



From January 22, 2010

Legislators were back in town this week after the observance of the Martin Luther King Jr. holiday. Committees continued to hear presentations from various state agencies and departments as well as updates on interim projects and other research items. The Unemployment Compensation tax increase continues to be at the fore-front of most state legislators and business groups. AIF has been working alongside its business community partners to find a solution that will bring about relief to employers while ensuring that the Unemployment Compensation Trust Fund remains a viable vehicle for those Floridians needing assistance while being unemployed. Late this week, legislative leaders and the Governor announced their commitment to address this crisis early in the 2010 legislative session.

Legislators will be taking next week off and will return Monday, February 1st for the first of three additional interim committee weeks.

Legal and Judicial

On Tuesday, January 19th the Senate Judiciary Committee passed SB 712 Relating to Contingency Fee Agreements by Senator John Thrasher (R-Jacksonville). This legislation is **Attorney General Bill McCollum's** top priority for the upcoming legislative session. The bill provides for greater transparency and accountability in the hiring of outside attorneys by the Attorney General (AG) and the Department of Legal Affairs. The bill prohibits the Department from entering into a contingency fee contract with a private attorney unless the AG makes a written determination before entering such contract that a contingency fee representation is both cost-effective and in the public interest. This bill requires the AG to request proposals from private attorneys to represent the Department on a contingency fee basis and requires attorneys to keep time records in increments of no greater than one-tenth of an hour. This bill prohibits contingency fee contracts entered into by the Department to exceed an aggregate contingency fee in excess of specified amounts. This bill prohibits a total aggregate contingency fee in excess of \$50 million, except when the AG determines, upon consultation with the Cabinet, that there are exigent or unusual circumstances or special legal knowledge or experience is required, and provides written evidence of this. Lastly, this bill requires copies of executed contingency fee agreements, as well as payment of contingency fees, to be posted on the Department's website.

The bill was amended to include language requiring that by February 1 of each year, the Attorney General shall submit a report to the President of the Senate and the Speaker of the House of Representatives describing the use of contingency fee contracts with private attorneys in the preceding calendar year.

Senators Dan Gelber (D-Miami Beach) and Durell Peaden (R-Crestview) grilled Senator Thrasher and the AG's staff about the need for this type of legislation, but their concerns were addressed by explaining that this legislation will ensure that tax dollars are spent in the most cost-effective and transparent manner.

AIF supports efforts to add transparency and accountability in the hiring of outside counsel by the Attorney General's office. This practice will ensure that tax dollars will be wisely spent and not wasted on costly attorney's fees.

Community Affairs

On Tuesday, January 19th the Senate Community Affairs Committee met and heard the Department of Community Affairs (DCA) and the Department of Transportation (DOT) give primarily the same presentation on their recently completed Mobility Fee Study that was given last week to a House committee.

Following the mobility fee presentation, representatives from the Century Commission for a Sustainable Florida gave an overview of their annual report to the legislature, part of which was given by **Steve Seibert**, a former Secretary of DCA and now with the Collins Center.

While touching on a number of subjects, Seibert emphasized recommendations that called for the states reduced energy use; the need to convene a "water congress" for dealing with water quality, no doubt due in part to the US Environmental Protection Agency's mandate to our own Department of Environmental Protection (DEP) to implement tougher standards; the study of oil and gas exploration in the gulf; and the need to identify critical lands and waters in the state to be preserved. The critical lands and water study recommendation will likely prove controversial down the road, as it has been a desire of many land use and environmental groups for some time; among the many issues surrounding such a designation would be how to pay for their acquisition, and ultimately begging the question - could this be the future of the Forever Florida program?

Education

On Tuesday, January 19th the House PreK-12 Policy Committee met to hear a presentation on Standards and Assessments, which is central to the work AIF has been doing for three years now to increase the value of a Florida High School Diploma.

The meeting began with a presentation by Hillsborough County Public Schools on their experience with End of Course (EOC) Exams – which they have been using for over two decades to maintain consistency across schools in Hillsborough County, including 27 high schools and 47 middle schools. The consistency of the curriculum and schools allows a student to leave one school and attend another with no educational gap. Additionally, the EOC Exams results are used for curriculum planning, evaluating student placement, as well as in staff development and performance evaluation.

