



# DAILY BRIEF

From April 20, 2009

As we enter the final two weeks of the 2009 session, a number of major business issues still remain in play. The cloud of budget negotiations hangs over most issues and Senate and House negotiators are having a difficult time finding any common ground. The conference committee process, which is held every year to negotiate a final budget, seems stalled as meetings scheduled for today and Tuesday have been canceled.

AIF priority bills dealing with workers compensation, surplus lines insurance, property insurance, and SunRail all passed in committee today. Tuesday will mark the final day of regular Senate committee meetings for the year.

As usual on a Monday, don't miss the latest episode of AIFTV, Associated Industries of Florida's weekly internet video program.

[View Episode 8](#)

---

## Workers Compensation

Today the [Senate General Government Appropriations Committee](#) further advanced a version of workers' compensation legislation that is unfriendly to Florida businesses. Last week we reported to you that the [Senate Judiciary Committee](#) amended [SB 2072](#) by [Senator Garrett Richter \(R-Naples\)](#) to allow higher attorney's fees in workers' compensation cases. Today another unfriendly amendment by [Senator Al Lawson \(D-Tallahassee\)](#) was added to that version of the bill which will further allow attorneys to collect higher fees in instances where they represent first responders for occupational diseases. The committee did not consider any amendments that would restore the bill to its original intent as filed that would correct the statutory ambiguity identified by the Florida Supreme Court in the Murray decision.

The bill as passed by the [Senate General Government Appropriations Committee](#) today will NOT decrease or work to roll back the 6.4% rate hike that became effective April 1, 2009. The bill as passed today will NOT prevent future rate increases, estimated at 18.6% over the next 2 years, from being hoisted onto the backs of Florida's employers.

Today's hearing was the last committee stop for this bill, however, and the legislation is now ready to be heard by the full Senate. Fortunately the House has already passed a strong workers' compensation bill that will lower rates for Florida employers with [HB 903](#) which is currently in Senate messages.

The time for ALL Florida employers to act is NOW. Call your senator today and tell them how important it is that the Florida Senate pass [SB 2072](#) as it was originally filed. Let them know that Florida's businesses simply cannot afford the current and future rate hikes that are inevitable to our workers' compensation premiums if the original language of [SB 2072](#) is not passed.

**AIF applauds Senator Garrett Richter for sponsoring SB 2072 and tackling the enormous challenge of guiding this bill through the legislative process. Florida's business community supports his efforts and encourages his continued leadership on this important matter in the remaining days of this session.**

---

## Taxation

The [Senate General Government Appropriations Committee](#) passed [SB 2270](#) Relating to Corporate Income Tax/Water's Edge by [Senator Dan Gelber \(R-Miami Beach\)](#) by a vote of 3-2. 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.

When presenting the bill, **Senator Gelber** explained that the bill closed loopholes that multi-state companies were using to lower their state income subject to Florida's 5.5% corporate income tax. He gave the example of Wal-Mart using a provision of law allowing them to deduct lease expense to an affiliated company located in a state that does not have an income tax.

AIF briefly spoke in opposition to the bill, but it seems that the Senate is committed to making the bill a part of what revenue enhancements are available for budget conference negotiations with the House.

**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 making Florida at a real disadvantage when competing for jobs with other SE states. In addition there is doubt that it will increase revenues for the state based on an Ernst and Young LLP study.**

Today, the [House Finance and Tax Council](#) approved proposed committee bill (PCB) **FTC 09-04** Relating to Tax on Sales, Use, and Other Transactions. The original bill would have repealed several sales tax exemptions such charter fishing boats, newspapers and magazine subscriptions, and ostrich fees, just to name a few. However amendments were adopted to save many of them:

- Charter boats are exempt for those with 6 passengers or less
- Skyboxes for college and high school games when rented by a 501(c) (3) organization received an amendment to remove the word "skyboxes" but still allows the box seats to be tax exempted

Other sales tax exemptions were adopted and added to the list including the "Back-to-School" and "Hurricane Preparedness" sales tax holidays each lasting a period of three days.

Also, sales tax exemptions for aircraft owned by non-residents that enter and remain in the state for less than 21 days during a six-month period after the date of purchase are exempt from the use tax as well as aircraft in state used for training purposes.

A new sales tax exemption was granted to the manufacturing industry thanks to an amendment by [Representative Jim Waldman \(D-Coconut Creek\)](#). For a two-year period beginning on July 1, 2009, industrial machinery and equipment purchased for use in manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state will be exempted from sales tax when the purchase price is in excess of \$2,500.

