



From February 19, 2010

The final week of interim committee meetings was certainly a busy one as legislators scrambled to get bills heard and filed before the official start of the 2010 Legislative Session. Members of the Legislature will be off all next week before returning on Monday, March 1st.

Legislation providing relief for employers from the looming unemployment compensation tax increase is now ready for action on the floor of both the House and Senate after both bills (HB 7033 and SB 1666) passed out of their final committees. We expect this legislation to be on the Governor's desk by the end of the first week of session or sooner.

Don't forget that starting Tuesday, March 2nd we will begin bringing you our acclaimed AIF *Daily Briefs*. This is your best source for the latest development on all issues affecting Florida's employers.

Unemployment Compensation

On Wednesday, February 17th the Florida Legislature advanced legislation to relieve Florida employers of the exorbitant unemployment tax rate bills they are currently facing. The Senate Ways & Means Committee unanimously passed SB 1666, and a few minutes later the House Finance & Tax Council unanimously passed the companion measure HB 7033. Both bills address the tax amounts employers must pay this year in the following ways:

- 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.
- Eliminate all elements of the rate calculations in current law that 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.

These bills will now move to the floors of their respective chambers for final passage. AIF anticipates the Legislature will pass this important measure on March 2nd - the opening day of the 2010 Legislative Session.

AIF salutes Senate President Jeff Atwater and House Speaker Larry Cretul for their steadfast commitment to helping Florida's economy by allowing our state's unemployment tax system to be manageable and predictable in these critical times of economic recovery. This measure will free up critical capital that many companies will use for expanding their workforce and creating more jobs in this state.

Please contact your state legislators in the next few days and thank them for their support of this legislation that is vital to Florida's economic recovery and future success.

Education

This was a big committee week for AIF education priorities. The *Right Size the Class Size* bills were up in both the House and Senate; and the House Education Council rolled out a proposed committee bill containing the increased graduation standards AIF has been pushing for over a year now.

First up was Senator Don Gaetz (R-Ft. Walton Beach) in the Senate PreK-12 Education Committee. The bill was heard at the end of the committee meeting after several invited presenters brought testimony of flexibility needed. With little time left in the meeting, the bill was brought up by Chairperson Nancy Detert (R-Venice) and quickly presented by Sen. Gaetz. Senator Frederica Wilson (D-Miami Gardens) asked several questions and ultimately voted against the bill. The only group opposing the bill was the Florida Education Association. Numerous other stakeholders including AIF, many school districts, the Superintendents and School Boards Associations supported the bill. The measure passed along a party line vote.

The following day, the measure was addressed in the House Education Council presented by Council Chairman Will Weatherford (R-Land 'O' Lakes). The House meeting saw more intense debate, again along party lines and ultimately passed by a party line vote.

The measure 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.

For example, a school could have a 3rd grade class of 21 as long as another class of 15 was in place so that the school average was still a class size of 18. This is an improvement over current scenarios where a school might have a class of 30 with another specialized class of 6. Under the new law the class of 30 in 3rd grade would not be allowable.

Many worry that if the flexibility is not approved, next school year will see a significant reduction in courses that are outside the core in order to achieve the constitutional requirements at the class level.

The measure must still pass both chambers and then must be approved by voters in November by a 60% margin.

AIF supports this proposed constitutional amendment because it strikes the right balance of maintaining the spirit of the class size reduction mandate, but gives a workable solution to implementation issues.

Another big priority for AIF is the passage of legislation that would raise high school graduation standards in math and science. This language was included in proposed committee bill PKP1 by the House Education Prek-12 Committee and Chairman John Legg (R-New Port Richey). The bill contains a phased in approach that would eventually require Algebra 2 for high school graduation as well as a

series of science beyond Biology 1 to include chemistry or physics. The measure is improved over language proposed last year in that it addresses course requirements for middle school so that students are prepared when entering high school for these higher requirements. The bill also contains a requirement for end of course exams in these subjects. The bill also requires that high school students take at least one course online and requires all high schools to make at least 4 accelerated courses such as AP, IB, and Dual Enrollment available to students in core subjects.

AIF supports this bill because it raises the standards for a Florida high school diploma to be consistent with the needs of higher education and the workplace. The bill also increases access to rigorous courses. Ultimately, with the passage of this legislation, students coming out of Florida high schools will be better prepared for Florida's employers.

