



# DAILY BRIEF

**From February 8, 2012**

As the Senate continues to finalize its budget allocations, the House is prepared to bring their Fiscal Year (FY) 2012-2013 Budget forward for a final vote. Redistricting and the Budget are the two constitutionally mandated tasks that lawmakers must complete before they can adjourn for the year. Once passed in their respective chambers, the House & Senate will proceed to hash out their differences in joint “conference committees.”

The House kicked off with an early start this morning in an attempt to pass several pro-business measures. The House Economic Affairs Committee – a final stop for many proposals which hope to make the floor – took up several measures today, including:

- HB 7081 by the House Business & Consumer Affairs Subcommittee, which makes a number of non-substantive modifications and clarifications to last year’s comprehensive growth management reform, will allow Florida developers to proceed with greater certainty on current projects.
- HB 4169 Relating to Insurance Company Excess Profits by Representative Daniel Davis (R-Jacksonville) that seeks to repeal a provision of the workers’ compensation regulatory framework relating to what is labeled “excess profits.” This proposal will alleviate burdensome and confusing regulations, thus creating a more fair and predictable regulatory environment.
- HB 1127 Relating to Citizens Property Insurance Corporation by Representative Ben Albritton (R-Bartow) will allow levies on insurance policies, which are imposed through emergency assessments following devastating hurricanes, to be spread out over multiple years. This legislation will substantially reduce the financial burden on businesses and insurers.

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## **Legal Reform**

One of the business community’s top legal reform bills for the 2012 Legislative Session – HB 243 Relating to Expert Witness by Representative Larry Metz (R-Eustis) was taken up in the House Judiciary Committee. 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 trial bar was on hand today in numbers to speak against the bill, while members of the business community all showed their support for this common sense legal reform. A number of procedural moves were attempted by members of the committee who were opposed to the bill. Representative Richard Steinberg (D-Miami Beach) an outspoken opponent of the bill voted in favor of the proposal in order to be on the prevailing side. This allowed him to make a motion to retain the bill in the committee. According to the rules of the House of Representatives:

- *(d) If a bill has been retained under subsection (b), any member may move for its reconsideration at the next meeting of the committee or subcommittee. The retained bill is not required to be included on the committee or subcommittee meeting notice.*
- *(e) If the committee or subcommittee refuses to reconsider or, upon reconsideration, confirms its prior decision, no further motion to reconsider shall be in order except upon unanimous consent of the committee or subcommittee members present.*

This motion will hopefully be dealt with the next time the Committee meets allowing the bill to continue its progress towards final passage.

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

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## **Environmental**

The House State Affairs Committee 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. Currently, if a landowner uses its property to store water there is a fear that the property could be classified as a wetland if an attempt was made to revert it back to agricultural use. This legislation clarifies that the land would not be classified as a wetland. Now the agricultural community will be able to store the much needed water on their property without this concern moving forward.

HB 1389 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 passed its final committee of reference and will be placed on the House Calendar for consideration by its members. The identical Senate proposal – SB 1858 by Senator Thad Altman (R-Melbourne) – is currently 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.**

The House State Affairs Committee also unanimously approved HB 7003 Relating to Environmental Resource Permitting by Representative Steve Crisafulli (R-Merritt Island).

This legislation allows the Florida Department of Environmental Protection (DEP) to create a statewide Environmental Resource Permitting (ERP) system. The new statewide rule will be similar to the current DEP and water management district existing rules, except to reconcile differences and conflicts that are not based on geographic differences in physical or natural characteristics. Instead of having 5 different interpretations and inconsistent applications, there will be one interpretation guided by DEP.

This legislation is a high priority of the Florida Department of Environmental Protection and the business community. **Keyna Cory, Senior Lobbyist for AIF**, was at the committee meeting to waive in support of the measure.



AIF and its Environmental Sustainability Council support a statewide Environmental

Resource Permit. With a statewide ERP, no longer will applicants experience different outcomes for similar projects. Instead we will have consistent, predictable results no matter where your business may be located.

HB 7003 will now proceed to the House Floor for final consideration. A similar proposal in the Senate – SB 1354 by Senator Nancy Detert (R-Venice) – has one remaining stop in the Senate Budget Committee.

**AIF SUPPORTS the Florida Department of Environmental Protection’s proposal to have a statewide Environmental Resource Permit (ERP).**

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## **Growth Management**

The House Economic Affairs Committee took up and passed the House’s version of a growth management "glitch" bill. Similar to the Senate proposal, HB 7081 by the House Community & Military Affairs Subcommittee makes a number of non-substantive modifications and clarifications to last year’s comprehensive growth management reform. These changes were compiled through various discussions and feedback received from stakeholders including the state land planning agency and local governments.

Modifications include fixing cross-references, updating outdated language, and removing provisions throughout the statutes that last year’s proposal made obsolete such as references to the twice-a-year limitation on adopting plan amendments that no longer exists and references to the evaluation and appraisal report that no longer is required.

HB 7081 also addresses items that, although stemming from technical glitches, may have limited policy implications. These include the grandfathering of local government charter provisions in effect on June 1, 2011, relating to a local initiative or referendum process for the approval of development orders and comprehensive plan or map amendments. While seemingly innocuous, the local referendum provision spawned several challenges to last year’s law; these "fixes" end the litigation.

Following the adoption of three technical amendments, sponsored by Representative Ritch Workman (R-Melbourne), the measure passed by a vote of 13-4.

