



# WEEKLY BRIEF

From the Week of March 2 – 5, 2010

A busy first week of session has concluded. The start of the 2010 Legislative Session has differed greatly from last year's session primarily due to the number of bills that have been voted on during committee meetings. Bills did not begin moving until nearly the third week of last year's session. What remains the same is the grim outlook for the state's budget, which is currently showing a deficit of nearly \$3 billion. Legislators have begun conversations on what programs and services to cut; some of the projected cuts are indeed drastic.

We are happy to report; however, that the Legislature did come through on their promise to pass legislation providing employers relief from the projected unemployment compensation tax increase. HB 7033 by Representative Dave Murzin was passed on the first day of session and signed later that day by the Governor.

At the end of every week of session, AIF will bring you our popular "Weekly Report." This report takes all of our "Daily Brief" write-ups and synthesizes them in one easy-to-read format. IF you need additional coverage of legislation or an issue you can always refer back to that day's Daily Brief for more comprehensive analysis.

---

## Legal & Judicial

On Monday, March 1st the House Civil Justice & Courts Policy Committee approved HB 689 by Representative Gary Aubuchon (R-Cape Coral), which deals with premises liability. The proposed bill provides that if a person slips and falls in a business establishment, the injured person must prove the business had actual or constructive knowledge of the dangerous condition and should have taken action to remedy it.

Representative Aubuchon referred to this bill as the "Florida Competitive Business Act" and with the changes prescribed in the bill Florida would be like 35 other states with regards to premises liability.

The bill passed 11 to 2 with Representative Adam Fetterman (D-Port St. Lucie) and Representative Darren Soto (D-Orlando) voting against the bill. **Keyna Cory** waived in support of the bill on behalf of AIF along with several other business organizations.



Keyna Cory

HB 689 will now move to the Criminal & Civil Justice Policy Council for further consideration.

**AIF SUPPORTS legislation which protects business owners from costly and frivolous litigation. This legislation will require a plaintiff to show the business owner's actual knowledge of a hazardous situation before recovery is awarded.**

The Senate Judiciary Committee held a two-hour long work shop the morning of Thursday, March 4th on SB 744 Relating to Negligence/Products Liability Action by Senator Garrett Richter (R-Naples). This proposed legislation seeks to clarify the legislature's intent as it relates to apportionment of fault in crashworthiness cases. More specifically, it states that juries in these cases must consider the fault of all individuals and entities who contributed to the accident when apportioning fault among the parties and nonparties included on the verdict form. Due to the 2001 Florida Supreme Court *D'Amario v. Ford Motor Company* decision, juries are currently not presented all the evidence surrounding the details of automobile accidents when an auto manufacturer is sued in an action challenging a vehicle's crashworthiness. Florida is the only state that prohibits the introduction of any evidence relating to the driver's condition at the time of the crash.

To read the complete version of this report, please refer to Thursday's daily brief.

**AIF SUPPORTS efforts by the Florida Legislature to clearly express that a Florida Supreme Court-created standard regarding crashworthiness is absurd and unfair. We must send a message to the rest of the country that Florida is a fair state to do business. This can be achieved by clarifying the Legislature's intent that all information regarding a case must be made available to a jury.**

---

## **Unemployment Compensation**

On Tuesday, March 2nd the Florida Legislature unanimously passed HB 7033 which provides Florida employers with immediate relief from unprecedented unemployment compensation tax increases that they were facing this year. Then moments before his State of the State address, Governor Charlie Crist signed the bill into law.

Without this important legislation, most Florida employers would be forced to pay unemployment taxes at levels higher than 1200% over last year's amounts. Plus, the full payments would have been due at the end of the first quarter. Many Florida businesses simply could not pay these unexpected, exorbitant taxes without terminating more workers, cutting benefits or possibly closing their doors all together.

