



From December 19, 2007

Legislators were in town last week for the annual December interim committee meetings. Both the House and Senate took advantage of this time to mainly hear presentations from staff on various interim reports as well as presentations from agencies on issues related to next year's budget and the Sunset Review process for those agencies that are scheduled for review in 2008. In addition, the Taxation and Budget Reform Commission held meetings all day Friday, December 14th. A recap of those meetings is included in this report.

Legislators will not be back in Tallahassee until the week of January 7th when they will renew their interim committee meeting schedule.

Insurance

On Thursday, December 13th Citizens Insurance Company Chief Financial Officer informed members of the House Insurance Committee that Citizens projected losses resulting from a major hurricane, which statistically occurs once every 100 years, would be \$25 billion. For the 2008 hurricane season Citizens will have available \$4 billion in cash, \$12.3 billion in Florida Hurricane Catastrophe Fund (FHCA) coverage, and \$6.5 billion bonding capacity for a total of \$22.8 billion available for losses. Citizens alone would exhaust all of the Cat Fund's \$3.4 billion cash and 48% of its \$25.5 billion bonding capacity if a 100-year storm were to make landfall in Florida.

Citizen's CFO also reported to the Committee that at least \$900 million of its investments managed by the State Board of Administration are in downgraded or credit-stressed securities (backed by sub-prime mortgages). Citizen's CFO is currently reviewing Citizens' investment portfolio to determine if its reported value needs to be reduced as a result of downgraded investments not meeting insurance accounting regulatory requirements. Investment losses will result in less monies being available for hurricane losses.

Taxation

The Taxation and Budget Reform Commission and its committees met on Friday, December 14th. Of particular importance to the business community was a workshop on Commissioner John McKay's proposal for a mandatory review of all sales tax exemptions by the legislature. The workshop took place during a meeting of the Governmental Procedures and Structures Committee. Under Commissioner McKay's proposal, the Legislature would do away with the portion of the property tax bill that pays for schools by expanding the sales tax base by closing exemptions and taxing some services. Several members of the business community including AIF expressed concern over the proposal because of the uncertainty it would bring to Florida's business climate and the potential to place our state at a competitive disadvantage with its regional neighbors. AIF is not opposed to a review of sales tax exemption; in fact, this is a concept that we support. What we do not support is mandating a sunset

and review of these exemptions via Florida's constitution. Additionally, any talk of taxing services has the potential to bring us back to the debacle of the late 1980s when Florida instituted a services tax. Not only did this lead to an administrative nightmare, it was quickly abandoned due to public outcry. Taxing services has the potential to cripple Florida's vibrant small business owners because they rely almost exclusively on the service of other businesses to carry out their daily operations. Several commissioners expressed trepidation over Commissioner McKay's proposal, which will be back before the committee in early January for a vote. AIF will continue to work with other members of the business community in opposition to this proposal.

The Governmental Services Committee also met Friday morning and focused on reports on Bright Future Scholarships; Florida Prepaid College Plan; water policy and conservation lands. The first presentation was by Commissioner Les Miller who reported about the previous day's meeting of the Ad Hoc Committee on Bright Futures Scholarship, Florida Prepaid College Plan, and dedication of funds from the Seminole Gaming Compact to public education. They previously heard presentations by Chancellors from the state universities, community colleges, and superintendents who all said more money needs to be directed to those who really need the money to go to college. Bright Futures needs to be tied to financial need like Pell Grants and it needs to decouple Bright Futures from tuition. Within five years, the cost for Bright Futures could go as high as \$1 billion. With the prepaid tuition program they discussed the possibility of no interest loans to make up difference. The Ad Hoc Committee is going to have an additional meeting on gambling dollars since no one from the Governor's office was available. The committee was to discuss the State Court System Report and possible recommendations, but this was postponed until their January meeting.

Although the Water Policy Report was not ready there was a lot of discussion on the issue of water. Commissioner Randy Miller began the discussion by talking about regional water districts especially those in the panhandle. He believes a lot of them are not talking to each other. Commissioner Miller stated that water is big topic since it effects growth; and he is concerned that water management district members are not elected, but have taxing authority.

