



DAILY BRIEF

From April 25, 2011

As we dive in to week 8, leadership has begun to focus their effort and attention on the state budget. The respective budget chairs released an update of their progress today, yet there has been little evidence to suggest that negotiations are moving forward. Without coming to a final agreement on initial allocations, the Legislature is unable to move forward in joint budget talks, which occur in budget conference committees. In addition, Governor Rick Scott has requested that the budget consider a phase out of Florida's 5.5 percent corporate tax over seven years - a move strongly supported by AIF. It remains unclear as to whether lawmakers will make the May 6th deadline to adjourn the 2011 Legislative Session on schedule.

On the policy front, AIF saw several priority measures advance from their final committees of reference today. A few of the proposals now ready for action on the floor include:

- SB 1382 Relating to Agency Rulemaking by Senator Mike Bennett (R-Bradenton) – This legislation clearly defines what rules promulgated by a state agency will require legislative ratification.
- HB 1193 Relating to Health Care Freedom by Representative Matt Hudson (R-Naples) – This proposal would prohibit a person from being compelled to purchase health insurance in compliance with federal health care reform.
- SB 178 Relating to Commercial Insurance Rates by Senator Steve Oelrich (R-Gainesville) – This bill exempts several categories of insurance from the state's rates prior approval process and will allow insurers that sell these types of insurance to make pricing changes on a more expedited basis.

Economic Development

Today, the Senate Commerce & Tourism Committee passed SB 506 by Senator Ellyn Bogdanoff (R-Ft. Lauderdale) that would further expand a local government's ability to offer exemptions to targeted business from local taxes. In 1980, Florida voters approved a constitutional amendment that allows local governments to grant economic development ad valorem tax exemptions pursuant to voter referendums, to new or expanding businesses. These exemptions would be valid for ten years and could be renewed by another vote of the local voters. Exemptions are completely up to the local government and are issued by ordinance at the discretion of the board of county commissioners or a municipal governing authority.

SB 506 makes a number of changes to the requirements that a new or expanding business must meet in order to be eligible for this local economic development exemption. In particular, this legislation redefines the terms "new business" and "expansion of existing business" to remove the current minimum thresholds for the number of jobs that a business must create in order to

receive the ad valorem tax relief. Furthermore, counties and municipalities are given the discretion to determine which businesses should receive an economic development exemption.

AIF lobbyist, Stephen Shiver, was present to waive in support of the measure. AIF supports this legislation as another incentive for businesses to grow and relocate to Florida's communities. Furthermore, this proposal will compel local governments to participate in the economic development incentive efforts across the state.



SB 506 has already been placed on the Senate Budget Committee calendar for Tuesday, April 26th at 9:45 am. This is its final committee of reference before heading to the Senate floor.

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

Public Hospitals

Today, the Senate Judiciary 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 Budget Committee for further consideration. The House measure, HB 619 by Representative Ed Hooper (R-Clearwater), was also considered and passed today in the House Health & Human Services Committee and will now proceed to the floor.

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.

Business Regulation

Today, the Senate Budget Committee approved SB 1382 Relating to Agency Rulemaking by Senator Mike Bennett (R-Bradenton). Last session, HB 1565 passed and provided major changes to the way an agency would promulgate new rules. Despite a veto by then-Governor Charlie Crist, the legislature voted to override HB 1565 during a special session last spring.

SB 1382 will provide earlier notice to the public and the Department of State that a proposed rule will require legislative ratification. The published notice of proposed rulemaking will include a statement as to whether the rule will require ratification.

During the bill's hearing, Senator Garrett Richter (R-Naples) offered a strike everything amendment after the enacting clause which clarifies and corrects provisions affected by the passage of HB 1565 in the special session in November. Specifically, the bill:

- Directs an agency to state in their notice of rulemaking, whether the agency expects the rule to require ratification. Ratification is required when a proposed agency rule will cost \$1 million or more over a 5 year period;
- Authorizes an agency to withdraw a rule before it becomes effective, if it has not been ratified within 90 days of submission to the Legislature for ratification;
- Clarifies language declaring when a rule becomes effective if ratification is required;
- Clarifies that neither emergency rules nor rules adopting federal standards are subject to ratification; *and*
- Shortens the time allowed for a challenge after publication of a revised statement of estimated regulatory costs

In addition, the strike-all amendment creates particular exemptions to legislative ratification. Some of these exemptions have been incorporated into other pending legislation, including:

- The triennial building code and amendments to the building code;
- The triennial fire code and amendments;
- Toll rate increases by the Department of Transportation;
- The Student Success Act exemption, which was passed earlier this Session, is brought into chapter 120 where it can more easily be found by administrative lawyers and attorneys for school districts

SB 1382 is now ready to advance to the Senate floor for consideration. The House proposal, HB 993 by Representative Ken Roberson (R-Port Charlotte), remains in the House Rules & Calendar Committee.

