



WEEKLY BRIEF

From the Week of April 11 - 15, 2011

With the Legislature poised to break for the Easter Holidays, members of the House & Senate worked feverishly this week to move their highly controversial bills through the Legislature. Among them were the House's court reform proposals, Florida-style immigration reform, a restructuring of the state's Medicaid system and the "Paycheck Protection" act. These measures drew sharp criticism and opposition, with little success, from members of the minority party. The House and Senate have already agreed to begin budget talks in joint conference committees the week following the religious holidays – the week April 25th.

On Friday, the full House passed a few of AIF's top priorities, including:

- HB 7107 – This proposal will remove the Florida Bar's right to nominate potential members to the Judicial Nominating Council (JNC) and provides the governor with the discretion to appoint all members;
- HB 457 - Legislation that will compel local governments to adopt and enforce state –wide fertilizer ordinances; *and*
- HB 701 - Empowers owners of private property by specifying 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."

Environmental

On Monday, April 11th the Senate Community Affairs Committee passed SB 1698 by Senator Charlie Dean (R-Inverness) with overwhelming support. This legislation creates a reasonable septic tank evaluation program and makes the program optional for local governments by allowing them to opt-out of a septic tank evaluation program, unless the counties have a first magnitude spring.

As amended, the bill sets a statewide uniform model standard should a local government wish to adopt an evaluation program. This is designed to protect businesses by promoting a consistent, predictable and stable business climate without having the potential for many different and potentially inconsistent local regulations.

SB 1698 will now proceed to its final stop in the Senate Budget Committee.

AIF SUPPORTS revising the legislation dealing with the septic tank inspection program passed last session. Further, AIF salutes Senator Dean for his efforts to bring all stakeholders together and produce a workable solution to the septic tank evaluation program.

SB 1528 Relating to Secondary Metals Recyclers by Senator Thad Altman (R-Melbourne) was also approved by the Senate Community Affairs Committee on Monday. The Committee adopted a strike everything after the enacting clause during their meeting. The proposed legislation, as amended, creates a new category in law for “restricted regulated materials property” and imposes restrictions on the purchase of such property. “Restricted regulated metals property” includes: manhole covers; electric light poles; guard rails; traffic signs; utility communication wire; funeral and historical markers; railroad equipment; metal marked by a governmental entity, utility company, cemetery or railroad; condensing or evaporator coils from air conditioning equipment; propane tanks; beer kegs; catalytic converters; metallic wire from which the insulation has been removed; certain brass or bronze fixtures; and shopping carts. These are the types of items normally involved in copper and metal theft.

In addition, SB 1528 also preempts local governments from regulations unless they have enacted an ordinance before March 1, 2011. Finally, the bill lowers the amount of time from 5 years to 2 years for secondary metal recyclers to retain records of transactions.

SB 1528 will now proceed to its final committee of reference – the Senate Budget Committee.

AIF SUPPORTS legislation that will further help to deter secondary metal theft. In 2008, AIF started the Floridians for Copper & Metal Crime Prevention Coalition and created the current standards on secondary metal recycling in Florida.

On Thursday, April 14th the House State Affairs Committee approved HB 239 by Representative Trudi Williams (R-Ft. Meyers). This bill addresses the federal imposition of numeric nutrient criteria (NNC) by the Environmental Protection Agency (EPA). Following the adoption of a strike-all amendment, the bill provides for the following:

- Requires the Florida Department of Environmental Protection (DEP) to enter the rulemaking process to revise the dissolved oxygen criteria that will take into account naturally-occurring variability in Florida waters;
- Places a prohibition on state implementation of EPA's numeric nutrient criteria rules; however, compromising language limits that prohibition to instances where the EPA's regulations are more stringent than necessary to protect the biological community and designated use of a water body; *and*
- Codifies a new state classification of surface waters (Human Uses and Aquatic Life Uses) and is a major improvement over the state's overly-simplified current classification system.

HB 239 has passed its final committee of reference and will now proceed to the House Calendar. The Senate proposal, SB 1090 by Senator Charlie Dean (R-Inverness), was postponed in the Senate Environmental Preservation and Conservation Committee this week.

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 Trudi Williams for her leadership on this very important issue.

