



DAILY BRIEF

From March 24, 2009

As usual, Tuesday was a day full of committee hearings and votes on key business bills. For starters, the business community achieved a tough victory with the passage of HB 363 dealing with a parent's right to waive liability for their children. Without passage of this bill, business providing recreational services and activities for children could potentially find themselves out of business because of this attack on a decades-long system of parental waivers.

On Wednesday, AIF's top priority this year will be considered. The Senate Banking and Insurance Committee will be taking up SB 2072 Relating to Workers Compensation Attorney Fees by Senator Garrett Richter (R-Naples). We have also confirmed that the House companion, HB 903 by **Representative Anitere Flores**, will be on the House floor on Thursday of this week.

In an interesting development, a bill dealing with disabled veterans was amended today in a Senate committee to include a constitutional amendment expanding Florida's current eight-year term limit for members of the Legislature. The amendment offered by Senator Mike Bennett (R-Bradenton) would not affect current legislators, only those elected for the first time after 2010. Although the bill (SB 1550) passed the committee, it has several more committee stops including the Senate Ethics and Elections Committee where undoubtedly more debate on this extension of term limits will be considered.

Legal and Judicial

The House Civil Justice and Courts Policy Committee passed HB 363 by Representative Mike Horner (R-Orlando) by an 8 to 1 voted. The bill is aimed at reinstating a parent's right to waive liability for their minor children. The bill sparked many questions and amendments, but in the end was passed with only two amendments; one clarifying that a waiver must be clearly written and the other clarifying that illegal activity cannot be waived.

Last year, the Supreme Court of Florida, in the case of *Kirton vs. Fields*, held that parents do not have the right to release a provider from liability for injury on behalf of a child. HB 363 codifies in Florida law the authority of a parent to waive liability on behalf of their minor child.

AIF SUPPORTS the right of parents to waive liability on behalf of their minor children and thanks Representative Horner for taking on this important issue. Without liability protection from a waiver, many businesses, particularly in the recreation and sports industries, will not allow minors to participate. Since many of these businesses cater to families, tourism, or directly to minors, this could impact their ability to stay in business at all.

Growth Management

Today, the Senate Community Affairs Committee unanimously approved SB 2148 Relating to Growth Management by Senator Mike Bennett (R-Bradenton). As currently drafted, this bill would:

- Require the housing element of a local comprehensive plan to address affordable senior housing;
- Contain the same provisions as SB 2572, creating Agricultural Industrial Centers;
- Specify that improvements to regionally significant transportation facilities will be credits against proportionate share;
- States that creation of a charter school can satisfy the mitigation requirements for school concurrency purposes.

SB 2148 will now be considered by the Senate Transportation Committee.

The committee also passed (7-3) SB 1306 Relating to Growth Management by Senator Mike Bennett (R-Bradenton). The committee approved a strike all amendment, offered by **Chair Bennett**. The bill in its current form:

- Defines "dense urban areas" more closely reflecting the definition in SB 360 (a municipality or county with a density of at least 1000 people per square mile, or a county whose population is at least 1,000,000);
- Allows a local government in certain circumstances to designate transportation concurrency exception areas;
- Clearly states that a developer may not be required to fund or construct proportionate share mitigation greater than that needed to offset its impacts;
- Encourages job creating development through incentives and expedited permitting; and
- Directs the DCA and DOT to coordinate in the development of a mobility fee methodology.

SB 1306 will now be considered by the Senate Transportation Committee.

AIF SUPPORTS reforms to Florida’s current growth management laws. For starters, legislators should look towards the development of a true “fair share” system of payment for school and transportation concurrency. Developers and builders should not be forced to pay for those who came before them, instead of their own impacts. These charges can and have made projects financially unfeasible.

Business Regulation

The Senate Environmental Preservation and Conservation Committee passed SB 852 Relating to Expedited Permitting by Senator Mike Fasano (R-New Port Richey) by a vote of 5 to 1. Senator Paula Dockery (R-Lakeland) was the single “No” vote on the bill. This legislation has been drafted to curb the wait time for businesses to receive approval or denial from the Department of Environmental Protection (DEP) or regional Water Management Districts. Current law states that the reviewing body has up to 90 days to approve or deny certain environmental related applications. This legislation would cut that wait time in half (45 days) for economic development projects defined as a “Targeted Business” for the region, and implement a process by which a mandatory pre-application meeting to review the paperwork is completed prior to the 45 day clock beginning. Additionally, the bill requires local governments to grant approval for this expedited process by passing a resolution stating that the local government supported the expedited permitting process for the project.

Senator Nan Rich (D-Weston) expressed some concerns with the legislation, but ultimately voted in favor of the bill. Her concerns arise from the unintended consequences that can potentially come about

from too much “streamlining” and what this would do to Florida’s environment. Senator Eleanor Sobel (D-Hallandale Beach) shared with the rest of the committee that she had recently met with representatives from the Water Management Districts who indicated that they would like to see a change in the bill which would allow them to comply within 45 working days or 60 calendar days. AIF would prefer that the original intent of the bill (45 days) remains intact and we look forward to working with **Senator Sobel** on this issue.

