



**From January 28, 2008**

Legislators spent last week taking up mainly non-controversial issues and listened to state agency reports on programs under their jurisdiction. However the budget shortfall, though not the issue, seemed to loom over all meetings. The Taxation and Budget Reform Commission (TBRC) continues its busy work schedule as they prepare for some important votes to be taken on February 11th and 12th. This week's report includes full re-caps of the TBRC's committee meetings held Friday, January 25th.

Also included in this week's report is an update on the House Select Committee to Protect Personal Information. AIF is actively involved in this process since many businesses across the state depend on access to personal information in order to protect consumers from ID theft and to provide the level of service customers have grown to expect.

Legislators will be off this week, but will return February 4th for the first of three full weeks of interim committee meetings in preparation for the 2008 Legislative Session.

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## **Taxation**

On Friday, January 25th, the Governmental Procedures and Structure Committee of the Taxation and Budget Reform Commission (TBRC) held a morning meeting in Tallahassee. The meeting was delayed for a quorum and most commissioners participated via speaker phone. Commissioners Patricia Lévesque, Greg Turbeville, and Carlos Lacasa were present. Commissioner Turbeville served as chair since Commissioner Alan Levine was on the phone.

Commissioner Randy Miller on behalf of the Finance & Tax Committee was called on to introduce and present proposal SR 17 Relating to Streamlined Sales & Use Tax.

Commissioner Miller explained the proposal; which will benefit the state's retailers by leveling the playing field between "bricks and mortar" business and those retailers that sell good via the internet. Currently, the state of Florida is missing out on billions of dollars in tax revenue because we are not enforcing the collection of sales tax on items purchase via the internet. SR 17 would lay the foundation for Florida to join other states across the nation to begin enforcement and collection of this already established tax.

Commissioner Turbeville asked how the current law works for remote sales where the vendor does not collect the tax. Commission Miller explained that the purchaser has to file a form with the Department of Revenue and pay the sales tax. He further stated that compliance is extremely low.

Frank Meiners testified in support on behalf of AIF as did Robert Weissert with Florida Tax Watch.

It passed with two no votes – Commissioners Alan Levine and Greg Turbeville.

Next Commissioner Miller introduced CR 18, which is a back stop for the SR 17. CR 18 is the same as SR 17 except that it is a Constitutional proposal. If the legislature does not act on SR 17, then this would require them to do so, constitutionally.

CR 18 passed with one no vote – Commissioner Greg Turbeville.

CR 25 and 27 were deferred for a later meeting because the sponsors were unable to attend today.

The Finance & Tax Committee of the TBRC also met on Friday, January 25th. Chair Susan Story began the meeting by stating that they would be holding a work shop on CR 12, a review of services not subject to tax on sales, use and other transactions and the imposition of a tax on services not exempted. Chair Story asked the staff to explain the issue in general and to outline the difference between an exemption and exclusion. Also how much the state would receive if all the exemptions and exclusions were taxed?

An exemption is a sell of tangible personal property that is statutorily exempt for sales tax. An exclusion refers to the sale of something other than tangible personal property. Examples include intangible property, real property, etc. The total tax loss is about \$12.3 billion.

An additional \$24 billion goes uncollected from not taxing services.

Staff also explained the concept of tax pyramiding, which is defined as a business having to pay sales tax on services that are used to produce its product.

During debate, Commissioner Randy Miller first said the proposal should not be in the Constitution. If this were to pass it would put Florida's manufacturers at a disadvantage with their competitors in other states. A services tax was passed 20 years ago in Florida and it was such a failure, it was repealed six months later. Apportionment and allocation was extremely difficult for the multi-state companies to comply with the extensive rules established by the Department of Revenue. Problems with cross-state services such as broadcast TV and cable TV also made it extremely difficult to administer.

Several other states have tried to tax services and they have all repealed them due to problems with enforcement.

Commissioner Miller went through all the services in the tax hand book that would have to be removed from consideration such as health services, etc. This takes out much of the taxable amount, approximately 2/3 of the \$23.4 billion. He said that professional services are really what the proposal targets.

