



**From January 15, 2010**

Legislators began the 2010 calendar year with a week's full of committee meetings last week. Foremost on most legislators' minds was the current budget deficit. Current economic conditions forecast a shortfall between expected revenues and current program funding (including expected program growth) to fall between \$ 1.1 and \$3.2 billion. Furthermore, these projections indicate continued shortfalls throughout a 3 year outlook period.

Given the bleak budget picture, Speaker-Designate Dean Cannon (R-Winter Park) and Mike Haridopolos (R-Melbourne) convened business leaders, policymakers, and Floridians to a Jobs Summit in Orlando on Friday, January 15th. AIF unveiled its plan for creating jobs at the summit on Friday, which focus on increasing access to capital for small businesses, leveraging access to affordable housing dollars, and concentrating on developing commercial space activity in Florida.

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### **Environmental Sustainability**

There was a joint meeting of the House General Government Council; the Natural Resources Appropriations Committee and the Agriculture & Natural Resources Committee to hear presentations on recycling this week. **Mary Jean Yon**, the Director of the Division of Waste Management for the Florida Department of Environmental Resources, presented their *75% Recycling Goal Report to the Legislature* as required in section 403.7032, Florida Statutes.

View video from this meeting.

During the 2008 session, the Energy, Climate Change and Economic Security Act required DEP to submit a comprehensive program by January 1, 2010. The 35 page report contains many recommendations to help Florida reach the 75% goal by 2020. There are 5 main components to DEP's plan:

- The report recommends that all state agencies are required to meet the 75% recycling goal.
- DEP recommends that the new recycling goal applies to counties with a population greater than 100,000 and cities with a population greater than 50,000, capturing approximately 95% of the state's population and the municipal solid waste (MSW) generated in Florida.
- DEP also recommends mandatory commercial recycling with the same criteria as mentioned above. DEP defines commercial as multi-family residential units such as apartments, condominiums, etc. as well institutional accounts such as schools and hospitals. DEP recommend a phased in approach to requiring commercial recycling to begin with office buildings, retail establishments and institutions; and then follow with multi-family residential units.
- The DEP plan directs all local school districts to implement recycling programs.

DEP also recommends the creation of a Recycling Business Assistance Center to promote markets for the entire spectrum of recyclable MSW materials, organic and inorganic. DEP and Enterprise Florida would work as partners in implementing the center's efforts.

AIF's new Environmental Sustainability Council had an opportunity to give a presentation on what Florida businesses are doing to reduce waste; reuse beneficial materials and recycle and all done without any mandates! The presentation, given by Council Lobbyist **Keyna Cory**, highlighted sustainability efforts at Wal-Mart and PepsiCo; recycling programs by Hewlett-Packard; Nestle Water North America reduction in packaging efforts; AT&T's successful "Cell Phones for Soldiers" and the Florida Beverage Association recycling programs.

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## Health Care

In an attempt to bring together all the stakeholders involved in the federal health care reform debate, The Florida Division of the National Association of Insurance and Financial Advisors and the Florida Association of Health Underwriters hosted a health care summit on Monday, January 11th.

Even though the final version of the Health Care bill has yet to be determined, the affect on Florida's business community could be extensive. The summit brought together businesses, consumers, health insurers, insurance agents, health care providers as well as key legislators and regulators in Florida.

**Insurance Commissioner Kevin McCarty** opened the summit by telling members that the current federal reform proposals do "nothing to rein in increasing costs of health care". Commissioner McCarty has provided a letter to Congress on the Office of Insurance Regulation's (OIR) concerns about the bill. Some of the provisions which cause concern include the individual mandate, giving the authority to approve rates to the federal government, requiring health plans to have an 80% or higher medical loss ratio.

Florida's employers struggle more every year to continue to provide health insurance coverage to their employees. The concern that this reform package will not bring down costs is troubling especially when coupled with the fact that the proposal will also expand the Medicaid program, which is generally subsidized by private health insurance premiums.

Another troubling provision in the proposals would levy a tax on employers that don't provide coverage to their employees. Countrywide, employers already shoulder 60% of the burden of paying for health care coverage so an increased tax would be very detrimental to businesses. A United Healthcare representative noted that it is very important to preserve the role of employers in the health insurance market. An agent representative pointed out that employers differentiate themselves by the benefits they provide to employees.

Senator Don Gaetz (R-Niceville), chair of the Health Care Regulation Committee told participants that there could be a push back from states on some of the provisions of the federal proposal. He noted that the Senate would "look for ways to roll back provisions in this bill and try to get more state choice and more flexibility and more local business control of health care options."

