



DAILY BRIEF

From January 26, 2012

In Week 3 of the 2012 Legislative Session, a number of high priority bills are continuing to see action in both the House and Senate. Specifically, AIF-supported legislation in the areas of taxation and environmental sustainability were passed by their respective committees today. Perhaps most importantly, AIF experienced a significant victory with the passage of Numeric Nutrient Criteria (NNC) legislation. HB 7051 by Representative Matt Caldwell (R-Ft. Myers) Relating to Rules Establishing Numeric Nutrient Criteria will provide clarity as it relates to utility costs for Florida employers.

In the area of insurance reform, legislation concerning the Citizens Property Insurance Corporation (Citizens) continues to advance in the House. By advancing SB 1346 Relating to Citizens Property Insurance Corporation by Senator Steve Oelrich (R-Gainesville), legislators continue to voice their support of reforming Citizens and returning this state-funded entity to an insurer of last resort.

Insurance

On Thursday, January 26th the Senate Budget Subcommittee on General Government Appropriations unanimously approved SB 1346 by Senator Oelrich (R-Oelrich).

Specifically, this legislation reduces the Citizens Property Insurance Corporation's maximum regular assessment from 18 percent to 2 percent which may be levied on most businesses' property and liability insurance premiums for claims paying deficits resulting from a hurricane. Current law requires insurers to pay the regular assessment within 30 days which in turn surcharge their customers to recoup amounts paid; however, the reduction of the regular assessment will not reduce the overall assessment authority of Citizens. Greater levies will be imposed through emergency assessments which are spread out over multiple years reducing the financial burden on businesses and insurers.

SB 1346 has one remaining stop in the Senate Budget Committee. An identical measure in the House – HB 1127 by Representative Ben Albritton (R-Bartow) – awaits hearing in the House Government Operations Appropriations Subcommittee.

AIF SUPPORTS legislation to return Citizens to an insurer of last resort. AIF also SUPPORTS restoring the Florida Hurricane Catastrophe Fund (Cat Fund) to a safety buffer for Andrew-sized storms.

Also on Thursday, the House Civil Justice Subcommittee voted down an important insurance reform measure relating to bad faith remedies in insurance settlements. HB 427 Relating to Civil Remedies Against Insurers by Representative Kathleen Passidomo (R-Naples) sought to place third party claimants on the same playing field for notice and settlement purposes as first party claimants, i.e., the policyholders. The bill's intent was to eliminate the "gotcha games" that insurers currently suffer when settlement demands for policy limits are unreasonable and result in more expensive litigation and claims cost.

Opponents of the bill primarily claimed that the problems created in this aspect of the law were limited only to automobile cases or resulted in such a small number of reported cases that the bill's remedy was

too far reaching. However, the number of reported cases that have worked their way through the trial appellate courts does not at all reflect the thousands of cases that settle for policy limits over the threat of a bad faith lawsuit without thorough investigation and opportunity for discovery. Additionally, even though the cases that created the bad faith standards were automobile cases, the bad faith standards apply to third party claims across all lines of insurance.

Ultimately, the bill failed on a vote of 7-8. Three Republican members of the committee broke ranks and voted alongside the Democrats to essentially kill the bill. Voting against the bill were Representatives Matt Gaetz (R-Niceville), Shawn Harrison (R-Tampa), Jose Oliva (R-Hialeah), Rich Steinberg (D-Miami Beach), Mack Bernard (D-Palm Beach), Joe Abruzzo (D-Wellington), Marty Kiar (D-Parkland), and Darren Soto (D-Orlando). The bill was retained by the Committee on a motion by Rep. Gaetz.

AIF SUPPORTS legislation that reforms Florida's current litigation procedures in bad faith claims against insurers. Furthermore, AIF greatly appreciates the valiant leadership and tenacity demonstrated by Rep. Passidomo in taking on this important public policy issue.

Information Technology

On Thursday, January 26th the Senate Commerce and Tourism Committee unanimously passed SB 678 Relating to State Contracts by Senator Chris Smith (D-Oakland Park). Sen. Smith explained that this legislation would simply require any company doing business with the State of Florida to have call centers located within the United States.

Senator Nancy Detert (R-Venice) introduced an amendment requiring said call centers to be located in the State of Florida but withdrew the amendment when Senator Smith explained that it might conflict with the Commerce Clause of the US Constitution. Committee staff disagreed and suggested that more research was required on such an amendment before the bill reaches the floor.

With no question by members of the committee, AIF waived their time in opposition.

AIF OPPOSES legislation that will create another layer of government regulation that interferes with a businesses' freedom to control costs and provide state services at the lowest possible price.

Growth Management

On Thursday, January 26th the Senate Regulated Industries Committee took up and passed SB 600 by Senator Mike Bennett (R-Bradenton) Relating to Electronic Filing of Construction Plans. This legislation authorizes building code administrators or building officials to accept electronically transmitted construction plans and related documents for permit approval purposes. The bill was uncontroversial and passed unanimously, and now goes to the Senate floor.

SB 600 has passed its final committee of reference and will now advance to the Senate Floor for consideration by all members. The House companion – HB 387 by Representative Larry Ahern (R-St. Petersburg) – has also passed its committees of reference and is awaiting the House Calendar.