**AIF supports efforts to review Florida's existing sales tax exemptions. We do not support; however, automatic sunsets of these exemptions.**

---

## **Business Regulation**

Today, the [Senate General Government Appropriations Committee](#) unanimously approved [SB 852](#) Relating to Economic Development Projects/Expedited Permitting by [Senator Mike Fasano \(R-New Port Ritchey\)](#).

For two years in a row AIF has worked with **Senator Fasano** on this legislation that is written to help businesses receive approval or denial from the state Department of Environmental Protection (DEP) or regional Water Management District on water resource permit applications. This legislation would cut the existing application 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 also requires that local governments must grant approval for this expedited process by passing a resolution stating the local government supported the expedited permitting process for the project.

AIF has worked hard on the issue and has included it in the [Economic Stimulus Package 2.0](#) (ESP 2.0) as well as testifying in committees on behalf of the legislation.

[SB 852](#) will now be considered on the Senate floor.

The House companion, [HB 73](#) by [Representative Rob Schenck \(R-Springhill\)](#) is scheduled to be on the floor of the House tomorrow. It is anticipated that the House will pass it out with no problem and send it to the Senate for final passage later this week.

**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.**

Today, the [House General Government Policy Council](#) passed (12-2) [HB 7143](#) Relating to Regulatory Reform by [Representative Trudi Williams \(R-Ft. Myers\)](#). This legislation is a high priority of AIF as it makes changes to the permitting and regulatory process facing businesses today. The measure contains legislation to extend permits for certain projects; prohibits local governments from requiring as a condition of approval for a development

permit that an applicant obtain a permit or approval from any other state or federal agency; changes the way agencies handle request for additional information (RAI); self-certification for certain permits; eliminates duplicative permitting in some cases by delegating authority to local governments; moves approval of projects in water management districts to the executive director; and expediting permits that creates jobs.

The committee adopted a strike everything amendment, offered by **Representative Williams** that deleted the section dealing with imperiled species. This was disappointing as local governments and the Fish and Wildlife Conservation Commission seem to duplicate efforts with imperil species regulation. However, **Representative Williams** said that there will be a study over the summer to see how we can resolve this problem.

The committee adopted another amendment, also offered by **Representative Williams**, that deals with the Florida Building Codes. [Representative Alan Hays \(R-Umatilla\)](#) was quite concerned with a section of the amendment that would weaken the requirements on windows for those homes in certain areas. We expect to see an amendment from **Representative Hays** on the floor of the House to address his concerns.

[HB 7143](#) will now be considered on the House floor.

**AIF supports the permit extensions and streamlining process for regulation sections of the bill. These are desperately needed by businesses who have projects ready to go but may not have funding available to them so the permits they have in place will be protected saving time and money.**

Also today, the [Senate General Government Appropriations Committee](#) passed [SB 2626](#) Relating to Telecommunications Companies by [Senator Mike Haridopolos \(R-Melbourne\)](#). **Senator Haridopolos** explained that the bill allows for the competitive market to serve as the regulator of non-basic telecommunications service. The bill still keeps Public Service Commission (PSC) regulation over basic service. He explained that government regulation is a substitute for competition. 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. He further stated that this outdated regulatory policy was from a time when there was only one monopoly provider. The telecommunications industry has changed dramatically with 91% of the zip codes in Florida having at least 4 telecommunications providers.

Most of the public testimony was brief including AIF supporting the bill. However, AARP testified in opposition to the bill. [Senator Steve Oelrich \(R-Gainesville\)](#) asked if AARP was in the business of providing telecommunications service and she said they did provide wireless service to their members. The bill's sponsor commented that he was very disappointed in AARP for opposing the bill now that it allows another 500,000 needy people to qualify for Lifeline, something AARP has been fighting to accomplish for some time. He also expressed his frustration over AARP's articles in the press.

**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, VOiP and the incumbent local exchange carriers. The open competition will benefit our members with new and innovative services that may not be offered with out a level playing field among the competitors.**

---

## Growth Management

The [Senate Transportation and Economic Development Appropriations Committee](#) passed (5-1) [SB 580](#) Relating to Impact Fee 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](#) is now ready for consideration on the floor of Senate.