HB 7081 will now proceed to the House Floor for final passage. The aforementioned Senate proposal – SB 842 by Senator Mike Bennett (R-Bradenton) – awaits hearing in the Senate Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations.

**AIF SUPPORTS efforts to clarify "The Community Planning Act" so as to guarantee that those developers can proceed with certainty.**

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## **Taxation**

The House State Affairs Committee took up and 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.

Representatives Jeff Clemens (D-Lake Worth) and Rick Kriseman (D-St. Petersburg) both expressed concern over the bundling provision in the bill and its potential revenue impact on local government. Rep. Grant explained that he was working with local government to possibly add a provision to give them some comfort concerning this issue.

In debate, Representative Dwayne Taylor (D-Daytona Beach) stated that he thought this was a good bill to keep citizens from being taxed on services and items that are not subject to the CST.

HB 809 will now proceed to the House Floor for final passage. The companion bill, SB 1060 by Senator Elynn Bogdanoff (R-Ft. Lauderdale), awaits hearing in the Senate Budget Committee.

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

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### **Business Regulation**

SB 1658 Relating to Public Assistance by Senator Ronda Storms (R-Brandon) was taken up and narrowly passed by members of the Senate Budget Subcommittee on Health and Human Services Appropriations.

SB 1658 would prohibit a recipient of benefits under the Supplemental Nutrition Assistance Program (SNAP) from purchasing certain foods with those Federal funds, also known as “food stamps.” The bill also prohibits the use of those benefits at restaurants.

Despite opposition from members on both sides of the aisle, incoming Senate President Don Gaetz (R-Niceville) shared enthusiastic support for Sen. Storms’ bill. Sen. Gaetz stated that taxpayer dollars should be utilized in such a manner that will not further exacerbate healthcare costs through poor health resulting from non-nutritional foods that can currently be purchased by Floridians utilizing food stamps.

In closing, Sen. Storms asserted that it was not proper for tax payer money to be used to purchase foods containing trans-fats or foods such as sweetened beverages, Jell-O, ice cream, muffins, cupcakes or cakes and pastries, and salty-based snacks. Storms expressed a personal irritation when she sees these foods being purchased with food stamps while in a grocery store checkout line.

The bill also prohibits a recipient from using an electronic benefit transfer (EBT) card to access cash benefits outside of Florida, to purchase alcohol or tobacco products, or to access automated teller machines located in gambling and adult entertainment establishments. The measure further provides a list of establishments inside the state where a recipient may not obtain cash benefits through an EBT card from an ATM.

SB 1658 has one final stop in the Senate Budget Committee. A similar measure filed in the House – HB 1401 by Representative Scott Plakon (R-Longwood) – now resides in the House Health Care Appropriations Subcommittee.

**AIF will continue to monitor this legislation and work with the bill sponsor to ensure that such a proposal, while possessing good intent, does not create unintended consequences for employers.**

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## Insurance

The House Economic Affairs Committee overwhelmingly passed HB 4169 Relating to Insurance Company Excess Profits by Representative Daniel Davis (R-Jacksonville).

This legislation seeks to repeal a provision of the workers' compensation regulatory framework relating to what is labeled "excess profits." Under current law, workers' compensation rates are set and carriers are told by the state what rates they must charge their policyholders. At the end of a reporting period, then, the state evaluates the company's performance and sometimes determines that even with the mandated charges the carrier should refund some of its profits. This process usually occurs a few years subsequent to the year in which the "excess" was experienced which creates both accounting and cash flow problems for the companies.

A representative from the state trial lawyer association spoke against the bill, stating that their opposition was due to the bill's detrimental impact on businesses. **Tammy Perdue, General Counsel to AIF**, was present to refute such claims and express support of the bill on behalf of Florida's business community. She pointed out that the overarching principles of reasonable regulation and market fairness far outweigh the criticisms raised by the trial bar today.



HB 4169 has passed its final committee of reference and will now proceed to the House Floor for a final vote.

**AIF SUPPORTS legislation that will alleviate burdensome and confusing regulations, thus creating a more fair and predictable regulatory environment.**

The House Economic Affairs Committee approved HB 1127 Relating to Citizens Property Insurance Corporation by Representative Ben Albritton (R-Bartow) by a vote of 9-5 largely along party lines.

This legislation reduces the Citizens Property Insurance Corporation's (Citizens) maximum regular assessment from 6 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. 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.

HB 1127 has passed its final committee of reference and will now advance to the House Floor. The Senate companion measure – SB 1346 by Senator Steve Oelrich (R-Gainesville) – has one final stop in the Senate Budget Committee.

**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.**

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## Economic Development

The House Economic Affairs Committee passed HB 1491 Relating to Capital Formation for Infrastructure Projects by Representative Eric Eisnaugle (R-Orlando) with unanimous consent.

This bill 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 to do so are dwindling. Authorized to raise up to \$700 million in private funds to help build water and wastewater systems, power systems, roads and other strategic infrastructure needs, this proposal would couple private sector investing to meet the needs of public sector infrastructure projects.

Following its passage, HB 1491 will now proceed to the House Floor. A similar measure in the Senate – SB 1472 by Senator Garrett Richter (R-Naples) – awaits hearing in the Senate Budget Subcommittee on Finance and Tax.

**AIF SUPPORTS legislation that will provide tax incentives to leverage private investment in state infrastructure projects.**