



DAILY BRIEF

From March 17, 2011

Today offered a glance into some of the Legislature's biggest proposals, which seek to comprehensively reform Florida's growth management practices, the implementation of the state's Medicaid program, and reform of the state's Supreme Court. As a whole, these measures will further Florida toward creating a business –friendly climate by stabilizing some of the state's largest operations.

Read this edition of the Daily Brief to learn how these proposals, among others, are advancing their way through the Legislature.

Insurance

Today the House Economic Affairs Committee approved HB 99 Relating to Commercial Insurance Rates by Representative Brad Drake (R-DeFuniak Springs). Passing with unanimous consent, there were a few technical amendments offered, which conformed the bill to its Senate companion (SB 178).

HB 99 exempts the following categories from the state's rates prior approval process: nonresidential property, excess property, commercial motor vehicles, fiduciary and general liability. The bill will allow insurers selling the types of commercial insurance listed in the bill to make pricing changes for those types on a more expedited basis and avoid some of the expense incurred in a rate filing and review process done through the OIR.

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.

HB 99 passed its final committee of reference today and will proceed to the House floor. The Senate companion, SB 178 by Senator Steve Oelrich (R-Gainesville), has one final stop in the Senate Budget Committee.

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.

Energy

Today, the Senate Committee on Environmental Preservation and Conservation passed SB 762 Relating to the Florida Climate Protection Act by Senator Alan Hays (R-Umatilla). The bill repeals the Florida Climate Protection Act, which authorized the Department of Environmental Protection (DEP) to adopt rules creating a cap-and-trade program. Additionally, it also deletes a provision allowing for cost recovery relating to greenhouse gas registries.

The Florida Climate Protection Act was created in 2008 as part of then Governor Charlie Crist's energy initiatives. The Department of Environmental Protection was slated with developing rules by January of 2010 to implement the program, while the Legislature was tasked to ratify the rules. This never occurred. Much of the debate against the bill centered on retaining the statute in the event the Federal government passed a cap-and-trade program. As expected, the bill passed along a party line vote of 4-2.

AIF SUPPORTS legislation to repeal the Florida Climate Protection Act and eliminate efforts to implement a “cap-and-trade” program for the reduction of greenhouse gas emissions.

Education

Today, the Senate Education PreK-12 Committee considered SB 1466 Relating to Class Size Requirements by Senator David Simmons (R-Altamonte Springs). This bill redefines "core-curricula courses" so districts can have some flexibility in implementing the constitutionally mandated class size restrictions. It also provides limitations on the absolute maximum number of students who may be assigned to a teacher when an existing class temporarily exceeds the class size. Class size maximums will only be able to temporarily expand in the case of extreme emergency beyond the district's control or when a student enrolls after the October survey period.

SB 1466 was voted out of committee by a unanimous vote with no discussion or debate. The bill will now proceed to the Senate Budget Committee, its final committee of reference.

AIF SUPPORTS legislation that will provide districts with the flexibility to implement constitutionally mandated class size requirements.

Health Care

Today, the House moved one step closer to reining in the ever increasing cost of the state's Medicaid Program. Currently, Florida's Medicaid Program is approximately one-third of the entire budget. As such, policymakers in the House and Senate recognize that strong leadership is needed on this issue to ensure quality care is provided in a cost-efficient manner.

The House Health and Human Services Committee approved two proposed committee bills (PCB) which would overhaul the state's Medicaid program. **PCB HHSC 11-01** and **11-02** would set up the process for establishing a statewide integrated managed care program for all covered services for Florida's neediest residents. Currently, Florida's Medicaid program serves more than 2.9 million recipients.

The bill provides for three separate programs - the Medicaid Managed Medical Assistance program which will provide primary and acute care for Medicaid recipients; the Long Term Care Managed Care Program for residential and home and community based care; and the Managed Long Term Care for Persons with Developmental Disabilities. Further, the language directs the Agency for Health Care Administration (AHCA) to prepare and submit a waiver to the federal government in order to implement this program. Over the last several months, the House has taken public testimony from all stakeholders, including Associated Industries of Florida, which explained to members that employers and employees have continually subsidized the high cost of this program in the form of higher private health insurance premiums.

Representative Robert Schenck (R-Springhill), Chair of the Health and Human Services Committee, thanked members for their continuing efforts of finding a way to improve this very complicated system.

