



# DAILY BRIEF

**From April 4, 2011**

Week five of the 2011 Legislative session is officially underway with a number of high priority bills seeing action in both the House and Senate. AIF-supported legislation in the areas of energy and taxation were passed by their respective committees. In the Senate Judiciary Committee, a new version of the immigration reform package was met with strong opposition from the business community. The measure, which includes mandatory E-Verify for all employers ultimately passed after some contentious public testimony from pro-immigrant groups. AIF is working with legislative leaders on finding ways to address the immigration issue, while not implementing costly mandates and excessive regulations.

In the area of tort reform, legislation dealing with insurance bad faith reform stalled in its first committee of reference. The votes were not there to pass HB 1187 by Representative Dennis Baxley (R-Ocala). AIF and its partners in the business community have promised to keep up the fight on passage of this very badly needed piece of legal reform.

As always don't forget to check out this week's edition of AIFTV. In this week's episode we feature a special interview with Representative Jimmy Patronis (R-Panama City) sponsor of HB 991 – a major piece of regulatory reform legislation strongly supported by AIF and its members.

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## **Energy**

Today, the Senate Communications, Energy, and Public Utilities Committee passed SB 2078 Relating to the Cost Recovery of Renewable Energy Costs for Investor Owned Utilities (IOU's). The bill would:

- Require each public utility to make a written offer to conduct a free energy audit of the business structures of each commercial customer within its service territory and provide the customer with a report of the energy savings options and of any available financial assistance prior to December of 2016.
- Require the Department of Management Services in consultation with each state agency head, develop a prioritized list of state owned or leased buildings over 5000 square feet to have an energy audit performed and for the Department to perform energy savings retrofits in order of anticipated shortest payback period.
- Allow an IOU to petition the PSC for recovery of cost to produce or purchase renewable energy. Under this legislation an IOU would be allowed to build a renewable energy facility, convert an existing fossil fuel facility, or purchase renewable energy. At least 25% of the renewable energy must be from a source other than solar. An IOU could not request cost recovery under this act until the facility is built, converted or a contract for purchase is in place. It would require the IOU's to expend for renewable energy, 2% of retail sales of their 2010 revenues over 5 years. This would amount to approximately \$357,000,000. The average cost to the customers would be from \$1.40/month to \$2.60/month.
- Establish a process for creating a state energy resources plan by the PSC.
- Abolish the Florida Energy and Climate Commission and places all of its powers and duties to the Florida Energy Office within the Department of Environmental Protection (DEP); however, the

Florida Energy Office would be considered a separate entity and exempt from control of the Department. The Director would be appointed by the Governor and confirmed by the Senate.

A series of amendments were offered by the Chair of the committee, Senator Lizbeth Benacquisto (R-Wellington). Those adopted would

- Ensure small scale solar projects;
- Empower individual property owners to invest in renewable energy alternatives, and require utilities to purchase the excess power from rooftop solar equipment;
- Limits cost recovery under this act to 2% of the 2010 average monthly retail bill; *and*
- Set a 10 year plan horizon and deletes the 20 year plan horizon.

Two unfriendly amendments were defeated during committee. The first by Senator Thad Altman (R-Melbourne) would have instituted a mandate requiring utilities to offer a standard form contract that allows smaller renewable energy producers to bid on providing the energy. The second amendment by Senator Mike Fasano (R-New Port Richey) would have repealed current law which allows for advanced cost recovery for nuclear facilities.

The bill was passed with only one member voting in opposition. Several business groups including AIF were on hand to support the legislation. Most of the bill's opponents cited the need for the bill to go further as the main reason for not supporting the bill.

**AIF SUPPORTS energy policy that allows for the development and expansion of the renewable energy sector while maintaining reliability of services without any mandates by government or unreasonable prices. Furthermore, AIF SUPPORTS legislation that will enable those investor-owned utilities (that so desire) to develop renewable energy supply sources using the technology (solar, wind, biomass, other) and scale (large, medium, small) that makes the most sense for those investor-owned utilities and their customers.**

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## **Legal and Judicial**

After hearing testimony for over two hours, the House Civil Justice Subcommittee failed to take action on HB 1187 Relating to Bad Faith Reform by Representative Dennis Baxley (R-Ocala). This vital piece of tort reform legislation addresses a major liability insurance cost driver by ensuring that insurers have the necessary information and opportunity to promptly investigate and pay only meritorious claims from injured third parties. Action by the subcommittee on the above bill was deferred upon the request of the bill's sponsor. The sponsor made the request to avoid a vote on the bill that if taken would have resulted in the bill not being approved. The deferment slightly improves options as to advancing the bill this Session.

**AIF SUPPORTS legislation that reforms Florida's current litigation procedures in bad faith claims against insurers and encourages the Florida Legislature to set the state's policy on how such claims are handled rather than leave that policymaking task to the courts.**

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## Taxation

Today, the Senate Community Affairs Committee unanimously passed SB 1766 Relating to the Assessment of Real Property by Senator Ronda Storms (R-Tampa).

Senator Storms explained that the bill addresses some of the current abuses that continue to be inflicted upon property taxpayers. As property values have fallen all over the state, unfair and excessive tax assessments have become an unacceptable burden on property owners. Last year, nearly 100,000 tax payers sought relief by filing petitions to appeal their assessments to county Value Adjustment Boards (VABs).

The VABs in most counties try to provide fair hearings, both to the taxpayers and to the property appraisers; however, there are a few unfortunate exceptions. In these few counties, the property owners who have had to file a petition receive something well short of a full and fair hearing. There are still several counties in the state where the Board rules for taxpayers less than 5% of the time. This is in part due to the fact that these VABs are simply not following what other counties recognize as well established law.

