



# DAILY BRIEF

**From March 10, 2011**

As the Senate paves the way for positive change in teacher accountability (SB 736), the House passed its own reforms to lighten the burden of Unemployment Compensation taxes on Florida's businesses. While each chamber continues to champion their respective issues through the legislative process, they both share a common, overarching goal; to implement drastic changes that will transform governmental accountability, promote job growth in Florida, and bring the state's core functions more in line with the private sector.

Read this week's edition of the Daily Brief to learn more about the Senate's plan on pension reform, caps on state revenue limitation and immigration reform legislation.

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## **Immigration**

The House Judiciary Committee voted to introduce **Proposed Committee Bill (PCB) JDC 1**. This legislation is an attempt at addressing the problem of illegal immigration in Florida. The bill, sponsored by Chairman Bill Snyder (R-Stuart), allows for law enforcement officers to ask about the citizenship status of individuals only under an ongoing criminal investigation. This differs from the controversial "Arizona" law which allows law enforcement officials to stop individuals at any time in order to determine their citizenship status. The most troubling provision in the bill for the business community is a mandate that would require all employers with 100 or more employees to use the federal E-Verify system by July 1st 2012 and those employers with 100 or less employees to use E-Verify by July 1st 2013. Business who do not comply or who are found knowingly employing undocumented workers could lose their license to do business in Florida.

Members of the business community were united in opposition to the bill. **AIF's Vice President of External Affairs, Brewster Bevis**, outlined a number of concerns with the E-Verify provisions of the bill. For starters, the bill does not provide a strong enough "safe harbor" for those employers who do their best to follow the law. Currently, employees who are terminated by mistake because of faulty E-Verify results could potentially sue their employers under this law. In addition, there are several unanswered questions regarding the contractor-subcontractor relationship and whether a business could be found liable because of the practices of a subcontractor they are doing business with. Bevis also called for changes in the bill which would require union hiring halls to also be required to use the E-Verify system. Multiple government studies have shown that E-Verify is a flawed system. While AIF believes that there should be some type of electronic employee verification system, we currently do not believe that E-Verify is the system that should be used.



There was much discussion on what this type of legislation could do to Florida's image as a hub of global economic activity and what effect the bill could have on major Florida industries such as tourism and agriculture. In the end, none of these arguments were able to sway members of the committee and the PCB was adopted largely along party lines. Those in favor of the bill stressed the importance of following the rule of law and highlighted the need for doing something to curb illegal immigration in our state.

The PCB will now be assigned an official number and re-referenced to additional House committees. In the Senate, the Judiciary Committee will be considering their version of immigration legislation next Monday, March 14th.

In its current form, AIF OPPOSES this legislation because of the unanswered questions and unintended consequences associated with mandating E-Verify on all Florida employers. Requiring employers (large and small) to operate this flawed system could lead to a disruption in our state's economy and could lead to additional lawsuits by employers who are wrongfully terminated as a result of inaccurate E-Verify results. AIF looks forward to continuing to work with Chairman Snyder and his staff on finding ways to address the business community's concerns.

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## Education

Today marked the third and final reading of SB 736 Relating to Education Personnel by Senator Stephen Wise (R-Jacksonville), known widely as the Student Success Act. Senator Thad Altman (R-Melbourne) sponsored two late-filed amendments, which were both quickly voted down. Debate consisted of many of the same concerns expressed during the second reading, mostly regarding funding and how to appropriately assess teacher performance. Senator Nan Rich (D-Sunrise) went even as far as to claim that this bill is an unfunded mandate. Senators Evelyn Lynn (R-Daytona Beach) and Don Gaetz (R-Niceville) spoke very passionately about the bill, stating support for teachers' professionalism and necessary reform. The final vote was 26-12 in favor of the bill's passage, and was mostly divided along party lines; however, Senator Gary Siplin (D-Orlando) broke ranks with his party and voted in favor of the bill. In a similar fashion, Senator Paula Dockery (R-Lakeland) voted against the bill.

SB 736 was immediately certified and sent to House messages to be considered by its members.

