



From the Week of February 7 - 11, 2011

This week's events were highlighted by the release of Governor Scott's budget recommendations on Monday, February 7th for FY 2011-12 and 2012-2013. The Governor's proposal drew sharp criticism from opponents and supporters alike, including the Senate's budget Chief JD Alexander (R-Lake Wales) and Senator Mike Fasano (R-New Port Richey). A few of the most significant and controversial highlights of the budget include:

- An overhaul of the state pension system;
- A phase out of the corporate income tax rate from 5.5% to 3%; *and*
- A proposal to dramatically change the organizational structure of the Department of Community Affairs (DCA).

AIF was encouraged by many of the Governor's budget priorities as they will create efficiencies and cut spending. We will continue to keep you "in the know" as it relates to developments in Florida's budgetary process. In addition, AIF is continuing its effort in the halls to champion Medicaid reform, promote economic development initiatives, fight costly mandates, and encouraging streamlined reform. Read about all of these initiatives in this week's report.

Legal Reform

On Wednesday, February 9th the House Civil Justice Subcommittee passed HB 201 Relating to Negligence by Representative Marlene O'Toole (R-The Villages). This legislation seeks to correct a current deficiency in Florida's legal system which prevents Florida juries from hearing all of the evidence surrounding the details of an automobile accident when an auto manufacturer is sued challenging a vehicle's crashworthiness. Florida is one of the few states that prohibit the introduction of any evidence relating to the driver's condition at the time of the crash. In other words, drivers who are underage or under the influence of any manner of illegal substances, bear no responsibility of fault in such cases because their condition is never shared with the jury. This results in jury awards that are astronomically higher in Florida than in other states.

Although the bill was ultimately passed, a trial-bar friendly amendment offered by Representative Matt Gaetz (R-Shalimar) was adopted by the committee. This amendment completely undermines the original intent of the bill by adding language that virtually guarantees that the jury will not hear all the pertinent facts that contributed to the car accident in crashworthiness claims.

Members of the business community including AIF voiced their concern over the amendment and urged the committee not to adopt it. HB 201 will now be considered by the House Judiciary Committee. AIF will be working diligently to restore the bill's original intent before it is considered on by the full House of Representatives.

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

On Wednesday, February 9th the House Civil Justice Subcommittee unanimously passed HB 215 by Representative Joe Abruzzo (D-Wellington). This legislation creates a critical component of disaster preparedness by providing immunity from civil liability for individuals and businesses that gratuitously furnish housing or other shelter to first responders in the wake of a natural disaster, or other officially declared disaster. Many leaders in the business community strongly support this measure and believe it is a way for neighbors to best help neighbors in their most critical times of need.

HB 215 will now advance to the House Community & Military Affairs Subcommittee for consideration by its members.

AIF SUPPORTS legislation that offers basic protection from unnecessary litigation to business owners who offer their services to first responders during natural disasters.

Unemployment Compensation

On Thursday, February 9th the House Economic Development & Tourism Subcommittee passed **EDT 1**, a proposed committee bill (PCB) on Unemployment Compensation. "By passing the PCB on Unemployment Compensation out of subcommittee today, we are taking one step further in fundamentally altering the system to aid with re-employment rather than a system that merely provides unemployment compensation," said Representative Doug Holder (R-Sarasota), Chairman of the House Economic Development & Tourism Subcommittee. The measure passed largely along party lines with a 7-4 vote.

EDT 1 is very similar to the Governor's proposal on unemployment compensation and has many features that the Senate is also considering. It contains many provisions that the business community has been advocating for several months to correct fraud and other inequities in the claims process. Further, the bill revises the tax calculation methods to provide tax relief to employers who have seen skyrocketing tax rates over the past three years.

EDT 1 has been refilled as HB 7005 and will proceed to the House Finance & Tax Committee for further consideration.

AIF will continue to SUPPORT measures that will ensure Florida's employers will see relief from unfair tax rate increases in the future and to guarantee that individuals who most deserve benefits will continue to receive them.

