



From February 6, 2009

This week was a very busy week in the Legislature. Not only were committees meeting to discuss their typical committee week agendas and hearing presentations on how the proposed stimulus bill would affect the state of Florida, but this was all happening with the House electing a new Speaker. On Monday night, the House Republican Caucus met in the House chambers to elect a new Republican leader in light of the resignation of Speaker Ray Sansom (R-Ft. Walton Beach). Speaker Pro Tempore Larry Cretul (R-Ocala) was named the new Speaker of the House. His election should be sealed on the first day of session, March 3rd, 2009.

In one of his first moves as new leader of the House of Representatives, Speaker Pro Tempore Cretul announced on Friday some changes in committee chairmanships and the creation of the new **Select Policy Council on Strategic and Economic Planning**, which will be chaired by Representative Dean Cannon (R-Winter Park). Representative Cannon's Council will be asked to take a long range view of our state's economy and identify policies Florida should pursue to help Florida recover quickly and thrive in the new economic realities of the next several years.

The new appointments announced today are:

- Chair, **Select Policy Council on Strategic and Economic Planning**, Representative Dean Cannon, R-Orlando
- Chair, Select Committee on Seminole Indian Compact Review, Representative Bill Galvano, R-Bradenton
- Vice Chair, **Select Committee on Seminole Indian Compact Review**, Representative Sandy Adams, R-Oviedo
- Chair, Finance and Tax Council, Representative Ellyn Bogdanoff, R-Fort Lauderdale
- Chair, Policy Council, **Representative Ray Sansom, R-Destin**

In addition, he intends to recommend that the House elect Representative Ron Reagan (R-Sarasota) as the Speaker pro tempore, when the House convenes for regular session in March. Further, he appointed Representative Sansom to serve on the Finance and Tax and Rules and Calendar Councils.

Workers Compensation

On Tuesday, February 3rd the Senate Banking and Insurance Committee received presentations on the current state of the Florida workers' compensation system, particularly focused on the attorney fee issue following the Florida Supreme Court's ruling in the Murray case.

Lori Lovgren of the National Council on Compensation Insurance (NCCI) explained the rate making process and how the NCCI anticipates the changes in attorney fee awards have impacted the system since 2003 as well as their anticipations for the system following the Murray decision. Ms. Lovgren also announced that NCCI will file for a rate increase of 6.4 percent effective April 1, 2009, based on **Commissioner McCarty's** ruling from last week, stating that such an increase would be approved. The

data provided by NCCI was questioned by some of the senators who seemed concerned about the facts of the *Murray* case yielding an hourly rate of \$8.11 for the claimant's attorney. However, their questions ignored that other case facts yield fees on the opposite end of the spectrum that are much higher and could be equally unreasonable. There was one slide that received significant comment from the senators. It demonstrated that claim costs are higher when attorneys are involved in cases. Prior to 2003, the claim cost was three to four times higher if an attorney was present. Post-2003, the claim cost is only about two times higher when attorneys are involved. Senator Jeremy Ring (R-Margate) questioned if this meant that attorney involvement yielded greater benefits or awards to injured workers. Senator Mike Fasano (R-New Port Richey); however, pointed out that the overall lower claim costs were directly attributable to the lower rates that businesses cannot afford to lose right now in this economy.

AIF was concerned when Senator Ronda Storms (R-Brandon) brought up the subject of horizontal immunity and questioned why that was not included in NCCI's presentation. The 2003 law granted provides horizontal immunity between subcontractors working on the same project or contract work provided the subcontractor has secured workers' compensation coverage and that the subcontractor's own gross negligence was not the major contributing cause of the injury. This means that employees of subcontractors working on the same job site, but not for the same subcontractor, will not be able to sue both in tort and in workers compensation for their injuries. The workers compensation system would be the exclusive remedy to the employee of a subcontractor. Because that is not a direct workers' compensation system component, NCCI does not analyze that system specifically. However, Senator Storms requested that additional information on the issue be brought to the committee by someone at a later date.

Jim Watford, chief actuary for the Florida Office of Insurance Regulation, also testified today. he essentially stated that the rate filing that NCCI has now made to implement the 6.4 percent rate increase as of April 1, 2009 is only the first step of many increases they predict will come if attorney fees are not regulated sooner. Mr. Watford also commented that most attorneys litigate cases that are worth less than \$20,000. This is the exact opposite message that the trial bar attempts to convey. They argue that the small dollar cases are the ones that do not get legal representation. However, Mr. Watford stated that the data does not support that claim.

