



# DAILY BRIEF

**From May 2, 2011**

Under the direction of AIF's top lobbying presence, many of the business community's top priorities are making their way from the Legislature to the Governor's desk in short order. Several priorities were passed in the House & Senate today, subsequently enrolled and are expected to be signed in to law in the coming weeks. Just a few of these proposals include:

- HB 99 by Representative Brad Drake (R-DeFuniak Springs) - AIF's 2011 commercial insurance rate deregulation bill.
- HB 283 Relating to Seaport Security by Representative Dana Young (R-Tampa) – This legislation will require DEP to issue a notice of intent for a port conceptual permit within 30 days, providing more certainty to port related businesses and thus reducing their costs.
- HB 1193 Relating to Health Insurance by Representative Matt Hudson (R-Naples) - This bill would prohibit a person from being compelled to purchase health insurance which is specifically directed toward negating the individual mandate contained in the recently enacted Federal Health Care Reform Act.

In other news, President Mike Haridopolos (R-Melbourne) has indicated that the controversial immigration reform proposal will be brought forth for consideration tomorrow (Tuesday, May 3rd). Despite continued opposition to arduous e-verify mandates, AIF has worked closely with leadership to express concern with any such provisions.

Also be sure to also check out this week's Episode of *AIFTV* with AIF lobby team members Jose Gonzalez & Keyna Cory.

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## **Taxation**

Today, the full Senate took up SB 1198 Relating to Communications Services Tax by Senator Ellyn Bogdanoff (R-Fort Lauderdale).

Senator Bogdanoff explained that the bill simply implemented a rounding algorithm for the communications services tax. It requires the tax be calculated out to the third decimal place and then rounded up if the third digit is 5 or greater.

There were no amendments, questions or debate. Speaker Dean Cannon (R-Winter Park) asked that HB 887 by Representative Chris Dorworth (R-Heathrow) be brought up from the House messages and read a third time.

Since the two bills were identical, HB 887 was substituted for SB 1198 and passed unanimously. HB 887 will now proceed to the Governor's desk for final approval.

## **AIF SUPPORTS legislation that will eliminate antiquated and cost prohibitive tax criteria for multi-state communications dealers**

In the House, members took up and considered HB 1163 Relating to Ad Valorem Taxation by Representative Chris Dorworth (R-Lake Mary).

Representative Dorworth explained that the bill amends Florida Statutes to reflect the provisions of House Joint Resolution (HJR) 381 which will reduce the annual growth in assessment limitation on certain non-homestead property from 10 percent to 3 percent upon voter approval of the amendment. Further, the bill clarifies that the non-homestead assessment limitation does not apply to improvements made to the property. If approved by the voters with the 2012 presidential preference primary, this provision takes effect on January 1, 2012. If approved by the voters with the 2012 general election, the provision takes effect on January 1, 2013.

Beginning with the 2012-2013 fiscal year, the bill also requires the Legislature to consider appropriating funds to offset the reductions in ad valorem tax revenue experienced by fiscally constrained counties which occur as a direct result of the implementation of the provisions contained in HJR 381. Any appropriated monies will be distributed among the fiscally constrained counties based on each county's proportion of the total reduction in tax revenues.

Representative Dorworth then introduced a technical amendment which was adopted without debate. With no questions or debate, Representative Dorworth waived close and the HB 1163 was passed by a vote of 96-18. HJR 381 was also passed on the House floor today by a vote of 105-11.

HJR 381 & HB 1163 will now head to the Senate for final consideration by its members.

## **AIF SUPPORTS legislation that will provide a more equitable property tax system and help for first time home owners.**

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### **Health Care**

Today, the House of Representatives passed by a largely party line vote (77 yeas, 41 nays) HB 661 Relating to Nursing Home Litigation by Representative Matt Gaetz (R-Shalimar).

HB 661 revises numerous provisions of law related to litigation against nursing homes. The bill requires the court to hold an evidentiary hearing to determine if there is a reasonable basis to find that an officer, director or owner of a nursing home acted outside the scope of duties in order for a lawsuit to proceed against an officer, director, or owner of a nursing home. In addition the legislation provides a cap of \$250,000 on non-economic damages in any claim for wrongful death in nursing home lawsuits, regardless of the number of claimants or defendants. The bill also requires a claimant to bring a lawsuit pursuant to either the statute relating to nursing home civil enforcement or the statute relating to abuse of vulnerable adults and requires the court to hold an evidentiary hearing before allowing a claim for punitive damages to proceed.

HB 661 will now head to the Senate for final consideration by its members.

**AIF SUPPORTS legislation that will level the playing field and protect Florida's Health Care providers from gratuitous lawsuits.**

Today, the full Senate passed HB 1193 Relating to Health Insurance by Representative Matt Hudson (R-Naples). This bill would prohibit a person from being compelled to purchase health insurance which is specifically directed toward negating the individual mandate contained in the recently enacted Federal Health Care Reform Act.

Members of the Legislature have also introduced proposals this year similar to HB 1193 that would preempt the Federal Health Care Reform Act by way of Florida's Constitution. HJR 1 by Representative Scott Plakon (R- Longwood) and SJR 2 by Senate President Mike Haridopolos (R-Melbourne) would place before the voters on the ballot in November 2012, a constitutional amendment that would prohibit a law or rule from compelling, directly or indirectly, any person or employer to purchase health care coverage.

Following its passage by the House & Senate, HB 1193 will now head to the Governor's desk for final approval.