Medicaid

The House and Senate continued to take testimony this week on how best to implement Medicaid Reform in Florida. On Tuesday, February 8th and Wednesday, February 9th the House Health and Human Services Quality Committee and the Health and Human Services Access Committee met, respectively, to hear from various stakeholders in the system including mental health providers, health care facilities and nursing home diversion providers about the current plan to move Medicaid recipients into a more coordinated system of care. The House is using last year's proposal as a starting point for this session and has asked for ideas on how to make the proposal better. The Senate has yet to release their proposed bill; however, Chairman Joe Negron (R-Palm City) of the Senate Health and Human Services Appropriations Committee announced that the legislation will be released on Thursday, February 17th. Prior to the release, the full Senate will convene to discuss the various components and challenges associated with the current Medicaid Program.

Although Gov. Scott has expressed support for a more coordinated care system to lower the cost of the Medicaid Program, he will not advance his own proposal. Jane Johnson, Governor Scott's coordinator for Health and Human Services in his office of Policy and Budget, presented the Governor's health care funding recommendations to both the House and Senate Health Care Appropriations Committees on Tuesday, February 8th. Although the presentation was not highly specific, the plan is to cut \$1.2 billion from Medicaid. To reach that goal, the Governor plans to expand the Medicaid Reform project (which is a coordinated care approach) statewide. At this time, the project exists only in a few counties. Further, the Governor proposes to evaluate and measure provider performance, provide more flexibility in eligibility standards and co-pays made by Medicaid recipients and move the delivery of long term care services to a coordinated approach.

AIF SUPPORTS the Legislature's plan to make bold changes to the Medicaid Program by streamlining this highly fragmented delivery and payment system.

Transportation

With the release of the Governor's 2011-12 and 2012-13 budget recommendations on Monday, February 7th, members of the Governor's policy and budget staff presented on the budget details to the House Transportation & Economic Development Appropriations Subcommittee the following afternoon.

Phillip Miller, the former staff director for the House Transportation Committee, took the helm this week as the Governor's top transportation advisor. Mr. Miller presented details of the Governor's budget recommendations as they relate to his subject matter expertise of Transportation and Economic Development.

In the area of transportation, Mr. Miller highlighted the Governor's seven guiding principles for the Governor to get the economy back on track and get people to work: 1) Accountability Budgeting, 2) Reduce Government Spending, 3) Regulatory Reform, 4) Focus on Job Growth and Retention, 5) World Class Education, 6) Reduce Property Taxes and 7) Eliminate Florida's Corporate Income Tax.

Mr. Miller noted that the Governor is presenting a two-year budget, with fewer line items that give the Governor and state agencies more flexibility in their spending decisions while also providing greater detail and transparency. A new format for the budget will also show the goal of each appropriation and the measured outcomes that should be expected.

The fiscal year 2011-12 appropriation for the Florida Department of Transportation (FDOT) is \$65 billion. The proposal for 2012-13 is \$5.9 billion.

The Governor's proposal also shifts the current Office of Motor Carrier Compliance from the Florida Department of Transportation to the Florida Highway Patrol. The transfer of this function will result in the movement of 481 state employees and a cost savings of \$2.6 million in year one.

The proposal also recommends a roll-back of the 2009 tag and title fee increases. Of the 107 fee increases from 2009, Governor Scott recommends a roll-back of 81 fees for a two-year cost savings to taxpayers of \$492 million.

Following the budget presentation, Mr. Ananth Prasad, FDOT Deputy Secretary for Engineering and Operations made an agency overview presentation to the committee. Mr. Prasad highlighted the FDOT as a decentralized agency, with seven districts, the Florida Turnpike Enterprise and the Florida Rail Enterprise. Mr. Prasad also explained that the agency is highly privatized, having reduced its workforce by 28% since 2001, with 7,743 employees while increasing its work program by 67%.

Following the FDOT overview, Mr. Kevin Thibault, the current FDOT Director for both the Florida Turnpike Enterprise and the Florida Rail Enterprise, presented on those two core functions of the agency. Mr. Thibault explained that the current Florida Turnpike Enterprise is 607 miles of roadway with annual revenues of \$600 million. He further testified that the Turnpike has seen over 10% reductions in revenues for the past 4 years, mostly attributable to fewer commercial trucks using the roadway.