Ray Pelone from Peace River talked about how their regional water district is working. The four County Commissioners sit on their board so there is representation. To make regionalism work there needs to be cooperation with local governments and other water management districts. Mr. Pelone stated that economy in this state depends on water. One problem that is facing everyone is the sustainability of funding for water. Doug Mann spoke on behalf of the American Water Works Association. He said with Florida's growing population and tourism water is going to get more expensive. Currently, the state is funds \$60 million for alternative water programs. Water management districts then match funds along with local governments. Therefore, the money was multiplied from \$120 million to \$2 billion so far. He stressed to the committee to be careful with a one size fits all approach; don't mandate and that flexibility is key. He pointed out the problems facing Atlanta. He asked the committee to be patient since there are no quick solutions.

When questioned about the management of water in our state, representatives from the Department of Environmental Protection (DEP) and Water Management Districts (WMDs) explained the current situation. WMDs have 20 year water supply plans and DEP prepares a water management plan once every five years. When the committee asked about the oversight of WMDs, they learned that they submit their budgets to Governor and he has line item veto. The legislature also has oversight since they can change their budgets – i.e. during Special Session special districts had to reduce their budgets along with other local governments.

TBRC Chairman Allan Bense wants someone from the committee to propose language, which would clarify who is in charge and submit it to the legislature. He is also a proponent of WMD board members being elected not appointed.

The Finance & Taxation Committee met Friday afternoon to hear presentations about Tax Payers Bill Of Rights (TABOR); spending caps for state and local government, and Conservation Lands. Commissioner Mike Hogan gave the TABOR report. Currently, Florida has a revenue cap and not spending cap. He went to Colorado to learn more and spoke to several people involved with the passage and implementation of TABOR in Colorado. Commissioner Hogan is submitting a TABOR type of bill for Florida.

Dr. Randy Holcomb also made a presentation on TABOR and showed the impact of a cap on the state budget – current budget would have been \$64.9 billion. Under TABOR, voters can override the caps. Commissioner Martha Barnett asked about cost that you have no control over such as Medicare and Dr. Holcomb said voters usually approve increases. Commissioner Barnett also asked if TABOR wasn't the same as Hometown Democracy. Dr. Holcomb does not believe so, as this is tax dollars – it is your money and stressed the concept of no taxation without representation. Every two years voters voted on millage rate for schools until 1968. Commissioner McKay stated that our founding fathers created a republic not a democracy. In his opinion, low voter turnout will cause governance by a minority. Commissioner McKay asked if we should have a computer in every home so that they can vote on every issue that comes before the local government. Commissioner Brian Yablonski said the cap is the issue, not that there should be a vote on each budget. Commissioner Barnett asked about the cost of referendums and time factors? Commissioner Yablonski is going to file a TABOR proposal as well. A motion was made to have Commissioners Yablonski and Hogan work together with staff to draft proposed committee bill for the F&T Committee to consider at next meeting.

The full Commission met later in the day but since they did not have a quorum they were only able to hear committee reports. They were to vote on the proposal to increase the amount of words for their constitutional amendments but will have to wait until January. They announced their schedule of upcoming meetings:

- F&T will meet on January 10 from 1:00 – 6:00 pm in 301 SOB
- Other committees will meet on January 11 in same format as previous meetings
- Committees will meet again on January 17
- Full TBRC will meet on January 18 to begin voting on proposals
- Committee meetings on January 25
- Full TBRC will meet on January 30 (they will discuss what happened with January 29th election)
- Other meeting dates will be February 12 & 13; February 25 & 26

So far they have 20 proposed bills and about 50 more in the pipeline to be filed.

Secondary Metal Theft

[HB 105](#) Relating to Secondary Metal Recyclers by **Representative Baxter Troutman (R-Winter Haven)** was passed unanimously by the [House Homeland Security and Public Safety Committee](#) meeting on Wednesday, December 12th. AIF has organized a coalition of other businesses, community groups, and various interested parties on this growing epidemic that is costing business and Floridians large sums of money and risking public safety. All across Florida criminals are targeting metals such as copper (found in telephone lines), steel (beer kegs), and other metal byproducts for resale in the black market. This dangerous practice can lead to potential power outages and power surges. Ripping phone wires out of the ground can cause homeowners not to be able to contact public safety officials in cases of emergency. [HB 105](#) seeks to make the practice of secondary metal theft less profitable and more difficult by requiring metal dealers to keep personal records (vehicle information, license numbers, etc.) while at the same time increasing the penalties for this illicit practice. The bill was made into a proposed

committee substitute incorporating all of the amendments and will now proceed to the [House Safety & Security Council](#).

