow major league baseball spring training teams more flexibility in relocating with the state.

In addition, there were several other provisions included in HB 7111 at the last minute that AIF will be analyzing. Yet, the bill holistically is meant to expand and enhance Florida's economy, something AIF fully supports. We believe this legislation will have many changes and variations before it reaches its final form.

HB 7111 will now be considered on the floor of the House.

AIF supports the 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 moving once again.

Lastly, in December of 2007, due to an overall reduction in confidence in some of the fund's investments, the state's Local Government Investment Pool (LGIP) saw a run on participant contributions and an ultimate freeze by administrators in pulling of those assets by participants. The LGIP was established to provide local governments a low cost, low risk, fully transparent investment option for their surplus funds. The Pool is open to all units of local government in Florida and has been operated by the Small Business Administration (SBA) since January 1982.

In June of 2007, the SBA was managing approximately \$31 billion in assets in the Pool serving almost 1000 participants. Widely reported in every major newspaper across the state, this occurrence prompted changes within the State Board of Administration's management of these funds and drew the scrutiny of the Legislature, including Speaker Marco Rubio (R- Miami) and Representative Carl Domino (R-Juno Beach). Many complaints from the participants addressed a lack of knowledge of the funds activities, and an increased need for reforms before they felt confident in placing funds into the LGIP ever again. HB 7095, HB 7097, and HB 7099 seeks to instill some of these reforms and implements certain findings from a select review and report issued in findings from Speaker Rubio's inquiry into the management of the LGIP.

The legislation will prospectively enact measures that will mandate more accountability of the Pool managers to its participants and the Legislature, increases transparency of certain management actions and requires that participants are notified of these actions. In addition, participants should benefit under this bill by receiving written investment policies of the Pool, how the fund is operated, how the funds are treated once a crisis is identified and a limit (48 hours) on how long the fund manager can arbitrarily freeze the account before the Pool trustees must approve the freeze further. The bills also create the Participant Local Government Advisory Council; a six person council consisting of participants, tasked with reviewing critical documents and providing input involving the how the state Pool is being administered.

All three bills are now ready to be considered on the floor of the House.

AIF is monitoring this legislation. We support the Legislature's desire to increase confidence in the public Pool, but also understand that often well intended pieces of legislation can be intrusive and stymie prosperity.

Health Care

Following weeks of discussions with proponents of bills that would make it harder for self-insured employers to maintain comprehensive provider networks for their employees, it appears a compromise has been reached.

HB 405 by Representative Bill Galvano (R-Bradenton) was approved by the House Policy and Budget Council after an informal agreement was reached between health insurers, the Florida Medical Association (FMA), and employer groups to substantially amend the bill on the House floor. Keyna Cory testified that AIF appreciated the sponsor's efforts to address their main concerns regarding silent PPOs. These "preferred provider organizations" are essential for employers because they help leverage lower prices for health care. Later in the day, the compromise was solidified in a meeting with the Senate sponsor, Senator Don Gaetz (R-Ft. Walton Beach). The Senate companion, SB 1012, is ready for the floor.

AIF no longer opposes HB 405 and SB 1012 and would like to thank Representative Galvano and Senator Gaetz for their willingness to compromise on an issue that would have increased health care costs for employers across the state.

The Senate Health Regulation Committee narrowly approved SB 1668 Relating to Nursing Homes and Assisted Living Facilities by Senator Jones (R-Seminole) on a 4-3 vote. Chairman Jeff Atwater (R-North Palm Beach) cast the deciding vote in favor of this bad bill. The bill would allow trial lawyers to subvert the nursing home licensure laws by creating a roadmap that allows them to pierce corporate veils and sue related organizations for nursing home claims. This bill would serve as a bad precedent for using Florida's licensure laws.

The bill will also require an applicant for an initial, renewal, or change of ownership license to submit additional information to the Agency related to extended ownership and financial status. The public will be able to submit information for the Agency to consider in application reviews associated with a change of ownership of a nursing home or assisted living facility (ALF). The full liability insurance policy amount will be available to a successful plaintiff since the policy will not be available to cover litigation costs or attorneys fees. Additional information will be made more easily accessible to the public.

AIF was prepared to testify against the bill, but were unable to due to time constraints. SB 1668 will now be considered by the Senate Children, Families, and Elder Affairs Committee.

AIF opposes SB 1668 because of the dangerous precedent it sets for Florida's legal climate. Allowing affiliated organizations to be brought into lawsuits against nursing homes sends a chilling message to businesses in Florida – beware of who you do business with because you may end up in court through no fault of your own.

Business Regulation

The Senate Transportation and Economic Development Appropriations Committee unanimously passed SB 704 Relating to the Administrative Procedures Act by Senator Mike Bennett (R-Bradenton). 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.

Two amendments by Chairman Mike Fasano (R-New Port Richey) were adopted during the meeting today. The first amendment stripped the bill of any fiscal impact due to the state's well-publicized budget shortfalls. The second amendment provided for a specific appropriation of \$450,000 dollars from the Records Management Trust Fund for the purpose of administering the operations of the *Florida Administrative Weekly*, an electronic publication which provides access to all of the rules and regulations affecting Florida's businesses and residents.

SB 704 will now be considered on the floor of the Senate.

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.

