



DAILY BRIEF

From April 15, 2009

Several AIF priorities saw action on Wednesday. First and foremost, the [Senate Judiciary committee](#) passed [SB 2072](#) Relating to Workers Compensation Attorneys' Fees by [Senator Garrett Richter \(R-Naples\)](#), but not before amending the bill with an anti-business amendment by [Senator Jeremy Ring \(D-Margate\)](#). This temporary setback for the business community is concerning, but AIF is working with legislative leadership on ensuring the passage of a fix to the current workers' compensation crisis that addresses the issues raised by the recent Florida Supreme Court ruling.

In addition, one of the more contentious issues this session – the Central Florida Commuter Rail or "SUNRAIL" as it is now known continues to be the topic of much discussion in the halls. After consider the proposal ([SB 1212](#)) for over two and a half hours, the [Senate Transportation and Economic Development Appropriations Committee](#) had to temporarily postpone the bill after time ran out before the bill could be voted. The Senate has announced a special Saturday committee meeting time to reconsider the bill. **AIF is a strong supporter of SUNRAIL, which will bring about significant economic development throughout the state of Florida.**

Also included in tonight's report is coverage of the passage of [SB 2270](#), a proposal by [Senator Dan Gelber \(D-Miami Beach\)](#) which would enact "mandatory combined reporting" for corporations. Also know as a "unitary" tax, this proposal is strongly opposed by AIF and the entire business community.

Workers Compensation

Although the [Senate Judiciary Committee](#) approved (7-2) the workers compensation bill, [SB 2072](#) by [Senator Garrett Richter \(R-Naples\)](#), the version of the bill that passed is not favorable to Florida's employers.

As filed, the bill would have clarified the statutory ambiguity identified by the Florida Supreme Court in the *Murray v. Mariner Health* decision. This bill as filed would also have reversed the 6.4 percent rate hike that became effective April 1, 2009 and would eliminate the need for future rate increases due to the attorney fee changes.

However, an amendment filed by [Senator Jeremy Ring \(D-Margate\)](#) deleted the entire bill and put in its place language support by the trial attorneys that will allow for increased attorney fee schedules and higher attorney fee collections on washout settlements. We are in the process of analyzing all the details of the bill as it passed today and placing a price tag value to it. However, the bottom line is that Florida employers cannot tolerate any increase in their workers' compensation premiums. This bill now absolutely represents an increase and definitely sets the workers' compensation system up for a return to the chaos and crisis of the late 90's and pre-2003 reform days.

Although there remains one additional committee of reference, now is the time for all Florida employers to contact their senators and let them know the importance of passing workers' compensation reform that narrowly and precisely corrects the ambiguity in the statute while restoring and protecting our current rate levels with no future increases in these perilous economic times.

AIF SUPPORTS efforts to pass workers' compensation legislation that clarifies the intent of the 2003 reforms and prevents Florida's workers' compensation system from deteriorating to pre-2003 status.

Taxation

The [Senate Finance and Tax Committee](#) approved (4-1) [SB 2270](#) Relating to Corporate Income Tax/Water's Edge Group by [Senator Dan Gelber \(D-Miami Beach\)](#). **Senator Gelber** explained that the bill levels the playing field between multi-state and in state companies who cannot utilize the deductions from income that the larger multi-state companies can.

The bill mandates combined reporting by requiring all members of a unitary business (water's edge group) to file a combined return and to apportion income to Florida using a single apportionment computation. Under current Florida law, corporations operating both in Florida and in other parts of the U.S. pay taxes depending on the portion of their total sales, payroll, and property located in Florida, as opposed to those portions located in all states. Corporations, which are members of federally defined affiliated groups, have the choice of filing as a separate entity or as a consolidated group. Florida exempts "foreign source income" from its corporate-income tax. Income, such as dividends, paid to a corporation operating in Florida by subsidiaries located in foreign countries is not included in the calculation of Florida income.

Joseph Crosby, on behalf of the Council on State Taxation (COST), testified in opposition to the bill briefly because the Chairman gave only 2 minutes to each party.

AIF and other business organization waived in opposition citing strong concerns about the impact of this bill to Florida's business climate, but it was apparent that the committee wanted to move the bill on. Taxing our way out of a recession is not feasible and this type of legislation sends a terrible message to companies and investors looking to invest in our state. Florida tried this approach once before and it was a disaster, costing the state thousands of jobs. **AIF would like to recognize [Senator Mike Bennett \(R-Bradenton\)](#) as the only committee member to vote against this bad bill for the business community.**

[SB 2270](#) will now be considered by the [Senate General Government Appropriations Committee](#).