AIF SUPPORTS legislation that will promote cost savings due to increased government efficiency in the review of construction plans, and thus, increased timeliness in the processing of building permits.

Taxation

On Thursday, January 26th the House Finance & Tax Committee unanimously passed HB 809 Relating to Communications Services Tax by Representative James Grant (R-Tampa).

Rep. Grant explained that Florida's Communications Services Tax (CST) went into effect in 2001 and is now over ten years old. Despite monumental advances in technology, the statute has not had any major rewrites. He added that the statute needs to be modernized by adding some new definitions and updating others. The bill defines "Internet access service", "digital goods" and "digital services," and that the term "cable service" is replaced with the broader term "video service" to reflect what has evolved in the marketplace since the CST was put in place.

Furthermore, Rep. Grant went on to explain that the sales price was revised to allow additional nontaxable items to be billed in a single line item without the entire amount of that item being taxable. He added that the provisions that govern assigning customers to a local taxing jurisdiction are revised.

None of the members had any questions and Chairman Steve Precourt (R-Orlando) recognized Associated Industries of Florida and members of the Communications and Cable TV industry to waive in support of the legislation

There was no debate and the bill passed with unanimous consent. HB 809 will now proceed to the House Energy & Utilities Subcommittee. A similar proposal in the Senate – SB 1060 by Senator Ellyn Bogdanoff (R-Ft. Lauderdale) – is scheduled for consideration in the Senate Communications, Energy, and Public Utilities Committee on Monday, January 30th

AIF SUPPORTS legislation that will make the administration of the Communications Services Tax (CST) more efficient.

Subsequently, Chair Precourt called upon Staff Attorney Vince Aldridge to explain **Proposed Committee Bill (PCB) 12-04** on Corporate Income Tax.

Mr. Aldridge explained that currently, if the day on which an estimated payment is due falls on a weekend or legal holiday, it is due the next day. According to the proposal as currently drafted, any estimated tax payment that would otherwise be due no later than Sunday, June 30, 2013, shall be paid on or before June 28, 2013. This change in due date has the effect of shifting an estimated \$100 million into the 2012-13 fiscal year.

With no questions by members, **AIF lobbyist Frank Meiners** testified on the measure. He thanked staff for asking AIF what it thought of the change and requested that the Committee add some language to require the Department of Revenue to be lenient in granting waivers to any penalties that would apply for companies that may have not known of the changed due date. Chairman Precourt indicated that this was a reasonable request and that members would consider it.



The bill passed with no debate or questions.

AIF supports the adoption of the federal tax code for 2012. AIF will continue to work with members of the Legislature to ensure that the state receives all available revenues while refraining from onerous mandates on Florida business owners.

Environmental

Members of the House State Affairs Committee unanimously approved legislation needed to send new rules on numeric nutrient criteria (NNC) to the U.S. Environmental Protection Agency – HB 7051 by Representative Matt Caldwell (R-Ft. Myers).

On December 8, 2011, the Florida Environmental Regulation Commission unanimously approved the Florida Department of Environmental Protection's numeric nutrient criteria rules. The approved rules set limits on the amount of phosphorus and nitrogen allowed in Florida's waters and require a unitary, state-run nutrient control program.

Because the proposed legislation triggers the ratification process, the Legislature must approve the rule. HB 7051 gives the appropriate approval and also directs the Department to submit its rule to EPA for review under the Clean Water Act.

Keyna Cory, Senior Lobbyist for AIF spoke in favor of the bill. "Floridians needs to know who is going to set the standards and what the cost will be. We cannot recruit companies to the state of Florida and we cannot ask our Florida companies to expand without knowing the cost of doing business in our state. The DEP rule is the most achievable and cost effective ... we hope EPA will agree," said Cory.



HB 7051 has passed its final committee of reference and subsequently placed on 2nd Reading. An identical measure in the Senate – SB 2060 by the Senate Environmental Preservation and Conservation Committee – is scheduled for a hearing by Environmental Preservation and Conservation on Monday, January 30th.

AIF SUPPORTS ratification of the proposed numeric nutrient criteria rule proposed by the Florida Department of Environmental Protection. Furthermore, AIF would like to sincerely thank members for their bi-partisan support of this very important legislation for Florida.

In addition, members of the House State Affairs Committee unanimously approved another top environmental priority for AIF and its members on Thursday – HB 7045 Relating to Consumptive Use Permits for Development of Alternative Water Supplies by Representative Trudi Williams (R-Ft. Myers).

This legislation will extend the time frame for consumptive use permits (CUPs) for alternative water supply projects from 20 to 30 years. This proposed legislation provides a great incentive to public and private entities to build these much needed alternative water supply projects.

Water issues are very important to our AIF members. Without water there is no development, no growth, no environmental protection, and no economic rebound for the State of Florida. Furthermore, time and money will be saved by precluding entities from enduring the renewal process after 20 years.

Keyna Cory, Lobbyist for AIF's Environmental Sustainability Council, spoke in favor of the legislation. "We want to thank Rep. Trudi Williams for filing this important legislation! It is a win-win situation and a great way to help Florida's economy by providing jobs to build these vitally important projects."



AIF will continue to SUPPORT the extension of consumptive use permits (CUPs) for alternative water supply from 20 to 30 years for Florida's water utilities.