Mr. Thibault also provided overview of the current High Speed Rail program. He discussed the current \$2.67 billion program for the 84 miles of track from Tampa to Orlando. As expected, this portion generated the most discussion from members of the Transportation and Economic Development Appropriations Committee as it related to financial viability and ridership. In short, Mr. Thibault explained that investment grade ridership studies (a final updated study is in the works) have shown that first year operational costs of the HSR line will be approximately \$50 million. First year ridership revenue is expected to exceed \$53 million, making HSR from Tampa to Orlando profitable in year one. Mr. Thibault also explained that the federal government will provide over 90% of the funding required for the project with the remainder being a state and private sector match. Mr. Thibault noted that there are 8 current groups that have formed for consideration of responding to the high-speed rail invitation to negotiate. If approved and selected, the winning group would begin construction in 2012 and have the rail line open for business in 2015. **AIF has formed a coalition in support of the Florida High Speed Rail project. Learn more about the coalition and join the effort at <http://flrail.com>.**

Finally, the agency noted that the Florida Transportation Commission would be conducting interviews for the 7 candidates for FDOT Secretary. Of the seven candidates, three names will be forwarded to the Governor for selection on Monday, February 14th.

Insurance

Commercial insurance rate deregulation moved closer to passage with approval from insurance committees in both houses of the legislature this week. On Monday, February 7th the Senate Banking and Insurance Committee approved SB 178 by Senator Steve Oelrich (R-Gainesville), which will exempt nonresidential property, excess property, commercial motor vehicles, fiduciary and general liability insurance lines from the state's rates prior approval process.

This rapid movement will alert insurance companies that they are welcome in Florida, a significant change from years past. AIF believes the welcome mat will result in enhancing competition among insurance companies from which Florida businesses will benefit, particularly as it relates to affordability and availability of insurance.

SB 178 will now proceed to the Senate Commerce & Tourism Committee where it awaits further consideration. On Wednesday, February 8th the House Insurance Committee approved the identical companion bill, HB 99 by Representative Brad Drake (R-DeFuniak Springs) by a 14-0 vote. HB 99 will now head to the House Government Operations Appropriations Subcommittee.

AIF SUPPORTS legislation which makes competition the primary determinant of insurance rates, including consumer choice for homeowners, flex rating for insurers, and exemption from OIR prior approval of rates for certain commercial policies.

Education

One of AIF's top education priority bills passed the Senate Education Pre-K - 12 Committee on Thursday, February 10th – a day after former Washington, D.C. Chancellor Michelle Rhee testified on Race to the Top before the House and Senate Education Committees.

Chancellor Rhee spoke to both the House and Senate education committees to discuss the importance of eliminating "Last in, First out", or LIFO policies which require new (and often high performing) teachers to be released before ones with more seniority – but who may not have strong student achievement. Ms. Rhee also advocated for having a strong teacher evaluation system tied to student performance as part of her formula for success in turning around what was largely seen as the nation's worst school jurisdiction. Rhee was honest that there is more work to do in Washington, D.C. when pressed by committee members about the fact that her former district is still well below where Florida stands on national rankings for education. She also credited strong charter policies and parental consent policies when a child is placed in a low performing teacher's class as integral pieces of her school reform measures. Ms. Rhee, a Democrat, was well received by both committees. House K-20 Education Competitiveness Chairman Erik Fresen (R-Miami) has not yet released a committee bill but held a workshop following Ms. Rhee's testimony on concepts that are expected to be released within a bill in the coming weeks.

Senate PreK-12 Education Chairman Steve Wise (R-Jacksonville) handed the gavel over to newly elected Senator Bill Montford (D-Tallahassee) to preside over the remainder of the meeting on Wednesday so Chair Wise could present Senate Bill 736. This bill addresses Race to the Top for Student Success, which contains many of the provisions Ms. Rhee discussed and is widely seen as the successor to controversial Senate Bill 6 from the 2010 session, which passed the Legislature but was vetoed by then Governor Charlie Crist. On Wednesday, February 9th the Senate committee heard amendments to the bill and allowed for public testimony. The committee reconvened on Thursday, February 10th to finish public testimony and pass the bill. **AIF's Vice President, Jose Gonzalez**, testified in support of



Senate Bill 736. As expected, the teacher's union testified in opposition. Their testimony was much less emotional than last year and began with a thank you to Chair Wise for the tone of the process this year which has been much more inclusive. The bill passed with unanimous consent.