AIF strongly opposes this bill because it is overly broad and discourages investment and therefore economic development in the state. Moreover, the bill includes provisions that no other competing state currently has, putting Florida at a real disadvantage when competing for jobs with other South Eastern states. In addition, there is doubt that it will increase revenues for the state based on an Earnest and Young LLP study.

The Committee also unanimously approved [SB 1468](#) Relating to Working Waterfront Property by [Senator Charlie Dean \(R-Inverness\)](#). This legislation implements the language of the constitutional amendment approved by voters in the November 2008 General Election. Amendment 6 changes the way businesses located on working waterfronts are assessed property taxes. Currently, they are being assessed at "highest and best use," but the constitutional amendment changes it to "current use." There was one amendment adopted that was technical in nature.

Keyna Cory, AIF's Chief Lobbyist, spoke in favor of the bill. She was the campaign coordinator for the Save Our Waterfronts (SOW), a broad based coalition consisting of businesses, associations, individuals, elected officials and even property appraisers who supported Amendment 6.



[SB 1468](#) will now be considered by the [Senate Policy and Steering Committee on Ways and Means](#).

The House companion, [HB 825](#) by [Representative Julio Robaina \(R-Miami\)](#), was unanimously approved by the [House Finance and Tax Council](#). The council considered three amendments, two of which were adopted. The first amendment was a strike-all that incorporated a variety of changes supported by the Coalition. The second amendment, offered by [Representative Elynn Bogdanoff \(R-Fort Lauderdale\)](#), was an unfriendly amendment because it leaves too much discretion to the property appraisers on assessment. The committee approved the amendments with the understanding that **Chair Bogdanoff** would continue to work with SOW to come to an agreement on acceptable language. The third amendment dealt with recapture, but was withdrawn by **Chair Bogdanoff**.

AIF will continue to work on acceptable language dealing with the assessment section.

[HB 825](#) will now be considered on the House floor.

AIF was actively involved with the passage of Amendment 6 and is supporting SB these measures to implement it. Working waterfront properties should be taxed at their current use and not at the highest and best use as they are today. The marine industry has an economic impact of approximately \$18 billion per year and employees over 220,000 people in our state. This industry is too important to lose to other states because of our property tax system.

The [Senate Finance and Tax Committee](#) unanimously approved [SB 1006](#) Relating to Ad Valorem Assessments/Challenges by [Senator Mike Fasano \(R-New Port Richey\)](#). The committee adopted an amendment, offered by [Senator Mike Bennett \(R-Bradenton\)](#), which leaves the presumption of correctness with the Property Appraiser or the Value Adjustment Board. However, when challenged by a taxpayer, the taxpayer is entitled to a determination of the appropriateness of the appraisal methodology. The amendment makes the challenge process fairer and levels the playing field for the taxpayer.

AIF and other business groups testified in support of the amended bill. **Loren Levy**, on behalf of the Property Appraiser's Association, testified in opposition along with two Property Appraisers.

When Loren Levy brought up the revenue impact of the bill, **Senator Bennett** asked if the loss was taxes that should not have been collected because the property's value was found to be too high. Levy admitted that was true.

[SB 1006](#) will now be considered by the [Senate Policy and Steering Committee on Ways and Means](#).

The House companion, [HB 521](#) by [Representative Carlos Lopez-Cantera \(R-Miami\)](#), was unanimously approved by the [House Finance and Tax Council](#). The House bill was not amended with the same language as the Senate bill, but will next be considered by the [House Full Appropriations Council on Education and Economic Development](#), where it will most likely be conformed to the Senate bill.

AIF supports legislation that addresses ad valorem assessment value challenges including revising the burden of proof and the presumption of correctness to level the playing field for tax payers.

Education & Workforce Development

Today, the [Senate Education Pre-K-12 Appropriations Committee](#) unanimously approved [SB 1682](#) Relating to Governmental Operations by [Senator Stephen Wise \(R-Jacksonville\)](#). The bill was amended to add provisions related to education accountability, which bring together the accountability systems from the A+ Plan and No Child Left Behind (NCLB). This measure aims to ensure that all students in Florida are making educational progress.

With the amendments added, the bill will help to better align the state and federal accountability systems to ensure there is a command focus on student learning, as well as expand the intervention plans that districts will have to implement to all schools so that all students, even lower-performing students in higher-performing schools, receive the same interventions and support as those in Title I schools.

[HB 1682](#) will now be considered by the [Senate Governmental Oversight and Accountability Committee](#).