Associated Industries of Florida supports legislation aimed at requiring metal dealers to keep enhance personal records of transactions involving secondary metals. Keeping better records will allow law enforcement officials to easily track individuals that seek to make a profit from stolen telephone wires, beer kegs, and other metals. Not only is this illegal activity costing businesses in Florida and across the nation millions of dollars in costly repairs; it is also endangering the lives of innocent Floridians.

Energy

On December 5, the Department of Environmental Protection – Division of Air Resource Management held a series of rulemaking workshops on three different rules as required by Governor Charlie Crist’s Executive Orders. The workshops were the second in a series of workshops being held by the Department. Below is a recap of each meeting.

The first workshop was on Greenhouse Gas Emissions Reduction – Electric Utility Greenhouse Gas Reduction Rule. The Governor’s Executive Order 07-127 states “The Secretary of Environmental Protection shall immediately develop rules as authorized under Chapter 403, Florida Statutes, to achieve the following: Adoption of a maximum allowable emissions level of greenhouse gases for electric utilities in the State of Florida. The standard will require at minimum three reduction milestones as follows: by 2017, emissions not greater than Year 2000 utility sector emissions; by 2025, emissions not greater than Year 1990 utility sector emissions; by 2050, emissions not greater than 20% of Year 1990 utility sector emissions (i.e., 80% reduction of 1990 emissions by 2050)”

Larry George summarized some of the comments made from the first meeting. One interesting comment made by Mr. George was that the State of Florida does not have good records on what the emissions level was in 1990. Therefore they will need to decide which baseline level for CO2 emissions will be used to determine 1990 levels. They are also discussing on how to provide a mechanism for facilities to correct any data used for setting baselines. With regards to future CO2 emissions tracking it has been suggested that Florida use DOE revised protocols or use other established protocols set by World Resource Institute; the California Climate Registry; or multi-state Climate Registry. Others have suggested that they allow the use of either CEMs (continuous emission monitors) or mass balance calculations based on fuel usage, whichever is more accurate. He also discussed what units should be included in the electric utility sector – should it include any fossil fuel-fired unit that provides electricity to the power grid; any unit that subject to the Clean Air Interstate Rule (CAIR); and/or include interchange power from out of state.

When addressing the approach that should be considered for the proposed rule, prior written comments submitted included:

- a carbon fee (or tax)
- cap & trade
- regulate at the level of the load serving entity (the organization that directly delivers power to end-use customers)
- provide recognition and incentives for early reductions

DEP will not recommend one of these over the others. They are looking to the Governor’s Action Team on Energy and Climate Change for direction. Other suggestions included:

- Support a national program and integrate state program into it
- Join regional program (like RGGI)
- Allow unlimited use of offsets regardless of location of the source
- Allocate resources to research and development of carbon capture and storage technology

DEP received comments from the first workshop about meeting the caps and the challenges we face:

- Slowing the state's growth in electricity demand
- Increasing generation from proven non-fossil sources
- Reducing statewide average fossil fuel emission rate
- Developing and deploying advanced technologies

Additional written comments are due by January 31, 2008 and DEP asked those comments to focus on the following:

- How to define the "utility sector" for purposes of establishing the target caps and for purposes of future regulation?
- How to calculate the 1990 and 2000 emission levels and how much precision is needed?
- How to treat out-of-state interchange power; in particular, how to account for it in both estimating baseline emissions and tracking future emissions?
- What are possible rule approaches to consider for achieving the reduction targets set forth by the Governor?

The next rule workshop was on Greenhouse Emissions Reduction – Adoption of California Motor Vehicle Standards. In the Governor's Executive Orders, DEP is to develop rules to achieve the adoption of the California motor vehicle emissions standards in Title 13 of the California Code of Regulations, effective January 1, 2005, upon approval by the U.S. Environmental Protection Agency for the pending waiver, which includes emissions standards for greenhouse gases, submitted by the California Air Resources Board.

