



From December 10, 2010

Newly elected members joined incumbent law makers for the first week of interim committee meetings for the upcoming 2011 Legislative Session. Senate members met in their respective committees, while House members met primarily in policy workshops and budget briefings to learn more about the issues facing the state of Florida. With almost 40 new members of the House of Representatives, this on-the-job training is critical as we approach the regular session.

As it often occurs in early months leading to session, guest speakers and policy experts inundate the halls to address committee members on various issues affecting Florida. Often at the request of a committee chair, invited guests will offer their expert opinions on the state of the economy, policy proposals, and significant issues that require attention from the State's lawmakers.

What makes the start of this legislative season unusual is the consideration of legislation sponsored by Senate President Mike Haridopolos (R-Melbourne) - SJR 2 Relating to Health Care Services. As the only bill to be voted on this week, President Haridopolos sent a clear and simple message that Florida's citizens shall not be compelled to participate in a federally mandated health care system.

Read below to learn more about AIF's involvement in SJR 2, including coverage of important issues affecting employers.

Budget

On Tuesday, Dec. 7th Chairman JD Alexander (R-Lake Wales) called the Senate Budget committee to order and immediately called on Amy Baker, the State's Chief Economist with the Bureau of Economic & Demographic Research (EDR), to give a presentation on the forecast of Florida's economy.

After going through many graphs of data showing the state economy beginning to slow at a lesser rate, she ended her remarks with the expected revenue outlook for the 2011-2012 budget year. Based on the latest forecast, revenues are \$2.5 billion short of meeting all the state's critical and other high priority needs. Nevertheless, based on the fall estimating conferences, the gap is likely to grow. Another large increase in Medicaid is likely and it is the single largest driver in next year's budget.

Overall, Ms. Baker explained that declines are lessening and that she does not expect a double dip or back-to-back recession.

Senator Alan Hays (R-Umatilla) asked what industries should the Senate try to stimulate growth in and which industries should we try to attract. Ms. Baker responded that this was a policy decision that should be left to legislators, but she did mention that the Health Care industry was currently performing the best.

Redistricting

The Senate Reapportionment Committee held its first meeting under Chairman Don Gaetz (R-Niceville) this week. The committee began the long process that will eventually lead to the re-drawing of legislative districts in Florida by listening to presentations from committee staff on the timeline for redistricting as well as the redistricting law. Committee members were also shown a preview of the redistricting technology, which will be used by legislators to actually draw the districts.

The timeline to arrive at the new districts is an incredibly aggressive one - given the number of reviews by the Courts and the federal government. Chairman Gaetz also announced his intentions to travel the state in order to give the public the ability to participate in the process of drawing the new districts.

Health Care

On Tuesday, December 7th the Senate Health and Human Services Appropriations Committee continued the work they began during the November Organizational Session - discussing ways to cut the ever increasing Medicaid budget. Florida's Medicaid budget has now grown to encompass one third of the state's entire annual budget. Chairman Joe Negron (R-Stuart) made it clear to committee members and the audience that a Senate priority is to transform Medicaid. He developed a set of "guiding principles" that he asked members to consider when pondering how to reform Medicaid. In essence, the principles have two goals: improve care and fiscal predictability. Further, the principles generally stressed the following:

- Delivery of and payment for services will focus on value and outcomes rather than reimbursement per procedure.
- For long term care patients, home and community based options will be considered along with nursing home care.
- The role of AHCA's Medicaid Unit will change from check writing and fraud chasing to contract compliance and monitoring.
- All providers (HMO, PSN, ACO or other managed care models) will be required to guarantee savings with performance bonds, pay claims on a timely basis and allow periodic opportunities for recipients to change plans. Further, providers will be subjected to liquidated damages for contract breaches and patient abandonment.
- Medicaid recipients will choose their own plan without the use of intermediaries
- The state will not spend over what is appropriated each fiscal year by the Legislature for the Medicaid program.
- Health care benefits provided to Medicaid recipients will be comparable to the benefits received by Floridians who pay the taxes that ultimately fund Medicaid.
- Physicians serving Medicaid recipients will see higher compensation and increased legal protections.