AIF SUPPORTS efforts to keep agencies from promulgating burdensome rules and stifling further expansion and growth within Florida's economy.

Health Care

Today, the House Health and Human Services Committee approved House Joint Resolution (HJR) 1 by Representative Scott Plakon (R-Longwood) that will add language relating to health care freedom to the Florida Constitution. This joint resolution will allow employers, individuals and health care providers to opt-out of the federally mandated insurance provision. Specifically, this legislation will maintain the availability of private health insurance coverage and would protect employers and individuals from fines or penalties that the federal government may attempt to levy for non-compliance. The measure is attempting to ensure Florida can opt out of the recently enacted federal health care reform act which is being challenged in the courts. As with any constitutional amendment, HJR 1 will require 60 percent approval by voters during the upcoming November general election.

HJR 1 is now ready to be considered by the full House. The Senate companion - SJR 2 by Senate President Mike Haridopolos (R-Melbourne) - has already been approved by the full Senate and is waiting in House Messages.

In the same committee meeting, HB 1193 by Representative Matt Hudson (R-Naples) was also passed. This legislation also seeks to deal with the issue of circumventing the recently enacted federal health care reform act. By being placed in Florida statute, this language would prohibit a person from being compelled to purchase health insurance and would also prohibit a person from being subjected to fines if they do not purchase health insurance.

HB 1193 is now ready for action on the House floor. The Senate companion, SB 1754 by Senator Rene Garcia (R-Miami), is on second reading and awaits consideration by the full Senate.

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

Another measure passed by the House Health and Human Services Committee today was HB 661 Relating to Nursing Home Litigation by Representative Matt Gaetz (R-Shalimar). Passing largely along a party line vote, 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 one of the aforementioned individuals.

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 has one remaining stop in the House Judiciary Committee. The Senate measure, SB 1396 by Senator Elynn Bogdanoff (R-Ft. Lauderdale), remains in the Senate Judiciary Committee.

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

Insurance

Today, the Senate Budget Committee approved SB 178 Relating to Commercial Insurance Rates by Senator Steve Oelrich (R-Gainesville) by a close margin. SB 178 exempts the following categories from the state's rates prior approval process: nonresidential property, excess property, commercial motor vehicles, fiduciary and general liability. Furthermore, this bill will allow insurers that sell the types of above mentioned coverage to make pricing changes on a more expedited basis and avoid some of the expense incurred in a full rate review process.

AIF believes this legislation will result in enhancing competition among insurance companies from which Florida businesses will benefit as to affordability and availability of insurance.

SB 178 will now proceed to the Senate floor. Its House companion bill, HB 99 by Representative Brad Drake (R-DeFuniak Springs), has already passed the full House.

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.

Today, the House Health and Human Services Committee narrowly voted down a proposed committee bill that combined two Personal Injury Protection (PIP) reform bills that had advanced over the last several weeks. HB 1411 by Representative Jim Boyd (R-Bradenton) dealt mainly with combating fraud in a number of ways such as changing how crash reports are completed. HB 967 by Representative Mike Horner (R-Kissimmee) addressed, among other provisions, attorney's fees in PIP disputes. The proposed committee bill was characterized as a compromise that took out some of the most controversial provisions. The proposed committee bill would have:

- Required long-form crash reports to be filed;
- Capped attorney fee awards in PIP disputes at \$200 per billable hour and barred the use of contingency risk multipliers in determining PIP fee awards;
- Required compliance with policy terms, including submission to examination under oath by insureds, as a condition precedent to receiving policy benefits;
- Entitled medical providers to reasonable compensation for attending an Examination Under Oath (EUO);
- Tolloed the 30-day period for payment of PIP benefits when there is reasonable belief that insurance fraud has been committed;
- Established that a premature pre-suit demand letter for unpaid PIP benefits is defective;
- Created a rebuttable presumption that an insured's failure to appear for two scheduled examinations (mental or physical) is an unreasonable refusal to submit to examination;
- Provided that submission to examination is a condition precedent to eligibility for policy benefits;
- Barred payment of PIP benefits to persons who submit false statements or commit fraudulent insurance acts; *and*
- Amended the PIP schedule of maximum charges.

