



WEEKLY BRIEF

From the Week of April 25 - 29, 2011

At the end of week 8, members have ended their work within the House & Senate's respective committees and subcommittees. As such, focus has shifted solely to the floor where legislation will be met on final passage. With that said, the fate of legislation is largely determined upon its location as we approach the final week of the 2011 Legislative Session. Fortunately, AIF has been successful in seeing many of our top priorities make it through the committee process and to the Calendar. Some of the items that are highly anticipated to see final passage next week include:

- SB 450 by Senator Mike Bennett (R-Bradenton) – This bill would protect employers who house first responders on their properties from potential lawsuits.
- HB 445 by Representative Clay Ingram (R-Pensacola) - This bill would allow insurers to provide voluntary wellness or health improvement programs for employers and employees and to encourage participation in these programs by providing rewards or incentives.
- SB 408 by Senator Garrett Richter (R-Naples) - Introduced as the Senate's comprehensive property insurance bill, this legislation is vital for the restoration of the private residential insurance market.
- HB 311 by Representative Kenneth Roberson (R-Port Charlotte) – This legislation provides that an individual who engages in or manages a business, profession, or occupation as an employee of another person is not required to pay a local business tax, obtain a local business tax receipt, or apply for an exemption from a local business tax.

In addition, the Senate has decided to cancel their previously scheduled Session meeting this Saturday, April 30th and resume business next Monday. Despite intense pressure by the business community and stakeholders across Florida, legislative leadership has suggested that they will bring forward an immigration reform proposal to be considered. AIF will continue to keep up the pressure against any mandated E-Verify provisions and work with policymakers to prevent any additional burdens on Florida's employers.

Economic Development

On Monday, April 25th 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 is currently in the Senate Budget Committee.

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

The Senate considered and unanimously passed HB 1231 Relating to Telecommunications by Representative Mike Horner (R-Orlando) on Thursday morning after having substituted the bill for its Senate companion – SB 1524 by Senator David Simmons (R-Orlando). Senator Simmons explained that the bill completes the deregulation of land line telecommunications service while maintaining the Public Service Commissions' oversight of inter-company disputes. The bill continues the Legislature's past reform of the regulation of communications services in Florida to recognize the rapidly changing competitive market.

HB 1231 has been enrolled and sent to the Governor's desk for final consideration. Governor Scott must act on this bill by May 5th, 2011.

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.

On Thursday, the Senate also took up and unanimously passed HB 187 Relating to Streamlining the Issuance of Licenses, Certifications, & Registrations Issued by State Agencies by Representative Mike Horner (R-Kissimmee). Known as "Florida's One Stop Business Connect Act", this legislation is a top priority this session for AIF in an effort to create a mechanism to assist business' needs to comply with all corporate requirements necessary to do business in Florida.

HB 187 would require the Governor to establish a One-Stop Business Connect Workgroup that would be tasked with reporting an action plan back to the Governor, the President of the Senate and the Speaker of the House. The primary purpose of the plan is to establish an online, self-service, single point of entry system for new and existing businesses to efficiently complete their transactions with the state. This mechanism would be available to all Florida businesses.

HB 187 will now proceed to the Senate for consideration by its members.

AIF SUPPORTS legislation that will create easier and more efficient mechanisms for Florida's businesses to comply with state regulations and requirements.

On Friday, members of the House passed HB 943 by Representative Eric Eisnaugle (R-Orlando) on third reading. One of AIF's top legislative priorities this session, HB 943 creates the state's first Florida Infrastructure Fund Partnership and institutes a tax credit program designed to leverage private investment in state infrastructure projects. By creating a public-private partnership fund, the intent of the legislation is to seek outside investor commitments to build capital infrastructure projects during a time when state resources are dwindling. The legislation authorizes up to \$700 million in private funds to help build water and wastewater systems, power systems, roads and other strategic infrastructure needs. In essence, this proposal would couple private sector investing to meet the needs of public sector infrastructure projects.

HB 943 will now proceed to the Senate for final consideration.