Following the Hillsborough presentation, **K-12 Chancellor Frances Haithcock** discussed the department's work to define "college ready" and emphasized that "a Florida diploma no longer ensures that the receiver won't go into a remedial course upon entrance into community college".

There were lots of questions and discussions by the committee about the two presentations and how Florida does not compete with the current high school graduation requirements. Representative Erik Fresen (R-Miami) – who's HB 61 Relating to High School Graduation will require higher math and science courses for high school graduation asked several questions as his bill will directly address many of the issues raised in these presentations and will be a top priority again this year for AIF.

AIF will continue to champion improvements in Florida's K-12 education requirements to ensure that all students are prepared for their next steps after high school – higher education AND the workplace. This is critical to our members who will be hiring these graduates in the years to come and demand that they are prepared for the 21st century economy.

Florida's Retirement Plan

On Wednesday, January 20th the Senate Governmental Operations Policy and Steering Committee discussed phasing out the Florida Retirement System's (FRS) defined benefit plan and replacing it with a defined contribution plan. The FRS defined benefit plan has experienced a \$23.6 billion reduction in asset valuations over the last two years, which eliminated its surplus and produced an unfunded liability for the first time since 1997. Unfunded liabilities will require substantial increases in the monies contributed to the plan by FRS participating employers including the state, all counties and most cities which eventually could lead to increased taxes. There appears to be a great deal of interest from Senators on the committee in protecting businesses and other tax payers from these potential new taxes that the phase out achieves. In addition, the increased reliance on the defined contribution approach will create new opportunities for private investment providers.

Medicaid

The Senate Health and Human Services Appropriations Committee continued its quest Thursday, January 21st to develop ways to increase the efficiency and lower the cost of Florida's Medicaid Program. This week's presentations were made by representatives of the Agency for Health Care Administration (AHCA), managed care organizations, nursing homes and long term care diversion providers.

AHCA provided information to the committee on the amount of savings that could be realized if some or all Medicaid recipients were ultimately placed in a managed care plan. Depending upon the policy decision made by the Legislature, the potential savings span from \$15 to \$128 million. Further AHCA reported that fraud may be reduced by moving further into managed care since 97% of the current detected fraud was from fee-for-service plans. Managed care organizations made up 3% of the detected fraud in the program.

The Florida Association of Health Plans (FAHP) echoed the savings outlined by AHCA by moving more Medicaid recipients into a managed care plan. Further, FAHP suggested that even more savings could be realized if long term care services were also integrated into a managed care model.

The Florida Health Care Association (FHCA) noted that better managing their population could result in savings. The biggest cost factor for nursing homes is the high staffing mandate in Florida statutes which is higher than any other state. However, FHCA presented data that showed the amount of the Medicaid budget spent on nursing home care has continually decreased between 2001 and 2009.

Several industry representatives recommended increasing the number of slots available for the nursing home diversion pilot project as data shows that keeping people at home ultimately costs less and increases the standard of living.

AIF supports the Legislature's efforts to look for ways to control costs in this program, as it indirectly effects Florida employers and their employees. When the budget is tight, many times the Legislature

reduces provider reimbursement rates. As such, these providers increase the reimbursement amount they will accept for private health insurance patients. This increases the cost of private health insurance coverage and makes it harder and harder for employers to continue to offer these important benefits to the employees. Further, AIF supports measures to decrease the amount of fraud in the Medicaid program.

Taxation

On Thursday, January 21st the Senate Finance & Tax Committee met to consider several proposed committee bills to implement four constitutional amendments that were passed by Florida voters in 2008. The first bill discussed was **PCB 7026** Relating to Working Waterfront Property, which provides for the classification of designated waterfront property as “working waterfront property.” This proposed legislation will implement Amendment 6 from the 2008 General Election. AIF was actively involved with the passage of this amendment and worked closely with Save Our Waterfronts, a broad based coalition of businesses, associations, local governments and environmental organizations who wanted to make sure waterfront properties were assessed on the current use of the property. The proposed committee bill was amended to expand definitions of working waterfront properties to include:

- Water dependent facilities used for the commercial transportation of goods and people; and
- Water-dependent facilities used for activities that support the commercial transportation of goods and people. These activities include, but are not limited to, towing, storage, and salvage.