Specifically, HB 7033 makes the following key changes to the 2010 tax requirements:

- Reduces the amount of each employee's wages upon which the employer pays the UC tax – from \$8,500 back down to \$7,000 for 2010 and 2011.
- Establishes a quarterly payment plan for 2010 and 2011 that lets employers spread out their unemployment compensation payments over the whole year without normal application of penalties or interest.
- Eliminates all elements of the rate calculations in the current law that would otherwise increase the tax for purposes of replenishing the Unemployment Compensation Trust Fund balance for 2010 and 2011.
- Allows unemployed Floridians to receive additional extended unemployment benefits funded by the federal government.

**AIF would like to commend each and every member of the Florida Legislature for their vote. They have listened to the outcry of thousands of Florida businesses and have responded by passing this critical legislation. AIF applauds Senate President Jeff Atwater (R-North Palm Beach) and House Speaker Larry Cretul (R-Ocala) for their leadership and commitment in making this important bill the top priority of the session and ensuring its passage in such a timely manner.**

---

## Education

On Thursday, March 4th the Senate Policy and Steering Committee on Ways and Means considered SJR 2 Relating to Class Size Requirements for Public Schools by Senator Don Gaetz (R-Destin). This bill would place the Class Size mandate back on the ballot for voters to consider and allow a modification that would increase flexibility in implementing the requirement. The debate and subsequent vote were largely along party lines, with Democrats opposing the measure. The Florida Education Association also testified in opposition to the measure.

The proposed amendment would require the same class sizes that are required currently - 18 in K-3, 22 in grades 4-8, and 25 in 9-12 - to be measured at the *school* level (rather than at the *class* level which is required for next year). Additionally, the measure adds a "hard cap" so that the school averages have to be achieved within a hard limit of 21, 27, and 30 in individual classes. By maintaining the measurement at the school level, principals would have the flexibility to increase a class above the original limit by having another class below the original limit, thus being able to better balance and manage class scheduling and avoiding a significant disruption when an unplanned child enrolls - often referred to as the 19th child scenario.

**Keyna Cory, AIF's Senior Lobbyist**, testified in support of the resolution because it strikes the right balance of maintaining the spirit of the class size reduction mandate, but gives a workable solution to implementation issues.



Keyna Cory

SJR 2 passed its final committee stop in the Senate and is already placed on the calendar for second reading on the Senate Floor. The measure must still pass both chambers and then be approved by voters in November by a 60% margin.

**AIF SUPPORTS the measure because it does not go backward on class size achievements to date. Additionally, the proposed amendment supports ensures that Florida's children have access to rigorous or specialty courses such as AP, arts, etc. which we believe are essential to providing well rounded and prepared graduates.**

---

## Space

The House Committee on Economic Development opened its meeting on Wednesday, March 3rd by acknowledging that it was Space Day at the Capitol and subsequently considering HB 451 Relating to Space Florida by Representative Steve Crisafulli (R-Merritt Island). The bill's sponsor explained that the bill would revise the organization in a number of ways, most notably by reducing the number of Space Florida Board members from 19 to 15 and replacing some of the government representatives with industry representatives. This should result in a more nimble board, better able to respond to the needs of the aerospace industry and better prepare Florida to compete with other states and nations. The bill passed the committee unanimously.

HB 451 will now be considered by the House Transportation & Economic Development Appropriations Committee.

**AIF SUPPORTS legislation to reorganize the board structure of Space Florida – the state's aerospace development organization.**

Later in the day, the Senate Commerce Committee also received presentations linked to Space Day at the Capitol and considered related legislation.

**Space Florida President Frank DiBello** explained to the committee that Space-related commerce results in \$8 billion of investment activity per year in Florida, affecting all 67 counties. He expressed the desire for more flexibility in expending previously appropriated funds so that they could benefit Launch Complex 46, in addition to Launch Complex 36 and provide better infrastructure to service a more diverse aerospace program at Kennedy Space Center. He also discussed the effect that President Obama's proposed budget may have on Florida's Aerospace Industry. Mr. DiBello highlighted the fact that the President's budget continues down the path of ending the Shuttle program in 2010, extends International Space Station (ISS) operations to 2020, encourages private-sector support of the ISS, shifts NASA's mission to more of encouragement of technology advances rather than actual research and development and cancels the Constellation Project, but provides \$2.1 billion for upgrades to Kennedy Space Center.

