



DAILY BRIEF

From March 17, 2009

As is usually the case, Tuesday was a long day at the Capitol with committee meetings starting in the early morning and going late into the afternoon. Some of the AIF priority bills considered by the House and Senate include: **Workers' Compensation, Expedited Permitting for targeted industries**, and legislation aimed at protecting access to **surplus lines** insurance for businesses needing this type of coverage.

In addition, we are happy to report that Governor Charlie Crist signed HB 1112 Relating to Corporate Income Taxes by Senator Thad Altman (R-Melbourne) into law today. This legislation fixes an unintended glitch included in last year's corporate income tax bill, which could have cost businesses in Florida hundreds of millions of dollars in unintended corporate income taxes. AIF led the charge in passage of this legislation and we thank Governor Crist for signing this critical piece of legislation for Florida's business community into law.

Wednesday promises to be yet another busy day as committees in both the House and Senate will be meeting all day. Make sure to check tomorrow's edition of the *Daily Brief* for a complete recap of all of Wednesday's actions.

Workers' Compensation

Today, the House general Government Policy Council passed (14-4) HB 903 Relating to Workers' Compensation Attorney's Fees by Representative Anitere Flores (R-Miami). The bill clearly and precisely corrects the statutory ambiguity identified in the workers' compensation law by the Florida Supreme Court in the Murray ruling.

Although the committee heard and debated 2 additional amendments, the only changes made to the bill were to make it identical to the Senate companion, SB 2072 by Senator Garrett Richter (R-Naples).

Just prior to the end of the committee meeting, Representative Ed Hooper (R-Clearwater) moved to reconsider the vote by which HB 903 had passed. However, that motion was defeated and the bill was passed.

HB 903 will next move to the floor of the House where it will be considered by all 120 members of the Florida House of Representatives.

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.

Economic Stimulus Package 2.0

Today, the Senate Commerce Committee unanimously approved SB 1502 Relating to New Markets Development Program Act by Senator Mike Fasano (R-New Port Richey). As written about in previous reports, AIF has been a strong supporter of the New Markets program and included it in the ***Economic Stimulus Package 2.0*** for the 2009 Session. This legislation is crafted to leverage the Federal New Markets investment program that would match venture capital put into Florida's lower income and depressed communities. While the federal match is available, Florida has not implemented a program that would take advantage of the match to date. Back for the second straight year, under the Florida New Markets program, state tax credits for businesses and investments would not take effect until after the venture capital has been placed into the state. This will ensure that investors make a significant commitment towards putting venture capital dollars into work in the state before they can receive a tax incentive.

This was the program's first committee stop in the Senate. Senator Fasano received praise from committee members for bringing the innovative idea forward for the committee to consider. Additionally, Jose L. Gonzalez, AIF's Vice President of Governmental Affairs, testified in favor of the legislation telling the committee that a recent AIF poll suggested the majority of Florida families are concerned about their current economic situation and future job growth.

SB 1502 will next be considered by the Senate Community Affairs Committee.

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.

Business Regulation

Today, the House Agriculture and Natural Resources Committee unanimously approved HB 1123 Relating to Environmental Permitting by Representative Trudi Williams (R-Ft. Myers). This session the Legislature is looking at ways to streamline the permitting process and HB 1123 would help the process when it comes to wetland permitting.

Under this proposed legislation the Florida Department of Environmental Protection (DEP) would be able to perform certain permitting duties instead of the Army Corp of Engineers, which should eliminate certain duplicative steps without harming the environment.

Representative Williams told the committee that she has a constituent that has spent seven years getting his permits because of several duplicative steps between the state, local and federal government, and this effort could help to shorten the process.

HB 1123 will next be considered by the House General Government Policy Council.

AIF supports efforts to streamline the permitting process whenever possible and applauds Representative Williams for sponsoring this legislation. As the saying goes, time is money and the longer it takes to go through the permitting process, the more money you are going to spend. Duplication of the regulatory system, at any level, is not a good use of taxpayers' time or money.

