



DAILY LEGISLATIVE BRIEF FROM APRIL 16, 2008

Wednesday was a day for session in both the House and Senate. A number of AIF priority bills dealing with Florida Forever, economic development, space industry, and health care were considered on second reading – meaning that they have been debated and amended and are now ready for final passage. Make sure to check tomorrow's *Daily Brief* for a complete recap on the status of bills related to these issue areas.

Legislation dealing with property insurance and the Certificate-of-Need process did see some action in the Senate today and is included in tonight's report.

Both the House and Senate will once again be in session on Thursday. In addition, the House and Senate appointed their respective budget conference committee members today and the budget conference process will begin tomorrow afternoon.

Insurance

The Senate passed SB 2860 Relating to Insurance by Senators Jeff Atwater (R-North Palm Beach) & Steven Geller (D-Hallandale Beach) on a 32-7 vote. This bill imposes additional punitive regulation and sanctions against insurance companies and continues the freeze of Citizens Property Insurance Corporation's rates, which will greatly increase the number of Citizens' policies in the future. The bill will also increase civil litigation and will not only affect property insurers, but all types of insurers with its far reaching anti-trust provisions. The legislation also provides the Office of Insurance Regulation with unbridled discretion to fine and shut down insurance companies. These measures will only result in further restriction of the private marketplace and the growth of Citizens, which increases the likelihood of hurricane taxes on Florida's businesses to pay for Citizens' deficits.

During debate, an amendment by Senator Geller was adopted, which would allow for the release of the confidential file and records of a Citizens Property Insurance Corporation policyholder. The amendment also grants plaintiff lawyers access to those records in lawsuits against Citizens. Under this amendment, taxpayers could potentially have to foot the bill in lawsuits against this government-run insurer. An amendment by Senator Mike Fasano (R-New Port Richey) would have prevented insurance companies that sell property insurance in other states, but only chose to sell auto insurance in Florida from being able to operate in this manner. After much debate, it was clear that Senate leadership was not ready to accept this controversial amendment and Senator Fasano was forced to withdraw his amendment.

Senator Al Lawson (D-Tallahassee) once again stood up and debated in opposition to the bill, stating his concerns about what the bill would do to Florida's private insurance market. Senator Lawson is also philosophically opposed to the notion of in-land policy holders having to subsidize million dollar homes built along Florida's coast. Senator Steve Oelrich (R-Gainesville) also debated against the bill stating that "the state was getting too much into the private market" and that he "had tried to sponsor a bill that would have sunset Citizens after four years."

AIF would like to publicly thank Senators JD Alexander (R-Winter Haven), Paula Dockery (R-Lakeland), Tony Hill (D-Jacksonville), Al Lawson (D-Tallahassee), Steve Oelrich (R-Gainesville), Jeremy Ring (D-Margate), and Gary Siplin (D-Orlando) for their opposition to this bill, which perpetuates Florida's reliance on post-hurricane assessments and continues to place Florida in financial peril, while at the same time discouraging the return of the private insurance market.

SB 2860 will now be sent to the House for consideration. Currently, there is no House companion for this bill.

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.

Taxation

Today, the Senate unanimously passed two taxation bills that are priorities for AIF.

The first was SB 1586 Relating to Corporate Income Tax by Senator Mike Haridopolos (R-Melbourne). Senator Haridopolos explained that Florida's Corporate Income Tax Code follows the Federal Internal Revenue Code by using federal rules and starting with federal taxable income as the tax base for the Florida Income Tax. This bill is the "piggybacking" of the congressional changes made during 2007 to the IRS Code except for certain temporary increases in depreciation expenses and bonus depreciation expenses that were part of the federal economic stimulus package.

The bill also speeds up the quarterly payments so that there will be five payments in this fiscal year rather than four by making the July 1, 2009 payment being due on June 30, 2009.

The Senate substituted the bill's House companion, HB 5065, for SB 1586 and then unanimously passed the bill. HB 5065, due to amendments being added, will now be sent back to the House for final passage.

AIF supports this legislation because it brings into conformity, Florida's corporate income tax code with the federal IRS code changes. This will prevent businesses in Florida from having to keep two sets of books. However, there will be some differences due to the bill not allowing for accelerated depreciation or the bonus depreciation that is allowed by the federal code.

