



DAILY BRIEF

From March 31, 2011

Today, the Florida House of Representatives passed two of AIF's top priorities relating to commercial insurance de-regulation and the overhaul of Florida's Medicaid Program. With the leadership of pro-business policy makers in both chambers, it is expected that the Senate will follow suit. AIF commends the House of Representatives for passing legislation that will:

- Allow five new types of commercial insurance to be exempt from the rate filing and approval process, resulting in an exemption for over 80% of commercial insurance rates.
- Simply Florida's delivery of the Medicaid system, preventing employers from subsidizing the high cost of this program in the form of higher private health insurance premiums.

In the Senate, focus was centered on the meeting of the chamber's full Budget Committee today. Several proposed committee bills (PCBs), many of which conform to the Senate's proposed budget, were taken up and considered in over 9 hours of deliberation. Among them was PCB 7094, a newly fashioned approach to addressing pension reform within Florida's Retirement System (FRS). Read this edition of the *Daily Brief* to learn more about the Senate's bold proposal.

Health Care

Today, the full House approved two bills today that would substantially reform the state's Medicaid Program. HB 7107 and HB 7109 by the House Health & Human Services Committee would simplify the state's program, which is a patchwork of carve outs and duplicative services, by moving the state's neediest citizens into managed care-type entities.

The bills provide 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 AIF, 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.

Following almost two hours of debate on the House floor today, HB 7107 was approved by a vote of 80 to 38, split mainly across party lines. HB 7109 was approved on a 78 to 39 vote.

HB 7107 and HB 7109 will now head to the Senate. The Senate' Medicaid reform proposal - SB 1972 - has two more committee stops; however, the measure is expected to move quickly through its two final stops and head to the floor next week. Moving forward, we expect a conference committee to be appointed to hash out a compromise between the two Chambers' differing proposals.

AIF SUPPORTS the Legislature's plan to make bold changes to the Medicaid Program by streamlining this highly fragmented delivery and payment system. The House & Senate proposals implement efficiencies and accountability to enable the state to have budget predictability with this program moving forward.

Insurance

Today, the Florida House of Representatives approved AIF's 2011 commercial insurance rate deregulation bill. HB 99 by Representative Brad Drake (R-DeFuniak Springs), which passed by a unanimous vote of 116-0, is an AIF top priority and will maintain a very competitive commercial insurance market in Florida.

In Florida, the Office of Insurance Regulation reviews and approves or disapproves rate changes; however, under legislation adopted last year, certain categories of commercial rates do not have to be filed or approved. The bill allows five new types of commercial insurance to be exempt from the rate filing and approval process which results in an exemption for over 80% of commercial rates.

The new types of commercial insurance exempted are:

- Fiduciary Liability;
- General Liability;
- Nonresidential Property
- Excess Property; and
- The bill expands the current exemption for commercial motor vehicle insurance for fleets of 20 or more vehicles to all commercial motor vehicle insurance rates.

HB 99 will now be sent to the Senate for consideration by its members. The bill's Senate companion bill, SB 178 by Senator Steve Oelrich (R-Gainesville), is awaiting consideration by the Senate's Budget Committee. If approved by the Budget Committee, SB 178/HB 99 will go to the Senate Floor for final action by the Florida Legislature.

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.

Environmental

Today, House Memorial (HM) 1401 by Representative Greg Steube (R-Sarasota) received a favorable vote from the House State Affairs Committee. This memorial urges the United States Congress to prevent the Environmental Protection Agency (EPA) from overextending its power and to direct the agency not to intrude into Florida's previously approved clean water program.

Representative Steube explained that in 2008, a group of environmental groups sued EPA alleging failure on the part of the federal agency to comply with the Clean Water Act. In 2009, EPA entered into a consent decree to settle the lawsuit filed and committed to propose numeric nutrient standards for inland waters (lakes and flowing waters), as well as estuarine and coastal waters.

In January 2010, EPA Administrator Lisa Jackson signed EPA's rule proposing numeric nutrient criteria (NNC) for Florida's fresh water's. On November 14, 2010 Administrator Jackson signed the final rule

adopting NNC and on December 6, 2010, EPA published the final administrative rule; however, a fifteen month delay in implementing was given.

Currently, there are several lawsuits against the proposed NNC, including one filed by Florida's **Attorney General Pam Bondi** and **Commissioner of Agriculture Adam Putnam**.

AIF Senior Lobbyist, Keyna Cory, spoke in favor of the resolution; however, she explained to members of the committee that more needed to be done. Ms. Cory urged them to consider HB 239 by Representative Trudi Williams (R-Ft. Meyers) which would send a strong message to Congress that Florida is capable of regulating its own water bodies. Additionally, Ms. Cory informed the committee that negotiations are taking place with the Governor's Office and the Florida Department of Environmental Protection (DEP) on a proposal and hope to present it to them soon.



HM 1401 will now proceed to the House floor for a final vote.

