



# DAILY BRIEF

From February 29, 2012

With 9 days remaining in the 2012 Legislative Session, policymakers set their sights on legislation nearing the finish line. The House and Senate met in their respective chambers today to consider substantive policy while also kicking off a full round of budget conference meetings.

The Senate Budget Committee held one final hearing today to consider a number of issues that have a fiscal impact to the State. Arguably one of the most powerful committee in the Florida Legislature, the Budget Committee considered two AIF priorities today – SB 1860 Relating to Automobile Insurance by Senator Joe Negron (R-Palm City) and SB 378 Relating to Expert Testimony by Senator Garrett Richter (R-Naples).

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## Insurance

The Senate Budget Committee passed SB 1860 Relating to No-Fault Automobile Insurance by Senator Joe Negron (R-Palm City). This legislation sets out to reform Florida's broken automobile insurance system, which has been plagued by rampant fraud and has led to auto insurance rates in Florida being the highest among most states in the country. The legislation aims to address the many cost drivers in the system that have been allowed to get out of control including the over utilization of medical providers that provide massage therapy and other soft tissue services like acupuncture. Today was the second day of deliberations on this bill by the Committee as a number of conflicting amendments were filed on the bill which diminished the original intent of the legislation.

In the end, the Committee did pass the bill but not before the bill's sponsor Sen. Negron asked his fellow committee members to vote down his initial amendment which included a number of provisions supported by AIF and the rest of the business community. Although an unusual move by a bill sponsor, the request was necessary in order to avoid some of the bad amendments that were adopted to continue to be a part of the bill.

AIF is hopeful that an agreement between the House and Senate will be achieved before the end of session that will bring about meaningful reform to Florida's Personal Injury Protection (PIP) system. AIF would like to thank Senators Negron and Garrett Richter (R-Naples) for their work on this critical issue for Florida's business community. We would also like to recognize the tireless work of Governor Rick Scott, who has made passage of PIP reform a top priority for his administration.

SB 1860 will now head to the Senate floor for consideration.

**AIF SUPPORTS efforts to pass meaningful PIP reform this session in order to address the rampant fraud that is plaguing the system. Businesses and consumers pay almost 50 percent more for auto insurance than other states in the nation. This is due to the unscrupulous actions of shady medical providers, trial attorneys, and criminals who stage auto accidents in order to access the available PIP benefits.**

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## Legal and Judicial

The Senate Budget Committee passed SB 378 Relating to Expert Testimony by Senator Garrett Richter (R-Naples). This legislation conforms the standards for the admission of expert testimony in Florida courts to the Federal Rules of Evidence. The bill amends Florida law, to prohibit an expert witness from testifying in the form of an opinion or otherwise unless the testimony satisfies the following additional criteria:

- The testimony is based on sufficient facts or data;
- The testimony is the product of reliable principles and methods;
- The witness has applied the principles and methods reliably to the facts of the case.

The standard in Senator Richter'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.

During today's committee a controversial amendment by Senator David Simmons (R-Altamonte Springs) was adopted after much debate. The unfriendly amendment weakened the language in the bill by still allowing some of the existing standards for expert witnesses to be used in our court system

SB 378 will now be considered on the Senate Floor. The House companion, HB 243 by Representative Larry Metz (R-Eustis), has already passed the full House and is in Senate Messages.

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

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## Environmental

Metal theft legislation continues to move its way through the legislative process. On Wednesday, the House approved HB 1323 by Representative Brad Drake (R-DeFuniak Springs) by a vote of 107-6. This bill increases the penalty for those secondary metal recyclers who knowingly and intentionally accept stolen materials. As originally drafted, the bill increased the penalty from a misdemeanor of the first degree to a felony of the third degree. An amendment was adopted to lower the penalty to a felony of the second degree. HB 1323 also placed the same penalty on a person who knowingly and intentionally removes, or assists with the removal of certain metals from an electrical substation without the authorization of the utility. Finally, the bill sets a definition for an "electrical substation" in the statute.

A few Democratic members spoke in opposition to the bill because of the increased penalties. They believe our prisons should be for violent criminals and not for this kind of theft; however, Republicans and Democrats alike stood and spoke in favor of the bill stating that metal theft has become an epidemic in our state and according to Rep. Drake, "we need to nip it in the bud."

AIF and the Floridians for Copper & Metal Crime Prevention Coalition would like to thank Rep. Drake for his leadership on this issue and thank the members of the Florida House who supported this important legislation.

