



DAILY BRIEF

From April 14, 2010

Wednesday was a big day for the business community as Governor Charlie Crist signed two important pieces of tort reform legislation. AIF had the honor of participating in a bill signing ceremony for HB 437 by Representative Eric Eisnaugle (R-Orlando). Known as the Transparency in Private Attorney Contracting or "TPAC" bill, it ensures a competitive procurement process when contracting with outside attorneys and requires contract information, including payment of contingency fees, be posted on the Attorney General's Web site for public review. This legislation also sets a maximum contingency fee of \$50 million for private attorneys contracting with the Attorney General.

Later in the day, the Governor also signed HB 689 Relating to Premises Liability by Representative Gary Aubuchon (R-Cape Coral). This AIF-supported bill clarifies that a plaintiff bears the burden of proving that a business owner had constructive or actual knowledge of a hazardous condition on its premises when the plaintiff sues for damages from a slip and fall injury. This bill was desperately needed following a 2001 Florida Supreme Court decision that opened the floodgates of "slip and fall" litigation throughout the state, rendering the summary judgment mechanism meaningless since the Court placed the burden of disproving an injury allegation on the business owner. Since the plaintiff initiates the lawsuit, it is reasonable for the plaintiff to bear the burden of proving their case. This bill restores that important requirement.

Both chambers will be in session tomorrow. The Senate is expected to ratify the Seminole Indian Compact, while the House will be taking legislation dealing with space and tax exemptions for aircraft manufacturing. In addition, the House is expected to debate and vote on a competing constitutional amendment to the existing Fair Districts Florida amendments, which seek to alter the way redistricting is done in Florida.

Taxation

Today, the House General Government Policy Council unanimously passed HB 163 Relating to Prepaid Wireless Service by Representative Joe Gibbons (D-Pembroke Park).

Representative Gibbons explained to members that the proposed committee substitute postpones the collection of the E911 fee on prepaid wireless until July 1, 2013 and increases the amount of E911 funds to 30% that counties may carry forward to the next year. A representative from Polk County testified in opposition to the bill, citing the need for the funds that prepaid wireless customers would bring to them. During its consideration, the bill was passed without any debate or question from members.

HB 163 has passed its final committee of reference and is now ready to be heard on the House floor. The Senate companion, SB 1202 by Senator Mike Bennett (R-Bradenton), has one more stop in the Senate General Government Appropriations Committee before heading to the floor.

AIF supports the bill which moves closer to determining the best and most efficient method for collecting E911 fees from prepaid wireless customers. These funds are necessary for maintaining public safety for citizens in the state of Florida.

Insurance

Today, the House General Government Policy Council passed HB 447 by Representative Bill Proctor (R-St. Augustine), a top priority for AIF this legislative session. Known as the “consumer choice” bill, HB 447 would provide homeowners with the option of purchasing their homeowners’ insurance from a private insurance company using rates higher than their approved rates in lieu of the state’s insurance company, Citizens. By encouraging private insurance companies and their private claims-paying capital to return or continue to do business in Florida, this bill will help to reduce the burden of “hidden hurricane taxes” on businesses insurance premiums to fund Citizens’ claims paying deficits.

The bill also contains other property insurance provisions designed to address claims fraud and abuse and other cost drivers leading to higher rates. AIF supports the bill which will help reinvigorate the property insurance market and help to keep policies out of Citizens; thus, reducing businesses’ exposure to hurricane taxes to pay Citizens’ claims paying deficits.

Last week, Governor Crist reiterated his intent to veto the bill, including any legislation which would raise property insurance rates. Notwithstanding the Governor’s concerns, the “consumer choice” bill was passed today by the House General Government Policy Council.

HB 447 is now ready to be considered on the floor of the House.

AIF SUPPORTS legislation which makes competition the primary determinant of insurance rates, including consumer choice for homeowners, flex rating for insurers and exemption from OIR prior approval of rates for certain commercial policies

Economic Development

Today, the House Finance & Tax Council, chaired by Representative Ellyn Bogdanoff (R-Ft. Lauderdale), took up HB 1509 Relating to Economic Developments by Representative Will Weatherford (R-Wesley Chapel). Branded as the “*Jobs Package*” in the House, several provisions were added today that caused a bit of controversy among Democratic members of the committee. The committee took up a strike-all amendment that added several new provisions to the bill that would extend permits to developers for another year and ask state government for an inventory of surplus properties. These changes compliment the already existing provisions of the bill that lower job requirements for qualifying business for existing state incentives, expands the Qualified Target Industry program for businesses in high-impact business sectors, and allows the Office of Tourism Trade and Economic Development (OTTED) to renegotiate contracts for Quick Action Closing funds for businesses unable to meet the original criteria due to market conditions.

