



# DAILY BRIEF

**From January 31, 2012**

Despite the hustle and bustle coinciding with Florida's Presidential Preference Primary on Tuesday, state legislators remained focus on the issues facing Floridians. Often times AIF will focus on the passage of legislation conducive the growth of Florida's economy and workforce; however, there are occasions in which the business community must make its opposition known on issues that will hinder such goals.

Such efforts were successful today, including the defeat of legislation that would have required that legal publications, advertisements, or notices of foreclosure action be placed on a publicly accessible Internet website of a clerk of court in lieu of publication in any other form of media. AIF has consistently opposed such measures that would limit the publishing of public notices to the internet alone.

To that end, legislation that AIF successfully advocated passage of today include:

- HB 1389 Relating to Water Storage and Water Quality Improvements by Representative Steven Perman (D-Boca Raton) which encourages public-private partnerships to accomplish water storage and water quality improvements on private agricultural lands.
- HB 809 Relating to Communications Services Tax by Representative James Grant (R-Tampa) modernizes Florida's Communications Services Tax (CST) statute by adding some new definitions and updating others following monumental advances in technology over the years.
- HB 711 Relating to Sale or Lease of a County, District, or Municipal Hospital by Representative Ed Hooper (R-Clearwater) introduces more public oversight when a public hospital is being considered for a purchase or lease.

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## **Growth Management**

The House Civil Justice Subcommittee took up and considered HB 1013 Relating to Residential Construction Warranties by Representative Frank Artiles (R-Miami).

This legislation addresses a common law implied warranty of fitness and merchantability related to the purchase of improved real estate purchased from the builder. This common law implied warranty applies to buildings and other improvements which are affixed to the real property, as opposed to fixtures that can be removed from the real property without damage to the premises.

A recent District Court of Appeal decision expanded the common law implied warranty of fitness and merchantability to off-site improvements, such as roads and drainage areas within a subdivision. The DCA opinion is contrary to a previous Florida Supreme Court opinion. This bill provides that the implied warranty of fitness and merchantability or habitability does not include off-site improvements.

HB 1013 was passed out by an 8-2 margin, and was heavily lobbied against by members of the trial bar. The bill now advances to the House Business & Consumer Affairs Subcommittee for further consideration

**AIF SUPPORTS legislation that will provide clarity as it relates to warranty obligations, thus promoting a more decisive environment for conducting business in Florida.**

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## Health Care

The House Civil Justice Committee considered HB 711 by Representative Ed Hooper (R-Clearwater). The measure was approved on a 14 to 1 vote.

This legislation introduces more public oversight when a public hospital is being considered for a purchase or lease. The bill would provide that the circuit court must review the transaction to decide if the sale or lease process has complied with various requirements and that the sale or lease amount agreed to is fair market value, and is of the best interest to the community.

HB 711 will now advance to the House Health & Human Services Committee. The Senate companion – SB 1568 by Senator Don Gaetz (R-Destin) – was approved in the Senate Community Affairs Committee yesterday and will move forward to the Senate Budget Committee. This version varies from the House version in several ways, including that the Chief Financial Officer would have final authority over such sales or leases.

**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.**

Also on Tuesday, the House Health & Human Services Quality Subcommittee took up and approved a proposed committee bill **(PCB) - HSQS3**. This measure provides for the repeal of several health care benefit and provider mandates. Chairman John Wood (R-Haines City) noted that this was a difficult issue but it is imperative that the Legislature begin the process of finding ways to bring down the cost of health insurance. He told members of the committee that he was not questioning that these mandates are not valid or necessary; however, Chairman Wood explained that he wants government regulation out of the way of employers and their employees.

**Jose Gonzalez, AIF's Vice President of Governmental Affairs**, commended the members on taking on this very difficult, yet important issue. He noted that health insurance coverage is an important employee attraction and retention tool, and that more flexibility and choice in the kinds of policies allowed in the market would be helpful to AIF members.



The proposed committee bill was approved on an 8 to 7 vote. The proposal will now be given a bill number and referred to further committees of reference.

**AIF SUPPORTS legislation that will effectively reduce the costs associated with health insurance and provide greater choice and affordability within the current system.**

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## Environmental

The House Agriculture & Natural Resources Subcommittee unanimously approved HB 1389 Relating to Water Storage and Water Quality Improvements by Representative Steven Perman (D-Boca Raton).

This legislation encourages public-private partnerships to accomplish water storage and water quality improvements on private agricultural lands. The bill could provide an economic benefit to farmers and

ranchers by increasing their ability to store water and provide water quality benefits on their land without incurring the permitting restrictions associated with creating wetlands.

HB 1389 has one remaining stop in the House State Affairs Committee. An identical measure in the Senate – SB 1858 by Senator Thad Altman (R-Melbourne)) – awaits hearing in the Senate Agriculture Committee.

**AIF will continue to SUPPORT legislation encouraging public-private partnerships for Florida's infrastructure needs, particularly as it relates to water.**

Also on Tuesday, the Senate Health Regulation Committee unanimously approved SB 820 Relating to Onsite Sewage Treatment and Disposal Systems by Senator Charlie Dean (R-Inverness).

This proposal aims to repeal the statewide onsite sewage treatment and disposal system inspection program that was created in 2010. Under this bill, local governments will decide whether they want to have an inspection program for septic tanks. If a county has a first magnitude spring, they will have to pass an ordinance to “opt-out” of the program and all other local governments will have to “opt-in” the program. In addition, local governments will decide who will conduct the inspections. There is a grandfather clause for those local governments with inspection programs currently in place.