**Lisa Rice, President of the Brevard County Economic Development Board**, discussed the problems with transitioning the workforce in her area to new jobs after the Shuttle program ends and pushed for full funding of Space Florida's requested budget. After Senator Evelyn Lynn (R-Daytona Beach) made the point that people are losing jobs all over the state and that help is needed comprehensively, Lisa Rice pointed out that the cost of unemployment benefits alone for the 9,000 direct jobs lost in the Space Industry would be \$64 million.

The committee unanimously passed SB 1776 Relating to Space & Aerospace Infrastructure by Senator Thad Altman (R-Melbourne). This bill provides Space Florida with the needed flexibility to spend approximately \$10 million of funds allocated in 2008 to make improvements at the existing launch complexes in Florida. This legislation is vitally critical to keep Florida as the leader in space and it will allow our state to leverage the existing infrastructure to lure commercial space projects to Florida. **AIF's Jose Gonzalez** testified in support of the bill stating that legislators must do everything in their power to keep our oldest high-tech industry in Florida especially since a number of states are actively doing everything in their power to lure the aerospace industry away from Florida.



**Jose  
Gonzalez**

SB 1776 will now move to be heard by the Senate Transportation and Economic Development Appropriations Committee. Its house companion HB 969 by Representative Steve Crisafulli (R-Merritt Island) passed the House Transportation and Economic Development Appropriations Committee unanimously on Thursday, March 4th and is slated to be heard in the House Full Appropriations Council on Education & Economic Development.

**AIF SUPPORTS giving Space Florida the flexibility to allocate any of the un-obligated Launch Complex (LC) 36 funds for any purpose determined to have the greatest benefit to the commercial space industry in Florida.**

---

## **Economic Development**

Representative Steve Precourt (R-Orlando) and Representative Kevin Ambler (R-Tampa) presented HB 697 Relating to Entertainment Industry on Wednesday, March 3rd in the House Economic Development Policy Committee. Known as the Film and Entertainment Tax Incentive Program, this legislation changes the existing \$10 million grant program for the recruitment and retaining of the state's Film industry to a broader \$75 million tax incentive program. This program is meant to reward Florida companies who create jobs and clusters around the Film, Entertainment and Digital Media industries. Previously a national leader in this industry, Florida now lags in the middle of the pack with 44 other states offering incentives in producing film and entertainment.

Supported by speakers from within the industry, the bill sponsors touted provisions of the bill which increases the program by \$65 million, stabilizes the program by enacting it for five years, and requiring that the businesses receiving this incentive and the jobs created by these efforts must be in the state of Florida. Recipients of these tax credits would also have the flexibility to sell their credits if they so choose. According to the sponsors, it is believed that the program would, at a minimum, create new spending in the state of at least \$375 million.

HB 697 will now move forward and be heard by the House Finance & Tax Council.

**AIF SUPPORTS passage of legislation creating a tax credit-based rebate incentive that is not subject to legislative appropriations.**

The Committee also work shopped the following pieces of legislation:

HB 607, the Tax Credits for Research and Development, by Representative Scott Plakon (R-Orlando). This legislation which has been proposed for the last several years, yet fallen peril to the budget crunch, would provide tax credits for businesses conducting Florida based research and development. The legislation would provide approximately \$15 million in tax credit incentives. The committee heard from bio medical research firms, life sciences, aerospace and other comparable industries that depend heavily on research. Throughout the testimony it was discovered that over 30 other states have this type of incentive program already in place. No vote was taken and it is expected that the committee will hear the legislation in the coming weeks.