Today, the House General Government Policy Council unanimously passed one of AIF's priority bills for the 2009 Legislative Session, HB 73 Relating to Expedited Permitting for Targeted Industries by Representative Robert Schenck (R-Springhill). This legislation is meant to help encourage business growth and expansion by stipulating that state required permits for storm water and environmental resource permits be approved or denied within 45 days, rather than the current policy of 90 days upon submission. HB 73 implements policies to expedite these permits for targeted industries as identified by local governments and seeks to reduce an often labor intensive and time consuming process that businesses are forced to deal with.

HB 73 will next be considered by the House Policy Council.

HB 73's Senate companion, SB 852 by Senator Mike Fasano (R-New Port Richey), was temporarily passed by the Senate Environmental Preservation and Conservation Committee. AIF will continue to keep you updated on the bill at its next committee stop.

AIF SUPPORTS legislation aimed at improving the permitting process for existing businesses in Florida and for those companies looking to invest in our state.

Energy & Environment

The House Energy and Utilities Policy Committee held a workshop on proposed committee bill (PCB) EUP 09-01 Relating to Assessed Value of Real Property. This PCB is the implementing bill for Amendment 3, which was proposed by the Florida Taxation and Budget Reform Commission, and is intended to ensure that certain changes and improvements to residential property do not affect the homes assessed value. Amendment 3 was passed by Floridians last November. The idea is that changes or improvements to a home to increase its resistance to wind damage or instillation of renewable energy source devices should not be included in the home's value for the purpose of assessing taxes.

Representative Dave Murzin (R-Pensacola) voiced his concern that while this PCB only applies to residential property, with certain cities in Florida considering feed-in tariffs, the renewable energy sources become a potential source of income, even on a residential property.

AIF supported Amendment 3 last year as a way to encourage Floridians to equip their homes with energy efficient appliances and products.

Growth Management

Today, the House Agriculture and Natural Resources Policy Committee passed Proposed Committee Bill (PCB) ANR 09-01 Relating to Agricultural Industrial Centers.

AIF supports this legislation because it provides for the expansion of such facilities in rural areas where a need exists for economic development. Spurring this economic growth could aid in necessary job creation for those local areas. This legislation, which will first be heard in the Senate next week, will likely also aid in the establishment of an inland port in the near future.

AIF supports efforts to increase economic development in the rural parts of the state by expanding the provisions of Florida's agricultural industrial centers statutes.

Today, the House Civil Justice and Courts Policy Committee unanimously approved HB 227 Relating to Impact Fees by Representative Gary Aubuchon (R-Cape Coral). The bill changes the burden of proof for a challenger to merely a preponderance of the evidence, thus alleviating a local government's presumption of correctness that currently attaches to impact fee ordinances.

There were no questions or the debate on the bill by committee members before passage. HB 227 will next be considered by the House Economic Development and Community Affairs Policy Council.

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.

Today, the House Government Accountability Act Council considered proposed committee bill (PCB) GAAC 09-04 Relating to Community Affairs. The measure is designed to transfer the functions of the Department of Community Affairs (DCA) to the Department of State (DOS).

The House Military & Local Affairs Policy Committee passed a similar measure last week, proposed committee bill (PCB) MLA 09-01. AIF testified at length on the bill, urging the House to make substantive changes to the growth law, rather than simply changing who administers the act and expect the permitting process to improve appreciably.

After much debate, the PCB was approved, close to party lines. GAAC 09-04 will now be filed as a bill and referenced to committees. Clearly the House is moving toward such a change, while the Senate has shown little desire to follow.

AIF supports this measure as a way to stimulate Florida's economy through low cost regulatory measures that seek to reduce unnecessary government oversight.

Insurance

Today, the House Insurance, Business, and Financial Affairs Policy Committee unanimously approved HB 853 by Representative Pat Patterson (R-Deland). 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.

Jose L. Gonzalez, AIF's Vice President of Governmental Affairs, testified in support of HB 853 stating that access to this type of insurance was critical for employers to continue to do business in Florida.

HB 853 will next be considered by the House General Government Policy Council.

HB 853's Senate companion, SB 1894 by Senator Mike Bennett (R-Bradenton), was retained in the Senate Banking and Insurance Committee with a pending amendment by Senator Jeremy Ring (D-Margate), which if adopted would gut the bill. AIF is lobbying for the bill to be heard during the Committee's next meeting and for the Committee to defeat Senator's Ring amendment.