Taxation

Representative Steve Precourt (R-Orlando) presented HB 7221 Relating to State Revenue Limitations on Tuesday before members of the House Appropriations Committee. He explained that the Joint Resolution would limit revenues collected by state government to the amount collected the previous year, plus an annual adjustment based on a combination of population growth and the rate of inflation. Any funds in excess of the limits will be placed in the state's "rainy day fund" until that fund reaches 10 percent of the prior year's total budget – at that point, the Legislature must vote to either provide tax relief or reduce property taxes. The Legislature, by a two-thirds vote of the membership of each house, may increase the allowable state revenue for any fiscal year.

HB 7221 will now proceed to the House calendar while its companion, SB 958 by Senator Bogdanoff (R-Ft. Lauderdale), resides in House Messages. Should HB 7221/SB 958 pass, they will head to the ballots in 2012 to be voted upon by Florida's citizens. A 60% rate of approval is necessary for their implementation into constitutional law.

AIF SUPPORTS legislation that establishes a state revenue cap because it is clear that the state has not demonstrated fiscal constraint in the past when revenues were increased beyond the critical needs of the state. AIF believes that spending excess revenues, especially creating recurring programs that must continue to be funded in the future, places the state in the position to possibly raise taxes to meet those needs when revenues fall of. Furthermore, placing a smart cap in the constitution that requires a super majority encourages fiscal discipline for future legislative bodies.

Also on Tuesday, Senator Mike Fasano (R-New Port Richey) introduced SB 658 Relating to Homestead/Non Homesteaded Property in the Senate Judiciary Committee. Senator Fasano explained that this legislation proposes amendments to the State Constitution to prohibit increases in the assessed value of homestead property if the just value of the property decreases, reduces the limitation on annual assessment increases applicable to non-homestead real property to 3% from the current 10% and provides an additional homestead exemption for owners of homestead property who have not owned such property for a specified time before purchase of their current homestead property.

A courtesy strike-all amendment was introduced by Senator Arthenia Joyner (D-Tampa) and was accepted without objection. Senator Garrett Richter (R-Naples) then introduced a late-filed amendment that modified the cap on commercial property tax to 5%. This amendment was accepted without objection. In addition, Senator David Simmons (R-Altamonte Springs) then introduced a series of late-filed amendments, all of which he withdrew; however, Senator Simmons, by introducing said amendments, wished to demonstrate that the bill as it stands still needs much modification. SB 1722, the legislation to statutorily implement SB 658 - should it pass and be approved by voters - was also passed out of the Senate Judiciary Committee on Tuesday.

SB 658 will now advance to the Senate Budget Committee. The House proposal, HB 381 by Representative Chris Dorworth (R-Heathrow), was passed by the House Appropriations Committee on Friday, April 15th.

AIF SUPPORTS legislation to provide business owners with the knowledge and predictability that their tax assessments on property will not increase dramatically from year to year, thus encouraging expansion and job creation.

Traditionally, the Legislature has approved "Sales Tax Holidays" for a number of years, notably from 2005 through 2007, and then again in 2010, to allow consumers to purchase tax-exempt goods for a given period of time. This year, the Senate has introduced SB 508 by Senator Ellyn Bogdanoff (R-Ft. Lauderdale). This measure will reinstate the Sales Tax Holiday between August 12th and August 14th,

2011. Items free from sales tax in the bill cover clothing, text books and other school supplies. The bill passed the Senate Education Pre-K - 12 Committee with unanimous consent.

SB 508 will now advance to the full Senate Budget Committee. The House measure, HB 733 by Representative Elizabeth Porter (R-Lake City), has already passed the House & Senate; however, the Senate has not accepted the House's proposal, thus calling for conference committee to work out their differences.

AIF SUPPORTS increasing business activity by allowing Floridians to purchase essential school supplies and other necessities without paying sales tax.

On Thursday, April 14th the House State Affairs Committee took up HB 887 Relating to Communications Services Tax by Representative Chris Dorworth (R-Heathrow). Representative Dorworth explained that the bill simply allows the dealers of communications services to round the tax up when the third decimal is greater than 4. He offered a strike-all amendment that makes minor changes to eliminate any revenue impact of this rounding algorithm. The amendment passed with no objections.