Ethics and Elections

The House Policy and Budget Council passed HB 903 Relating to Registration of Paid Petition Circulators by Representative Chris Dorworth (R-Heathrow) by a 21-11 margin. A strike-everything amendment was adopted at the Council meeting today, which narrowed the scope of the bill. As originally filed, the bill established a registration process and a number of requirements for persons wishing to operate as paid petition gatherers. As amended, the bill would now require a level 2 background screening for any person wishing to be a paid petition gatherer. Representative Dorworth explained that his intent was to protect the public from individuals who may have criminal intentions or a criminal record. In addition, the strike-everything amendment reduces the number of years a petition signature is valid from the current four years to two years. Finally, as amended the bill would require all petitions and revocations forms to be submitted within 60 days of a voter signing them to the Supervisor of Elections.

AIF's VP of Governmental Affairs, Jose Gonzalez, testified in support of the bill, especially for the provision that would reduce the lifespan of a petition signature by two years. Currently, Florida has the longest shelf life for petition signatures in the country. Efforts to reduce this time period would help ensure the reliability of voter data and prevent petition signatures of voters, who are no longer living in Florida, to count towards the thresholds established by law.

HB 903 is now ready to be considered on the Floor of the House.

AIF supports legislation that would bring about increased accountability for paid petition signature gatherers; and as outlined in our 2008 Session Priorities would limit the time period petition signatures are valid from four years to two years.

Ports

The House Policy & Budget Council unanimously passed HB 7119 Relating to Uniform Port Access Credential Card Representative Sandy Adams (R-Oviedo). This bill will potentially make Florida the most expensive place in the country to get port access credentials.

The measure only appears to move in the right direction by saying the state may accept the United States Transportation Security Administration's (TSA) Transportation Worker Identification card (TWIC). However, it also allows a fee to be collected for entering the cardholder into the Florida Uniform Port Access Credential (FUPAC) System.

The proposed language clearly gives the state total discretion. They "may" decide to use the TWIC card, but they still have the option to have two cards. It is also unclear what will be charged for being entered in the FUPAC system. Current estimates range from \$34 to twice that, not including what a port would charge to administer the system and not including the cost of the TWIC card.

AIF's Mark Flynn gave the only testimony expressing concerns about the bill. We also asked for an opportunity to work with the sponsor, Representative Adams, to amend the bill on the floor.

Amazingly, the bill did not even exist last as of last week, but was filed in the House last Friday, April 11th. Staying true to its rapid formation, this was the first time the language of the bill had been discussed and also the last opportunity for public input as it now heads to the floor of the House. HB 7119's Senate companion, SB 1470 by Senator Charlie Dean (R-Inverness), will now be considered by the Senate Transportation and Economic Development Appropriations Committee.

AIF and its *Florida Maritime Council* support efforts that begin the process of examining the impacts of security regulation on the competitiveness of Florida's 14 deep water ports. Florida's security requirements are much more stringent than federal requirements, and consequently we are beginning to lose business to other ports in the region because Florida's security costs are significantly higher.

Space

The Senate Finance and Taxation Committee unanimously approved a major priority bill of Associated Industries of Florida that supports Florida's aggressive efforts to expand the infrastructure of our state's space industry.

Senator Bill Posey (R-Rockledge) today presented the SPACE ACT, SB 2426, which creates the Space and Aerospace Catalyst and Enhancement (SpACE) Program to help finance upgrades to space-related infrastructure, such as launch facilities, and other types of facilities, or to compete for space-related businesses interested in partnering with the state.

The bill also maintains a \$15 million appropriation that Space Florida is seeking for FY 2008-2009 to help pay for the infrastructure updates at Launch Complex 36, which could have the economic impact of landing a current NASA contract worth \$170 million over 3 years to develop a commercial cargo delivery system.

SB 2426 will now be considered by the Senate Transportation and Economic Development Appropriations Committee.

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 House Policy & Budget Council unanimously passed HB 1245 Relating to Regional Transportation Authorities by Representative Bill Galvano (R-Bradenton). This bill would greatly benefit the state's regional transportation authorities because it would allow authorities in Northwest Florida, South Florida and the Tampa Bay area to receive 80 percent of the existing rental car surcharge dollars collected in the counties they represent.

The bill would provide funds to support a regional approach to building needed transportation projects, which could include the more effective attraction of federal matching dollars for certain projects and consideration of public-private partnerships to build regionally significant toll facilities.

HB 1245 will now be considered on the floor of the House.

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

Environment

The House Policy & Budget Council unanimously passed HB 527 Relating to Brownfield Site Redevelopment by Representative Trudi Williams (R-Ft. Meyers). The Brownfields Redevelopment Program empowers communities, local governments and other stakeholders in economic development to work together to assess, clean up, and reuse brownfields. A brownfield site is property, which may be complicated by actual or perceived environmental contamination during the expansion, redevelopment or reuse of the property. The bill provides for a one-time, 25 percent tax credit of up to \$500,000 for the construction and operation of new health care facilities or health care providers on brownfield sites. Also, solid waste removal costs can be a part of the tax credits allowed under this section.

HB 527 will now be considered on the House floor.

AIF supports this legislation as it will hopefully increase participation in the redeveloping of brownfield sites and therefore promote economic development efforts. The reuse of property is an important component of sound land use policy and the economic development advantage is great in promoting the growth of new jobs.