



DAILY LEGISLATIVE BRIEF FROM APRIL 24, 2008

Thursday's headline was the passage of the highly controversial "tax swap" constitutional amendment by the Taxation and Budget Reform Commission (TBRC). The measure was narrowly approved on an 18 to 7 vote (it takes 17 votes to put a proposal on the ballot) after three commissioners abandoned their support of the proposal being advanced by former Senate President John McKay. The measure will now go before the voters this November. The TBRC also approved a number of other constitutional proposals including language that would help businesses located on working waterfronts by limiting the amount their property can be appraised. Tonight's report contains a complete rundown on the TBRC's meeting.

The House took up the Central Florida commuter rail issue which is part of an omnibus Department of Transportation bill (HB 1399 by Representative Aubuchon) during session today, debating this much talked about proposal for hours. Opponents of the measure introduced a number of amendments that would have drastically altered this delicate agreement only to have the amendments defeated or withdrawn. Friday is the last day for bills on the special order calendar, meaning that bills that haven't been considered on second reading will most likely not make it this session.

The Senate on the other hand took up a controversial abortion bill today which took up most of the debate. Both chambers will once again be in session tomorrow.

TBRC

The Taxation and Budget Reform Commission held one of its last two meetings today. On their agenda was the approval of the Style and Drafting Committee's recommended ballot summaries for the constitutional proposals approved by the Commission. The majority of proposals were non-controversial in nature, except of course for CP 002 by Commissioner John McKay. This proposal, better known as the "tax swap," is opposed by AIF and the majority of the business community because of the uncertainty it would bring to Florida's business climate.

In the end, the Commission voted to approve all the proposals on the agenda including the working waterfront proposal supported by AIF, allowing local counties to approve (via referendum) a sales tax increase to help fund community colleges, and the McKay tax swap.

The tax swap was approved by the slim margin of 18-7. In order to be included on the ballot, each measure has to receive a total of 17 votes in order to pass. During the days leading up to this final vote, a number of commissioners were intensely lobbied to change their original vote and it was unclear whether any of the Commissioners who had initially voted for CP 2 would honor their vote. Commissioners Susan Story, Mike Hogan, and Brian Yablonski each switched their votes from a "yes" to a "no" during today's meeting. Commissioners Story and Hogan explained their change of heart by highlighting the uncertainty this proposal would bring to Florida's business climate as well as their concern that the proposal (as amended by the Style and Drafting Committee) would have the potential to bring back a services tax in Florida.

During consideration of the Style and Drafting Committee's recommended ballot language on the tax swap, a point of order was raised by Commissioner Randy Miller who stated that he strongly believed that the proposal the Commission was to vote on today was substantially different to the proposal that commission members voted to send to the Style and Drafting Committee. The language in question was a provision that was mistakenly taken out by a hand written amendment at the time the Commission first approved CP 002. The Style and Drafting Committee added the language back in, which would prohibit the Legislature from repealing any sales tax exemptions on the sale of real property. Commissioner Randy Miller argued that this language was overly broad and could carve out real estate commissions or services from the list of exemptions or exclusions available for the Legislature to repeal in order to make up for the \$9 billion dollar budget hole left by the elimination of local school property taxes. After a long debate, Chairman Allan Bense ruled that the changes had been technical in nature and not substantive. Most opponents of CP 002 had been advocating that this change by the Style and Drafting Committee was indeed substantive.

Following the approval of the ballot language for the constitutional proposals being considered, the Commission then approved the order of appearance for constitutional amendments. The Style and Drafting Committee recommended the following order for placement on the November 2008 ballot (by the way, this order reflects the order by which the TBRC passed each proposal):

- CP 4 - Residential Property Assessment/Storm Hardening or Renewable Energy Devices by Commissioner Gwen Margolis
- CP 15 & 16 – Conservation Lands by Commissioner Brian Yablonski (these two proposal were combined into one)
- CP 2 – Replacement of RLE with State Revenues by Commissioner John McKay
- CP 6/8/34 – Working Waterfront Assessments by Commissioners Jim Scott, Ken Wilkinson, and Carlos Lacasa (these three proposals were combined into one)
- CP 20 – Blaine Amendment by Commissioner Patricia Levesque
- CP 35 - Local Option Tax for Community Colleges by the Governmental Services Committee

It was explained that the first proposal (CP 4) will actually be “Amendment 3” on the ballot, since there are two proposed amendments that have made the ballot prior to the TBRC’s work. These include a proposed amendment placed on the ballot by the Legislature, which deletes provisions in the constitution authorizing the Legislature to regulate or prohibit the ownership, inheritance, disposition, and possession of real property by aliens ineligible for citizenship and the gay marriage amendment which qualified for the ballot via the citizen initiative process.

The Commission will most likely hold its last meeting on Friday, April 25th to reconsider a proposal dealing with school vouchers, which had previously been voted down by the TBRC. The proposal (CP 40) was brought back to life on a motion to reconsider by Commissioner Randy Miller.

AIF would like to thank all the Commissioners who voted in favor of CP 6/8/34, the combined working waterfront amendment, which if approved by the voters in Florida will go a long way in providing property tax relief for the business owners located on Florida’s vibrant working waterfronts. AIF lobby team members worked for over a year on this proposal and we are thrilled at the prospect of bringing this much needed property tax relief before the voters.

Unfortunately, AIF is also disappointed with the actions of the TBRC on CP 2. The level of uncertainty that this proposal, if approved, will bring to Florida’s business climate is matter of grave concern. The elimination of the Required Local Effort (RLE) or school property taxes, although tempting, will leave legislators with a gaping budget hole that will only be filled by raising the state’s sales tax, eliminating valuable sales tax exemptions, and possibly instituting a services tax that will be devastating for the thousands of small business owners across Florida.

Legal & Judicial

The Senate unanimously passed SB 704 Relating to the Administrative Procedures Act by Senator Mike Bennett (R-Bradenton). The bill creates incentives for state agencies to properly promulgate rules when the Legislature provides statutory authority to do so. This bill will provide more predictability and fairness for all Florida businesses and residents dealing with state agencies on virtually any matter.

SB 704 is now ready for consideration on the floor of the House. Its House companion, HB 7127 was read for a second time and rolled over the third reading. When it comes up on Third reading, the House will likely consider and pass the Senate version.

AIF supports this proposal 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.

Health Care

The Senate unanimously passed SB 1012 Relating to Health Insurance Claims Payments by Senator Don Gaetz (R-Ft. Walton Beach), which addresses concerns raised by physicians about "silent PPO networks" and the time period allowed to insurers to "look-back" at claims paid.

The compromise language worked out between the business community, including AIF, insurers and the Florida Medical Association has alleviated all concerns on the bill and it now appears poised to pass the Legislature tomorrow.

It is our expectation that the House will take up SB 1012 as a substitute for HB 405, by Representative Bill Galvano (R-Bradenton), tomorrow and pass it. It will then go to the Governor for consideration.

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.