Additionally, there were two other amendments adopted that called for objection by Democratic members. The first, by Representative Doug Holder (R-Sarasota), would create a policy for potential funding of a world class aquatic center in Cape Coral, Florida. Funding for this center could not take place until 2012 and only after specific appropriations are made to the aquatic center by the 2012 Legislature. Democrats attacked this amendment, characterizing it as a

community budget request, or a “turkey.” The second amendment, proposed by Chair Bogdanoff, would allow a two year extension for eligible gas stations to meet state requirements to replace their leaky underground gas tanks if the tanks had been purchased between 2008-2010. Chair Bogdanoff responded to various protests from Democrats that this extension was needed to save the closure of many stations across the state, thus potentially saving thousands of jobs. Both amendments passed amid objection from Democratic members.

HB 1509 will now be eligible for a floor vote pending its assignment to the House calendar. The Senate’s version of the multi-faceted “*Jobs Package*”, SB 1752 by Senator Don Gaetz (R-Niceville), has already passed the full Senate and is waiting to be heard in the House.

AIF SUPPORTS comprehensive efforts that will put Floridians back to work while proactively keeping business doors open. Additionally, providing needed assistance to the space industry will keep Florida at the peak of aerospace research and technology.

Environmental

Two very important pieces of recycling legislation to AIF this session saw action today in both the House and Senate. First, SB 570 by Senator Lee Constantine (R-Altamonte Springs) was passed unanimously in the Senate Community Affairs Committee. On the House side, the General Government Policy Council also approved their version of the recycling bill unanimously – **GGPC 02**. The proposed committee substitute amended the bill to be virtually identical to its Senate counterpart. Both bills now include the following provisions:

- Sets recycling goal at 75% of municipal solid waste by 2020
- Each state agency, K-12 public school, public institution of higher learning, community college, and state will annually report all recycled materials to the county using the department’s designated report format. Private businesses that recycle paper, metals, glass, plastics, textiles, rubber materials, and mulch, are encouraged to report to the county annually.
- Department of Management Services (DMS) shall modify its procurement system to report on green and recycled products purchased through the system by September 30, 2011
- Department of Environmental Protection (DEP) shall create the Recycling Business Assistance Center with the help of Enterprise Florida
- DEP will report to the legislature every two years on the state’s success in meeting the solid waste recycling reduction goal as defined
- Each county shall implement a recyclable materials recycling programs that shall have a goal of recycling recyclable solid waste by 40 percent by December 31, 2012, 50 percent by December 31, 2014, 60 percent by December 31, 2016, 70 percent by December 31, 2018 and 75 percent by December 31, 2020
- Emphasis that construction & demolition debris is in the state’s best interest and each county shall implement a program for recycling C&D
- In a manner that is in accordance with the applicable local government ordinance, property receiving a certificate of occupancy or the equivalent on or after January 2, 2011, that is used for multi-family residential purposes or for commercial purposes must provide adequate space and an adequate receptacle for recycling by tenant and owner of the property – *note we are still working on this section*
- If a county has not reached goals by specific time, the department may direct the county to develop a plan to expand recycling programs to existing commercial and multi-family dwellings, including, but not limited to, apartment complexes
- If the state’s recycling rate is not met within time lines, DEP shall provide a report to the legislature identifying those additional programs or statutory changes needed to achieve the goals provided in this subsection. If the state reaches the goal no report is necessary

- DEP shall adopt rules establishing the method and criteria to be used by a county in calculating the recycling rates pursuant to this subsection
- Deletes current law about composting and replaces it with language encouraging each county to consider plans for composting
- Beginning with the data for the 2012 calendar year, the department shall annually, by July 1, post on its website the recycling rates for each county for the prior calendar year
- DEP shall require liners and leachate collection systems at individual disposal units and lateral expansions of existing disposal units, that have not received a DEP permit authorizing construction or operation prior to July 1, 2010
- By January 1, 2012, the amount of C&D debris processed and recycled prior to disposal at a permitted materials recovery facility or at any other permitted disposal facility shall be reported by the county or origin to DEP and to the county on an annual basis in accordance with rules adopted by DEP
- Deletes the solid waste management grant program since it has not been funded for the past few years
- As a demonstration of leading by example, the Capitol Building's recycling rates shall be posted on the website of the Department of Management Services and details of the recycling rates for each agency. There will also be an innovative recycling pilot project for the Capitol recycling area
- Public airports shall to the greatest extent practicable, collect aluminum beverage cans and recyclable plastic and glass from the airlines and other entities doing business at the airport
- The Florida Building Commission shall develop recommendations that increase residential and commercial recycling and composting, and strongly encourages the use of recyclable materials and the recycling of C&D debris
- Repeals Recycling Markets Advisory Council – has not been used in years and is being replaced with new Recycling Business Assistance Center

AIF believes that Florida can increase its recycling rate, but the management of waste is much more than recycling. Additionally, AIF SUPPORTS the creation of the Recycling Business Assistance Center as it has the potential of creating jobs; however, we will continue to oppose mandates. We want to thank Senator Constantine for his work on this important bill.