AIF supports legislation that enables better prepared students through accountability for educational outcomes. AIF believes it is important to continue to build on the K-12 accountability system with particular focus on improving the value of a high school diploma. This measure strengthens Florida's nationally recognized school accountability system, aligns it with the federal accountability system and ultimately improves the value of a high school diploma for future employers.

Growth Management

Today, the [Senate Finance and Tax Committee](#) unanimously approved [SB 580](#) Relating to Impact Fees/Challenges by [Senator Mike Haridopolos \(R-Melbourne\)](#). The bill changes the burden of proof for a business who challenges a local government's enactment of an impact fee to merely a preponderance of the evidence, thus alleviating a local government's presumption of correctness that currently attaches to impact fee ordinances. In addition, the bill includes legislation to implement a two-year freeze on impact fees.

[SB 580](#) will now be considered by the [Senate Transportation and Economic Development Appropriations Committee](#).

The House companion, [HB 227](#) by [Representative Gary Aubuchon \(R-Cape Coral\)](#), was also considered on second reading on the House floor. The bill was amended to include provisions freezing the level of impact fees for 2 years by also disallowing the creation of new impact fees during that period. Questioning was pointed and along party lines with the Democrats taking the side of local governments in opposing the bill.

[HB 227](#) is now ready for final passage by the House.

AIF SUPPORTS legislation that eases the burden of proof on impact fee challenges. This statutory fix will level the playing field for businesses in any court challenge so that governments are not presumed correct in their methodology when increasing an impact fee, or crafting a new one.

Health Care

Today, the [House Full Appropriations Council on General Government and Health Care](#) unanimously approved [HB 285](#) Relating to Medicaid Low-Income Pool and Disproportionate Share Program by [Representative Jimmy Patronis \(R-Panama City\)](#). The bill aims to modify the makeup of the Low Income Pool (LIP) Council. The LIP Council is currently made up of representatives from the hospitals that receive income from the \$1 billion in Federal funds it draws down yearly. The bill also ensures that no registered lobbyist can serve on the council, as well as expands membership to non-hospital representatives.

[HB 285](#) will now be considered on the House floor.

AIF SUPPORTS legislation that eliminates the Low Income Pool (LIP) Council and places responsibility for recommendation and distribution of these funds in the hands of the Legislature and experts at the Agency for Health Care Administration (AHCA).

Today, the [Senate Children, Families, and Elder Affairs Committee](#) approved (6-1) [SB 242](#) Relating to Autism Spectrum Disorder Screening/Minors by [Senator Jeremy Ring \(D-Margate\)](#). The Proposed Committee Substitute (CS) for [SB 242](#) provides that a parent, legal guardian, or other authorized person has the right to choose an alternative immunization schedule rather than the one recommended by the Centers for Disease Control and Prevention (CDC), as long as the child is immunized prior to kindergarten or initial entry into a public or private school. The bill requires health care practitioners to provide the parent or legal guardian of a minor with a copy of the current vaccine information statement before administering any vaccine to the minor child.

The major concern is with the toxicity of mercury in the vaccinations and [Senator Mike Bennett \(R-Bradenton\)](#) feels that it is hard for the pharmaceutical companies to come out and admit that they have made a mistake.

Many advocates testified on behalf of the bill and the Florida Association of Health Plans as well as the Florida Medical Association waived their time in opposition to the bill.

The Florida Pediatric Society stated that they are working with the **Senator Ring** to try to make the bill more palatable. The Autism Society waived their time in support of the bill.

Those that oppose the bill feel that we should stick with the schedule of vaccines that is provided by the CDC. A possible amendment might come from a debate on whether to change the age of the required vaccine schedule from the age of six to age three.

[SB 242](#) will now be considered by the [Senate Military Affairs and Domestic Security Committee](#).

AIF OPPOSES any health insurance mandate that makes coverage less affordable and accessible without greatly contributing to the increased well-being of all Floridians.

Today, the [Senate Health Regulation Committee](#) approved (5-2) [SB 1122](#) Relating to Health Insurance/Payment of Benefits/Claims Forms by [Senator Don Gaetz \(R-Ft. Walton Beach\)](#). The committee erased the pro-business changes that had been added to the measure last week. The good language would have ensured that employees that use out-of network providers would not be subject to "balance billing" by that provider. It also would have preserved the ability of health insurers to maintain strong networks, which is the lynch pin of a managed care company's cost saving measures.

Chairman Gaetz offered the amendment to strike the protective language even after the Director of the State Group Health Plan testified, along with a private actuary, that taking this amendment off would result in a negative state fiscal impact of \$11 million.

