



DAILY BRIEF

From March 16, 2011

The full legislature passed AIF's top education priority today relating to the evaluation of Florida's teachers. SB 736 by Senator Stephen Wise (R-Jacksonville) will eliminate the age-old tenure system, institute a merit-based pay system and ensure the highest education standards for our state's future business leaders.

Read AIF's statement on the Legislature's passage of comprehensive teacher reform at http://aif.com/legislative_public/2011/aif_art/pr_3.shtm

In addition, the Senate passed its first tort reform measure of the 2011 Legislative Session. SB 142 by Senator Garrett Richter (R-Naples) allows Florida juries to consider all of the evidence concerning an automobile accident, including information on what factors caused the accident. Following the bill's passage today, Senate Majority Leader Andy Gardiner (R-Orlando) stated that "Business-friendly tort reform is a priority in order to help Florida increase economic growth and job opportunities".

Legal & Judicial

Today, the Florida Senate heard SB 142 by Senator Garrett Richter (R-Naples) Relating to Negligence. The bill corrects an inequitable decision of the Florida Supreme Court relating to how the jury receives evidence in products liability cases alleging that vehicles are not crashworthy. Florida is one of the few states that prohibit the introduction of any evidence relating to the driver's condition at the time of the crash.

During the bill's consideration today, there were no amendments filed or considered. In debate, Senator Maria Sachs (D-Ft. Lauderdale) argued against reversing the Florida Supreme Court decision that created this complete inequity that the bill is designed to correct. This Florida-only standard prohibits a jury from hearing all evidence of facts and circumstances leading up to and contributing to these cases brought against vehicle manufacturers.

Senator John Thrasher (R-Jacksonville) eloquently responded in debate that when the Supreme Court is wrong, as they were in this case, it is incumbent upon the Legislature to either reverse the case or set laws to rectify the issue. In this instance, the court wrongly established that juries cannot hear all evidence leading up to these kinds of crashworthiness cases.

Senator David Simmons (R-Altamonte Springs) also debated in favor of the bill and referred to the agreeable amendments he and Senator Richter worked out the day prior on the Senate floor. Those amendments provide that all evidence proposed is still subject to the rules of evidence. This guarantees that information that is irrelevant will still not be admitted before the jury because the judge will control admissibility; however, there is nothing in this bill that will prohibit the rules of evidence from still being applied. Another amendment also guarantees that each case will be heard on its own merits. The evidence will be brought in and the facts of each case will determine which evidence elements the jury

will hear. This bill does NOT change the crashworthiness doctrine. The concept of the distinction between the cause of the injury and the cause of the enhancement of those injuries remains intact.

In his closing, Senator Richter explained that the judiciary system is designed for trial judges and juries to be able to hear facts and make fair decisions. Without this bill, the Florida Supreme Court has undermined that fairness by barring the trial judge and jury from hearing all the information surrounding the case. This bill is about common sense.

SB 142 passed on a vote of 28-12. Following its passage by the full Senate, the bill will now be sent to the House for consideration by its members. AIF encourages the House of Representatives to follow the lead of the Florida Senate and soon consider this identical bill to restore more fairness and balance to Florida's judicial system.

Read AIF's statement on the passage of SB 142 by the Florida Senate at http://aif.com/legislative_public/2011/aif_art/pr_2.shtm

AIF SUPPORTS efforts by the Florida Legislature to clearly express that a Florida Supreme Court-create standard regarding crashworthiness is absurd and unfair. Furthermore, AIF proudly congratulates Senator Richter on achieving passage of this important legislation today.

Education

Today, the Florida House of Representatives approved the final passage of SB 736 Relating to Education Personnel. Commonly referred to as the "Student Success Act", the bill was passed by a vote of 80-39 after a structured and rather brief debate. By contrast, the vote on a similar last year's measure, SB 6, was 64-55 with many Republicans breaking from their party.