Despite some concerns expressed by the Sierra Club, Senator Dennis Jones (R-Seminole) and Senator Eleanor Sobel (D-Hollywood) complemented Senator Dean on all of this work on the bill.

SB 820 will now proceed to the Senate Budget Committee. The House measure – HB 999 by Representative Chris Dorworth (R-Heathrow) – is awaiting hearing by the House State Affairs Committee.

**AIF SUPPORTS onsite sewage treatment and disposal legislation that is both workable and mindful of environmental sustainability. AIF has been working closely with the Florida Home Builders Association and the Florida Association of Realtors on this proposal.**

On Tuesday, the secondary metal theft issue legislation was heard in both its respective House and Senate committees.

First, HB 885 by Representative Clay Ford (R-Pensacola) received unanimous approval from the House Business & Consumer Affairs Subcommittee. This legislation is designed to decrease copper and metal theft that is plaguing our state. AIF and the Floridians for Copper & Metal Crime Prevention Coalition (read the Coalition's handout here) have been working closely on this bill with Senator Chris Smith (D-Oakland Park). This proposal clarifies permissible types of personal identification necessary for the legal sale of regulated metal, prohibits cash transactions on restricted regulated metal property and for those which require proof of ownership, prohibits checks for metal purchases to be sent to a P.O. Box and implements a statewide standard to keep metal thieves from “shopping” stolen property to cities or counties with less onerous penalties.

HB 885 now advances to the House Judiciary Committee. On the Senate side, SB 540 by Senator Chris Smith (D-Oakland Park) received a unanimous vote from the Senate Criminal Justice Committee. **Keyna Cory, Senior Lobbyist for AIF** was present at both committee meetings speaking in favor of the bills on behalf of AIF and the Floridians for Copper & Metal Crime Prevention Coalition.



**AIF and the Floridians for Copper & Metal Crime Prevention Coalition SUPPORT legislation that will enact precautionary methods to help deter the removal of metal from private property and government structures, causing economic loss for both the private and public sectors.**

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## Business Regulation

On Tuesday, January 31st the House Civil Justice Subcommittee defeated a measure opposed by AIF that would have required that legal publications, advertisements, or notices of foreclosure action be placed on a publicly accessible Internet website of a clerk of court in lieu of publication in any other form of media. HB 149 by Representative Dennis Baxley (R-Ocala) was defeated by a vote of 5 to 9. The committee heard from a number of newspapers and members of the Keep the Public Noticed Coalition – a group of business and consumer organizations who opposed the notion of removing requirements to post important public notices in local newspapers.

AIF is not opposed to publishing public notices on the internet, but we believe it is also vitally important to publish these notices in print. The Internet alone does not provide sufficient public notice to all citizens and businesses of Florida, many of whom may not have access to a computer. Local newspapers offer citizens a single, convenient location to find all public notices as opposed to government entities publishing notices on their respective websites, which places this information in a myriad of different locations.

This is especially important with regards to the foreclosure on property. In these challenging economic times, it is better to have more transparency than less, especially in light of the ongoing foreclosure crisis in Florida.

**AIF OPPOSES proposals that would limit the publishing of public notices to the internet alone. To acknowledge the “digital divide” and ensure protection of due process, AIF recommends that no government entity required to provide notice of its actions to the public be the only entity that publishes that notice.**

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## Taxation

The House Energy & Utilities Subcommittee 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.

There was no debate and the bill passed with unanimous consent. HB 809 will now proceed to its final stop in the House State Affairs Committee. A similar proposal in the Senate – SB 1060 by Senator Ellyn Bogdanoff (R-Ft. Lauderdale) – awaits consideration in the Senate Community Affairs Committee.

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

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## Ports

Currently, Florida statutes require that a minimum of \$8 million per year be made available from the State Transportation Trust Fund (STTF) to fund the Florida Seaport Transportation and Economic Development (FSTED) Program. FSTED has been funded at a level of \$15 million since 2004 and in order to match current practice, HB 1399 by Representative Jeff Brandes (R-St. Petersburg) increases the minimum FSTED funds available from \$8 million to \$15 million per year. HB 1399 also provides that the FSTED program may be used to finance port projects that retain or enhance the creation of jobs in all areas of the state. HB 1399 also removes the limit of a single port's distribution of funds to \$7 million during one calendar year or \$30 million during any five calendar year period.

Furthermore, HB 1399 will create the Strategic Port Investment Initiative within the Department of Transportation (DOT). Beginning in fiscal year 2012-13, a minimum of \$35 million will be available annually from the STTF for the initiative. DOT is required to work with the deepwater ports to develop and maintain a priority list of strategic projects that meet the state's economic development goal of becoming a hub for trade, logistics, and export oriented activities.

Finally, HB 1399 creates the Intermodal Logistics Center Infrastructure Support Program within DOT, to provide funds to local governments and seaports thereby enabling the state to respond to private sector market demands and meet the state's economic development goal of becoming a hub for trade, logistics, and export-oriented activities. Beginning in fiscal year 2012-2013, up to \$5 million per year shall be made available from the STTF for the program.

**AIF will continue to SUPPORT legislation that focuses on the development and expansion of Florida's 14 deepwater ports.**