[Senator Al Lawson \(D-Tallahassee\)](#) debated against the amendment, but inevitably he and [Senator Dave Aronberg \(D-Greenacres\)](#) were the only no votes against the measure. [Senator Dennis Jones \(R-Seminole\)](#), a chiropractor, expressed his concern that employees could be subjected to higher out of pocket costs and, as a result of weakened networks, higher premiums.

[SB 1122](#) will now be considered by the [Senate General Government Appropriations Committee](#).

AIF opposes legislation that would erode the important savings achieved by health plans through the establishment of provider networks. Businesses in Florida are struggling more than ever to keep providing health insurance for their employees; this legislation has the potential to increase health insurance premiums.

Legal & Judicial

Today, the [Senate Judiciary Committee](#) unanimously approved [SB 886](#) Relating to Parental Authority by [Senator Steve Oelrich \(R-Gainesville\)](#). The measure was combined with [SB 2268](#) by [Senator Carey Baker \(R-Eustis\)](#), which also deals with a parent's authority to waive liability on behalf of their children. However, a very bad amendment, offered by [Senator Dan Gelber \(D-Miami Beach\)](#) on behalf of the trial lawyers, was adopted onto the bill. The Gelber amendment limits the liability waiver to only the inherent risk of an activity.

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](#) and now [SB 886/2268](#) codify in Florida law the authority of a parent to waive liability on behalf of their minor child.

This was the third try at getting the bill out of the [Senate Judiciary Committee](#), but the good news is that the bill is now available to move on through the legislative process. [SB 886](#) will now be considered by the [Senate Children, Families, and Elder Affairs Committee](#).

The House companion, [HB 363](#) by [Representative Mike Horner \(R-Kissimmee\)](#), will now be considered on the House floor and will be coming over without bad amendments. So, the battle will be between the two versions of the bill late in session.

AIF supports the right of parents to waive liability on behalf of their minor children and thanks Senators Oelrich and Baker 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.

Space

Today, the Florida Legislature advanced efforts to bolster the space industry by moving two priority bills for Associated Industries of Florida in both the House and Senate to create the Space Technology and Research Development Institute (STRDI) within the Governor's Office of Tourism, Trade and Economic Development and supported by Space Florida.

[HB 69](#) Relating to Space Industry by [Representative Dorothy Hukill \(R-Port Orange\)](#) was considered on second reading by on the House floor. Without objection, [HB 69](#) now rolls over to third reading and is ready for final passage by the House.

The Senate companion, [SB 888](#) by [Senator Evelyn Lynn \(R-Daytona Beach\)](#), was unanimously approved by the [Senate Higher Education Committee](#). [SB 888](#) will now be considered by the [Senate Policy and Steering Committee on Ways and Means](#).

The Space Technology and Research Development Institute will be a university-based program, led by Embry-Riddle Aeronautical University, to provide research and development and policy analysis to improve the competitiveness of the space transportation industry in Florida. Research to be supported by the institute includes, but is not limited to:

- Range and airspace management systems;
- Spaceflight human factors;
- Launch vehicle safety;
- Materials science; and
- Spaceport instrumentation, technologies, and processes.

As mentioned in ESP 2.0, AIF fully supports diversification of the space industry through university-based and applied technology programs across the state.

Seaport Security

Today, the [Senate Criminal Justice Committee](#) unanimously passed [SB 2684](#) Relating to Seaport Security. There were some technical amendments adopted to the bill without any debate or discussion. The bill now closely mirrors its companion measure in the House, [HB 7141](#). [SB 2684](#) has one more committee stop in the Senate, the [Senate Criminal and Civil Justice Appropriations Committee](#). Earlier this week however, the Revenue Estimating Conference determined that the bill had an insignificant cost impact to the State. Accordingly, it is anticipated that the bill will easily pass this last committee and be ready for the Senate floor in the next few days.

This bill will not require an additional state ID card for persons entering a Florida seaport if they already hold a federal Transportation Worker Identification Card (TWIC). The bill will require those individuals to sign an affidavit attesting that they have not been convicted of certain crimes and submit to a Florida background check once every five years. The costs will be less than \$100 every five years to enter all Florida seaports as opposed to the current situation where the cost is over \$800 per employee. This reduces the economic burden on employers and allows Florida's public and private sector leaders to continue working together to craft solutions at the federal level in the future that may further enhance the opportunities for less regulation and greater prosperity.

AIF salutes [Senator Dave Aronberg \(D-Greenacres\)](#) for his leadership and hard work in continuing to shepherd this important legislation through the Florida Senate.

AIF supports SB 2684 because it significantly reduces the costs to employers conducting business at Florida's public seaports.