AIF SUPPORTS legislation that will recognizes quality teachers in our classrooms as an integral part to improving students graduating from Florida's high schools ready for higher education and employment. Furthermore, this will allow Florida's best teachers to have a long career in the classroom by changing the salary structure to reward teachers for student achievement rather than having to seek a promotion to administration to see significant pay increases.

Economic Development

Governor Scott has made economic development, job growth and job retention his top priority in the new administration. Mr. Phillip Miller, a former House Transportation Staff Director who has been hired this week to serve as the Governor's key advisor on transportation and economic development policy, presented this week to the House and Senate.

In the area of economic development, Mr. Miller highlighted that the Governor is recommending a consolidation of funding for all incentive programs to provide flexibility to tailor state incentives to needs of new and existing businesses that create jobs and grow the state's economy. In the Governor's budget proposal, the Qualified Targeted Industry, Qualified Defense Contractor, the High Impact Performance Incentive, the Quick Action Closing Fund, the Brownfields Redevelopment Bonus Fund, the Innovation Incentive Fund and the Economic Development Transportation Fund (Road Fund) are all combined into one fund within a new consolidated economic development agency to be created. The appropriation recommendation for these incentives increases by \$125 million for a level of \$303.4 million in fiscal year 2011-12 and \$503.4 million in fiscal year 2012-13. And, while these existing incentive programs would remain in place, these funds would be protected from reversion every year and remain focused on economic development.

In addition to these incentives, the Governor is recommending \$26.7 million for VISIT FLORIDA, \$10 million for Space Florida, \$2.48 million for the Florida Sports Foundation, \$6 million for rural and defense infrastructure and \$800,000 for international advocacy.

AIF SUPPORTS efforts to find a delivery system with goals and accountability measures in place to effectively promote economic policies that will recruit new industries from out-of-state and protect and assist existing businesses.

Finance & Tax

On Thursday, February 10th the Senate Budget Subcommittee on Finance and Tax Chair Ellyn Bogdanoff (R-Fort Lauderdale) commenced the meeting by turning the chair duty over to Vice-Chairman Thad Altman (R-Melbourne) to introduce Proposed Joint Resolution 7050.

Chair Bogdanoff explained the provisions of the joint resolution in comparison to the existing state revenue cap already in the Florida constitution. In brief, the proposed constitutional amendment would:

- Replace the existing revenue limitation based on Florida personal income growth with a new state revenue limitation based on changes in population and inflation;
- Require excess revenues to be deposited into the Budget Stabilization Fund, used to support public education, or returned to the taxpayers;
- Add fines and revenues used to pay debt service on bonds issued after July 1, 2012 to the state revenues subject to the limitation;
- Authorize the Legislature to increase the revenue limitation by a super majority vote; *and*
- Authorize the Legislature to place a proposed increase before the voter, requiring approval by 60% of the voters.

Chair Bogdanoff stated that the current revenue limitation does not work as a meaningful limitation showing that state revenues in 2004-05 and 2005-06 did not reach the existing limit; however, the proposed growth limit would have been exceeded during that period, thus being a more meaningful cap.

The members were very interested in the provisions of the resolution and began to ask questions to better understand the changes, especially the projections used to estimate what the revenue cap would be in the future.

Senator Jim Norman (R-Tampa) explained that when he was a Commissioner in Hillsborough County, the commission instituted a spending cap and used a special government-type price index to adjust the cap each year. He cited the cost of asphalt as an example of a commodity that could spike. He suggested that the committee consider a process for making adjustments before setting unreasonable limits. Chair Bogdanoff said after some discussion that she would consider this.

Senator Maria Sachs (D-Delray) asked if the limit would make it easier to change fees up or down to avoid the cap. Senator Bogdanoff replied that the new resolution required any excess to go to the revenue stabilization fund. After the fund is fully funded, excess revenues would go to reducing the required local effort property taxes used for schools and after that it is returned to tax payers as provided in general law.