Commissioner Martha Barnett said she didn't disagree with all of what Commissioner Miller had said. She said the challenge for Florida was how to produce the tax revenues currently needed to provide services to citizens? She further said she thinks it is appropriate for this commission to look at the issue of taxing services and repealing sales tax exemptions and exclusions. Commissioner Barnett stated, "We need to diversify our tax structure. I think we should lift the ban on a personal income tax to, and give the legislature the authority to impose it if they want. I am in favor of a process to systematically review the sales tax exemptions and exclusions. My real concern is how you do this. Should it be in the constitution or recommended to the legislature to review the exemptions and exclusions. I need the business community to tell us what other than a sunset and a mandate will make the legislature look at the issue. We need to be aware that Florida is moving out of a commodity based economy and we will come up short of revenue."

Gene Adams testified on behalf of the Coalition to Protect Florida's Economy (of which AIF is a member of) saying that the Coalition is currently working on ways to answer Commissioner Barnett's questions of looking for additional tax revenue.

He further said that realtors also get stuck with paying the tax on the agents commission because of the total cost of closing customers will refuse to pay it. Business to business services will be taxed and this puts Florida businesses at a disadvantage. Agriculture will be hurt due to international competition and the fact that their product is a commodity.

Dominic Calabro with TaxWatch stated that they have studied this issue more than any body else, and they are concerned about the method of determining which services to tax. He said a proposal like this should not be in the Constitution. Instead, it should be done by legislation.

The Government Services Committee of the TBRC met also met on Friday to consider several reports, committee proposals and other discussion items.

- The Committee Report on Water Policy was distributed to members but a vote was postponed until the next meeting so that members would have time to read the report before discussing and approving the report. The report ([http://www.floridatbrc.org/pdf/1\\_25\\_08GSWaterPolicyReport.pdf](http://www.floridatbrc.org/pdf/1_25_08GSWaterPolicyReport.pdf)) highlights some of the testimony received by the committee by water management districts, cities and counties, Department of Environmental Protection and other stakeholders. The report highlights issues and questions on governance of water policy in Florida, desalinization and other water supply alternatives. The report also highlights several major water initiatives including the Total Maximum Daily Load (TMDL) federal program, springs protection initiatives, and disadvantaged small county wastewater grant program.
- The Committee voted to approve committee proposals on the following topics:
  - Education Adequacy Commission (Proposals: GS-C & GS-D)
  - Local Tax Option to Fund Community Colleges – the committee voted to move forward as a proposal, although some opposed the concept; they passed it so that they can receive it back for further review to vote again. Those opposed were concerned that a local tax would become the default funding for community colleges and an overall decline in state funding would occur over time as an unintended consequence of the policy. Chair Martinez, who supports the proposal brought by his home community college Miami Dade College, asked for the Community College Council of Presidents to take an official position on the proposal.
  - Transportation Funding – after a lengthy discussion on transportation funding in Florida, the committee passed a statutory proposal that will come back to them for further review. Many committee members commented on the size and scope of the issue of transportation funding and indicated they voted to move it forward but want more time to fully vet the issue.
- The Committee discussion on the recommendations from the Ad Hoc Committee on Bright Futures, Florida Prepaid Programs, and Gambling Revenues was postponed until the next meeting.

The Planning and Budgeting Committee of the TBRC met on Friday afternoon to consider one proposal (CP 26), which would require 65% of all school funding in the classroom for instruction. The Committee heard from education stakeholders as well as Florida TaxWatch, who opposed the proposed amendment. Questions and comments centered on the themes of defining what would count as

classroom instruction (would funds for transportation and food services be negatively impacted for example) and whether 65% is the appropriate number (should it be higher or lower) and how memorializing such a number is a good idea since it becomes harder to amend once it is in the constitution and would limit the legislature's ability to direct funds. One comment seemed to sum up the discussion of those opposed to the proposal: "Don't argue about how to slice up the pie, focus on whether the pie is large enough."

The Committee discussed several conceptual amendments that should be prepared for the next committee stop to address the questions and concerns of transportation and food services funding. Chairman Carlos Lacasa suggested this proposal is aimed at a noble goal but inadequate to address the real issue, at least in its current form. He indicated that he would like to hear more about a proposal that would address teacher salaries. He further suggested that the Committee not pass the bill today so they can work on the amendments, but stated that he would support it to get to the next stop. The Committee decided not to vote on the proposal today so they can work on amendments for the next meeting.

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## Education & Workforce

Representative David Simmons (R-Altamonte Springs) chaired a meeting of the House Committee on 21st Century Competitiveness on Tuesday, January 22nd for the purposes of holding a round table discussion on the topic of class size reduction. A panel of education stakeholders gave the chair their proposals as detailed below. All three groups stressed the need to reduce student disruption and used the example of "when the 19th student shows up to class" as the problem that needs to be addressed (referring to the 18 student cap for kindergarten through third grade).

