



DAILY BRIEF

From January 11, 2012

In just the second day of the 2012 Legislative Session, lawmakers are fast at work on an ambitious agenda. The redistricting discussion is far from the only buzz at the Florida Capitol as AIF has been working closely with policymakers to continue Florida's return to economic prosperity by considering pro-business legislation, including:

- A proposal to eliminate inefficiencies in Florida's environmental permitting process by shortening timelines without reducing standards – HB 503 by Representative Jimmy Patronis (R-Panama City).
- A measure that will curtail personal injury protection (PIP) insurance fraud, effectively reducing rates for Florida's business owners and consumers – HB 119 by Representative Jim Boyd (R-Bradenton).

In addition to legislation seeing action, AIF's lobby team has been participating in open discussions concerning some of the business community's top priorities. During a meeting of the House Business & Consumer Affairs Subcommittee on Wednesday, members hosted a discussion on two matters of great importance; *skyrocketing unemployment compensation taxes on Florida's employers* and *a proposal to bring world-class Destination Resorts to Florida*. While these two issues do not appear to share similarities on the surface, they do share a causal relationship. During the committee's public testimony portion of the meeting, **Brewster Bevis – AIF's Vice President of External Relations** – noted the importance of giving thoughtful consideration to a mega-job creation proposal such as the Destination Resorts Act. "By supporting Destination Resorts in Florida, lawmakers can help bring out-of-work Floridians off of the unemployment rolls and work to lower unemployment compensation taxes on our employers."

Insurance

On Wednesday, January 11th the House Insurance & Banking Subcommittee approved HB 119 Relating Motor Vehicle Personal Injury Protection Insurance by Representative Jim Boyd (R-Bradenton) which replaces Florida's current flawed Personal Injury Protection (PIP) mandatory no-fault automobile insurance coverage with Emergency Care Coverage (ECC).

In effort to curb fraud, the proposed ECC system represents a significant departure from Florida's no-fault law; however, it does share similarities with the current PIP system with respect to persons covered by the no-fault policy, the \$10,000 worth of mandated coverage, and the availability of lost wages and benefits. The greatest difference between the two policies comes down to the severity of injury. The ECC plan will provide a narrower range of coverage in less severe cases, where fraudulent cases are most rampant, and thus lower the premiums paid by Floridians for no-fault motor vehicle insurance.

During committee most of the debate centered on issue of access to care since this new proposal would limit care to within 72 hours of the accident. An amendment by Representative John Patrick Julien (D-North Miami Beach) that would have increased that timeframe to 14 days was defeated in committee. Representative Julien unsuccessfully argued that the 72 hour time period was too short especially in the

case of busy urban hospitals where ER visits could stretch over a long period of time. Representative Evan Jenne (D-Ft. Lauderdale) brought up concerns that the attorney fee reforms in the bill tilted the balance in favor of the insurance companies who would be able to use unlimited resources to prepare their defense while plaintiff attorneys would be limited by the existing caps in the bill. The bill's sponsor Representative Jim Boyd (R-Bradenton) countered by stating that if his bill was passed the number of lawsuits would be dramatically reduced thereby removing the need for costly litigation. Representative Bill Hager (R-Boca Raton) had the best line of the day when he described the current PIP system in Florida as a "rotting carcass" and calling Representative Boyd's bill a piece of "filet mignon."

HB 119 passed along party lines with Democrats voting in opposition. The bill will now advance to the House Civil Justice Subcommittee for further consideration.

AIF SUPPORTS legislation to reduce Personal Injury Protection (PIP) claims costs. Furthermore, AIF applauds Representative Boyd for his leadership in crafting a proposal that will effectively reduce fraud and save Florida's consumers millions in PIP premiums.

The House Insurance and Banking Subcommittee passed HB 1053 Relating to Long-Term Care Insurance by Representative Larry Metz (R-Eustis) on a vote of 10 to 5. A recent decision by the 3rd District Court of Appeals in Florida significantly altered the method in which long-term care insurance policies are defined.