There were no questions or debate and the bill passed unanimously. HB 887 will now be placed on the House Calendar. The Senate companion, SB 1198 by Senator Ellyn Bogdanoff (R-Ft. Lauderdale), was passed by its final committee of reference – the Senate Budget Committee – on Friday of this week. The bill will now be placed on the Senate Calendar for second reading.

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

Insurance

On Tuesday, April 12th Florida's Office of Insurance Regulation released its report on its in-depth review of data relating to personal injury protection (PIP) automobile insurance claims data. The report concluded that for every dollar of premium a PIP automobile insurer collects, over \$1.18 on the average is going to pay for claims, business expenses and litigation expenses. The report cited sharp increases in PIP automobile insurance fraud as the major cost driver contributing significantly to recent automobile insurance rate increases. Bolstered by this report, the Senate Banking and Insurance Committee approved two PIP reform measures on Tuesday – SB 1930 by Senator Ellyn Bogdanoff (R-Ft. Lauderdale) and SB 1694 by Senator Garrett Richter (R-Naples).

A strike-all amendment was offered to SB 1930 by the bill's sponsor to address concerns by all stakeholders. Senator Bogdanoff explained that she did her best to work with all parties without negating the fundamental intent of the measure; to discourage fraudulent acts associated with personal injury claims. Fundamentally, SB 1930 requires the insured and medical providers to submit to an examination under oath (EUO) and prevents the recovery of benefits if a claimant is found to file false or misleading statements. The second PIP reform bill by Senator Richter also addresses these cost drivers that result through costly litigation. As amended, SB 1694 caps PIP claimants' attorney fees at \$10,000 on personal injury claims. This legislation will help correct the current system and thus, bring down the costs associated with automobile insurance premiums.

Following passage out of their first committee of reference, SB 1694 & SB 1930 will now proceed to the Senate Judiciary Committee.

AIF SUPPORTS legislation that will rein in increased costs associated with fraudulent PIP claims. Florida's businesses and consumers should not continue to shoulder the burden of additional "fraud taxes" initiated by unscrupulous practices.

On Thursday, the House Economic Affairs Committee approved HB 803 Relating to Property and Casualty Insurance by Representative John Wood (R-Haines City) This comprehensive property insurance bill 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. With the adoption of an amendment in Committee, HB 803 now includes the reinsurance cost expedited rate filing provisions found within HB 885 – another top insurance priority for AIF this session.

HB 803 will now advance to the House Floor for consideration. The Senate companion, SB 408 by Senator Garrett Richter (R-Naples), has been placed on the Senate Calendar.

AIF SUPPORTS legislation 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.

Space

On Tuesday, April 12th members of the Senate Commerce & Tourism Committee overwhelmingly passed SB 790 Relating to Tax Credits by Senator Thad Altman (R-Melbourne). This bill authorizes an aerospace-sector jobs tax credit and tuition reimbursement tax credit against state corporate income taxes. The intent of the bill is to encourage both the creation of aerospace jobs and the increased availability of higher education and training to existing aerospace industry employees.

SB 790 has one more stop in the Senate Budget Committee. The House proposal, by Representative Ritch Workman (R-Melbourne), HB 143 has already been passed by the full House.

AIF SUPPORTS legislation that will create jobs within the aerospace sector, while maintaining those currently in existence. With the Space Shuttle program nearing its end, failing to act would have drastic consequences for the space industry in the state and associated jobs in those businesses.

On Friday of this week, members of the Senate Rules Committee unanimously passed SB 652 Relating to Liability of Spaceflight Entities by Senator David Simmons (R-Altamonte Springs). Currently, spaceflight entities are not liable for the injury or death of a participant if the accident is due to the inherent risks involved in space flight. This protection is currently set to expire in 2018. SB 652 will eliminate the sunset provision, thereby keeping Florida competitive with other states as we compete for this business. There was little discussion or debate.

SB 652 will now proceed to the Senate floor. The House measure, HB 703 by Representative Tom Goodson (R-Titusville), has been placed on the House Calendar for second reading.

AIF SUPPORTS this bill and the entire space agenda, and will work with Space Florida and other partners in the aerospace industry to make Florida a desirable location for aerospace commerce. SB 652 will continue to make Florida a desirable location for commercial spaceflight by extending liability protections for commercial space companies.

