



DAILY BRIEF

From March 8, 2012

Day 59 of the 2012 Legislative Session was a whirlwind with significant legislation passing each chamber and a number of priority bills heading to the Governor for his signature. AIF and the business community had an incredibly successful day as a number of AIF's priorities were considered. Late in the evening, the House debated most of the major aspects of the budget in preparation for final passage Friday afternoon. The Senate, on the other hand, spent a significant amount of time debating a contentious bill dealing with public schools and Parent Empowerment - SB 1718 by Senator Lizbeth Benacquisto (R-Wellington).

Today, AIF's team was successful once again in defeating amendments that would have significantly eroded the potential savings related to last year's passage of Medicaid Reform. An unfriendly amendment by Senator Rene Garcia (R-Hialeah) on SB 730, Relating to Medicaid Managed Care Plans by Sen. Anitere Flores (R-Miami), would have forced Hospitals to contract with smaller health plans, even if these plans did not have strong enough networks to be able to provide high quality service.

In the area of Workers' Compensation, HB 307 by Representative Mack Bernard (D-West Palm Beach) addressing Workers' Compensation and Limited Liability Companies was amended late in the evening by the House to include the bulk of the language found in HB 511, Relating to Workers' Compensation Drug Re-Packaging by Representative Matt Hudson (R-Naples). If adopted, this legislation would result in a 2.5 percent reduction in workers' compensation rates for employers in Florida by closing an existing loophole in law, which allows doctors who treat workers' compensation patients to charge exorbitant rates for medications dispensed in their offices.

Some of the major victories for AIF on day 59 included:

- Passage of Unemployment Compensation Tax Relief – HB 7027 by Representative Doug Holder (R-Sarasota);
- Passage of Construction Warranties legislation which will protect builders and developers from unnecessary lawsuits – HB 1013 by Representative Frank Artiles (R-Miami);
- Passage of Environmental Permitting legislation which will streamline the process for permit application and approval for employers – HB 503 by Representative Jimmy Patronis (R-Panama City);
- Passage of a proposed Constitutional amendment which, if adopted, will bring tax relief for small businesses who have to file Tangible Personal Property taxes – HJR 1003 by Representative Eric Eisnaugle (R-Orlando).

Friday promises to be another hectic day as both chambers must pass the annual budget and also consider legislation reforming Florida's broken auto insurance system – a priority for both Governor Rick Scott and the business community.

Growth Management

On Thursday, the Florida Senate took up and passed HB 1013 by Representative Frank Artiles (R-Miami) on the Floor.

There is a common law implied warranty of fitness and merchantability or habitability 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 (DCA) decision expanded the common law implied warranty of fitness and merchantability or habitability to off-site improvements, such as roads and drainage areas within a subdivision. This 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.

The bill provides an effective date of July 1, 2012, and applies to all cases accruing before, pending on, or filed after that date.

Prior to final passage, HB 1013 was substituted for its Senate companion - SB 1196 by Senator Mike Bennett (R-Bradenton) - and approved. The bill will now proceed to the Governor for his final approval to become law.

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

Also on Thursday, the House & Senate took up and passed HB 979 Relating Developments of Regional Impact by Representative Jose Felix Diaz (R-Miami).

The bill makes changes to provisions of law relating to developments of regional impact (DRIs). The bill exempts from the DRI review process any proposed development, in local government jurisdictions that are not designated as dense urban land areas, which is approved as a comprehensive plan amendment adopted pursuant to the state coordinated review process in s. 163.3184(4), F.S., and which is the subject of a qualified target industry business tax refund agreement pursuant to s. 288.106(5), F.S.

Further, HB 979 limits the reviewing agencies' recommendations or comments regarding a proposed development, during the pre-application conference, to comments and recommendations that 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. The bill provides that changes that do not increase the number of external peak hour trips and do not reduce open space and conserved areas within the project, except as otherwise permitted, are not substantial deviations, and therefore do not require a notice of proposed change. The bill has an effective date of July 1, 2012.

HB 979 was substituted by its Senate companion – SB 1180 by Senator Mike Bennett (R-Bradenton) – and sent to the House for final consideration. The bill subsequently passed and will now be sent to the Governor for final approval.

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.

Energy

On Thursday, the full Senate took up and passed SB 648 Relating to Florida Climate Protection Act by Senator Alan Hays (R-Umatilla) by a vote of 31-5.

This legislation seeks to repeal the Florida Climate Protection Act, which passed in 2008. The 2008 law directed the Department of Environmental Protection to create a cap-and-trade program for the State; however, the Department never created a plan after a fiscal analysis showed that the cost to both the public and private sectors would be prohibitive.

Following consideration, the measure was substituted for its House companion – HB 4001 by Representative Scott Plakon (R-Longwood) – and placed on final passage. The bill will now be enrolled and sent to the Governor's office for final approval.

AIF SUPPORTS legislation that will repeal the establishment of a “cap-and-trade” program for the reduction of greenhouse gas emissions.

Also on Thursday, the Senate took up and passed SB 2094 Relating to Energy by the Senate Communications, Energy, and Public Utilities Committee by a vote of 38-2.

This legislation is the energy package that began as a number of proposals from Adam Putnam, Commissioner of Agriculture and Consumer Services. During consideration, an amendment was adopted to clarify existing statute that a dealer is allowed to sell or offer unblended gasoline.