Long-term Care Plans are a type of private insurance developed specifically to cover the costs of long-term care services, most of which are not covered by traditional health insurance or Medicare. These include services in one's home such as assistance with Activities of Daily Living, as well as care in a variety of facility and community settings. Premiums are pre-paid, and policies may contain provisions allowing an insurer to revise the rates at the time of renewal; however, the rate revision must be on a class basis.

HB 1053 specifies that, as applied to long-term care insurance policies, the continuation or renewal of a guaranteed renewable policy by the timely payment of required premiums does not constitute the making of a new policy or contract for any purpose. Therefore, any statutory or regulatory changes enacted after the original issue date of the guaranteed renewable policy would not be incorporated into the policy. The bill also codifies in law a definition of "guaranteed renewable" as it applies to the Long-Term Care Insurance Act.

AIF is seeking clarification of the term "guaranteed renewable policy" in order to protect contracts between consumers who purchase long-term care policies to assist in paying medical bills later in life and insurers who provide these policies.

AIF SUPPORTS legislation to clarify the way long-term care insurance policies are defined in Florida.

Legal and Judicial

On Wednesday, January 11th the House Civil Justice Subcommittee favorably passed HB 243 Relating to Expert Testimony by Representative Larry Metz (R-Eustis).

Representative Metz explained that the standards in this legislation would require litigants to use accepted and proven scientific standards to qualify expert witnesses and eliminates the current possibility that mere opinion and junk science can be relied upon as evidence. The standard in Representative Metz's bill is the standard used in federal courts and in over 30 other states which is vital to providing uniformity in Florida's judicial system.

The bill passed the committee today by a vote of 11-4. Representatives Joseph Abruzzo (D-Wellington), Marty Kiar (D-Davie), Richard Steinberg (D-Miami Beach) and Darren Soto (D-Orlando) were the four members who voted against the bill.

HB 243 is referenced to be heard next in the House Judiciary Committee. An identical measure in the Senate – SB 378 by Senator Garrett Richter (R-Naples) – is scheduled for hearing on Thursday, January 12th in the Senate Judiciary Committee.

AIF SUPPORTS legislation that will utilize highly regarded legal standards to ensure a level playing field during litigation.

Environmental

On Wednesday, January 11th the House Rulemaking & Regulations Subcommittee passed HB 503 Relating to Environmental Regulation by Representative Jimmy Patronis (R-Panama City).

This proposed legislation makes significant changes to the environmental permitting process in Florida. HB 503 improves the overall process of permitting to make it more efficient. Specifically, it addresses real practical problems and shortens time lines without reducing standards. The proposed legislation also eliminates duplication and streamlines the permitting process so that in many cases you have only one agency regulating a subject instead of the current process where multiple agencies are regulating the same matter.

Keyna Cory, Senior Lobbyist for AIF spoke in favor of the bill. Holding a copy of AIF's 2012 Session Priorities, she directed the committee members to page 6 to show them that HB 503 was listed as a priority bill. "This law is critical for Florida's employers because it will help accelerate the approval or denial process and bring certainty to businesses dealing with state agencies," said Cory.



There were three negative votes on the bill – Representative Scott Randolph (D-Orlando), Representative Michelle Rehwinkel-Vasilinda (D-Tallahassee) and Representative Barbara Watson (D-Miami Gardens).

After closing on his bill, Representative Patronis received high praise from Chair Chris Dorworth (R-Heathrow). "If there was a definition of collaborate lawmaking, your picture would be there," stated Chair Dorworth. Representative Patronis received high praise from members of both parties about his willingness to work with all stakeholders.

HB 503 will now advance to the House Agriculture & Natural Resources Appropriations Subcommittee for further consideration. The Senate companion – SB 716 by Senator Mike Bennett (R-Bradenton) – is slated to be heard on Thursday, January 12th in the Senate Committee on Community Affairs.