Growth Management

On Tuesday, April 12th the Senate Transportation Committee considered SB 1512, yet another growth management bill introduced by Senator Mike Bennett (R-Bradenton). After passing out of committee with one amendment, the Senate's version of comprehensive growth management legislation:

- Revises the definition of "financial feasibility" to change the requirement that committed or planned funding sources be available for years 4 through 10 (current law requires the funding sources be available for years four and five) of the capital improvement schedule.
- Specifies the role population projections should play in land use planning (i.e., revises the needs test).
- Requires local governments to designate long-term transportation management systems if transportation deficiencies are projected to occur within 10 years.
- Revises the methodology for calculating proportionate-share and proportionate fair-share and removes impacts to toll roads from the definition of proportionate-share and proportionate fair-share.

SB 1512 will now proceed to its last committee - the Senate Budget Committee. It is anticipated that this legislation will be combined with SB 1122 & SB 1904, which also passed this week, to form the Senate's growth management package for 2011. To read more about the provisions found within SB 1122 & SB 1904, please refer to Thursday's edition of the *Daily Brief*.

AIF SUPPORTS efforts to re-write Florida's growth management laws in a way that will foster economic activity and job growth. Florida is a growth state and in order to turn our economy around we must repeal and reform some of the regulations that currently stymie responsible development.

Business Regulation

On Tuesday, April 12th the Senate Judiciary Committee passed SB 1772 by Senator Alan Hays (R-Umatilla) pertaining to self-service storage facilities. The measure seeks to change the notice requirements relating to enforcing an owner's lien against goods stored in a self-service storage facility. The original bill deleted the requirement that the sale or disposition of the property be advertised once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the self service storage facility is located; however, Senator Don Gaetz (R-Niceville) filed an amendment to reverted back to current law.

AIF believes public notice in newspapers and on websites serve an important function. Without this notification, a person or business could lose their personal items due to a billing error or an incorrect address. In these difficult economic times, it is far more advantageous to have greater transparency in these circumstances.

SB 1722 will now advance to the Senate Community Affairs Committee. The House proposal, HB 459 by Representative Matt Caldwell (R-Fort Meyers), is in the House Judiciary Committee.

AIF OPPOSES efforts to diminish public notice requirements relating to personal property; however, AIF commends Senator Hays for working with interested parties to amend this legislation and allow for proper public notice.

On Thursday, the House Judiciary Committee passed HB 241 Relating to Wage Protection by Representative Tom Goodson (R-Titusville). 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, HB 241 provides that authority is expressly preempted to the state. Any local ordinances, including those already enacted, would be nullified by the implementation of HB 241.

The bill was passed largely along party lines, with Republicans voting favorably and Democrats in opposition.

HB 241 will now proceed to the House Calendar. A similar Senate measure, SB 982 by Senator Jim Norman (R-Tampa), is now in the Senate 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.

On Friday, the full House passed HB 457 Relating to Fertilizer Ordinances by Representative Clay Ingram (R-Pensacola). The bill was amended significantly during previous committee stops to address a number of concerns from local governments who were opposed to the provisions found in the original bill, which would have enacted a statewide fertilizer model ordinance. This model ordinance would have prohibited local government from enacting their own fertilizer ordinances.

As amended, the bill was rewritten to exempt existing local government regulations. Cities and counties can adopt new ordinances only if they have a comprehensive program to address multiple sources of nutrient pollution. The bill does prevent any future local ordinances from including fertilizer sales bans.

HB 457 will now proceed to the Senate for consideration. The Senate measure, SB 606 by Senator Greg Evers (R-Crestview), is in the Community Affairs Committee.

AIF SUPPORTS legislation that develops an overarching model for fertilizer regulation that applies statewide.

Economic Development

On Tuesday of this week, the House Finance and Tax Committee, chaired by Vice Chair Chris Dorworth (R-Lake Mary), passed a piece of economic development legislation that AIF has supported throughout the 2011 session. HB 287 by Representative Eric Eisnaugle (R- Orlando) amends business eligibility requirements that allow local governments to grant economic development ad valorem tax exemptions, following voter referendums, to new or expanding businesses in order to help stimulate economic activity. The authority to issue exemptions is valid for ten years and may be renewed through a succeeding referendum. Exemptions are issued by ordinance at the discretion of the board of county commissioners, or a municipal governing authority.

