



# DAILY BRIEF

**From March 14, 2011**

Today was anything but a quiet beginning to the week in the Florida Legislature as lawmakers reported to their respective committees to consider several key pieces of legislation. A couple of high priority measures that relate to the state's legal climate passed their committees of reference today and, if passed by the full legislature, stand to provide Florida's businesses with some much needed legal reform.

In addition, the Senate has released a significantly less onerous approach to enforcing immigration laws in Florida. Today's edition of the Daily Brief will provide further insight into the proposed changes surrounding the implementation of a federal "E-Verify" system for Florida's employers.

In addition, be sure to check out the most recent edition of "AIF TV" which recaps the top business issues from Week 1.

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## **Immigration**

The Senate Judiciary Committee considered their version of immigration legislation today. Chair Anitere Flores (R-Miami) presented a strike-everything amendment which was a significant departure to the original Senate proposed committee bill (SB 7066). The E-Verify provisions in the strike-everything have been softened dramatically from the bill as originally filed and from the House's version of the bill, which would have mandated all employers to use the E-Verify employee verification system by July 1, 2013. The strike-everything amendment which was introduced today would allow employers to use E-Verify voluntarily or they are also allowed to use the following documents which are traditionally used in the I-9 citizenship verification process:

- An unexpired United States passport or United States 57 passport card;
- An unexpired driver's license that is issued by a state or outlying possession of the United States and that contains a photograph of the employee;
- An unexpired foreign passport that contains a United States visa evidencing applicable work authorization and a corresponding unexpired Form I-94; or
- A secure national identification card or similar document issued pursuant to federal law.

The bill also contains a number of law enforcement provisions dealing with the handling of illegal immigrants who are detained in Florida and it establishes a process by which local governments can develop formal law enforcement relationships with the Department of Homeland Security.

No formal vote was taken on the strike-everything amendment today, but we do expect SB 7066 (in its new form) to come back before the committee for a formal vote.

**As amended, SB 7066 is certainly a more reasonable approach to the immigration issue and AIF looks forward to working with Chair Flores and staff on finding a common-sense solution, "Florida-based" solution to the issue of immigration in our state.**

## Legal & Judicial

Today, the Senate Judiciary Committee unanimously passed SB 866 Relating to Judgment Interest by Senator Bogdanoff (R-Ft. Lauderdale). Addressing the calculation methodology for judgment interest, this issue is important to Florida businesses because the current methods create situations where exorbitant and inequitable interest rates result in the over-compensation of plaintiffs, discouraging settlements and holding the defendants financially liable for delays they do not cause. The original bill revised the statute to index the rate at 300 basis points above the current prime rate; however, some last minute amendments revised the bill to 450 basis points. This significantly weakens the bill since the current statute is set at 500. Nonetheless, in an effort to continue working on this important issue, the bill was unanimously passed out of committee today and will hopefully see additional and more meaningful revisions in the future.

SB 866 is now scheduled to proceed to the Senate Governmental Oversight and Accountability Committee for further consideration. The House measure, HB 567 by Representative Matt Hudson (R-Naples), is in the House Government Operations Appropriations Subcommittee and awaits consideration.

### **AIF SUPPORTS revising current law to create a more fair and balanced formula for applying interest to damage awards.**

The House Civil Justice Subcommittee met this afternoon to consider HB 391 Relating to Expert Testimony by Representative Larry Metz (R-Eustis). This measure effectively revises the criteria for admission of expert evidence in Florida state courts. The admissibility of expert scientific testimony has been a focal point of tort reform in recent years. The admission of “junk science” has increased due to the tendency of trial judges to allow evidence in to court that is built on scientifically weak studies or dubious expert witnesses. In 1993, the United States Supreme Court established guidelines for federal judges for admitting scientific evidence and expert testimony. However, that standard is not binding on Florida state court judges, which has ultimately resulted in judges having total discretion to determine which opinions are admissible. This allows for different standards to be applied in different areas of the state.

The importance of this issue to the business community was well expressed by Representative Mike Weinstein (R-Jacksonville) when he stated that this bill modernizes Florida's evidence code, providing consistency and making Florida a more business-friendly state. **AIF's General Counsel, Tammy Perdue**, testified in support of the bill by stating the importance of predictability in these cases. Mrs. Perdue further testified that this bill would prevent the insidious practice of “venue shopping” by members of the trial bar. The bill passed by a vote of 10-4.



HB 391 will now proceed to the House Judiciary committee, its final committee of reference before heading to the House floor. The Senate companion bill, SB 822 by Senator Ellyn Bogdanoff (R-Ft. Lauderdale), is scheduled to be heard by the Senate Budget Subcommittee on Criminal and Civil Justice Appropriations on Thursday, March 17th at 10:15 am.

### **AIF SUPPORTS legislation that will go a long way to help Florida correct a litigation crisis that increases costs to all American businesses and consumers. Furthermore, we applaud Representative Metz's leadership and commitment to strengthening Florida's judicial climate by bringing forth this legislation.**

## Open Carry Legislation

Today, the Senate Criminal Justice committee considered SB 234 Relating to Firearms by Senator Greg Evers (R-Crestview). This bill would expand Florida's current concealed weapons law to allow for those license holders to carry their weapons in the open. As originally filed, SB 234 would also allow license holders to carry their firearms into career centers, nonpublic elementary and secondary school facilities, as well as colleges and universities; however, the measure was substantially amended last week so that concealed-weapons permit holders were precluded from carrying firearms on college campuses and other school grounds.