Lastly, the Committee heard committee bill **EDP1**, a new piece of legislation designed to reenact the Qualified Targeted Industry Incentive (QTI). This incentive program is one of the most important incentive programs administered by the state's Office of Tourism Trade and Economic Development (OTTED). In conjunction with Enterprise Florida (EFI), OTTED distributes these incentives to a qualified list of industries prescribed in statute that create high wage jobs across the state. By using various wage computations, this incentive requires that jobs must provide above average wages in a given region and that they must be sustained for a period of time. The QTI, as most incentive programs, is scheduled to sunset in 2011. This legislation would extend that date to 2020. As reported on in previous weeks, the Senate Commerce Committee has a similar version of the legislation that seeks to extend the incentive program. While both versions ultimately extend the program, each also implements slightly unique changes. **AIF consultant Stephen Shiver** testified in support of this legislation.



**Stephen  
Shiver**

**AIF has made job creation and economic development its top priority for the 2010 session. We fully embrace these initiatives and will continue to ask the legislature to support these as well. Florida, more than ever, must pay particular attention to our economic development policies and in doing so nurture our existing businesses.**

---

## **Growth Management & Transportation**

The House Government Accountability Act Council met on Wednesday, March 3rd to work shop a series of proposed committee bills (PCBs) that would “sunset” or do away with the Florida Housing Finance Corporation (**PCB GAAC3**) and the Department of Community Affairs (**GAAC4**).

While the discussions regarding the Florida Housing Finance Corporation were short and non-controversial, the discussions surrounding the Department of Community Affairs (DCA) once again bogged down over criticisms of the Department of Emergency Management, and whether they should once again be placed directly under DCA. Currently, while housed in the same

building, the DEM reports to the Governor's Office, a move that took place under former Governor Jeb Bush. After much criticism of the DEM by Vice Chairman Kevin Ambler (R-Tampa), it was agreed that the issue would once again be discussed and hopefully voted on next week. The DCA sunset bill also re-enacts the agency, re-instates (after abolishing at a previous meeting) the Century Commission, and transfers the Small County Technical Assistance program from the Department of Agriculture to the DCA. A vote on the bill should be forthcoming next week.

On Thursday, March 4th the Senate Community Affairs Committee considered SB 1742 Relating to Growth Management by Senator Mike Bennett (R-Bradenton). As the first growth management bill to be heard in the Senate, it passed out unanimously with no debate or amendments - a rare and possibly bad sign for a growth management bill. This bill is NOT the major growth management legislation that Senator Bennett's committee will put forward.

This bill contains several provisions, including the following:

- Defines "transit oriented development" as a pedestrian, bicycle friendly community, or "green" development in short, and then exempting those developments from transportation impacts
- Requiring proportionate - share contributions that include trips from an earlier phase of development to credit mitigation done in the earlier phase and adjust for the time value of money
- Requiring the costs of mitigation for transportation impacts to be distributed to all affected jurisdictions;

Senator Bennett's SB 1742 will now proceed to the Senate Transportation Committee for further consideration.

**AIF believes legislators should address some of the shortcomings associated with 2009's SB 360 that removed many developments from state transportation concurrency, but not from local government ordinances requiring similar concurrency provisions.**

---

## Finance & Taxation

The Senate Finance & Tax Committee unanimously passed SB 1178 Relating to Cost and Benefit Analysis of Legislation by Senate President-elect, Mike Haridopolos (R-Melbourne) on Wednesday, March 3rd. Senator Haridopolos explained that the bill authorizes the President of the Senate or Speaker of the House to request special impact sessions of the Revenue Estimating Conference (REC) to consider the costs and benefits of proposed legislation. He indicated that there may be some changes recommended by technical staff to expand the tools available to the REC to dynamically score a bill.

Several members of the business community testified in support of the bill including **AIF's President and CEO Barney Bishop**. Mr. Bishop was enthusiastic about AIF's support, citing several examples of how it would help stimulate jobs and improve the economy. In particular, he referred to the airline manufacturing industry where there is a big difference in the tax on taking delivery of a plane manufactured in South Carolina vs. Florida. With dynamic scoring, the legislature may be able to lower the tax and actually increase the state's revenues by reducing the incentive to take delivery of a high-value product in another state.