HB 1323 will now proceed to the Senate for consideration by its members. A similar measure in the Senate – SB 1324 by Senator Jim Norman (R-Tampa) – is currently in the Senate Budget Committee.

**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.**

SB 999 Relating to Onsite Sewage Treatment and Disposal Systems by Representative Chris Dorworth (R-Heathrow) was also approved by the full Florida House of Representatives on Wednesday. This proposed legislation repeals 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” to the program. In addition, local governments will decide who conducts the inspections. There is a grandfather clause for those local governments with inspection programs already in place.

Representative Marti Coley (R-Marianna), a prime co-sponsor of the bill, provided the closing statements before the passage of the bill. She had been fighting to repeal the inspection process altogether but agrees that HB 999 is a great compromise that will respect private property rights while protecting the environment.

HB 999 is also ready for action in the Senate. The Senate’s proposal – SB 820 by Senator Charlie Dean (R-Inverness) – awaits hearing in the Senate Budget 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.**

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## **Business Regulation**

On Wednesday, the full House passed HB 609 Relating to Wage Protection for Employees by Representative Tom Goodson (R-Titusville) by a vote of 77-38.

This legislation provides that the regulation of wage theft is expressly preempted to the state. Therefore, local governments may not regulate over and above the existing state and federal laws. The bill also defines "wage theft" as an illegal or improper underpayment or nonpayment of an individual worker's wages, salaries, commissions, or other similar form of compensation.

This bill is in response to Miami-Dade County creating a local process for employees to file claims for unpaid wages outside of the processes available under state and federal law. There are currently numerous legal avenues already available for employees to recoup wages. The Miami-Dade ordinance can open employers up to false claims by disgruntled employees. As such, this forces employers to defend themselves from potentially fraudulent claims.

During consideration on the Floor, members voted down an amendment by Representative Cynthia Stafford (D-Miami) which would have shielded the Miami-Dade ordinance from being included in the bill by giving the county grandfather status.

HB 609 will now proceed to the Senate for consideration by its members. An identical measure in the Senate – SB 862 by Senator David Simmons (R-Altamonte Springs) – 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.**

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## Taxation

On Wednesday, the Florida House of Representatives took up and passed HB 7125 Relating to Exemptions from Local Business Taxes by Representative Ken Roberson (R-Port Charlotte).

Rep. Roberson introduced the bill and explained that this measure specifies that an individual licensed and operating as a real estate broker associate or sales associate is not required to apply for an exemption from a local business tax and does not have to pay the tax.

Representative Jim Waldman (D-Coconut Creek) and Representative Elaine Schwartz (D-Hollywood) spoke against the bill in debate, expressing concerns that the tax money had been pledged to bonds.

Representative Larry Ahern (R-St. Petersburg), Representative Hazel Rogers (D-Lauderhill) and Representative Darren Soto (D-Orlando) spoke for the bill, stating that realtors should be treated in the same manner as lawyers and accountants. There was no further debate and the bill passed by a vote of 105-9.

HB 7125 will now proceed to the Senate for deliberation by its members. The Senate companion – SB 770 by Senator Alan Hays (R-Umatilla) – is currently in the Senate Budget Committee.

**AIF SUPPORTS legislation that 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.**

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## Growth Management

On Wednesday, the full House took up and overwhelmingly passed HB 979 Relating to Developments of Regional Impact by Representative Jose Felix Diaz (R-Miami).

This legislation contains several provisions, including direction stating that reviewing agencies may make only recommendations or comments regarding a proposed development which are consistent with the statutes, rules, or adopted local government ordinances that are applicable to developments in the jurisdiction where the proposed development is located.

In addition, the proposal includes a new exemption from the process which applies to any proposed development that is located in a local government jurisdiction that:

- Does not qualify for an exemption based on the population and density criteria in s. 257 380.06(29)(a)
- Is approved as a comprehensive plan amendment adopted pursuant to s. 163.3184(4),
- Qualifies for an incentive program pursuant to chapter 288; *and*
- That the developer, local government, and Department of Economic Opportunity agree in writing that the development-of-regional- impact review process does not apply.

With one dissenting vote by Representative William Snyder (R-Stuart), HB 979 will now advance to the Senate for final consideration.

**AIF SUPPORTS legislation that allows developers, local governments, and the newly created Department of Economic Opportunity DEO to elect to use the state coordinated review process for certain developments and thus provide significant cost and time savings for private developers.**