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.

The Senate Banking and Insurance Committee did pass SB 2282 Relating to First Responder Services by Senator Mike Bennett (R-Bradenton) by a 6 to 2 margin. The bill prohibits counties and cities from imposing taxes or fees and from obtaining reimbursement for costs incurred for services provided by first responders (law enforcement officers, firefighters or emergency medical technicians or paramedics), including volunteer first responders, in response to motor vehicle accidents, fires, or other emergencies. An amendment was adopted by the committee, which clarified some provisions and provided some compromise for the local governments which are opposed to the bill.

Throughout Florida, more and more local governments are implementing a hidden fee, or accident tax, for emergency response services. Faced with budget deficits, many local governments are using accident fees as an opportunity to increase revenues without raising taxes.

Members of the Committee strongly questioned representatives from the cities and counties as well as representatives for the police and fire fighters associations.

SB 2282 will now be considered by the Senate Community Affairs Committee.

AIF supports efforts to prohibit local governments from charging Floridians and businesses an accident tax simply in response to emergency services being provided. Floridians already pay property taxes, which are designed to pay for government services. This practice is nothing more than double taxation.

Taxation

Today, the Senate Community Affairs Committee unanimously approved SB 532 Relating to Rental Property Assessments/Homestead Exemption by Senator Evelyn Lynn (R-Daytona Beach). The bill amends sections 4 and 6 of Article VII of the State Constitution, to give another homestead exemption to first-time homebuyers and to change the cap on non-homestead real property from 10 percent to 5 percent. The committee adopted a “strike everything” amendment, offered by Senator Lynn, which makes the language the same as the Governor’s proposal.

Senator Ted Deutch (D-Delray Beach) expressed concern over the revenue impact that this measure would have on local government’s ability to provide needed services, as well as the strain it may place on school funding.

Senator Jeremy Ring (D-Margate) voiced concern about how this may impact the “snow birds” that own second homes in his district, but said he liked the concept.

Both AIF and the Realtors waived their testimony in support of the bill.

SB 532 will now be considered by the Senate Finance and Tax Committee.

AIF supports lowering the current cap on non-homestead properties to 5 percent from 10 percent. However, this cap should apply to all non-homestead property, not just real property. This provision will help AIF members control their costs of doing business and will allow them to be more competitive in the market place.

The committee also unanimously approved SB 1006 Relating to Ad Valorem Assessments/Challenges by Senator Mike Fasano (R-New Port Richey). The bill amends s. 194.301 to add provisions governing the presumption of correctness and the burden of proof. Under today’s law, the taxpayer has the burden of proving, by a preponderance of evidence, that the assessment exceeds just value when challenging assessments.

The measure also creates legislative intent that states that the taxpayer never has the burden of proving that the property appraiser’s assessment is not supported by any reasonable hypothesis of a legal assessment.

Loren Levy, on behalf of the Property Appraiser Association, testified in opposition to the bill, stating that it was not fair to remove the presumption of correctness from the property appraiser.

Senator Mike Bennett (R-Bradenton) questioned Mr. Levy on why asking the property appraiser to show that they had followed the law in making their assessment was unfair. Levy responded that all elected officials are given the presumption of correctness and should not have to prove that they did their jobs.

AIF testified in support of the bill stating that the playing field has been in favor of the property appraiser for years, and many citizens as well as small businesses do not go forward with a challenge because lawyers advise them that they don't have a chance to win.

SB 1006 will now be considered by the Senate Judiciary Committee.

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.

Finally, the Senate Community Affairs Committee unanimously approved SB 1468 Relating to Working Waterfront Property by Senator Charlie Dean (R-Inverness). This legislation implements the constitutional amendment that changes the way working waterfronts are being assessed by property appraisers. Thanks to the Taxation & Budget Reform Commission (TBRC), Amendment 6 was placed on the 2008 General Election ballot to make this change in order to save working waterfronts from being taxed at its highest & best use. Now legislation is need to implement it.

A strike-everything after the enacting clause amendment was offered by Senator Gary Siplin (D-Orlando) to make a series of technical changes to the bill.