SB 234 passed by a narrow margin of 3-2 with Senators Gwen Margolis (D-Miami) and Chris Smith (D-Ft. Lauderdale) voting against the bill.

SB 234 will now proceed to the Senate Judiciary Committee for further consideration. The House companion, HB 517 by Representative Chris Dorworth (R-Heathrow), is scheduled to be heard in the House Criminal Justice Subcommittee on Tuesday, March 15th at 8:00 am.

**AIF OPPOSES legislation that would permit "open-carry" of firearms in Florida. The passage of this type of law could drastically expand liability concerns for business owners by creating a new duty of care related to having knowledge of a potential dangerous instrument on an employer's premises.**

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## Ethics & Elections

Today, the Senate Community Affairs Committee took up and passed SB 830 by Senator John Thrasher (R-Jacksonville) by a vote that fell strictly along party lines. The bill prohibits state and local governments 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 testimony from representatives of various unions who harshly criticized the bill as "union-busting" and an attempt to muzzle free speech. Senator Thrasher, the bill's sponsor, countered that the bill is designed to empower unions, while simultaneously eradicating the role of state and local governments in collecting union payroll deductions.

Committee members approved the measure by a vote of 5-4, with Senators Paula Dockery (R-Lakeland) and Jim Norman (R-Tampa) joining Democratic members in voting against the bill.

SB 830 will now proceed to the Senate Governmental Oversight and Accountability Committee for further deliberation. The House measure, HB 1021 by Representative Chris Dorworth (R-Heathrow), is waiting to be heard in the full House Appropriations Committee.

**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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## Growth Management

Today, the Senate Children, Families, and Elder Affairs Committee unanimously passed SB 912 Relating to Affordable Housing by Senator Mike Bennett (R-Bradenton). Passing unanimously with no objection, SB 912 will remove the statutory limitations on the amount of documentary stamp revenue that goes into the State Housing Trust Fund and the Local Government Housing Trust Fund. The caps on the trust fund distributions are eliminated, so that 7.53 percent of net documentary stamp tax collections are split 50 percent to the State Housing Trust Fund and 50 percent to the Local Government Housing Trust Fund, and 8.66% of the net collections are split 12.5 percent to the State Housing Trust Fund and 87.5 percent to the Local Government Housing Trust Fund.

SB 912 has been a major priority for AIF and the Sadowski Housing Coalition and is expected to pass this legislative session.

SB 912 will now proceed to the Senate Budget Committee, its final committee of consideration before moving to the floor for a full vote.

The identical measure in the House, HB 639 by Representative Gary Aubuchon (R-Cape Coral), awaits further deliberation in the House Transportation & Economic Development Appropriations Subcommittee.

**AIF SUPPORTS legislation that repeals the Housing Trust Fund cap and appropriates all doc stamp revenue toward affordable housing. AIF has worked closely with the Sadowski Coalition in effort to allocate these funds for which they were originally intended.**

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## Environmental

The Senate Agriculture committee passed SB 606 Relating to Fertilizer Model Ordinance by Senator Greg Evers (R-Crestview). The bill creates a statewide fertilizer model ordinance, which regulates the use and sale of fertilizer in Florida. Currently, the definition of what is legal and allowable as it relates to the sale or use of fertilizer is a logistical nightmare for retailers and applicators. A troublesome practice of local governments micro-managing the sale and use of fertilizer has emerged across Florida.

In the name of saving our water resources, local governments have decided (without scientific proof) that fertilizer is the enemy. SB 606 addresses these concerns for the business community and establishes a statewide model ordinance that was developed by experts at the Department of Agriculture and Consumer Services, the Department of Environmental Protection, and scientists at the University of Florida.

Members of the business community, including AIF, have testified in full support of SB 606 because of the predictability it will create in the marketplace. The bill will also help Florida's water quality by setting a statewide standard in areas of the state where fertilizer use is not regulated.

SB 606 was passed by unanimously by the Senate Agriculture committee and will now be considered by the Senate Community Affairs Committee.

**AIF SUPPORTS legislation that develops an overarching model for fertilizer regulation that applies statewide.**

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## Taxation

The Senate Community Affairs committee unanimously passed SB 582 Relating to Local Business Taxes by Senator Nancy Detert (R-Sarasota). This bill aims to reduce the tax burden Florida employers are currently facing as a result of local ordinances that require employees to pay local business taxes if their employer is already paying local businesses taxes to operate a business. The bill prohibits local governments from imposing a “local business tax” for professions regulated by the Department of Business and Professional Regulation (DBPR) without the local government verifying that the person has satisfied the DBPR qualification requirements. Furthermore, the bill clearly specifies that an individual who engages in or manages a business, profession, or occupation as an employee of another person is not required to pay a local business tax, obtain a local business tax receipt, or apply for an exemption from a local business tax.

SB 582 will now be considered by the Senate Regulated Industries Committee.

**AIF SUPPORTS legislation that eliminates the requirement for certain employees to pay a “local business tax” if their employer is already paying a similar tax. This legislation will reduce the tax burden on employees across Florida and create a more business-friendly environment at a time when Florida’s economy needs it the most.**