SB 736's House counterpart, HB 7019 by Representative Erik Fresen (R-Miami), made its last committee stop this morning in the House Education Committee. The bill was received well, although drew sharp criticism from Representatives Gwen Clarke-Reed (D-Pompano Beach) and Betty Reed (D-Tampa). Representative Marti Coley (R-Mariana) was particularly pleased with HB 7019 for its efforts to increase accountability in the system, and excited that the profession will finally receive the respect and rewards it deserves. Ultimately, the bill was reported favorably by a vote of 12-6.

HB 7019 will likely be brought before the full House for a vote next week. If the House version is amended to reflect the Senate companion – SB 736 by Senator Wise – then the House bill could be substituted for the Senate measure and receive a vote by the full House. In this scenario, SB 736 will be enrolled and sent to the Governor's desk for his signature.

AIF SUPPORTS these bills because they provide a more business-like approach to the profession of teaching and will help keep our best teachers in the classroom. Senate Bill 736 and House Bill 7019 reforms teacher evaluation, teacher pay and professional service contracts in a manner that focuses on student learning as the most important factor in these decisions. Establishing these reforms will improve Florida's workforce, thereby making Florida more competitive in the global marketplace.

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## Pension Reform

The Senate Government Oversight and Accountability Committee, chaired by Senator Jeremy Ring (D-Margate), took up, amended, and passed SB 1130 today -- one of two major pension reforms bills that have held the committee's attention since mid-January.

Florida's public employees are covered one of two ways in a pension system: plans administered at a state level, and local municipal plans administered by cities.

SB 1130 is legislation that seeks to implement reforms at the state level, and principally deals with the Florida Retirement System (FRS). The FRS is among the strongest in the nation, is about 87 percent solvent, has nearly \$130 billion in assets and covers about 900,000 state and county employees. Florida's teachers far and away are the largest participants in the FRS.

The remaining pension bill, SB 1128 by Chairman Ring, will stay in the committee for future action. This bill addresses pension reforms at the local municipal government level.

With a number of amendments added to the state level bill today, the Senate Government Oversight and Accountability Committee mitigated the reach of Gov. Rick Scott's recommended plan. The Governor would close the FRS from all further entrants and instead require new hires to enroll and contribute five percent into a 401(k), or defined contribution retirement plan. In general, both the Governor and the Senate want to move public sector employees into benefit plans that are more closely aligned with common practice in the private sector, and although less stringent, the amended SB 1130 is consistent with that direction.

The bill makes the following substantial changes to the Florida Retirement System (FRS), effective July 1, 2011:

- Closes the defined benefit pension plan to members of the elected officers' class, the senior management class, and any employee making more than \$75,000 per year in compensation. These members will be required to join the defined contribution or investment plan;
- Changes vesting for the FRS pension plan from six to eight years;
- Changes the FRS from a noncontributory system to a contributory system and requires each active member of the FRS to contribute a percentage of gross salary to fund retirement benefits.
- Sets maximum contribution levels for employees. Contributions from employees in the regular class and those in the special risk class may not exceed two percent of annual salary. Contributions from employees in the senior management class or elected officers' class may not exceed 4 percent of annual salary.
- Requires no employee contribution for the next fiscal year for employees making \$40,000 or less per year; limits contributions from those making over \$40,000, but less than \$75,000, to no more than two percent; and limits contributions from those making over \$75,000 per year to no more than four percent;
- Suspends all employee contributions if the FRS reaches or exceeds 100 percent actuarial funding.

SB 1130 will now proceed to the Senate Budget Committee, Chaired by Senator JD Alexander (R-Lake Wales) where it will be further vetted, analyzed and priced. The Budget Committee will use the revenue estimates produced from a mid-March estimating conference to develop and build the state's next balanced budget, including pension reforms. The House's measure, HB 1405 by Representative Rich Workman (R-Melbourne), was filed on Wednesday of this week and has yet to be assigned to committees of reference.

AIF SUPPORTS efforts to bring Florida's pension system more in line with that of the private sector. These important reforms will help balance the state's budget in future years and protect taxpayer dollars. AIF applauds Senator Ring for his deliberative approach to stabilizing the growing liability of these state and local government pension plans.