Representatives Doug Holder (R-Sarasota), Eddy Gonzalez (R-Hialeah Gardens), and Ronald Renuart (R-Ponte Vedra Beach) broke with Republican ranks and voted against the bill. The fate of this important issue is unknown as the Senate companions to these bills - SB 1694 by Senator Garrett Richter (R-Naples) and SB 1930 by Senator Ellyn Bogdanoff (R- Ft. Lauderdale) - were not heard in the Senate Judiciary Committee today.

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.

Education

This afternoon, the Senate Budget Committee took up legislation concerning digital learning in Florida - SB 1620 by Senator Anitere Flores (R-Miami). Senator Flores presented a strike-all amendment that was adopted by members of the committee. Senator Gwen Margolis (R-Miami) offered a late-filed amendment to the amendment on the bill, but withdrew it with a promise from Senator Flores to work on some language to be presented on the floor.

As amended, the bill now is very similar to its House companion and puts into law the 10 elements of a high quality digital learning program. The bill also requires that students entering the ninth grade in 2011-2012 and thereafter must enroll in at least one online course in order to graduate from high school and requires districts to make multiple paths of virtual education available to students. The bill allows for the creation of virtual charter schools, and requires the online administration of all statewide assessments. The bill directs the Department of Education to develop a method for evaluating part-time virtual instruction programs, similar to how schools receive performance grades.

There were several questions about funding and ability of schools to meet the new requirements. Ultimately, SB 1620 was voted out of the Senate Budget Committee by a vote falling mostly along party lines.

SB 1620 is scheduled to be heard in the Senate Rules Committee on Tuesday, April 26th.

AIF supports the increased use of digital learning so that students are prepared for a globally competitive workplace.

Taxation

After having been filed by Senator Garrett Richter (R-Naples) over two months ago, the Corporate Income tax phase out bill was finally heard by its first committee of reference today - the Senate Commerce and Tourism Committee.

Senator Richter began his presentation of SB 1236 by explaining that he wanted to give a few remarks on the issue and then ask for the bill to be temporarily postponed. A work in progress, he went on to say the reduction of the Corporate Income Tax (CIT) is very important to the economy of Florida and to the creation of new jobs. The best way to look at it is that for every \$1 of reduction in the CIT there is a corresponding increase of \$2.50 in wages. He added that other than Japan, the US has the highest CIT rate in the world and by lowering Florida's 5.5% rate over time that would help make Florida an attractive state for Corporations to locate. This is a critical corner stone to our economic strategy for creating an environment conducive to growth.

Senator Richter added that this was indeed a high priority of our Governor and that he agreed with him that this measure would go a long way in creating jobs.

Even though the bill was temporarily passed on a request of the bill's sponsor, there were a number of questions by Senators Don Gaetz (R-Destin), Paula Dockery (R-Lakeland), Evelyn Lynn (R-Daytona Beach), Jeremy Ring (D-Margate), and Bill Montford (D-Tallahassee).

Senator Richter answered questions centered on how much it would cost, what programs would have to be cut, and how it could be certain this proposal would create jobs. Senator Richter pointed out that the plan was to only reduce the CIT by half of what the growth in revenue was when we began to grow revenue above population and the Consumer Price Index (CPI). Senator Gaetz pointed out that there would be no cuts in programs because of this type of phase out.

Senator Jeremy Ring (D-Margate) pointed out that while he supported and believed that tax cuts would help, he noted that we don't go the whole way and sell our favorable conditions to those outside of Florida. "We talk to ourselves and don't do the promotion job necessary for others to know about Florida's advantages", Senator Ring said.

In response to questions about how this reduction could expect to create jobs, Senator Richter made an impassioned response giving detailed business facts taken from his experience as a banker, as well as from a Professor from the University of Florida UF that made a presentation before Senator Gaetz's **Select Committee on the Economy**. He was quite convincing that our unemployment rate would come down, but likely over a seven year period.

AIF SUPPORTS Gov. Rick Scott's proposal to phase out the corporate income tax.