Towards the end of the debate on the bill, Chairman Lee Constantine (R-Altamonte Springs) indicated that his preference would be for all expedited permitting bills to be rolled into one omnibus package instead of individual bills. It remains unclear whether this will take place.

SB 852 will now be considered by the Senate Community Affairs Committee.

AIF SUPPORTS legislation aimed at improving the permitting process for existing businesses in Florida and for those companies looking to invest in our state. AIF has been out in front on this issue and has included it in our [Economic Stimulus Package 2.0 \(ESP 2.0\)](#) as a top priority in finding ways that the state can help stimulate the economy through reduced regulation.

Energy & Environment

Despite strong opposition from automobile manufacturers, dealers, and the business community, the Senate Environmental Preservation and Conservation Committee unanimously passed SB 1994 Relating to Motor Vehicle Emission Standards by Chairman Lee Constantine (R-Altamonte Springs). As part of Governor Crist’s Executive Orders on Climate Change, the Department of Environmental Protection (DEP) was tasked with developing an administrative rule adopting California Low Emission Vehicle (CA-LEV) Standards in Florida. As part of the last year’s omnibus energy bill (HB 7135) legislators included a requirement that this rule be ratified by members of the Florida Legislature. SB 1994 is the legislation which would enact the adoption of these emission standards.

The bill was presented by **DEP Secretary Mike Sole** who announced that the bill would save consumers money while protecting Florida’s environment and air quality. One amendment was adopted, which included a provision requiring that any changes made by in California by the board that oversees these standards be ratified by the Florida Legislature. This was in response to a finding by the Joint Administrative Procedures Committee, which questioned the constitutionality of delegating Florida’s authority to an unelected board in California. Under the CA-LEV rules, any state adopting these standards would be bound to follow the determinations of the California Air Resources Board (CARB).

As mentioned earlier, members of the business community including AIF testified in opposition to this proposal because of its potential to increase the cost and availability of all types of vehicles in Florida. In addition, opponents of the bill pointed out the need to move to a federal standard which is currently being considered in Washington, D.C.

SB 1994 will now be considered by the Senate Commerce Committee.

AIF OPPOSES any attempt to adopt California’s lower emission vehicle standards. Not only would CA-LEV increase the cost and reduce the availability of vehicles, it would mark an unprecedented and historical move by elected officials in Florida to allow an un-elected board from another state to set policy in Florida.

Today, the House Agriculture and Natural Resources Policy Committee narrowly approved (7-5) HB 1219 Relating Environmental Control by Representative Charles Van Zant (R-Palatka). The original bill directed the Florida Department of Environmental Protection (DEP) to develop a plan, including

legislative recommendations, to implement an expedited permitting process for the development and construction of a nuclear power plant. The legislation would reduce the amount of time for granting such a permit in half. The bill also directed DEP to develop a plan to implement an off-shore oil and natural gas drilling program and include an expedited permitting process for these activities as well.

The bill was amended to remove the nuclear power plant permitting section.

Keyna Cory, AIF's Chief Lobbyist, testified in favor of the amended bill. She informed committee members that AIF was the first business association to publicly support off-shore exploration, and drilling for oil and natural gas in an environmentally sensitive manner.

HB 1219 will now be considered by the House Energy and Utilities Policy Committee.

AIF SUPPORTS this legislation as it begins to lay the foundation for Florida to tap into the natural gas and oil resources of the Gulf of Mexico. Florida should explore ways to increase the environmentally sensitive exploration and production of oil and natural gas; thereby, claiming some of the royalty revenues that would be owed to the state.

Today, the Senate Community Affairs Committee unanimously passed SB 114 Relating to Contaminated Property/Notification by Senator Charlie Justice (D-St. Petersburg). This bill was filed in response to a situation in the St. Petersburg area where a contamination plume spread outside the property owner's boundary and some residents did not feel as though they were properly notified.

The bill, as originally filed, would have expanded the list of those notified of a contaminated property to a radius of 1 mile. Senator Paula Dockery (R-Lakeland) offered a "strike-everything" amendment that was adopted, which lowered the radius of notification to 1,000 feet. This is still problematic to the business community. Currently, the Florida Department of Environmental Protection (DEP) is required to notify all recorded property owners which contamination had been discovered beyond property boundaries within 30 days. Expanding the notice requirement to such a large area, without any scientific bases, may cause property owners to be alarmed without cause.

Of course, there are two sides to this issue. On one hand, a company would not want to buy property only to find out that there is a contamination problem in their neighborhood. However, too much notification may make owners of contaminated property a target for lawsuits simply due to increased public awareness of the presence of contamination.

SB 114 will now be considered by the Senate Pre-K-12 Committee.

At this time, AIF OPPOSES SB 114. We will continue work with Senator Justice and the DEP to see if there is a way to craft legislation to give adequate notice to property owners who may be affected by the spread of contamination.