AIF SUPPORTS legislation that will encourage direct investment in our state's infrastructure projects. Furthermore, we commend Representative Eisnaugle for bringing forth a proposal to effectively stimulate private sector growth and create jobs when our state needs it the most.

Another economic development measure was passed unanimously by the House on Friday – HB 879 Relating to Targeted Economic Development by Representative Eric Eisnaugle (R-Orlando). 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. During its consideration in the committee, the bill was broadened in scope to include the efforts of the energy zone economic incentive areas in designated instances.

HB 879 will now advance to the Senate for final passage.

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.

Business Regulation

On Monday, April 25 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. To read an in-depth analysis of SB 1382, please refer to Monday's edition of the [Daily Brief](#).

SB 1382 has been placed on the Senate Calendar. 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.

On Friday, the House Judiciary Committee passed HB 241 Relating to Wage Protection by Representative Tom Goodson (R-Titusville) by a vote of 83 Yeas / 25 Nays. 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 Senate for final consideration. A similar Senate measure, SB 982 by Senator Jim Norman (R-Tampa), remains 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.

Health Care

On Monday, April 25 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.

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 in Florida statute.

HJR 1 has been substituted by its Senate companion, SB 2 by Senate President Mike Haridopolos (R-Melbourne), which has passed the full Senate and remains on the House calendar for further consideration. HB 1193 was passed in the House on Friday and will proceed to the Senate for final consideration.

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 on Monday 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 was read a second time on Friday and awaits final passage on the House Calendar. The Senate measure, SB 1396 by Senator Elyn 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.

On Friday, the House unanimously passed HB 445 Relating to Wellness or Health Improvement Programs by Representative Clay Ingram (R-Pensacola). This bill would allow insurers to provide voluntary wellness or health improvement programs for employers and employees and to encourage participation in these programs by providing rewards or incentives. Furthermore, the bill sets out a

process for verifying that an employee suffers from a condition that would inhibit participation in these programs.

HB 445 will now proceed to the House for final passage. The Senate measure, SB 1522 by Senator Don Gaetz (R-Niceville), is in the Senate Banking & Insurance Committee.

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 Friday, the House approved HB 1125 by Representative Richard Corcoran (R-New Port Richey). This bill further implements the Florida Health Choices Program which was first established by the Legislature in 2008. The program provides for a centralized market for the sale and purchase of health care products including, but not limited to, health insurance plans, health maintenance organization plans, prepaid services, service contracts, and flexible spending accounts. A nonprofit corporation governed by a 15 member Board of Directors is responsible for administering the program and functions as a third party administrator. This program will be available to employees of the employers that participate in this program, including:

- Small and large employers;
- Cities with a population of less than 50,000 residents;
- Fiscally constrained counties;
- School districts located in fiscally constrained counties; *and*
- Statutory rural hospitals.

Vendors wishing to offer products through the program must submit data annually to the corporation so that premium payments to the vendors by the enrollees will be risk adjusted to ensure that risk is appropriately pooled to prevent selection bias. The bill also calls for the Office of Insurance Regulation (OIR) to approve risk-bearing products to be offered while the bill gives the corporation the authority to approve non-risk bearing products. The measure was passed with overwhelming support by a vote of 115-1.

HB 1125 will now advance to the Senate for final passage. The Senate companion - SB 1922 by Senator Rene Garcia (R- Miami) - is scheduled to be heard by the full Senate next week.

AIF SUPPORTS legislation that will promote the free market sale of health care-related services and contracts, thus reducing costs for Florida's employers and consumers.

Insurance

On Monday, April 25th 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 was read a second time on Friday and substituted for its House companion, HB 99 by Representative Brad Drake (R-DeFuniak Springs). HB 99 is expected to be passed this session.

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.

On Thursday, the Senate took up and considered a top insurance priority measure for AIF – SB 408 Relating to Property & Casualty Insurance by Senator Garrett Richter (R-Naples). Introduced as the Senate’s comprehensive property insurance bill, this legislation is vital for the restoration of the private residential insurance market, in turn reducing Citizens and its potential deficit taxes. Further, SB 408 includes provisions to eliminate fraud abuse in claims relating to mandatory sinkhole coverage.