**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.**

---

## Education & Workforce

Today, the [Senate Education Pre-K-12 Appropriations Committee](#) unanimously approved [SB 1828](#) Relating to Revision of Class Size Requirements/Public Schools by [Senator Stephen Wise \(R-Jacksonville\)](#). The Joint Resolution preserves the constitutional integrity of the Class Size Amendment approved by Florida voters in 2002 by holding class size measurement at the school average level with limits on individual classroom sizes. The measure would also allow for flexibility, giving principals and teachers the ability to manage small differences in class sizes within a school, which could for example put students that need a little extra attention in a slightly smaller class, while compensating with a slightly larger class.

[SB 1828](#) will now be considered by the [Senate Policy & Steering Committee on Ways and Means](#).

**AIF supports increased flexibility in the implementation of the class size reduction requirement due to the positive fiscal impact that would be created as a result of changing the compliance requirements. This proposal is part of AIF's Economic Stimulus Package 2.0 since greater flexibility will ensure money is spent where it is most needed at a time when school funding is facing drastic reductions as a result of the downturn in the economy.**

The committee also temporarily passed our top education priority, [SB 2654](#) Relating to High School Graduation by [Senator Thad Altman \(R-Melbourne\)](#). This could signal problems with the bill as this is the next to last day of regularly scheduled committee meetings in the Senate.

AIF will continue to work on this important legislation during these last two weeks of session as the House companion is ready for a floor vote.

**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.**

---

## ESP 2.0

Today, the [Senate Finance and Tax Committee](#) unanimously approved [SB 1502](#) Relating to Fast Track Economic Stimulus for Small Businesses by [Senator Mike Fasano \(R-New Port Richey\)](#). This bill, will work towards creating jobs and stimulating economic activity across Florida while fostering growth in some of the most depressed areas of Florida. Growth and economic activity are job drivers for the state's economy, and this will create jobs and stimulate economic activity in the state while fostering growth in some of the most depressed areas of Florida. By drawing private capital investment into the state by a program that would match it with state incentives, this legislation is a perfect way to help jump start Florida's economy and can get it back on track by investing in Florida's businesses.

The bill, arguably one of the session's most innovative stimulus bills, would encourage venture capital into the state and draw down millions in available federal funds. AIF has supported this legislation in every committee and was on hand today and testified in favor of the legislation.

While this is another step forward for the bill this year, it is also significant because this legislation has died the previous two years in this committee.

[SB 1502](#) will now be considered by the [Senate Policy & Steering Committee on Ways and Means](#).

**AIF is an ardent supporter of this legislation. Not only will this create jobs and stimulate economic activity in the state, but it will also foster growth in some of the most depressed areas of Florida. Growth and economic activity are job drivers for the state's economy and programs like the New Markets Development Program are just one way that Florida's economy can get back on track.**

---

## Rental Car Surcharge

The [Senate Transportation and Economic Development Appropriations Committee](#) approved a strike everything amendment by Senator Andy Gardiner (R-Orlando) on [SB 1212](#), which included language to increase the rental car tax. Currently every car renter in the state pays \$2 a day, and this language will increase it to \$4 a day. Further, the language provides that, by a majority vote of the county commission, the increased tax can be implemented immediately. Voters in these counties would be able to vote on the tax increase on the November 2010 general election ballot. If it is not approved, the tax increase would be repealed. **Jose Gonzalez** with AIF spoke in opposition to the tax increase, yet in support of commuter rail.

**AIF opposes any efforts to enact a rental car surcharge in Florida. This tax increase would be felt by all Floridians not just tourists as the proponents of this proposal often argue. Businesses across the state rent vehicles and this increase would be felt across the board.**

---

## Insurance

Today, the [Senate Finance and Tax Committee](#) approved (3-2) [CS/SB 1894](#) Relating to Insurance by [Senator Mike Bennett \(R-Bradenton\)](#). The bill addresses the surplus lines insurance exemption from chapter 627, F.S. by providing the provisions of chapter 627, F.S. do not apply to surplus lines insurance unless a statutory section in chapter 627, F.S. specifically states it applies to such insurers. On June 26, 2008, the Florida Supreme Court ruled that surplus lines insurance is not exempt from all of these requirements. The practical impact of the Supreme Court decision is the elimination of surplus lines insurance in Florida. If this finding is not addressed legislatively, insurance will not be available for hard to place or unique commercial risks as well as high value or unique residential properties.

[SB 1894](#) has two additional committee references; however we are hopeful the [Senate President Jeff Atwater \(R-North Palm Beach\)](#) will withdraw the bill from the [Senate General Government Appropriations Committee](#).

The House companion, [HB 853](#) Relating to Surplus Lines Insurers by [Representative Pat Patterson \(R-DeLand\)](#), was also passed by the [House General Government Policy Council](#). The committee adopted a disclosure amendment, offered by **Representative Patterson** that will now become the bill.