Democratic committee members continued to express their concerns about moving these recipients into an integrated care model; however, Representative Matt Hudson (R-Naples), Chair of the Health Care Appropriations Committee told Democratic members, "There's just no accepting the status quo, we can't be there anymore."

The votes on **PCB 11-01** and **02** were 12 to 6 - following party lines with Republicans voting for the bills and Democrats voting against.

PCB 11-01 & **PCB 11-02** will now be assigned bill numbers and be referred to further committees of reference. The Senate Medicaid proposal - SB 1972 by Senator Joe Negron (R-Palm City) - will continue to be work-shopped in the Senate Budget Subcommittee on Health and Human Services Appropriations. Tentatively, the committee is expected to vote on the measure on Thursday, March 24th.

AIF SUPPORTS the Legislature's plan to make bold changes to the Medicaid Program by streamlining this highly fragmented delivery and payment system.

Environmental

The House Select Committee on Water Policy met today and heard from a panel of speakers proposing solutions to Florida's water problems. The panel included:

- Keyna Cory, Senior Lobbyist for Associated Industries of Florida
- Eric Draper, Executive Director of Audubon of Florida
- Pat Lehman, Executive Director, Peace River Manasota Regional Water Supply Authority; Utility Council Chair of the Florida Section of the American Water Works Association
- Don Quincy, President Elect, Florida Cattlemen's Association; Chair, Suwannee River Water Management District

The purpose of the panel was to discuss solutions to water supply and water quality problems in Florida.

Keyna Cory talked about funding for alternative water supply programs; water conservation; reclaimed water; burdensome rules and regulations; permitting and water quality. She discussed how the building of alternative water supply programs will not only help to supply the water needs of Florida but how such projects will help jumpstart Florida's economy. Building alternative water supply projects will create infrastructure-intense capital investments that will produce jobs for construction workers, engineers and others throughout the state. They are job creators.



Water conservation is important but it will not create a new water resource to meet the demands of the state's water future. Conservation can prove to be expensive in terms of retrofits. AIF supports the efforts of American Water Works Association (AWWA) to establish a water conservation task force that will include a variety of stakeholders. The task force would look at the conservation programs and make recommendations to the state on which of them would be the most cost-effective and productive.

Ms. Cory also talked about how the Reclaimed Water Task Force needs to work under this Select Committee to address some of the major problems between utilities, the Florida Department of Environmental Protection (FDEP) and water management districts. We are concerned that the new numeric nutrient criteria rules issued by the US Environmental Protection will stop the use of reclaimed water. The reuse of water is important so that we do not use fresh water for such purposes as watering landscapes, golf courses or within power plants.

Other recommendations made by Ms. Cory included the review of all alternative water supply programs rules and regulations, and to eliminate any duplication between the state and water management districts. She also suggested that consumptive use permits (CUPs) be extended to 30 years. Finally, she stressed the importance of continuing the Total Maximum Daily Loads (TMDL) and Best Management Practices (BMP) programs so that we can continue cleaning up Florida's water bodies.

AIF SUPPORTS state funding for alternative water supply programs such as reclaimed water projects, desalination efforts, and the collection and storage of rainwater.

Growth Management

After several weeks of waiting, the House Community and Military Affairs Subcommittee met today to consider new growth management legislation in the form of **Proposed Committee Bill (PCB) CMAS 11-04**. Republicans and Democrats alike praised Chairman Rich Workman (R-Melbourne) for his inclusive work on the bill, although Democratic members voted against it.

At 283 pages, the massive re-write of Florida's 26 year old growth management act changes virtually all aspect of the law, including:

- Removing the requirement that the capital improvements element be financially feasible;
- Eliminating the state mandated requirements for parks and recreation, schools and transportation concurrency, while maintaining it for sanitary sewer, solid waste, drainage and potable water;
- Removal of the twice a year limitation for the adoption of plan amendments;
- Focusing state agency comments in the plan review to important state resources and facilities within their jurisdiction only; and
- Requiring that the amount of land designated for future land uses allow for the operation of real estate markets to provide adequate choices for both permanent and seasonal residents, and may not be limited solely by the projected population.

The bill will begin what will undoubtedly be a vigorous debate on the direction of growth in this state. **PCB CMAS 11-04**, having been approved by the committee for introduction, will now be given a bill number and assigned to further committees of reference. In the near future, the Senate is expected to roll out a comprehensive growth management measure as well.