Taxation

After a series of technical amendments, the Senate Committee on Community Affairs unanimously approved SB 346 on Tuesday, February 16th by Senator Charlie Dean (R-Inverness) dealing with the way property taxes on working waterfront properties are assessed. SB 346 implements Amendment 6, the constitutional amendment passed in 2008 and directs property appraisers to assess working waterfront properties on its current use instead of the "highest and best" use. Florida saw many marine industries leave our state because their business was being assessed for property tax purposes as a high rise condominium or a waterfront resort. SB 346 will ensure that a working waterfront property will be taxed at its current use. The bill now goes to the Senate Finance & Tax Committee for consideration.

AIF SUPPORTS working waterfront properties being taxed at their current use and not at the highest and best use as they are today. Representing AIF and the Save Our Waterfront Coalition, Keyna Cory waived in support of the proposed legislation.

Environment

On Monday, February 15th the Joint Legislative Committee on Everglades Oversight met to discuss the inland port on a Florida Crystals site recently approved by the Port of Palm Beach. After presentations by the Port, Florida Crystals, and the Florida Audubon, the committee ran out of time and promised to again take the issue up at the next meeting. The tenor of the committee was interesting as some members seemed to be grappling with the question of whether or not the committee's oversight had any influence over the facility's further approval and development, or if they were only authorized to "watch". If Audubon's testimony is any indication, the next time the issue is discussed more environmental advocates will be there to urge the committee to be more than a bystander, as the site chosen is unpopular with them.

Recycling was the topic of conversation on Tuesday, February 16th during the Senate Environmental Preservation and Conservation Committee.

Mary Jean Yon, the Director of Florida Department of Environmental Protection – Division of Waste, presented the retail bag report to the committee. In 2007, the legislature directed DEP to analyze the need for new or different regulation of retail bags and that report was due by February 1, 2010. In the legislation passed in 2007, the legislature also established a moratorium on local and state government from enacting any rule, regulation, or ordinance regarding the use, disposition, sale, prohibition, restriction, or tax of retail bags.

DEP evaluated and considered the following issues for the report:

- What are the impacts associated with the use and disposal of retail bags?
- How can we reduce single-use bags and encourage the use of reusable bags?
- How can policymakers balance the effect of proposed actions on the environment, regulated community and the consumer?

Currently DEP estimates that Florida recycles about 12% of plastic bags. However, many retailers are already promoting the use of reusable bags by offering customers cash back on their purchase for every non-plastic bag used and supplying on premise plastic recycling receptacles for customers.

Ms. Yon had several options to address retail bags and ways to increase recycling and/reuse. The key is an educational campaign to inform consumers on their options and how their decision can affect the environment. Another suggestion was to encourage in-store recycling and encourage retail stores to offer reusable bag credit. Also mandates were included in her list such as requiring a certain additional amount of recycled content in bags or requiring biodegradable bags as an option when a person is in the checkout line. Her list included a bag fee that would increase over time or a flat bag fee as an option.

Keyna Cory, AIF Environmental Sustainability Council Lobbyist was asked by Chair Lee Constantine (R-Altamonte Springs) to address the committee on AIF's position on retail bag recycling. She recommended to the committee that they should not ban plastic bags and local governments should not be able to enforce plastic bag bans. To change the moratorium on local government from enacting any rule, regulation or ordinance on plastic bags, the Florida Legislature needs to take action and overturn the moratorium.

Senator Nancy Detert (R-Venice) said that it was not too long ago that we began offering plastic bags as an alternative to paper ones to save trees! Now we need to educate people to take their canvas bags to the market whenever possible.

Diana Ferguson, Legislative Staff Attorney for Florida Association of Counties talked about the counties responsibilities for the management of solid waste collection and disposal. She also presented the FAC Policy Statement on the implementation of the 75% recycling goal as proposed by DEP. FAC supports recycling credit for municipal solid waste (biomass) used in the production of renewable energy that specifically includes waste-to-energy. FAC opposes legislation that imposes taxes or fees on local governments for collecting waste, which is an essential governmental service. They would like to see the removal of the requirement for all counties to compost 5 - 10% of their organic materials within the county.