Members continued to ask questions and make suggestions to improve the resolution. Senators Gwen Margolis (D-Miami), Altman and Norman asked several questions. Senator Margolis wanted to be sure the projections were done by the official revenue estimating conference and that we look at several scenarios, with Senator Altman in agreement. She also brought up how the legislature, after hurricane Andrew when she was Senate President, set aside the large increase in sales tax revenues coming from all the reconstruction and purchases of new furniture, etc. to be used for infrastructure needs in the affected areas. Senator Norman suggested a provision to handle such catastrophic events like the oil spill. Chair Bogdanoff reminded members that the legislature would be able to override the limit by a 2/3 vote.

Following questions to the bill sponsor, Vice Chair Altman proceeded to public testimony. Rebecca O'Hara with the Florida League of Cities thanked Senator Bogdanoff, as well as President Haridopolos, for working with them to improve the resolution. The League of Woman Voters, the AFLCIO and AARP all opposed the resolution.

The committee approved the Proposed Joint Resolution with one dissenting vote by Senator Margolis. The bill has been filed as SB 958 and will come back to the committee for a vote on actual language.

Environmental

AIF was pleased to see the discussion on the numeric nutrient criteria issue continued this week in the Florida House. Several committees listened to presentation about the new water standards being forced on Florida by the US Environmental Protection Agency (EPA).

The House Agriculture & Natural Resources Subcommittee met Tuesday, February 8th to hear a presentation by Drew Bartlett from the Florida Department of Environmental Protection (DEP). He provided an overview on nutrients, explaining where excess nutrients come from and the affects they have on the environment. Nutrients, such as nitrogen and phosphorous, are needed by humans, animals and plants to live and grow; however, if too many nutrients get into our water bodies it can cause algal blooms that can be toxic to fish, birds and animals. Nitrogen and phosphorous comes from natural sources such as the atmosphere, soils, and the decay of plants and animals. Unnatural sources of these nutrients include sewage disposal systems, overflows of storm and sanitary sewers, agricultural production & irrigation practices, and runoff from urban areas, neighborhoods, pastures, and ranges.

Bartlett also outlined the timeline of events that caused EPA to issue the new numeric nutrient criteria for Florida. In 1998, EPA issued a National Strategy to Adopt Numeric Nutrient Water Standards. DEP began in 2002 working on criteria for our state; however, in 2008 EarthJustice filed a lawsuit to compel EPA to establish the standards. In January 2009, EPA declared that numeric nutrient criteria are necessary for Florida. As a result, later in 2009 a Federal Court enters a consent order with implementation dates. EPA then proposes numeric criteria for lakes and flowing water in January 2010 and by November 2010, EPA promulgates numeric criteria for lakes and flowing water. Although the new standards were to go into effect in November 2010, EPA provided a 15 month delay in the effective date to give all parties time to work on implementation. EPA is working on its new rules now and will release the proposed rules by November 2011 with the final rule due by August 2012.

On Thursday, February 10th the House State Affairs Committee heard the same presentation from Mr. Bartlett. He explained that implementation of the new criteria is the problem. When asked how other states are handling the new rules, Bartlett told the committee that the EPA does not have authority in any other state – only in Florida because of the law suit.

The committee also heard an update by John Glogau from the Office of the Attorney General about the current law suit filed against EPA. Attorney General Pam Bondi is continuing with the law suit that former Attorney General Bill McCollum filed against EPA to stop the new rules. Mr. Glogau provided a background of the issue and indicated uncertainty as to when the lawsuit will be settled as the EPA's attorneys have not yet responded.

Also on Thursday, the House Select Committee on Water Policy heard from Mr. Bartlett and held a panel discussion about the numeric nutrient criteria issue. Panelists included Rich Budell, Florida Department of Agriculture; David Cullen, the Sierra Club; Frank Matthews on behalf of the business community and Paul Steinbrecher with JEA. The conversation was lively as committee members questioned Mr. Cullen why Sierra Club was backing the lawsuit and why it was necessary. It was obvious the committee members were not happy with the problems the lawsuit has caused. Cullen said federal standards are necessary because Florida's water quality has not been improving over the last few years and that more needs to be done to protect the state's waters. Committee members and other panelists disagreed, stating that Florida had a working plan that has experienced delays in light of the lawsuit.