AIF encourages the Florida Legislature to engage and support our Congressional delegation in their efforts to stop the U.S. Environmental Protection Agency's (EPA) imposition of unreasonably restrictive water quality standards only on the State of Florida. These proposed federal standards are unscientific and costly for businesses and consumers. Furthermore, AIF commends Representative Steube for his leadership on this very important issue. Read AIF's statement on the passage of HB 239

Legal & Judicial

Today, the House Judiciary Committee passed HB 701 Relating to Property Rights by Representative Eric Eisnaugle (R-Orlando). This bill amends the "Bert Harris Act" to make changes to Florida's statutory protections on real property rights. In 1995, the Bert Harris Act was enacted by the Legislature to provide a new cause of action for private property owners whose property has been "inordinately burdened" by state and local government action that may not rise to the level of a "taking" under the State or Federal Constitution. The inordinate burden applies either to an existing use of real property or a vested right to a specific use.

HB 701 specifies that a moratorium on a development that is in effect for longer than 1 year is not a temporary impact to real property and may constitute an "inordinate burden." Further, the bill expands the options for private property owners to obtain compensation or another remedy for governmental action that inordinately burdens real property. Provisions within HB 701 make it clear that certain moratoria lasting more than one year are not necessarily "temporary", so as to be excluded from the definition of inordinate burden.

An amendment offered by Representative Richard Steinberg (D-Miami Beach) that would "preserve sovereign immunity" failed by a voice vote. The bill sponsor, Representative Eisnaugle, explained to the Committee that the Steinberg amendment would "gut the intent of the bill." The bill passed by a bi-partisan vote of 15 yeas, 3 nays.

HB 701 will now proceed to the House Economic Affairs Committee. The Senate companion, SB 998 by Senator David Simmons (R-Altamonte Springs), will head to its final stop in the Senate Budget Committee.

AIF SUPPORTS legislation that pre-empts state and local governments from infringing on private property rights. By providing more clarity in these types of cases, Florida will offer a far more stable atmosphere for conducting business and encouraging growth.

Growth Management

HB 7129 Relating to Growth Management passed the House Economic Affairs Committee today and is now available to be placed on Special Order. This measure, which proposed a 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.

In a presentation by Representative Ritch Workman (R-Melbourne), the bill was amended 17 times, including one amendment dealing with Developments of Regional Impact (DRI) that proved to be the most controversial. The amendment passed along party lines after representatives from Cities and Counties punctuated their dissatisfaction by opposing the bill, based largely on that amendment.

Differences still remain between the House and Senate versions, and a quick meeting of the differing chambers is unlikely this early in the session.

HB 7129 will now proceed to House floor for consideration by members.

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.

The full House signified its support of affordable housing today by unanimously passing HB 639 by Representative Gary Aubuchon (R-Cape Coral). This bill removes 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. Furthermore, it provides that funds from the State Housing Trust Fund or the Local Government Housing Trust Fund that are appropriated for use in the State Apartment Incentive Loan Program, Florida Home ownership Assistance Program, Community Workforce Housing Innovation Pilot Program, or the State Housing Initiatives Partnership Program may not be used to finance or otherwise assist new construction until July 1, 2012.

While the removal of the cap is accomplished by this bill, the provision freezing monies for any new construction programs reflects a desire on the part of the Legislature to lessen the glut of housing on the market today.

HB 639 will now proceed to the Senate for consideration by its members. The Senate companion, SB 912 by Senator Mike Bennett (R-Bradenton), is currently in the Senate Budget Committee.

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.

Seaports

Today, the House Economic Affairs Committee unanimously passed HB 283 by Representative Dana Young (R-Tampa) relating to seaport security. As we have previously reported, this bill is a high priority for AIF and our members of our Florida Maritime Council who regularly conduct business in Florida's seaports. The bill removes expensive and duplicative security background screening procedures and aligns Florida's security measures with the federal standards administered through the Department of Homeland security. This matters to businesses because the bill will significantly lower the cost per employee working on each port by eliminating the state background checks which are unnecessary since federal background checks are already conducted. This will help Florida companies across all industries lower the transportation and shipping costs of the supplies they purchase and the goods they sell.

HB 283 has passed its final committee stop and will now proceed to the floor. The Senate companion, SB 524 by Senator Jack Latvala (R-St. Petersburg), awaits hearing in the Senate Budget Committee.

AIF SUPPORTS legislation to reduce red tape and regulatory burdens, such as duplicative security credentialing, which encumber businesses in their daily work. AIF salutes Representative Young for her diligent efforts and leadership in bringing forth this meaningful legislation that will undoubtedly make Florida a more attractive place for doing business.

The House State Affairs committee unanimously passed HB 399 Relating to Seaports by Representative Lake Ray (R-Jacksonville). 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. HB 399 requires the Department of Environmental Protection (DEP) to issue a notice of intent for a port conceptual permit within 30 days after receiving the application. Requiring DEP to issue a notice of intent for a port conceptual permit within 30 days will provide more certainty to port related businesses, thereby reducing their costs. DEP is supportive of this provision and voiced support for the legislation in Committee.