Currently the date isn't known when the passage of the final reform bill will occur. Instead of the traditional approach of convening a conference committee of House and Senate members to hammer out a compromise between the two bills, apparently the plans will be bounced back and forth between the two full chambers until a compromise is reached.

**Associated Industries supports initiatives that will enhance the ability of employers to offer health care benefits to their employees. As such, AIF is carefully monitoring the progress of molding together the two federal health care proposals to be prepared when Florida policymakers begin the implementation process.**

The Senate Health and Human Services Appropriations Committee met on Thursday, January 14th to hear the latest update from the National Conference of State Legislatures (NCSL) on the federal health care reform. Most importantly, the presenter noted that President Obama's State of the Union address had been pushed back to the first week in February which indicates the administration will have a final health reform bill by that time.

The major components of reform that would have the greatest effect Florida's business community include:

- Medicaid Expansion - The House proposal would expand the eligibility for this program to 150% of the federal poverty level (FPL). The Senate version expands it to 133% FPL.
- Employer Based Coverage - The House proposal establishes a phased-in payroll tax for employers who do not provide health insurance benefits for their employees. The tax is 8% of the wages an employer pays its employees. There are exemptions for an employer with an annual payroll under \$500,000.

The Senate proposal requires employers with over 50 full time employees that do not provide employee health benefits to pay a tax of \$750 per full time employee. If an employer has a waiting period before an employee can enroll in their group benefit, the employer must pay between \$400 and \$600 in tax depending upon the length of the waiting period. Interestingly enough, this reform calls for state and local governmental to be considered large employers and therefore they are subject to most of the same coverage requirements required of large employers.

- Health Insurance Exchange - Both proposals calls for the development of an exchange. The House calls for 2013 as the start date for a national exchange. The Senate proposal provides for a state-based exchange which would begin in 2014. This exchange would also have a public plan modeled after the Federal Employees Health Benefits Program.
- Insurance Reform - Some of insurance reforms proposed include minimum medical loss ratios; prohibits limits for pre-existing conditions; elimination of lifetime or annual caps and prohibition of reducing post-retirement health benefits. These and several other options would likely increase health insurance premiums for employers and individuals.

Following the NCSL presentation, the Florida Agency for Health Care Administration (AHCA) discussed how the Medicaid expansion proposal would affect Florida. Specifically, the bills would result in:

- Increased Medicaid enrollment (in 2014) between 700,000 and 1.6 million Floridians at a cost to Florida of \$150 to \$515 million.
- Increased administrative costs associated with the increased staff needed for the expansion (20-40% increase in staff for an estimated \$12-\$20 million in additional costs);
- Crowd out from the private insurance market. AHCA estimates that 80% of Floridians who were under the new federal poverty level would be induced to drop their private coverage (this would include state employees who would drop their coverage with the state and go onto Medicaid). Incoming Senate President Mike Haridopolos (R-Melbourne) and **Senate Health Regulation Chair Don Gaetz** expressed strong concern that Florida would be paying to "insure the insured".

In the past, Florida's business community has not paid close attention to the rising cost of the state's Medicaid Program. But with the understanding that the costs are being shifted onto employers and their employees, it is clear that AIF must become actively involved in the public policy decisions for Medicaid.

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## Elections and Reapportionment

The Senate Reapportionment Committee met jointly with the House Select Council on Strategic Planning on Monday, January 11th. The committees heard testimony from **Congresswoman Corrine Brown (D-Jacksonville)** and **Congressman Mario Diaz-Balart (R-Miami)** concerning the proposed "Fair Districts" amendments to the State Constitution that are currently being circulated by a group funded primarily by the Trial Bar and Organized Labor. Both Representatives emphasized the threat posed by the amendments to so-called "minority access districts" as well as the impossibility of legislative compliance with the seemingly-contradictory provisions of the amendments. The Senate committee met again on January 13th to hear staff reports concerning the history of the reapportionment process in Florida and the difficulties in applying the proposed "Fair Districts" amendments if adopted.

The Senate Ethics & Elections Committee also met on Wednesday, January 13. It heard testimony from **Lynn Hearne**, General Counsel for the Department of State, concerning the recent federal court decision invalidating Florida's Electioneering Communications Organization ("ECO") statutes. The Committee then heard from **John French**, AIF's Special Counsel on Elections, as to the need to reenact an ECO statute. French urged adoption of a law that insured timely registration and reporting while limiting its scope to communications and media that are within the regulatory purview of the state, per the decisions of the U.S. Supreme Court. This will be a difficult and continuing issue of high importance to AIF and its politically-active members.