The Senate also unanimously passed SB 1588 Relating to Property Taxation by Senator Haridopolos. SB 1588 seeks to fix a number of glitches found in the implementation bill for Amendment 1, which passed on January 29th. Among other provisions, it removes language requiring businesses to apply for the 10 percent cap on non homestead property's annual assessment increase. During debate, Senator Haridopolos offered four technical amendments, all of which were adopted.

SB 1588 will now be sent to the House for consideration.

AIF supports this legislation so that taxpayers in certain situation will know for sure if they are eligible for the benefits provided by amendment 1.

Energy

The long anticipate and much debated Governor's Energy Package was considered on the floor of the Senate today. SB 1544 Relating to Energy by Senator Burt Saunders (R-Naples) is a comprehensive and complex bill, which undertakes a number of changes to Florida's energy policy. Among the multiple provisions in this legislation, the bill creates a new renewable portfolio standard for utilities, a new renewable fuel standard that relies on ethanol, a proposed cap-and-trade system for reducing greenhouse gas emissions, and a new energy governance structured within the Office of the Governor. During his presentation of the bill, Senator Saunders made sure to recognize the efforts of a number of senators who also worked on this bill and specifically singled out Senators Lee Constantine (R-Altamonte Springs) and Mike Bennett (R-Bradenton), thanking them for their contributions on the bill. These two senators were also added as co-introducers of SB 1544.

Senator Saunders went on to state that his committee had been careful in drafting this legislation in a way that would avoid any unintended consequences and detriments to Florida's electricity rate payers. In addition, he assured his colleagues that any new rules developed by the Public Service Commission or the Department of Environmental Protection, dealing with a renewable portfolio standard or a cap-and-trade program, would have to be ratified by the Legislature. In addition, several amendments were adopted today that brought the bill more in line with its House counterpart.

Senator Don Gaetz (R-Ft. Walton Beach) asked the bill's sponsor for his assurance that the provisions in the bill would include the necessary cost-benefit analysis needed to ensure the least impact on Florida's rate payers. Senator Saunders assured Senator Gaetz that the language in the bill would indeed take that into account.

SB 1544 was temporarily passed on a motion by Senate President Ken Pruitt (R-Port St. Lucie), who informed his fellow senators that the plan was to wait for the House's version of the energy package before taking a final vote.

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.

Health Care

The Senate unanimously passed Governor Charlie Crist's "Cover Florida Plan," which expands the affordability and accessibility of low-cost insurance for Florida's more than 3.8 million uninsureds. SB 2534 Relating to Health Insurance by Senator Durell Peaden (R-Crestview) would:

- Allow a dependent to remain on his or her parent's health policy until age 30;
- Extend the sunset on the Health Flex Program and moves the eligibility from 250% to 300% of federal poverty limit; and
- Provide for a state-administered Invitation to Negotiate for health plans to provide two low-cost options to people uninsured for six months.

These plans are exempt from the current Insurance Code and will be lower in cost through the use of cost containment measures, such as limit on the number of services, caps on benefits, and co-payments.

SB 2534's House companion (HB 7081 by the House Health Care Council) contains Representative Aaron Bean's (R-Fernandina Beach) "Marketplace" language, in addition to the Governor's proposal. HB 7081 would establish a "farmer's market" in which all kinds of vendors, licensed and unlicensed, could offer various kinds of health services to Florida individuals, through an employer portal. This bill will be considered by the House on Thursday, April 17th. It is our understanding that negotiations continue between the Governor and the House in an attempt to reach a compromise between these two very different concepts.

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.

Hospitals/CON

Today, the Senate unanimously passed SB 2326 Relating to Hospitals by Senator Durell Peaden (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 \$1 million dollars. In addition, the bill was amended to require that entities applying for a new CON must prove financial feasibility in order to continue with the application process.

Currently, SB 2326 does not have a House companion; it will now be sent to the House for their consideration.

As originally filed, AIF and its *Florida Hospital Council* strongly opposed SB 2326. Since then, the bill has come a long way thanks to the willingness of the sponsor and the Governor's office to listen to the concerns of the business community and existing safety net hospitals. As amended, AIF is no longer opposed to this bill.