Ms. Ferguson pointed out that flexibility was the key for counties to increase their recycling rates and also stated that "not one size fits all." For example, mandatory commercial recycling is working in Sarasota and Lee Counties but other counties have said it would not work for their county. Composting is working well in Charlotte County, but Palm Beach County tried a composting program and found it to be too costly.

Senator Dennis Jones (R-Seminole) asked if the committee could receive a comprehensive overview of what all counties are doing with regards to recycling. He would like to review before considering legislation to mandate any programs.

AIF OPPOSES a ban on plastic bags and maintains that local governments should not be able to enforce plastic bag bans. Also, AIF will be actively working with Senator Constantine on legislation to reduce waste, reuse beneficial materials, increase recycling and divert waste from our landfills. We believe that we can significantly increase Florida's current rate of 28% without any mandates to the private sector.

Transportation

The House Roads, Bridges and Ports Policy Committee met on Wednesday, February 17th to discuss some housekeeping issues and one high profile transportation issue – texting while driving.

Chairman Gary Aubuchon (R-Cape Coral) introduced three proposed committee bills. These three committee bills are housekeeping in nature. The first bill repeals outdated and unnecessary language regarding driver's licenses; the second bill repeals s. 341.0532, Florida Statutes, which designates 8 "statewide transportation corridors". These 8 corridors are now part of the state's Strategic Intermodal System (SIS). And the third bill repeals chapter 555, Florida Statutes, which was created in 1953 to provide for the safe ingress and egress on public roads to and from outdoor movie theatres. Of interest, of the six drive-in theatres that remain operational in Florida, the newest one opened in 1967.

The committee then heard six bills in workshop fashion from members of both parties that would ban all or some forms of texting while driving. Representatives Doug Holder (R-Osprey), Alan Williams (D-Tallahassee), Janet Long (D-Seminole), Luis Garcia (D-Miami Beach), Charles Chestnut (D-Gainesville) and Perry Thurston (D-Fort Lauderdale) all presented legislation and engaged in the committee discussion on this issue. Many of the committee members had implementation concerns, such as emerging voice technology and enforcement. The members also discussed the use of hands-free devices as an exception to the ban. The committee did not adopt any of the six bills, but will be considering the issue for further discussion during the upcoming 2010 regular legislative session.

Health Care

Federal Health Care Reform – As the federal health care reform remains stalled in Congress, the Senate Health Regulation committee postponed action on SJR 72 by Senator Carey Baker (R-Eustis) Thursday, February 18th. This proposed constitutional amendment would prohibit any mandate requiring a person or employer to participate in a health care system. If approved, the amendment would attempt to exempt Florida from any federal health care reform requirements.

Medicaid – Also, on Thursday the House and Senate Health Care Appropriations committees continued to hear presentations from state agencies and stakeholders on how to lower the cost of the state's Medicaid Program. The projected cost for 2010-11 is just under \$20 million. The recession has resulted in more Floridians moving onto Medicaid as they lose their jobs and private health insurance coverage.

Over the last few weeks, the Agency for Health Care Administration (AHCA) has made several recommendations for reining in costs, such as expanding the Medicaid reform pilot, reducing nursing-home staffing requirements and eliminating a wide range of Optional Medicaid services such as eyeglasses, hearing aids and maternity care for women with modest family incomes (between 150-185% OF FPL). Both the House and Senate health care budget committees heard from AHCA regarding their recommendation to expand the 5-year Medicaid Reform pilot project. Currently, the pilot, which is in its

third year, operates in Broward, Duval, Baker, Clay and Nassau counties. AHCA's proposal is to expand the program into 19 other counties which would require Medicaid recipients to enroll in managed care plans. The estimated savings would be \$58.7 million in FY 2010-11. This idea may gain steam this session, as **Gov. Crist** and Senate President Jeff Atwater (R-North Palm Beach) both noted this week that they would be willing to consider expanding the reform project.