Chief Judge Dave Langham, Office of Judges of Compensation Claims (OJCC), also appeared. OJCC data also demonstrates that the proportion of attorney involvement since the 2003 reforms has not decreased, leaving one to further speculate how the trial bar's allegation of fewer attorneys taking workers' compensation cases can have the validity and traction it has with some legislators.

Obviously, the committee meeting identified some challenging questions that we must answer in our efforts to develop and carry out a plan to legislatively fix the *Murray* decision.

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

Economic Development

The Senate Commerce Committee met on Tuesday, February 3rd to hear a presentation on the committee's interim project relating to a review of the Office of Tourism, Trade and Economic Development's (OTTED) oversight of the Innovation Incentive Grant Program. The Innovation Incentive Grant Program is a three-year old grant program that represents a state commitment of \$450 million.

Senate Staff briefly overviewed the eight Innovation Incentive Grant recipients:

The Scripps Research Institute (\$310 million), Burnham Institute for Medical Research (\$155 million), Draper Laboratories (\$15 million), Max Planck Institute (\$94 million), SRI International (\$20 million), Torrey Pines Institute for Molecular Studies (\$25 million), University of Miami's Institute for Human Genomics (\$80 million), and Oregon Health and Science University's Vaccine and Gene Therapy Institute (\$60 million).

The committee adopted the following recommendations that will be reflected in a Senate Commerce Proposed Committee Bill (PCB) for the 2009 regular legislative session:

- Reporting requirements to include an annual report from OTTED on the progress of the recipients. These reports would have identical reporting periods for each grant recipient and would have a new standardized report format. Concurrently, the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Auditor General would review financial and operational reports to evaluate achievement of the performance measures and validation of compliance measurements required under each contract.
- The creation of a single oversight board for all eight grant recipients.
- Reinvestment requirements for grant recipients to reinvest a percentage of certain profits earned by patented, commercialized discoveries back in to a state economic development trust fund to fund future research opportunities.
- A deletion of the requirement for grant recipients to pay an annual wage that is at least 130 percent higher than the local average wage. The new recommendation would simply be a wage equal to the local average wage.

On Tuesday, February 3rd the House Transportation and Economic Development Appropriations Committee met and received a comprehensive overview from staff of the various budgets that the committee will oversee in the 2009 session. Those budgets include Florida Department of Transportation, Office of Tourism, Trade and Economic Development, Florida Housing Finance Corporation, the Florida Department of State, and the Department of Community Affairs.

Committee Chairman Rich Glorioso (R-Plant City) directed staff to explain to the members both the budget allocations and budget reductions resulting from the recent special session. Members discussed the various changes to the budget; the different programs affected by the budget reductions, and asked the staff to explain portions of the respective budgets. Chairman Glorioso encouraged each member to study the budget thoroughly and be prepared to discuss in greater detail at the next committee meeting.

On Wednesday, February 4th the House Economic Development Policy Committee met in Morris Hall and listened to individuals testify on issues related to business regulation and economic development. **Amy Evancho** from the state's Economic Development Council presented the committee with several proposals that would reduce inhibitive regulatory requirements of businesses as well as suggested ways to expand existing economic development drivers, like Enterprise Zones.

Members of the Committee expressed frustration over regulatory burdens, and Representative Mike Horner (R-Kissimmee) spoke of reducing the state permitting process, or expediting permitting for targeted businesses. This idea is encompassed in HB 73 Relating to Expedited Permitting Process for Economic Development Projects by Representative Rob Schenck (R-Springhill), which is a high priority for AIF.

Additionally, former state representative **Frank Atkisson** gave a presentation on the newly created Small Business Regulatory Advisory Council where he serves as Chairman. This Council was created in 2008 for

the purpose of coordinating communications with small businesses and state government on issues that adversely affect small businesses across the state.

Small businesses make up the vast majority of business interest in the state and the council's mission is to provide feedback and insight to policy makers on issues affecting their bottom line. AIF is proud that **Chief Lobbyist Keyna Cory** serves as Vice Chair of the Council.

Education

This week, the education policy and appropriation committees met to begin their work for the upcoming 2009 session. On Thursday, February 5th, the House Prek-12 Appropriations Committee heard staff presentations on the Florida Education Finance Program and Chair Anitere Flores (R-Miami) announced that the House will be conducting a "mission critical" exercise during committee meetings next week. Chair Flores mentioned that during the meetings next week, the committee would be taking a hard look at earmarks due to the continued revenue shortfalls as well as forthcoming additional budget reductions that are expected.