Chair Negron invited two employers to discuss the kinds of health plans they offer along with the out-of-pocket costs (co-payments and deductibles) borne by their employees. Each employer had experienced premium increases over the last several years and had increased the out of pocket expenses paid by employees in order to keep the premiums affordable.

Senator Don Gaetz (R-Ft. Walton Beach) observed that almost one in four Floridians is on Medicaid. He asked Gordon Thames, of Tallahassee-based Arbor Properties, how his employees would feel if they knew that they subsidized persons who receive Medicaid benefits. Candidly, Mr. Thames responded, "well they would be pretty upset."

Chair Negron provided members of the committee with a side by side comparison of the benefits currently provided for Medicaid recipients to the standard plan provided in Florida's small group market. He asked members to be prepared to discuss whether some benefits should be eliminated. Further, he noted that if a member wanted to maintain a benefit, he or she must be ready to provide another benefit that would be cut as an alternative.

AIF SUPPORTS initiatives that would increase accountability in the Medicaid Program to ensure that appropriate, cost- effective health care services are provided to the state's residents who need it the most.

In an unusual move for a presiding officer, Senate President Mike Haridopolos (R-Melbourne) filed the first bill of the 2011 Session and presented it before the Senate Health Care Regulation Committee on Thursday, December 9th. SJR 2 seeks to put on the 2012 ballot a constitutional amendment that would negate the requirement for individuals to purchase health insurance, which is contained in the federal health care reform proposal. SJR 2 is essentially the same bill passed by former Sen. Carey Baker (R-Eustis) and Rep. Scott Plakon (R-Longwood) last session which was ultimately removed from the ballot by the courts. Rep. Plakon is sponsoring the House companion to Haridopolos' joint resolution.

Generally, presiding officers do not advance legislation; however, President Haridopolos noted over the summer that he vehemently opposed the individual mandate and believed it would place significant burden on Florida residents. "I don't know anywhere in American History where the government has told American citizens that they must purchase a private plan. It moves away from the fundamental direction of what we're all about as a nation.

Jose Gonzalez, AIF's Vice President of Governmental Affairs, was present before the committee to waive in favor of SJR 2.



If approved by the Legislature and not removed by the courts, the language would appear on the 2012 ballot and require a 60% approval among voters for passage. SJR 2 was passed largely along party lines by a vote of 9-2. The measure will now move to the Senate Judiciary Committee and then proceed to its final stop in the Senate Budget Committee.

At this time, the House companion has not yet been referred to committee.

AIF SUPPORTS efforts that will counteract the existing federal mandates that force Florida's citizens & business owners to purchase health insurance. AIF salutes President Haridopolos for his proactive legislation that will soften the blow from federally mandated healthcare.

Environmental

The Senate Committee on Environmental Preservation & Conservation held its first meeting this Thursday, December 9th. The main portion of the meeting was devoted to discussing the Environmental Protection Agency's (EPA) numeric nutrient water quality standards. Jerry Brooks, the Director of the Division of Environmental Assessment and Restoration for the Florida Department of Environmental Protection (DEP) discussed the background on why Florida is subject to these new criteria. Florida has been a leader in cleaning up its water bodies and has been working on nutrient standards with EPA since 2002. Unfortunately, in 2008 a lawsuit was filed by Earth Justice and other environmental organizations under the Clean Water Act to expedite the clean up process. EPA agreed to a consent decree in November 2009 and has been working on a rule. On November 15th, the EPA issued the new numeric

nutrient criteria (NNC) rule for lakes and flowing waters – i.e. rivers and streams. EPA will finalize criteria for Estuaries and South Florida streams (canals) in August 2012.

EPA has delayed the implementation of the new rule for 15 months. Dr. Brooks explained that the delay will allow DEP and EPA to work with stakeholders and provides the opportunity to discuss implementation.