**AIF SUPPORTS legislation to negate the dangerous and radical proposals passed by Congress to overhaul our nation's health care system. AIF commends Representative Hudson for introducing legislation that will protect Florida consumers from the overreaching arm of federal healthcare.**

The Senate overwhelmingly passed HB 935 by Representative Richard Corcoran (R-New Port Richey) on the floor today. This bill would require primary care physicians (including osteopathic physicians, and podiatrists) to publish a schedule of charges for the services they offer and to post the schedule in the reception area of their office. The schedule must include the fees that would be charged to an uninsured patient paying for medical services on their own.

The bill also provides that a primary care provider, upon request, must provide a reasonable estimate for non-emergency medical treatment to patients. Further, this estimate must be consistent with the posted schedule. Physicians in violation of this requirement would have a penalty assessed which would be determined by the physician's regulatory board.

Moving through the committee process, this bill was amended to add urgent care centers to the entities encouraged to post their prices. Also, the amended text provides that continuing medical education fees for one "two-year" cycle would be waived for physicians that choose to post their prices.

HB 935 will now head to the Governor's desk to be signed in to law.

**AIF SUPPORTS legislation that provides accountability amongst Florida's health care providers. Providing clarity in these types of services will bring private health care providers more in line with other private-sector industries by increasing efficiency and promoting accountability.**

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## Insurance

Today, the Florida Senate approved AIF's 2011 commercial insurance rate deregulation bill - HB 99 by Representative Brad Drake (R-DeFuniak Springs) - by a vote of 34-1. The bill will be certified to the Governor for his action, which may take several days.

The bill allows five new types of commercial insurance to be exempt from the Office of Insurance Regulation's (OIR) 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, but not collateral protection insurance;
- Nonresidential Multiperil;
- Excess Property; and
- Burglary and Theft.

In addition, 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.

This legislation is an AIF top priority and will maintain a very competitive commercial insurance market in Florida. If approved by the Governor, the measure will become effective October 1, 2011.

**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.**

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## Economic Development

Today, the House of Representatives unanimously passed HB 287 Relating to Economic Development by Representative Eric Eisnaugle (R- Orlando) which will allow local governments to increase and expand local tax incentives, if approved by the electorate, for businesses. Tax exemptions established locally would be issued by ordinance at the discretion of the board of county commissioners or a municipal governing authority if approved by a majority of voters in the jurisdiction. HB 287 also revises the process by which local governments can issue exemptions for economic development purposes, changes business eligibility requirements for this exemption, and removes outdated limitations all in an effort to increase incentives for local businesses.

AIF has supported this legislation throughout the committee process in the House and thanks Representative Eisnaugle for his leadership on the issue.

HB 287 will now be sent over to the Senate where it will await a full floor vote.

**AIF SUPPORTS legislation that will stimulate economic activity by providing tax relief to new and expanding businesses in Florida.**

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**Seaports**

Today, the full Senate took up HB 283 Relating to Seaport Security by Representative Dana Young (R-Tampa) . This legislation is a top 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.

During floor debate, the bill was amended to include new language that would study the feasibility of establishing a port in Citrus County.

HB 283 will now bounce back to the House for consideration by its members.

**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 leadership in passing legislation that will undoubtedly make Florida a more attractive place for doing business.**

Another seaport measure passed in the Senate today was HB 399 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.

HB 399 was passed with unanimous consent and will head to the Governor's desk to be signed into law.

**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.**

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## Education

Following a temporary postponement, the full House overwhelmingly passed SB 7151 Relating to Post secondary Education by Representative Kelli Stargel (R-Lakeland). SB 7151 requires the Higher Education Coordinating Council (HECC) to produce a report, with input from the State Board of Education and the Board of Governors, to:

- Establish performance outputs and outcomes designed to meet annual and long-term state goals;
- Evaluate Florida's articulation policies and practices;
- Establish a plan that aligns school district and Florida College System (FCS) workforce development education programs and improves the consistency of workforce education data collection and reporting by colleges and school districts; *and*
- Recommend a plan for addressing baccalaureate degree authorization and production.

SB 7151 will now head to the Senate for a full vote by its members. Its Senate companion, SB 1732 Relating to Post secondary Education by Senator Evelyn Lynn (R-Daytona Beach), has been placed on the Senate Special Order Calendar for Tuesday, April 2nd.

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

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## Legal & Judicial

Passing by a party line vote, HB 479 Relating to Medical Malpractice by Representative Mike Horner (R-Kissimmee) was passed by the full House today. By strengthening standards relating to medical malpractice claims, this legislation will:

- Create an "expert witness certificate" that an expert witness who is licensed in another jurisdiction must obtain before testifying in a medical negligence case. *This will prevent the admission of unqualified expert testimony from individuals who may not be competent in these types of cases.*
- Provides that a plaintiff must prove that the health care provider breached the standard of care by clear and convincing evidence. *This provision will level the playing field and ensure that all pertinent facts are brought forth in the consideration of claims.*

HB 479 will now proceed to the Senate. The Senate measure, SB 1590 by Senator Alan Hays (R-Umatilla), has been placed on third and final reading in the Senate.

**AIF SUPPORTS proposals to discourage fraud abuses associated with medical malpractice claims. Current practices invite fraud and subsequently higher health care-related costs for Florida employers. AIF commends Senator Hays for his hard work and leadership on this very important issue.**

Another party line tort measure to pass the House today was 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.

HB 391 will now be sent to the Senate for consideration.

**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.**