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## Space

This afternoon, SB 652 Relating to Liability of Spaceflight Entities by Senator David Simmons (R-Maitland) passed unanimously in the Senate Military Affairs, Space & Domestic Security Committee. Currently, spaceflight entities are not liable for the injury or death of a participant if the accident is due to the inherent risks involved in space flight. This protection, as it currently stands, is set to expire in 2018. SB 652 will eliminate this sunset provision, thereby keeping Florida competitive with other states as we compete globally for aerospace business. Aside from praise by Chair Thad Altman (R-Melbourne) for bringing this bill forward, the measure was passed with little discussion or debate.

SB 652 will now proceed to the Senate Judiciary Committee for consideration by its members. The House companion, HB 703 by Representative Tom Goodson (R-Titusville), awaits deliberation by members of the House Economic Development & Tourism Subcommittee.

AIF SUPPORTS this bill and the entire space agenda, and will work with Space Florida and other partners in the aerospace industry to make Florida a desirable location for aerospace commerce. SB 652 will continue to make Florida a desirable location for commercial spaceflight by extending liability protections for commercial space companies.

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## Taxation

Today, the Senate took up Senate Joint Resolution (SJR) 958 Relating to State Revenue Limitations by Senator Ellyn Bogdanoff (R-Fort Lauderdale) on second reading, where questions and amendments can be considered.

Known as "Smart Caps", Senator Bogdanoff explained that the joint resolution would limit revenues collected by state government to the amount collected the previous year, plus an annual adjustment based on a combination of population growth and the rate of inflation. Any funds in excess of the limits will be placed in the state's "rainy day fund" until that fund reaches 10 percent of the prior year's total budget – at that point, the Legislature must vote to either provide tax relief or reduce property taxes.

She further explained that the Legislature has two options to increase the state revenue limitation:

- 1) The Legislature, by a two-thirds vote of the membership of each house, may increase the revenue limitation for any fiscal year, or
- 2) The Legislature, by a three-fifths vote of the membership of each house, may increase the allowable state revenue for any one fiscal year. Increases to the revenue limitation by a three-fifths vote must be disregarded when determining the revenue limitation in subsequent fiscal years.

Additionally, Florida voters have the authority to increase the revenue limitation. The Legislature may place before the voters a measure to increase the state revenue limitation by a concurrent resolution approved by a two-thirds vote of the membership of each house.

After Senator Bogdanoff finished presenting the bill, Senator Gwen Margolis (D-Miami) offered an amendment to remove bond payments from the limit. Senator Thad Altman (R-Melbourne) argued in support of the amendment along with Senator Nan Rich (D-Sunrise). The amendment failed on a voice vote and the bill was placed on third reading.

SJR 958 will likely be considered and passed next week when the full Senate meets again in Session.

AIF SUPPORTS legislation that establishes a state revenue cap because it is clear that the state has not demonstrated fiscal constraint in the past when revenues were increased beyond the critical needs of the state. AIF believes that spending excess revenues, especially creating recurring programs that must continue to be funded in the future, places the state in the position to possibly raise taxes to meet those needs when revenues fall of. Furthermore, placing a smart cap in the constitution that requires a super majority encourages fiscal discipline for future legislative bodies.

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## **Ethics & Elections**

Today, the House State Affairs Committee approved HB 1021 by Representative Chris Dorworth (R-Heathrow) by a vote that fell strictly along party lines. The bill prohibits state and local government from automatic payroll deductions for membership dues and Political Action Committee (PAC) contributions for members of public employee unions such as teachers, police, etc. The measure also allows a union member who has contributed to his or her union's PAC to request and receive a pro-rated refund of their contribution at any time during the year.

Members of the committee heard extensive and often belligerent testimony from representatives of various unions who harshly criticized the bill as "union-busting" and an attempt to muzzle free speech. The sponsor countered that government should simply not be in the business of collecting union dues and that many of the concerns expressed were exaggerated or groundless.

HB 1021 will now continue to the House Appropriations Committee, its final committee of reference before proceeding to the House floor. The Senate proposal, sponsored by Senator John Thrasher (R-Jacksonville), is scheduled to be heard in the Senate Community Affairs Committee on Monday, March 14th at 10:15 am.

AIF SUPPORTS efforts to give union members more of a say on how their union dues are spent. At a time when dollars are scarce, union members should be allowed to keep their hard-earned money if they decide not to support their union's political activity.

