



DAILY BRIEF

From March 23, 2010

Tuesday began with both the House and Senate in session. The Senate considered a number of education priorities including proposals like SB 4 Relating to Education Accountability by Senator Nancy Deter (R-Sarasota) and SB 2 Relating to Class Size by Senator Don Gaetz (R-Destin). Both of these bills are AIF priorities as they will ensure students in Florida will be prepared to compete in the global economy. The Senate also unveiled an omnibus water bill sponsored by Senator Lee Constantine (R-Altamonte Springs) that is sure to garner lots of attention from the business community.

In the area of legal reform, it was announced at the end of today's Senate session that two AIF priority bills were withdrawn from their final committee of reference meaning that they are ready to be considered on the floor of the Senate. SB 1224 by Senator Andy Gardiner (R-Orlando) is the Senate's version of the "slip and fall" legislation and SB 712 by Senator John Thrasher (R-Jacksonville) is the Senate's version of the Transparency in Private Attorney Contracting bill. A deal is said to have been reached between the two presiding officers that four legal reform bills will be passed this session. These include the two aforementioned bills as well as legislation dealing with the kid-waiver issue and a proposal dealing with sovereign immunity for local governments.

Information Technology

Today, the Government Oversight and Accountability Committee passed SB 1706 Relating to State Financial Matters by Senator JD Alexander (R- Lake Wales).

This bill enhances the authority of the Legislature over agency contracting that affects the state budget. It prohibits agencies from entering into a contract that:

- Requires the state to pay liquidated damages or early termination fees;
- Requires the state to pay interest if the agency has insufficient budget to pay; and
- Binds the state to make future-year payments to offset payments not made in a prior year,

SB 1706 would also require the legislature to approve any lease or lease purchase agreement of \$500,000 or more. It requires the agency heads to sign contracts in excess of \$25,000. In general, this bill gives the legislature the authority to oversee most agencies' contracting to protect the budgetary process.

While presenting the bill, Senator Alexander explained that after the Governor vetoed the bill last session, he met with several parties over the summer, including Associated Industries of Florida (AIF). Even though the bill is the same this session, Senator Alexander has expressed willingness to make some accommodations. Senator Eleanor Sobel (D-Hollywood) questioned the Governor's veto, asking why the Governor would reject this legislation if it was advantageous. In his response, Senator Alexander clarified that there were some specific issues and reiterated his willingness to make some concessions.



**Barney
Bishop**

Mr. Barney Bishop, AIF's President & CEO, testified in opposition to the bill. He was respectful of the Ways and Means Chair by explaining that AIF's opposition was more about the logistics of implementing the provisions of the bill rather than the concept. Mr. Bishop listed the following issues that AIF has with the bill:

- **Liquidated damages and early termination fees** - It is a concern of AIF that this policy would cause costs to rise due to the instability that this would create for businesses that contract with the State.
- **Prohibition of contracts that would "bind the state to make future year payment"** - This section of the bill would prohibit multi-year contracts with vendors. This without a doubt will raise the cost of maintenance agreements as well as other goods and services that are discounted due to multi-year agreements.
- **Lease purchase agreements** - This section of the bill would virtually eliminate lease purchase agreements. Lease agreements allow the state to maintain a proper refresh cycle on technical equipment and keep us with software upgrades/advances.
- **Requirement that a specific appropriation be cited in a contract** - Many agencies enter into contract agreements using existing funding or base budget funding. This requirement would eliminate an agency's ability to enter into a contract without specific legislative authority.
- **Written acceptance or rejection of contract deliverables** - This provision of the bill could inadvertently extend project timelines which could lead to increased contracting costs for the State. Currently, if an agency does not sign off on a deliverable within a certain timeframe, the deliverable is deemed acceptable.
- **Increased burden on Agency heads** - The need for agency heads to have oversight on all IT Contracts (contracts over \$25,000) will also slow down the business of the state; and in times of a mission critical system outage, this requirement may cause irreparable damage in a life and death situation.
- **Data Center System Consolidation** - AIF truly wants the Data Center System Consolidation to be successful and prove large technology projects can be managed and implemented by the state; however each major tenet of this bill limits the ability to deliver on the intent and strategy of this method. Success depends largely on thoughtful pre-planning, proper funding, and strong executive leadership.
- **Zero Dollar Contracts with the IT Community** - Putting in the upfront money to share in the risk are good for the state during this time of depleted cash reserves. Some of the State's strongest IT partners are willing to wait for profits in the years to come, but the state cannot leave them holding all the debt and terminating the agreement without a payback for the costs incurred.

Chairman Jeremy Ring (D-Margate) asked Senator Alexander how the bill would be implemented if it were to become law. In his answer, Senator Alexander cited several examples of bad contracts and how the bill would stop them.