Specifically, SB 2094 would:

- Revise the ten-year site plan process to specifically require electric utilities to provide information concerning actual and planned renewable energy production.
- Reinstate and revise the sales tax exemption for renewable energy technologies; the renewable energy technologies investment corporate income tax credit; and the renewable energy production corporate income tax credit.
- Clarify that renewable energy producers not licensed as electric utilities are qualified to receive a tax refund.
- Require the Department of Economic Opportunity (DEO) to prepare an economic impact study for certain renewable energy projects prior to a public interest determination by the Public Service Commission (PSC).
- Require the PSC to consider the need for fuel diversity to foster fuel supply reliability and rate stability when considering the need for a proposed power plant larger than 75 megawatts.
- Streamline the permitting process for bio-fuel feedstock crops and revise financial assurance requirements.
- Require the Department of Agriculture and Consumer Service (DACS) to conduct a statewide forest inventory analysis.
- Authorize DACS to establish a website regarding cost savings associated with energy efficiency and conservation measures.
- Provide that the rates, terms and conditions of electric vehicle charging services by a non-utility are not subject to regulation by the PSC.
- Require DACS to adopt rules related to sales at electric vehicle charging stations (labeling, price posting, methods of sale, etc.). Further, it would direct the PSC to conduct a study on the potential effects of electric vehicle charging stations on both energy consumption and the electric grid.
- Require coordination between the Department of Management Services and DACS in further developing the state energy management plan for state buildings over 5,000 square feet.
- Expand the use of the local government infrastructure surtax proceeds, if a local government ordinance authorizing such use is approved by referendum.

- Expand the Renewable Fuel Standard to include —alternative fuel, as defined in the bill; clarifies that retail dealers are not prohibited from selling or offering to sell unblended gasoline; and directs DACS to compile a list of retail dealers that sell or offer to sell unblended gasoline in the state and post the list on the department’s website.

Following consideration, SB 2094 was substituted for its House companion – HB 7117 by the House Energy & Utilities Subcommittee – and placed on final passage. The bill will now be enrolled and sent to the Governor’s office for final approval.

AIF commends Commissioner Putnam for offering a comprehensive proposal that will address the future of Florida’s energy policy.

Unemployment Compensation

On Thursday, the Florida Legislature passed a critically important measure concerning Unemployment Compensation Tax Relief for all Florida employers.

The measure, HB 7027 by Representative Doug Holder (R-Sarasota), passed the Florida Senate by a vote of 39-1 and the Florida House by 108-11. Without this action, taxes were scheduled to increase by approximately \$100 per employee this year. This action mitigates that increase to only a \$50 per employee increase, which will apply to all employers. This tax relief is achieved by two important measures:

- Lowering the wage base from \$8,500 to \$8,000; *and*
- Extending the period of time over which the state will collect funds to replenish the unemployment compensation trust fund to a surplus level.

AIF salutes the strong leadership of Senator Don Gaetz (R-Destin) and Representative Will Weatherford (R-Wesley Chapel), without whose commitment to Florida's business community that this important measure would not have been considered by the Legislature this session. We further commend Senator Eilyn Bogdanoff (R-Ft. Lauderdale) and Representative Doug Holder (R-Sarasota), the respective Senate and House sponsors, for making this such a high priority this session.

HB 7027 has been ordered enrolled to be sent to the Governor for final approval.

AIF SUPPORTS efforts to provide employers relief from ever-escalating increases in unemployment compensation taxes.

Environmental

On Thursday, the full Senate took up and passed SB 716 Relating to Environmental Regulation by Senator Mike Bennett (R-Bradenton).

This legislation is critical for Florida's employers because it will help accelerate the approval or denial process and bring certainty to business dealing with state agencies.

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Time is money and Florida businesses are spending too much time on a permitting process that includes duplications and burdensome regulations. SB 716 is a major step towards reforming the permitting process.

Following consideration, SB 716 was substituted for its House companion – HB 503 by Representative Jimmy Patronis (R-Panama City) – and placed on final passage. The bill will now be enrolled and sent to the Governor's office for final approval.

AIF SUPPORTS efforts to streamline permitting across all state agencies. Time is money and Florida businesses are spending too much time on a permitting process that includes duplications and burdensome regulations.

Taxation

On Thursday, the Senate took up Senate Joint Resolution (SJR) 1064 Relating to Tangible Personal Property/Additional Exemptions by Senator Nancy Detert (R-Venice).

Senator Detert explained that the joint resolution amended the state constitution to allow an additional exemption from the ad valorem taxes on tangible personal property (TPP) tax valued at more than \$25,000 but less than \$50,000, and to authorize a county or municipality to provide an additional exemption by ordinance.

She added that this was one of the governor's top priorities for the 2012 Legislative Session.

Senator Larcenia Bullard (D-Miami) asked if this was a local government mandate and Senator Detert responded that it was not.

Following consideration, SJR 1064 was substituted for its House companion – HB 1003 by Representative Eric Eisnagle (R-Orlando) – and placed on final passage. The bill will now be enrolled and sent to the Governor's office for final approval.

AIF SUPPORTS legislation that will aid small and medium-sized businesses by reducing the red tape associated with paper work as well as high property taxes.

Also on Thursday, SB 770 Relating to Local Business Taxes by Senator Alan Hays (R-Umatilla) was considered and subsequently passed by the full Senate by a vote of 33-7.

Senator Hays explained that the bill 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.

Following consideration, SB 770 was substituted for its House companion – HB 7125 by the House Economic Affairs Committee – and placed on final passage. The bill will now be enrolled and sent to the Governor's office for final approval.

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.