Senator Storms offered one amendment today that fixes technical issues and requires the Department of Revenue (DOR) to create a process by rule for the random selection of special magistrates. Senator Storms said that the use of certain special magistrates, which rule in favor of the Property Appraiser 99% of the time, is way out of line.

Chairman Mike Bennett (R-Bradenton) explained that he was very supportive of the measure as amended. **AIF Lobbyist Frank Meiners** waived in support of the measure.



SB 1766 will now proceed to the Senate Budget Committee. The House companion, HB 1189 by Representative Peter Nehr (R-Tarpon Springs), is currently in the House Government Operations Subcommittee.

**AIF SUPPORTS legislation to repair the Value Adjustment Board (VAB) process so that the state can ensure even-handed outcomes for small and large businesses alike in Florida.**

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## Education

This afternoon, the Senate Education Pre-K - 12 Committee unanimously passed a strike-all amendment to SB 1732 Relating to Postsecondary Education by Senator Evelyn Lynn (R-Daytona Beach). Senator Lynn's amendment addresses a number of aspects of the public postsecondary education system to increase efficiency, access and quality. The original bill contained some provisions of concern, but as amended, is legislation that AIF and the business community supports.

As amended, SB 1732 proposes to require the Higher Education Coordinating Council, in cooperation with the State Board of Education and the Board of Governors, to produce a plan to define the core mission of various higher education institutions, define performance outcomes, and evaluate articulation - which is the seamless transfer of credit between institutions, and improve workforce education. The bill further requires the Department of Education to use performance measures to set passing scores for accelerated programs such as Advanced Placement and International Baccalaureate, and moves the score a student must achieve on an AP exam to earn college credit from "3" to "4".

After a vote by the members, the strike-all amendment was adopted. There was no public testimony or debate on the bill.

SB 1732 will now proceed to the Senate Budget Committee, its final stop before the Senate floor.

**AIF SUPPORTS greater accountability in higher education that will adequately prepare Florida’s students for the workforce.**

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**Public Hospitals**

Today, the Senate Community Affairs Committee approved SB 1448 Relating to the Sale or Lease of a Public Hospital by Senator René Garcia (R-Hialeah). This bill would require any sale or lease of a hospital owned by a county, district, or municipality to go before a circuit court for oversight when agreements are entered into on behalf of the taxpayers. Further, the bill would require more transparency in the governing board's decision-making process when deciding to agree to the sale or lease and would allow for more public input into the proposed sale or lease.

**Barney Bishop, AIF’s President & CEO**, testified in support of the measure before members of the Committee. Mr. Bishop explained that Florida’s tax payers stand to be the primary beneficiary of tax savings and reduced health care-related costs through greater transparency in these types of transactions.



SB 1448 will now advance to the Senate Judiciary Committee. The House measure, HB 619 by Representative Ed Hooper (R-Clearwater) will now move to the House Judiciary Committee for further consideration.

**AIF SUPPORTS legislation that will ensure that the taxpayer and the community are protected by ensuring that full and fair market value is received in exchange for the sale and/or lease of public hospitals.**

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**Business Regulation**

Today, the Senate Community Affairs Committee overwhelmingly passed SB 982 Relating to Wage Protection by Senator Jim Norman (R-Tampa). This legislation aims to address “wage theft”, a term used to describe the failure of an employer to pay any portion of wages due to an employee. Present federal and state laws provide extensive protection from wage theft through various acts including the Federal Fair Labor Standards Act and Florida's minimum wage laws; however, counties and municipalities have broad home rule powers that allow the local governments to enact ordinances. To provide absolute clarity in cases relating to wage theft, SB 982 provides that authority is expressly preempted to the state. Any local ordinances, including those already enacted, would be nullified by the implementation of SB 982.

**Brewster Bevis, AIF’s Vice President of External Affairs**, was present to stand and waive in support of the bill. With little opposition, SB 982 was passed by a vote of 7-1.



SB 982 will now be heard by the Senate Governmental Oversight and Accountability Committee. The House proposal, HB 241 by Representative Tom Goodson (R-Titusville), is currently in the House Judiciary Committee.

**AIF SUPPORTS legislation that will clarify the state’s authority to pre-empt local governments from regulating wage theft. A “patchwork” arrangement of local ordinances provides confusion and uncertainty to Florida’s employers.**

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## Immigration

In a tightly packed committee room, members of the Senate Judiciary Committee considered the Senate's version of comprehensive immigration reform – SB 2040. Introduced as a committee bill by the Senate Judiciary Committee, members took a great deal of opposing testimony from human rights coalitions, business groups and individuals concerned about the implications of the bill.

Senator John Thrasher (R - Jacksonville) offered a strike-all amendment today that will prove more unfriendly to Florida's employers. Mandated E-Verify remains in the strike-all however, it allows the employer to use REAL ID compliant drivers' licenses or identification cards if they do choose. If the employer chooses to accept only REAL ID documentation, they are required to swipe the ID using "the highest standard of authentication equipment and software" to ensure the ID is not fraudulent. The strike-all also requires that the employer maintain a record of the verification, whether it is E-Verify or REAL ID, for three years after the date of hire or one year after the date employment ends, whichever is longer.

The committee, running short on time, cut the debate on this important bill down to only 13 minutes, leaving numerous people no chance to voice their position on the legislation. In the end, the committee passed the bill on a party line vote of 5 yeas-2 nays. In his closing statement, Senator Oscar Braynon (D-Miami Gardens) stated that he "sides with AIF" in opposition to this bill.

SB 2040 will now head to the Senate Criminal Justice Committee.

**AIF Opposes mandated the flawed and error prone E-Verify system on Florida's employers. While we agree that the immigration system in the United States is broken, we fully believe this issue of immigration reform should be addressed in Washington, DC not in Tallahassee, Florida.**