Low Income Pool (LIP) – On Thursday, February 18th the House and Senate Health and Human Services budget committees continued reviewing the Low Income Pool funding process which was established when the 2005 Medicaid Reform pilot project was approved by the Florida Legislature. The federal waiver approved to allow the reform project replaced the Upper Payment Limit (UPL) reimbursements received by hospitals in caring for indigent patients within the Low Income Pool (LIP). The LIP dollars are allowed to pay for services provided by hospitals, clinics, or other provider types for uncompensated medical care costs for services to the uninsured, underinsured and Medicaid recipients. Florida receives an annual allotment of \$1 billion for each year of the five year demonstration period.

The LIP is also funded by local governments, such as counties, hospital taxing districts and other state agencies (e.g. Florida Department of Health) to provide the non federal share of the \$1 billion LIP funding. With the fifth year of the Medicaid reform project approaching, Florida has begun to evaluate the LIP funding to determine if it will request a renewal of the federal waiver. During earlier presentations, AHCA noted that if the LIP was returned back to the former UPL reimbursement, the state would lose \$300 million. The House and Senate health care budget committees heard from the North Highland Group, a consultant retained to prepare an independent assessment of the LIP program. The consultant was asked to determine if the LIP funds should be distributed to hospital providers based upon the percentage of the Medicaid and uncompensated care days provided (i.e. an equitable model). The assessment found that an equitable model would result in a \$56 million decrease in funding for Florida's safety net, children's and rural hospitals. The report stated that while clearer guidance could be provided to the LIP Council for fund distribution, an equitable model was not recommended due to the damage it could have on the safety net, children's' and rural hospitals. However, the report suggested that special funding could be set aside for these three kinds of hospitals and then an equitable model could be used to disburse dollars to the remaining hospitals.

Medical Homes – The House and Senate health care committees, over the last few weeks, discussed a new model of care for Medicaid recipients called the "medical home model." Medical homes refers to the concept of a primary care physician or team being responsible for coordinating fee-for-service care using organizations such as community-based networks and other providers. This model is being pushed by Rep. Ed Homan (R-Temple Terrace) in the House and in recent weeks, Senators Durrell Peadar (R-Crestview) and Don Gaetz (R-Ft. Walton Beach) - chairs of the Health and Human Services Appropriations and the Health Regulation Committee, respectively have expressed interest in advancing this concept.

Legislation passed in 2009 directed a task force to issue a report on how a medical home model could be implemented in two areas in the state and how to maximize federal dollars drawn down for this program. This week the Senate Health Regulation Committee heard specifics about this model from a panel, consisting of Rep. Ed Homan, representatives from family physicians, health insurers, and hospitals. Following the discussion, Chair Gaetz asked the panel to develop a business plan for a successful model in the Pensacola area. Gaetz said the plans must be risk bearing and should assume no reimbursement increases for physicians. The panel is tentatively scheduled to discuss their progress at the next Health Regulation Committee meeting the first week of session.

Business Regulation

HB 207 by Rep. Rick Kriseman (D-St. Petersburg) had to be temporarily postponed on Wednesday, February 17th in the House Agriculture & Natural Resources Committee. The proposed legislation expands the list of those who will receive notification of a contaminated site from the Department of Environmental Protection. Currently a person who finds contamination of their property needs to notify adjacent property owners. HB 207 expands the radius of notification to properties within 500 feet. If there is a school within 1 mile of a contaminated site, the Superintendent of the school district must be notified and then they are to provide notices annually to the principal of the school. If the contaminated property is within 250 feet of a school, then a notice must be sent to teachers, parents, and guardians of the students.

After a series of questions from committee members, Rep. Kriseman decided to temporarily postpone action on his bill.

HB 207 is the companion bill to SB 602 by Senator Charlie Justice (D-St. Petersburg) that received approval from the Senate Environmental Preservation & Conservation Committee this week.

Although you want to know if there is a contamination problem on your property, HB 207 could have unintended consequences. For example, your property may not be affected by the contamination because it is at a higher elevation and the contamination could not flow to it. If you are trying to sell your property, it may cause the buyer to think twice about purchasing it because of the official action taken by DEP to notify. Also the expanded notification process will probably generate more class action lawsuits.

AIF OPPOSES this particular piece of legislation, especially since we have an existing contamination notification law for adjacent property owners. Currently, DEP sends notices to property owners who have property next to a contaminated site where the contamination has moved across boundaries. The unintended consequences of expanded notification will cause a decline in property values and an increase in legal disputes, outweighing its intended good.