AIF SUPPORTS efforts to eliminate or re-address the transportation concurrency requirements currently in statute. Furthermore, AIF SUPPORTS repeal of mandatory school concurrency and where it is voluntarily implemented, it should only be done on a district-wide basis.

Today, the House Economic Affairs Committee unanimously passed HB 7021 Relating to Impact Fees by the House Community & Military Affairs Subcommittee . In what has continued to be a non-controversial issue, HB 7021 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 HB 7021, 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.

HB 7021 will now proceed to the House floor for its second reading where amendments are offered and debate may occur. The Senate companion, SB 410 by Senator Mike Bennett (R-Bradenton), is on the Senate calendar and awaits second reading before members.

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".

Pension Reform

Today, the Senate Government Oversight and Accountability Committee, chaired by Senator Jeremy Ring (D-Margate), passed the second of its two major pension reform bills. SB 1128 deals with pension plans negotiated and administered by local municipalities.

The major elements of the local pension bill are:

- A movement away from a defined contribution requirement -- the Senate bill, as passed, removed a requirement that would have required defined contributions;
- A requirement that a local plan may participate in the Florida Retirement System only if the local plan has no unfunded mandates;
- After July 1, 2011, the calculation of retirement benefits may not include any overtime beyond 300 hours per year, or any payment for accrued unused sick leave or annual leave, all to prevent "salary spiking" to enrich pension benefits; and
- A requirement for a municipality to hold 50 percent of its premium tax revenues in reserve if their plan's actuarial accrued liability is funded below 80 percent, and before new benefits are funded.

SB 1128 now goes to the Senate Budget Committee, chaired by Senator JD Alexander (R-Lake Wales) where it will be analyzed and priced. There it joins the state pension bill, SB 1130, received by the Budget Committee last week.

The House pension reform bill had its first hearing today in the House Government Operations Subcommittee, chaired by Representative Jimmy Patronis (R-Panama City). HB 1405 sponsored by Representative Ritch Workman (R- Melbourne) is closely aligned with **Governor Rick Scott's** position on pension reform.

Representative Workman's bill:

- Requires a five percent employee contribution for all state employees, regardless of class, into the Florida retirement System pension plan and investment plan;
- Makes adjustments to the accrual rate for all membership classes, with the exception of Special Risk Class members;
- Closes the Deferred Retirement Option Program to new participants and eliminates prospective cost of living adjustments;
- Eliminates the retiree health insurance subsidy; and
- Reduces the minimum disability retirement benefit awarded to judges.

The Senate and House positions on pension reform are quite different and unless the two chambers move toward the middle, a conference committee to work out differences is assured.

HB 1405 will now proceed to the House Appropriations Committee for further consideration. The Senate pension reform proposal, SB 1130 by Senator Jeremy Ring (D-Margate), awaits deliberation in the Senate Budget Committee.

AIF SUPPORTS efforts to bring Florida's pension system more in line with that of the private sector. Florida's taxpayers are shouldering the burden of the growing liability of these state and local government pension plans.

Legal & Judicial

Today, the House Civil Justice Subcommittee adopted three major components of a major overhaul of Florida's judicial system this afternoon:

Proposed Committee Bill (PCB) CVJS 11-06 Relating to the Supreme Court-- A proposed constitutional amendment that splits the current seven-justice Supreme Court into two, 5-justice courts - a Supreme Civil Court and a Supreme Criminal Court. The legislation is prompted by the perception that death penalty appeals take up an inordinate amount of time and effort that bog down other matters before the Court. The establishment of the two-court system is seen as being significantly more efficient while avoiding additional costs by sharing services such as the Court Clerk and Marshal.

PCB CVJS 11-08 Relating to Supreme Court Organization – This PCB proposes a revision of the composition and terms of members of judicial nominating councils (JNCs) that removes the Florida Bar's right to nominate potential council members to the Governor.

Furthermore, the governor will be given the discretion to appoint all council members, four of whom must be attorneys, with persons of his choice. The current staggered terms of members would be replaced by four-year terms that run concurrently with that of the Governor making the appointment. The proposal responds to the perception that the Florida Bar's nominees are disproportionately comprised of personal injury lawyers and Florida Bar "insiders" who politicize the selection process.

As to be expected, **CVJS 11-06 & CVJS 11-08** were opposed by the President of the Florida Bar. She staunchly defended the status quo but her pleas fell on deaf ears as the measures were adopted by a vote of 10-5, primarily along party lines.