Keyna Cory, Senior Lobbyist for AIF and coordinator of the Save Our Waterfronts Coalition spoke in favor of the proposed legislation. She thanked Senator Mike Bennett (R-Bradenton) for sponsoring an amendment that contained a severability clause. Definitions of working waterfront properties have been expanded outside of what is in the constitutional amendment. If there is a legal challenge on the additional properties listed, the main part of the legislation is protected through the severability clause. The other PCBs considered were:



- PCB 7022 – Assessment of Improvements that Increase Resistance to Wind Damage provides that in determining the assessed value of real property used for residential purposes, for both new and existing construction, the property appraiser may not consider changes or improvement made for the purpose of improving a property’s resistance to wind damage. The proposed legislation defines what can not be considered by the property appraiser.
- PCB 7020 – Installation of Renewable Energy Devices provides that in determining the assessed value of real property used for residential purposes, for both new and existing construction, the property appraiser may not consider the installation and operation of a renewable energy source device which collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits. The proposed legislation lists what can not be considered by the property appraiser.
- PCB 7024 – Lands Used for Conservation Purposes adds “land used for conservation purposes” to the list of land eligible for assessment under s.193.501 F.S.

Since the proposed bills listed above are committee bills, they will go back to bill drafting and receive a new bill number and they will be referenced to committees.

Following consideration of the committee bills, **Ms. Lisa Echeverri**, Director of the Department of Revenue (DOR) gave a presentation to members of the council on suggestions of how the DOR could be more efficient and reduce cost that would require some legislative changes.

She discussed modernization in the following areas:

- Having a one stop registration system across state government would reduce the burden on business, capturing and maintaining information more efficiently and providing services more cost effectively. She said today a business has to register with the Department of Business and Professional Regulation, the Department of Revenue and the Division of Corporations. Technology today makes it possible to do that with one stop rather than three.
- Further simplification of the Communications Services tax would reduce the burden on businesses, improving efficiency of administration. Ms. Echeverri stated that over 400 local jurisdictions have a unique tax rate and the CST provider has to collect and remit to the Department the collections for each jurisdiction. The Department then sends the tax to the proper local jurisdiction identified by the provider. It is extremely difficult to administer and audit among all the local governments. It would be more efficient to have only a few different rates, perhaps on the county level, and distribute the revenues in accordance with a formula worked out as we do other taxes to local government.

Senator Ronda Storms (D-Tampa) had questions regarding the changing of rates and how that would be done. She went on to say she supports simplification but the political reality of it would be difficult.

- Ms. Echeverri's third item under modernization was changes in the business environment that makes some of our exemptions no longer fulfilling their original purpose. She listed enterprise zone credits on sales tax in certain geographical areas. The amount of the exemption was initially only \$500,000 and now has grown to \$50 million due to changes in the business environment. Condos are getting a lot of these exemptions. Another included was International Banking Enterprise zone where there is a corporate income tax credit. Sales and use tax exemption on digital products downloaded is something not contemplated when passed, as well as the taxes lost on internet booking of hotels.
- Ms. Echeverri's fourth item was property tax administration of the value adjustment boards. Enforcing uniformity based on recent changes in the statute among the boards is being met with resistance from local governments. Perhaps it is time to consider having regional VAB's under state supervision.

There were questions and comments by all the members of the committee regarding one stop shop registration and the potential of enterprise information technology to make many of the state's business processes cheaper, better and faster. The sense of the committee was that the Department had done a tremendous job in this regard and that Ms. Echeverri was making excellent suggestions. Senator Jeremy Ring (D-Margate) said he had proposed a bill that was going to address enterprise governance while requiring little up front expense.

AIF is very supportive of making state government more efficient and encourages the use of information technology to improve service to businesses such as the one stop shop registration. AIF also supports the further simplification of the communications services tax.