



DAILY BRIEF

From April 7, 2009

The place to be on Tuesday was the Senate Ways and Means committee. It was standing room only as a number of controversial issues including the cigarette tax and court funding were being considered. Adding to the interest level was the debate on the Senate's budget proposal for this year. This marathon meeting lasted into the evening hours as committee members debated the merits of the Senate's budget proposal.

Both the House and Senate have canceled any meetings for Wednesday so legislators will be traveling back to their districts for the remainder of the week in observance of the religious holidays.

Taxation

Today, the Senate Policy and Steering Committee on Ways and Means approved SB 1840 Relating to Protecting Health/Surcharge on Tobacco Products by Senator Ted Deutch (D-Delray Beach). This bill applies a \$1 per pack surcharge to all cigarettes sold in Florida as well as an equivalent tax on other tobacco products applied by product volume.

The committee adopted several amendments to the bill. The amendments clarified that the revenues collected from the surcharge will be deposited in the Health Care Trust Fund administered by the Agency for Health Care Administration (AHCA). The amendments also adjusted the collection of the surcharge for floor stock cigarettes that were purchased by distributors and wholesalers prior to implementation of the law. Another series of amendments addressed exceptions for sale of tobacco products on Indian reservation lands to members of the Seminole and Miccosukee tribes.

The committee also discussed the possibility of exempting cigars from the legislation and committed to work on that issue as the legislation progresses. The public testimony on behalf of the cigar industry indicated that this surcharge, if applied, would eliminate the private sector industry in the state which represents about 50,000 jobs.

Additionally, several wholesalers and distributors testified against the bill stating that the amendments did not correct the cash flow problem the state will encounter to purchase additional sales tax stamps for cigarettes already purchased from the manufacturers.

There was very little debate over the merits of the bill amongst the senators. SB 1804 will now be considered on the Senate floor.

AIF is strongly opposed to increases in any form of excise taxes.

Today, the House Finance and Tax Council unanimously approved HB 283 Relating to Discretionary Surtax on Documents by Representative Carlos Lopez-Cantera (R-Miami). The bill closes a documentary stamp tax loophole often used by corporate entities; extends the authority for Miami-Dade County to assess a discretionary surtax on documents; and allows Miami-Dade County to create and administer a Housing Choice Assistance Voucher program.

The council adopted two amendments. The first amendment requires that uncommitted dollars be reallocated at the discretion of the county, and the second amendment was technical in nature.

There was no debate or opposition on the amended bill; it was supported by the Florida Bankers Association, the Florida Association of Realtors, and Miami-Dade County.

HB 283 will now be considered on the House floor.

AIF supports efforts to close this type of doc stamp loophole, but we do oppose any efforts to change the way certain types of properties are transferred by small business owners and families.

Health Care

Today, the Senate Policy and Steering Committee on Ways and Means unanimously approved SB 556 Relating to Medicaid Program/Low-Income Pool Council by Senator Don Gaetz (R-Ft. Walton Beach). The bill aims 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.

The committee adopted a strike-all amendment that makes the bill identical to the House companion, HB 285 by Representative Jimmy Patronis (R-Panama City).

SB 556 will now be considered on the Senate floor.

AIF SUPPORTS legislation that eliminates the Low Income Pool (LIP) Council and place responsibility for recommendation and distribution of these funds in the hands of the Legislature and experts at the Agency for Health Care Administration (AHCA). The compromise language brings us one step closer to achieving this ultimate goal. We look forward to working with all interested parties and Senator Gaetz on this important business issue.

State Budget

Today, the House Full Appropriations Council on General Government and Health Care approved its half of the state's budget which includes health care funding. Representative Carl Domino (R-Juno Beach) stated that the Healthy Seniors budget has only minor cuts in programs for seniors. Representative Jimmy Patronis (R-Panama City) reported that the Medicaid budget is \$18.1 billion with \$3.5 billion coming from the state's general revenue fund. The Federal Stimulus money allowed the state to reduce its funding by 19.1 percent. There are no cuts in rates to hospitals as well as most Medicaid providers. Representative Kevin Ambler (R-Tampa) said that nursing homes have a 2.5 percent cut because of an increase in the Nursing Home Diversion Program. The council approved the budget along party lines.

In discussing the Budget Implementing bill, Representative Oscar Braynon (D-Miami Gardens) offered an amendment to strike language that extends the moratorium on nursing home staffing above the current 2.6 CNA hours for another year. He, as well as Representative Yolly Roberson (D-North Miami Beach), called for higher staffing and the funds to pay for it. Representative Ambler provided an extensive defense of the current 2.6 hour staffing, including the finding of a recently released report by the Agency for Health Care Administration (AHCA) as well as the current budget situation. **Representative**

Braynon withdrew the amendment and asked all members to continue to look into this issue. The council approved the budget implementing bill along near party lines.