During discussion and debate on the floor, one of the bill’s leading opponents - Senator Mike Fasano (R-New Port Richey) – spent much of the Chamber’s time in attempt to remove a sinkhole amendment that repeals the requirement that private insurers include the coverage as a mandatory offering. Senator Mike Bennett (R-Bradenton), countered Senator Fasano’s argument, stating that forcing companies to sell a product on which they cannot make money is not plausible, nor sustainable. Fortunately, the bill passed without Senator Fasano’s amendment and was subsequently passed by a vote of 25-12.

SB 408 will now proceed to the House Chamber for consideration. The House proposal, HB 803 by Representative John Wood (R-Haines City), has already passed the full House.

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.

Education

On Tuesday, April 26th the Senate Rules Committee took up legislation concerning digital learning in Florida - SB 1620 by Senator Anitere Flores (R-Miami). Currently, the bill 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. It allows for the creation of virtual charter schools, and requires the online administration of all statewide assessments. Additionally, the bill directs the Department of Education (DOE) to develop a method for evaluating part-time virtual instruction programs, similar to how schools receive performance grades. Questions surrounding quantifiable fiscal implications remained the focus of debate, which was led by Senator Gwen Margolis (R-Miami).

Ultimately, Senate Bill 1620 was passed unanimously out of the Rules Committee and is ready for a vote on the Senate floor.

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

Taxation

On Thursday, April 28th the House took up and passed HB 311 Relating to Local Business Taxes by Representative Kenneth Roberson (R-Port Charlotte). Representative Roberson explained that the bill provides that an individual who engages in or manages a business, profession, or occupation as an employee of another person is not required to pay a local business tax, obtain a local business tax receipt, or apply for an exemption from a local business tax.

Following the explanation, there were no questions or debate. He then recognized Representative Roberson for a motion which was to waive the rules and take up HB 311 on third reading for final passage. Again, there were no questions or debate and the bill passed unanimously by a vote of 116 – 0.

HB 311 has now moved to Senate for final consideration. The Senate companion, SB 582 by Senator Nancy Detert (R-Venice), is currently in the Senate Budget Committee.

AIF SUPPORTS legislation that eliminates the requirement for certain employees to pay a “local business tax” if their employer is already paying a similar tax. This legislation will reduce the tax burden on employees across Florida and create a more business-friendly environment at a time when Florida’s economy needs it the most.

Another AIF tax priority was voted on and passed unanimously on the House floor on Thursday. HB 887 Communications Services Tax by Representative Chris Dorworth, (R- Heathrow) simply allows the dealers of communications services to round the tax up in the when the third decimal is greater than 4.

HB 887 will now proceed to the Senate where it is awaited by its Senate companion, SB 1198 by Senator Ellyn Bogdanoff (R-Fort Lauderdale), which is currently on the Senate calendar.

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

On Thursday, the House also took up and passed HB 7185 Corporate Income Tax by Representative Steve Precourt (R-Orlando). Representative Precourt explained that the state corporate income tax is a function on the taxpayer’s federal income tax. Each year Florida passes a “piggyback” bill to adopt the federal changes that were made.

In some cases, however, when the federal code changes allow for increased depreciation of certain assets that would cost the state revenue, the state does not always codify those particular changes. He went on the say that in 2008 and 2009 the “piggyback” bill allowed the taxpayers to spread the benefits received by the federal code changes over 7 years.

HB 7185 extends this process for the 2010 and 2011 federal changes, thus avoiding the \$500 Million estimated loss in corporate income tax.

The bill passed overwhelmingly by a vote of 103 – 12 and will now proceed to the Senate. The Senate companion, SB 1998 by Senator Ellyn Bogdanoff (R-Ft. Lauderdale), is awaiting consideration on the Senate Calendar.

AIF SUPPORTS the adoption of a corporate income tax “piggyback” bill that codifies federal income tax code changes and ensures that businesses are not burdened with keeping two sets of books.

Public Hospitals

On Monday, April 25th 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.

SB 1448 is now in the Senate Budget Committee. The House measure, HB 619 by Representative Ed Hooper (R-Clearwater), was read for a second time and subsequently passed on Friday in the House by a vote of 95-20.