There was no debate on the bill; however, Chairman Ring did say he would vote for the bill despite having some concerns with some of the provisions included in the legislation.

SB 1706 will now progress to the Senate Policy and Steering Committee on Ways and Means, its last committee stop before the Senate floor.

AIF's IT Council was one of the most vocal OPPONENTS of this legislation during the 2009 session. AIF continues to be OPPOSED because this bill will place an inordinate amount of restrictions on businesses contracting with the state. AIF will continue to monitor this legislation closely in order to protect businesses that contract with the state.

Seaports

This afternoon, the Senate Committee on Environmental Preservation and Conservation Committee unanimously passed SB 2000 Relating to Florida Seaports by Senator Jeremy Ring (D-Margate). Senator Ring explained that this bill will enhance the positioning of our state's seaports as global economic drivers of the future – particularly in light of the upcoming expansion of the Panama Canal and the resulting increased international trade activity in the ports. SB 2000 has passed unanimously each time it has been heard.

The bill is now scheduled to be considered by the Senate Committee on Community Affairs.

The House companion measure, sponsored by Representative Lake Ray (R-Jacksonville), is scheduled to be presented before the House Economic Development Policy Committee on Thursday, March 25th at 9:00 am.

AIF salutes Senator Ring for passing this bill through its second committee of reference and applauds his vision for recognizing the need to enhance Florida's seaports for a more prosperous future.

Transportation

The House Full Appropriations Council on Education & Economic Development met today for a marathon meeting lasting over 6 hours to discuss and debate the House's version of the budget. Among the conforming bills debated and passed today was HB 5503 Relating to Transportation Revenue by the Transportation and Economic Development Appropriations Committee. This budget conforming bill includes a raid of the state's Transportation Trust Fund of over \$430 million dollars. Representatives from the business community were in attendance to once again speak in opposition to this trust fund sweep. **Jose Gonzalez, VP of Governmental Affairs for AIF**, explained that while the focus of this session has been on job creation – this proposed raid would do just the opposite. Spending on transportation projects is one of the most proven ways to create jobs immediately.



**Jose
Gonzalez**

During debate, Chairman Richard Glorioso (R-Plant City) and Representative Will Weatherford (R-Wesley Chapel) both explained that they were reluctant to vote for this cut to transportation but that there was still time in the budget negotiation process for legislators to come to an agreement.

AIF OPPOSES the use of transportation trust fund dollars on anything other than transportation projects. This proposed million-dollar sweep of the transportation trust fund will costs the state thousands of jobs and will endanger countless road projects.

Environment

The Senate Environmental Preservation & Conservation Committee approved SB 550 Relating to Land Conservation by Senator Lee Constantine (R-Altamonte Spring) today. Called the “Mega Water bill” by one legislator, this comprehensive bill deals with multiple water issues. **Keyna Cory, Senior Lobbyist for AIF** testified on the bill. Cory pointed out there are several sections of the bill that are important to AIF members, such as the reorganization of 373, F.S. and creating a new Part VII. Consolidating all water supply-related sections currently spread throughout Chapter 373 into a new Part VII makes sense. Funding for alternative water supply projects through the State Board of Administrations is an interesting concept, but according to Ms. Cory, more information on how the process will work is needed. Expanding the definitions of alternative water supply to include conservation project is also supported by AIF.



**Keyna
Cory**

However, Mrs. Cory pointed out a problem with the section of the bill dealing with the repeal of legislation passed last session that transferred the delegation of approving certain permits to the executive director instead of the water management district board. She pointed out that Senator Don Gaetz’s (R-Destin) “Jobs for Florida” bill (SB 1752) contains language requiring permits to be approved in 30 days. That would be impossible if the delegation of authority was removed from the executive director. Businesses have seen delays in their permits due to scheduling problems with the water management districts agendas.

Ms. Cory stressed that AIF supports springs protection. Florida has 18 state parks with springs with an economic impact of \$128 million. Therefore, they must be protected. Senator Constantine has proposed a creative way of protecting springs from nutrients. He has proposed creating “Responsible Management Entities” (RME) that would act as public-private partnerships to work on the operation and maintenance of septic tanks in springshed areas. It is similar to an insurance policy for septic tank owners, where homeowners would pay a monthly fee and the fee would cover pumping; maintenance, and replacement. Ms. Cory said the concept was very interesting to AIF members but that the “devil is in the details” as some of our members are concerned with a RME being another layer of bureaucracy. Senator Constantine vowed that he would make sure his legislation would set guidelines to address the concerns of our members.

SB 550 will now be considered by the Senate Community Affairs Committee.

AIF supports legislation that protects Florida’s water resources. However, we want to make sure unreasonable regulations do not unfairly target or place undue burdens on citizens and businesses.