HB 287 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. Furthermore, the bill authorizes counties and municipalities that have already held or are in the process of holding referendums to issue exemptions under any future revision to the law without holding additional referendums.

HB 287 has one final stop in the House Economic Affairs Committee. The Senate measure, SB 506 by Senator Ellyn Bogdanoff (R-Ft. Lauderdale), is now in the Senate Commerce & Tourism Committee.

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

In the House Economic Affairs Committee on Tuesday, Representative Eisnagle passed another economic development-related measure – HB 879 Relating to Tax Refund Program for Qualified Target Industry Businesses. This bill would expand the definitions of a qualified targeted industry (QTI) to include efforts to expand trade and international economic activity. As a global hub for international activities, Florida's economic development statutes should include incentives in this area. Representative Doug Holder (R-Bradenton) added an amendment broadening the efforts of the energy zone economic incentive areas in designated instances.

HB 879 has passed its final committee of reference and will now be placed on the House Calendar. The Senate's proposal, SB 1318 by Senator Lizbeth Benacquisto (R-Wellington), was passed by the Senate Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations on Wednesday of this week.

AIF SUPPORTS continued availability of state funds for creating incentives that will stimulate economic development and recruit businesses to Florida – a top priority for Governor Rick Scott.

On Thursday of this week, the House State Affairs Committee considered HB 1231 Relating to Telecommunications by Representative Mike Horner (R-Orlando). After being recognized by Chairman Seth McKeel (R-Lakeland), Representative Horner and Representative Allan Williams (D-Tallahassee) introduced the bill. Representative Horner explained that the bill completes retail deregulation of wire line telecommunication services and maintains the role of the Public Service Commission (PSC) in resolving wholesale disputes between service providers. Representative Williams went on to show that the number of connections affected by the bill is only 14% since customers are rapidly migrating to the many unregulated options available to them. Representative Williams asked for the support of the members because the measure would increase competition and prove beneficial to consumers.

HB 1231 will now be placed on the House calendar for second reading. The companion bill, SB 1524 by Senator David Simmons (R-Altamonte Springs) was passed by the Senate Budget Committee on Friday of this week.

AIF SUPPORTS legislation that modernizes Florida's communications laws and empowers consumers, not state regulation, to pick winners and losers. Further, AIF supports these much-needed reforms to keep and create jobs, and to spur investment, as Florida competes with states that have already created an attractive investment environment.

Health Care

On Tuesday, April 12th the House Judiciary Committee approved 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.

HB 1193 proceeds next to the House Health and Human Services Committee. The Senate companion, SB 1754 by Senator Rene Garcia (R-Miami), was also approved in the Senate Rules Committee on Friday.

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.

In effort to address the number of frivolous lawsuits brought against nursing homes in Florida, members of the Senate Health Regulation Committee approved SB 1396 by Senator Ellyn Bogdanoff (R-Ft. Lauderdale) on Tuesday. The bill was amended with language that currently is contained in SB 1972 - the Senate's Medicaid Reform bill. As amended, SB 1396 contains:

- Additional requirements for suing an officer, director, or owner of a nursing home;
- Non-economic damage caps at \$300,000 on wrongful death actions, regardless of the number of claimants, brought against a nursing home;
- A requirement that a claimant demonstrate that a reasonable basis exists before being able to recover punitive damages and allows the defendant to actively refute the claimant's evidence; *and*
- A requirement that the claimant produce evidence the defendant actively and knowingly participated in intentional misconduct, or engaged in conduct that constituted gross negligence.

SB 1396 will now proceed to the Senate Judiciary Committee for further deliberation. The House companion, HB 661 by Representative Matt Gaetz (R-Shalimar), is currently in the House Health & Human Services Committee.

AIF will continue to SUPPORT proposals that discourage frivolous lawsuits and gratuitous settlements on the backs of Florida's employers. AIF commends Senator Bogdanoff for her leadership in seeing this proposal through the Legislative process.