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.

Legal & Judicial

On Tuesday, April 26th the Senate Budget 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 floor for consideration by all members. The House proposal, HB 1425 by Representative John Tobia (R-Melbourne), has yet to move 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.

Also on Tuesday, the Senate Rules Committee unanimously passed SB 450 Relating to Emergency Management by Senator Mike Bennett (R-Sarasota). This legislation provides civil immunity to any person who gratuitously provides housing, shelter, food or certain other provisions in the wake of a declared disaster to first responders. SB 450 is important to community recovery and business continuity following catastrophic events. When communities are able to provide for their own first responder communities they are able to restore services and return to a state of normalcy much more quickly.

SB 450 will now proceed to the Senate Calendar. The House proposal, HB 215 by Representative Joe Abruzzo (D-Wellington), is currently on the House Calendar awaiting second reading.

AIF SUPPORTS legislation that offers basic protection from unnecessary litigation to business owners who offer their services to first responders during natural disasters. Furthermore, AIF commends Senator Bennett for his vision and leadership in bringing forward this proposal.

In the Senate on Tuesday, members unanimously passed HB 701 Relating to Property Rights by Representative Eric Eisnagle (R-Orlando). This bill amends the “Bert Harris Act” to make changes to Florida’s statutory protections on real property rights.

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 has passed the House & Senate and will now proceed to the Governor for his approval.

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.

Space

SB 652 by Senator David Simmons (R-Altamonte Springs) Related to Liability of Spaceflight Entities passed unanimously on the Senate Floor on Thursday, April 28th. The bill will remove the sunset provision in Florida’s current law providing immunity to spaceflight companies for injuries or death resulting from the normal risks associated with this risky activity. Eliminating the sunset provision will provide a sense of stability on this issue and keep Florida competitive with other states looking to recruit companies in this growing field.

SB 652 will now head to the House for final consideration. The House companion, HB 703 by Representative Tom Goodson (R-Titusville), has passed all referenced committees and is ready to be considered by the full House. It is expected that SB 652 will be substituted for the House measure and passed in the coming days.

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.

Open-Carry Legislation

On Thursday, April 28th the full Senate passed what was once considered a contentious “open-carry” firearm measure; however, AIF and the business community worked diligently with stakeholders to substantially amend this proposal. As originally filed, SB 234 by Senator Greg Evers (R-Crestview) would expand Florida’s current concealed weapons law to allow for those license holders to carry their weapons in the open. To address concerns and return the bill back to its original purpose, Senator Ellyn Bogdanoff (R-Ft. Lauderdale) was successful in passing an amendment that strictly addresses accidental exposure. In addition, language that would have legalized open-carry was removed – a move strongly supported by AIF.

SB 234 will now advance to the House for final consideration.

AIF applauds Senator Bogdanoff for working with stakeholders to address concerns with open-carry laws in Florida. By amending this legislation, Florida’s business owners will not be exposed to liability concerns and a new duty of care related to having knowledge of a potential dangerous instrument on an employer’s premises.

Environmental

On Friday, April 29th the House overwhelmingly approved HB 991 by Representative Jimmy Patronis (R-Panama City) by a vote of 95-16. This massive regulatory reform bill addresses real practical permitting problems and shortens the time lines to receive a permit without reducing standards.

The bill was amended on the floor to remove two controversial issues. The first amendment was offered by Representative Mark Pafford (D-West Palm Beach) that removed the section concerning third party suits. Also removed was the section dealing with mining through an amendment by the bill’s sponsor. These amendments were part of a compromise with the environmental community.

This legislation will attract businesses to the state of Florida and eliminate the burden of duplicative and time consuming permitting processes. Furthermore, HB 991 will help to eliminate the duplication and shorten the time in which a company can obtain a permit.

HB 991 will now advance to the Senate for final consideration.

AIF SUPPORTS efforts to streamline the permitting process in Florida. Businesses must be relieved from unnecessary costs and extensive waiting periods when seeking development, construction, operating, and building permits. AIF applauds Representative Patronis for understanding the importance of modernizing Florida’s environmental permitting system.