Dr. Brooks indicated to the committee that he believes EPA has underestimated the NNC cost and that the true cost is dependent upon how the NNC are implemented. The EPA rule is silent on implementation and therefore the cost remains unknown.

Paul Steinbrecher, representing the Florida Water Environment Association Utility Council, told the committee that approximately 30% of Florida's waters are impaired. However, thanks to successful programs implemented by DEP, nutrient impairment is getting better. He believes the cost is far greater than the EPA's cost projections.

Scott Dudley with the Florida League of Cities (FLC) testified that the EPA's methodology is unreasonable and without scientific basis. Over 50 cities have adopted resolutions opposing the EPA's NNC standards, including the Florida League of Cities Board and the Florida League of Mayors. Mr. Dudley further pointed out that the EPA has not worked well with the FLC. Instead of working cooperatively, EPA has just presented their case on why the NNC should be implemented.

Diana Ferguson representing the Florida Association of Counties also complained about the lack of cooperation from EPA. Her membership also agrees that the new NNC standards are not reasonable, yet very costly to implement.

AIF expects the discussion to continue on the NNC issue and will continue to monitor it on the state and federal level.

AIF SUPPORTS a 15 month delay in implementing EPA's Numeric Nutrient Criteria, allowing Florida's stakeholders to work with the EPA on proper implementation. Currently, these arbitrary and capricious standards could cost Florida's businesses and residents billions of dollars.

Education

On Thursday, December 9th Chairman Stephen Wise (R-Jacksonville) called the Senate Pre-K-12 Education committee to order to discuss instructional quality and Race to the Top for Student Success.

First to present was Roberto Martinez of the State Board of Education. Mr. Martinez stated that his group, with others, conducted many meetings over the past summer with various groups of education professionals on ways to improve teacher performance and thereby student performance. He concluded that the State needs to go farther than the provisions of the Race to the Top grants in a bipartisan way. He concluded that education is a national security issue as well as his belief that teachers should be more respected in society and be placed on the "pedestal" they deserve.

Education Commissioner Eric Smith then gave a brief overview of Race to the Top and the State's Theory of Action in implementing the grant's requirements. He believed that over the past summer, the State and districts had reached basic agreement that bold action was needed. He then introduced Chancellor Frances Haithcock to give a more detailed account of Race to the Top and how the State can comply.

Dr. Haithcock went onto explain that she, along with Mr. Martinez and others, spent exhaustive hours touring the State holding meetings and taking input from professionals and parents as to how the State can best meet and exceed the Race to the Top goals. She stated the legislature needs to craft legislation based on the Race to the Top criteria. She broke down the criteria into four main points: 1. Teacher and Principal Evaluation; 2. Local Compensation Systems; 3. Teacher and Principal Assignment, Contracts, and Dismissal; and 4. Annual Analysis and Reporting.

While explaining the teacher evaluation guidelines, Chairman Wise asked questions regarding how teachers with students with severe disabilities or students who change schools mid-year or students with problem parents and attendance issues evaluations would be affected. Dr. Haithcock replied that there will be various "value added" metrics to account for such variables. Chairman Wise also asked about classes like art, music and physical education. Dr. Haithcock reiterated that there will be metrics to account for such classes and that; in fact, the music teachers were already working on such standards.

Chairman Wise also queried Dr. Haithcock about the accountability of principals as to the quality of teachers hired. He asked if that was not a district issue and referenced the practice of "passing the lemon" to schools. Dr. Haithcock said that she had been one of those principals but it was a district issue and perhaps some legislation could remedy the issue. Senator Bill Montford (D-Tallahassee) chimed in that it is ultimately a district issue and districts must do what works best for them, i.e. what might be right for Miami-Dade might not be right for Baker County. Chairman Wise appreciated Senator Montford's comment, saying "that's why you're on this committee."