On Wednesday, February 4th the House Pre K–12 Policy Committee heard a presentation from K-12 Chancellor, **Frances Haithcock**, on the implementation of Senate Bill 1908 from 2008. This bill contained AIF priority language raising curriculum standards as well as adding end of course exams to the accountability system in Florida. The Chancellor's presentation also included a call for additional work on college and career readiness issues in Florida which aligns with the **2009 AIF Session Priorities** for education.

The following bullets from the Chancellor's presentation provide the best summary for why there is more work to be done in Florida in terms of raising standards for high school graduation:

- **Too Many Students Graduate from High School Unprepared for College and Work**
- 30% of first year students in postsecondary education are required to take remedial courses (cost: \$130 million per year).
- 40% - 45% of recent high school graduates report significant gaps in their skills, both in college and the workplace.
- Faculty estimate 42% unprepared of first year students in credit-bearing courses.
- Employers estimate 45% lack skills.
- ACT estimates only half of college-bound students are ready for college-level reading.
- *Quality Counts* rates college readiness low.

- **An Expectations Gap: We don't expect high school graduates to be prepared**
- Academic standards were not aligned with postsecondary success.
- Graduation requirements too low.
- Assessments not meaningfully connected with students' college or career aspirations.
- Florida High Schools are held accountable for student performance on 10th grade FCAT, not postsecondary success.
- **RESULT:** Students can earn a high school diploma without the skills necessary for success in college and high-skills, high-wage work.

AIF supports raising the standards for high school graduation to match college and career readiness, with particular focus on the standards for math and science.

Energy

On Tuesday, February 3rd the Senate Communications, Energy, and Public Utilities met to continue what Chairman Jim King (R-Jacksonville) refers to as the education of committee members. The committee heard presentations from **Tim Devlin** of the Public Service Commission, and from **Terry Deason**, representing the four Investor Owned Utilities (IOU's), on electric utility cost recovery. The presentations and discussion primarily centered on how the return on equity (ROE) is determined.

The committee then heard from the Public Service Commission as well as representatives of Florida Power & Light on securitization for hurricane cost recovery. Florida Power & Light showed how they were able to secure bonding for hurricane cost recovery after the devastating storms of 2004 and 2005, at significantly reduced borrowing costs, when compared to other States. These reduced rates, which lowers the ultimate cost to the ratepayers, was applauded by the committee members.

Chairman King announced that he would continue this educational process for the committee in subsequent meetings by bringing in various interested parties to talk about pertinent topics.

Health Care

As committee meetings began this week, one item that is apparent is a lack of legislative objectives for this Legislature that is not budget driven. The budget overshadows all decisions. Bills with a fiscal impact do not look viable. The Legislature is focused on budget cutting, scaling back regulations to assist business in this economic downturn and to some revenue options. This overall philosophy also transcends into healthcare policy. Budget discussion is interwoven into any and all healthcare policy discussions.

On Wednesday, February 4th the Health and Family Services Policy Council, chaired by Representative Ed Homan (R-Temple Terrace) met. Over half of the members of this committee, including the chair, have a health care background in some way and will be able to contribute to the agenda of the committee. **Representative Homan** noted that obesity is a growing epidemic and that we need to work hard to help combat it, especially with our younger generations. He also said that he would like the state of Florida to follow suit of other states and have the caloric intake reported on a menu so that you know what you are eating and will be able to make a more informed decision.

Dyke Snipes, Deputy Secretary for Medicaid for the Agency for Health Care Administration, presented a basic Medicaid introduction. Since Medicaid is such a big budget issue in the state and is complex, he just gave a brief overview on the structure of the system. He noted that there are approximately 2.3 million people on Medicaid every month. Medicaid serves the most vulnerable in Florida and does not cover all low-income individuals. The Medicaid program in Florida varies from every other state, being that no two states are alike with their Medicaid programs. The estimated spending for 2008-2009 is \$15.7 billion, which makes Florida the 5th largest nationwide in Medicaid expenditures and 4th largest Medicaid population in the nation.

On Thursday, February 5th the Senate Health and Human Services Appropriations Committee, Chaired by Senator Durell Peaden (R-Crestview), heard presentations on the expected benefit of the President's stimulus plan to the state from both the U.S. House and Senate versions. Both proposals will increase the Federal Medical Assistance Percentage (FMAP); and therefore, allow the state to contribute less to the Medicaid program due to a bigger share by the federal government. This increase will be for a 3-year period.