The Florida Education Association proposed a statutory fix that would create the exigent flexibility exception to require districts to count on August 1st for class size compliance and then grant flexibility to exceed the constitutional maximum class size limit if unexpected student growth is realized after the start of the school year. This proposal would require the school level average to be maintained and allow up to five additional students in a classroom for the remainder of the school year.

The Florida Association of District School Superintendents recommendations include several options:

- Amend the Constitution to maintain a required class size maximum average at the school level (rather than the class level) with a hard cap of 5 students over the average at the class level.
- Delay implementation by changing the statutory dates for compliance to 2009-10 or 2010-22. This might ease budget problems, but simply delays the inevitable. Flexibility will still be needed.
- Establish a definition of 18, 22, and 25 to include the ability to round or average (for example, 18 would be defined as an average of up to 18.9).
- Establish compliance counts that would be conducted once per year in October and would last for a year. This would allow districts to be found in compliance in October and if additional students show up, the district would remain in compliance and adjust the following year.
- Virtual Education funding could be used in compliance of class size
- Charter School compliance shouldn't adversely impact the district compliance.
- For compliance, count the number of students assigned to teachers rather than number in a classroom (would allow use of math and reading coaches in the calculation of class size). Define what a teacher is (different for elementary and high school)

The Florida School Boards Association proposed:

- Use a funding methodology to weight students with each teacher based on the number of instructional hours spent with each teacher. This would allow students to be counted for time they are in music, Spanish, physical education, etc.
- Allow rounding so that a class count of 18.9 would count as 18
- Calculate compliance in the October count and allow compliance to remain for the school year, even if additional students arrive after the class count.
- Charter Schools should not adversely impact district compliance
- Repeal sanctions and revert to SBE sanctions in 1008.32.

On Wednesday, January 23rd, the Senate Committee on Education Pre K – 12 heard the findings of an interim study on career education leadership. The study followed the implementation of 2007 legislation to improve career education and more closely align it to the needs of Florida’s workforce. The report noted that through the Banner Center for Excellence in Career Academies, a joint committee of Department of Education and Agency for Workforce Innovation, staff have been meeting to address issues of data collection, industry certifications, new courses, strategic planning, and transfer of high school career academy work into higher education. The report findings recommend appointing the Employ Florida Banner Center for Career Academies as the oversight board for career education in the state, as well as codifying the banner centers in law. The Committee voted to propose these recommendations in a committee bill which will be heard at a later date.

**AIF supports the expansion of career education in a manner that strengthens alignment with the needs of industry. AIF also believes that the Banner Centers have improved linkages between industry and career education that that it is critical that Florida continue supporting the Banner Centers for Workforce Development.**

A presentation was given on Workforce Education before the Senate Committee on Higher Education Appropriations on Thursday, January 24th. The presentation included a general overview, coordination initiatives as well as an explanation of the duties of Banner centers. Clara Goodman from the Department of Education spoke on the overview of the program, which includes job placement, training and job reinstatement for unemployed individuals. Goodman also spoke on funding issues, which Senator Evelyn Lynn (R-Daytona) was most concerned with. Senator Lynn, as well as the other members of the committee were very concerned with the funding distinctions this program would have in comparison with other education systems such as a community college offering adult education courses. The committee also asked for a more comprehensive answer regarding the level of quality control regulating such a program.

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## **Personal Information**

AIF’s Nick Iarossi testified before the House Select Committee to Protect Personal Information on Thursday, January 24th regarding data aggregators, and other commercial financial entities’ reliance on public records and social security number information. Mr. Iarossi provided an overview explaining the role data aggregators play assisting government, law enforcement and private business. Without data aggregators, the cost for a governmental entity to locate, organize and disseminate important information would be prohibitive.

Most of the questions from members revolved around the availability of SSNs. Particularly, they sought assurance that aggregators are actively redacting SSNs as required by Florida law as they continue to receive data and that financial institutions are not sharing them illegally. Representative David Simmons

(R-Altamonte Springs) inquired if a consumer, who completes a survey sent by a private business from which the consumer recently purchased a product, would have that information (possibly income range) shared with others. Federal law prevents the sharing of information except among affiliates and consumers may opt-out of having information provided to affiliates.

Representative Sandy Adams (R-Oviedo) seemed most concerned that the public could gain access to sensitive information such as SSNs, along with the person's address, etc. Mr. Iarossi assured Representative Adams that only law enforcement had the access to that level of information and that state law required redaction of SSNs except for legitimate business purposes subscribers.