Members were also concerned about the cost to implement the new numeric nutrient criteria. Studies show that the average household will see an increase of \$700 per year due to the new standards; however, Cullen disputed that EPA's projections were accurate in projecting an increase in only \$70 per year for an average household.

Following the panel, the Select Committee reviewed the preliminary report that they plan to submit to Speaker Dean Cannon (R-Winter Park). AIF is pleased to see that the preliminary recommendations include ***evaluating the manner in which alternative water supplies and water storage capabilities are developed and funded, including disbursed water storage, reservoirs, reverse osmosis, desalination, aquifer storage and recover and water reuse.*** The Select Committee will vote on the recommendations during its next meeting.

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 (some estimates show a price tag of \$50 billion) for businesses and consumers.

Space

On Tuesday, February 8th the Senate Military Affairs, Space & Domestic Security Committee and the Senate Communications, Energy & Public Utilities Committee both heard presentations from representatives of NASA and Space Florida regarding the future of the space program and specifically, Kennedy Space Center (KSC).

The guest presenters pointed out that Federal funding is still in question while committee members expressed their intent to communicate with federal legislators on the issue. They also highlighted KSC's emerging commercial enterprises, including opening up space travel for commercial enterprises and using the KSC's available land to earn revenue. During Space Florida's presentation by President Frank DiBello, the group highlighted three goals: grow the size, diversity, health and robustness of the state's space industry; create high-quality, high-wage jobs in Florida's space-related industries for the economic well-being of the citizens of the state; *and* create a three-fold increase in aerospace related jobs and economic contribution by 2020.

The committee members had few questions and mainly discussed the importance and historical significance of continuing space exploration through the KSC.

AIF will continue to be a strong advocate of the space agenda and will work with Space Florida and other partners in the aerospace industry to continue to make space issues a priority for our state.

Growth Management

On Tuesday, February 8th the Senate Governmental Oversight and Accountability Committee met and considered Senator Mike Bennett's (R-Bradenton) growth management (SB 174) and affordable housing (SB 176) bills, both of which are part of the Legislature's attempt to re-pass SB 360, which was passed in 2009 and subsequently declared unconstitutional last year. In what had been a relatively non-controversial atmosphere for the bills, SB 174 drew criticism from Senator Jack Latvala (R-St. Petersburg) who was not in the Senate when SB 360 passed in its original form in 2009. Concerned about the effect of removing so many projects from the Developments of Regional Impact (DRI) process as the bill does, he cast the lone vote against SB 174, as well as SB 176.

SB 174 & SB 176 will now proceed to the Senate Budget Committee, their last stop before reaching the floor for consideration.

AIF SUPPORTS efforts to re-enact the Community Renewal Act so as to guarantee that those developments that relied on the legislation, as well as those needing to avail themselves of its benefits, can proceed with certainty

Also on Tuesday, the Senate Community Affairs Committee heard SB 410 sponsored by Committee Chairman Mike Bennett. In response to litigation, the bill reenacts the section of law that states that the government has the burden of proving, by a preponderance of the evidence, that an impact fee meets the standards set out in statute or in case law. The section prohibits the courts from using a more deferential standard. To remove any doubt regarding whether this section is an unconstitutional mandate, this bill requires approval by each house of the Legislature by two-thirds of the membership. The bill passed unanimously.

Subsequently, the committee heard presentations by the Department of Community Affairs' (DCA) Secretary Billy Buzzett on possible changes to the Growth Management Act. Chairman Bennett indicated that staff is working on a bill which will be forthcoming soon.

The committee also heard presentations by the DCA, as well as AIF's Florida Development & Infrastructure Council Chair (FDIC), Linda Shelley, on the shortcomings of Florida's Growth Management Act. It was later learned that committee staff will work over the weekend to have proposed legislation to address this issue by the first of next week.

AIF encourages the Legislature to revise the role of the DCA so that its function is less of an impediment to job creating growth and less of a burden to local governments who desire to direct growth under the terms of their own comprehensive plans.