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## **Legal & Judicial**

Today, the Senate Committee on Military Affairs, Space and Domestic Security unanimously passed SB 450 Relating to Emergency Management by Senator Mike Bennett (R-Sarasota). This legislation provides civil immunity to any person who gratuitously provides housing, shelter, food or certain other provisions in the wake of a declared disaster to first responders. SB 450 is important to community recovery and business continuity following catastrophic events. When communities are able to provide for their own first responder communities they are able to restore services and return to a state of normalcy much more quickly.

SB 450 is now slated to be heard in the Senate Judiciary Committee. The House proposal, sponsored by Representative Joe Abruzzo (D-Wellington), is awaiting consideration in the House Community & Military Affairs Subcommittee.

**AIF SUPPORTS legislation that offers basic protection from unnecessary litigation to business owners who offer their services to first responders during natural disasters. Furthermore, AIF commends Senator Bennett for his vision and leadership in bringing forward this proposal.**

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### **Seaport Security**

The Senate Committee on Military Affairs, Space and Domestic Security also unanimously passed SB 524 Relating to Seaport Security by Senator Jack Latvala (R-St. Petersburg) today. Relating to improvements in security regulations at Florida's seaports, AIF has worked on this issue for the past several years, with some intermediate steps being taken in the past. This bill, however, completely and finally removes all duplicative, costly and burdensome security regulations that cause business in Florida's seaports to be much more expensive than in competing states. This legislation has bi-partisan support among legislators, as well as support of the business community, labor, and port authorities.

SB 524 will now proceed to the Senate Committee on Transportation. The House companion, HB 283 by Representative Dana Young (R-Tampa), awaits consideration in the House Transportation & Highway Safety Subcommittee.

**AIF SUPPORTS legislation to reduce red tape and regulatory burdens, such as duplicative security credentialing, which encumber businesses in their daily work. AIF commends Senator Latvala for advancing this business-friendly proposal in the Legislature.**

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### **Unemployment Compensation**

Today, the full House of Representatives considered and passed HB 7005 Relating to Unemployment Compensation by Representative Doug Holder (R-Sarasota). With the intent to reform Florida's Unemployment Compensation system, HB 7005 is a work product of the House Economic Development and Tourism Subcommittee chaired by Representative Holder, who presented the bill on the House floor today.

Related to a claimant's state and federal benefits, the House measure seeks to:

- Tie a UC claimant closer to the workforce system by requiring a claimant, after benefits eligibility is established, to complete an initial skills review as a reporting requirement which results are reported to the workforce system;
- Match up state law with federal law changes to allow for federally-funded extended benefits to be drawn down to the unemployed;

Relating to qualification for benefits, the House bill:

- Revises how employee misconduct is determined and defined by revising the language of statutory construction and review, and specifying certain forms of misconduct such as chronic absenteeism or tardiness;
- Expand the provision for which an employee is disqualified from benefits related to committing a crime connected with work so that the crime does not have to be punishable by imprisonment for it to be used for disqualification, and specify that a claimant in prison is disqualified from benefits.

Regarding appeals of benefit determinations, the House bill will:

- Codify certain agency rules related to the exclusion of evidence that is irrelevant or repetitious, and revises the admissibility of hearsay evidence to allow it to be used to establish a fact under certain circumstances;
- Allow a claimant to file an appeal of a benefit determination made by the Unemployment Appeals Commission in the appellate court near the claimant.

Relating to employer taxes, the House bill:

- Reduces most employers' tax rates by revising their benefit ratio calculation downward 10% which is used to compute their ultimate tax rate;
- Reduces the number of available benefit weeks and ties the number of available benefit weeks to the unemployment rate, meaning the higher the unemployment rate the greater the number of available benefit weeks and vice-versa.
- Both bills allow employers to continue to have the option to pay their UC taxes in installments over the course of the year in 2012, 2013, and 2014.

HB 7005 was passed on its third and final reading today by a vote of 81-38. The measure will now proceed to the Senate for consideration by its members. SB 728 by Senator Nancy Detert (R-Venice), the Senate's version of the bill, has one final stop in the Senate Budget Committee before being brought to the Senate floor.

AIF strongly SUPPORTS HB 7005 and we salute Representative Holder for his strong leadership to ensure that employers will see relief from unfair tax rate increases in the future and to guarantee that individuals who most deserve benefits will continue to receive them.