Most of the health care committee meetings had the same agenda and heard the same presentations

throughout the week. The legislators are definitely looking forward to seeing Florida receive their share of the stimulus package and helping to relieve some of the horrible economic failures that our families are dealing with.

Insurance

On Tuesday, February 3rd State Farm officials told the House Insurance, Business, and Financial Affairs Policy Committee that the company has filed for the states approval and plans to discontinue its Florida property insurance product lines. The Company cited its substantially weakened financial position, directly related to its inability to obtain regulatory approval of what it believes to be adequate property insurance rates. The officials said that if State Farm Florida were to continue to operate under current conditions, even without a hurricane striking Florida, State Farm Florida is projected to be insolvent in 2011. State Farm's plan includes discontinuing insurance coverage for homeowners, renters, condominium unit owners, personal liability, boats, personal articles, and business property and liability policies.

Jack Nicholson, Florida Hurricane Catastrophe Fund Chief Operating Officer, told the committee that the collapse of the financial markets has created a potential \$18.4 billion potential shortfall in the fund, and will meet its maximum \$29 billion obligations if a major hurricane strikes Florida in 2009. This short fall has significant solvency implications for Florida property insurers and the state's insurance company, Citizens, which depends on the fund for reinsurance.

Senate Select Committee on Florida's Economy

On Thursday, February 5th the Senate's Select Committee on Florida's Economy, a special committee created by Senate President Jeff Atwater (R-Palm Beach), met for the purposes of hearing legislative proposals and presentations from committee members, experts, and the public on ways that the Legislature can remove inhibiting regulations that stymie economic growth and impede businesses. The committee has been charged by **President Atwater** to make recommendations to the Senate by the first week of session on such policies.

On Tuesday, February 3rd the committee heard a presentation from **Dr. Rick Harper**, from the Haas Center on Florida's tax structure, on collections and trends. Dr. Harper surmised that Florida's reliance on a sales tax has cause state's tax revenues to decrease in large part due to two demographic features. First, the average income of the citizenry is down due to the economic downturn, and thus, spending is down. Second, is the fact that Florida's population is aging with many entering retirement. Statistics show that retirees do not spend as much money on the whole, thus sales taxes are down. Additionally, Dr. Haas showed the committee research that illustrated Florida's position as one of the lowest states in the country for per pupil funding and that the link between education and economic prosperity is irrefutable.

The committee also considered a proposed committee bill (PCB) that will likely be run by the Senate Committee on Community Affairs, chaired by Senator Michael Bennett (R-Bradenton). The probability of this happening is due to the contents of the bill and what **Senator Bennett** will add to it. It is projected that at the first true hearing in two weeks, the bill will likely do away with Developments of Regional Impact (DRI's) and possibly even transportation concurrency.

Concurrency has always been the method of requiring infrastructure before development can proceed. It would be replaced by a transportation pricing formula which would not recognize backlog, in essence, making "pay and go" the standard in growth management. This concept was supported by development interests and even the Florida League of Cities. On the other hand, it was also met with some reservation by a few counties as well as environmental groups.

The Department of Community Affairs is on board with the DRI portion of the bill, but has advocated for limited concurrency elimination. They wish for it to be confined to urban areas only. This bill is styled as an economic stimulus package. There is also a growth management bill planned for the upcoming session by the Senate Committee on Community Affairs. This "stimulus bill" is supposed to be "clean and fast", likely passing early and avoiding veto issues.

Lastly, committee members heard from trio of experts on the ability of Florida to transition our economy to a more technologically based work force. The presentation linked increased tax revenues directly and succinctly with world class research facilities and jobs. Along with North Carolina, Florida is one of the leading states in the country that has the ability to transition our workforce focus to creating more high-wage, technologically based jobs. Senator Ken Pruitt (R-Port St. Lucie) spoke at length to the presenters and committee members about the need to create high impact policy decisions that would work towards creating these types of jobs for the future of Florida. **Senator Pruitt** suggested that while Florida has relied on tourism, agriculture and growth for economic viability it must diversify and evolve for the sake of future generations.

The presenters cited several bills, including HB 577 Relating to Tax Credits for Research and Development by Representative Scott Plakon (R-Longwood) and its Senate companion SB 768 by Senator Steve Oelrich (R-Gainesville), as well as SB 634 Relating to Research Commercialization Matching Grant Program by Senator Don Gaetz (R-Fort Walton Beach). These bills are a high priority of AIF as measures that would work towards moving Florida in the right direction.