Today, the House General Government Policy Council considered two memorials to Congress on its agenda today. HB 1365 by Representative Juan Zapata (R-Miami) and HB 1589 by Representative John Legg (R-Port Richey) were combined into one memorial to Congress urging them to require the US Environmental Protection Agency (EPA) to subject its proposed numeric nutrient criteria rule to peer review by the Agency's Science Advisory Board and receive the Board's peer review report prior to the rule's finalization. Such efforts will ensure that the numeric nutrient criteria development for the state of Florida are necessary to protect applicable designated uses, based on sound scientific rationale, reflective of the range of natural variability associated with the state's water bodies, responsive to input from Florida's water quality experts, responsive to available public and stakeholder input, and sufficient to be integrated with the water quality management tools available. The House Memorial urges Congress to require EPA to subject the proposed rule to review by the third party, such as the Congressional Budget Office (CBO) to assess the economic impact of the proposed rule on Florida and adjoining states, particularly those which impact local governments, small businesses, and Floridians living below the poverty level or fixed incomes. Furthermore, the memorial requests that such review compare the proposed rule to Florida and not assume only indirect impacts.

HB 1589, the bill will that substantively replace HB 1365, will now proceed to the House Rules & Calendar Council.

AIF commends Representatives Zapata & Legg for sponsoring this memorial to Congress. Presently, EPA is conducting public hearings on the new proposed numeric nutrient criteria. If enacted, the new EPA rules could cost businesses millions of dollars to implement water standards that are not necessary to all water bodies.

Ports

During this morning's meeting of the House General Government Policy Council, members passed HB 821 Relating to International Arbitration by Representative Perry Thurston (D-Ft. Lauderdale). This bill adopts the "International Arbitration Model Act" for arbitration involving international transactions. This measure will allow Florida companies that are engaged in international commerce to conduct their arbitrations in Florida on a more regular basis, thereby decreasing their costs while at the same time boosting Florida's reputation as an international leader in this field. HB 821 is a session priority that AIF's Florida Maritime Council (FMC) has followed very closely this legislative session.

HB 821 has passed its final committee of reference and is ready to be heard on the House floor. Its Senate companion, SB 1114 by Senator Dan Gelber (D-Miami Beach), is in the Senate Rules Committee awaiting consideration.

AIF and its Florida Maritime Council (FMC) SUPPORT this legislation because it will make Florida a more attractive location for international business. Businesses look for the familiar, and the acceptance of the Model Law in so many jurisdictions around the world could be a positive consideration in deciding where to locate international companies and conduct business transactions.

Transportation

Today, the House Finance & Tax Council took up a controversial and new piece of legislation intended to "think outside the box" in terms of financing infrastructure projects across Florida. HB 7213 by the Economic Development & Community Affairs Policy Council would create the Florida Infrastructure Fund Partnership - a private, for-profit, limited liability partnership designed to encourage capital investment into the state's need for infrastructure projects. In 2007, the Florida Legislature created the Florida Opportunity Fund initially instituted to support seed capital and early-stage venture capital. HB 7213 would set up a fund under the auspice of the Opportunity Fund that would serve as a catalyst for private investments in capital infrastructure opportunities. In setting establishing this fund, the state would commit up to \$350,000 to create the Partnership for startup and operating costs. The Fund is authorized to come up with \$350 million in funding through "commitment agreements" with investment partners approved by the Fund's board. With a focus on investment in strategic infrastructure needs, the projects include: water or wastewater systems, communication systems, power systems, transportation systems, renewable energy systems, and ancillary or support systems. Furthermore, the bill establishes a contingent tax credit program that is not to be used as profit, but to guarantee the principal investment to the private investors. Finally, if the Fund fails to achieve a minimum of \$75 million in investments by the end of 2011, then all agreements are void and investment amounts will be returned to the partners. Enterprise Florida testified in favor of the proposal suggesting that the state should utilize the flexibility of the Opportunity Fund to help stimulate infrastructure investments.

Democratic and Republican members alike raised questions about the proposal. A majority of the skeptics questioned if it was appropriate for the state to guarantee the private sector's investment by way of the eligible tax credits.

HB 7213 has a long way to go as there is no proposal in the Senate. Nonetheless, while Republican members vowed to support the bill in committee today, there were admissions on both sides of the aisle that there needed to be more clarity within some provisions of the bill before it receives a final vote on the floor.

HB 7213 has passed its final committee of reference and will proceed to the House calendar for consideration by all members.

AIF SUPPORTS legislation that promotes public-private partnerships and encourages capital investment in Florida. AIF will continue to monitor this legislation and its effort on funding for infrastructure and transportation projects.