SB 736 is much more streamlined this year, and despite Democratic opposition to the bill, the tone of the debate was much more civil. SB 736 creates an evaluation and compensation system for teachers that is at least 50% based on student achievement. The bill limits tenure for existing teachers and eliminates it altogether for teachers hired after July 1, 2011. The bill eliminates Last in First Out, or LIFO, policies by requiring that districts cannot prioritize any reductions in teacher workforce based on seniority.

The bill was heard on 2nd reading last night where 4 amendments were defeated and members asked questions for about 3 hours. Today, the debate structure was agreed on by House Democrats and Republicans in advance, limiting debate to 3 hours per side with a vote to be taken on the bill by 7:30 p.m. After several rounds of debate, both sides closed out with over two hours remaining on the clock. The bill was voted out by 4:45 p.m. While some comments were passionate at times, there were no heated exchanges whatsoever this year.

AIF SUPPORTS the passage of SB 736 to provide a more business-like approach to the profession of teaching and help keep our best teachers in the classroom. SB 736 will reform 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. We commend the Florida Legislature for seeing the passage of this critical legislation in such an expeditious manner.

Seaports

AIF's Maritime Council members were working successfully again on seaport security legislation. Today the Senate Transportation Committee unanimously passed HB 524 by Chairman Senator Jack Latvala (R-St Petersburg) removing burdensome and duplicative security measures for Florida's seaports. This bill is important to the business community because it will lower the costs of doing business in Florida's ports. These cost reductions will improve Florida's competitiveness with neighboring states in our quest to expand economic development in our maritime industries. This bill is the top priority for AIF's Maritime Council. We appreciate the approval of today's committee members and the leadership of Chairman Latvala as well as the long term commitment of Senator Tony Hill (D-Jacksonville) in championing this cause in the Florida Senate.

SB 524 received the support of the business community, labor, and port authorities. The bill will now be considered by the Senate Budget Committee – the bill's final committee stop.

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.

In a relatively bipartisan setting today, the Senate Commerce and Tourism Committee unanimously passed SB 768 Relating to Seaports by Senator Jeremy Ring (D-Margate). Construction to widen and modernize the Panama Canal is nearing completion, and seaports on the entire U.S. coastline are considering their options on how to best position themselves to participate in what is expected to be an economic windfall in maritime transit of oil, foodstuffs, consumer goods, and other cargo. SB 768 includes several financing and permitting provisions to assist seaport infrastructure improvement projects that will make Florida's 14 seaports more globally competitive. Some of these provisions include raising, from \$8 million to \$20 million, the minimum amount of state transportation funds allocated for Florida Seaport Transportation and Economic Development (FSTED) projects and requiring the Department of Environmental Protection (DEP) to issue a notice of intent for a port conceptual permit within 30 days after receiving the application.

SB 768 will now proceed to the Senate Transportation Committee for further deliberation. The House companion, HB 399 by Representative Lake Ray (R-Jacksonville), is waiting to be heard in the House Transportation & Highway Safety Subcommittee.

AIF SUPPORTS efforts to include port incentives in any economic development proposals that are considered during the 2011 Session. Florida's 14 deepwater seaports are significant economic drivers for the state and must be provided with adequate funding to promote development and growth.

Insurance

Today, the Senate Commerce & Tourism Committee approved SB 178 Relating to Commercial Insurance Rates by Senator Steve Oelrich (R-Gainesville). SB 178 exempts the following categories from the state's rates prior approval process: nonresidential property, excess property, commercial motor vehicles, fiduciary and general liability. Furthermore, this bill will allow insurers that sell the types of above mentioned coverage to make pricing changes on a more expedited basis and avoid some of the expense incurred in a full rate review process.

AIF believes this legislation will result in enhancing competition among insurance companies from which Florida businesses will benefit as to affordability and availability of insurance.