Barney  
Bishop

SB 1178 will now move forward for consideration by the Senate Policy and Steering Committee on Ways and Means.

**AIF SUPPORTS legislation that provides for a cost-benefit analysis of economic development incentive policies. AIF has consistently advocated for providing legislation with analysis to demonstrate the potential positive impact these policies may have on the state budget.**

On Thursday, March 4th the Senate Communications, Energy, and Public Utilities Committee unanimously passed SB 1202 Relating to Prepaid Wireless Telecommunications Service by Senator Mike Bennett (R-Bradenton).

Senator Bennett explained that the bill does not create a new fee or tax. Instead, it defines a collection method for an existing fee to fund public safety and 911 services around the state. He said the fee was originally created on landlines; then added to wireless phones to create a unified, statewide E911 funding system. Prepaid is one of the newer technologies, but it is still a wireless phone and this bill creates the collection method of the fee to occur at the time when an actual transaction takes place. This methodology allows the proper county to receive the revenue.

The counties, Sheriff's Association, 911 Dispatchers and **Frank Meiners with Associated Industries of Florida** all supported the bill. Mr. Meiners testified that this bill is one of AIF's priority bills for the 2010 session because it will help maximize the recovery of E911 fees which are required to provide for public safety. He further explained that the bill is based on a model developed by industry and the National Council of State Legislators that has been enacted in Texas, Louisiana, Maine and Wisconsin, and is pending in 14 other states.



Frank Meiners

SB 1202 will now advance to the Senate Community Affairs Committee for further consideration.

**AIF supports legislation that will help maximize the recovery of E911 fees which support public safety in Florida.**

---

## Ports

On Wednesday, March 3rd the **Senate Transportation & Economic Development Appropriations Committee** heard a presentation by **Mary Alice Nye, PhD., the Chief Legislative Analyst for the Florida Legislature's Office of Program Policy Analysis & Government Accountability (OPPAGA)** on their report on Florida's Harbor Pilots. Last session there was proviso language added to the budget requiring OPPAGA to conduct this study. The scope of the study included four areas:

- How are harbor pilots regulated in Florida?
- How are harbor pilots rates established?
- What alternative regulatory and rate-setting systems for harbor piloting are used by other states and governments?
- What options could the Legislature consider for modifying harbor pilot regulation?

To view the full report on this meeting, please read Wednesday's edition of the daily brief.

**AIF believes the current harbor pilot scheme of regulation needs to be changed, including the method in which their rates are set. The high cost of harbor pilots is an unneeded cost of doing business in the state of Florida and ultimately drives up the cost of goods.**

The Senate Commerce Committee unanimously passed SB 1114 Relating to International Commercial Arbitration by Senator Dan Gelber (D-Miami Beach). This legislation known as the "Florida International Commercial Arbitration Act," enacts the Model International Commercial Arbitration Law drafted under the supervision of the United Nations Commission on International Trade Law ("UNCITRAL") and approved by the General Assembly of the United Nations, and repeal the Florida International Arbitration Act, presently codified as Chapter 684 of the Florida Statutes.

SB 1114 will now move to be considered by the Senate Judiciary Committee.

**AIF SUPPORTS 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.**

---

## **Affordable Housing**

HB 665 Relating to Affordable Housing by Representative Gary Aubuchon (R – Cape Coral) was unanimously passed by the House Military and Local Affairs Policy Committee on Wednesday, March 3rd. This bill contains several provisions that are important to AIF and the business community.

One key provision eliminates the cap on proceeds from the Sadowski Affordable Housing Trust Fund that get allocated to the Florida Housing Finance Corporation for use on affordable housing programs. AIF was present in support of this critical provision that promotes the use of affordable housing dollars for down payment assistance, thereby creating and preserving wealth for Florida's families, increasing consumer spending during the current economic crisis, and improving the sales tax revenue to the state.

The bill also contains provisions that create a one year moratorium on new construction allowing our economy to absorb and rehabilitate existing housing stock.