The Department received comments from the first workshop that ranged from those who felt that a change to California standards would have significant environmental benefit to others who believe it would have a minimal to no environmental benefit. Comments also ranged when discussing the cost – some said consumers would save on fuel costs while others claimed increased vehicle costs outweigh environmental benefits. There is also another segment that would be harmed if Florida adopted the California standards – independent car repair shops. The "zero emissions vehicle" (ZEV) has a manufacture warranty requirement that would potentially hurt independent repair shops and the Department received several comments from that industry voicing their concerns.

The Department has now asked for comments on the following:

- Implementation of the ZEV requirement. Could there be an opt in/out provision and how will warranty/recalls from a manufacturer be handled; Phase-in: there will need to be flexibility in scheduling; Compliance certification/verification: should there be any exemption, how to handle cross border sales and registration of vehicles if they came from another state, should registrations be denied which may be a violation of the commerce clause, how to report/monitor requirements for industry for fleet averages and what will the penalties be?
- Costs: LEV II in Florida, Pavley in Florida, Incentives
- Background Data: Fleet mix (auto industry)

Again, comments on these subjects are due on January 31, 2008.

The first speaker on this issue was Gregory Dana, a consultant for the Alliance of Automobile Manufacturers. He said that under the federal law, states must give manufacturers two years lead-time and it really takes 3 to 4 years to design a new vehicle. If a new engine or power train needs to be redesigned it takes about 6 to 7 years. With regards to the ZEV – Florida would need serious infrastructure changes to get new fueling stations in place. Over all cars are getting more expensive due to all of the safety items they are required to carry.

The next speaker was Charlie Unger an auto repair shop owner here in Tallahassee who was the past President of the National Auto Services Association. If the ZEV rules are adopted in Florida the independent auto repair shop will lose 57% of their business by 2010 and 73% of their business by 2020.

Ted Smith, the Executive Director of the Florida Automobile Dealers Association (FADA) told the group about their industry. There are 954 new-vehicle dealerships in Florida with sales of approximately \$50.1B and 15 cents of every sales tax dollar that goes to General Revenue comes from car sales. FADA believes that Florida needs to take time or phase in regulations – it took California 2 to 3 years to draft their rules. The increased cost on a car would be from \$1500 to \$3,000 and with internet sales and our proximity to Georgia, Florida would lose a lot of its business. FADA wants the Florida Legislature to be the focal point for these discussions as this represents a broad policy change.

Wade Hopping who also represents the Alliance of Automobile Manufacturers gave a humorous presentation. He started off calling the adoption of the California standards as “horrid public policy!” He wanted the group to think about who is the California Air Resources Board? It consists of 11 people appointed by the Governor and confirmed by the Senate. This Board is so large that it has 1,141 people who work for it and has a budget of \$330 million. They have approximately 100 people who just work on the greenhouse gas section. He asked with our current budget crisis – where are we going to get the money for this Board and was interested in who was going to submit the request for funding ... DEP? Wade continued to discuss the Board – of the 11 members – five are bureaucrats who are with local air programs; one is supposed to be an auto expert – a professor is in that position; one representative from law – a criminal attorney has that slot; one physician – that slot is still vacant; two members of the public sector – one is the president of a paint company and the other is a banker/realtor and the chair is an attorney.

Holly Bense from one of the environmental groups stated that the California standards need to be adopted. Her group believes registrations from out of state car sales should be denied unless they need the California standards. (Note – Wade Hopping stated that they can not adopt that rule without legislation.) Also Holly believes the automobile industry over estimates costs as they have done so in the past.

The final workshop of the day was on “Statewide Diesel Engine Idle Reduction Standards” which was also in the Governor’s Executive Order. The written comments DEP received for this rule included best practices for the trucking industry and information on new technology emerging from the west coast such as truck stop electrification and public charging stations.

DEP is now looking for the following comments:

- Idle Reduction Initiatives by Ports, Locomotives, Charter Buses, School Buses, etc.
- What are the current voluntary practices
- Identification of long-term strategies
- Infrastructure needs and associated costs

- Emission data
- Idle Reduction Initiatives by Heavy-Duty Trucks
- Strategies and time frame for future idle reduction initiatives
- Infrastructure needs and costs
- Diesel Engine Idle Reduction Exemptions - What should they be?
- Diesel Engine Idle Reduction Technology
- Coordination
- Compliance/Enforcement

Like the other rules, written comments are due on January 31, 2008.