[HB 853](#) will now be considered on the House floor.

**AIF supports these measures to ensure the continued accessibility of Surplus Lines insurance in Florida. Approximately fifteen percent of Florida businesses procure their property and liability insurance through the Surplus Lines insurance market. Without this, market insurance will not be available to many of these businesses with hard to place risks and unique insurance needs.**

Today, the [House Full Appropriations Council on General Government and Health Care](#) passed (25-8) [HB 1495](#) Relating to Insurance by [Representative Bryan Nelson \(R-Apopka\)](#). The bill contains similar provisions found in the Senate companion, [SB 1950](#) by [Senator Garrett Richter \(R-Naples\)](#), as well as provisions that will help restore Florida's private property insurance market. Most importantly, the bill contains a "glide path" for Citizens Insurance premium increases that will bring rates closer to actuarial soundness.

The committee adopted a number of amendments that were technical in nature.

[HB 1495](#) will now be considered on the House floor.

**AIF supports this measure as a way to remove and increase Citizens' rates; reduce Cat Fund coverages; continue the state's home hurricane loss mitigation program, My Safe Florida Home; and encourage the restoration of Florida's private property insurance market.**

## Affordable Housing

[SB 1042](#) Relating to Affordable Housing by [Senator Mike Bennett \(R-Bradenton\)](#) was unanimously passed by the [Senate Tax and Finance Committee](#). The bill:

- Provides limitations on the Florida Housing Finance Corporation's (Corporation) access to the state allocation pool;
- Revises certain definitions relating to the state's affordable housing program to allow the use of State Apartment Incentive Loans (SAIL) for moderate rehabilitation efforts;
- Modifies the distribution of funds from the Local Government Housing Trust Fund by authorizing set-asides for specific purposes; and
- Provides specific assessment requirements for property receiving the low-income housing tax credit and property owned by a community land trust and used for the purpose of providing affordable housing.

A number of amendments were proposed to [SB 1042](#):

1. The most significant was the removal of the cap on the Sadowski Fund by Senator Bennett. The Sadowski Fund represents the State's Affordable Housing Trust Fund which receives revenue generated through documentary sales taxes. The cap limits the amount of funds withdrawn from the Fund directed towards statewide affordable housing programs, primarily through the Florida Housing Finance Corporation. The repeal of the cap has been enthusiastically promoted for years by housing advocates. The Committee adopted the amendment with no opposition.
2. Senator Bennett proposed to reduce from 25% to 20% the maximum allowable that SAIL funds could be used for manufactured housing at the County level. The amendment was adopted.
3. Senator Bennett also proposed to expand the State Office of Homelessness' housing grants to allow the acquisition of transitional or permanent housing units. The amendment was adopted.

**AIF supports SB 1042. A repeal of the cap on the Sadowski Fund would be a clear victory for affordable housing proponents. The Fund provides a valuable revenue stream for the Corporation and local governments in their efforts to provide safe, affordable housing for Floridians. In addition to directly benefiting AIF members in the housing industry, adequate affordable housing options are paramount to maintaining a productive workforce.**

---

## Legal and Judicial

The [Senate Community Affairs Committee](#) approved very dangerous pro-trial bar amendment, offered by [Senator Andy Gardiner \(R-Orlando\)](#) on his transportation bill, [SB 422](#). The amendment seeks to make rental car or truck companies financially responsible for the actions of a person renting a car, even if the rental car was not at fault. If a person injures someone with their rental car, the rental car company is responsible for the minimum financial responsibility in current law, which is \$10,000 for any one individual; \$20,000 for any one incident, and \$10,000 for property damage.



The Graves amendment, enacted by the US Congress preserves the right of states to impose the minimum financial responsibility for the privilege of registering and operating a car. But it only protects non-negligent owners of rented cars from liability, meaning it puts the responsibility for the car's operations with the car's driver. Rental companies are not protected from liability if their actions are negligent. The Graves amendment is now the subject of an appeal to the Florida Supreme Court and the adopted amendment is an attempt by the trial bar to interfere with the pending case.

Associated Industries of Florida opposed the legislation along with representatives of rental car and truck companies. This language would significantly damage Florida's rental car and truck industry as they become highly vulnerable to many lawsuits. Further, the companies' auto insurance rates will increase, which will increase the cost of renting a car for all Floridians and tourists. Further, this attempt is only the first step in the trial bar's efforts to increase the liability of businesses that are not at fault.