Representative Joe Gibbons (D-Pembroke Park) referred to the Taxation and Budget Reform Commission's consideration of taxing internet sales and asked if there was a way to track a person's internet sales for collection of taxes. I said I did not think this was currently done however, banks and credit card companies track spending trends to help prevent ID Theft or unauthorized transactions and that this has led to a decrease in unauthorized credit card transactions. The committee members agreed that they have all gotten inquiry calls from their credit card companies to confirm the validity of a purchase and that was a good practice.

Representative Simmons asked if any legislation was needed to restrict or limit the information aggregators are allowed to collect. There are many current laws governing aggregators and other financial entities and those laws should be enforced before we evaluate whether new laws are needed. Additionally, aggregators are only collecting public records information anyway.

The other area addressed by Chairman Bill Proctor (R-St. Augustine) revolved around the commercial purposes exemption in Florida's public records law to view social security numbers. The law allows for commercial entities to view SSNs for legitimate business purposes. However, a commercial entity and a legitimate business purpose are not defined. Chairman Proctor would like to determine if that is necessary.

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## Health Care

On Tuesday, January 22nd the House Committee on Healthy Seniors took testimony on **aging trends** in Florida from Dr. Horacio Soberon- Ferrer as well as Chuck Corley with the Department of Elder Affairs. Some findings they discussed were:

- Disability rates are substantially lower than expected and the number of that population has been fairly stable since 1989.
- The major cost driver of total long term care costs is nursing home care with case load stable but a growing per diem rate. Dr. Ferrer reasoned the growth was due to increased staffing mandates, increased liability insurance costs, and lack of competition.
- 4.2% of people over 65, nationally, are in nursing homes. In Florida it is 2.5% and in Oregon it is 2.3%.
- The Department of Elder Affairs recommends: support health promotion and wellness; encourage family and personal responsibility; and ensure LTC system focuses on community based care.

Also on Tuesday, the House Committee on Health Quality met to hear a couple of bills and a presentation by the Healthcare Information and Management Systems Society regarding **health information technology**. The Society (HIMSS) is the healthcare industry's membership organization exclusively focused on providing global leadership for the optimal use of healthcare information technology (IT) and management systems for the betterment of healthcare. Their vision is to advance the best use of information and management systems for the betterment of healthcare. The committee did not have any questions.

The Committee also heard a presentation by the Agency for Health Care Administration regarding **recommendations to revise the hospital Code 15 system**. A few key changes that the bill would be:

- Repeals the current definition of “adverse incident” and replaces it with the definition of a “reportable event”
- Specifies that the Department of Health, rather than AHCA, must review each incident to determine whether it potentially involved conduct by a healthcare professional regulated by the department and is subject to disciplinary action
- Directs the Florida Center for Health Information and Policy Analysis to collect and analyze reportable incidents submitted by health facility risk managers.

On Tuesday, January 22nd the House Committee on Health Innovation passed unanimously HB 71 Relating to Small Business Health Care Insurance Assistance by Representative Dorothy Hukill (R-Daytona Beach Shores). The bill creates a two year pilot program in Pasco and Volusia Counties designed to provide a financial incentive for small businesses to offer comprehensive, major medical health insurance to their employees. The pilot program would offer companies with more than one, but fewer than six employees a one-time payment of \$1,000 per employee covered to help pay premiums. The employer must purchase coverage through a health insurer, HMO, PLHSO, prepaid health clinic or health flex plan. To qualify the employer must have begun providing coverage to its employees on or after the effective date of this bill (July 1, 2008), have paid at least 50% (but not 100%) of the cost for employees; and the employees must be responsible for the remainder. In addition, the employer must provide the coverage for at least one year and prior to July 1, 2008; the employer hadn't provided coverage to their employees for at least six months. The incentive will be provided if funding is provided by local governments in those counties and matching funds are provided by the state.

On Wednesday, the Senate Health Regulation committee discussed PCB 7014, relating to the **Access of Emergency Services and Care**. **The bill was considered but not yet approved.** PCB 7014 would ease staffing pressures for physician specialty, on-call services in hospital emergency departments. With the decreasing number of physician specialists in Florida, it has become a problem with adequate coverage in an emergency room situation. The bill tries to adjust this situation by setting up a standard of stabilizing the patient so the on-call specialist would not be needed. Senator Durell Peadar (R-Crestview) voiced the most concern over this bill impact on specialists in the ER. He was also concerned with the definition of “stabilized condition” in the bill. The Committee intends to further discuss the bill at a future meeting.