SB 178 will now advance to the Senate Budget Committee. Its House companion bill, HB 99 by Representative Brad Drake (R-DeFuniak Springs) will be heard by the House Economic Affairs Committee on Thursday, March 17th at 8:30 am.

AIF SUPPORTS legislation aimed at de-regulating commercial insurance lines in Florida. Competition should be the primary determinant of insurance rates especially for commercial insurance, which is typically purchased by sophisticated business entities.

During a meeting of the Senate Banking & Insurance Committee today, members passed SB 1330 Relating to Residential Property Insurance by Senator Alan Hays (R-Umatilla). Known as the Homeowner's "Consumer Choice" bill, SB 1330 provides homeowners with the option of choosing from a property insurer with a competitive, market-based rate.

Currently, the state-created Citizens Property Insurance Corporation provides property insurance to those unable to find coverage in the private insurance market. The artificially low rates created by Citizens produce an unsustainable market on the backs of Florida's private property insurers. Since Citizens does not possess the funds to pay out claims in the event of a disaster, hidden "hurricane tax" assessments will be borne by Florida's businesses. This is simply unsustainable.

With the passage of SB 1330, Florida homeowners will have the choice of choosing from competitive market rates from private insurers, while sending Citizens back to an "insurer of last resort". The bill passed by a vote of 6-3.

SB 1130 will now proceed to the Senate Budget Committee, its final committee of reference before proceeding to the floor. The House measure, HB 885 by Representative John Wood (R-Haines City), awaits consideration in the House Insurance & Banking Subcommittee

AIF SUPPORTS legislation aimed at de-regulating commercial insurance lines in Florida. Competition should be the primary determinant of insurance rates especially for commercial insurance, which is typically purchased by sophisticated business entities.

Today, the House Insurance & Banking Subcommittee workshopped their version of legislation relating to Property and Casualty Insurance reform in Florida – HB 803 by Representative John Wood (R-Haines City).

Introduced as the House's comprehensive property insurance bill, this legislation is a top AIF priority for the restoration of the private residential insurance market, which is essential to reducing Citizens and its potential deficit taxes. Further, HB 803 includes provisions to eliminate fraud abuse in claims relating to mandatory sinkhole coverage.

AIF SUPPORTS legislation such as HB 803 by Representative Wood (R-Haines City) which makes sinkhole coverage optional to the insured; reduces the time frame to file hurricane claims from 5 years to 3 years after the hurricane; increases solvency requirements for insurance companies; eliminates public adjusters' abuses; and repeals the current requirement that property replacement costs be paid up front and replace with the payment of actual cash value with a holdback until repairs are actually completed. (Insurance - Non-Hurricane Property Insurance Claims Cost Drivers)

Also moving today was HB 967 Relating to Personal Injury Protection by Representative Mike Horner (R-Kissimmee). The bill was passed on a 13-2 vote in the House Insurance & Banking Subcommittee. This session there is a coordinated and aggressive effort by the business community to reform some of Florida's Personal Injury Protection (PIP) laws. According to the Property Casualty Insurers of America, Florida continues to have the highest number of "staged" auto accidents of any other state in the country. Furthermore, this fraud epidemic amounts to costly premiums for Florida drivers. HB 967 has been filed in order to address many of the cost drivers in the system.

The bill requires the insured to comply with all policy terms including examinations under oath or independent medical exams. These are critical tools for combating fraud that have recently been taken away by the courts. The bill also has a component which limits attorney's fees to the lesser of \$10,000 or 3 times the disputed amount recovered by the plaintiff's attorney. It also eliminates a trial attorney's ability to obtain a fee multiplier. These fee multipliers can increase the amount a PIP lawyer can make in litigation by up to two-and-a-half times. Last but not least, the bill provides insurers the ability to provide policies that either require or allow arbitration of any claim dispute prior to filing a law suit. Arbitration allows for disputes to be resolved faster and more efficiently; therefore, reducing our court system's caseload.