The Senate Rules Committee unanimously approved SB 1522 Relating to Wellness or Health Improvement Programs by Senator Don Gaetz (R-Ft. Walton Beach) on Friday which would allow health insurers to offer a voluntary wellness or health improvement program to employers and employees. Further, insurers would be allowed to encourage participation in these wellness programs by providing rewards or incentives. The language in this bill is also contained in SB 1972 which is the Senate's Medicaid Reform plan.

SB 1522 will now advance to the Senate floor. The House companion - HB 445 by Representative Clay Ingram (R- Pensacola) – was passed in the House Health and Human Services Committee on Wednesday of this week.

AIF SUPPORTS legislation will lead to a healthier workforce and lower premiums. Costs to insurers could be offset by a reduction in the insurer's medical expenses due to having a healthier insured population. Furthermore, this legislation will offer these incentives without mandating coverage on the backs of Florida's Insurance providers.

On Thursday, the Senate's version of comprehensive Medicaid reform passed the full Senate Budget Committee. SB 1972 by Senator Joe Negron (R-Palm City) will substantially reform the manner in which Florida's Medicaid Program is administered. To read more about the Senate's Medicaid reform proposal, check out Thursday's edition of the Daily Brief. The bill has now passed all of its committees of reference and will head to the Senate floor. On the House side, the Medicaid reform proposals - HB 7107 and HB 7109 by the House Health and Human Services Committee – have already passed the full House. It is expected that a conference committee may be appointed to hash out a compromise between the two plans.

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.

SB 100 by Senator Jeremy Ring (D-Margate) was approved by the Senate Budget Committee on Friday. This bill would provide direct access to a specialist if a parent believes their child exhibits symptoms of autism. Further, the bill requires insurers to cover up to three visits to different specialists for the examination and diagnosis of this condition.

SB 100 will now advance to the Senate floor. The House companion - HB 1433 by Representative Bill Hager (R-Boca Raton) - has not yet received a hearing. It is believed that the House Health and Human Services Quality Subcommittee, the first committee reference for HB 1433, will no longer hold meetings this session. Therefore this issue may have difficulty being moved in the House.

AIF OPPOSES the addition of new health care provider or benefit mandates that will drive up the overall cost of coverage and result in higher premiums for employers and their employees.

Legal & Judicial

On Tuesday, April 12th the House Judiciary Committee passed two important tort reform bills that will enhance the image of Florida's litigation environment as a friendlier place for businesses.

First, the House Judiciary Committee unanimously passed HB 201 by Representative Marlene O'Toole (R-The Villages) relating to evidence introduced into trial in negligence cases of crashworthiness. This bill has been the subject of much tort reform discussion throughout the legislative session. A Senate proposal, SB 142 by Senator Garrett Richter (R-Naples), has already passed the Senate; however, the House version at this point is less clear in changing the status of current law. The goal of Representative O'Toole is to make sure that juries hear all evidence of facts leading up to a vehicle accident, including condition of the driver and other factors unrelated to the vehicle design. This situation resulted from a Florida Supreme Court ruling which bars the admission of any evidence surrounding an accident other than the product design. The current House version is weaker than both the bill as originally filed and the current Senate version. AIF will continue to work with policymakers to revert the bill back to its original form, ensuring that Florida's jury system will again be provided with a fair and balanced approach to these types of litigation.

HB 201 will now proceed to the House Calendar for consideration by all members.

AIF SUPPORTS efforts by the Florida Legislature to clearly express that a Florida Supreme Court-create standard regarding crashworthiness is absurd and unfair.

Also on Tuesday, the House Judiciary Committee also passed HB 391 Relating to Expert Testimony by Representative Larry Metz (R-Eustis). This bill simply aligns the Florida standard for admission of expert testimony with the federal standards. This consistency among the districts is much needed by Florida businesses to be certain that “junk science” is not the basis of jury awards and other judicial orders that govern our state.

HB 391 is now ready to be heard on the House floor. The Senate proposal, SB 822 by Senator Ellyn Bogdanoff (R-Ft. Lauderdale), in the Senate Budget Committee.

AIF SUPPORTS revising current law to create a more fair and balanced formula for applying interest to damage awards.