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## Florida's Ports

Seaport security was the subject of a presentation from the Florida Department of Law Enforcement (FDLE) to the Senate Committee on Military Affairs & Domestic Security on Wednesday, January 23rd. Oblivious to concerns expressed by port tenants over the last several months, seven new initiatives with

an undetermined but predictably substantial cost, were advocated as legislation that should pass this year.

The seven initiatives include:

- Most importantly . . . asking for the preemption of federal authority by requiring FDLE approval before port security plans can be submitted for Coast Guard approval.
- Requiring ports to conduct blast affect analysis for cruise passenger terminals.
- Making ports have independent security assessment contractors.
- Adopting new more onerous standards for fuel and chemical facilities.
- Expanding restrictions on personal and commercial vehicles in the ports.
- Requiring all security officers to be required to meet stricter performance standards.

Associated Industries of Florida views these proposals as in total disregard for the efforts and expenditures that have been born by ports and the industries that support those ports. Florida is already recognized around the world as having the best seaport security on the planet. Yet, FDLE proposes further measures without regard of cost and without consideration that maritime industries will be asked to pick up the tab.

A task force of AIF's Florida Maritime Council (FMC) is being formed to respond to FDLE's 2008 Legislative Program. If you would like to participate in forming AIF's response to FDLE's recommendations, FMC Chairman, Philip Buhler, requests that you email FMC lobbyist, Mark Flynn, at [mflynn@aif.com](mailto:mflynn@aif.com) ,to be included on our email and meeting list.

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## **Information Technology**

On Thursday, January 23rd the Senate General Government Appropriations Committee was supposed to hear a presentation on the Agency for Enterprise Information Technology (AEIT), but Chairman JD Alexander (R-Lake Wales) announced that it would be deferred until the next meeting because interim Executive Director, Dr. James Zingale, was on vacation.

The committee did take up the presentation by the Council on Efficient Government on the review of Project Aspire, PeopleFirst, and MyFloridaMarketPlace by Mr. Henry Garrigo, Deputy Executive Director.

Mr. Garrigo, using a power point presentation, explained what each project was and showed a matrix, which included the original project cost and the revised project cost which in each case was higher the Senators began to ask questions as follows:

Senator Dennis Jones (R-Seminole) and Senator Mike Bennett (R-Bradenton) both asked why the projects had all gone over budget. Senator Dave Aronberg (D-Greenacres) asked how much we have spent on Aspire and are we still spending on it and what did we get for our money? Senator Aronberg was very frustrated and Mr. Garrigo said that the state has spent \$89 million and said that in the materials provided to the Committee it listed what we got for our money. Mr. Garrigo did not know if Florida was still spending on project Aspire. Senator Aronberg looked in the material and stated later in the meeting that we were still spending on debt for Aspire and have now spent \$90 million. Staff explained that that would be over in three years.

Senator Carey Baker (R-Eustis) asked about the change orders that caused some of the overrun and was directed to the exhibits in the Aspire report in his materials.



Chairman Alexander asked how were the change orders funded? Mr. Garrigo said he knew they went thru the normal appropriations process.

Senator Bennett commented that we need to use the Department of Management Services (DMS) more to use their purchasing power to get better prices for such things as computers.

Senator Al Lawson (D-Tallahassee), Chairman of the Governmental Operations Committee said the Aspire contract was a sweet heart deal where we were told we would save a lot of money and that this was the new wave of doing this business process. He also said that how we will get out of this situation will be answered by the DMS.

Mr. Henry Garrigo finished his presentation by going directly to the lessons learned chart due to the question asked by Chairman JD Alexander. After he went over the lessons learned chart, Chairman JD Alexander said he would ask him back to give more specific details in the lessons learned because he thought they were too general to be helpful.

The next item was DMS Secretary Linda South on cost savings initiatives. She listed a few areas where DMS saved large sums of money thru renegotiation of contracts. But her main point was that if DMS had responsibility for more state wide purchasing such as motor vehicles she said she could deliver significant savings to the state.

Senator Bennett repeated his earlier comment about letting DMS do the purchasing for all agencies for any product or service where they could save the state money. He gave the example of his company buying all their motor vehicles directly from Ford. Chairman Alexander said they would look to DMS to help the Legislature get thru this very tough budget time and asked that she return after February 1st to address the committee again.