AIF will continue to monitor the progress of these workshops and rule making hearings and report back to our members on their findings.

Health Care

Last week all the House and Senate healthcare committees held meetings to take presentations from staff and agency personnel on programs under their jurisdictions.

On Tuesday, December 11th **Chairman Aaron Bean (R-Fernandina Beach)** opened the [House Healthcare Council](#) meeting by stating that the forecast for the budget deficit continues to worsen. It is now projected that this fiscal year's deficit will be \$930 million (even with the budget cuts from the last special session). The total deficit for FY 07-08 and FY 08-09 is now projected to be \$2.5 billion. Health care providers will face harsh budget cuts in the regular session of the Legislature beginning in March, 2008.

The Senate Health Regulation Committee dealt with the most controversial issues of the week on Wednesday, December 12th. AHCA provided a presentation on the rapid growth in the home health industry, primarily in Dade County. They believe it is fraught with rampant fraud. AHCA has ceased approving new agencies and has asked the Legislature to give it greater enforcement authority. Legislators have responded that it is an issue they intended to address quickly.

The Committee also reviewed AHCA's recently published white paper on nursing home quality and ownership. The hearing mostly focused on the ManorCare/Carlyle Group transaction. Molly McKinstry discussed the report and how nursing home quality has improved, lawsuits are down and Florida has the highest staffing in the country. She said AHCA will not make a decision on the license transfer for ManorCare until it receives the closing documents.

Nathan Carter, a trial lawyer from Orlando, stated that nursing homes are creating LLCs to shelter assets from lawsuits and to fraudulently bill among related parties for ancillary services, including rent. Florida Healthcare Administration (FHCA) representatives did not intend to testify, but decided to respond to the outrageous claims. Tony Marshall did a fantastic job refuting the trial lawyer's arguments. Senators **Durell Peaden (R-Crestview)**, **Mike Fasano (R-New Port Richey)** and **JD Alexander (R-Lake Wales)** asked questions or made comments that were sympathetic to the care provided in nursing homes. Senators **Dave Aronberg (D-Greenacres)** and **Dennis Jones (R-Seminole)** would like more transparency in the licensure approval and ownership process.

Senator Jeff Atwater (R-North Palm Beach) asked to bring forth a legislative proposal on improving the transparency of ownership for nursing homes.

On Tuesday, December 11th the House Health Quality Committee also heard from AHCA on its effort to revamp the 15 day adverse incident report for hospitals. The goal would be for AHCA to use adverse incident reporting as a mechanism to provide hospitals feedback on best practices and safety lessons learned.

The Senate Health and Human Services Appropriations Committee took a report from staff on the Agency for Person's with Disabilities (APD) on Thursday, December 13th. Staff reported that 89% of the \$589 million of new money appropriated since 2002 has been used to increase services to existing clients and that over that period APD has only served an additional 590 clients. Senate staff estimates that the budget deficit for APD will be \$44 million for this fiscal year and \$77 million for FY 08-09. APD staff disputed the findings and estimate the deficit to be \$19 million and \$33 million respectively. The dispute lies in that Senate staff does not believe APD will implement the new four tier rate system on July 1, 2008. The Senators chided APD for not having an accurate needs assessment tool in place and that the waiting list has not been restructured to reflect the needs of those on it.

Personal Information Protection

On Tuesday, December 11th the House Select Committee to Protect Personal Information met to hear presentations on various issues. Much of the meeting focused on the state's online bidding program, My Florida Market Place, and the confidentiality and efficiency of bids and the protection of information contained within the submission of bids.

In addition, the committee looked at the new public private partnership announcement with Google to enable citizens to search and locate services and state records on Google. The Committee also heard presentations from the Supreme Court and the Division of Library Services regarding access to electronic records.

There were questions from several committee members that did create some concern for the private and commercial sectors. Many committee members were very upset with Department of Highway Safety and Motor Vehicles and the drivers' license records that were sold by the agency to commercial entities. Additionally, a State Attorney testified that ID Theft is perpetuated by businesses that do not properly dispose of customer information which can ultimately end up in the wrong hands from dumpster diving. The State Attorney recommended legislation to create standards for disposal of personal information by commercial entities. This seemed to create interest among some members of the committee.