The Senate Governmental Oversight and Accountability Committee passed SB 1610 Relating to Minimum Wage by Senator Nancy Detert (R-Venice) largely along party lines. Each year, the Agency for Workforce Innovation (AWI) calculates the state’s minimum wage based on the formula provided in the Florida Constitution. The law requires that the minimum wage be increased based on increases in inflation and can never be lower than the federal minimum wage. Unfortunately, in the past few years, Florida’s economy has experienced a period of deflation and the law is silent as to how periods of deflation are to be considered in the calculation. During these times, AWI has completed its calculation using the deflation but has established Florida’s minimum wage equal to the federal level. Not surprisingly, labor groups have sued the state over this calculation.

Fortunately, SB 1610 will clarify the calculation of the minimum wage for economic conditions that are not already expressed in the state constitution. The bill does not lower the minimum wage or conflict with the Constitution. It simply brings clarity for the AWI in its calculations when economic conditions occur that the constitution did not address.

SB 1610 will now advance to the Senate Budget Committee for further consideration by its members. The House proposal, HB 1425 by Representative John Tobia (R-Melbourne), is currently in the House Economic Affairs Committee.

AIF SUPPORTS legislation to bring clarity and predictability to this process that will avoid litigation and create a fair and balanced approach to the calculation of minimum wage in Florida.

The Senate Banking & Insurance Committee unanimously approved SB 1590 Relating to Medical Malpractice Action by Senator Alan Hays (R-Umatilla) on Tuesday. By strengthening standards relating to medical malpractice claims, this legislation will:

- Requires a physician or osteopathic physician, who provides expert testimony concerning the prevailing professional standard of care, to be licensed in this state. *This will prevent the admission of unqualified expert testimony from individuals who may not be competent in these types of cases.*
- Requires a claimant to submit information that is potentially relevant to the claim of personal injury or wrongful death. *This provision will level the playing field and ensure that all pertinent facts are brought forth in the consideration of claims.*
- Authorizes a defendant, or his or her legal representative access, to conduct interviews of the claimant’s treating health care providers without notice. *Providing defendants the opportunity to conduct interviews without prior notice will discourage frivolous claims and significantly reduce the compulsion to commit fraud.*

In light of the debate and testimony provided during committee, AIF waived its time in support of SB 1590.

SB 1590 will now advance to the Senate Banking & Insurance Committee. The House proposal, HB 479 by Representative Mike Horner (R-Kissimmee), was passed by the House Judiciary Committee on Thursday.

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.

On Friday, the full House passed HB 701 Relating to Property Rights by Representative Eric Eisnaugle (R-Orlando) by a vote of 97-15

This bill amends the “Bert Harris Act” to make the following 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.

HB 701 will now proceed to the Senate for consideration by its members. The identical measure in the Senate, SB 998 by Senator David Simmons (R-Altamonte Springs), has been placed on the Senate Calendar to be read for a second time.

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.

Today, the full House passed a controversial court reform proposal that has been a top priority of House Speaker Dean Cannon (R-Winter Park) this year.

HB 7101 Relating to Judicial Nominating Commissions proposes a revision of the composition and terms of members of judicial nominating councils (JNCs) that remove 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.

Despite intense party line debate, HB 7101 passed by a vote of 78 to 35. The measure will now proceed to the Senate to be taken up by its members.

AIF SUPPORTS a fair and balanced approach to nominating members of the Judiciary in Florida. Further, AIF applauds the leadership and direction of Speaker Cannon in seeing this legislation through the House.

Guns in the Workplace

On Tuesday, April 12th the Senate Judiciary Committee passed SB 234 Relating to Firearms by Senator Greg Evers (R-Milton). This legislation, more commonly known as the “Open Carry” bill, would allow those individuals with a concealed weapons permit to carry their firearms in the open. The bill was met with strong opposition from the members of law enforcement as well as representatives from the business community including Associated Industries of Florida.

Senator Elyn Bogdanoff (R-Ft. Lauderdale) introduced an amendment that would have relaxed the bill’s intent by providing concealed weapons permit holder protection when inadvertently displaying their firearm in the public. Representatives from the NRA spoke in opposition to the Bogdanoff amendment and the sponsor ultimately withdrew her amendment when she realized she did not have the votes to get it passed.

During debate several members of the Committee expressed their concerns with the bill. Senator David Simmons (R-Altamonte Springs) pledged to work with the bill’s sponsor to work out a compromise between members of the NRA, law enforcement, and the business community.