AIF SUPPORTS efforts to streamline permitting across all state agencies. AIF would like to thank Representative Patronis for his commitment to work with all stakeholders on a bill that will streamline the permitting process. Time is money and Florida businesses are spending too much time on a permitting process that includes duplications and burdensome regulations.

Business Regulation

On Wednesday, January 11th the House Community & Military Affairs Committee passed HB 609 Relating to Wage Protection for Employees by Representative Tom Goodson (R-Titusville).

The term “wage theft” is used to describe the failure of an employer to pay any portion of wages due to an employee. At the present, counties and municipalities have broad home rule powers that allow local governments to enact ordinances as long as the subject matter is not preempted to the state. Simply, HB 609 provides that the regulation of wage theft is expressly granted to the state and preempts local governments. This legislation will prevent burdens on businesses by eliminating a patchwork of wage theft regulations throughout Florida’s 67 counties and over 400 municipalities.

While most lawmakers oppose the practice of wage theft, some committee members expressed concern that the bill did not go far enough to create a statewide law to address the problem. Passing largely along party lines, AIF was present with other business groups to display support for the proposal.

HB 609 has one remaining stop in the House Judiciary Committee. The Senate companion – SB 862 by Senator David Simmons (R-Altamonte Springs) – is currently in the Senate Community Affairs 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.

Economic Development

On Wednesday, January 11th the House Subcommittee on Community and Military Affairs Committee hosted a workshop to hear from several groups representing policies and initiatives related to local government economic development efforts across Florida. Additionally, the state's Chief Economist, Lisa Baker, walked members of the Committee through various programs and rating groups that assess the state and local communities with regards to economic development.

Representatives from Tallahassee, Orlando, Broward and Martin Counties addressed the committee and expressed hope that the Legislature would continue to allow local governments the ability to offer local incentives. As presented, the trends in Florida suggest that cities offer more in tax credits to specific industries, companies, etc. while county governments tend to support more indirect methods of economic development by way of infrastructure, quality of life improvements, etc. As a whole, local governments offered in excess of \$60 million in incentives to businesses, many in partnership with state resources.

The state of Florida has recently been ranked 24th by Forbes, 12th by Beacon Hill and 18th by CNBC nationally as a destination for businesses to locate, incubate or expand. Among other factors, these rankings take into account how a state performs and manages its economic development resources with respect to economic variables, specific incentives and job creation/retention policies.

AIF has been a strong supporter of allowing local governments the flexibility to offer streamlined and strategic incentives for companies to compliment state and federal incentives. AIF believes that in order for communities to grow and prosper, each stakeholder, including local government, should have a seat at the table.

Health Care

On Wednesday, January 11th the House Health Care Appropriations Subcommittee heard several presentations outlining how the cost of the state's Medicaid program will be lowered in FY 2012-2013. Jan Johnson, representing the Office of Policy & Budget (OPB), discussed the program cuts by each health care agency. The majority of the reductions will be taken from the Agency for Health Care Administration (AHCA) which has the largest portion of the Medicaid Program. The largest amount of savings within the AHCA budget is from the Governor's newly proposed "rate band" methodology.

Johnson reported that Governor Scott does not "have it out" for hospitals, but that he is very concerned about the varying taxing entities that provide advantages to some hospitals. Overall, the new methodology is expected to save \$1.8 billion. The goal of the methodology is normalize the rates received by all hospitals in caring for the state's neediest residents. Following Johnson's presentation, Karen Zeiler, Chief of Staff for the Agency for Health Care Administration, explained the rate band methodology in greater depth. Ms. Zeiler explained that the methodology groups hospitals together and calculates a weighted average for each band based on cost reports.

While Governor Scott proposed his budget before the start of the 2012 Legislative Session, it is the responsibility of the House and Senate to craft and approve a budget that will ultimately go to the Governor for his final action.

AIF SUPPORTS efforts by Governor Scott and members of the Florida Legislature to reduce costs associated with Florida burgeoning Medicaid program.