HB 967 will now be considered by the House Civil Justice Subcommittee.

AIF SUPPORTS efforts to reform Florida's PIP insurance system. Currently, there is rampant fraud taking place across the state as well as abuses by PIP lawyers who have an incentive to file as many lawsuits as possible and for any reason. HB 967 will go a long way to improve Florida's auto insurance market and hopefully bring about some lower insurance rates for consumers and employers. (Insurance – Automobile Insurance)

Growth Management

This morning, the Senate Rules Committee unanimously passed SB 410 Relating to Impact Fees by Senator Mike Bennett (R-Bradenton). In what has continued to be a non-controversial issue, SB 410 would create the "preponderance of the evidence" standard of review for the government in cases challenging the imposition or amount of an impact fee. At the present, a local government wins if their action was "fairly debatable". Under SB 410, local governments must prove their case by the preponderance" of the evidence, which is the standard in civil cases today. Essentially, the bill will take away the "upper hand" that local governments have in defending their ordinances in court.

SB 410 will now proceed to the Senate floor for its second reading where amendments are offered and debate may occur. The House companion, HB 7021 by the House Community & Military Affairs Subcommittee, is scheduled to be heard in the House Economic Affairs Committee on Thursday, March 17th at 8:30 am.

AIF SUPPORTS a thorough review and, where appropriate, a limitation on the use of impact fee. Through all of the Legislature's attempts to lower taxes, they have yet to place any mandates of fairness or limitation on the ever-growing local government funding source of "user fees".

Today, the full House of Representatives considered two pieces of growth management legislation on the floor – HB 7001 Relating to Growth Management and HB 7003 Relating to Affordable Housing by the House Community & Military Affairs Subcommittee. All of the aforementioned bills comprised the "Community Renewal Act" under 2009's SB 360. SB 360 was a landmark growth management bill that offered larger developments the option of avoiding the Developments of Regional Impact (DRI) process in certain densely populated areas. This action is intended to cure the problem of violation of the Constitution's ban on more than one subject in a single bill, as was raised by a circuit court last year when it found SB 360 to be unconstitutional.

As expected, HB 7003 measures passed unanimously without controversy; however, the growth management bill, HB 7001, was met with the anticipated opposition. Nonetheless, it was narrowly passed by a vote of 80 Yeas and 39 Nays.

HB 7001 and HB 7003 will now be sent to the Senate for consideration by its members. Their respective companions, SB 174 and SB 176 by Senator Mike Bennett (R-Bradenton), have passed their assigned committees of reference and await second reading.

AIF SUPPORTS efforts to re-enact the Community Renewal Act so as to guarantee that those developments which relied on the legislation, as well as those needing to avail themselves of its benefits, can proceed with certainty.

Economic Development

Today, the Senate Commerce and Tourism Committee unanimously passed a top priority bill for the business community – HB 798 Relating to Streamlining the Issuance of Licenses, Certifications, & Registrations Issued by State Agencies by Senator Thad Altman (R-Melbourne). Known as “Florida’s One Stop Business Connect Act”, this legislation is a top priority this session for AIF in an effort to create a mechanism to assist business’ needs to comply with all corporate requirements necessary to do business in Florida.

HB 798 would require the Governor to establish a One-Stop Business Connect Workgroup that would be tasked with reporting an action plan back to the Governor, the President of the Senate and the Speaker of the House. The primary purpose of the plan is to establish an online, self-service, single point of entry system for new and existing businesses to efficiently complete their transactions with the state. This mechanism would be available to all Florida businesses.

HB 798 will now advance to the Senate Governmental Oversight and Accountability Committee for further consideration. House measure, HB 187 by Representative Mike Horner (R-Kissimmee), was passed yesterday and will proceed to the House Government Operations Appropriations Subcommittee.

AIF SUPPORTS legislation that will create easier and more efficient mechanisms for Florida’s businesses to comply with state regulations and requirements.