SB 234 was subsequently passed by the Senate Rules Committee on Friday and is now ready for consideration on the floor. A handwritten amendment was adopted on Friday that provides some comfort for employers by adding language to the bill that would prevent handguns under certain scenarios from being allowed on private property. The House companion, HB 517 by Representative Chris Dorworth (R-Heathrow), has also passed its committees of reference and will be reported to the House Calendar.

AIF OPPOSES legislation that would allow for “open carry” of firearms in Florida. Employers, especially those who operate storefronts where there is a lot of foot traffic, are concerned with the potential unintended consequences and liability that could arise from allowing the public to openly carry guns in places of employment. AIF is currently reviewing this last minute private property amendment to see if our concerns are addressed.

Seaports

On Tuesday, April 12th the House Economic Affairs Committee unanimously approved 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 the full House for consideration. The Senate companion, SB 768 by Senator Jeremy Ring (D-Margate), was passed by the Senate Budget Committee on Friday of this week.

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.

On Thursday, the full House overwhelmingly passed HB 283 Relating to Seaport Security by Representative Dana Young (R-Tampa) . 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 will now proceed to the Senate for consideration by its members. The Senate companion, SB 524 by Senator Jack Latvala (R-St. Petersburg), was passed by the Senate Budget Committee on Wednesday of this week.

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.

Energy

On Wednesday, April 13th the Senate Budget Subcommittee on General Government Appropriations unanimously 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.

SB 762 has now advanced to the Senate Budget Committee, the bill's last stop before proceeding to the Senate floor. The identical measure in the House – HB 4117 by Representative Scott Plakon (R-Longwood) has yet to be heard in the House Agriculture & Natural Resources Subcommittee.

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.

Ethics & Elections

On Friday, April 15th the Senate Rules Committee took up and passed SB 830 by Chairman John Thrasher (R-Jacksonville) following passionate, yet largely misunderstood debate. As originally filed, the bill prohibits state and local governments from automatic payroll deductions for membership dues and Political Action Committee (PAC) contributions for members of public employee unions; however, Chairman Thrasher offered an amendment that would only ban the use of dues for political purposes. Chair Thrasher and supporters of the proposal, including AIF; recognize that this amendment will help clarify the bill's original intent to get government out of the role of collecting union dues to be used for political activity.

Committee members largely approved the measure along party lines. SB 830 has passed its final committee of reference and will now proceed to the Senate floor. A similar proposal in the House, HB 1021 by Representative Chris Dorworth (R-Heathrow), has already passed the full House.

AIF SUPPORTS efforts to give union members more of a say on how their union dues are spent. At a time when dollars are scarce, union members should be allowed to keep their hard-earned money if they decide not to support their union's political activity.

Education

In the Senate Higher Education Committee on Wednesday, Senator Evelyn Lynn (R-Daytona Beach) presented SB 1732 Relating to Postsecondary Education, with two amendments. SB 1732 requires the Higher Education Coordinating Council 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.

Its House companion, HB 7151 by Representative Kelli Stargel (R-Lakeland), was also considered and passed on Wednesday afternoon in the House Education Committee.

SB 1732 will now advance to the Senate Budget Committee for further deliberation. HB 7151 has passed its only committee of reference and is ready to proceed to the floor.

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

Immigration

On Thursday, the House Economic Affairs Committee passed HB 7089 Relating to the Enforcement of Immigration Laws by the House Judiciary Committee. The bill would mandate that Florida employers use the Federal E-Verify program to authenticate the eligibility of potential employees to work. In addition, the bill allows law enforcement entities to check the legal status of suspected unauthorized individuals in certain situations. To Read more about AIF's stance on proposed immigration reform, refer to Thursday's edition of the *Daily Brief*.

HB 7089 is now ready to proceed to the House Floor. AIF will continue to work with Legislative leadership to address provisions associated with the mandated use of E-Verify on Florida's employers.

AIF is OPPOSED to any legislation that mandates the burdensome and flawed E-Verify on Florida's employers. While AIF supports a workable electronic employment verification system that both large and small employers can use alike to verify the legal eligibility of their workforce, E-Verify in its current form is not ready to be mandated on Florida's businesses.