The Senate budget was also presented in the Senate Policy and Steering Committee on Ways and Means. Senator Durell Peaden (R-Crestview) presented the Health and Human Services part of the budget and noted that it deals with life and death issues. This committee did not eliminate eligibility groups or optional services, but does propose to cut provider rates to hospitals, nursing homes, and HMO's. By doing this, **Senator Peaden** believes that it will help to provide better access to health care and social services.

Chairman JD Alexander (R-Winter Haven) noted that the Senate is taking advantage of approximately 3 billion in stimulus dollars that mostly pertains to the state's use of the FMAP dollars. The federal government will now contribute 67 percent to Medicaid, while the state's share will be 33 percent. There were many amendments filed to the budget, but the majority of them were withdrawn due to a fiscal impact. The budget passed along party lines.

Information Technology

Today, the Senate Policy and Steering Committee on Ways and Means unanimously approved SB 2694 Relating to State Financial Matters by Senator JD Alexander (R-Winter Haven). The measure aims to strengthen the Legislature's authority over agency contracts that affect the state's budget. The bill specifies that the Legislature must grant specific authority in General Appropriations Act before an agency may make transfers. It further provides that an agency may not enter into a contract, which obligates the state to pay liquidated damages resulting from a breach or early termination by the agency, unless the Legislature authorizes it; requires the state to pay interest to another party because the agency has an insufficient budget to pay the underlying obligation; and binds the state to make future-year payments to offset payments not made in the current year, unless the Legislature authorizes it.

Senator Alexander said the bill requires agencies to report to the Governor, Senate President and Speaker of the House 30 days before entering into a contract for more than \$5 million in any fiscal year as well as for other specific type contracts.

The committee adopted two amendments, offered by **Senator Alexander**, which narrow the prohibition on agencies entering into specific contracts, and exempt the State Board of Administration from the restrictions on contracts for leases in excess of \$500,000.

Frank Meiners, AIF's lead consultant on tax issues, testified how much the amendments improved the bill and expressed appreciation for **Senator Alexander's** willingness to work with our concerns. Meiners also stated that flexibility was needed in the contracts to receive federal stimulus money because the time frames will be very short.



SB 2694 will now be considered on the Senate floor.

AIF opposes this bill because it severely restricts the private sector from doing business with the state by having such punitive provisions on contracting. However, the amendments added did help to improve the bill.

The Senate Policy and Steering Committee on Ways and Means unanimously approved SB 2574 Relating to Information Technology by Senator Mike Haridopolos (R-Melbourne). The bill deletes an obsolete provision relating to the duties of the Legislative Budget Commission, revises certain duties of the

Agency for Enterprise Information Technology, and creates the Office of Information Security within said agency.

SB 2574 will now be considered on the Senate floor.

AIF supports this measure because it addresses some of our concerns with the Agency for Enterprise Information Technology and makes improvements regarding the AEIT duties and the State Data Centers.

Court Funding

Today, the Senate Policy and Steering Committee on Ways and Means unanimously approved SB 2108 Relating to State Court Funding by Senator Ken Pruitt (R-Port St. Lucie). This bill creates a better mechanism for funding of Florida's court system by placing more legislative oversight on the court fees and fines that are collected by the clerks of courts. This will provide more adequate funding directly to the court system, which will help ensure that cases are heard and decided quickly and more efficiently. The bill does not remove or terminate employees in the clerks of courts offices around the state as some had feared earlier in the committee process. This is a significant change in the state's court funding policy and process, and is the result of a lot of negotiation between the courts and clerks, as well as with the senators.

SB 2108 will now be considered on the Senate floor.

AIF strongly encourages the Florida Legislature to fund the court system adequately and swiftly at a level equivalent to the judiciary's status as the third equal branch of government. We would like thank Senator Pruitt for his leadership on this important policy matter.

Energy & Environment

Today, the House Full Appropriations Council on General Government and Health Care approved HB 5121 Relating to Environmental Protection by the House Natural Resources Appropriations Committee. In Section 3 of the bill, it specifies that a \$1.25 per ton solid waste disposal fee is charged to the landfill owner. This fee will more than likely be passed on to local residents and businesses. The measure aims to raise \$25 million by placing this fee on Class I landfills; Class III landfills; Construction & Demolition (C&D) Debris landfills; and land clearing facilities. But, with the construction business down, fewer items are going to the C&D sites. The committee staff used numbers from 2007 in conducting their studies, when the construction industry was not in the financial downturn it is facing today. Nationally, there has been a decline of 25 percent in C&D landfill business and Florida is facing an even higher decline than the national average. Overall disposal in landfills is done due to our economic times.

Many members questioned the nexus between the new solid waste disposal fee and the new funds going to General Revenue. Therefore, many committee members felt that this proposal represents a new tax and not a new fee.

In 2010, the Florida Department of Environmental Protection will present a plan to increase Florida's recycling goal to 75 percent by the year 2020. If we are working on a plan to increase recycling, then the amount of materials going to landfills will decrease. Therefore, the money being generated by the new tax will also decline, which provides little sense to implement it.

HB 5121 will now be considered on the House floor.

AIF is concerned about the potential costs associated with this new increase. The additional fee or tax will result in higher costs for businesses and residents across Florida.