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## Information Technology

On Tuesday, January 12th, **Staff Director Ray Wilson** provided an overview of state government technology to the Senate Governmental Oversight and Accountability Committee chaired by Senator Jeremy Ring (D-Margate). His presentation was very thorough and generated a number of questions by Senators. Mr. Wilson stated that over the past decade the state had wasted over \$1 billion on systems that did not work as planned or were not ever completed before being cancelled.

At the conclusion of the presentation, Senator Gary Siplin (D-Orlando) asked a series of questions about the People First (the state personnel and benefits management system) system. He requested that the Chair have all state contracts brought before this committee for the Senator's approval. **Senator Ring** said he would do what is reasonable and he would look into the request. At this point **Senator Ring** mentioned Senator JD Alexander's (R-Winter Haven) contracting bill from last session that was vetoed as a potential solution to the Senator's concerns.

**AIF's Information Technology Council (ITC) has serious concerns with last session's contracting bill and was successful in convincing the governor to veto it. Any bill that contains similar provisions will be opposed by AIF, not only on behalf of the IT contractors, but also any entity wanting to provide services to the state such as the providers of human services because of the chilling effect it would have on businesses doing work with the state.**

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## Civil Justice & Courts

The House Civil Justice & Courts Policy Committee met Tuesday, January 12th in Tallahassee and approved HB 437 by Representative Eric Eisnaugle (R-Orlando). This bill provides a framework for insulating the Office of the Attorney General from undue influence in contracting with outside legal counsel for contingency-fee based lawsuits. This will require the Attorney General to make a written

determination that hiring outside counsel is both cost effective and in the public's best interest, before the outside law firm is hired. The legal fees will be paid based on a fee schedule established in the bill, which caps the fees at \$50 million, exclusive of costs like travel, expert witnesses, filing fees, etc. This legislation provides additional transparency in governmental contracting that is good for Florida business and all Floridians.

The bill was reported favorably by the committee with only 3 Democratic Representatives voting against the bill. AIF salutes Chairman Carl Domino (R-Juno Beach) and the other members of the Committee who voted favorably on this bill, for bringing such an important policy issue before the Legislature this early in the 2010 legislative process.

**AIF SUPPORTS efforts to add transparency and accountability in the hiring of outside counsel by the Attorney General's office.**

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## **Community Affairs**

On Tuesday, January 12th the Senate Community Affairs Committee met and heard presentations from the League of Cities, the Association of Counties and the Florida Housing Finance Corporation on their legislative priorities. There were no major surprises in both local governments' presentations as both focused on their opposition to unfunded mandates as well as any cap on their revenue or spending. What did stand out in both presentations was their strong opposition to Amendment 4, or Hometown Democracy. In addition to their irritability of its encroachment on local planning and zoning authority, the Counties characterized it as the greatest threat to Florida's economy. In addition, a provision in legislation that passed last year which forbade local government from spending money advocating for or against constitutional amendments, was assailed as an impediment in their fight against Hometown Democracy. At the conclusion of the two presentations, Chairman Michael Bennett (R-Bradenton) said that he had voted for the controversial provision, now viewed it as a mistake, and would offer legislation to correct the same. Clearly, Hometown Democracy is on everyone's mind.

**Amendment 4 is a real job killer and as such AIF is strongly opposed to it.**

The Florida Housing Finance Corporation presented their legislative program, and in a fairly subdued fashion, once again advocated the removal of the cap on revenues put in the trust fund, currently set at 243 million, and the elimination of the general revenue service charge on their funds (collected by the state on all trust funds). Several groups involved in the affordable housing programs believe that an opportunity exists this year to remove the cap in exchange for the commitment of all those funds being used for down payment assistance, viewed by some key legislators as a way to eliminate some of the unsold housing inventories.

**AIF supports efforts to remove the cap on the Sadowski Affordable Housing Trust Fund as a way to stimulate Florida's economy and to dispose of the existing housing glut.**

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## **Educations "Race to the Top"**

The focus of most of the education committee meetings this week was the federal Race to the Top grant application which will leave Florida today with Gov. Crist's signature. AIF has been working closely with the department on the grant and has written a letter of support to Commissioner Smith for inclusion in the grant.

Additionally, both the **House and Senate Education Policy Committees** took testimony about the need to focus on improved high school graduation requirements in order to better prepare our high school graduates for higher education. On Tuesday, January 12th the Senate Education Pre-K -12 Committee heard from **Mike Cohen**, President of Achieve, Inc., and subsequently on Wednesday, January 13th, the House Education K-12 Committee heard from **Dave Spence** of the Southern Regional Education Board.