Transportation

Chaired by newly elected Senator Andy Gardiner (R-Ocoee), the Senate Transportation Committee met Tuesday, February 3rd to consider two pieces of policy that will result in legislation being filed by the committee.

The first concept, which garnered most of the attention, would create the Freight Infrastructure Resource Steering Council (FIRST), a group that would make recommendations to the Florida Department of Transportation (FDOT), on issues and happenings across the state that may affect the Department's prioritization of the strategic intermodal systems. Currently the FDOT operates the state's Strategic Intermodal System (SIS) and is to receive recommendations from the Statewide Intermodal Transportation Advisory Council (SITAC). However, the SITAC is inactive at this time. The legislation would abolish the SITAC, and in turn, create FIRST in its place.

Several members of the committee asked questions of the proposed legislation. Senator Paula Dockery (R-Lakeland), being the most vocal, suggested she wanted more legislative oversight of FDOT project selections. Other committee members, including **Chairman Gardiner** and former Transportation Committee Chairman Carey Baker (R- Eustis) expressed dismay at the notion and suggested on their own that FDOT should be generally overseen by the Legislature but not on specific decisions, actions and normal operating actions of the Department. The committee decided to move forward with the legislation.

The second issue taken up by the committee would see the Legislature reenact a public records exemption for personal and sensitive information that the Department of Highway Safety and Motor Vehicles collects on individuals when applying for various licenses, etc. Florida has a broad public records law that seeks to provide citizens access to records, documents and other information collected by state government. This exemption from that law would protect citizens from government giving out personal and sensitive information under the guise of a public records request.

The Senate Transportation and Economic Development Appropriations Committee met on Thursday, February 5th and heard from the Florida Department of Transportation (FDOT) on the agency's five-year work program and a budget overview for the fiscal year. FDOT Secretary, Stephanie Kopelousos, also discussed ways that the state would utilize any federal stimulus dollars that may come to Florida as a result of the Congressional actions on an economic stimulus package. Many transportation and infrastructure projects take years of planning before ground can be broken on the project. However, FDOT has identified dozens that are "shovel-ready"- meaning ground can be broken with 60-90 days of receiving the funds. Additionally, the Secretary suggested that it looks like Florida will receive approximately \$1.4 billion for these types of projects.

Also, the Agency for Workforce Innovation gave a brief presentation on the proposed 2009-2010 School Readiness Allocation. Committee Chairman Senator Mike Fasano (R-New Port Ritzchey) told committee members and the audience to brace for further cuts in the next fiscal year and that the committee would be seeking any areas where budgets can be trimmed.

Sunset Review Process

The Joint Legislative Sunset Committee met On Monday, February 2nd for the first time this year. The joint committee oversees the agency review process and makes recommendations to the Legislature as to the abolition, continuation or reorganization of state agencies subject to sunset review. Thanks to legislation passed in 2006, the Legislature is now required to review each state agency and its advisory committees. The review process is to be used to determine if a public need exists for the continuation of a state agency, agency's advisory committees or individual agency's programs. There are 10 members on the Joint Committee – five members from the Senate appointed by the President of the Senate and five members from the House appointed by the Speaker.

The Joint Committee is currently reviewing the Department of Community Affairs (DCA). DCA is the state's land planning and community development agency. The department seeks to ensure that new growth complies with the state's growth management laws, assists in establishing communities and revitalizing older neighborhoods, as well as plans for and responds to both natural and man-made disasters. DCA is divided into three divisions: Division of Community Planning; Division of Housing and Community Development and the Division of Emergency Management.

A presentation by **Darwin Gamble**, Senior Legislative Analyst for Office of Program Policy, Analysis and Government Accountability (OPPAGA), outlined DCA and the agency's organization; agency resources (how much funding its receives, how did they get the funds and how many full time employees) and the advisory committees.

The Advisory Committees within DCA include the Florida Building Commission; the Florida Communities Trust Governing Board, and the Century Commission for a Sustainable Florida. After reviewing the advisory committees, OPPAGA recommended to continue the Florida Building Commission and the Florida Communities Trust Governing Board. OPPAGA did not make a recommendation regarding the Century Commission for a Sustainable Florida.

Senator Eleanor Sobel (D-Hallandale Beach) told the joint committee about the comments made during the Senate's Select Committee on Florida's Economy hearing around the state. She said that they are hearing from the public about duplicative permitting and complaints of the permitting process taking too long to complete. **Senator Sobel** questioned why this is happening. The joint committee will be reviewing some of these issues during their process.