[SB 422](#) heads next to the [Senate Finance & Taxation Committee](#), but it is unclear if that committee will meet again. Further, the House companion, [HB 1451](#) by [Representative Lake Ray \(R-Jacksonville\)](#), does not contain this anti-business language. Currently, it is not on an agenda to be heard.

**AIF opposes any efforts to erode the provisions in the Graves Amendment. This is not the time to alter Florida's vicarious liability laws, since they will end up hurting the consumers and renters of these vehicles.**

---

## Health Care

The [Senate General Government Appropriations Committee](#) approved (3-2) a bill that will result in higher health insurance premiums for employers and individuals. [SB 1122](#) by [Senator Don Gaetz \(R-Ft. Walton Beach\)](#) would require a health insurer to pay an out of network provider directly if the patient assigns his or her benefits. Currently, a health plan provides payment to the patient, if that patient chooses to receive services from a provider that does not have a contract with the plan. This is because the insurer's contract, and therefore, responsibility is to the insured.

AIF opposes this bill because it will result in the following:

- *Higher out of pocket costs for consumers.* Health plans contract with providers and in those contracts the providers agree to accept the reimbursement rate AND not balance bill the patient for any additional costs. Out of network providers have no such agreement. Network providers will now receive the same reimbursement from the insurer and then can bill the remainder of what that provider decides to charge for his services to the employee
- *Higher premiums for Employers and Individuals.* Health plans provide cost savings by negotiating discounts with providers who contract with them in return for paying them directly. If an out of network provider can receive the same reimbursement and be paid directly, the incentive to contract with insurers will disappear. The network system is the way insurers are able to realize and pass discounts on to employers and their employees.

[SB 1122](#) will be considered next by the [Senate Ways & Means Committee](#). The House companion, [HB 855](#) by [Representative Marcelo Llorente \(R-Miami\)](#), is in the [House Government Operations Appropriations Committee](#) which currently isn't scheduled to meet again. It is our understanding, another meeting could be held.

**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.**

---

## Seaport Security

Today, the seaport security legislation that AIF has been working on all session was unanimously passed by both the [House Full Appropriations Council on General Government & Health Care](#) and by the [Senate Criminal & Civil Justice Appropriations Committee](#). [HB 7141](#) by [Representative Sandy Adams \(R-Oviedo\)](#) and [SB 2684](#) by [Senator Dave Aronberg \(D-Greenacres\)](#) are now ready to be heard on the floor by the full House and Senate in their respective Chambers. The bills are not quite identical due to some technical differences, but it is anticipated that those will be adjusted with minor amendments in either or both bodies. AIF supports this legislation because it substantially reduces the costs of doing business in Florida seaports through lowering the charges payable for criminal background checks and other credentialing processes for seaport access. The legislation also provides private sector business with a voice on the Seaport Security Advisory Council.

**AIF supports this legislation because it significantly reduces the costs to employers conducting business at Florida's public seaports. We will continue to work closely with its House and Senate sponsors as it travels through the legislature and to the Governor's desk.**

---

## Transportation

The [Senate Transportation and Economic Development Appropriations Committee](#) narrowly passed (4-3) [SB 1212](#) Relating to Public Transit by [Senator Lee Constantine \(R-Altamonte Springs\)](#). Passage of this bill is essential for the enactment of the Central Florida Commuter Rail Project or "SunRail" as it is more commonly known. The bill provides the Florida Department of Transportation with the authority to contractually indemnify freight rail operators when using a rail corridor with commuter rail operations.

This was the second time the committee considered the bill since last week they ran out of time due to contentious debate among the committee members. Senators [Paula Dockery \(R-Lakeland\)](#) and [Rhonda Storms \(R-Brandon\)](#) both debated against the bill and asked pointed questions of supporters and members of the Department.

State approval of the "SunRail" project is top priority for Associated Industries of Florida. This project will bring immediate economic activity and jobs to the Central Florida region and other parts of the state at a time when our state's economy is reeling from the effects of the current national recession. In fact, approval of Central Florida Commuter Rail project is one of the recommendations found in AIF's [Economic Stimulus Package 2.0](#).

**AIF SUPPORTS efforts to approve the Central Florida Commuter Rail Project. This project will not only create jobs in the Orlando area, but throughout the state of Florida while injecting over \$1.2 billion into the economy over the next 18-24 months. This project will lay the foundation for improved passenger transportation and freight distribution in Florida, thus ensuring our state's ability to remain competitive and meet the challenges of expanded global trade.**