Probably the most compelling point was from Achieve, Inc. who demonstrated that the education needed for the majority of jobs in 1973 was at the high school level or below; and by 2001 the education required for most jobs had shifted to at least a high school diploma, with 50% or more needing at least some higher education. The shift is expected to continue in the coming decade and beyond.

**AIF has used information from both of these groups for over three years now to guide our education policy development. The top education priority of AIF for the 2010 session will be the passage of legislation that increases the requirements for high school graduation, particularly in math and science. Why? Because these are the skills necessary for jobs in the next decade and beyond, and for Florida's employers to continue to compete in the global marketplace.**

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## **Growth Management**

On Wednesday, January 13th the House Military and Local Affairs Policy Committee met and heard presentations by the Cities and the County associations, which were the same presentations given to the Senate Community Affairs Committee the day before. **DCA Secretary Tom Pelham** was also on the agenda to brief the committee on SB 360, last year's growth management bill. The briefing was the same as Secretary Pelham had given the Senate committee last month, merely going through the bill, but he also updated the committee on the lawsuit by what has now grown to 20 local governments challenging the legislation on the grounds of it being an unfunded mandate, and volatile of the single subject rule. A plaintiff's summary judgment motion will be heard on February 22nd.

Secretary Pelham, along with a representative of the DOT briefed the committee on the final report on mobility fees that the two agencies collaborated on. That fee is designed to replace the concept of proportionate fair share, which has largely been viewed by business as a failure. The proposed mobility fee would apply to new development only, implemented on no less than a county wide basis, not allowed to capture backlog or existing transportation shortfalls, and should give credit for transportation impact fees should local governments choose to keep them as well. Several members of the committee were concerned about the effects of such a fee on predominantly rural areas after it was stated that the fee structure would be designed to encourage shorter trips and compact development, while discouraging sprawl.

While Secretary Pelham acknowledged that "the devil is in the details", one committee member continued to voice concerns that she did not want the rural counties "relegated to poverty"; Pelham suggested that several pilot projects may be advisable before implementing the program statewide.

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## **Finance & Tax**

The House Finance and Tax council chaired by Representative Elyn Bogdanoff (R- Ft. Lauderdale) met Wednesday, January 13th to workshop a concept that AIF has long asked the legislature to implement into its financial forecasting of policy proposals. Dynamic Modeling, a practice that extends the traditional cost benefit analysis exercise in an effort to reach a greater degree of certainty, is the subject

of two legislative proposals by Republicans in the House. Representative Steve Crisafulli (R-Merritt Island) and Representative Ralph Poppell (R-Vero Beach) have slightly differing proposals that would see the state of Florida utilize economic forecasting models more extensive than those of traditional means. Such efforts seek clearer financial projections and identify previously un-gathered data that will help the state forecast the effects of policy decisions.

HB 93 by **Representative Crisafulli** and HB 121 by **Representative Poppell** both empower the Speaker of the House or the Senate President to ask the state's economic forecasting entities (Revenue Estimating Conference/ Office of Demographic Research) to utilize versions of dynamic modeling and report back to the legislature what the effects of such a proposal would have on the state economically.

Both members argued in the workshop that for too long the state has simply looked at what the negative effects of the policy would be on state revenues if, for instance, the proposal allowed for a tax break/incentive. Both Crisafulli and Poppell argued that in fact there were effects of the policy change that in most cases could have a positive impact and their bills would help find that information. Businesses, they stated, do a form of dynamic modeling each day in their daily activities and it is incumbent on the state to run its forecasting models more like a business.

Many members of the committee spoke up on the subject seeking more specific answers. Democrat members seemed especially leery of the proposals, fearing that groups supporting or opposing policy measures could simply affect the outcome of a dynamic model by utilizing skewed data to derive a desired outcome. Republican members however lauded the exercise, suggesting that it was time that the state readdresses its traditional models of forecasting to keep up with the changes in our current economy.

**AIF President & CEO Barney Bishop** testified in favor of both versions of the legislation, cautioning opponents to keep an open mind about the concept and urged them not to oppose the measure just because it's a shift from current policy. Bishop argued that the status quo was no longer acceptable and that in order to seek real solutions for the economic challenges the state faces, we must be bold. Additionally, he suggested the committee that not every piece of legislation would need a dynamic model performed and that perhaps a pilot project or two may be necessary to work out any kinks associated with the implementation of such a complicated mix of projections.