Keyna Cory, Chief Lobbyist for AIF and the campaign coordinator for Save Our Waterfronts, testified before the committee in support of the bill. She explained that Save Our Waterfronts is a broad based coalition consisting of businesses, associations, individuals, legislators and yes, even property appraisers who supported the passage of Amendment 6. The Chair of Save Our Waterfronts was former Representative Dennis Ross. Cory also thanked Ken Wilkinson, Lee County Property Appraiser; former Senator & Broward County Commissioner Jim Scott and former Representative Carlos Lacasa, who were the sponsors of the proposed constitutional amendment in the TBRC.

A representative from the Miami River Group spoke in favor of the legislation but asked the committee to add language to the bill to include all of the Miami River properties. However, these properties were not part of the original constitutional amendment. This may cause problems to the bill if added.

SB 1468 will next be considered by the Senate Finance & Tax Committee.

AIF was actively involved with the passage of Amendment 6 and is supporting SB 1468 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.

Transportation

Today, the House Economic Development and Community Affairs Policy Council unanimously approved HB 1021 Relating to the Department of Transportation by Representative Gary Aubuchon (R- Cape Coral). Many of the provisions in this bill were passed in FDOT's 2008 legislative package; however, the bill was ultimately vetoed last year by Governor Charlie Crist for controversial language in the bill that dealt with the privatization and contracting of some services along Florida's Turnpike.

This year, Representative Aubuchon and Senate Transportation Chairman Andy Gardiner (R-Orlando) are carrying the department's legislative packages and have made it a priority that no controversial items will be included, and thus, endanger the bill again.

AIF has monitored many provision of this bill throughout the early portions of this session with a keen eye on several key elements. While this bill addresses certain "clean up", or technical, issues for the Department it also includes some very important provisions for some AIF members. Some of the provisions include:

- Exempts certain seaport-related projects from development-of-regional-impact (DRI) review;
- Authorizes DOT to award stipends to unsuccessful bidders for state-funded construction and maintenance contracts;
- Increases 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;
- Creates a new reimbursement program for small counties to loan up to \$200 million to DOT in order to advance projects outside the adopted work program; and
- Reinstates the Small County Resurfacing Assistance Program (SCRAP) in 2012 and removes certain eligibility criteria relating to ad valorem tax rates.

While most of the time an agency's legislative package is not a priority of AIF, the FDOT's 2009 package could present some opportunities for some AIF members. HB 1021 will next be considered by the House Finance and Tax Council for final passage.

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

Health Care

The Senate Banking and Insurance Committee passed SB 354 Relating to Mental and Nervous Disorders by Senator Victor Crist (R-Tampa) today. Senate Bill 354 expands the benefits that insurers and HMOs are required to offer to group policyholders for a specific set of mental, nervous, and substance-related disorders. The bill specifies that the benefit limits for these listed mental health and substance-related disorders may not be more restrictive than the treatment limitations and cost-sharing requirements under the plan that are applicable to other diseases, illnesses, and medical conditions. The bill also specifies that health plans may have benefit limits for all other mental health disorders not specifically listed in the bill lower than those for physical illnesses generally within certain parameters. An amendment was approved in committee, which provides that a group insurance plan would not have to provide the increased coverage if the additional benefits cause an increase in costs of over 2%.

Representative Homan was on hand to present the bill because of his knowledge on this subject and because he has sponsored the House companion for a number of years. Representative Homan explained that there is such a stigma with mental health and; therefore, no one wants to talk about it or address the problems. Opponents of the bill, including Jose Gonzalez with AIF, noted that the federal mental health parity act recently passed by Congress had not yet taken effect and suggested letting the act take effect before approving additional mandates. Further, opponents noted that benefit mandates, such as this one, do not cover those employees who work for a self-insured employer or a small employer. The law, if passed, would give the incorrect perception to Floridians that all insurance plans will cover this costly benefit.

The bill will now advance to the Senate Health Regulation Committee. The House companion, HB 147 by Representative Ed Homan (R-Temple Terrace) has not yet been heard.

AIF consistently opposes additional mandated coverages because of the resultant costs increases could force some insurers out of the market and price health care insurance out of the reach of many employers and businesses.