HB 665 will now be considered by the House Full Appropriations Council on Education & Economic Development.

**AIF SUPPORTS legislation that repeals the Housing Trust Fund cap and appropriates all doc stamp revenue toward affordable housing. Florida needs appropriate housing for our essential workforce. If Floridians have access to homes that they can truly afford, then we are helping create jobs and increase state revenues.**

---

## **Health Care**

The Senate Health Regulation Committee met Thursday, March 4th to consider a number of bills, including the proposed constitutional amendment SJR 72 Relating to Health Care Services by Senator Carey Baker (R-Eustis).

SJR 72 is designed to protect Floridians from potential federal legislation that would mandate individuals to purchase health insurance coverage and would levy monetary penalties if an individual does not comply. Senator Baker was clear that this resolution was not designed to negate any federal health care reform bill that may be approved, but only addresses the individual mandate provision. Senator Baker noted that the individual mandate, at this moment



in time, appears to have been removed from the latest version of the federal reform bill. If the status quo remains, he admitted, SJR 72 would address a moot problem.

SJR 72 was approved by the committee and will now head to the Senate Judiciary Committee. The House companion HJR 37 by Representative Scott Plakon (R-Longwood) is in the Health Care Regulation Policy Committee but has not yet been heard.

## **AIF SUPPORTS proposals that ensure the availability of health insurance products to employers and individuals that are tailored to their unique needs and resources.**

---

### **Environmental**

The Senate Environmental Preservation & Conservation Committee met and held a workshop Thursday, March 4th on recycling. At the beginning of the workshop, Chairman Lee Constantine (R-Altamonte Springs) outlined the issues that he is including in a recycling bill. We are happy to report that many of the recommendations that AIF's Environmental Sustainability Council (ESC) provided to Senator Constantine have been incorporated in the proposed bill including:

- Research is needed to see why existing waste management and recycling programs in the state have not been better used
- Create a Recycling Business Assistance Center (RBAC)
- Require state agencies to lead by example and recycle at all facilities
- Require public schools to recycle
- Encourage and track environmentally friendly state purchases

Other proposals likely to be included in the bill would:

- Direct each county to reduce the amount of solid waste disposed of on an incremental basis to reach the 75% goal by 2020: 50% by 2012; 60% by 2015; 70% by 2018; and 75% by 2020
- Direct DEP to evaluate the current compost goal and research other organic recycling technologies to help counties develop markets suitable to their needs and to increase composting opportunities
- Revise the definition for "source separated" to allow commercial dumpsters to utilize single stream for their recycling needs
- Require all new construction & demolition debris (C&D) landfills to be lined
- Require all C&D debris to be processed at a material recovery facility prior to disposal
- Require that the material recovery facilities recycle at least 60% of the material they accept and 75% by 2020

**Keyna Cory, lobbyist for AIF's Environmental Sustainability Council,** participated in the workshop and was supportive of many of the ideas that may be incorporated into the bill. However, the one proposal that was opposed by AIF required private businesses with 50 or more employees to report the recyclable materials they collect beginning on January 1, 2011. AIF originally suggested that the Florida Department of Environmental Protection (DEP), in conjunction with the private sector, develop a survey asking Florida companies for recycling/reuse information to determine if DEP has accurate recycling percentages. In addition, companies who volunteer recycling information should be rewarded with incentives like special preferences if they bid on government contracts. AIF will be working firmly to change this reporting mandate to a voluntary system.



**Keyna Cory**

A draft of the recycling bill was released Friday, March 5th. Amendments need to be filed by Monday afternoon and the bill will be heard by the committee on Tuesday.

**AIF believes that Florida can increase its recycling rate, but the management of waste is more than just recycling. We look forward to working with Senator Constantine on how Florida can do more to reduce waste, reuse materials, and divert waste from our landfills. Florida has an opportunity to help create markets for recyclables and beneficial reuse of key materials. By creating markets for profitable materials, we can help create jobs.**