CVJS 11-06 & CVJS 11-08 will now be assigned bill numbers and further committees of reference before heading to the House floor.

AIF is closely monitoring these judicial reforms proposed by Speaker Dean Cannon (R-Winter Park). Some of the proposals, especially those that seek to reform the Judicial Nominating Commissions, are intriguing and we are currently considering their impact on our Florida's business climate.

Space

Today, members of the Senate Military Affairs, Space and Domestic Security Committee took up and unanimously passed SB 1224 Relating to Corporate Tax Credits for Spaceflight Projects by Senator Thad Altman (R-Melbourne).

The retirement of the Space Shuttle later this year, and the cancellation of its successor Constellation program, is projected to leave in its wake the loss of as many as 9,000 Florida jobs directly associated

with the program. SB 1224 creates two corporate income tax credits (transferable and non-transferable) for certified spaceflight businesses that meet specified job-creation and investment levels. These incentives are:

- A non-transferable tax credit equal to 50 percent of the net corporate income tax liability in a given tax year. Total tax credits available will be capped at \$10 million per state fiscal year, with individual businesses eligible for a maximum \$1 million each year.
- A transferable corporate income tax credit based on a certified spaceflight business' net operating losses, and which can be sold to any other Florida corporate income taxpayer. Total tax credits available will be \$25 million per state fiscal year, with individual businesses eligible for a maximum \$2.5 million each year.

In a show of unity and support for the Space Industry, members unanimously passed the bill without debate or opposition.

AIF SUPPORTS legislation that will provide much needed assistance to Florida's ailing space industry. AIF commends Senator Altman for his continued leadership and support of aerospace commerce.

Taxation

Today, the Senate Budget Subcommittee on Finance and Tax met to consider one of its own proposals, SB 1998 Relating to Corporate Income Tax, which was referred back to its sponsoring committee under the full Senate Budget committee.

The state corporate income tax is a function of the taxpayer's federal income tax. Each year, Florida passes a corporate income tax "piggyback" bill to adopt the federal changes that were made to the federal code. In some cases, however, when the federal code changes allow for increased depreciation of certain assets that would cost the state revenue, the state does not always codify those particular changes.

SB 1998 extends this process for the 2010 and 2011 federal changes, thus avoiding the \$500,000.000 estimated loss in corporate income tax.

Despite the non-controversial atmosphere, **AIF Lobbyist Frank Meiners** waived in support of the bill. SB 1998 passed unanimously without debate or opposition.



The measure will now proceed to the full Senate Budget Committee, its last stop before reaching the Senate floor.

AIF SUPPORTS the adoption of a corporate income tax "piggyback" bill that codifies federal income tax code changes and ensures that businesses are not burdened with keeping two sets of books.

Information Technology

Today, the Senate Government Oversight and Accountability Committee passed SB 1314 Relating to State Financial Matters by Senator JD Alexander (R-Lake Wales). SB 1314 is a rehash of Senator Alexander's 2010 contracting legislation that was met with opposition by Florida's business community. This bill enhances the authority of the Legislature over agency contracting that affects the state budget. Furthermore, it prohibits agencies from entering into a contract that:

- Requires the state to pay liquidated damages or early termination fees;
- Requires the state to pay interest if the agency has insufficient budget to pay; and
- Binds the state to make future-year payments to offset payments not made in a prior year.

SB 1314 would also require the legislature to approve any lease or lease purchase agreement of \$500,000 or more. It requires the agency heads to sign contracts in excess of \$25,000. In general, this measure gives the legislature the authority to oversee most agencies' contracting to protect the budgetary process.

AIF Lobbyist Frank Meiners was present to testify AIF's concerns with the bill; however, Mr. Meiners praised Senator Alexander for his efforts to work with the business community on this legislation. A number of AIF's IT Council recommendations to make the bill more reasonable for the business community have been included in this year's draft.



SB 1314 will now advance to the full Senate Budget Committee. HB 939 by Representative Ben Albritton (R-Bartow), the House companion, has yet to be considered in the House Government Operations Appropriations Subcommittee.

AIF's IT Council was one of the most vocal OPPONENTS of this legislation during the 2010 session. AIF continues to be OPPOSED because this bill will place an inordinate amount of restrictions on businesses contracting with the state. AIF will continue to monitor this legislation closely in order to protect businesses that contract with the state.