HB 399 will now advance to its final stop in the House Economic Affairs Committee. The House companion, SB 768 by Senator Jeremy Ring (D-Margate), is waiting to be heard in the House State Affairs Committee.

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.

Economic Development

The House Economic Affairs Committee, chaired by Representative Dorothy Hukill (R- Ormond Beach), passed HB 943 by Representative Eric Eisnagle (R-Orlando). One of AIF's top legislative priorities this session, HB 943 creates the state's first Florida Infrastructure Fund Partnership and institutes a tax credit program designed to leverage private investment in state infrastructure projects. By creating a public-private partnership fund, the intent of the legislation is to seek outside investor commitments to build capital infrastructure projects during a time when state resources are dwindling. The legislation authorizes up to \$700 million in private funds to help build water and wastewater systems, power systems, roads and other strategic infrastructure needs. In essence, this proposal would couple private sector investing to meet the needs of public sector infrastructure projects.

HB 943 will now be reported to the House Calendar for a floor vote. A similar measure in the Senate, SB 976 by Senator Ellyn Bogdanoff (R-Ft. Lauderdale), is scheduled to be heard by the Senate Commerce and Tourism Committee on Tuesday, April 5th at 10:15 am.

AIF SUPPORTS legislation that will encourage direct investment in our state's infrastructure projects. Furthermore, we commend Representative Eisnaugle for bringing forth a proposal to effectively stimulate private sector growth and create jobs when our state needs it the most.

Pension Reform

The Senate Budget Committee, Chaired by Senator JD Alexander (R-Lake Wales), took up and passed a new and major state pension reform bill today – Proposed Committee Bill (PCB) 7094. Even though a number of committee members support the need for reformation, several expressed concerns about the Chairman's' bill going too far. Many members had expected to hear something closer to SB 1130, the pension reform work product of the Senate Government Oversight and Accountability, chaired by Senator Jeremy Ring (D-Margate), which has been in possession of the Budget Committee since mid-March.

Unlike SB 1130, the bill voted out of the committee today requires all public employees within the Florida Retirement System (FRS) to make a mandatory personal 3 percent contribution toward their retirement. Chairman Ring's bill had tiered employee contributions, requiring no contribution from employees making less than \$40 thousand per year in compensation.

Other different and major provisions of PCB 7094, effective July 1, 2010, include:

- Closing the defined benefit pension plan to new enrollees, and requiring compulsory enrollment in the investment or 401(k) plan. However, those who qualify for Special Risk Class membership may still enroll in the defined benefit pension plan.
- Increasing the normal retirement date for any Special Risk Class or Special Risk Administrative Support Class member initially enrolled in the FRS on or after July 1, 2011, from 55 to 62 years of age; and Increases the years of creditable service from 25 to 30 for those class members.
- Elimination of accumulated annual leave payments and overtime from "compensation" and "average final compensation" for use in the calculation of retirement benefits.
- Elimination of the cost-of-living adjustment (COLA) for service earned.
- Closing the Deferred Retirement Option Program (DROP) to new participants.
- Allowing re enrollment after retirement in the investment plan in certain circumstances.
- Changing the vesting schedule for members enrolled in the investment plan in graded increments over a five-year period.

During debate and discussion, Senator Ellyn Bogdanoff (R-Ft. Lauderdale) requested that consideration be given to the policy aspects of SB 1130, many of which the former committee deemed worthy of Senate consideration. That sentiment was echoed by Senator Bill Montford (D-Tallahassee).

The Senate Government Oversight and Accountability Committee had dedicated nearly 20 hours to deliberating the issue over a period of about 75 days. Senator Montford is asking for consideration of the tiered system of employee contributions to lessen the impact on state employees, many of which reside in his district. Senator Montford went on to say that many of his state employee constituents have come to realize they are going to be required to make a personal contribution toward their retirement. His concern is the totality of the financial impact when paired with other likely increases to health insurance benefits.

Chairman Alexander said he was open to a discussion of those and three other issues not retained in PCB 7094: the elimination of the DROP and the cost-of-living adjustment, and closing the defined benefit plan. Any of those changes to the bill would now have to be made on the floor of the Senate, its next stop.

Senator Anitere Flores (R-Miami) tried to cool the police, fire fighters and teachers in the audience by saying the Senate is in the early part of the budget process. She closed by saying she would not be able to support the bill on the floor of the Senate, but she would vote to move the bill along today. Senator Evelyn Lynn (R-Ormond Beach) followed that same course: voting the bill out, but with no floor vote commitment.

PCB 7094 carries an estimated savings to the state General Revenue Fund of \$1 billion, and is closer in scope and application to the current House pension bill, HB 1405 sponsored by Representative Ritch Workman (R-Melbourne), now on the floor of the House. Workman's bill saves an estimated \$710 million, with the difference being that he uses some of the savings to reduce the part of the current FRS.

PCB 7094 has been submitted as a committee bill and will head to the floor for further deliberation by all members of the Senate. The House's pension reform proposal, HB 1405 by Representative Ritch Workman (R-Melbourne), has been placed on the House Calendar to be read a second time.

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.