Ethics & Elections

The House Civil Justice & Courts Policy Committee passed (5-3) HB 497 Relating to Paid Petition Circulators by Representative Chris Dorworth (R-Heathrow). The bill was amended at this committee stop to address the process by which citizens may propose amendments to the state constitution, particularly the procedures involving signature-gathering by paid petition circulators and expressly prohibits:

- A paid petition circulator from collecting petitions in Florida without first registering with the Department.
- Anyone from paying or providing other valuable consideration to a petition circulator who is not registered with the Department.
- A paid petition circulator from continuing to perform any duties permitted under the bill if any of the requirements for registration can no longer be satisfied.
- Registrants from circulating petition forms until the forms have been registered with the Department.

Many of the bill's opponents thanked **Representative Dorworth** for his willingness to compromise on some of the bill's original intent, mainly the requirement that paid petition gatherers be residents of the state of Florida, but they still opposed the bill in the end.

John French, AIF's Special Counsel on Elections, testified in support of the bill based on his many years of experience in the ballot initiative arena. He argued in favor of the bill's registration requirements because of the rampant fraud and use of mercenary paid petition gatherers who will use any tactic to meet their signature quotas. Additionally, he pointed out that California, the state with the most active ballot initiative process, currently has some of the same registration requirements proposed in this legislation.

HB 497 will now be considered by the House Economic Development & Community Affairs Policy Council.

AIF SUPPORTS legislation that would bring about increased accountability for paid petition signature gatherers and would like to thank Representative Dorworth for continuing to work on this priority for AIF and the business community.

Taxation

Today, the Senate Communications, Energy and Public Utilities Committee passed (6-2) SB 2626 Relating to Telecommunication Services by Senator Mike Haridopolos (R-Melbourne). The would allow for the competitive market to serve as the regulator of non-basic telecommunications service, but has the Public Service Commission (PSC) continue regulation over basic service.

Senator Haridopolos explained that government regulation is a substitute for competition and as long as there was a monopoly government regulation was required, but since there is pervasive competition throughout the state, continuing PSC regulation on non-basic service was unnecessary.

The committee adopted a strike-all amendment, offered by **Senator Haridopolos**, which makes changes in the provider to provider disputes that was requested by the competitors such as Comcast.

The two no votes on the bill were by Senators Mike Fasano (R-New Port Richey) and Dan Gelber (D-Miami Beach).

SB 2626 will now be considered by the Senate Commerce Committee.

AIF supports SB 2626 because it brings fair competition to the communications industry by creating a level playing field among the many providers of telecommunications services in Florida, including

wireless, cable, Voice over Internet Protocol (VoIP) and the incumbent local exchange carriers. The open competition will benefit our members with new and innovative services that may not be offered without a level playing field among competitors.

Transportation

Today, the Senate Community Affairs Committee passed (9-1) SB 424 Relating to Transportation by Senator Andy Gardiner (R-Orlando). This bill contains provisions of last year's 2008 legislative package that the Florida Department of Transportation (FDOT) proposed, which was later vetoed by Governor Crist due to some highly controversial language dealing with Turnpike Authority contracting put in at the last hour by the House.

This bill is the companion to Representative Gary Aubuchon's (R- Cape Coral) HB 1021 that was reported on last week. While offering language that may seem innocuous, there are also several portions of the bill that AIF is supportive of at this moment. Provisions such as reinstating the Small County Resurfacing Assistance Program (SCRAP) in 2012, exempting certain seaport-related projects from development-of-regional-impact review, and increasing from \$100 million to \$250 million the maximum dollar amount for projects which may be added to DOT's work program, when funded by other governmental entities.

Additionally, one item in particular caused several members of the committee to speak up and voice concerns with the bill. SB 424 allows FDOT to pay a stipend to private companies that incur costs related to submissions of proposals for second and third place bidders on DOT work. In submitting a proposal to FDOT, portions of the submission's plans and engineering can be retained by the Department if they so desire. The bill would allow for companies to be reimbursed for the costs of providing this information to the state by way of a proposal submission.

Several members, both Democrats and Republicans, expressed concerns over this issue. Chairman Mike Bennett (R-Bradenton), owner of a contracting business, suggested that the private sector bidding process doesn't allow for such a reimbursement and added that he hoped the sponsor would work on the language to tighten the applicability of the stipends.

SB 424 will now be considered by the Senate Transportation and Economic Development Appropriations Committee.

AIF will continue to monitor this legislation and support the various provisions within that are beneficial to AIF members.

Education & Workforce

AIF's top education priority, House Bill 1293 Relating to High School Graduation by Representative Erik Fresen (R-Miami), passed the House PreK-12 Appropriations Committee on a 5 to 3 vote. The bill creates the 21st Century Diploma Initiative which raises high school graduation standards to ensure Florida's students are prepared to enter the increasingly competitive global economy. The initiative raises the bar on math and science requirements for high school graduation, requires students to achieve a grade-level score on the 10th grade FCAT and aligns requirements for the Bright Futures Scholarship Program with new graduation requirements. AIF's top education priority is the passage of this bill.

HB 1293 will now be considered by the House Full Appropriations Council on Education & Economic Development.

AIF strongly supports increased standards for high school graduation so that students will graduate from high school ready for college and work. This bill increases the value of a Florida high school diploma – for businesses, for colleges, and most importantly, for the students of Florida.