**AIF strongly supports efforts to enact Dynamic Scoring legislation for proposals that could prove helpful to stimulating our state's economy. AIF's members utilize various forms of dynamic modeling each day in projecting growth, sales, revenue declines, etc. If it's good for business, it should be good for state government.**

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## **Economic Development**

Chaired by Representative Jennifer Carroll (R-Jacksonville), the House Economic Development Policy Committee heard testimony on Wednesday, January 13th from various state entities charged with the promotion of international trade for the state of Florida. According to the testimony of **Manny Mercia**, Senior V.P. for International Trade and Business with Enterprise Florida, the state of Florida can attribute almost 1.3 million jobs to international trade, which is almost 1 out of every 6 jobs. In 2008 alone the state exported approximately \$84 billion to foreign countries and led the nation in state exporting. As the fourth largest state in the nation, Florida is traditionally the fourth largest exporter with its leading partner being Latin American countries, led by Brazil. Despite the economic downturn Florida remained a national leader in international trade throughout 2009.

Yet, the foreign investment into Florida is probably one of the greatest attributes to our trading practices and partnerships. The state ranks fifth overall with regard to foreign investment flowing into the state and is expected to create almost 275,000 jobs alone.

Leadership from the Florida Export Finance Corporation, FI-Korea/Japan organization, Gateway Florida and CAMACOL all presented their individual missions and priorities to the committee. Each of these groups serves the state in a private/public manner, receiving private donations, and both local and state funds to promote their trading agendas.

**AIF continues to support these initiatives and urges the legislature to continue funding and supporting their efforts. Florida is unique in its geographic position to remain a leader in trading to other nations. Trade not only leads to increased commerce, but it also supports our service industries and tourism efforts.**

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## **Transportation & Economic Development**

On Thursday, January 14th, Senator Mike Fasano (R-New Port Richey) called the Transportation and Economic Development Appropriations committee to order a bit late, waiting on a quorum, with Senators Mike Fasano, Tony Hill (D-Jacksonville), Chris Smith (D-West Palm Beach) and Paula Dockery (R-Lakeland) present at the beginning and Senator Alex Diaz de la Portilla (R-Miami) joining later. Senator Andy Gardiner (R-Orlando) was not in attendance.

The first presentation was by the Asphalt Industry's **Ignacio Halley**, CEO of Community Asphalt in Miami. This was in response to the Concrete Industry's presentation during the last committee week. Mr. Halley made the points that Asphalt is cheaper, safer and better than concrete in his opinion. There were few questions from the senators.

The next presentation was by **DOT Deputy Secretary Kevin Tribout** who highlighted the agency's proposed reductions. Mr. Tribout said the DOT budget for 2008-09 was \$8.2 billion, in 2009-10 was \$6.5 billion and in 2010-11 is expected to be \$5.5 billion. Reductions were recommended in numerous areas including OPS employees, training, and vehicle purchases including heavy equipment, payments to the Orlando Expressway Authority and transfers to SFWMD for Everglades's restoration.

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## **Seminole Gaming Compact**

On Thursday, January 14th two PCBs were heard during the Select Committee on Seminole Indian Compact Review meeting:

- **SICR1:** ratification of the Seminole Indian compact. This PCB would ratify the compact proposed by the Committee in 2009. Two parties testified in opposition: Florida Family Action and Florida Baptist Convention. There was no discussion of the PCB and it was voted unfavorably by all 17 Committee members, thereby, killing a deal between the state and the Seminole Tribe.
- **SICR2:** updates the effective date of SB 788 (2009). Language from SB 788 (2009) attempted to level the playing field for pari-mutuel interests; its passage was contingent only on the adoption of the compact. Passing SICR2 would separate pari-mutuel legislation from any provisions set forth in a future compact, if further pursued. Again, Florida Family Action and the Florida Baptist Convention opposed the bill. There was no debate amongst Committee members; the bill passed favorably 15-2. Members voting 'no' were Representatives Marti Coley (R-Marianna) and Sandy Adams (R-Oviedo).



The results of both PCBs were largely unsurprising. In his closing remarks, Chairman Bill Galvano (R-Bradenton) noted that while the existing compact has been killed, negotiations with the Seminole Tribe may likely continue at some level. The House is pushing for the federal government to intervene and halt existing Seminole gambling activities.

The favorable vote of SICR2 indicates a strategic shift by the state in addressing the needs of the pari-mutuel industry; breaking away from any outcomes of the existing and potential future gambling compact(s). Thursday's outcome will likely open the door for a focused discussion on determining if non-Indian gambling should be further promoted and how such activities would be controlled.

**AIF supports improving the business environment for pari-mutuel interests. Today's outcome is a positive step in reducing pari-mutuel regulation and eliminating exclusivity rights enjoyed by the Seminole Tribe. It remains to be seen the extent to which the federal government will intervene, if at all. This outcome also portends a heated debate amongst members regarding the degree to which pari-mutuel gambling will be expanded and promoted by the state. AIF will continue to monitor this issue closely.**