After wrapping-up her presentation, Senator Lizbeth Benacquisto (R-Wellington) asked if there were any current statutory mandates that are in conflict with the Theory of Action the State was proposing. Dr. Haithcock responded that there were a few, but they were minor, such as the time limit for teacher evaluations and certain issues relating to merit pay. Senator Montford then remarked that merit pay already exists in Florida and has for many years. He said it was now just a matter of coordinating all the various legislation into one comprehensive bill. Chairman Wise then remarked that "nothing is impossible if you don't have to do it," and expressed his strong position that now was the time to address these issues and "get it right."

The final presenter was Patricia Levesque of the Foundation for Florida's Future. Ms. Levesque stated that her organization conducted hours of meetings, in person, by conference call, and by internet, with school districts, superintendents, the teacher's union, and others, on ways to improve last year's Senate Bill 6 and shape it to mirror goals set out in Race to the Top. She broke the conclusions reached down into four major areas: 1. Evaluation Reform; 2. Assessments; 3. Compensation Reform; and 4. Tenure Reform.

Significant changes from Senate Bill 6 included that, rather than "more than 50%", that "at least 50%" of teacher evaluation be based on student performance, with 10% allotted for district level objective assessments, that a three-year period be used to gauge overall teacher assessment, and reforms in performance and differentiated pay. She stated that these are all suggestions and are flexible, that, in fact, just last night, they had agreed to go back to a four-tier evaluation scale rather than a five-tier scale. There were a few questions about specific issues in pay, such as does a teacher get paid more if they have an advanced degree but do not earn an "effective" or "highly effective" evaluation. Ms. Levesque responded that these were all issues up for discussion at both the State and district level.

Chairman Wise then concluded the meeting with remarks about the growing crisis with young black men in Florida public schools, noting that the State has the third largest population of young black men in public schools but the second lowest graduation rate and promised presentations in the future that will highlight and define the crisis in more specific terms. Senator Larcenia Bullard (D-Miami) agreed that the situation was unacceptable.

AIF SUPPORTS legislation that seeks to incentivize teacher pay because it creates a career path that keeps teachers in the classroom. Furthermore, merit pay legislation is vitally important for the federal Race to the Top competition. The two states that won in round one already have similar laws on the books.

Transportation

On Wednesday, December 8th the Senate Transportation Committee met with a familiar face to many serving as the new chairman. State Senator Jack Latvala (R-St. Petersburg) returned to the legislature after a six year absence where he returns as a freshman senator in the 2010 legislative class. Far from your average freshman, Sen. Latvala has long been involved in transportation issues and thus utilized his committee's first meeting to hear from transportation industry experts on ways in which investments in the state's transportation system can grow and create jobs across Florida.

As much as any industry in Florida, the construction and transportation industry has been devastated by the economic downturn with thousands of employees being let go due to shrinking revenues into transportation and stymied growth. Representatives from the Florida Transportation Builders, Floridians for Better Transportation, the Florida Outdoor Advertising Association, the Asphalt Contractors Association, the Florida Ports Council, the Florida Truckers Association and others made recommendations on existing pediments, possible ways to invest and any other avenues where state policies can be adjusted to help grow jobs.

One reoccurring theme of all presenters was their support of protecting the state's transportation trust fund from further raids by the legislature. Along with industry leaders, AIF has been an ardent supporter of protecting revenues to the trust fund and trying to find additional funds to help grow the transportation industry. Other ideas offered to the committee through testimony include:

- Potentially suspending pertinent state Rules in the name of a declared "Economic Emergency";
- Diverting a recently enacted increase in tag and title fees directly to the transportation trust fund
- Expanding efforts to invest in Florida's deepwater ports;
- Focusing transportation efforts on "congestion points" throughout the state; *and*
- Studying measures that would maximize existing transportation revenues at the Florida Department of Transportation

AIF applauds the committee's early work in this important area. AIF's Economic Stimulus recommendations have focused heavily on the state's efforts to grow the transportation sector and will remain one of the priorities.